

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

SANCTIONING REGIMES FOR BRIBERY

QUERY

What is good practice when it comes to financial and imprisonment sanctions for offences ranging from petty corruption to grand corruption crime?

PURPOSE

In Tunisia, sanctions do not depend on the seriousness of the deed and are not severe enough to act as a deterrent.

CONTENT

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Author(s)

Marie Chêne, Transparency International,
tihelpdesk@transparency.org

Reviewer(s)

Gillian Dell, Transparency International

Date: 22 December 2014

CAVEAT

Most of the literature about corruption sanctioning regimes focuses primarily on bribery and foreign bribery, and there are few publicly available resources that deal specifically with the sanctioning of the wide range of other corruption related offences.

SUMMARY

Sanctions for fighting corruption differ significantly between countries and reflect different circumstances, legal traditions, national priorities and policies. Irrespective of the sanctioning regime, it is however vital to make sure that the sanctions for corruption offences clearly outweigh the benefits of the crime.

While there is a broad consensus that sanctions should be linked to the gravity of the offence, there is little guidance on what constitutes effective, proportionate and dissuasive sanctions for corruption crimes. Most countries stipulate a mix of criminal and non-criminal penalties against individuals and companies found guilty of corruption, typically including financial sanctions, imprisonment, and confiscation of the bribe and the proceeds of bribery. International instruments also encourage state parties to complement such criminal sanctions with additional administrative and civil sanctions, including disciplinary action such as suspensions or reassignment, or bans on holding public office or participating in public tenders.

1 SANCTIONING BRIBERY: AN OVERVIEW OF NORMS AND PRACTICES

International norms and standards

Overview

Types of corruption offences requiring sanctions

A major common challenge across countries in implementing criminalisation provisions of the United Nations Convention against Corruption (UNCAC) relates to establishing the level of monetary and other types of sanctions, especially against legal persons, as well as the harmonisation of existing penalties for the wide range of corruption-related offences (United Nations 2013). While most of the literature detailing corruption related sanctions focuses primarily on bribery and foreign bribery, a comprehensive corruption sanctioning regime needs to cover and harmonise sanctions for the wide range of existing corruption related offences.

Depending on the country's legal framework, these offences can include active and passive bribery committed by a public official or a private sector official, bribery of foreign public officials and of public international organisations, embezzlement by a public official, laundering of the proceeds of crime, trading in influence, illicit enrichment and concealment of funds resulting from acts of corruption, abuse of functions as well as obstruction of justice. The extent to which these offences are adequately sanctioned largely depends on whether they are recognised as an offence in the country's domestic legal framework. For example, although facilitation payments – small bribes paid to public officials by private citizens for services the payer is lawfully entitled to – are universally prohibited in the national laws or public service regulations of countries where they are paid, some countries allow the payment of small bribes to foreign officials to speed up bureaucratic processes and access services. Similarly, private sector corruption is not criminalised in all countries.

While the principles used to determine the severity of sanctions for bribery can to a large extent be applied to other corruption-related offences, there is little specific guidance in the literature about harmonising existing penalties to suit corruption-related offences.

Effective, proportionate and dissuasive sanctions

Sanction regimes vary greatly across countries and take into account country-specific factors such as the prevalence of the crime, cultural specificities and the characteristics of the legal system. The effectiveness of sanctions against corruption is also highly contingent on the local conditions and the country's legal framework. For example, sanctions are more likely to effectively deter crime in contexts where a strong governance environment makes detection highly probable. Conversely, in a weak governance environment with dishonest law enforcers the risk of detection is lower, and higher sanctions may provide more incentives for resorting to bribery to avoid punishment (The Research Institute of Industrial Economics 2003).

As a result, international conventions typically leave it to the discretion of state parties to establish appropriate sanctions that reflect the severity of the offence in line with the legal tradition and the general framework of penalties laid out in the country's criminal law. So instead of specifying a quantitative threshold, international anti-corruption instruments usually require acts of corruption – whether committed by natural or legal persons – to be punished with “effective, proportionate and dissuasive” criminal or non-criminal penalties.

However, regardless of the context or the way sanctions are applied in different countries, the anti-corruption sanction regime should be designed in a way that ensures corrupt individuals or companies do not profit from the corrupt deal and that the penalties clearly outweigh the benefits of the crime.

