



Bribery & Corruption

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Fourth Edition

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Cyprus

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Brief overview of the law and enforcement regime

Cyprus was a British colony until 16 August 1960, when it became an independent sovereign republic. On 1 May 2004, Cyprus formally joined the European Union, and on 1 January 2008 it became the fourteenth member of the Eurozone and the euro became the official currency.

Although approximately one third of the island has been under Turkish occupation since 1974, this has no impact on the day-to-day life of most people, and Cyprus enjoys political and social security and stability, economic prosperity and a high quality of life. The so-called “Turkish Republic of North Cyprus” is recognised only by Turkey; the application of the EU *acquis communautaire* has been suspended there, and all references in this chapter are to the legitimate government of the Republic of Cyprus and the legislation enacted by it.

The main body involved in investigating bribery and corruption allegations and complaints is the police, which co-operates with specialist financial intelligence units such as the Unit for Combating Money Laundering (MOKAS). The Office of the Attorney General examines the findings of the police and decides whether a case should be heard by a court. The Audit Office of the Republic may also refer incidents of bribery and corruption to the Attorney General for investigation.

Cyprus’s first law against bribery and corruption was introduced in 1920, when the island was a British colony. That law, which is still in force, has been updated and supplemented by several others. Today, the legal framework against bribery and corruption principally comprises:

- The Prevention of Corruption Law, Cap. 161.
- The Civil Servants Law, Law 1 of 1990.
- The Criminal Code, Cap. 154.
- The Law Ratifying the Criminal Law Convention on Corruption, Law 23(III) of 2000.
- The Political Parties Law, Law 175(I) of 2012.
- The Law on the Illicit Enrichment of Public Officials and Officers, Law 51(I) of 2004.

All these laws have been amended since they were introduced.

The Prevention of Corruption Law

Introduced in 1920, this law continues to have effect. Article 3 makes it a criminal offence, punishable on conviction with imprisonment for up to seven years, a fine of up to €100,000 or both, for an agent (which term includes a public employee) or employee to obtain a gift, or for any person to give a gift to an agent or employee, or to falsify a receipt with intent to deceive the principal or employer. Article 4 of the Prevention of Corruption Law increases the maximum term of imprisonment to seven years if the corruption relates to

a government contract and article 5 provides that if any public official is proved to have received a payment or gift from a person seeking to conclude a government contract, the payment will be deemed to have been corrupt unless it is proved otherwise.

The Civil Servants Law

The Civil Servants Law governs the conduct of civil servants in general and makes specific provision regarding bribery of public officials at articles 69 and 70. No public official is allowed to receive or offer any gifts, including money, other goods, free travel or other personal benefits apart from gifts from personal friends, gifts made upon retirement and gifts that it would be contrary to the public interest to decline. Breach of the rules renders the civil servant liable to disciplinary proceedings under the Civil Servants Law. If during the course of his or her work a civil servant discovers or reasonably believes that an act of bribery or corruption has been committed by another civil servant, he or she is under an obligation to inform the relevant authority in writing, giving full details about the incident.

The Criminal Code

The Criminal Code is a compilation of criminal law provisions. It provides for criminal sanctions for bribery of public officials in articles 100 to 105A and of witnesses in article 118. Article 100 provides that any person employed in the public service who is responsible for the performance of any duty by virtue of such employment commits a criminal offence if he or she corruptly requests, receives or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself or herself or any other person on account of any past or future action (including refraining from acting) on his or her part in the discharge of his or her duties. Similarly, anyone giving or offering such an inducement is guilty of an offence. In either case, the penalty is imprisonment for up to seven years, a fine of up to €100,000, or both. In addition, the individual's assets are subject to confiscation in accordance with applicable legislation.

Article 101 provides that any person employed in the public service who takes or accepts from any person any reward over and above his or her normal pay in respect of any performance of his or her duty is liable to imprisonment for up to three years, a fine, or both.

Article 102 defines a lesser offence of receiving any property or personal benefit of any kind on the understanding, express or implied, that favourable treatment will be given in return, punishable by imprisonment for up to two years, a fine, or both.

