

# Anti-Corruption Regulation

in 54 jurisdictions worldwide

Contributing editor: Homer E Moyer Jr

# 2012



**Published by**  
**Getting the Deal Through**  
**in association with:**

Advokatfirman Delphi  
Afridi & Angell  
Amir & Amir Law Associates  
Anagnostopoulos Criminal Law & Litigation  
Anderson Mōri & Tomotsune  
Andreas Neocleous & Co LLC  
Angara Abello Concepcion Regala & Cruz Law Offices (ACCRALAW)  
Ashurst  
Astigarraga Davis  
AZB & Partners  
Badri & Salim El Meouchi Law Firm  
Barbosa Abogados  
BDO Advokater AS  
Bennett Jones LLP  
Carey y Cía Ltda  
CR & F Rojas – Abogados  
Dr Kai Hart-Hönig Rechtsanwälte  
ELIG Attorneys-at-Law  
FSV Abogados  
Greenberg Traurig, SC  
Grinberg, Cordovil e Barros Advogados  
Hoet Peláez Castillo & Duque  
Horn & Co, Law Offices  
Ivanyan & Partners  
Jiménez Cruz Peña  
K&L Gates LLP  
Kensington Swan  
Kim & Chang  
Kleyr Grasso Associés  
Koep & Partners  
Lampert & Schächle Attorneys at Law Ltd  
Law Offices of Sheikh Tariq Abdullah  
Lebray & Associés  
Makarim & Taira S  
Mamić Perić Reberski Rimac  
Matheson Ormsby Prentice  
Mboya Wangong'u & Waiyaki Advocates  
Miller & Chevalier Chartered  
Nchito and Nchito Advocates  
Nicolette M Doherty Attorney-at-Law  
Norton Rose LLP  
OECD  
Paz Horowitz Robalino Garces  
Peters & Peters  
Price Sanond Prabhas & Wynne Ltd  
PRK Partners  
Russin & Vecchi  
Saxinger, Chalupsky & Partner Rechtsanwälte GmbH  
Schellenberg Wittmer  
Sjöcrona Van Stigt Advocaten  
Sofunde, Osakwe, Ogundipe & Belgore  
Stevenson, Wong & Co  
Studio Legale Pisano  
The Law Firm of Salah Al-Hejailan  
Transparency International  
Vicheka Lay



## Anti-Corruption Regulation 2012

### Contributing editor

Homer E Moyer Jr  
Miller & Chevalier Chartered

### Business development managers

Alan Lee  
George Ingledew  
Robyn Hetherington  
Dan White

### Marketing managers

Ellie Notley  
Alice Hazard

### Marketing assistants

William Bentley  
Zosia Demkowicz

### Subscriptions manager

Rachel Nurse  
Subscriptions@  
GettingTheDealThrough.com

### Assistant editor

Adam Myers

### Editorial assistant

Lydia Gerges

### Senior production editor

Jonathan Cowie

### Chief subeditor

Jonathan Allen

### Production editor

John Harris

### Subeditors

Davet Hyland  
Caroline Rawson

### Editor-in-chief

Callum Campbell

### Publisher

Richard Davey

### Anti-Corruption Regulation 2012

Published by  
Law Business Research Ltd  
87 Lancaster Road  
London, W11 1QQ, UK  
Tel: +44 20 7908 1188  
Fax: +44 20 7229 6910

© Law Business Research Ltd  
2012

No photocopying: copyright  
licences do not apply.

First published 2007  
Sixth edition 2012  
ISSN 1754-4874

The information provided in this publication is general and may not apply in a specific situation. Legal advice should always be sought before taking any legal action based on the information provided. This information is not intended to create, nor does receipt of it constitute, a lawyer-client relationship. The publishers and authors accept no responsibility for any acts or omissions contained herein. Although the information provided is accurate as of February 2012, be advised that this is a developing area.

