



# Hungary - Global bribery offenses guide

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## 1) What is the legal framework governing bribery in Hungary?

Act C of 2012 on the Criminal Code (Criminal Code) is the key piece of Hungarian legislation governing bribery. It applies to conduct occurring after the implementation date of July 1, 2013. Older conduct occurring entirely before that date will be assessed based on the old criminal code, Act IV of 1978. As they apply to bribery, the old and the current criminal codes are mostly identical.

## 2) What constitutes a bribe?

Any unlawful advantage may constitute a bribe if given, offered, requested or accepted with a criminal bribery motive. The definition of criminal bribery motive is different depending on the function of the person involved in the bribery. There are four categories of functions in the Criminal Code:

- The first category is a person acting for or to the benefit of an organization (excluding public officials). Bribery involving such a person is only a criminal offense if the motive of the bribe is for the recipient to abuse their duties.
- The second category is public officials. Here the threshold is lower, where the motive for the advantage is simply to influence the public official in any way. Hence, even if the advantage aims to influence the official to do something which is not in itself illegal, it is still considered criminal bribery.
- The third category is persons participating in court, arbitration or administrative proceedings. If a bribe is offered or given to such person with the motive to persuade that person not to exercise their rights or fulfill their duties in the proceedings, it is bribery.
- The fourth category is health professional (e.g. doctors) or other healthcare workers. If an unlawful advantage is offered or given to such person in connection with providing healthcare services, it is bribery.

It is also a criminal offense if the bribe is not directly given, offered to, or accepted by the person themselves, but by a third person connected to the person with an expectation that the indirect beneficiary will be influenced by the bribe (this applies to all bribery offenses).

## 3) What are the principal offenses under this legal framework?

- Offering, promising, or giving of a bribe to a person acting for or to the benefit of an organization (Criminal Code - Section 290).
- Offering or giving unlawful advantage to health professional or other healthcare workers in connection with providing healthcare services (Criminal Code - Section 290).
- Requesting, agreeing to receive, or accepting a bribe by a person acting for or to the benefit of an organization (Criminal Code -Section 291).
- Offering, promising, or giving of a bribe to a public official (Criminal Code - Section 293).

- Requesting, agreeing to receive, or accepting a bribe by a public official (Criminal Code - Section 294).
- Giving or offering a bribe to a person participating in court, arbitration or administrative proceedings (Criminal Code -Section 295).
- Requesting or accepting a bribe by a person participating in court, arbitration or administrative proceedings (Criminal Code - Section 296).
- Indirect corruption: giving or offering a bribe to a person claiming to be influencing a public official (the person does not actually have to be influencing an official, it is enough if they claim to be doing so) (Criminal Code - Section 298).
- Receiving indirect corruption: requesting, accepting or accepting to receive a bribe by claiming to be influencing a public (Criminal Code - Section 299).
- Failure by a public official to report corruption (any kind of bribery offense) (Criminal Code - Section 300).

#### 4) What is the jurisdictional reach of the legal framework?

The Criminal Code does not set out special jurisdictional rules for bribery offenses, rather, the general territorial scope of the Criminal Code applies to these offenses. It provides that any crime committed in Hungary, or committed by Hungarian citizens abroad falls within the scope of the Criminal Code and may be prosecuted in Hungary.

In addition, the Criminal Code also allows for extraterritorial application in the case of (i) crimes committed against Hungarian natural or legal persons abroad, and (ii) any crime committed abroad by foreign nationals provided such conduct is also a criminal offense in the jurisdiction where it is perpetrated. This latter rule makes it possible for Hungarian authorities to prosecute - based on Hungarian law - virtually any crime committed in the world. Prosecution based on these special extraterritorial provisions may, however, only be invoked upon the personal decision of the Chief Prosecutor. We note that these special jurisdictional rules are seldom invoked by the Hungarian authorities; they are almost exclusively used under extraordinary circumstances, such as the prosecution of foreign terrorists.