Such penalties typically include financial sanctions, imprisonment, and confiscation of the bribe and the proceeds of bribery. International instruments also encourage state parties to complement such criminal sanctions with additional administrative and civil sanctions. These include disciplinary action such as suspensions or reassignment, and bans on holding public office or participating in public tenders. However, in cases where international instruments establish corruption-related offences as criminal, non-criminal sanctions may accompany criminal sanctions but not substitute them (UNODC 2009).

Sanctions should also be applied to legal persons found guilty of bribery and may be of a penal, administrative or civil nature, including monetary sanctions. They can also entail exclusion from government contracts (for example debarment from public procurement, aid procurement and export credit financing) or even the closing down legal entities.

Severity of the sanctions

As sanctions need to be tailored to the specific circumstances of the country, international norms and standards call for sanctions to be linked to the gravity of the offence in relatively broad terms, and provide little specific guidance on how to interpret this concept.

As countries have a certain level of discretion in applying sanctions, the court usually starts by deciding upon the seriousness of the offence. This cannot be determined solely by the value of an undue advantage. Culpability and harm need to be assessed while taking into account aggravating and mitigating factors such as the level of seniority of those involved, the severity of the breach of trust, and whether there was a guilty plea. This enables the court to decide whether the threshold for deprivation of liberty has been reached. The court also has to adjudicate on compensation or asset confiscation to ensure that the defendant does not benefit financially from the corrupt deal (UNODC 2009). Some countries such as the United Kingdom have developed sentencing guidelines that provide guidance for judges on how to apply the sanctions (Sentencing Council 2014).

The severity of the sanctions must be in line with the country's general framework of penalties and not fall short of the sanctions for comparable economic crimes. It is also important that the range of penalties provided is sufficient to allow mutual legal assistance and extradition. For some countries, this may involve providing for a certain length of custodial sentence to comply with dual criminality requirements (UNODC 2009).

Traditionally, higher penalties apply to bribe takers than bribe payers. For example, over a third of the members of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific prescribe heavier maximum penalties for passive bribery, while no member punishes active bribery more severely than passive

bribery. The rationale is that bribe taking is perceived as a breach of trust and abuse of power and therefore considered more serious than bribe giving, especially when the bribe giver is poor and forced to resort to bribery to access basic public services (ADB/OECD Anti-Corruption Initiative for Asia and the Pacific 2010).

In some countries, provisions for plea bargains and settlements may affect the nature and level of sanctions applied to corruption-related offences.

Examples of sanctions against corruption in international conventions

Article 3 of the [OECD Convention against Foreign Bribery](#) requires effective, proportionate and dissuasive criminal penalties and in the case of natural persons includes deprivation of liberty, sufficient to enable effective mutual legal assistance and extradition. The convention stipulates that the bribe and any proceeds of the bribery of foreign public officials (monetary or in the form of property) should be subject to seizure and confiscation, or that monetary sanctions of comparable effect are applied. State parties can also consider applying additional civil or administrative sanctions to a person already subject to sanctions for the bribery of a foreign public official.

Sanctions for punishing foreign bribery across OECD member states typically include one or more of the following: fines, confiscation (e.g. Hungary and Switzerland), exclusion (e.g. Bulgaria and Slovenia), supervision (e.g. United States), publication of the conviction (e.g. Poland) and closure (e.g. Hungary and Slovenia) (OECD 2012).

Similarly, article 19 of the [Council of Europe's Criminal Law Convention on Corruption](#) requires state parties to provide effective, proportionate and dissuasive criminal or non-criminal sanctions and measures, including monetary sanctions. When committed by natural persons, penalties can involve deprivation of liberty and can give rise to extradition. State parties also need to ensure that legal persons be held liable and subjected to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions. The measures should enable state parties to confiscate the means and proceeds of corruption offences

established in accordance with the convention, or property with a value comparable to such proceeds.

Article 30 from the [UNCAC](#) also requires sanctions to take into account the gravity of the offence. The convention allows for the removal, suspension or reassigning of public officials accused of corruption. There are also provisions for the disqualification of persons convicted of corruption from holding a public office or office in a state-owned enterprise for a period of time. Article 26 establishes the criminal liability of legal persons that should be subjected to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Criteria for assessing compliance with international standards

Anti-corruption sanctions differ greatly from country to country and reflect different national traditions, priorities and policies (UNODC 2006). It is however vital to establish a minimum level of deterrence and ensure the sanctions clearly outweigh the benefits of the crime. While there is a broad consensus that sanctions should be linked to the gravity of the offence, there is little guidance on what constitutes effective, proportionate and dissuasive sanctions for corruption crimes.

