

CENTRAL AND EASTERN EUROPE

Corporate Compliance

Survey | 2017



Why is it important to localize compliance management systems?

Preventing corporate misconduct has become a major aspect in terms of governance of multinational enterprises. US laws have long required many businesses to maintain effective corporate compliance management systems. UK, German and many other west European jurisdictions are rapidly moving in the same direction. The broad consensus is that businesses benefit from an organized culture of corporate legality.

Astonishingly, though, even highly sophisticated compliance management systems often fail to pass the legality test in jurisdictions where they are implemented. In our practice in Central and Eastern Europe, we regularly come across international enterprises that invest serious resources in the legal design of compliance systems in their home jurisdiction – but fail to observe local laws when it comes to implementing them at ground level.

These well-intentioned attempts to roll out a compliance management system in the countries covered by this survey can seriously violate the law. In a practical example, operating a whistleblower hotline established under US laws and copy/pasted without change for use in jurisdictions where reporting systems are regulated – such as Hungary or Slovakia – is simply illegal. In many jurisdictions, US standards fail to meet the legal requirements for protecting the personal data of accused individuals. Only local legal expertise can ensure that a compliance management system blends into the legal system where it operates.

Yet legality is not the only benefit that local legal support offers. Local expertise makes compliance management real and understandable for its addressees. In training courses, instead of confusing attendees by referring to US or German law, we point to local law illustrated by real-life examples from their home jurisdictions.

In our view, localization is key to effective compliance management. This is why this survey is about local aspects of compliance management such as:

- How does a code of conduct become legally binding for Bulgarian employees?
- What needs to be observed when introducing a compliance hotline in Hungary?
- What does Estonian law say about bribery in the private sector?
- Does the Czech Republic allow facilitation payments to public officials?

These are practical questions that matter when rolling out compliance management systems in Central and Eastern Europe. You will find simplified answers to these and many other questions in the following pages.

Clearly, the general information in this survey is not to be taken as legal advice. If you are looking for legal support, turn to our colleagues listed in the following country sections or contact us, especially if you need multijurisdictional assistance: 100+ lawyers in ten countries are at your disposal.

Sincerely,

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➤ 1. General Information

1.1. Legal Framework

- German Act on Regulatory Offences (“Ordnungswidrigkeitengesetz”)
- German Stock Corporation Act (“Aktiengesetz”)
- Limited Liability Companies Act („GmbH Gesetz”)
- German Corporate Governance Codex
- German Criminal Code (“Strafgesetzbuch”)
- Act against international Bribery (“Gesetz zur Bekämpfung internationaler Bestechung”)

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Germany was ranked as 10th on the table.

➤ 2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- Bribery in the private sector is punishable in Germany. Not only bribery in the public sector is considered an offense under the German Criminal Code.
- Bribery can be committed by anyone who gives, claims or promises unlawful advantage to a person working for or on behalf of a business organization, or to another person on account of such employee, to induce them to breach their duties.
- Bribery can also be committed by anyone whosoever for competitive purposes offers, promises or grants an employee or agent of

a business a benefit for himself or for a third person in a business transaction as consideration for such employee’s or agent’s according him or another an unfair preference in the purchase of goods or commercial services shall incur the same penalty.

- Under German law the definition of what constitutes a bribe is extremely broad and covers any financial or other advantage offered (not just given).
- There is no limit or a nominal value expressed under that a giving or providing gift or advantage can be allowed. Bribery could be committed by a person by obtaining an economic advantage of any kind.
- The offense can be penalized up to three (3) years’ imprisonment. In a serious case up to five (5) years.

2.2. Bribery of Public Officials

- This offense can be committed by anyone whosoever offers, promises or grants a benefit to a public official, a person entrusted with special public service functions or a soldier of the Armed Forces for that person or a third person in return for the fact that he performed or will in future perform an official act and thereby violated or will violate his official duties.
- Bribery of public officials can be penalized from three months to five years. In less serious cases the penalty shall be imprisonment not exceeding two years or a fine.
- Another form of bribery of public officials is penalized more severely. Therefore, the penalty for those found guilty of giving or promising unlawful advantage to a public official to induce them to breach their official duty, exceed their competence or otherwise abuse their position of authority can be up to five (5) years’ imprisonment.

2.3. Facilitation Payments

- Payments considered facilitating if not intended to influence the outcome of public officials’ action only its timing.

- The German Criminal Code makes no exception for facilitation payments made to expedite routine governmental or administrative actions neither in Germany nor in somewhere abroad. Such actions would constitute bribery of public or foreign public officials.

2.4. Accepting Bribe

- Accepting bribe can be committed by anyone whosoever for competitive purposes offers, promises or grants an employee or agent of a business a benefit for himself or for a third person in a business transaction as consideration for such employees or agents to accord him or another an unfair preference in the purchase of goods or commercial services, shall incur the same penalty. The offense can be penalized up to three (3) years imprisonment. In a serious case up to five (5) years.
- A public official or person entrusted with special public service functions who demands, allows to be promised or accepts a benefit for himself or for a third person in return for the fact that he performed or will in the future perform an official act and thereby violated or will violate his official duties shall be liable to imprisonment from six months to five years. In less serious cases the penalty shall be imprisonment not exceeding three years or a fine. In a serious case up to ten (10) years.

3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- The German Criminal Code does not know this offense. The only comparable criminal offense is not foiling a crime. However, that can be committed by anyone, not only by managing directors, and thus under the condition, that this person knows about a crime being prepared or committed and does not foil it.
- But according to the German Act on Regulatory Offences, whoever, as the owner of a company or any undertaking, intentionally or negli-

gently omits to take the supervisory measures required to prevent contraventions, within the operation or undertaking of duties incumbent on the owner and the violation of which carries a criminal penalty or a regulatory fine, shall be deemed to have committed a regulatory offence in case such contravention would have been prevented or made much more difficult by proper supervision. The required supervisory measures shall also comprise appointment, careful selection and surveillance of supervisory personnel.

3.2. Civil Liability of Managing Directors

- The Act on Business Corporations states, that a Managing Director has to act in favour of the company. He is also obliged to legal duty of care. In that content, managing directors are obliged to introduce early risk detection and monitoring systems. If the managing directors do not fulfil this obligation they can be held liable for damages.

3.3. Criminal Liability of the Company

- Companies cannot be liable to prosecution.
- If a managing director has committed a criminal offence a regulatory fine may be imposed on the company.

3.4. Legal Practice

- There have been criminal as well as civil legal proceedings concerning compliance offences.

4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The Code of Conduct ("CoC") can be implemented vis-à-vis managing directors by shareholder resolution.
- The CoC is on the one hand a reproduction of the statutory law (especially labour law) and on the other hand a transcript of these moral values which are – depending on the size of the

- company and the business branch they act – important for the company.

4.2. Implementation in Case of Employees

- The form of the implementation of the CoC is a unilateral employer's instruction.
- In the employer's instruction, which must be in accordance with the principles of the German Labour Code, it must be noted that the CoC applies to all employees.
- It is binding for both the employer and the employees.
- The CoC should not be a part of the individual employment contracts because it would result that the employer cannot implement future changes of the CoC unilaterally.
- The CoC must be communicated and made available to all employees e.g. in a way of forwarding it via e-mail and also making copies of the CoC available at the work stations.

4.3. Implementation in Case of Third Parties

- Certain relevant provisions of the CoC may be implemented and applied to contractual partners (contractors, freelancers, etc.).
- The CoC can only be implemented for a third party via contract (in other words, with consent of the third party).

4.4. Localization

- Localization of the CoC means making the consequences of any infringement of the CoC and anti-bribery rules concrete.
- The content of the CoC should be the way that it fits to the day-to-day work of the employees.
- The CoC should especially include regulations and provisions for practices which are not covered by law.
- Compliance trainings and tests should take place periodical.

4.5. Legality

- The implemented global CoC must be in compliance with the requirements of all applicable German statutes.
- The legal implementation of a global CoC needs a thorough legal investigation in advance to scrutinize and identify risks of discrepancies in the legislation.
- Simply translating a global CoC may result in substantial risks.
- Risks may arise e.g. from including provisions in the CoC which are in compliance with one legislation but not with the German legislation.

› 5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- The employer may establish a reporting system to report infringements of laws and the CoC.
- The creation of a CoC is not necessary, however in the lack of a CoC only the infringements of the laws can be reported.
- A regulation on the reporting procedure must be created in German. Both the CoC and the regulation on reporting procedure must be disclosed and publicly available.

5.2. Operation of Reporting Systems

- The Employer's employees, contracting third parties or anyone having respectable legal interest in the subject conduct of the report is eligible to make a report.
- The Whistleblower Hotline and the compliance officer can be established within the company, but more effective is an external ombudsman.
- There is no statutory law governing the protection of whistleblower or give potential whistleblower estimation about the consequences about their action.

- The Employer has no binding period of time within which an investigation must be initiated.
- Infringements should be presented to the compliance officer within three days, after the infringement was registered by the (external) compliance department.
- Sensitive/personal data may only be collected if there is an initial suspicion based on facts.
- A reporting system specialist attorney may be appointed in a contract to receive and investigate on the reports.

5.3. Measures to be Taken in Case of Infringement

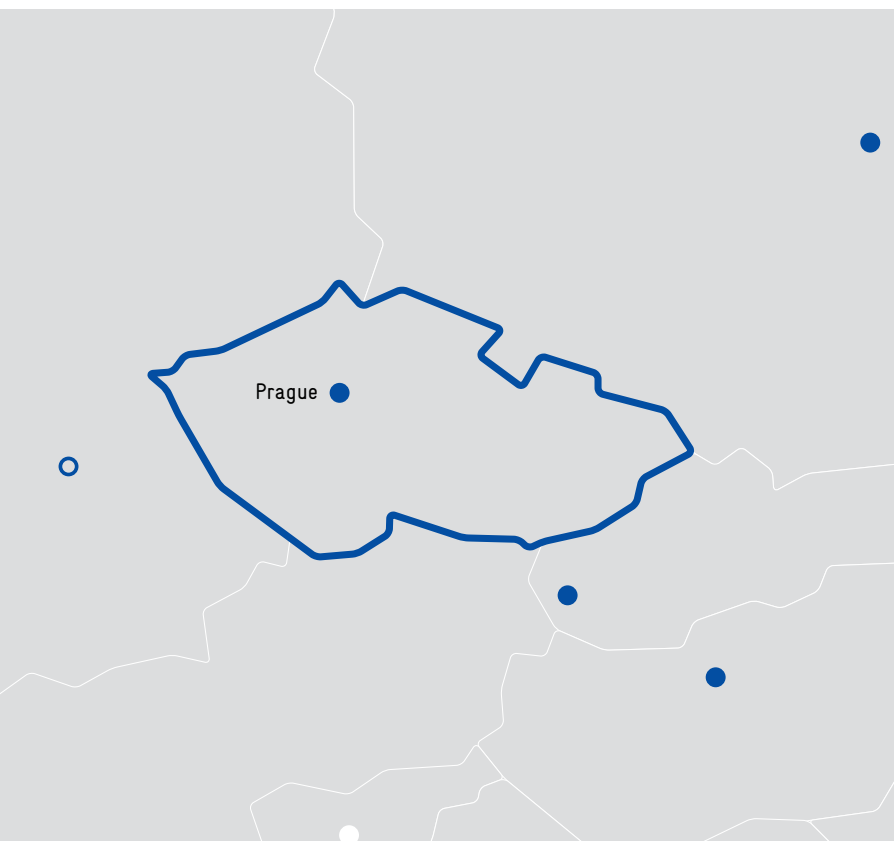
- If the reported conduct is considered an offense under the Criminal Code, a report to a body active in criminal proceedings in order to initiate prosecution is not generally necessary. It depends on the individual case.
- Employees who act contrary to the compliance rules can get dismissed by extraordinary termination. The legality of the extraordinary termination depends on the individual case.

5.4. Transmission of Data to Abroad

- According to the Federal Data Protection Act (BDSG) data can be transmitted abroad, if in a first step the provisions of the BDSG are fulfilled and in a second step, even if the provisions are fulfilled, the transmission of data is forbidden if the person affected has legitimate interests that the data won't be transmitted.

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1. General Information

1.1. Legal Framework

- Act No. 40/2009 Coll., the Criminal Code
- Act No. 89/2012 Coll., the Civil Code
- Act No. 262/2006 Coll., the Labour Code
- Act No. 90/2012 Coll. on Commercial Companies and Cooperatives (Act on Commercial Corporations)
- Act No. 159/2006 Coll. on Conflict of Interests
- Act No. 418/2011 Coll. on Criminal Liability of Legal Persons
- Act No. 145/2015 Coll., the Governmental Decree on Measures Connected to Whistleblowing at State Authority (Decree on Whistleblowing)
- Act No. 101/2000 Coll., on Protection of Personal Data

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measures the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research, the Czech Republic is ranked as 47th on the table. (Just for comparison, Germany is ranked as 10th.)

competition, can demand refraining from it, eliminating the defective state, adequate satisfaction, damages, or handing over any groundless enrichment.

- The authority in charge is the Office for the Protection of Competition, which can impose very high financial penalties for breaches against the economic competition.
- According to the Criminal Code, bribery in connection to business is also considered a criminal offense. It is penalized both providing and accepting a bribe.
- There are two special types of bribery in the private sector that are considered criminal offense. Firstly, it is the case of a creditor during an insolvency procedure who accepts a bribe in connection to his voting; he can be penalized up to one (1) year imprisonment. One who bribes such creditor will be punished the same. If the bankrupted one is an insolvency trustee, a member of the creditor's board or the creditor's representative, he will be punished with up to two (2) years.
- Second type is if committed in connection to public procurements or public auctions. In that case, the punishment is up to three (3) years imprisonment.

