

# Cyprus

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### 1 International anti-corruption conventions

To which international anti-corruption conventions is your country a signatory?

Cyprus is a signatory to the following international anti-corruption conventions:

- United Nations Convention against Corruption (UNCAC), New York, 31 October 2003, entered into force 14 December 2005, ratified by Cyprus 23 February 2009.
- Agreement for the Establishment of the International Anti-Corruption Academy as an International Organisation (IACA), Vienna, 2 September 2010, entered into force 8 March 2011, ratified by Cyprus 19 August 2011.
- Criminal Law Convention on Corruption, Strasbourg, 27 January 1999, entered into force 1 July 2002, ratified by Cyprus 17 January 2001 (the Criminal Law Convention on Corruption).
- Additional Protocol to the Criminal Law Convention on Corruption ratified on 21 November 2006, entered into force on 1 March 2007.
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Strasbourg, 8 November 1990, entered into force 1 September 1993, ratified by Cyprus on 15 November 1996.
- European Framework Decision No. 2003/568/JHA, Combating Corruption in the Private Sector.

Cyprus also joined the Group of States against Corruption of the Council of Europe in 1999 (GRECO).

### 2 Foreign and domestic bribery laws

Identify and describe your national laws and regulations prohibiting bribery of foreign public officials (foreign bribery laws) and domestic public officials (domestic bribery laws).

The Prevention of Corruption Law, Cap 161 of 1920, was introduced when Cyprus was a British colony and continues to have effect. It prohibits bribery of public officials.

The Civil Servants Law of 1/1990 governs the conduct of civil servants in general. It makes specific provision regarding bribery of public officials at sections 69 and 70.

The Criminal Code, Cap 154, is a compilation of criminal law provisions. It specifically provides for criminal sanctions for bribery of public officials in sections 100 to 103 and of witnesses in section 118.

The Law Sanctioning the Criminal Law Convention on Corruption No. 23(III) of 2000 (Law No. 23(III) of 2000) and Law 22(III) of 2006 transpose the provisions of the Criminal Law Convention on Corruption 1999, aligning Cyprus law with best practice in the field of bribery of foreign public officials, bribery in the private sector, trading in influence, money laundering of

proceeds from corruption offences, account offences, participatory acts and corporate liability.

The Law Providing for Registration, Funding of Political Parties and other similar matters (Law 20(I) of 2011) establishes a legal framework for political parties in Cyprus, covering their legal status and registration requirements, and rules concerning the transparency of their financial administration. Moreover, the supervision of the financing of political parties has been entrusted to the Auditor General, an independent institution under the Constitution of Cyprus.

### Foreign bribery

#### 3 Legal framework

Describe the elements of the law prohibiting bribery of a foreign public official.

Section 4 of Law No. 23(III) of 2000 provides that bribery of foreign public officials, bribery of members of foreign public assemblies, bribery of officials of international organisations, bribery of members of international parliamentary assemblies and bribery of judges and officials of international courts are criminal offences punishable with imprisonment for up to seven years, a fine of up to €17,000 or both.

#### 4 Definition of a foreign public official

How does your law define a foreign public official?

There is no definition of a foreign public official in Law No. 23(III) of 2000. Likewise there is no reported Cyprus case law on this matter to date. In such circumstances Cyprus courts give words their ordinary meaning. Additionally, the court may refer to the definition of 'public official' found in section 4 of the Criminal Code or section 2 of the Interpretation Law, Cap 1, and adjust it accordingly. Furthermore, guiding reference may potentially be had – without any obligation of following – to section 6(5) of the English Bribery Act 2010, which defines 'foreign public official' as an individual who holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (in the present case Cyprus), exercises a public function for or on behalf of a country or territory outside the United Kingdom, or for any public agency or public enterprise of that country or territory, or is an official or agent of a public international organisation.

#### 5 Travel and entertainment restrictions

To what extent do your anti-bribery laws restrict providing foreign officials with gifts, travel expenses, meals or entertainment?