The legislative guide published by the United Nations Office on Drugs and Crime (UNODC) on the implementation of the UNCAC cites fines as the most frequently used form of punishment, which is sometimes characterised as a criminal, non-criminal or hybrid sanction. Other potential penalties include exclusion from government contracts, forfeiture, confiscation, restitution, debarment or the closing down of legal entities. States may also consider additional sanctions such as the withdrawal of certain advantages, suspension of certain rights, prohibition of certain activities, publication of the judgement, the appointment of a trustee, the requirement to establish an effective internal compliance programme and the direct regulation of corporate structure (UNODC 2006).

Irrespective of the sanction regime, a number of criteria can be used to determine whether sanctions meet international standards (OECD 2013; OECD 2012), including:

- level of sanctions for bribery and other corruption-related offences compared to other economic crimes
- difference between sanctions for public sector and private sector bribery offences
- level of sanctions for various bribery offences (promise, offer, receipt, acceptance of promise or offer of a bribe)
- difference between sanctions for active and passive bribery offences
- imprisonment sanctions sufficient to allow extradition
- statute of limitations which do not render liability ineffective
- criminal liability of legal persons
- types of sanctions that may be applied to legal persons, including exclusion from government contracts or the closing down of legal entities
- (mandatory) confiscation of the bribe and proceeds of corruption
- etc.

Maximum available penalty

The maximum penalty envisaged for corruption-related offences is an indicator of whether a country's sanction system meets international standards.

Imprisonment

In OECD countries, the average maximum available penalty for domestic bribery committed by natural persons is three to five years of imprisonment, and 10 years in aggravated cases. The maximum penalty for foreign bribery is two to 15 years (OECD 2012).

However, it is not always easy to ascertain the maximum punishment that applies in some countries (ADB/OECD 2010). For example, in countries such as China and Vietnam, the maximum penalty depends on the "seriousness" of the crime, with little guidance on how to interpret this term. In other countries such as Nepal or Bhutan, the maximum penalty is linked to the amount of money involved in the crime, with no clear indication whether this refers to the bribe or the benefit derived by a briber.

In other countries, some corruption offences such as acting as an intermediary do not meet international standards. In Mongolia, for example, such an offence is punishable by a maximum imprisonment of one to

three months and a fine. Given the prevalence of using intermediaries in international business transactions, this may not constitute an effective, proportionate and dissuasive sanction (ADB/OECD 2010).

Death penalty

In some countries, the death penalty is a maximum penalty available. However, some international bodies consider that under international human rights law, the death penalty can only be imposed for the “most serious crimes”, excluding corruption or economic crimes. In instances of bribery, the death penalty could therefore be considered a disproportionate sanction that exceeds the gravity of the offence (ADB/OECD 2010).

Financial fines

The range of fines imposed for bribery varies greatly between countries. For example, France stipulates potential fines up to €150,000 (US\$204,000), while other countries such as Canada, Norway and the United Kingdom do not place any upper limit on the fine (OECD 2012). In many countries, the maximum fine for bribery is calculated based on the value of the bribe. In Malaysia for example, the maximum fine is approximately €2,000 (US\$2,700) or at least five times the value of the amount offered, promised or given, whichever is higher. In the Philippines, bribery is punishable by fines of two or three times the value of the bribe (ADB/OECD 2010).

Setting the maximum penalty at three to five times the value of the bribe seems adequate for passive bribery, as it exceeds the benefit derived by the corrupt officials, however it may not be dissuasive enough for active bribery, as the expected benefit may be significantly more than the amount of the bribe offered (e.g. a multimillion-dollar contract). Similarly, maximum fines for natural persons also facing imprisonment may be inadequate for legal persons that derive much greater benefits from the bribe value. In many countries of the Asia Pacific, the maximum fine (up to €50,000 (US\$68,000) in Singapore, for example) is acceptable for natural persons, however it is unlikely to be proportionate or dissuasive enough for legal persons, compared to the expected benefit of the bribe (OECD 2010).

In countries such as the US and the UK, the amount

of the fine is based on the gain or benefit derived from the corrupt payment (see below).