2.2. Bribery of Public Officials

- In the Criminal Code, one whole section is called „Bribery“. Any unlawful advantage provided directly or indirectly, or accepted, is considered a criminal offense and can be punished with up to twelve (12) years imprisonment.
- The Act on Conflict of Interests obliges public officials to report any gifts or incomes they receive or property they acquire or any personal interest to the subjected issue.

2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- According to the Civil Code, bribery in the private sector is considered unfair competition and is therefore prohibited. It is prohibited both to provide and to accept a bribe.
- Anyone, whose right was infringed by unfair

2.3. Facilitation Payments

- Facilitation payments are considered facilitating if not intended to influence the outcome of public official's action, only its timing.
- Facilitation payments to foreign public officials are one of the few exceptions from U.S. anti-

corruption laws. They are considered being the “necessary bad” in order to achieve (business) tasks in some countries, where corruption is widespread and sometimes almost even institutionalized.

- Czech law does not make any difference between bribes and facilitation payments. Both are considered an unlawful advantage and as such they are penalized.

2.4. Accepting Bribe

- Accepting a bribe can be committed by anyone who directly or indirectly accepts or accepts a promise of a bribe for himself or for others.
- As mentioned above, accepting a bribe is in Czech law is just as unlawful as bribery itself and is penalized the same way.

2.5. Legal Practice

- Any corruptive behaviour has to be primarily punished according to the general provisions on bribery in the Criminal Code. The two above mentioned special provisions can only be used, if the general provisions are applicable. (15 Tdo 885/2013)
- The term “considerable profit” refers to the amount of at least 500 000 CZK (ca. 18000 EUR). The profit has to be understood as the real profit gained by the offender or another person. (3 Tdo 496/2008)

3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- The Czech Criminal Code does not know this offense. The only comparable criminal offense is not filing a crime. However, that can be committed by anyone, not only by managing directors, and thus under the condition, that this person knows about a crime being prepared or committed and does not file it.

3.2. Civil Liability of Managing Directors

- The Act on Business Corporations states, that a Managing Director has to act in favour of the company. He is also obliged to legal duty care. In case of not abiding by his obligations, he shall not only hand out the obtained benefit, but he might also be excluded from his position or might be obliged to provide compensation for the damage.
- Managing Directors have to abide by the provisions of the Act on Business Corporations concerning collision of interests. According to them, Managing Directors have to inform other members of the body about any possible conflict of interests between them and the company.
- The most important document being concerned while deciding about civil liability of Managing Directors is the Contract on the Performance of the Position. The director’s liability would primarily derive from breach of such a contract, depending on its content.

3.3. Criminal Liability of the Company

- The Act on Criminal Liability of Legal Persons includes bribery into the crimes committable by a legal person.
- A crime committed by a legal person is a crime committed by its statutory body or its member, by anyone executing management or inspections, by anyone who has deciding influence over the legal person or by an employee.
- The penalties for a legal person are as following: Termination of the legal person, forfeiture of its property, financial penalty, forfeiture of an object, ban on activities of the legal person, ban on fulfilling public procurements, ban on getting subventions, publication of the decision.

3.4. Legal Practice

- Although the Czech legal practice concerning liability of managing directors is voluminous, there are not many decisions connected to bribery.

› 4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The Code of Conduct in the Czech Republic is primarily a question of labour law. However, it is possible to impose such a Code of Conduct for a Managing Director via Contract for Performance of the Position. Any internal norm would only be applicable within the company, not to a third party. Nevertheless, a managing director is obliged to act loyally towards the company according to the Act on Capital Corporations, which could under specific circumstances also include obeying to its Code of Conduct.

4.2. Implementation in Case of Employees

- The Labour Code regards the Code of Conduct as a special type of an internal norm.
- The Code of Conduct has to be issued in writing, it must not be in violation of the law, nor retroactive. It is binding for both the employer and the employees. The Code of Conduct needs to be accessible for all employees.
- The employers who are supposed to do so by the Labour Code (basically all state employers), have to issue a Code of Conduct; it is not obligatory for other employers.
- An employer, upon whom a trade union acts, can only issue or change a Code of Conduct with a previous agreement of the trade union.

4.3. Implementation in Case of Third Parties

- The Code of Conduct can only be implemented for a third party via contract (in other words, with consent of the third party).

4.4. Legality

- The implemented global Code of Conduct must be in compliance with the requirements of all applicable Czech laws.

› 5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- Employers can establish reporting systems through Code of Conduct or another internal norm. However, as we can see from media and government reports, the Czech environment is rather tolerant towards bribery and intolerant towards whistle-blowing. Therefore, following internal rules to report bribery might not be effective.
- If the person, who wants to report corruption, wishes to act effectively, but does not want to go straight to a police station, there are several non-profit organizations, which operate different types of reporting systems, such as telephone lines, internet applications, online forms, etc.
- According to the Decree on Whistleblowing, whistle-blowers shall be protected and all state's authorities have to, for the purpose of whistle-blowing, establish an investigator, a lockable box and an e-mail address.

5.2. Operation of Reporting Systems (according to the Decree on Whistleblowing)

- This decree affects only state employees.
- The report must be investigated within 20 days from handing over, in complicated cases within 40 days.
- A file has to be opened for each case. The shredding period for such a file is three (3) years.
- It is of high importance, that the identity of the whistle-blower remains unpublished.

5.3. Measures to be Taken in Case of Infringement

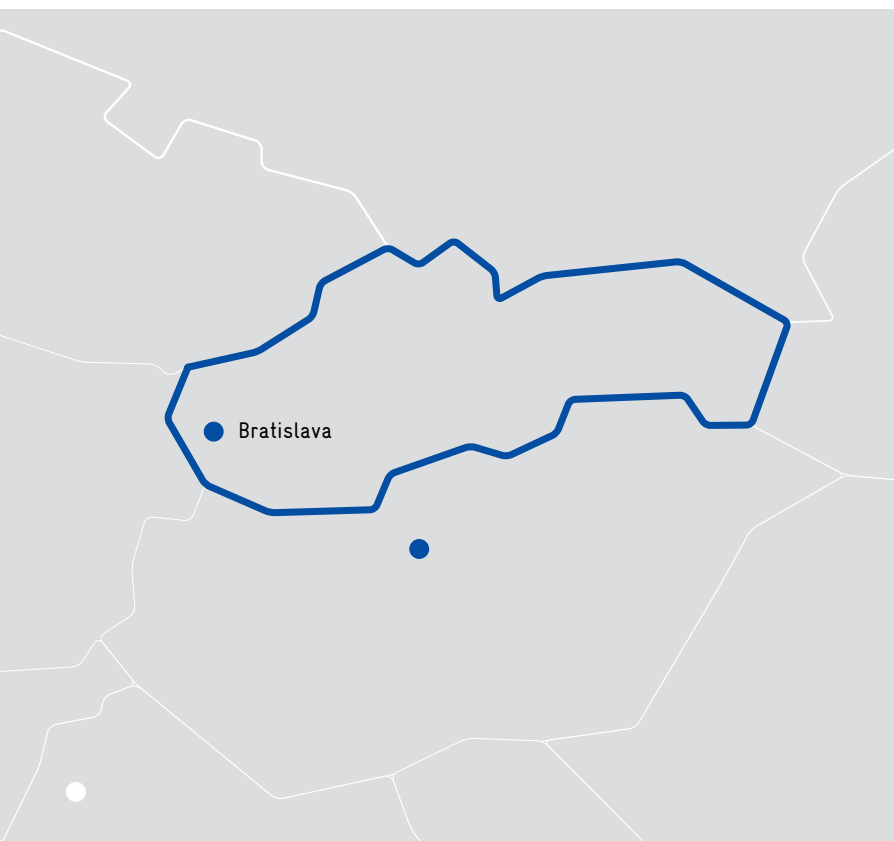
- If the reported conduct is considered an offense under the Criminal Code, a report is made to a body active in criminal proceedings in order to initiate prosecution.

5.4. Transmission of Data to Abroad

- Czech law does not provide any special legal provisions about cross-border data transmission in connection to corruption.
- Generally, according to the Act on Protection of Personal Data, personal data can only be transmitted to another state based on its membership in EU, on a bilateral contract with the Czech Republic, or a decision of a EU's body.

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➤ 1. General Information

1.1. Legal Framework

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- Act No. 301/2005 Coll. Criminal Procedure Code (“Criminal Procedure Code”).
- Act No. 40/1964 Coll. Civil Code (“Civil Code”).
- Act No. 311/2001 Coll. Labor Code (the “Labor Code”).
- Act No. 513/1991 Coll. Commercial Code (the “Commercial Code”).
- Act No. 307/2014 Coll. on Certain Measures Related to the Reporting of Anti-social Behaviour (the “Whistleblowing Act”).
- Constitutional Act No. 357/2004 Coll. on Protection of Public Interest in the Exercise of Public Officials’ Functions (the „Act on Protection of Public Interest“).

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Slovakia was ranked as 54th on the table. (Just for comparison Austria was ranked as 17th and Germany as 10th)

➤ 2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- Bribery in the private sector is punishable according to the Commercial Code in Slovakia. Bribery in the public sector can constitute an offense under the Criminal Code.
- Under the Commercial Code bribery is consid-

ered unfair competition and it is therefore prohibited both to provide and to accept a bribe.

- Under the Criminal Code “active” bribery can be committed by anyone who, either directly or indirectly, promises, offers or gives a bribe to another person to breach his/her duties from employment, profession or function, or promises, offers or gives a bribe for the same reason to a third party.
- Two special types of bribery: (i) in connection with voting at the creditors’ meeting (insolvency/restructuring proceeding (up to 8 years); (ii) in connection with public procurement or public auction (up to 12 years);
- There is no limit or nominal value expressed under which bribery can be allowed. Even advantages of insignificant value that, in general do not necessarily present threat to the society can qualify as bribe, especially regarding public officials (“PO”).
- Active bribery can be penalized up to twelve (12) years’ imprisonment.

2.2. Bribery of Public Officials

- Bribery of POs, either active or passive, is sanctioned with higher punishment (imprisonment time).
- The Act on Protection of Public Interest obliges POs (i) to refrain from any kind of conduct that would breach this act; (ii) to yearly report if the PO fulfils the conditions on performance of its duties under this act, including employment relationships, other public functions, income, and other property background; not to accept or request any gifts, misuse its function to gain any advantage (for PO/family members/close persons), or to intermediate a business (for PO/family members/close persons/third parties with the state).

2.3. Facilitation Payments

- Payments are considered facilitating if these are not intended to influence the outcome of public officials’ action but only its timing.
- The only legally allowed facilitation payments

are payments regarding the speeding up of the process of registration of proprietorial rights in the cadaster, the possibility to choose your personal doctor in case of child birth and the issuing of personal documents such as a passport or ID card.

- Facilitation payments for foreign public officials are one of the few exceptions from U.S. anti-corruption laws. It is considered to be the “necessary bad” in order to achieve (business) tasks in some countries where corruption is widespread and sometimes almost even institutionalized.
- The Criminal Code makes no exception other than above for facilitation payments made to expedite routine governmental or administrative actions in Slovakia. Such actions would constitute bribery of public or foreign public officials.

2.4. Accepting Bribe

- Under the Criminal Code “passive” bribery can be committed by anyone who, either directly or indirectly receives, requests or accepts the promise of a bribe for himself or another person for breaching duties from his/her employment, profession or function.
- Accepting bribe can be penalized by up to fifteen (15) years’ imprisonment

2.5. Legal Practice

- Legal practice concerning bribery in Slovakia is not widely given, though the prosecution of bribery is increasing in Slovakia. The latest progress shows particularly improvement in case of bribery of healthcare professionals (“HCP”). The first case of HCP who received punishment of a “prison time” occurred in 2014. The prosecution of public officials has not yet been significantly commenced by the respective authorities.

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- This particular criminal offense is not incorporated in the Slovak Criminal Code. The only comparable criminal offense is the failing to report or prevent a criminal offense. The offender of this criminal offense can be any natural person, including managing directors (hereinafter the term “managing director” applies to all types of statutory bodies under the Commercial Code). Generally, only a natural person may be considered as the offender of a criminal offense.
- In order to be held liable for the criminal offenses of failing to report or prevent a criminal offense, the police or prosecutor has to undoubtedly prove the commission of a crime, including proving the malice aforethought of the managing director.

- In order to be held liable for the criminal offenses of Bribery, the police or prosecutor has to undoubtedly prove the commission of a crime, including proving the malice aforethought of the managing director.

3.2. Civil Liability of Managing Directors

- The Commercial Code sets forth general rules on the civil liability of managing directors.
- Managing directors must exercise their function with due professional care and in the best company’s interests and its shareholders.
- Managing directors who have breached their obligations by the exercise of their authority are obliged to jointly and severally compensate the damages caused to the company. Managing directors are not liable for the damages if he/she proves that by the exercise of his/her authority he/she acted with due professional care and in good faith, in the best company’s interests.
- Agreements that exclude or limit the liability of Managing Directors are prohibited.
- The articles of association or by-laws cannot limit or exclude the liability of managing directors. The company can waive its claim for compensatory damages against managing

3. The Need for Compliance Management

- directors or conclude a settlement agreement with them at the earliest after 3 years since the damages have arisen (with the consent of the shareholders).
- There is little case law available according to which the lack of compliance management systems would have resulted in civil liability of managing directors.

3.3. Criminal Liability of the Company

- The Act on Criminal Liability of Legal Persons comes into force as of 01 July 2016.
- Companies will be held responsible for the criminal offenses listed in the act, whereas the offense must be committed on behalf of the legal person, in the scope of activities of the legal person or through the legal person and in the interest of the legal person.
- The criminal liability of legal persons is not conditional on the incurring of criminal liability by any of the individuals acting on behalf of the legal person or by the identification of the individual who committed in the way mentioned above.
- The companies may exculpate from criminal liability if the importance of non-fulfillment of supervisory obligations with regard to the company's scope of business, way of committing a crime, its consequences and circumstances, is insignificant.
- Applicable sanctions: (1) dissolution of company, (2) seizure of the company's assets or property, (3) financial sanctions, (4) prohibition of operation, (5) prohibition to accept donations or subventions, as well as help and support from EU, (6) prohibition to participate in public tenders, (7) publication of the decision.