Section 4 of Law No. 23(III) of 2000 refers to articles 2 and 3 of the Criminal Law Convention on Corruption, which in turn makes

reference to the term 'undue advantage'. Section 100 of the Criminal Code contains the words 'corruptly gives..., or corruptly receives... any property or benefit of any kind'. Furthermore, section 3 of the Prevention of Corruption Law contains the words 'corruptly accepts or gives... any gift or consideration as an inducement or reward'. The term 'undue advantage', in conjunction with terminology like 'any property or benefit of any kind' and 'any gift or consideration', may be interpreted by the courts as broad enough to include gifts, travel expenses, meals or entertainment, depending on the facts of the case.

## 6 Facilitating payments

Do the laws and regulations permit facilitating or 'grease' payments?

Section 4 of Law No. 23(III) of 2000 transposes article 12 of the Criminal Law Convention on Corruption, which deals with trading in influence. It makes it a criminal offence, when committed intentionally, to promise, give or offer any undue advantage, directly or indirectly, to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making of a wide range of persons in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, in consideration of that influence, whether or not the supposed influence leads to the intended result. The categories of decision-makers include domestic public officials, members of domestic public assemblies, foreign public officials, members of foreign public assemblies, officials of international organisations, members of international parliamentary assemblies and judges and officials of international courts,

Furthermore, section 105A of the Criminal Code provides that any person who by any means attempts to influence any authority, committee, collective body or any member of such authority, committee or collective body, or any public official in the course of his or her duties related to any procedure of taking, appointing, promoting, allocating, transferring or of exercising administrative control in a governmental service, whether for his or her own benefit or for the benefit of someone else, is guilty of a criminal offence punishable on conviction with imprisonment for up to 12 months, a fine of up to €1,700 or both. It also provides that failure by any member of an authority, committee or collective body or any public official to report an approach for the purpose of obtaining preferential treatment within three days of the event is a criminal offence punishable on conviction with imprisonment of up to 12 months, a fine of up to €3,400 or both.

## 7 Payments through intermediaries or third parties

In what circumstances do the laws prohibit payments through intermediaries or third parties to foreign public officials?

The terms 'directly or indirectly' are not explicitly contained in either section 100 of the Criminal Code or in section 3 of the Prevention of Corruption Law. The terms 'directly or indirectly', as referred to in articles 2 and 3 of the Criminal Law Convention, are transposed into Cyprus law by section 4 of Law No. 23(III) of 2000. The commission of these offences through intermediaries or third parties is therefore criminalised under Law No. 23(III) of 2000.

## 8 Individual and corporate liability

Can both individuals and companies be held liable for bribery of a foreign official?

Law No. 23(III) of 2000 makes no distinction between natural and legal persons.

## 9 Civil and criminal enforcement

Is there civil and criminal enforcement of your country's foreign bribery laws?

There is criminal enforcement of domestic laws relating to foreign bribery. Law No. 23(III) of 2000, ratifying and adopting the Criminal Law Convention on Corruption, makes certain acts and conduct referred to in the convention criminal offences in Cyprus punishable with punishable on conviction with imprisonment for up to seven years, a fine of up to €17,000 or both. Furthermore, corruption is criminalised in Cyprus under the Criminal Code and the Prevention of Corruption Law.

Cyprus also provides civil law remedies against corruption. A victim of corruption may initiate civil legal proceedings for restitution on grounds of unjust enrichment, that is the significant increase of the property assets of a public official, which cannot be reasonably justified in relation to the individual's lawful income. Cyprus law also provides mechanisms that may assist in the identification of fraudsters, as well as the freezing and recovery of alienated assets.

## 10 Agency enforcement

What government agencies enforce the foreign bribery laws and regulations?

The foreign bribery laws and regulations in Cyprus are primarily enforced by the Attorney General's Office.

Insofar as money-laundering is concerned, the Unit for Combating Money Laundering (MOKAS) is responsible for receiving, requesting, analysing and disseminating disclosures of suspicious transaction reports and other relevant information concerning suspected money-laundering and terrorist financing.

## 11 Leniency

Is there a mechanism for companies to disclose violations in exchange for lesser penalties?

In criminal proceedings and depending on the particular facts of the case, cooperation with the authorities may constitute a mitigating factor when the court considers sentencing.

## 12 Dispute resolution

Can enforcement matters be resolved through plea agreements, settlement agreements, prosecutorial discretion or similar means without a trial?