Confiscation of the bribe and the proceeds of bribery

Confiscation of the bribe and the proceeds of bribery – defined as the permanent deprivation of property – is considered an essential sanction against bribery, as it “disgorges” the benefits of the crime and reduces the incentive to engage in corruption.

It is often considered one of the most important sanctions, with a high potential deterrent effect as 1) the bribe may no longer be available for confiscation and already “safely” moved into a third country; and 2) the proceeds may represent a very substantial penalty, compensating for relatively low monetary sanctions. Based on this, confiscation of the proceeds of corruption is mandatory in many OECD countries such as Hungary, Italy, Luxemburg, Mexico, Norway, Slovakia and Switzerland (OECD 2012).

Hence, article 31 of the UNCAC requires state parties to enable confiscation of the proceeds of crime derived from bribery. Similarly, the OECD Anti-Bribery Convention also requires the confiscation of bribes and the proceeds of bribery, or the seizure of property with a value comparable to such proceeds. Alternatively, monetary sanctions of comparable value may be imposed.

The ability to confiscate should cover both the direct proceeds of bribery (immediate benefits of the crime, such as the bribe money), as well as the indirect proceeds (such as real estate purchased with bribe money) (OECD 2010). When the proceeds of corruption have been spent or destroyed, the state must be able to confiscate other property or impose an equivalent monetary penalty.

Criteria to assess whether national legislation meets international standards with regard to confiscation can include (OECD 2012):

- Does national legislation contemplate the confiscation of the bribe and the proceeds of corruption, including when it is a company that has paid the bribe?
- Is confiscation mandatory?

- Does confiscation require a conviction for the offence and does the law permit confiscation even when the perpetrator has died or fled?
- Does confiscation also cover converted proceeds?
- Does legislation allow for confiscation of equivalent value if the bribe and the proceeds are no longer available for confiscation?
- Is confiscation from a third person possible?

Criminal liability of legal persons

As already mentioned, sanctions should also be applied to legal persons found guilty of bribery and this may include exclusion from government contracts (for example debarment from public procurement, aid procurement and export credit financing) or even the closure of legal entities.

Administrative and civil sanctions

International instruments also encourage state parties to impose additional administrative and civil sanctions to complement traditional criminal sanctions such as fines, confiscation and imprisonment.

The most common administrative sanctions are of a disciplinary nature, such as suspension, reassignment, or removal from office, bans from engaging in certain types of activities, etc. Individuals convicted of corruption may also be banned from holding public or elected offices. In some countries such as Fiji, Hong Kong and China, a conviction for bribery can result in individuals being banned from becoming a company director. Other countries such as Cambodia, Kazakhstan, Kirgizstan and Mongolia may also ban convicted individuals from engaging in certain professional activities, without always clearly specifying the types of activities that may be subject to such a ban. A ban from receiving state benefits and subsidies can also act as an important deterrent. Pakistan for example can ban those convicted of bribery from receiving state “loans, advances or other financial accommodation”, while a convicted official in the Philippines can be deprived of all retirement and gratuity benefits (ADB/OECD 2010).

For legal persons, the OECD also recommends

debarment as a sanction for foreign bribery, permitting national authorities to suspend companies found guilty of bribery from tendering for public contracts, contracts funded by official development assistance or other public advantages. In Australia, for example, the government may cancel or refuse contracts with an entity that has been convicted of a criminal offence (AFD/OECD 2010).

2 SELECTED COUNTRY EXAMPLES OF SANCTIONING REGIMES

The UK Bribery Act 2010

The [UK Bribery Act 2010](#) stipulates severe penalties for corruption, introducing an unlimited fine and up to 10 years of imprisonment for individuals found guilty of bribing, being bribed or bribing a foreign official. Companies can also face similar unlimited fines. A criminal bribery conviction also triggers powers to impose a confiscation of the proceeds of the crime under the Proceeds of Crime Act 2002, targeted prohibitions to prevent, restrict or disrupt activities that may involve criminal activities, mandatory regular financial reporting and debarment from public contracts. Guidance for the court regarding sanctioning under the UK Bribery Act can be found [here](#) (Sentencing Council 2014).

The criminal confiscation regime in the UK is perceived to be both complex and severe, with little room for judicial discretion (Lawler 2012). Confiscation typically forms the largest part of the penalty and, although limited to the assets of the defendant, is not limited to the assets tainted by bribery. Confiscation may consist of having the defendant pay a sum of money equivalent to the benefit (as opposed to profit) obtained, without any deduction of certain direct costs from the revenue obtained. If an individual fails to pay the required amount, they can be forced to serve an additional period in prison.