Article 103 makes it an offence, punishable by imprisonment for up to a year, for a public servant responsible for managing an asset or activity to favour his or her personal interests (for example by awarding business to associates) and article 104 makes it an offence, punishable by imprisonment for up to three years, a fine or both, for a public servant to submit false returns or reimbursement claims. Article 105 provides that any public servant who abuses his or her authority to carry out an act that is prejudicial to another person is guilty of a misdemeanour or, if the abuse is done for gain, of a felony punishable by imprisonment for up to three years. Prosecutions under these last three articles require the approval of the Attorney General.

Article 105A of the Criminal Code, described in further detail below, criminalises inappropriate attempts to influence any authority, committee, collective body or any member of such authority, committee or collective body, or any public official in the course of their duties related to any procedure of taking, appointing, promoting, allocating, transferring or of exercising administrative control in a governmental service, whether for the perpetrator's own benefit or for the benefit of someone else.

Article 118 deals with bribery of witnesses in legal proceedings. It makes it an offence, punishable by imprisonment for up to three years, to attempt to influence the testimony of a witness in any way.

The Law Ratifying the Criminal Law Convention on Corruption

The Law Ratifying the Criminal Law Convention on Corruption as amended transposes the provisions of the Criminal Law Convention on Corruption 1999, aligning Cyprus law with best practice in the field of bribery of foreign public officials, bribery in the private sector, trading in influence, money laundering of proceeds from corruption offences, account offences, participatory acts and corporate liability.

The Law incorporates the provisions of the Convention and the offences specified in it into domestic legislation, namely:

- Active bribery of domestic public officials.
- Passive bribery of domestic public officials.
- Bribery of members of domestic public assemblies.
- Bribery of foreign public officials.
- Bribery of members of foreign public assemblies.
- Active bribery in the private sector.
- Passive bribery in the private sector.
- Bribery of officials of international organisations.
- Bribery of members of international parliamentary assemblies.
- Bribery of judges and officials of international courts.
- Trading in influence.

The maximum penalty for each of the offences is seven years' imprisonment.

The Law defines 'public official' by reference to other legislation. Article 4 of the Criminal Code defines a public official as any person holding any of the following offices or performing the duties thereof, whether as a deputy or otherwise:

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

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

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

There is no definition of a foreign public official in the Law or other legislation and no reported Cyprus case law on the matter. In such circumstances, Cyprus courts give words

their ordinary meaning. Accordingly, the court is likely to refer to the definition of ‘public official’ found in article 4 of the Criminal Code and adjust it accordingly. Furthermore, guiding reference may potentially be had – without any obligation of following – to section 6(5) of the United Kingdom Bribery Act 2010, which defines ‘foreign public official’ as an individual who holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (in the present case Cyprus), exercises a public function for or on behalf of a country or territory outside the United Kingdom, or for any public agency or public enterprise of that country or territory, or is an official or agent of a public international organisation.

The Political Parties Law

This Law repealed and replaced the Political Parties Registration and Funding Law of 2011 and now constitutes the main legal framework currently in force regulating the funding of political parties and establishing rules governing the transparency of their financial administration. Article 2 of the law defines a political party as “a body or association of persons having continuous character, statutory structure and national organisation range and having political, ideological or planned common objectives, which participates in elections or other representative bodies provided by the legal order and works together to influence the political will of the populace for the purposes of realising its political programme. The organisation, structure and functioning thereof in relation to matters the government and the society are dealing with, should be compatible with the legal framework provided for by the Constitution and the laws of the Republic and generally its presence in the socio-political life of the country shall provide sufficient guarantee for the importance of its purpose and its objective as a political party”.

Article 4 of the Law provides for state funding of all registered parties. Furthermore, state funds in respect of presidential elections are also distributed to the parties.

The Political Parties Law 2012 regulates private-sector financing of political parties. Article 5, which has been recently amended, allows political parties or affiliated organisations to receive lawful private monetary or in-kind contributions, whether named or anonymous, and limits the amount a natural or legal person may contribute to a party to €50,000 per year. Private contributions from companies registered under the provisions of the Companies Law or from physical persons are permitted as long as the activities of the companies or persons concerned are not illegal. Article 5(3) prohibits parties or affiliated organisations from accepting private contributions of any kind from legal entities of public or private law over which the state exercises control or from companies which are not registered in Cyprus under the Companies Law. However, public bodies are allowed to sponsor events organised by parties, limiting the amount of such sponsorship to €20,000 per year for each body. The total amount of anonymous contributions received by a political party or an affiliated organisation must be published in the daily press.