Cyprus law has no provisions regarding plea agreements, settlement agreements, prosecutorial discretion or similar means without trial.

## 13 Patterns in enforcement

Describe any recent shifts in the patterns of enforcement of the foreign bribery rules.

To date there is no reported Cyprus case law that can describe patterns of enforcement of the Cyprus foreign bribery rules.

## 14 Prosecution of foreign companies

In what circumstances can foreign companies be prosecuted for foreign bribery?

There is no legislative provision regarding prosecution of foreign companies for foreign bribery in Cyprus law. Provided that Cyprus is relevant and based on the facts of the particular case to the effect

that Cyprus courts have jurisdiction under the Courts of Justice Law 14/60, legal proceedings may be initiated against a foreign company.

## 15 Sanctions

What are the sanctions for individuals and companies violating the foreign bribery rules?

Active or passive bribery of foreign public officials as provided for in section 4 of Law No. 23(III) of 2000, which explicitly refers to articles 2 and 3 of the Criminal Law Convention against Corruption, is punishable on conviction with imprisonment for up to seven years, a fine of up to €17,000 or both.

Furthermore, under section 27 of the Prevention and Suppression of Money-Laundering Activities Law of 2007 it is an offence for any person, who in the course of their trade, profession or business or employment acquires knowledge or reasonable suspicion that another person is engaged in money laundering or terrorist financing, not to report his knowledge or suspicion to the appropriate authority as soon as reasonably practical after the information came to their attention. Failure to report in these circumstances is punishable on conviction by imprisonment for up to five years, a fine of up to €5,000 or both.

## 16 Recent decisions and investigations

Identify and summarise recent landmark decisions or investigations involving foreign bribery.

No reported decisions involving foreign bribery exist.

## Financial record keeping

### 17 Laws and regulations

What legal rules require accurate corporate books and records, effective internal company controls, periodic financial statements or external auditing?

The Companies Law, Cap 113, imposes a duty on the directors of every company to keep proper books of account (section 141(1)), defined as those books deemed necessary for the preparation of financial statements and which are adequate for the presentation of a true and fair view of the company's affairs and an explanation of its transactions (section 141(2)).

Section 142 (1)(a) of the Companies Law requires the directors of every company to prepare financial statements in compliance with International Accounting Standards (Directive 2003/51/EC).

Section 152A of the Companies Law requires all companies other than those qualifying for the 'small company' exemption to have their financial statements audited in accordance with the Auditors and Statutory Audits of Annual and Consolidated Accounts Law of 2009. To qualify for the exemption the company must satisfy at least two of the following tests:

- annual turnover of not more than €3,417,200;
- total assets (before deduction of liabilities) of not more than €6,834,400; and
- average number of employees for the year of not more than 50.

As the taxation authorities require all companies to produce audited financial statements to support their tax returns, however, effectively the financial statements of all companies, irrespective of size, must be audited.

### 18 Disclosure of violations or irregularities

To what extent must companies disclose violations of anti-bribery laws or associated accounting irregularities?

The Companies Law does not oblige companies to disclose violations of anti-bribery laws. It does include powers to appoint inspectors to investigate companies and sanctions against officers of companies found to have carried on business with intent to defraud its creditors or for an otherwise fraudulent or unlawful purpose.

Section 27 of the Prevention and Suppression of Money-Laundering Activities Law of 2007 requires that any person (whether natural or legal) having any knowledge or suspicion that another person is involved in a money-laundering offence and who has become aware of the information on which the knowledge or reasonable suspicion is based in the course of his or her occupation, profession or business, to report the information to the appropriate authority as soon as reasonably practicable.

### 19 Prosecution under financial record keeping legislation

Are such laws used to prosecute domestic or foreign bribery?

A wide range of laws, including the Companies Law, the Income Tax Law, the VAT Law, the Assessment and Collection of Taxes Law and the Criminal Code, include sanctions against falsifying or unlawfully destroying accounting records. We are not aware of any recent prosecutions in this regard.

### 20 Sanctions for accounting violations

What are the sanctions for violations of the accounting rules associated with the payment of bribes?