The court can also issue civil recovery orders and require the return of property that is proven to be the proceed of “unlawful conduct”, without needing to obtain a conviction first if it is established beyond reasonable doubt that 1) criminal activity has taken place and 2) the funds sought to be recovered represent the proceeds of the crime.

According to a 2012 OECD report on the

implementation of the OECD Anti-Bribery Convention, the UK has stepped up its enforcement of foreign bribery laws in recent years since adopting the UK Bribery Act. Between 2008 and 31 January 2012, three individuals (Tobiasen, Dougall and Messent) and two companies (Mabey & Johnson and Innospec) were convicted of foreign bribery. Two financial institutions (Aon and Willis) have been fined for failure to adopt adequate corporate compliance measures to prevent bribery. Foreign bribery investigations have led to sanctions against one company (BAE Tanzania), and to civil recovery orders against four companies in accordance with proceeds of crime legislation (Balfour Beatty, DePuy International Ltd., M.W. Kellogg and Macmillan). The penalties in all of these cases were imposed following guilty pleas and/or settlement agreements between the defendant and the UK authorities (OECD 2012).

While it is too early to identify meaningful patterns in the penalties imposed under the UK Bribery Act, there have been a certain number of civil settlements, which do not require a criminal trial and allow individuals and companies to avoid the severe criminal confiscation regime. The OECD has criticised this trend and called the UK's sanctions for bribery biased towards non-criminal civil settlements. In particular, the OECD expressed concerns over the increasing reliance of UK authorities on civil recovery orders, which require less judicial oversight and are less transparent than criminal plea agreements to settle foreign bribery-related cases. The limited information on settlements made publicly available by UK authorities also does not permit a proper assessment of whether the sanctions imposed are effective, proportionate and dissuasive (OECD 2012).

The US Foreign Corrupt Practices Act (FCPA)

Violations of the FCPA's anti-bribery provisions can carry significant civil and criminal penalties for both corporations and individuals, including imprisonment and fines that can amount to twice the gain that resulted from a corrupt payment:

- for criminal violations by companies, statutory fines of up to US\$2 million per violation, as well as restitution and forfeiture
- civil fines of up to US\$16,000 for both individuals and corporations

- for criminal violations by individuals, statutory fines of up to US\$250,000 per violation, which cannot be paid or reimbursed by an employer, and up to five years imprisonment; authorities also may seek restitution and forfeiture
- in cases involving public companies, the law may impose consent decrees, civil fines, orders to disgorge profits or orders debarring individuals from certain roles in public companies; authorities also may seek costs of prosecution and civil forfeiture
- potential collateral sanctions: loss of export, procurement, immigration, financing or other government privileges, publicity, foreign enforcement, etc.

In addition, under the Alternative Fine Act, criminal fines for both individuals and corporations may be increased to twice the gross gain or loss that resulted from the unlawful payment, allowing the extraction of multi-million dollar "disgorgement" penalties in cases where the amount of the actual bribe was relatively small (Wildman 2014).

The Department of Justice's (DOJ) approach to calculating fines is a multi-step and rather complex method outlined in [the sentencing guidelines](#) (US Department of Justice and the Enforcement Division of the US Securities and Exchange Commission 2012). The guidelines are based on the "gain" made by the defendant. In cases where no gain was made, the fine can be driven by the amount of the bribe itself. The Security Exchange Commission (SEC) can also levy a civil penalty, which is typically less than the criminal penalty. However, the SEC's most important weapon remains its ability to force the disgorgement of all gains obtained through the bribery scheme.

Both the DOJ and SEC have certain discretion in calculating the level of the fines, which may be set at below the level recommended in the sentencing guidelines, depending on the company's level of cooperation and remediation. For example, the record US\$800 million in FCPA penalties outlined in an agreement with Siemens in December 2008 was considerably less than the range stipulated in the US sentencing guidelines of between US\$1.35 billion and US\$2.70 billion (Witten et al 2008). Mitigating factors include the maintenance of an effective programme to prevent and detect corruption, self-

reporting of the offence, full cooperation with the investigation and recognition of its criminal conduct. Managerial involvement, prior criminal history and obstruction of justice are considered aggravating factors.

Violators of the FCPA provisions may also be prohibited from doing business with the US government, barred from procurement and prevented from receiving export licences.