3.4. Legal Practice

- There is little relevant Slovak case law available.
- The development of Slovak jurisprudence indicates inclination to Western-European jurisprudence and thus it is probable, that implementing of proper compliance management systems in companies may result in the

exemption of managing directors from the charges and compensatory damages. Companies taking meaningful steps to prevent bribery may thereby avoid incurring penalties.

- A compliance management system in a company's policy is a tool that may vastly help in proving to the authorities that proper control or supervisory obligations were in place.
- Implementation and focus on enforcement and evaluation methods (training, support, monitoring, auditing, whistleblower protection, hotline, etc.) reduces liability risks for managing directors and companies under Slovak law.

4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The shareholders must issue the resolution on implementation of the Code of Conduct ("CoC"), which is implemented in the company by the managing director.
- The employer is represented by the managing director. Shareholders cannot directly implement any kind of internal guideline. The shareholders may only instruct the managing director to implement such guideline.
- To make the CoC binding for a managing director, an amendment to Contract on Performance of the Function of Managing Director is necessary.
- The shareholders of the company must approve the amendment of the contract by their resolution.

4.2. Implementation in Case of Employees

- The form of the implementation of the CoC is a unilateral employer's instruction.
- Under the Labor Code the employee must "... perform work... in accordance with the relevant regulations, requirements, instructions and customs".

- In the employer's instruction, which must be in accordance with the principles of the Labor Code, all employees must be notified that the CoC applies to them all.
- It is binding for both the employer and the employees.
- For the CoC to be binding it is required that the CoC must be publicized, accessible to the employees, and the employees must be duly acquainted with the new internal regulation. After fulfilling all the mentioned requirements the CoC will be binding.

4.3. Implementation in Case of Third Parties

- Certain relevant provisions of the CoC may be implemented and applied to contractual partners (contractors, freelancers, etc.).
- The CoC can be implemented based on the consent of the other party.
- Provisions with anti-bribery representations and warranties may be applied when contracting a third party.

4.4. Localization

- Localization of the CoC means making the consequences of any infringement of the CoC and anti-bribery rules specified.
- When the CoC deals with the consequences of bribery it should mention that the penalties for those found guilty of bribery under the Criminal Code, can be severe including up to fifteen (15) years' imprisonment.
- The managing directors may be held liable for the caused damages. The burden of proof lays with the claimant, and not the managing director.
- Employees are liable for the damages maliciously caused to the employer (infringement of obligations). The employer is obliged to prove the malice aforethought of the employee. If the employee caused the damage to the employer negligently, the employer can claim damages only up to the quadruple (4) of employee's monthly salary.

- Compliance trainings and tests are permitted under Slovak law.
- Documentation of trainings may help to be exempted from the charges in case of bribery.
- The CoC should especially include regulations and provisions for practices which are not covered by law.

4.5. Legality

- The implemented global CoC must be in compliance with the requirements of all applicable Slovak statutes.
- The legal implementation of a global CoC needs a thorough legal investigation in advance to scrutinize and identify risks of discrepancies in the legislation.
- Simply translating a global CoC may result in substantial risks.
- Risks may arise e.g. from including provisions in the CoC which are in compliance with the U.S. law but are prohibited under Slovak.

› 5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- The Whistleblowing Act grants whistleblowers a legal protection in criminal and administrative proceedings as well as in the employment relationships (In case of reporting of a serious anti-social behaviour).
- In case of such reporting the employer can make a legal act or a resolution against the whistleblower only after fulfilment of certain conditions; otherwise the employer's legal acts or resolutions are invalid.
- Under the Whistleblowing Act an employer who employs at least 50 employees is obliged to implement an internal system of handling of employees' reports regarding anti-social

behaviour. The internal system serves to accept, investigate, solve and record employee reports and has to comply with several requirements specified in the Whistleblowing Act.

- Employer's obligations include the appointment of a responsible person and preparation of internal whistleblowing guidelines ("Guidelines").
- If the employer fails to comply with the Whistleblowing Act, the labour inspectorate can impose a fine up to EUR 20,000.

5.2. Operation of Reporting Systems

- The responsible person performs the tasks assigned by an employer related to the reports.
- The responsible person must be a direct subordinate to the employer's executive body. Responsible person's tasks can be also outsourced.
- The Guidelines regulate the particulars of filing the reports, examining the reports and powers of a responsible person examining the reports, confidentiality concerning identity of the person who filed the report, informing about the result of examining the report, keeping the reports and processing the personal data specified in the report.
- The responsible person must receive, deal with the report within 90 days as of its delivery (can be prolonged by another 30 days) and inform the person, who filed the report, of results of examining the report within 10 days from examining the report.
- The Whistleblowing Act does not stipulate details of procedure after examining the report. This depends basically on the decision and instructions of the executive body of the employer. Please be aware that misprision of a felony (failing to report a crime) can be considered as violation of law.

5.3. Measures to be Taken in Case of Infringement

- Considering the above the responsible person acts as a "first filter", selects relevant reports, examines them and co-operates for this purpose

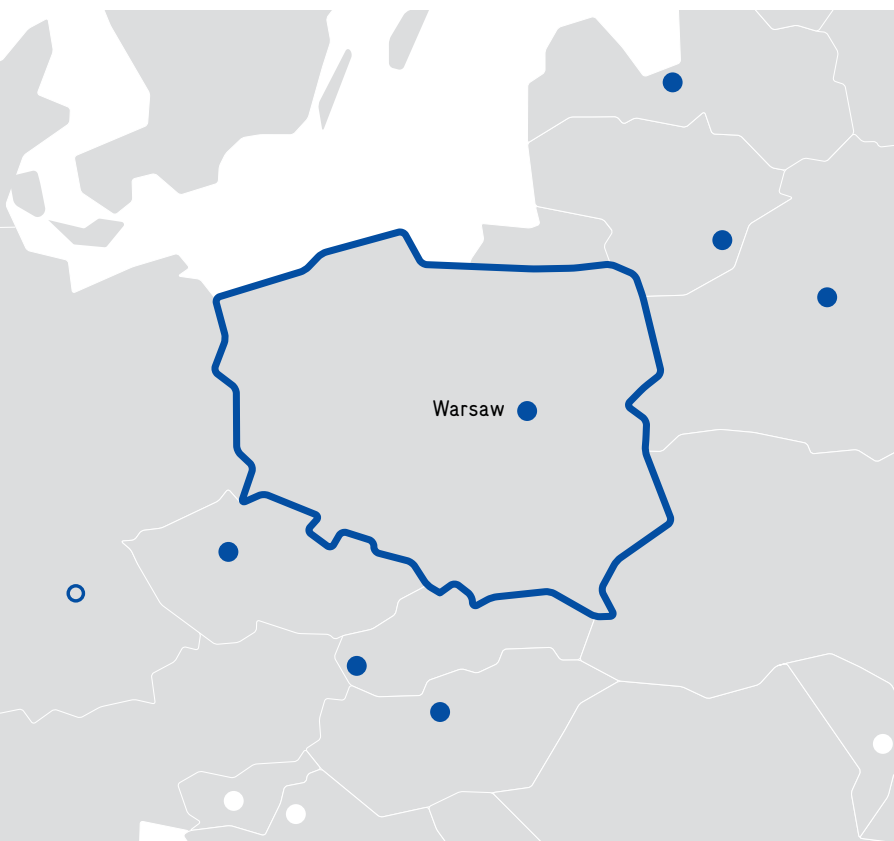
with the executive body or other employees. In case if the existence of anti-social behaviour is confirmed upon the examining the report, it is necessary to decide carefully on further procedure, in particular if any suspicion on criminal offence exists.

5.4. Transmission of Data to Abroad

- The Guidelines must regulate also processing the personal data specified in the report.
- Cross-border data transfer to Non-EU countries which do not ensure proper protection level is possible only if the data controller adopts adequate measures, such as (i) model contractual clauses approved by the EU Commission, or (ii) binding in-house regulations of data controller approved by the Supervisory Authority of EU-member state.
- The consent of Slovak Authority with cross-border data transfer to Non-EU countries which do not ensure proper protection level is necessary only if the data controller uses contractual clauses other than to EU-model ones, or clauses which are apparently discrepant .
- With regard to transfer to EU-member countries the freedom of personal data is ensured. The data controller is obliged to comply with the Slovak Act on Personal Data Protection.

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1. General Information

1.1. Legal Framework

- Act of 1997 the Criminal Code (the “Polish Criminal Code”).
- Act of 2002 on the liability of collective entities (the “Collective Entities Liability Act”).
- Act of 1993 on Combating Unfair Competition (the “Unfair Competition Combating Act”).
- Act of 2006 on the Central Anti-Corruption Bureau.
- Act of 2000 the Code of Commercial Companies

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Poland was ranked as 29th on the table. (Just for comparison Germany was ranked as 10th.)

It is prohibited both to provide and to accept a bribe.

- Anyone, whose right was infringed by unfair competition, can demand refraining from it, eliminating the defective state, adequate satisfaction, damages, or handing over any groundless enrichment.
- Relevant plea should be filed with the common court.

2.2. Corruption of managers

- Polish Criminal Code forbids, also as an offence, the corruption of managers. This offence criminalizes anyone who, while in a managerial position, demands or accepts a financial or personal benefit in return for abusing the authority vested in him/her. Under Polish law the definition of what constitutes a bribe is extremely broad and covers any financial or other advantage offered or promised (not just given). There is no limit or a nominal value expressed under which a giving or providing gifts or advantage can be allowed. Even advantages of insignificant value (e.g. a bouquet for birthday, etc.) that, in general do not necessarily present a threat to the society, can qualify as bribe.

- The offense can be penalized up to five (5) years imprisonment. If the offender causes significant damage to property, potential imprisonment may vary from six months up to eight (8) years.

2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- Bribery in the private sector is punishable in Poland. Not only bribery in the public sector is considered an offense under the Polish Criminal Code.
- Bribery can be committed by anyone who gives or promises unlawful advantage to a person working for or on behalf of a business organization, or to another person on account of such employee, to induce them to breach their duties.
- According to the Unfair Competition Combating Act, bribery in the private sector is considered unfair competition and is therefore prohibited.

2.3. Bribery of Public Officials

- This offense can be committed by anyone who attempts to bribe a public official by giving or promising an unlawful advantage to such person or to another person for influencing such official's actions in their official capacity.
- Travels, meals, lodging, entertainment, promotional items, gifts and hospitality provided to public officials also qualify as bribe, ill intent is not required. Bribery of public officials can be penalized by up to eight (8) years' imprisonment.
- If the offender offers a material benefit of considerable value or a promise thereof, he/she is liable to imprisonment for between two (2)

and 12 years.

- Another form of bribery of public officials is penalized more severely. Namely, the penalty for those found guilty of giving or promising unlawful advantage to a public official to induce them to breach their official duty, exceed their competence or otherwise abuse their position of authority can be up to ten (10) years' imprisonment. Up to 12 years, if the offender accepts a material benefit of considerable value.
- Under the Polish Criminal Code any facilitation payments can be classified as a bribe, irrespective of their value.

2.4. Facilitation Payments

- The Polish Criminal Code makes no exception for facilitation payments made to expedite routine governmental or administrative actions whether in Poland or somewhere abroad. Such actions would constitute bribery of public or foreign public officials. Facilitation payment for foreign public officials is one of the few exceptions from U.S. anti-corruption laws. It is considered to be the "lesser evil" in order to achieve (business) tasks in some countries, where corruption is widespread and sometimes almost even institutionalized.

2.5. Accepting a Bribe

- Accepting a bribe can be committed by anyone who requests or accepts an unlawful advantage in connection with his activities performed for or on behalf of an business organization, for themselves or for a third party, or accepts a promise of such an advantage, or agrees with the person requesting or accepting the advantage for a third party.
- Accepting bribe is penalized by up to three (8) years' imprisonment. The penalty increases by up to 10 years' imprisonment if the official accepts bribe in return for unlawful conduct and up to 12 years if the offender accepts a bribe of considerable value.

2.6. Peddling influence

- Under Polish Criminal Code anyone who undertakes to intercede or gives benefit for interceding in settling a matter in exchange for

a material or personal benefit due to his influence in any state or local government, is liable of peddling influence. The penalty is imprisonment of up to eight (8) years.

2.7. Legal Practice

- Beside the provisions of the Polish Criminal Code there is a broad definition of corruption in the Act on Central Anti-Corruption Bureau, which is similar to bribery offence.

3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors -Abuse of Trust

- Under the Polish Criminal Code failing to prevent bribery of a public official is no corporate offense. However, any compliance management will decrease the risk of corruption of managers and bribery. What is more, showing due diligence in the actions of Managing Directors may lead to the company's exculpation under the Collective Entities Liability Act.
- The Polish Criminal Code provides for criminalization of abuse of trust, perpetrated by a person who, while under an obligation to manage the property or business of an individual or business entity, by abusing vested authority or by failing to perform duties, inflicts substantial damage. The penalty is imprisonment of up to five (5) years.
- If actions or omissions of the offender create an imminent danger of causing substantial damage to property, he is facing imprisonment up to three (3) years.
- The length of imprisonment increases if an offender acts in order to achieve a material benefit (up to eight (8) years) or causes significant material damage (up to ten (10) years).

3.2. Civil Liability of Managing Directors

- The Act on Business Corporations states, that a Managing Director has to act in favour of the

- company. He is also obliged to legal duty care. In case of not abiding by his obligations, he shall not only hand out the obtained benefit, but he might also be excluded from his position or might be obliged to provide compensation for the damage.
- Managing Directors have to abide by the provisions of the Act on Business Corporations concerning collision of interests. According to them, Managing Directors have to inform other members of the body about any possible conflict of interests between them and the company.
- The most important document being concerned while deciding about civil liability of Managing Directors is the Contract on the Performance of the Position. The director's liability would primarily derive from breach of such a contract, depending on its content.