Printed and distributed by  
Encompass Print Solutions  
Tel: 0844 2480 112

**Law**  
**Business**  
**Research**

<b>Global Overview</b> Homer E Moyer Jr <i>Miller &amp; Chevalier Chartered</i>	<b>3</b>
<b>When anti-bribery measures came of age</b> Monty Raphael QC <i>Transparency International UK</i>	<b>8</b>
<b>G20 Anti-Corruption Action Plan</b> Nicola Bonucci and Patrick Moulette <i>OECD</i>	<b>9</b>
<b>Antigua &amp; Barbuda</b> Edward H Davis Jr, Arnaldo B Lacayo and Nicolette M Doherty <i>Astigarraga Davis and Nicolette M Doherty Attorney-at-Law</i>	<b>10</b>
<b>Argentina</b> Adalberto Ramiro Barbosa and Patricio O'Reilly <i>Barbosa Abogados</i>	<b>14</b>
<b>Australia</b> Jane Ellis and Simon Rudd <i>Ashurst</i>	<b>19</b>
<b>Austria</b> Christina Hummer and Irene Meingast <i>Saxinger, Chalupsky &amp; Partner Rechtsanwälte GmbH</i>	<b>26</b>
<b>Bangladesh</b> M Amir-Ul Islam <i>Amir &amp; Amir Law Associates</i>	<b>31</b>
<b>Bolivia</b> Pablo Rojas <i>CR &amp; F Rojas – Abogados</i>	<b>37</b>
<b>Brazil</b> Carlos Amadeu Bueno Pereira de Barros <i>Grinberg, Cordovil e Barros Advogados</i>	<b>42</b>
<b>Cambodia</b> Vicheka Lay	<b>47</b>
<b>Canada</b> Milos Barutciski <i>Bennett Jones LLP</i>	<b>50</b>
<b>Chile</b> Marcos Ríos and Solange González <i>Carey y Cía Ltda</i>	<b>56</b>
<b>China</b> Amy L Sommers and David Zhang <i>K&amp;L Gates LLP</i>	<b>62</b>
<b>Costa Rica</b> Robert C van der Putten and Paola Montealegre <i>FSV Abogados</i>	<b>68</b>
<b>Croatia</b> Natalija Perić <i>Mamić Perić Reberski Rimac</i>	<b>73</b>
<b>Cyprus</b> Panayiotis Neocleous, Costas Stamatou and Alexia Solomou <i>Andreas Neocleous &amp; Co LLC</i>	<b>77</b>
<b>Czech Republic</b> Daniela Musilová <i>PRK Partners</i>	<b>82</b>
<b>Dominican Republic</b> Marcos Peña Rodríguez <i>Jiménez Cruz Peña</i>	<b>89</b>
<b>Ecuador</b> Bruce Horowitz <i>Paz Horowitz Robalino Garces</i>	<b>93</b>
<b>France</b> Stéphane Bonifassi <i>Lebray &amp; Associés</i>	<b>97</b>
<b>Germany</b> Kai Hart-Hönig <i>Dr Kai Hart-Hönig Rechtsanwälte</i>	<b>102</b>
<b>Greece</b> Ilias G Anagnostopoulos and Jerina (Gerasimoula) Zapanti <i>Anagnostopoulos Criminal Law &amp; Litigation</i>	<b>107</b>
<b>Hong Kong</b> Angus Hamish Forsyth <i>Stevenson, Wong &amp; Co</i>	<b>112</b>
<b>India</b> Vineetha MG and Aditya Vikram Bhat <i>AZB &amp; Partners</i>	<b>116</b>
<b>Indonesia</b> Richard Cornwallis and Farida Yuliasari <i>Makarim &amp; Taira S</i>	<b>125</b>
<b>Ireland</b> Carina Lawlor and Bríd Munnely <i>Matheson Ormsby Prentice</i>	<b>130</b>
<b>Israel</b> Yuval Horn, Ohad Mamann and Adi Sharabi <i>Horn &amp; Co, Law Offices</i>	<b>137</b>
<b>Italy</b> Roberto Pisano <i>Studio Legale Pisano</i>	<b>143</b>
