**Corruption and bribery**

**« The Central Anti-Corruption Office** (OCRC) »

In Belgium, corruption is ruled by the penal Code modified by the law dated 10/02/1999 related to the corruption repression (recently adapted by a law dated 11/05/2007). More exactly, Penal Code articles 246 and follows are concerning public corruption while articles 504bis and follow are related to private corruption.

At an international level, various conventions are related to corruption:

* Criminal law convention on corruption (Council of Europe, 27/01/ 1999).
* Civil law convention on corruption (Council of Europe, 4/11/1999).
* OECD Convention on combating bribery of foreign public officials in international business transactions (OECD, 17/12/1997).
* Convention against corruption involving officials of the European Communities or officials of Member States of the European Union (European Union Council, 26/05/1997).
* United Nations convention against corruption (United Nations, 31/10/ 2003). (ratified in Belgium 25/12/2008)

Those conventions have been ratified by our country. They are applicable on the Belgian territory.

**Belgian laws related to the fight against corruption :**

5 FEBRUARY 2016. – **Law** to amend the Criminal Law and Procedure and to provide for various justice-related matters **Published on :** **19-05-2016**

16 FEBRUARY 2009. – **Law** approving the additional protocol to the penal convention on corruption, ratified inStrasbourg on 15 May 2003 **Published on: 20-03-2009**

22 DECEMBER 2008. – **Law** Miscellaneous Provisions Act (I). **Published on:** **29-12-2008**

11 MAY 2007. - **Law** adapting the legislation to the fight against corruption. **Published on: 08-06-2007**

8 MAY 2007. - **Law** approving the United Nations convention against corruption, ratified in New York on October 31 2003. **Published on: 18-11-2008**

15 FEBRUARY 2007. - **Law** approving the Civil Convention on corruption, ratified in Strasbourg on 4 November 1999. **Published on: 28-03-2007**

1 SEPTEMBER 2006. - **Law** adapting the legislation on the fight against corruption **Published on :** **04/05/2007**

19 FEBRUARY 2004. - **Law** approving the Penal Convention on corruption, ratified in Strasbourg on 27 January 1999. **Published on: 10-05-2004**

17 FEBRUARY 2002. – **Law** approving the following international Acts: 1° Convention, based on article K.3 of the European Union Treaty, related to the protection of the financial interests of the European Communities, ratified in Bruxelles on 26 July 1995. 2° Protocol, based on article K.3 of the European Union Treaty, to the Convention related to the protection of the financial interests of the European Communities, ratified in Dublin on 27 September 1996. 3° Second Protocol, based on article K.3 of the European Union Treaty, to the Convention related to the protection of the financial interests of the European Communities, and added Declaration, ratified in Bruxelles on 19 June 1997. 4° Protocol, drawn up on the basis of article K.3 of the European Union Treaty, on the interpretation, by way of preliminary rulings, by the Courts of Justice of the European Communities to the convention on the protection of financial interests, and Declaration, ratified in Bruxelles on 29 November 1996. 5° Convention, drawn up on the basis of article K.3, paragraph 2, point c), of the European Union Treaty, on the fight against corruption of the European Communities or officials of Member States of the European Union, ratified in Bruxelles on 26 may 1997. **Published on: 15-05-2002**

9 JUNE 1999. - **Law** approving OECD’s Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions, published in Paris on 17 December 1997. **Published on: 20-11-1999**

10 FEBRUARY 1999. - **Law** on the suppression of corruption. **Published on: 23-03-1999**

**From the CMS GUIDE TO ANTI-BRIBERY AND CORRUPTION LAWS.**

July 2013- Omar Qureshi- Head of Anti-corruption- CMS UK : <https://cms.law/fr/FRA/Publication/Guide-CMS-2013-sur-les-lois-anti-corruption-des-lois-plus-severes-envers-la-lutte-contre-la-corruption>

*With respect to the authors property and copyright : internal and personal use exclusively. (https://cms.law/fr/FRA/Footer-Configuration/Conditions-d-utilisation)*

|  |
| --- |
| **BELGIUM** |
| **Source of law** | Criminal Code |
| **Offence** | **Public Bribery (art. 246 & foll. Criminal Code) Active Public Bribery**Offering, promising or giving (directly or indirectly) an advantage of any kind to a person exercising a public function, either for himself or a third party, in order to induce him to:1. Perform an act within the scope of his responsibilities which is not subject to remuneration;
2. Perform an improper act, or refraining from a proper one, in the exercise of one’s function;
3. Commit an offence in the exercise of one’s function; or
4. Use influence derived from one’s function to obtain performance or non-performance of an act by

a public authority.**Passive Public Bribery**A person exercising a public function requesting or accepting directly or via another person an offer, promise or any advantage for himself or a third party, to act as described in (i) to (iv) above. | **Private Bribery (art. 504bis & foll. Criminal Code)****Active Private Bribery**Offering or giving to a company director any advantage intending to induce him to act, or to refrain from certain acts within his functions or accepting such advantage without the Board of directors’ authorisation.**Passive Private Bribery**A person acting as a director or employee of a company requesting or accepting directly or through another person an offer, promise or any advantage for himself or a third party, to do or refrain from certain acts within his function, without authorisation of the company’s Board of Directors. |
| **The bribe** |
| Is there a presumption that any benefit was given/received corruptly? | X | X |
| Would facilitation payments be caught? | √ | √ |
| Would corporate hospitality be caught? | √ | √ |
| Is there any *de minimis*? | X | X |
| Does the bribe have to be monetary? | X | X |
| **Public officials** |
| Does the offence only apply to bribing public officials? | √ | X |
| **Acts performed outside Belgium** |
| Can bribery performed outside Belgium be caught? | √ | √ |
| Does the act also need to be illegal in the foreign country of performance? | X | √ |
| **Who can be liable** |
| Belgian national? | √ | √ |
| Belgian company? | √ | √ |
| Belgian partnership (including limited liability partnership)? | √ | √ |
| Director of Belgian company? | √(either directly or if the director consented or connived in an offence committed by the company) | √(either directly or if the director consented or connived in an offence committed by the company) |
| Belgian company if the bribe is committed abroad by its foreign subsidiary? | √ | √ |
| Foreign subsidiary of a Belgian company if the bribe is committed abroad? | √ | √ |
| Foreign national/company/partnership if the bribe is committed in Belgium? | √ | √ |
| Foreign national domiciled or “ordinarily resident” in Belgium if the bribe is committed outside Belgium? | √ | √(but the act also needs to be illegal in the foreign country of performance) |
| Foreign company/partnership if the bribe is committed abroad? | X | X |
| **Penalties** |
| Penalties include: | Recipient* Fine
* Imprisonment
* Confiscation
* Professional restrictions i.e. restrictions may be imposed on the power of company directors, auditors or managers

Companies* Fine
* Confiscation
* Debarment from tendering for public contracts
 | * Fine
* Imprisonment
 |
| **Defences** |
| Are there any defences available? | X | X |