3.3. Civil Liability of Managing Directors

- The Polish Code of Commercial Companies and the Polish Civil Code set forth general rules on the civil liability of Managing Directors. They are liable for damage caused to the company by their acts and omissions, unless there was no guilt (willful misconduct or glaring negligence) on their part.

3.4. Criminal Liability of the Company

- The commitment of an offence under the Polish Criminal Code may also result in sanctions for the company. The company is liable if the offence is committed as a result of negligence in selecting or supervising of the offender or negligence in operational organization of the collective entity. The Collective Entities Liability Act prescribes for a financial penalty in the amount from PLN 1,000 (one thousand) to PLN 5,000,000 (five million), however not exceeding 3% of the annual turnover in the year the crime was committed.

3.5. Legal Practice

- There is little relevant Polish case law available. Based on the provisions of the Collective Entities Liability Act, it may be concluded though, that having compliance management systems

in place may result in the exemption of – to the least – the charges against the company. So companies taking meaningful steps to prevent bribery may thereby avoid incurring penalties.

- In case of absence of compliance management systems it is very difficult to prove that someone properly fulfilled their control or supervisory obligations.
- Designing, implementing and maintaining such systems is likely result in considerably reducing liability risks for Managing Directors and companies under Polish law.
- Nevertheless, even while having effective compliance management systems in place there is no guarantee for entire exemption of Managing Directors or the company.
- Finally, according to the Polish Supreme Court ruling, the acceptance of given action (later found illegal and criminally penalized) expressed in a resolution of the company's statutory bodies (e.g. the shareholders' assembly) does not release the Managing Directors (abiding by such resolution) from criminal liability.

4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The Code of Conduct ("CoC") may be implemented via issuing shareholder resolutions.
- The direct shareholders of the company must issue such resolution.
- In practice, it means that e.g. if an American parent company intends to obligate the management of the Polish subsidiaries to follow the CoC, then given Polish subsidiary's direct shareholders must issue the resolution on implementation.

4.2. Implementation in Case of Employees

- The form of the implementation of the CoC is a

unilateral employer's instruction.

- Under the Polish Labor Code the employee must "...perform work... in accordance with the relevant regulations, requirements, instructions and customs".
- In the employer's instruction, which must be in accordance with the principles of the Polish Labor Code, all employees must be notified that the CoC applies to them all.
- The CoC should not be a part of the individual employment contracts because it would result that the employer cannot unilaterally implement future changes of the CoC.
- The CoC must be communicated and made available to all employees e.g. in a way of forwarding it via e-mail and also making copies of CoC available at the work stations.

4.3. Implementation in Case of Third Parties

- Certain relevant provisions of the CoC may be implemented and apply to contractual partners (contractors, freelancers, etc.). It is a business argument (agree to comply or there is no deal), rather than a legal one.
- The CoC can be implemented based on the consent of the other party.
- Provisions with anti-bribery representations and warranties may be applied when contracting a third party.

4.4. Localization

- Localization of the CoC means making the consequences of any infringement of the CoC and anti-bribery rules concrete.
- It reflects the understanding that it is the Polish laws and legal consequences that apply in case of an offense to a specific company and not a seemingly very far and unknown U.S. statute.
- In specific circumstances, when the CoC deals with the consequences of bribery, it should include a reference to Polish laws indicating, that the penalties for those found guilty of bribery under the Polish Criminal Code can be severe including up to eight (8) years' imprisonment.

onment. Compliance trainings and tests are permitted under Polish law. Compliance with the CoC will not exempt from the criminal charges in case of bribery, but can be helpful in a lower estimation of compensation in case of civil law charges.

4.5. Legality

- The implemented global CoC must be in compliance with the requirements of all applicable Polish laws.
- The legal implementation of a global CoC needs a thorough legal investigation in each applicable country in advance, so as to scrutinize and identify risks of discrepancies in the legislation.
- Simply translating a global CoC may result in substantial risks.
- Risks may arise e.g. from including provisions in the CoC which are in compliance with the U.S. law but are prohibited under Polish law, e.g. facilitation payments are illegal in Poland.

5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- The employer or the owner of the employer operates in a form of a business association (the "Employer") may establish a reporting system to report infringements of laws and the CoC.
- The creation of a CoC is not necessary, however in the lack of a CoC only the infringements of the laws can be reported.
- The rules of such CoC must be in line with rules of conduct protecting public interest or significant private interest.
- A regulation on the reporting procedure must be created in Polish. Both the CoC and the regulation on reporting procedure must be disclosed and publicly available.
- There are no official rules for the reporting

systems in Poland – the company can create its own regulations.

- The most commonly applied rules are as follows:

5.2. Operation of Reporting Systems

- The Employer's employees, contracting third parties or anyone having respectable legal interest to the subject conduct of the report are eligible to make a report. The Employer can be obligated to investigate the report and inform the whistleblower about the measures taken and the outcome of the investigation.
- In case of processing of personal data of reported and/or reporting persons, the data processor is obliged to inform that person about the source of its data, which may require careful wording (in terms of notifying the reported) so as not to spoil the whole idea of confidential whistleblowing. The Employer should guarantee that the whistleblower will only be known to the investigators and that the whistleblower who acts in good faith will not experience retaliation or any negative consequences due to the report.
- Sensitive data should not be processed in reporting systems.
- The person, against whom the report was made, should be eligible to be informed on his rights during the investigation and the management of their data and to express his/her views on the report, provide evidence and employ a legal representative. This follows from the general rules of Polish labor law.

5.3. Measures to be Taken in Case of Infringement

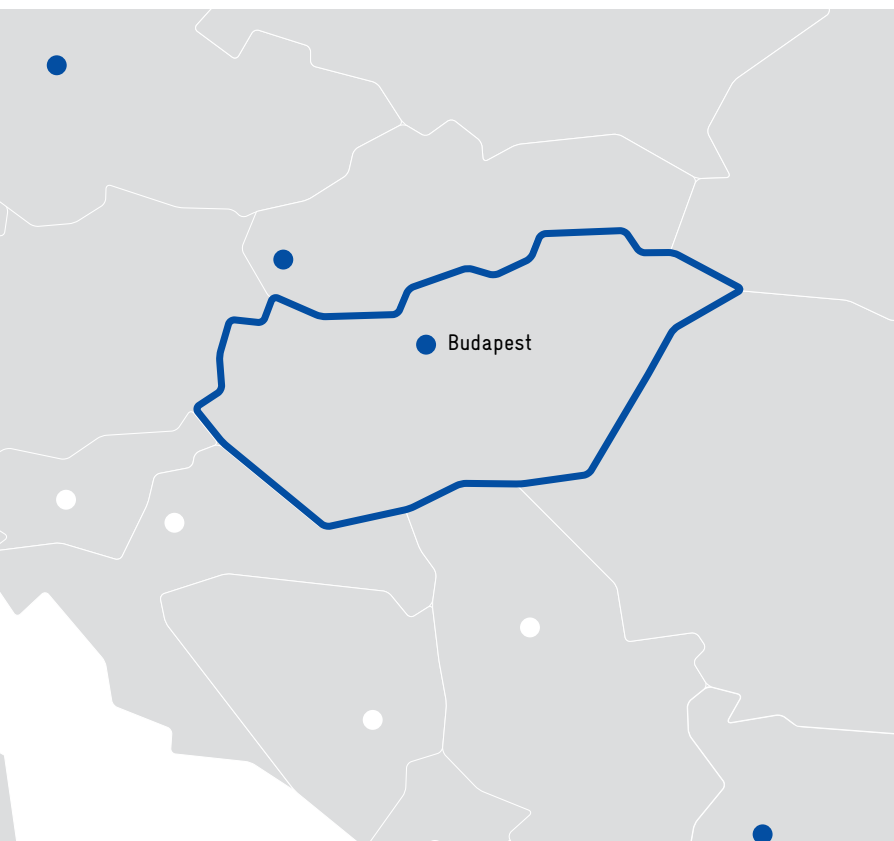
- If the reported and investigated conduct is to be considered an offense under the Polish Criminal Code, a report is to be made to the competent authority in order to initiate prosecution (statutory obligation).
- If such conduct is not considered an offense, the Employer is entitled to apply measures vis-à-vis the employee in accordance with the Polish Labor Code.

5.4. Transmission of Data to Abroad

- There is no specific prohibition to transmit the data abroad if the foreign entity contractually undertakes that it will be in compliance with the Polish legal requirements or the country of such entity to be considered a safe country according to the rules of data protection.
- Apart from the above, in case of non-EU member states a sufficient level of protection of personal data must be ensured. This sufficient data protection is deemed to be ensured e.g. in case of safe harbors or within the application of EU Commission's model contracts.

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1. General Information

1.1. Legal Framework

- Act C of 2012 on Criminal Code (the “Hungarian Criminal Code”).
- Act CIV of 2001 on Criminal Measures Applicable to Legal Persons.
- Act V of 2013 on Civil Code (the “Hungarian Civil Code”).
- Act I of 2012 on Labor Code (the “Hungarian Labor Code”).
- Act CLXV of 2013 on Complaints and Reports in the Public Interest (the “Whistleblower Act”).
- Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information.

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Hungary was ranked as 57th on the table. (Just for comparison Germany was ranked as 10th.)

2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- Bribery in the private sector is punishable in Hungary.
- Bribery can be committed by anyone who gives or promises unlawful advantage to a person working for or on behalf of a business organization, or to another person on account of such employee to induce them to breach their duties.
- Under Hungarian law the definition of what

constitutes a bribe is extremely broad and covers any financial or other advantage offered (not just given).

- There is no limit or a nominal value expressed under which a giving or providing a gift or an advantage can be allowed. Even advantages of insignificant value (e.g. a bouquet for birthday, etc.) can qualify as bribe. However, courts always examine whether the advantage given is a real threat to society. Notwithstanding that, judicial practice has not elaborated any kind of safe zone within which gifting can be considered safe.
- The offense can be penalized by up to three (3) years imprisonment. In more serious cases, imprisonment may reach even eight (8) years.

2.2. Bribery of Public Officials

- Bribery can be committed by anyone who gives or promises unlawful advantage to a public official with regard to his/her official position. The crime is committed even if there is no intent to induce the public official to breach duties, although such intent results in more severe punishment.
- Travels, meals, lodging, entertainment, promotional items, gifts and hospitality provided to public officials also qualify as bribe.
- Bribery of public officials can be penalized by up to three (3) years imprisonment.
- If a bribe is given to a public official in order to induce them to breach their duties, the perpetrator may be sentenced to prison time up to five (5) years.

- In more serious cases, imprisonment may reach even eight (8) years.

2.3. Facilitation Payments

- Payments are considered facilitating if those are made in order to expedite otherwise legal proceedings, decisions, etc.
- Facilitation payment for foreign public officials is one of the few exceptions in U.S. anti-corruption laws. It is considered the “necessary bad” in order to achieve (business) aims in some

countries, where corruption is widespread and sometimes almost even institutionalized.

- The Hungarian Criminal Code does not make any exceptions for facilitation payments. Neither in Hungary nor abroad. Facilitation payments, therefore, constitute bribery of public or foreign public officials.

2.4. Accepting Bribe

- Accepting unlawful advantage is also bribery. It can be committed in numerous ways and not only by actually accepting bribe. I.e. it is bribery if the perpetrator in relation to his official position or operations carried out for or to the benefit of an economic organization
 - requests or accepts unlawful advantage
 - accepts the promise of unlawful advantage
 - agrees with a person who gives or accepts unlawful advantage in relation to the perpetrator

Intent to breach duties is not required for this crime, although such intent results in more severe punishment.

- Accepting bribe can be penalized up to three (3) years imprisonment. In more serious cases, imprisonment may reach even eight (8) years.

2.5. Legal Practice

- The current Hungarian Criminal Code was instructed in 2013. Therefore, relevant judicial practice is being developed.

3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- Under the Hungarian Criminal Code failing to prevent bribery of a public official is a corporate offense.

- This crime can be committed by the managing director and by anyone who is vested with authority to exercise control or supervision in a company (jointly: “Managing Directors”)
- Failing to prevent bribery is committed if someone associated with a company bribes a public official; and the Managing Director could have prevented the bribery had s/he properly performed his/her controlling or supervisory duties.
- The penalty for Managing Directors is imprisonment up to three (3) years. In case the Managing Directors do not perform controlling or supervisory duties because of negligence, the punishment is imprisonment up to two (2) years.

3.2. Civil Liability of Managing Directors

- The Hungarian Civil Code sets forth quite broad rules on the civil liability of Managing Directors.
- However, there is little case law available about the lack of compliance management systems and Managing Directors’ related liability.

3.3. Criminal Liability of the Company

- Companies are also subject to criminal law consequences if a crime is committed by
 - a manager, supervisory board member or
 - by an employee and the crime could have been prevented by a manager or supervisory board member properly performing their supervisory or controlling duties
- The penalties can be severe including: (i) the termination of the company, or (ii) limitation of the company’s activities, or (iii) a fine up to three times of the benefit or financial advantage realized or aimed at, but no less than HUF 500,000 (approx. EUR 1,600).

3.4. Legal Practice

- There is little relevant Hungarian case law available.
- Based on the Western-European practice, it is

- probable that having compliance management systems in place may result in the exemption of Managing Directors from the criminal and civil liability.
- Also, companies taking meaningful steps to prevent bribery may thereby avoid incurring penalties.
- Without any compliance management system in place, it is very difficult to prove that controlling or supervisory duties are properly performed.
- Designing, implementing and maintaining such systems is likely to go a considerable way towards reducing liability risks for Managing Directors and companies under Hungarian law.
- Nevertheless, even having effective compliance management systems in place, is no guarantee for the exemption of Managing Directors or the company.

