

ARENDT IS BY YOUR SIDE

Bribery and corruption: Detection and prevention



Preventing bribery and corruption within a company is essential not only to avoid sanctions and economic loss, but to also maintain its integrity and reputation. By actively opposing corrupt practices, your company ensures a fair and competitive business environment, while fostering trust among clients, partners and other stakeholders. The penalties for non-compliance are not to be underestimated, as they range from sanctions and fines to even jail time for executives.

Any company (regardless of the country of origin) can also be subject to additional laws, such as FCPA, UKBA and Sapin II.

With the upcoming EU Directive on combating corruption and China further strengthening.



“It is necessary to strengthen the legal framework to combat bribery and to provide law enforcement and prosecution with the necessary tools. (...) This Directive should also set minimum rules on bribery and other forms of corruption in the private sector, where the immediate victims include companies that are impacted unfairly and where free competition is diminished by each bribe offered or accepted.”

Proposal for a European Directive on combating corruption (COM/2023/234)

Your business: a potential victim or perpetrator

When any member of the company, whether a director or employee, actively bribes a third party, the company then faces severe legal consequences, which are likely to result in lost business opportunities. The company may also be held criminally liable. From a civil and criminal law point of view, contracts concluded then become void and ousted competitors may claim damages. Authorisations or licences that have been obtained by illegal means will also become invalid.

If a member of the company passively accepts bribes, this implies that decisions in your company are not being made in the best interests of your business, but in the best interests of one individual. A person who realises that they have not been caught or punished is more likely to reoffend and others may then be inclined to follow the bad example. Despite being a victim in this case, your company can also be held liable on a civil, criminal and administrative basis. In addition, the discovery of passive bribes can lead to increased scrutiny from regulators and mandatory compliance reviews.

Corruption in the public and private sectors

Bribery and corruption involve giving illegal advantages to influence decisions or actions. Related offences include trading influence, fraud, embezzlement, abuse of functions or assets and forgery. Bribery and related offences are not limited to public officials, but also cover private sector corruption in private law firms, where directors and/or employees accept or offer certain advantages to influence the decision-making process.

An international dimension

Although Luxembourg has a good position in international corruption indexes, your company cannot limit its actions to a strictly national framework. Foreign legislation - for example from France, Germany, the UK or the US - may be applicable to you. In addition, even though Luxembourg legislation remains relatively general, your company should strive to do more than comply with only the strict legal minimum and to also comply with international standards, benchmarks and best practices.

What are common risk factor

Companies that are victims of bribery often have to also contend with their own vulnerable areas, such as weak internal controls, inadequate compliance programmes, high-pressure environments, poor reporting mechanisms and inadequate cultural factors. These weaknesses make it easier for corrupt actors to exploit employees. For companies engaging in bribery, major risk factors include competitive markets, lack of ethical leadership, inadequate legal awareness and high-value transactions. Intense competition and pressure to secure contracts can drive corrupt practices, particularly in industries with significant financial transactions or government dealings.

An essential element of ESG

The fight against bribery and corruption is crucial for ESG because it ensures that ethical standards, transparency and accountability are maintained in business practices. ESG is increasingly important as investors, consumers and regulators prioritise transparency and accountability. Companies with strong ESG practices are seen as more sustainable and attractive, making anti-corruption efforts a key part of enhancing long-term value and sustainability.

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How can Arendt help?

1. Prevention and compliance

- **Compliance and benchmarking** – Benchmarking your practices against industry standards and best practices; assessing legal and regulatory compliance.
- **Risk assessment** – Conducting comprehensive risk assessments to identify potential vulnerable area.
- **Policy development** – Drafting and reviewing anti-bribery policies, codes of conduct and ethical guidelines for employees, subcontractors and other stakeholders to create a culture of integrity.
- **Training and education** – Providing interactive and practical training sessions and workshops for directors and employees.
- **Due diligence** – Conducting thorough due diligence on third parties, including suppliers, partners and clients.
- **ESG integration and reporting** – Integrating anti-bribery measures into broader ESG strategies; assisting with preparing and submitting required compliance reports.

2. Detection and investigation

- **Whistleblower programmes** – Establishing and managing anonymous reporting systems for employees to report suspicious activities.
- **Internal investigations** – Conducting internal investigations into suspected incidents of bribery and corruption; utilising forensic accounting and other investigative tools to gather evidence.

3. Criminal prosecution

- **Crisis management** – Developing strategy for immediate response, action and communication.
- **Legal assistance and defence** – Assisting in any criminal, civil or administrative procedure, representing the company in court, assisting in negotiating settlements.
- **Remediation** – Identifying the weak spots in an organisation that have allowed corruption to take place and providing assistance to resolve and close those weaknesses.
- **Drawing the consequences** – Advising on the action to be taken, particularly with regard to the employees involved in corruption, in terms of civil, disciplinary and criminal liability.

Our highly experienced teams of experts in all disciplines related to the fight against bribery and corruption are here to assist you at every stage. These experts are able to advise on all legal and regulatory issues thanks to their experience in the field, best business practices and market customs. Arendt also has in-house forensic technology and experienced forensic investigation experts who work alongside our lawyers to provide unique assistance in discovering and assessing the facts.



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Your experts



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