There are no specific provisions regarding bribes but the situation could be dealt with under section 163(4) of the Companies Law, which enables proceedings to be brought against a body corporate for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation of that body corporate, or the recovery of the property of that body corporate that has been misapplied or wrongfully retained.

### 21 Tax-deductibility of domestic or foreign bribes

Do your country's tax laws prohibit the deductibility of domestic or foreign bribes?

The Income Tax Law allows only lawful expenses to be taken into account. As bribery is illegal, such payments would not be deductible.

## Domestic bribery

### 22 Legal framework

Describe the individual elements of the law prohibiting bribery of a domestic public official.

Section 3 of the Prevention of Corruption Law makes it a criminal offence, punishable on conviction with imprisonment for up to two years, a fine of up to €850 or both, for an agent (which term includes a public employee) or employee to obtain a gift, or for any person to give a gift to an agent or employee, or to falsify a receipt with intent to deceive the principal or employer.

Section 4 of the Prevention of Corruption Law increases the maximum term of imprisonment to seven years if the corruption relates to a government contract and section 5 provides that if any public official is proved to have received a payment or gift from a person seeking to conclude a government contract, the payment will be deemed to have been corrupt unless it is proved otherwise.

Under section 4 of Law No. 23(III) of 2000 the acts and conduct referred to in the articles of the Criminal Law Convention on Corruption relating to active bribery of domestic public officials, passive bribery of domestic public officials and bribery of members of domestic public assemblies are criminal offences, punishable on conviction with imprisonment for up to seven years, a fine of up to €17,000 or both.

### 23 Prohibitions

Does the law prohibit both the paying and receiving of a bribe?

Both the paying and the receiving of a bribe are prohibited by sections 3(a) and 3(b) of the Prevention of Corruption Law and sections 100(a) and 100(b) of the Criminal Code. Furthermore, section 4 of Law No. 23(III) of 2000 prohibits active and passive bribery of domestic public officials, and active bribery in the private sector.

### 24 Public officials

How does your law define a public official and does that definition include employees of state-owned or state-controlled companies?

Section 2 of the Prevention of Corruption Law defines the term 'agent' as any person who is employed or acts for another person who is a servant of the Republic of Cyprus or any other public body. The phrase 'public organisation' includes local and public authorities of any kind. Section 5 of the Prevention of Corruption Law specifically deals with bribery of any person who is in the service of the Republic of Cyprus or any governmental department or of any public organisation; that is, any civil servant or employee of any public body.

Section 4 of the Criminal Code defines 'public official' as any person holding any of the following offices or performing the duties thereof, whether as a deputy or otherwise:

- any civil or public office or post, the power of appointing or removing a person to or from which is given to the President of the Republic, the Council of Ministers or any public commission or board;
- any post to which a person is appointed or nominated by law or by election;
- any civil post, the power of appointing to which or removing from which is given to any person or persons holding a public office or post of any kind those in (a) and (b) above; and
- any post of arbitrator or umpire in any proceeding or matter submitted to arbitration by order or with the sanction of a court in pursuance of the law.

Section 4 also provides that the term 'public official' includes:

- a member of a commission of inquiry appointed or in pursuance of the law;
- any person employed to execute a process of a court;
- all persons belonging to the military or police forces of the republic;
- persons employed in a government department;
- a person acting as a minister of religion of whatsoever denomination in so far as he performs functions in respect of the notification of intending marriage, birth, baptism, death or burial but not in any other respect;
- persons employed by a municipal authority; and
- the mukhtar (head of a village) and members of the commission of any community.

Section 2 of the Interpretation Law, Cap 1, states that the term 'public official' includes every official employed in the public service of the republic, who has powers and exercises duties of a public nature, whether or not under the direct control of the Council of Ministers.

### 25 Public official participation in commercial activities

Can a public official participate in commercial activities while serving as a public official?

A public official cannot participate in commercial activities while serving as a public official. Under section 103 of the Criminal Code any public official who administers property for the conduct of industry, commerce or a business of a special character and who has acquired and exercises a private interest in this property, industry, or business is guilty of a criminal offence punishable by imprisonment for up to one year.

### 26 Travel and entertainment

Describe any restrictions on providing domestic officials with gifts, travel expenses, meals or entertainment. Do the restrictions apply to both the providing and receiving of such benefits?