➤ 4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The Code of Conduct (“CoC”) may be implemented by the direct, single shareholder or by the shareholders’ meeting.

4.2. Implementation in Case of Employees

- CoC may be implemented by a company or by its direct, single, legal person shareholder.
- It is also recommended that the company also, explicitly instructs its employees to comply with the CoC.
- The CoC should not be a part of the individual employment contracts or other agreement because this may prevent the company to unilaterally amend the CoC in the future.
- The CoC must be communicated and made available to all employees in a way that is customary at the workplace e.g. bulk email,

publication on bulletin board, etc.

4.3. Implementation in Case of Third Parties

- Certain relevant provisions of the CoC may be implemented and apply to contractual partners (contractors, freelancers, etc.) through proper contracting.
- Anti-bribery representations and warranties may be requested from a third party when contracting.

4.4. Localization

- Localization of the CoC means the adaptation of the CoC to local legal requirements.
- The fact that Hungarian law sets forth a detailed legal framework for a CoC and related reporting system is not well-known.
- An act permitted under U.S. laws may constitute a criminal offence under Hungarian law (see Facilitation Payments).
- Compliance trainings and tests are permitted under Hungarian law.
- Documentation of trainings may help to be exempted from the charges in case of bribery (see: The Need for Compliance Management).

4.5. Legality

- Implemented global CoC must be in compliance with the requirements of Hungarian law.
- The implementation of a global CoC must follow a legal review and necessary adaptation to local requirements.
- Simple translation of a global CoC results in substantial risks.
- Risks may arise e.g. because of CoC provisions which are in line with U.S. laws, but in breach of Hungarian law (see Facilitation Payments).

5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- A company or its direct, single, legal person shareholder (jointly as “Employer”) may set up and operate a system to which infringements of the law or the CoC can be reported (so-called reporting system).
- The CoC is required for the operation of a reporting system. In such a case, only infringement of the law can be reported.
- In case the reporting system is open for reports about infringement of the CoC, the CoC must be in line with the higher standards set by the Whistleblowing Act.
- The Employer must draft a reporting procedure in Hungarian. The reporting procedure must be published to the employees. This reporting procedure or a simplified version thereof must be published on the publicly available website of the Employer in Hungarian.
- The CoC must be available on the publicly available website of the Employer in Hungarian.
- The reporting system must be registered with the National Authority for Data Protection and Freedom of Information 30 days prior to the commencement of operation.

5.2. Operation of Reporting Systems (according to the Decree on Whistleblowing)

- The Employer’s employees, contracting third parties or anyone having respectable legal interest may make a report.
- The Employer must investigate the report and inform the whistleblower about the measures taken and the outcome of the investigation.
- Data may be transmitted to other entities only if they take part in the investigation of the report.
- The Employer has 30, but a maximum of 90 days for the investigation.

- The Employer must guarantee that the person of the whistleblower will be known only by the investigators. The Employer must ensure that a whistleblower’s acting in good faith will not face any retaliation or any negative consequences.
- The person, against whom the report was made (the “Accused”), must be informed on his rights and the management of their data during the investigation. The Accused may comment the report, provide evidence and retain legal counsel.
- If the report is unfounded or it is not necessary to take further measures, all data related to the report must be deleted within 60 days after the closing of the investigation.
- Sensitive data (such as personal data revealing racial origin or nationality, political opinions or concerning sex life, criminal record, etc.) must not be processed in reporting systems. This provision makes the investigation of sexual harassment charges extremely difficult.
- An attorney-at-law may be hired in order to receive reports and to contribute to investigations.

5.3. Measures to be Taken in Case of Infringement

- If the reported and investigated conduct constitutes an offense under the Hungarian Criminal Code, the Employer has to report that conduct to the authorities/police.
- If such conduct is not considered an offense, the Employer may apply labour law measures vis-à-vis the employee (e.g. disciplinary dismissal).

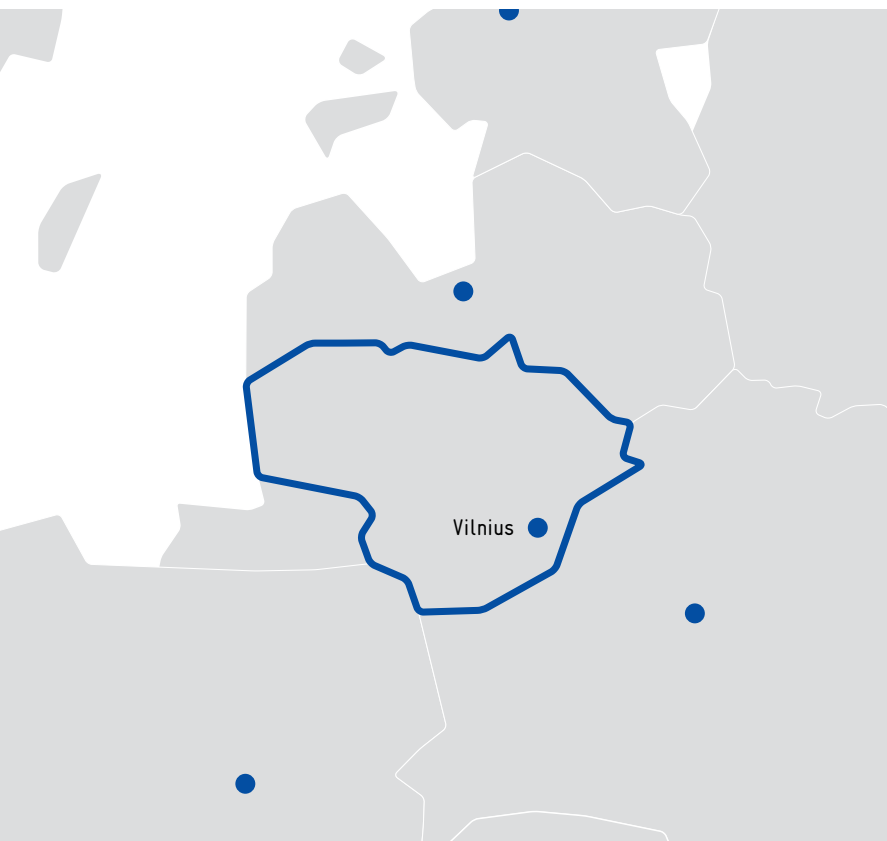
5.4. Transmission of Data to Foreign Recipients

- Data processed in a reporting system can be transmitted to a foreign data processor or controller domiciled abroad if (i) such foreign recipient is involved into the investigation and (ii) the foreign recipient contractually undertakes compliance with Hungarian law on reports and adequate and sufficient protection of personal data is ensured by the recipient.

- Adequate and sufficient protection may be ensured in numerous ways, e.g. implementation of EU Model Contracts, the Privacy Shield, etc.

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1. General Information

1.1. Legal Framework

- Criminal Code of the Republic of Lithuania of 2000, last amended 1 June, 2017 (the “Lithuanian Criminal Code”).
- Code of Criminal Procedure of Republic of Lithuania of 2002, last amended 20 December, 2016 (the “Code of Criminal Procedure”).
- Law on Prevention of Corruption of the Republic of Lithuania of 2002, last amended 8 November, 2016 (the “Law on Prevention of Corruption”).
- Civil Code of the Republic of Lithuania of 2000, last amended 30 June, 2016 (the “Lithuanian Civil Code”).
- Law on Companies of the Republic of Lithuania of 2000, last amended 29 June, 2017 (the “Law on Companies”).
- Labor Code of the Republic of Lithuania of 2002, last amended 6 June, 2017 (the “Lithuanian Labor Code”).
- Law on Legal Protection of Personal Data of the Republic of Lithuania of 1996, last amended 3 November, 2016 (the “Lithuanian Law on Legal Protection of Personal Data”).
- The Lithuanian Criminal Code prohibits both to give and to accept a bribe.
- Lithuanian Criminal Code establishes the same penalties for public officials as well as for private persons.
- Lithuanian Criminal Code establishes four types of penalties for accepting and giving a bribe depending on the severity of the crime with imprisonment up to 8 years.
- Under Lithuanian law there is no separate definition of bribery in the private sector. Under Lithuanian Criminal Code, bribery in the private sector is punishable only if such private person is considered an equivalent to the public official.
- A private person might be qualified as a public official when such person is working in a company or exercising a professional activity and (i) has certain powers to others who are not subordinated to him or (ii) has other administrative powers in relation to public administration activities.

2.2. Bribery in the Private Sector

- Bribery is committed by anyone who directly or indirectly offered, promised, agreed to give or gave a bribe to a private person who is equated to a public official.
- In practice, the managing director of the company is often equated to a public official as well as the bankruptcy administrator when administrating the company in a bankruptcy procedure.
- Penalties for bribery of private person are the same as for bribery of public officials (see General Remarks).

2.3. Bribery of Public Officials

- This offence can be committed by anyone who, whether directly or indirectly, offers, promises, agrees to give or gives a bribe to a public official for a desired (un)lawful act or inaction in exercising his powers (see General Remarks).

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Lithuania tends to rise and was ranked as 38nd in 2016 (for comparison Germany was ranked as 10th.)

2. Key Elements of Anti-Corruption Rules

2.1. General Remarks

2.4. Facilitation Payments

- Facilitation payments differ from bribe in a way that they are intended to speed up the process, but not the outcome of a public official's action.
- Lithuanian law is different from other jurisdictions (such as for example U.S., where facilitation payments for foreign public officials are considered a "necessary bad"). Lithuanian law does not make any difference between bribes and facilitation payments. Both are considered an unlawful advantage and as such they are penalized.

2.5. Accepting Bribe

- Accepting a bribe can be committed by anyone who directly or indirectly for his own benefit or for the benefit of other persons accepts, promises or agrees to accept a bribe as well as demands or provokes giving it.
- Accepting a bribe can be penalized by up to 5 years imprisonment. The length of imprisonment increases up to 7 years if the public official or private person qualified as a public official accepts bribe in return for unlawful conduct. Lithuanian criminal code establishes up to 8 years imprisonment in case a bribe is of considerable value.

2.6. Legal Practice

- The Lithuanian Supreme Court tightened the application of punishment for bribery conducted in the private sector; The court specified that for a private person to be qualified as a public official and therefore to be punished for the bribery as such, the private person's work or professional activities must be linked to the performance of legally significant actions, essentially those aimed at ensuring the public interest and which improper performance would infringe the public interest (Case No. 2K-P-89/2014). This means that not every director of the company might be prosecuted for such criminal offence, but only those who are related to the publicly significant interest.

3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- Lithuanian Criminal Code does not foresee criminal liability for Managing Directors who fail to prevent bribery.
- Lithuanian Criminal Code foresees a penalty for a failure to report a severe crime. Such crime can be penalized by a fine, restriction of freedom or imprisonment up to 1 year.

3.2. Civil Liability of Managing Directors

- The Law on Companies establishes a duty for the managing directors of the company to act in the interests of the company and its shareholders as well as comply with all laws and other legal acts. For improper performance of these duties, the civil liability of the managing director under Lithuanian Civil Code might arise.

3.3. Criminal Liability of the Company

- Under Lithuanian Criminal Code, the company might be held liable for the bribery committed by the natural person who either (i) has a power of decision making on behalf of the company, (ii) represents it or (iii) controls activities of the company.
- Criminal liability only arises if such criminal offence was committed for the financial or other benefit or in the interests of the company, such as winning the tender in public procurement or receiving a commercial order.
- The company might also be held liable for criminal acts where they have been committed by an employee or authorised representative of the company as a result of insufficient supervision or control by the manager of the company.
- Insufficient supervision or control is considered, when the employee or authorised representative is not familiarised with the binding legal acts, rules established in the Code of Conduct (CoC), internal instructions, etc.

- Lithuanian Criminal Code establishes penalties for the company up to 1 900 000 EUR. Restrictions of operation of the company as well as liquidation of the company are also possible.
- Information about the company that was accused to be involved in corruption related activities, or the company's employee or authorized representative who have been recognized as having committed corruption-related offenses in their capacity or for the benefit of the company appears in the Registry of Legal Entities.

3.4. Legal Practice

- There is little relevant Lithuanian case law available.
- In case of the lack of compliance management systems it might be difficult to prove that the company properly fulfilled their control or supervisory obligations. However, merely having CoC cannot guarantee an exemption from liability of the company or managing directors. To mitigate the risk of liability of managing directors as well as a company itself, a compliance program should be fully implemented and monitored on a continuing basis.

› 4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- To implement a CoC among the managing directors, the CoC might be issued by the decision of the shareholders of the parent company.
- The employment contract of the managing director should also contain the provision regarding the duty to comply with to the CoC.

4.2. Implementation in Case of Employees

- To implement a CoC among the employees, the employer must introduce it to the employees in writing together with any other valid legal acts that will regulate the work conditions.

- In case a separate post of "Compliance Ambassador" is established among the employees, the relevant amendments or annexes to the employment contract need to be made in order to properly implement the CoC.

4.3. Implementation in Case of Third Parties

- A CoC can be implemented in relations to the third parties only upon separate agreement of the third party to comply with the company's CoC.

4.4. Localization

- There are no express requirements under Lithuanian law for making the consequences of any infringement of the Code of anti-bribery rules concrete. On the other hand, simply translating a global CoC may result substantial risks, since, for example, facilitation payments are illegal in Lithuania even though such payments might be allowed in other countries (see Facilitation Payments).

4.5. Legality

- In order for the global CoC to be legally binding it must be in compliance with the requirements of all applicable Lithuanian laws. As a result, a legal investigation with regard to Lithuanian local laws is advisable before implementing such global CoC, in order to make sure that the global code does not deviate from the local regulation.