In recent years, the DOJ and SEC have considerably increased the resources allocated to investigating and prosecuting corruption, resulting in record fines imposed on violators of the FCPA, such as in the case of Siemens (US\$800 million fine imposed in December 2008) or KBR and Halliburton (US\$579 million agreed in February 2009 to resolve criminal charges and civil claims by the US Securities and Exchange Commission).

Brazilian Anti-Corruption Law

Brazil enacted a new anti-corruption law in August 2013, imposing civil and criminal liability on individuals and corporations found guilty of committing corrupt acts. The range of prohibited conduct under the law is very broad. It includes not only the provision of any undue advantage to any public official or third party, but also offering, promising, sponsoring or providing general support for such activity.

The new law imposes severe penalties on corporations that may equate to as much as 20% of the company's annual gross revenue. If the company's annual gross revenue cannot be determined, the fine can range between US\$2,500 and US\$25 million, but may not be lower than the benefit obtained by the company (Dos Santos Barradas Correia et al 2014). Unlike the United State's Foreign Corrupt Practices Act (FCPA), the law does not require proof of the bosses' intent or knowledge, but rather evidence that the firm benefitted from corrupt acts committed by an employee (even one acting through a subsidiary or a subcontractor). Unlike Britain's Bribery Act, it does not regard robust internal safeguards as a statutory defence (but only as a potential mitigating factor). It allows courts to dissolve a company in particularly egregious cases (The Economist 2014).

Civil law suits can also force the return of funds,

assets or rights wrongfully obtained, as well as impose sanctions ranging from the suspension of public loans and subsidies to the debarment of companies.

Brazil's new anti-corruption law is seen as setting the standard in the region by following the trend of recent legislation that responds aggressively to corruption offences.

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4. APPENDIX: COMPARATIVE OVERVIEW OF SELECTED COUNTRIES

The information below is drawn from CMS's [Guide to Anti-Bribery and Corruption Laws](#), which assesses the laws in 26 countries and includes full coverage of the BRIC nations.

| Country | Penalties for corporations | Penalties for individuals |
|----------------|--|---|
| Austria | <p>Private sector</p> <ul style="list-style-type: none"> Active corruption, fine up to €7,000 (US\$9,500) Passive corruption, fine up to €35,000 (US\$47,700) Other penalties such as termination, restriction of operation, debarment from tendering for public contracts; confiscation of benefits derived from bribery <p>Public sector</p> <ul style="list-style-type: none"> Active corruption of persons exercising public functions, high state officials, and local elected/representatives, fine up to €35,000 (US\$47,700) | <p>Private sector</p> <ul style="list-style-type: none"> Active corruption, imprisonment for up to three years and fine up to €7,000 (US\$9,500) Passive corruption, imprisonment for up to five years and fine up to €21,000 (US\$28,600) <p>Public sector</p> <ul style="list-style-type: none"> Active corruption of persons exercising public functions, high state officials, and local elected/representatives sentenced to imprisonment between six months and five years and payment of a fine between €2,100 and €14,300 (US\$2,800 and US\$19,500) Passive corruption of persons exercising public functions, high state officials, and local elected/representatives sentenced to imprisonment between two months and 12 years and payment of a fine between €2,100 and €35,000 (US\$2,800 and US\$47,700) |
| China | <p>Active bribery</p> <ul style="list-style-type: none"> Fine of up to RMB 200,000 (US\$32,500) Confiscation of illegal income Fixed term imprisonment (the person in charge or directly responsible) for up to five years <p>Passive bribery</p> <ul style="list-style-type: none"> Fine of up to RMB 200,000 (US\$32,500) Confiscation of illegal income Fixed term imprisonment (the person in charge or directly responsible) for up to five years | <p>Active bribery</p> <ul style="list-style-type: none"> Fine Confiscation of property Fixed-term/life imprisonment <p>Passive bribery</p> <ul style="list-style-type: none"> Criminal detention Fixed-term/life imprisonment Confiscation of property In extreme cases: death penalty |
| Czech Republic | <ul style="list-style-type: none"> Fines, forfeiture of property, perpetual injunctions, compulsory publication of judgment, debarment from participating in public tenders and applying for subsidy and grant programmes; if held liable, the company may be dissolved (in extreme cases) | <ul style="list-style-type: none"> Imprisonment for up to 12 years, perpetual injunction or forfeiture of assets, disqualification of directors and fines |