<b>Japan</b> Kenichi Sadaka and Kei Akagawa <i>Anderson Mōri &amp; Tomotsune</i>	<b>149</b>
<b>Kenya</b> Godwin Wangong'u and CG Mbugua <i>Mboya Wangong'u &amp; Waiyaki Advocates</i>	<b>154</b>
<b>Korea</b> Kyungsun Kyle Choi and Kyo-Hwa Liz Chung <i>Kim &amp; Chang</i>	<b>160</b>
<b>Lebanon</b> Jihad Rizkallah, Marie-Anne Jabbour and Rita Moukarzel <i>Badri &amp; Salim El Meouchi Law Firm</i>	<b>165</b>
<b>Liechtenstein</b> Siegbert Lampert and Rudolf Schächle <i>Lampert &amp; Schächle Attorneys at Law Ltd</i>	<b>172</b>
<b>Luxembourg</b> Rosario Grasso <i>Kleyr Grasso Associés</i>	<b>177</b>
<b>Mexico</b> Luis Rubio-Barnette, Bertha A Ordaz-Avilés and Carlos A Camargo-Tovar <i>Greenberg Traurig, SC</i>	<b>183</b>
<b>Namibia</b> Peter Frank Koep and Hugo Meyer van den Berg <i>Koep &amp; Partners</i>	<b>188</b>
<b>Netherlands</b> Enide Z Perez and Max JN Vermeij <i>Sjöcrona Van Stigt Advocaten</i>	<b>192</b>
<b>New Zealand</b> Hayden Wilson <i>Kensington Swan</i>	<b>197</b>
<b>Nigeria</b> Babajide O Ogundipe and Chukwuma Ezediaro <i>Sofunde, Osakwe, Ogundipe &amp; Belgore</i>	<b>203</b>
<b>Norway</b> Erling Grimstad <i>BDO Advokater AS</i>	<b>207</b>
<b>Philippines</b> Francisco Ed Lim and Chryssilla Carissa P Bautista <i>Angara Abello Concepcion Regala &amp; Cruz Law Offices (ACCRALAW)</i>	<b>212</b>
<b>Russia</b> Vasily Torkanovskiy <i>Ivanyan &amp; Partners</i>	<b>218</b>
<b>Saudi Arabia</b> Robert Thoms and Sultan Al-Hejailan <i>The Law Firm of Salah Al-Hejailan</i>	<b>225</b>
<b>Singapore</b> Wilson Ang <i>Norton Rose LLP</i>	<b>229</b>
<b>Sweden</b> Peter Utterström and Amanda Wassén <i>Advokatfirman Delphi</i>	<b>236</b>
<b>Switzerland</b> Peter Burckhardt, Paul Gully-Hart and Roland Ryser <i>Schellenberg Wittmer</i>	<b>242</b>
<b>Thailand</b> Douglas Mancill and Wayu Suthisarnsuntorn <i>Price Sanond Prabhas &amp; Wynne Ltd</i>	<b>249</b>
<b>Trinidad &amp; Tobago</b> Edward H Davis Jr, Ava J Borrasso and Sunita Harrikissoon <i>Astigarraga Davis</i>	<b>256</b>
<b>Turkey</b> Gönenç Gürkaynak and Ç Olgü Kama <i>ELIG Attorneys-at-Law</i>	<b>261</b>
<b>United Arab Emirates</b> Charles S Laubach <i>Afridi &amp; Angell</i>	<b>267</b>
<b>United Kingdom</b> Monty Raphael QC <i>Peters &amp; Peters</i>	<b>274</b>
<b>United States</b> Homer E Moyer Jr, James G Tillen, Jeffrey M Hahn and Marc Alain Bohn <i>Miller &amp; Chevalier Chartered</i>	<b>287</b>
<b>Venezuela</b> Fernando Peláez-Pier and Carlos Dominguez <i>Hoet Peláez Castillo &amp; Duque</i>	<b>295</b>
<b>Vietnam</b> Ngo Viet Hoa <i>Russin &amp; Vecchi</i>	<b>300</b>
<b>Yemen</b> Sheikh Tariq Abdullah <i>Law Offices of Sheikh Tariq Abdullah</i>	<b>306</b>
<b>Zambia</b> Mutembo Nchito <i>Nchito and Nchito Advocates</i>	<b>311</b>
<b>Appendix</b> <i>Transparency International</i>	<b>316</b>