› 5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- The company may establish a reporting system to report infringements of laws and the CoC.
- The establishment of Reporting Systems is not regulated under Lithuanian law, no compulsory requirements exist.
- Only public companies, institutions and organizations currently have Hot-Lines, whereas only

a few of them exist in a private sector.

well as or for the purpose of legal proceedings.

5.2. Operation of Reporting Systems

- An employee or any third party are eligible to make a report. The employer or any responsible person investigates the report.
- Lithuanian Labor Code protects employees by prohibiting the employer from terminating the contract with an employee due to employee's participation in the proceedings against the employer charged with violations of laws, other regulatory acts or the collective agreement.
- Lithuanian Criminal Code establishes that the person offering, promising or giving the bribe can be released from criminal liability if he/she notifies a criminal investigation authority before the delivery of a notice of suspicion is raised against him/her.
- Under Lithuanian Code of Criminal Procedure such whistle-blower has a right to request anonymity.

5.3. Measures to be Taken in Case of Infringement

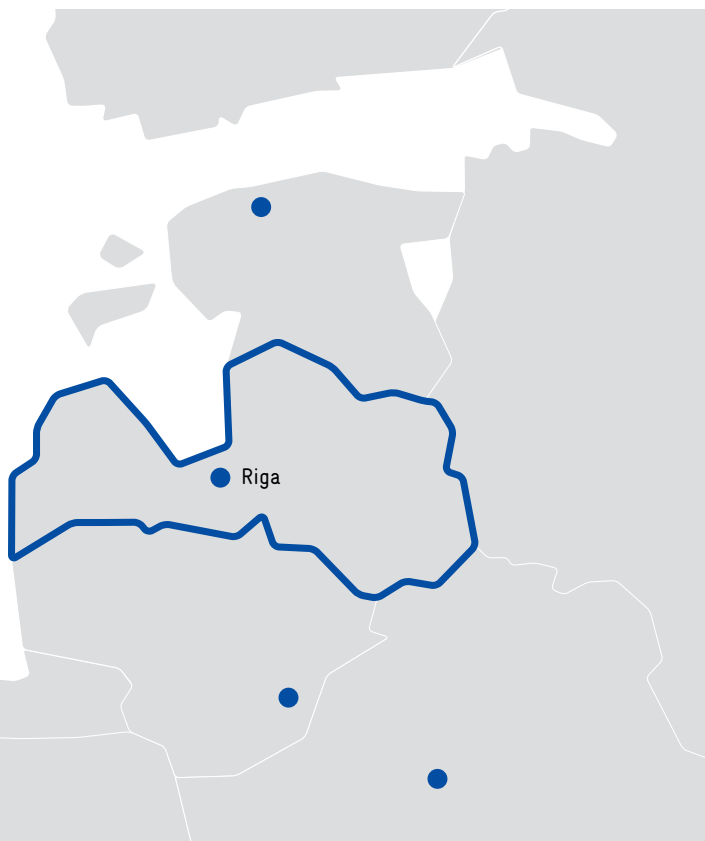
- If the reported conduct is considered to be of a criminal nature under Lithuanian Criminal Code, the report should be directed to the prosecutors who start criminal investigation.
- In other cases, where such conduct is not considered an offense, the employer is entitled to apply measures against the employee in accordance with the Lithuanian Labor Code.

5.4. Transmission of Data to Abroad

- Under the general rule established in the Lithuanian Law on Legal Protection of Personal Data a party seeking to transmit a personal data abroad (to a non-EU country) is subject to receive a permission of the State Data Protection Inspectorate (SDPI). Permission is granted if an adequate personal data protection level is ensured in the foreign country.
- Data can be transmitted without prior permission of SDPI in case the transfer is necessary for the prevention or investigation of criminal offences or for important public interests as

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1. General Information

1.1. Legal Framework

- Latvian Criminal Code
- Law on Prevention of Conflict of Interest in Activities of Public Officials
- Latvian Commercial Code
- Latvian Labour Law
- Competition law
- Data Protection law

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Latvia is ranked as 44th on the table. (Just for comparison, Germany is ranked as 10th.)

- Under Latvian law, the definition of what constitutes a bribe is rather broad and covers almost any financial or other advantage.
- There is no nominal value under which giving or providing gift or advantage as a bribe is allowed.
- The commercial bribery can be penalized up to five (5) years imprisonment.

2.2. Bribery of Public Officials

- Bribery in the public sector (corruption) can be committed by anyone who attempts to corrupt a public official by giving or promising an advantage to such person for influencing their actions in their official capacity. Moreover, a person accepting such a bribe or acting as an intermediary is also regarded as a person committing bribery.
- The definition of a public official is broad; among others, it includes any persons deciding on public procurements as well as insolvency administrators (extended by the last group from 1 January 2016).
- Travels, meals, lodging, entertainment, promotional items, gifts and hospitality provided to public officials also qualify as bribe. Ill intent is not required.
- Bribery of public officials can be penalized up to ten (10) years' imprisonment.

2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- Bribery in the private sector (commercial bribery) is punishable in Latvia.
- Commercial bribery can be committed by anyone who gives or promises advantage to a person working for or on behalf of a business organization, or to another person so that he or she, misusing his or her authority, performs or fails to perform some act in the interests of the offering or giving person. In parallel, accepting such a commercial bribe is penalized as well.
- The offer and its acceptance is essential, not the factual receipt of a bribe.

2.3. Facilitation Payments

- Latvian law does not make any difference between a bribe and facilitation payments, i.e. a payment not intended to influence the outcome of a public officials' action, only its timing.

2.4. Accepting Bribe

- Accepting commercial bribe can be penalized by up to eight (8) years imprisonment. Besides, if a public official requests or demands bribe they can be penalized by up to eleven (11) years imprisonment.

2.5. Legal Practice

- Criminal proceedings on commercial bribery

are rare. Apart from that, the legal practice on bribery of public officials is consistent and successfully run by the Corruption Prevention and Combating Bureau (KNAB).

- Latvian legal practice on liability of Managing Directors is rapidly developing although there are no sound cases related to commercial bribery.

› 3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- Managing Directors are criminally liable as any other person under the Latvian law on bribery cases.

3.2. Civil Liability of Managing Directors

- The Latvian Commercial Code obliges Managing Directors to perform their duties as an honest and careful manager. Amongst others, this duty comprises the obligation to observe laws and regulations, and at the same time to safeguard the legal interests of the company and its shareholders as well as their instructions.
- Civil liability of a Managing Director results even from a slight negligence.
- The Managing Director must prove that there was no violation and / or no fault of him/her in case their civil liability is claimed.

3.3. Criminal Liability of the Company

- A legal person can be held criminally liable for a bribe according to the Latvian Criminal Code.
- A crime committed by a legal person is a crime committed by its statutory body or its member, by anyone executing management or who has deciding influence over the legal person.
- There are following types of penalties for a legal person: termination of the legal person, ban on activities of the legal person, forfeiture of its property, financial penalty.

3.4. Legal Practice

› 4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The Code of Conduct may be implemented via issuing shareholder resolutions.
- The direct shareholders of the company must issue such resolution.
- In practice, it means e.g. that if the U.S. parent company intends to obligate the management of the Latvian subsidiaries to follow the Code of Conduct the given Latvian subsidiary's direct shareholders must issue the resolution on implementation.

4.2. Implementation in Case of Employees

- The form of the implementation of the Code of Conduct in employment relationships in Latvia is a unilateral employer's instruction, which forms part of the internal working procedure regulations. The written form of the Code of Conduct is essential and a copy in Latvian language must be available.
- The Code of Conduct should not be a part of the individual employment contracts as it would result in the employer being unable to unilaterally implement future changes of the Code of Conduct.
- The Code of Conduct must be communicated and made available for everybody to whom it concerns (providing copy at the workplace, making it available on the Internet or communicating in any other form appropriate in the particular situation).

4.3. Implementation in Case of Third Parties

- The Code of Conduct can be imposed on a third party (contractors, freelancers etc.) only with

its consent.

4.4. Localization

- Simply translating a global Code of Conduct may result in substantial risks. Risks may arise e.g. from including provisions in the Code of Conduct which are in compliance with the U.S. law but under Latvian laws are prohibited, e.g. facilitation payments are illegal in Latvia. Moreover, there are local customs such as flower gifts, etc., which usually do not qualify to be reported.

4.5. Legality

- The global Code of Conduct must comply with the requirements of all applicable Latvian laws.
- The legal implementation of a global Code of Conduct needs a thorough legal investigation in advance to scrutinize and identify risks of discrepancies in the legislation.

› 5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- It is recommended for the employer to establish an internal reporting system to report possible infringements of laws and the Code of Conduct or to consult on possible risks in a particular situation.
- The rules of such Code of Conduct must be in line with rules of conduct protecting public interest or significant private interest.
- Data processing must be registered in accordance with the data protection rules.

5.2. Operation of Reporting Systems

- The employees, contracting third parties or anyone having respectable legal interest to the subject conduct of the report is eligible to make a report.
- The employer must guarantee that the person

of the whistleblower will be known only for the investigators and that the whistleblower who acts in good faith will not experience retaliation or any negative consequences due to the report.

- Sensitive data is not allowed to be processed in reporting systems.
- A reporting system specialist attorney may be appointed in a contract to receive and investigate on the reports.

5.3. Measures to be Taken in Case of Infringement

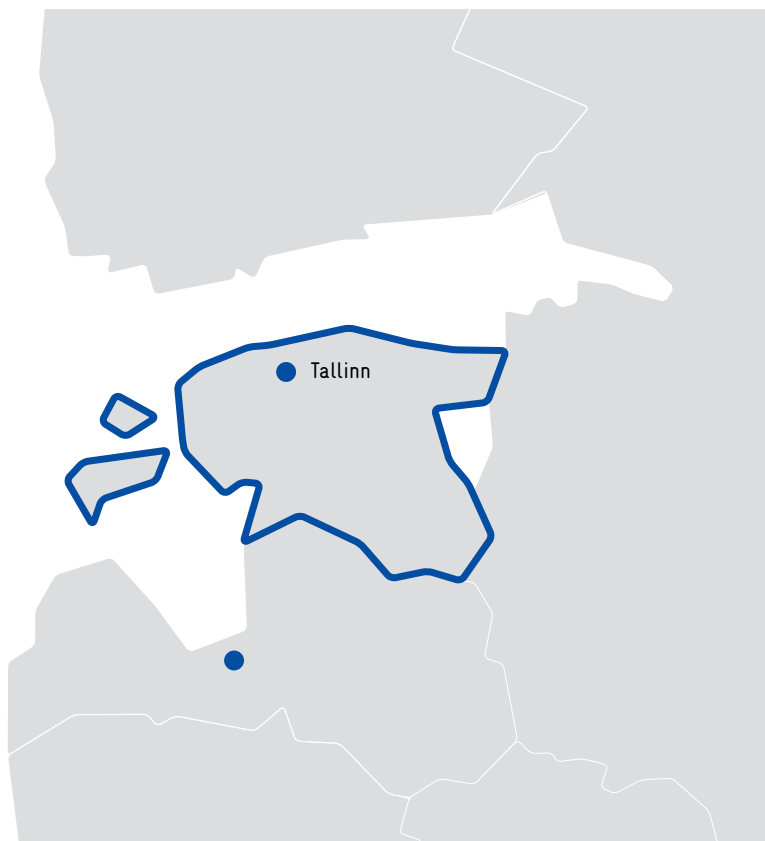
- If the reported conduct is considered as an offense under the Latvian Criminal Code, a report is to be made to the competent authority in order to initiate prosecution.

5.4. Transmission of Data to Abroad

- Personal data may be transferred to another state, other than a Member State of the European Union or the European Economic Area, or an international organisation, if that state or international organisation ensures such level of data protection as corresponding to the relevant level of the data protection that is in effect in Latvia.
- Exemptions are listed exhaustively by the law, e.g., to protect the substantive public interest, transfer in the case of judicial proceedings etc.

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1. General Information

1.1. Legal Framework

- Estonian Penal Code, passed 06.06.2001 (RT I 2001, 61, 364), entered into force 01.09.2002, last amended 06.07.2017;
- Estonian Anti-Corruption Act, passed 06.06.2012 (RT I, 29.06.2012, 1), entered into force 01.04.2013, last amended 01.05.2016;
- Employment Contracts Act, passed 17.12.2008 (RT I 2009, 5, 35), entered into force 01.07.2009; last amended 01.07.2017;
- Personal Data Protection Act¹, passed 15.02.2007 (RT I 2007, 24, 127), entered into force 01.01.2008, last amended 16.01.2016;
- Commercial Code, passed 15.02.1995 (RT I 1995, 26, 355), entered into force 01.09.1995, last amended 01.07.2017.

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 175 countries and territories. Based on the results of the research Estonia was ranked as 22nd. (Just for comparison: Germany was ranked as 10th.)

2. Key Elements of Anti-Corruption Rules

2.1. General Remarks

- There are several forms of corrupt activities that are prohibited and/or penalised under Estonian law (for example, bribery, influence peddling, corrupt use of official position, public resources and inside information, illegal financing of political parties, nepotism, etc.)
- Accepting of bribe is defined as consent by an official to a promise of property or other advantages to him or her or third persons or accept-

ance thereof in exchange for using of his or her official position.

- Income derived from corrupt practices is the proprietary or other benefits offered to the official or any third person due to his or her official duties or demanded by the official, and benefits received by violation of the obligations of the official. Benefits, which cannot be associated with official duties or which are unambiguously understood as common courtesy, shall not be deemed to be corruptive.
- Influence peddling means requesting, consenting to promising of property or other advantage by a person to himself or herself or third persons or accepting thereof in exchange for his or her actual or alleged influence peddling over an official with the intention of getting unequal or unjustified advantages from the point of view of public interest for the person giving the advantage or third persons, as well as promising of giving an advantage for the same purpose. Bribery in a way of giving, accepting or arranging is punishable also if committed by a legal person.