| Country | Penalties for corporations | Penalties for individuals |
|---------|--|--|
| France | <p>Corruption of a person holding a public office:</p> <ul style="list-style-type: none"> • Fines of up to €750,000 (just over US\$1 million) <p>Corruption of a person not holding a public office:</p> <ul style="list-style-type: none"> • Fines of up to €375,000 (US\$511,000) • For a maximum of five years: Interdiction on continuing the activity at stake • Placing under judicial supervision • Closure of the division/establishment used to commit the offence • Exclusion from government procurement • Banning the entity from raising public funds • Banning the entity from writing cheques other than those allowing funds to be withdrawn or certified cheques or using credit cards • Publication of the decision • Confiscation | <p>Corruption involving a person holding a public office:</p> <ul style="list-style-type: none"> • Imprisonment for up to 10 years • Fines of up to €150,000 (US\$204,000) <p>Corruption in the private sector:</p> <ul style="list-style-type: none"> • Imprisonment for up to five years • Fines of up to €75,000 (US\$102,000) • Additional penalties such as deprivation of rights, professional restrictions, publication of the decision, confiscation of sums of money or goods irregularly received |
| Germany | <ul style="list-style-type: none"> • Termination • Restriction of operation (one to three years), including debarment from public contracts or state subsidies • Fine: up to three times the pecuniary advantage gained or intended to be gained from the crime • Confiscation order | <ul style="list-style-type: none"> • Imprisonment up to five years in the case of active and up to 10 years in the case of passive bribery (may vary depending on the nature and seriousness of the crime) |
| India | | <ul style="list-style-type: none"> • Imprisonment of between six months and five years • Unlimited fine |
| Poland | <ul style="list-style-type: none"> • Fines (in some cases these are dependent on a person acting on behalf of the corporation convicted of an offence) • Potential debarment from public tenders | <ul style="list-style-type: none"> • Imprisonment for up to 12 years and/or fines |

| Country | Penalties for corporations | Penalties for individuals |
|----------------|--|---|
| Netherlands | <ul style="list-style-type: none"> Active bribery: fine of up to €780,000 for companies (just over US\$1 million) | <p>Bribing public officials (active bribery)</p> <ul style="list-style-type: none"> Imprisonment for up to four years Fine of up to €78,000 (US\$106,00) for natural persons Disqualification from practising the profession in which the person committed the crime Deprivation of certain rights <p>Public officials accepting bribes (passive bribery)</p> <ul style="list-style-type: none"> Imprisonment for up to four years (or six years in limited circumstances) Fine of up to €78,000 (US\$106,00) Disqualification from practising the profession in which the person committed the crime Deprivation of certain rights |
| Russia | <ul style="list-style-type: none"> Fine of up to 100 times the amount of the bribe (but not less than RUB 100,000,000 / US\$1,515,000), together with the confiscation of the bribe | <ul style="list-style-type: none"> Imprisonment for up to 15 years Fine of up to 100 times the amount of the bribe Deprivation of holding certain job positions as an additional sanction |
| Switzerland | <p>Public sector</p> <ul style="list-style-type: none"> Fine of up to CHF 5,000,000 (nearly US\$5.4 million) Confiscation <p>Private sector</p> <ul style="list-style-type: none"> Fine of up to CHF 5,000,000 (nearly US\$5.4 million) Confiscation | <p>Public sector</p> <ul style="list-style-type: none"> Imprisonment for up to five years Monetary penalty of up to CHF 1,080,000 (US\$1,165,000) Confiscation Potential disqualification from acting as a director or executive officer (in highly regulated sectors) <p>Private sector</p> <ul style="list-style-type: none"> Imprisonment for up to five years Monetary penalty of up to CHF 1,080,000 (US\$1,165,000) Confiscation Potential disqualification from acting as a director or executive officer (in highly regulated sectors) |
| United Kingdom | <ul style="list-style-type: none"> Unlimited fine Debarment from public contracts Confiscation order under POCA | <ul style="list-style-type: none"> Imprisonment for up to 10 years Unlimited fine |
| United States | <ul style="list-style-type: none"> Civil: Fine of up to US\$16,000 Criminal: Fine of up to US\$2 million | <ul style="list-style-type: none"> Civil: fine of up to US\$16,000 Criminal: Fine of up to US\$250,000 and five years' imprisonment; penalty can't be paid by employer |