#### 5) Who may be liable for bribery? (public officials, private individuals, legal entities etc.)

Any natural person can be liable for giving or offering a bribe.

For receiving, or agreeing to receive a bribe, the three categories of persons described in Section 2 above may be held liable.

If a person commits bribery of public officials, and such person acts for or in favor of an organization, the executive responsible for the person's supervision may also be liable if they did not fully fulfill their obligations and adequate supervision could have prevented the bribery (Criminal Code - Section 293).

Legal persons may also be sanctioned, but these sanctions are not specific to bribery offenses.

#### 6) Are facilitation payments (i.e. small payments to speed up routine governmental action) considered to be bribes?

In terms of public officials, certainly. Regardless of the amount, if the aim of the payment is to influence the public official, it is a bribe (the intent behind the payment is key).

In terms of persons acting for or to the benefit of an organization, a facilitation payment is only a bribe if the facilitation would also result in the person violating their duties.

#### 7) Does the legal framework restrict political and charitable contributions?

A political or charitable contribution could be considered a bribe if it is given or received with the intention of inducing a person to act improperly, or as a reward for having done so.

#### 8) Does the Legal framework place restrictions on corporate hospitality?

The Criminal Code makes no express provisions with regard to corporate hospitality and any financial or other advantage given in that context.

Whether hospitality given amounts to a bribe would be assessed on the basis of whether there was sufficient evidence to show that it was given with the intention that amounts to a criminal bribery motive. Hence, the important factor to assess under Hungarian law is the intent, and not the amount.

Certain professional bodies, including the Chamber of Hungarian Government Officials (*Magyar Kormánytisztviselői Kar*) have their own rules on what kind of gifts and hospitality may be accepted; however, violations of such rules may only result in disciplinary, but not in criminal actions.

## 9) Are there any defenses for bribery offenses?

There are no specific defenses for bribery offenses in the Criminal Code. The opportunity to reduce the penalty of perpetrators who uncover the offense is rather a settlement mechanism, as described in more detail below.

## 10) What are the key regulatory or enforcement bodies with regard to bribery?

The Police investigate bribery offenses in general. The Prosecution Service supervises the police investigations, presses charges and represents them in court. If the bribery concerns public officials, the Central Investigation Office of the Prosecution Service (*Központi Nyomozó Főügyészség*) is in charge of the investigation.

## 11) What are the legal consequences of being found guilty of bribery offenses?

Individuals face up to ten years' imprisonment. The Criminal Code sets out numerous different lengths of imprisonment for different forms and values of bribery. Generally, those receiving or accepting to receive or requesting a bribe are sanctioned more seriously than those offering or giving the bribe.

Companies can be subject to a fine; to limitation of its activities (most commonly debarment from public procurement); or dissolution. The maximum amount of the fine is three times the value of the advantage achieved or sought to be achieved by the crime.

An individual and/or company may also face confiscation of criminal property (i.e. the proceeds of crime) arising from the offense, which can include the revenue attributable to any contract won through bribery, not just the value of the bribe paid.

Individual perpetrators who commit an offense as executives of a company can also be disqualified from holding such positions, for a definite period, or for life.

Companies convicted of bribery offenses may also face debarment from public procurement contracts under the EU Public Procurement Directive.

## 12) Are deferred prosecution agreements (DPAs) or other similar settlement mechanisms available?

If a perpetrator of a bribery offense uncovers the full extent of the crime before the authorities become aware of it and hands over all benefits received from bribery to the authorities, then the court may allow an unlimited reduction of the penalty.

Apart from the possibility mentioned above, the general possibility of a plea bargain is also open to perpetrators of bribery offenses. The plea bargain has to be made between the Prosecution Service and the accused individual or company. Confiscation of property cannot, however, be subject to the plea bargain; confiscation has to be applied and lenient treatment cannot be offered in this regard.

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