2.2. Bribery in the Private Sector

- Corruption offences in public sector are separately regulated in Estonian Penal Code as of 1 January 2015. Requesting, consenting to promising, or accepting of property or other advantage by a person competent to engage in economic activities in the interests of a person in private law, and an arbitrator to himself or herself or third person, in exchange for abuse of his or her competence is punishable by a pecuniary punishment or up to five years' imprisonment. Promising or giving of a bribe in the private sector is punishable by a pecuniary punishment or up to five years' imprisonment. The same acts, if committed by a legal person is punishable by a pecuniary punishment. For the bribery, the court may impose extended confiscation of assets or property acquired by such criminal offence.

2.3. Bribery of Public Officials

- An official is prohibited from (i) demanding, intermediating and receiving income derived from corrupt practices; (ii) corrupt use of official position; (iii) corrupt use of public resource-

es; (iv) corrupt use of influence (v) corrupt use of inside information. The offense of giving or promising a bribe to can be penalized by a pecuniary punishment or up to 5 years' imprisonment. If bribery is committed at least twice or by a group or on a large-scale basis it can be penalized by up to 10 years' imprisonment.

2.4. Facilitation Payments

- Corrupt use of official position covers acceptance of facilitation payments. .
- The Estonian Penal Code does not make any difference between bribes and facilitation payments. Both are considered an unlawful advantage from the point of view of public interest and as such they are penalized.

2.5. Accepting Bribe

- An official accepts a bribe by consenting to a promise of payments or other advantages to him or third persons or accepting thereof in exchange for using of his official position. Corrupt use of official position, public resources, influence and inside information are all prohibited and punishable.
- The Penal Code sets forth a pecuniary punishment or up to 5 years' imprisonment. If the same act is committed at least twice or by requesting a bribe, by a group or on a large-scale basis, it is punishable by up to 10 years' imprisonment.

2.6. Legal practice

- 45 private sector corruption crimes were registered in 2015, all of them being related to the construction industry. In 2015, the greatest number of crimes were registered in relation to roadworthiness tests – 28% of all the cases registered, thus relating to the direct actions of the Road Administration.

Failing to Prevent Bribery

- Corruption offences in private sector as listed in the Penal Code do not include the liability of managing directors in case of failure to prevent bribery. Obviously, in case of not notifying of an attempt of bribery, the managers could be held liable for participating in the scheme themselves. It is also possible for “whistleblowers” to be released from liability. The Public Prosecutor's Office may, by its ruling, terminate the criminal proceedings regarding the suspected or accused person with his consent if the suspect or accused person has substantially contributed to the clarification of the circumstances of the evidence of an important criminal offense in the public interest, and without which the detection of the criminal offense and the taking of evidence would have been excluded or substantially impeded. The Anti-Corruption Act also entails provisions for protection of the person notifying an incident of corruption.

3.2. Civil Liability of Managing Directors

- The Estonian Commercial Code (in conjunction with the Estonian Law of Obligations Act and General Part of the Civil Code Act) sets forth general rules on the civil liability of Managing Directors. The members of a directing body of a legal person shall perform their obligations arising from law or the articles of association with the diligence normally expected from a member of a directing body and shall be loyal to the legal person. Members of the management board who cause damage to the company by violating their obligations are solidarily liable for compensation for the damage caused. A member of the management board is released from liability if he/she proves that he/she has performed his obligations with due diligence.
- In application of the civil liability for corrupt activities, the determination of breach of loyalty and diligence obligations would be the primary method.

3.3. Criminal Liability of the Company

- In cases provided by law, a legal person shall be held responsible for an act which is committed in the interests of the legal person by its body, its member or by a senior official or

3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors -

competent representative. The activity of such representative(s) will be analyzed in order to clarify if any consent was given in any way for an action in the interest of the legal person. Most cases are in practice related to public procurement or to facilitations in the administrative law procedures.

- In case of a legal person, the court may impose a pecuniary punishment of 4000 to 16,000,000 euros. The amount is calculated as a percentage of the turnover of the legal person.

3.4. Legal Practice

- According to the Estonian legal practice a legal person can also be punished for the act of an employee if the act is performed by a command or at least by an approval of an executive employee or a management body.
- In respect of the principle of individual responsibility in criminal law, it is important that in case of prosecution of a legal person, the person who is responsible for fulfilment of the specific commitment in question is identified. The person responsible for the fulfilment of the obligation may be a member of the board or an executive employee or a competent representative of the company. Thus, in order to give an assessment to the alleged conduct of the person subject to the proceeding, it has to be identified how the obligations in question were divided between the members of the board and other employees. Otherwise, for identifying the responsibility in case of unlawful omission, it would always be possible only to refer to the fact that the board is responsible for fulfilment of the obligations of the company.
- The statutory and contractual right and obligation of the board to manage and represent the company, including the right for disposal of the property and taking responsibilities on behalf of the company, does not grant the member of the board a right for converting the property into his own use or the use of a third person.

> 4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- A Code of Conduct (“CoC”) may be implemented and amended by a shareholder resolution. The rules of a CoC must be in line with rules of conduct protecting public interest or significant private interest. The shareholders of the company must issue such resolutions.

- In practice, it means that e.g. if an American parent company intends to obligate the management of the Estonian subsidiaries to follow the CoC, the respective Estonian subsidiary’s shareholders must issue the resolution on implementation.

4.2. Implementation in Case of Employees

- The form of the implementation of the CoC is a unilateral employer’s instruction. The employment contract should include a reference to the rules of work organisation established by the employer;
- The CoC must be communicated and made available to all employees e.g. in a way of forwarding it via e-mail or making copies of the CoC available at the work stations. It is recommended that all employees confirm by their signatures that they have read and understood the CoC.

4.3. Implementation in Case of Third Parties

- Certain relevant provisions of the CoC may be implemented and applied to contractual partners (contractors, freelancers, etc.) with the consent of the person concerned. Warranties may be applied if the parties have agreed to such provisions beforehand.

4.4. Localization

- Localization of the CoC means making the consequences of any infringement of the CoC and anti-bribery rules specific.

- Compliance trainings and tests are permitted under Estonian law. Documentation of trainings may in some cases help a company to be exempted from charges in case of bribery.

4.5. Legality

- Implemented global CoC must be in compliance with the requirements of all applicable Estonian laws.
- The legal implementation of a global CoC needs a thorough legal investigation in advance to scrutinize and identify risks of discrepancies in the legislation.
- The implementation of a mere translation of a global CoC may result in legal risks.
- Risks may arise e.g. from including provisions in the CoC which are in compliance with foreign law but prohibited under Estonian law.

5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- There is no uniform act adopted in Estonia related to whistle-blowing and protection of whistle-blowers and different laws need to be reviewed in order to assess whistle-blowers' protection in Estonia (e.g. Anti-Corruption Act, Penal Code, Witness Protection Act, Public Service Act, Employment Contract Act, Environmental Liability Act, Occupational Health and Safety Act).
- In case of establishment of reporting system the stipulations on the reporting procedure must be established via CoC. Data processing in the sense of the Estonian Personal Data Protection Act must be reported to the Data Protection Authority in relevant situations.

5.2. Operation of Reporting Systems

- The Employer's employees, contracting third parties and anyone having respectable legal interest to the subject conduct of the report are

eligible to make a report.

- The Employer is obliged to investigate the report and inform the whistle-blower about the measures taken and the outcome of the investigation if this is foreseen in the CoC or in the stipulations on reporting procedure. In Estonia state employees are subjects of the reporting systems. According to the Estonian Anti-Corruption Act an official is not permitted to conceal violations of the prohibitions (which are specified in the Anti-corruption Act) or any other incidents of corruption known to the official. If agencies performing public duties, their officials, persons exercising supervision over agencies, persons controlling declarations, or bodies conducting proceedings concerning an offence are notified of an incident of corruption, the confidentiality of the fact of notification shall be ensured. Information about the fact of notification may be disclosed only with the written consent of the notifying person. If the notifying person is involved as a witness in the proceedings concerning the offence, the provisions of proceedings concerning the offence apply to incidents of corruption without violating the confidentiality of the fact of notification. Courts shall apply shared burden of proof for the protection of the person having notified of an incident of corruption. A person having recourse to a court shall state in his or her application the facts based on which it may be presumed that he has been subject to unequal treatment. If the person against whom the application was filed does not prove otherwise, it is presumed that unequal treatment was caused by notification of an incident of corruption.

5.3. Measures to be Taken in Case of Infringement

- If the reported and investigated conduct is considered as an offense under the Estonian Penal Code a report is to be made to the competent authority in order to initiate prosecution. Extra-judicial proceedings concerning the misdemeanours specified in Anti-Corruption Act shall be conducted by a police authority. If a misdemeanour is established by the Estonian Internal Security Service in the course of offence proceedings, the extra-judicial misdemeanour proceedings shall be conducted by the Estonian Internal Security Service.

5.4. Transmission of Data to Abroad

- Data may be transmitted abroad if it is in compliance with Estonian legal requirements. According to Estonian law transmission of personal data is permitted only with the consent of the data subject unless otherwise provided by law.

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1. General Information

1.1. Legal Framework

- Bulgarian Act on Regulatory Offences and Punishments (“ZANN”)
- Bulgarian Act on Trade (“ZT”)
- Bulgarian Act on Public Offers of Securities („ZPPTSK”)
- Bulgarian Criminal Code (“NK”)
- Bulgarian Act on Confiscation of Illegally Acquired Assets (“ZOVDPNPI”)

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Bulgaria is ranked as 75th on the table. (Just for comparison, Germany is ranked as 10th.)

2. Key Elements of Anti-Corruption Rules

2.1. Bribery in the Private Sector

- Bribery in the private sector is punishable in Bulgaria. Not only bribery in the public sector is considered an offense under the Bulgarian Criminal Code.
- Bribery is committed when a person working for or on behalf of a business organization (“officer”) is offered, promised or given (active bribe) or takes, claims or accepts promise (passive bribe) to receive any unlawful advantage in order to perform or omit an action in performance or in breach of his/her duties. Bribery is also committed when the advantage is offered, promised or given – with the officer’s consent – to a third person. Intermediation in bribery arrangements is punishable.

- Under Bulgarian law the definition of what constitutes a bribe is extremely broad and covers any financial or other advantage offered (not just given).
- There is no express value limit for such an advantage to be allowed.
- The offense is penalized by imprisonment of up to up to five (6) years.

2.2. Bribery of Public Officials

- Bribery is committed when a public official (“officer”) is offered, promised or given (active bribe) or takes, claims or accepts promise (passive bribe) to receive any unlawful advantage in order to perform or omit an action in performance or in breach of his/her duties. Bribery is also committed when the advantage is offered, promised or given – with the officer’s consent – to a third person. Intermediation in bribery arrangements is punishable.
- Under Bulgarian law the definition of what constitutes a bribe is extremely broad and covers any financial or other advantage offered (not just given).
- There is no express value limit for such an advantage to be allowed.

- The offense is penalized by imprisonment of up to up to six (6) years. In grave cases the penal threat is imprisonment of up to fifteen (30) years. The court can order partial or complete confiscation of the defendant’s assets and deprivation of the right to hold certain state or public office and of the right to exercise a certain vocation or activity..

2.3. Facilitation Payments

- There is a whistle-blowing privilege, under which a person who has proposed, promised or given a bribe shall not be punished, if he has been blackmailed by the official to do so and if of his own accord he has informed the authorities.
- Facilitation payments are not excluded from the definition of bribery.

2.4. Accepting Bribe

- While all forms of passive and active bribe are punishable, it is accepting a bribe that is punishable by utmost severity.
- Accepting a bribe is a sufficient reason for immediate dismissal in both public and private sector.

› 3. The Need for Compliance Management

3.1. Criminal Liability of Managing Directors - Failing to Prevent Bribery

- The Bulgarian Criminal Code does not know this offense.
- But according to the Bulgarian Criminal Code he/she who is Managing Director of an undertaking and intentionally or negligently omits to take necessary supervisory measures on personnel and thus causes substantial harm to the entity he/she is in charge of, is punishable for a criminal offence.

3.2. Civil Liability of Managing Directors

- A Managing Director has to act in favour of the company with due diligence and utmost care including risk management. If the managing directors do not fulfil this obligation they can be liable for damages. If substantial harm is caused to the company due to the Manager's omissions, that can constitute a separate criminal offence.

3.3. Criminal Liability of the Company

- Companies cannot be liable to prosecution.
- If a managing director has committed a criminal offence a regulatory fine may be imposed on the company.

3.4. Legal Practice

- Criminal as well as civil proceedings concerning compliance offences are possible.

› 4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- A Code of Conduct ("CoC") is an internal company policy not prescribed by law but advisable for the Manager to introduce and implement. Some self-governing professions and sector business organizations have issued their Codes of Conduct and have thus set a trend for their members to follow.
- A Code of Conduct can serve as an instrument of public relations. However, it is advisable for it to also contain key controllable principles of business behavior and value-oriented behavior. Control measures should be implemented and conducted regularly by the managing director.

- The CoC is generally a mixture of statutory law provisions (i.e. labor-law provisions), content expected by the public and a list of genuine principles/rules defined by the company through its Manager.

4.2. Implementation in Case of Employees

- The CoC is introduced by a unilateral instruction by the employer.
- For it to become binding on employees, they must have agreed in their individual employment agreements to follow internal rules established by their employer. The CoC must be available to the employees, i.e. through hanging its printed text onto announcement plates in the company's premises.
- It is better for the CoC not to be part of individual employment contracts as the employer would otherwise be in need of the employee's consent to change the CoC.

4.3. Implementation in Case of Third Parties

- Certain provisions of the CoC may claim effect on contractual partners (contractors, freelancers, etc.).
- Such provisions have the legal effect of instructions on the own employees on how to deal with

contractual partners. They can only become binding on contractual partners if accepted by them by the means of a contract.