Section 69 of the Civil Servants Law 1/1990 prohibits public officers from making or receiving gifts, including monetary amounts and travel expenses. Although no specific reference is made to meals or entertainment, the wording of the legislation is broad enough to cover these.

### 27 Gifts and gratuities

Are certain types of gifts and gratuities permissible under your domestic bribery laws and, if so, what types?

Under section 69 of the Civil Servants Law 1/1990 no public officer is allowed to receive or offer any gifts, including money, other goods, free travel or other personal benefits apart from gifts from personal friends, gifts made upon retirement and gifts that it would be contrary to the public interest to decline.

### 28 Private commercial bribery

Does your country also prohibit private commercial bribery?

Active and passive bribery in the private sector are illegal under section 4 of Law No. 23(III) of 2000, which covers the acts and conduct of these offences as well as all elements referred to in the pertinent articles of the Criminal Law Convention on Corruption. Depending on the particular facts of each case, private legal proceedings may also be possible on grounds of unjust enrichment or fraud and conspiracy to defraud.

### 29 Penalties and enforcement

What are the sanctions for individuals and companies violating the domestic bribery rules?

Active and passive bribery of public officials as specified in section 4 of Law No. 23(III)/2000 (which refers to articles 2 and 3 of the Criminal Law Convention) are punishable by imprisonment for up to seven years, a fine of up to €17,000 or both.

Under section 100 of the Criminal Code active and passive bribery of public officials are felonies punishable with imprisonment for up to five years, a fine of up to €17,000 or both. Furthermore, property involved in such an offence may be subject to confiscation according to Law 96(I)/1996, as amended.

Under section 101 of the Criminal Code a public official who accepts any additional payment for the execution of his or her duties is liable to imprisonment for up to three years and a fine.

Under section 102 of the Criminal Code a public official who accepts property or benefits in order to act in favour of the offeror or of anyone else, is liable to imprisonment for up to two years and a fine.

### Update and trends

In its Third Round Evaluation Report on Cyprus the Council of Europe's Group of States against Corruption (GRECO) recommended the streamlining of the legal framework for the criminalisation of corruption offences. GRECO also recommended that private-sector financing of political parties should be made more transparent.

The GRECO report focused on two issues: criminalisation of corruption and transparency of party funding. In terms of the criminalisation of corruption, GRECO noted that Cyprus has ratified the Criminal Law Convention on Corruption and its Additional Protocol, and has made the offences contained in these instruments directly applicable as domestic law; however, although this legislation has been in force for several years, it has never been applied by the prosecuting authorities or by the courts. Instead, these authorities have continued to exclusively apply outdated legislation concerning

corruption offences that does not comply with the requirements of the Criminal Law Convention and its Additional Protocol.

In the opinion of GRECO the co-existence of overlapping old and new legislation produces an inconsistent legal framework in respect of corruption offences; it recommended that a uniform legal framework be established and applied in practice.

GRECO commended Cyprus for having adopted the Law on Providing for Registration, Funding of Political Parties and Other Similar Matters in 2011. While it found most aspects of the law satisfactory, GRECO concluded that it does not adequately provide for transparency of private funding of political parties as required by Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns. GRECO will assess progress in the implementation of its recommendations late in 2012.

Under section 118 of the Criminal Code offering any inducement to a witness is punishable by imprisonment for up to three years.

Section 3(a) of the Prevention of Corruption Law provides that active and passive corruption of agents are punishable with imprisonment for up to two years, a fine of up to €2,500 or both. If the offence is committed in relation to a contract or a proposed contract with a public body, however, the imprisonment may go up to seven years (section 4 of Law No. 23(III)/2000).

### 30 Facilitating payments

Have the domestic bribery laws been enforced with respect to facilitating or 'grease' payments?

No reported case law exists on this matter.

### 31 Recent decisions and investigations

Identify and summarise recent landmark decisions and investigations involving domestic bribery laws, including any investigations or decisions involving foreign companies.

Cases involving bribery are relatively few and far between, and have generally involved low-level corruption such as the soliciting of bribes by police officers. There have been no high-profile cases in recent years.



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