# Cyprus

**Panayiotis Neocleous, Costas Stamatiou and Alexia Solomou**

Andreas Neocleous & Co LLC

## 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 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) transposes 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.

## 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 therefor, 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 their duties related to any procedure of taking, appointing, promoting, allocating, transferring or of exercising administrative control in a governmental service, whether for his 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 for 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 punishment 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.

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

However, as the taxation authorities require all companies to produce audited financial statements to support their tax returns, effectively the financial statements of all companies, irrespective of size, are required to 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 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 which 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.

### Update and trends

Transparency Cyprus ([www.transparencycyprus.org](http://www.transparencycyprus.org)), a non-governmental organisation against corruption, was recently established. Its mission is to serve as a source of information both for the government and the general public on corruption issues, and to cooperate with the government and other organisations to eliminate corruption of governmental officials, to build and strengthen institutions and to facilitate reform in areas plagued by corruption, while promoting good governance in vital sectors of political life in Cyprus.

The latest evaluation report on Cyprus produced by GRECO noted that the approach taken by Cyprus in implementing the Criminal Law Convention on Corruption by explicit reference to the acts and the conduct of the offences contained in the Criminal Law Convention is unusual, and that the practical implementation of the relevant laws needs further attention. It notes that, despite the fact that Law No. 23(III) of 2000 has been in force for several years, it has never been used by the prosecuting authorities, which have continued to rely on the Criminal Code and the Prevention of Corruption Law.

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:

- (a) 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;
- (b) any post to which a person is appointed or nominated by law or by election;
- (c) 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
- (d) 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 with 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.

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. However, if the offence is committed in relation to a contract or a proposed contract with a public body, 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.

In the criminal appeal case *Kyriakos Kyriakou v The Police*, (2002) 2 CLR 499, the appellant had been found guilty of nine charges of the offence of passive bribery (section 100 (a) of the Criminal Code),

extortion by public officer (section 101 of the Criminal Code) and corruption under section 3(a) of the Prevention of Corruption Law. The total sentence imposed was imprisonment for 20 months.

In the criminal appeal case *Costas Makaritis v The Republic of Cyprus*, (2002) 2 CLR 90, the appellant had been prosecuted for a total of 13 charges, including passive bribery of a public official (section 100 (a) of the Criminal Code), two charges of corruption under section 3(a) of the Prevention of Corruption Law and two charges of extortion by public officer (section 101 of the Criminal Code). While this criminal appeal was rejected on procedural grounds, this case is pertinent for the numerous grounds on which the public officer was charged.



**Panayiotis Neocleous, Costas Stamatiou, Alexia Solomou**

**info@neocleous.com**

Neocleous House  
195 Makarios III Avenue  
PO Box 50613  
Limassol, CY 3608  
Cyprus

Tel: +357 25 110 000  
Fax: +357 25 110 001  
www.neocleous.com



## GETTING THE DEAL THROUGH®

### Annual volumes published on:

Air Transport	Licensing
Anti-Corruption Regulation	Life Sciences
Arbitration	Merger Control
Banking Regulation	Mergers & Acquisitions
Cartel Regulation	Mining
Climate Regulation	Oil Regulation
Construction	Patents
Copyright	Pharmaceutical Antitrust
Corporate Governance	Private Antitrust Litigation
Corporate Immigration	Private Equity
Dispute Resolution	Product Liability
Dominance	Product Recall
e-Commerce	Project Finance
Electricity Regulation	Public Procurement
Enforcement of Foreign Judgments	Real Estate
Environment	Restructuring & Insolvency
Foreign Investment Review	Right of Publicity
Franchise	Securities Finance
Gas Regulation	Shipbuilding
Insurance & Reinsurance	Shipping
Intellectual Property & Antitrust	Tax on Inbound Investment
Labour & Employment	Telecoms and Media
	Trademarks
	Vertical Agreements

**For more information or to purchase books, please visit:**  
[www.GettingTheDealThrough.com](http://www.GettingTheDealThrough.com)



The Official Research Partner of  
the International Bar Association



Strategic research partners of  
the ABA International section

Published by **Getting the Deal Through**  
in association with **Transparency International**