4.4. Localization

- Localization means adjusting a global CoC-framework to the specific requirements at the place of its implementation (local CoC).
- The CoC should concentrate on day-to-day practice areas and situations but not lose touch with a broader value-based orientation.
- It is advisable for the CoC to break down key and/or complicated rules of law for the employees to implement but also govern situations which the employer considers important while the law does not govern them explicitly.
- Compliance trainings and tests should take place periodically.

4.5. Legality

- Needless to say, a local CoC must comply with the requirements set out by all applicable Bulgarian statutes.
- To make such compliance sure, a thorough research on applicable contents of Bulgarian law will usually be necessary and conducted in advance.
- Simply translating a global CoC may result in substantial legal risks as national legislations can gravely differ from each other.
- Competent legal translation is also a must.

- Given Bulgaria's communistic past, such reporting systems can, however, be associated with negative (spy) practices by the employees and therefore face mistrust, confusion and/or fear. A possible solution would be to install an independent third person to take, evaluate, depersonalize and report incoming signals. To eliminate possible denunciation effects the employee can choose to concentrate the reporting system on systematically re-appearing problems demanding measures of general effect and not on individual cases.
- A regulation on the chosen reporting procedure must be created in Bulgarian and be disclosed to all employees. It cannot hurt their dignity.

5.2. Operation of Reporting Systems

- It is the employer's decision who will be eligible to turn in a signal.
- Both the Whistleblower Hotline and the compliance officer can be company-internal institutions. An external ombudsman can, however, be more effective due to historical and cultural reasons.
- There is no statutory provision providing protection to whistleblowers.
- The employer will not be committed to any period of time to conduct and/or close an investigation.
- However, if an external ombudsman is installed, he/she should be under contractual duty to report to the employer's compliance department and/or to the Manager within a short and definite period of time (i.e. 48 hours).
- Personal data can only be stored and processed if both employer and ombudsman are registered as administrator of personal data with the Bulgarian Personal Data Protection Commission and the whistle-blower gives his/her consent in writing.

5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- The employer is not under duty but can establish a reporting system to receive signals on possible infringements of law and CoC.

5.3. Measures to be Taken in Case of Infringement

- If the reported misconduct can be considered an offense under the Criminal Code, a report

to an investigative judicial body may become necessary.

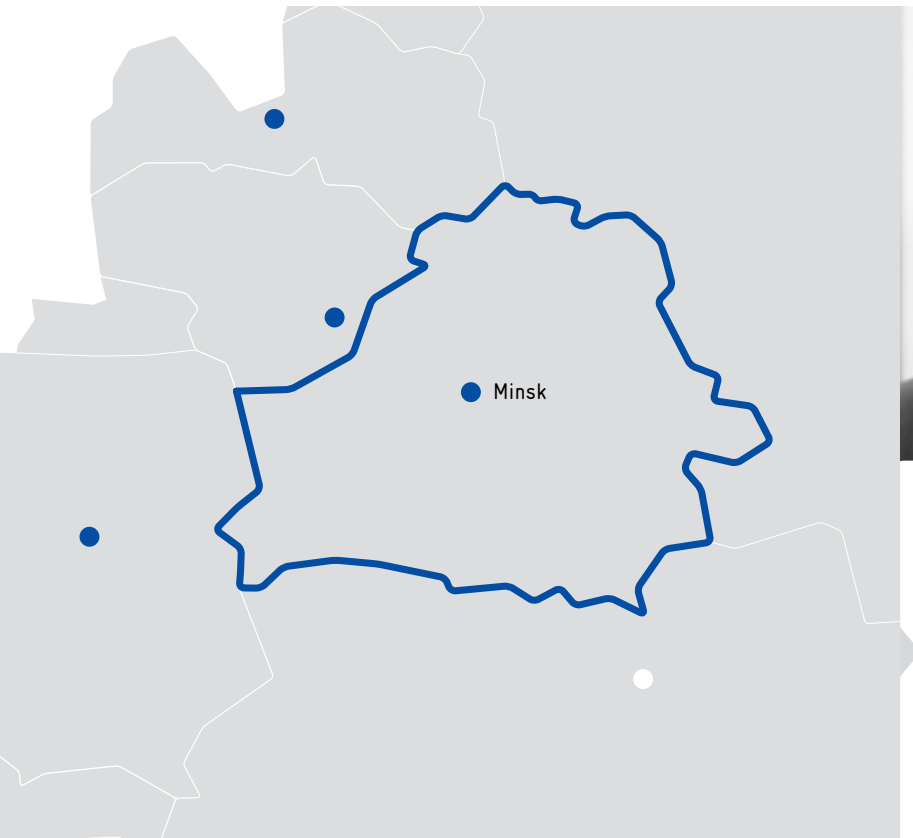
- Acts in breach of compliance rules can serve as basis for an extraordinary dismissal of the respective employee. The legality of termination will be an issue to consider in each individual case.

5.4. Transmission of Data to Abroad

- According to the Bulgarian Data Protection Act (“ZZLD”) personal data can be transferred abroad within the boundaries of the European Economic Area. For transfers of data into third countries a special permission by the Bulgarian Personal Data Protection Commission may become necessary.

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1. General Information

1.1. Legal Framework

- Criminal Code of 1999;
- Labour Code of 1999;
- Administrative Violations Code of 2003;
- Anti-corruption Act of 2015;
- Civil Service Act of 2003;
- Persons and Entities Public Appeals Act of 2011;
- On Public purchase of Goods (Works, Services) Act of 2012;
- Persons Income and Property Declaration Act of 2003.

1.2. TI Corruption Index 2016

- The corruption perceptions index of Transparency International measured the perceived levels of public sector corruption in 176 countries and territories. Based on the results of the research Belarus was ranked as 79th on the table. (Just for comparison Germany was ranked as 10th.)

2. Key Elements of Anti-Corruption Rules

2.1. Bribery

- Bribery is one of the corruption offences, same as bribery facilitation, abuse of authority, etc.
- The Belarusian legislator provides for the same level of responsibility for those who accept bribes, regardless of the fact whether they belong to private sector or public officials.

2.2. Giving Bribe

- Possible punishment for giving bribe is a fine,

correctional labor (up to two years), arrest, and limitation of freedom (up to five years) or imprisonment (two-ten years).

- If a person who gave bribe had been blackmailed or if he/she reported giving a bribe after perpetration of this crime, he/she can be relieved from criminal responsibility for the bribery. The same is applied to an accused of bribery facilitation.

2.3. Accepting Bribe

- Acceptance of bribe constitutes acceptance of material assets or acquisition of advantages for protection, for favourable settlement of issues which are covered by the powers/duties of a bribe taker, for performing or refraining from performing actions which also belong to the powers of a bribe taker.
- Material assets (money, stock, goods) or any other material benefits without regard to their price can be considered to be a bribe.
- Accepting souvenirs and gifts by an official during protocol or formal events or on the occasion of his/her birthday does not constitute a corruption offence if it did not imply application of an official's powers and authority aiming to serving interests of the one who presented a gift. The gift which is accepted by a state employee and which price is higher than five basic units (approx. EUR 45) will be passed to the state revenue on the basis of the decision taken by the commission established by the director of the public body where the state employee works.

- Pursuant to the Criminal Code of the Republic of Belarus, a person who accepted bribe (or members of his/her family, relatives who accepted bribe with his/her consent and on his/her instruction) can be sentenced to up to seven years. Besides, a bribe taker can be forbidden to hold some positions in future or to practice some professions. Seizure of property of an accused person is also one of the punishments by the legislator. In some cases a sentence for acceptance of bribe can increase up to 15 years (repeated relapse into crime).

- Moreover, those legal entities or self-employed entrepreneurs whose employees have been

found guilty of bribery are put on the list of suppliers who are suspended from participation in public procurement procedures.

- In case a bribe is given to a person to perform or omit some actions which are actually not included in his/her powers, it will be qualified as fraud.

2.4. Legal Practice

- According to statistics of the General prosecutor office of the Republic of Belarus, the number of corruption offences makes up 2-3 % of the total number of all in 2013 registered criminal offences which is indicative of the effectiveness of anti-corruption legislation.

3. The Need for Compliance Management

3.1. Liability of Managing Directors - Failing to Prevent Bribery

- There are no statutory provisions which would provide for criminal liability of directors of public bodies who failed to prevent bribery of their employees. Although heads of Ministry of Justice's and Ministry of Health's departments and subdivisions of some other public bodies can bear disciplinary responsibility (up to dismissal) for commission of corruption offences by their employees and for failing to prevent bribery.

3.2. Measures Taken to Prevent Bribery

- Some of state officials who hold key positions (the President, members of the Parliament, officials in the internal affairs bodies, etc.) are legally obliged to declare their income, property and assets. If excess of expenditure over income gained lawfully (not less than 25%) is registered, the assets can be seized.
- Apart from that, above-mentioned officials cannot run business or lead any entrepreneurial activity.
- Directors of state organizations or organiza-

tions in statutory fund of which public property makes up not less than 50% cannot be gainfully employed in a second job. This rule does not apply to teaching and scientific work.

- Pursuant to the Anti-Corruption Act and in order to coordinate anti-corruption efforts aimed at prevention, revelation, constraint of corruption and elimination of its consequences, organizations establish anti-corruption commissions within themselves. Establishment and activity of such commissions in state administrative bodies and other state organizations are regulated by the Model provisions on anti-corruption commission validated by the Council of Ministers.

3.3. Criminal Liability of the Company

- The Belarusian legislation does not stipulate criminal liability of companies for bribery and other corruption offences.

3.4. Legal Practice

- There is little relevant Belarusian case law available.
- Law enforcement practice shows that activity of anti-corruption commissions are very often formalized and limited to examination of quite narrow range of issues and to adopting decisions of the same kind.
- Competitive selection of public employees even though provided for by the legislation, is rarely applied. Directors of organizations are usually appointed by the owner of property or authorized authority on an out-of-competition basis.

4. Code of Conduct

4.1. Implementation in Case of Managing Directors

- The Code of Conduct ("CoC") is primarily a question of public sphere. Main Ministers and public authorities have model code of conduct. However, they have general provisions on what employees and employers should or should

- not do. Some examples of the CoC: The CoC for Judges, the Ethical CoC for advocates, the CoC for the officers of the Ministry of Internal Affairs. There are CoC in bank, medical and other spheres.
- Private companies instead of a CoC usually have regulations on their inner policy which do not necessarily include anti-corruption provisions. Such practice is not widely used in Belarus.

4.2. Implementation in Case of Employees

- Under the Belarusian Labor Code the employee must “...perform work... in accordance with the relevant regulations, requirements, instructions and customs”.
- According to the Belarusian Labor code, not signing or violation of anti-corruption measures by a public employee is the reason for labour contract termination.
- Usually the CoC is a separate document, binding for all people working for the Organization, private or public. However, in the absence of a CoC some provisions can be included directly into the labour contract. Such provisions must not contradict the Labour legislation of the Republic of Belarus.

4.3. Implementation in Case of Third Parties

- Certain relevant provisions of the CoC may be implemented and applied to contractual partners (contractors, freelancers, etc.), but it should be directly mentioned in the agreement between the parties.
- The CoC can be implemented based on the consent of the other party.

4.4. Localization

- There is no particular information on localization of the CoC.

4.5. Legality

- The implemented CoC must comply with the requirements of the Belarusian legislation.

5. Reporting Systems – Whistleblower Hot lines

5.1. Establishing Reporting Systems

- State authorities and other organizations are obliged to transmit information related to facts of corruption to anti-corruption public authorities.
- Up-to-date reporting systems and central data banks are created by special anti-corruption public authorities to collect, monitor and analyze information on corruption, including persons and entities affiliated to corruption.
- General Prosecutor’s Office of the Republic of Belarus has a unified database on anti-corruption situations which is formed based on information submitted by prosecution authorities, internal affairs agencies, and state security agencies.
- Anti-corruption committees are created within the public sector under the corresponding Ministry or other governmental organizations. There are Model provisions on Anti-corruption committees. Private and public companies are also recommended to have anti-corruption committees. However, this is not a widely used practice.
- Most public authorities (eg.: The Ministry of Health, the Customs Committee, the Ministry of External Affairs, etc.) have hotlines, where individuals and entities can inform about corruption related issues. The application must be considered immediately (if possible) or within 15 days; in complicated cases – within 30 days.

- A person or an entity can file an oral or written (including via e-mail) inquiry on corruption offences. The application must be considered within 15 days; in complicated cases – within 30 days.

5.2. Operation of Reporting Systems

- Information, documents and other materials related to fighting corruption requested by anti-corruption public authorities must be submitted immediately (if possible) or within 3 days.

- The state must guarantee that the person disclosing the information on corruption offences or otherwise helping in fighting corruption is protected by the government. If there is a threat of murder, violence, damage of property, etc. the state must protect the person itself, his family and close relatives.
- In particular cases a person facilitating the prosecution of corruption cases receives remuneration.
- According to the Belarusian Criminal Procedure Code the person, against whom the report was made (the “Accused”), is eligible to be informed on his rights during the investigation and the management of their data, but also to receive a copy of indictment. In accordance with the principle of due process the Accused is eligible to express his/her views on the report, provide evidence and employ a legal representative.

5.3. Measures to be Taken in Case of Infringement

- If the investigated conduct is considered an offense under the Belarusian Criminal Code a report should be made to the competent authority in order to initiate prosecution.
- According to the Belarusian labor code, not signing or violation of anti-corruption measures by a public employee is the reason for labour contract termination.
- If a person rejects to surrender by him, relatives or members of his/her family, unlawfully obtained property or money voluntarily this property or its cost will be seized by the state treasury based on the court’s decision. The property can be seized prior to getting a court decision.

5.4. Transmission of Data to Abroad

- Belarusian Anti-corruption public authorities can receive and transmit data to or by foreign colleagues in accordance with corresponding international agreements, which regulate procedures and terms of data transmission.

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