Article 7 of the Law requires at least 80 per cent of the expenses of political parties to be disbursed through the banking system.

Article 6 provides that political parties’ income and expenses are to be audited by the Auditor General, an independent body under the Constitution. The political parties are obliged to keep detailed information and proper account books and prepare separate and consolidated financial statements for each financial year in accordance with International Financial Reporting Standards. Article 5(2) provides that a breach of the monetary limits in respect of donations to political parties constitutes a criminal offence on the part of both donor and recipient, punishable by a fine. Article 8 prescribes administrative fines of up to €20,000 for infringements of any of the other provisions of the law.

The Law on the Illicit Enrichment of Public Officials and Officers

This law codifies the offence of illegal acquisition of property by ministers, members of parliament, mayors and other senior officials and officers of the state. It provides for assets acquired in breach of its provisions to be confiscated. It repeals the earlier law enacted in 1965 and has since been amended in 2008. No prosecutions under it have ever been reported. There is currently no legislation obliging politicians or high-level officials to disclose their assets. The relevant provisions of a law adopted for that purpose in 2004 were found by Supreme Court to be incompatible with constitutional provisions on privacy.

Parliament amended Article 15 of the Constitution with effect from 4 April 2016 to allow asset disclosure for reasons of transparency of public life and prevention of corruption. Such an amendment clears the way for other proposed legislative changes to strengthen the framework regarding the disclosure of assets of the president, ministers and members of parliament as well as other public officials.

Overview of enforcement activity and policy during the past two years

Corruption is not widely perceived to be an obstacle to business in Cyprus. There is a strong legal framework to combat corruption and effective public procurement and e-governance systems. Cyprus ranks in the top 20 per cent in Transparency International's 2015 Corruption Perception Index. Nevertheless, many people blame the 2013 banking sector crisis on an unhealthily close relationship between politicians and bankers that has contributed to corruption in some areas.

In recent years, prosecutions for bribery have been few, and have generally involved low-level corruption such as the soliciting of bribes by police officers and lower-level officials at government departments such as the Department of Lands and Surveys. Successive governments have disowned and claimed ignorance of such corruption. It is only recently that a small number of high-profile cases involving senior state officials have come before the Cyprus courts.

As part of the 2013 bail-out agreement with the European Commission, the European Central Bank and the International Monetary Fund, Cyprus committed to strengthen its banking supervision and regulatory framework and enhance the transparency of financial information. The government also appointed a committee to enquire into the causes of the financial crisis. Composed of former high-ranking judges, the committee's terms of reference include investigation of claims that banks had written off loans to politically connected debtors, and that others had benefited from insider information before the imposition of capital controls. The committee has not yet concluded its investigations, which is leading to impatience on the part of the public and allegations and counter-allegations of corruption between the Attorney General and his deputy.

Criminal proceedings for bribery of a former governor of the Central Bank of Cyprus

A criminal trial is currently in progress in the Nicosia District Court in which the defendants are former officials of Marfin Laiki Bank who are accused of involvement in the payment of €1m through a Cyprus company to a company connected to a former Governor of the Central Bank of Cyprus, and former interior and finance minister.

The prosecution alleges that the former governor was bribed in order to look the other way while the individuals concerned irregularly acquired a controlling stake in Marfin Laiki Bank in 2006.

The Paphos Sewerage Board case

The Paphos District Court is currently hearing a case involving allegedly corrupt dealings of the Paphos Sewerage Board (PSB). According to investigators' findings, bribes were paid by private contractors to PSB members in order to secure construction and waste management contracts. The five defendants include two former mayors, one of whom is currently a Member of Parliament, and town councillors.

According to the prosecution, between 1999 and 2003, while serving as Paphos mayor, one of the defendants received a considerable sum from a German company in order to secure the award of substantial contracts.

According to the indictment, two former town councillors are alleged to have received €400,000 in bribes from private contractors associated with the Paphos sewerage system, and another former town councillor is accused of having been bribed with €110,000.

A former Paphos mayor and a former PSB director are each serving a six-year jail sentence after having confessed to having abused their power and taken bribes from contractors vying for PSB contracts.

The court recently decided that a *prima facie* case had been made against the other defendants, who must now present a defence.

Criminal proceedings against Larnaca's municipal secretary

The secretary of the Larnaca municipality has been recently charged with charges in relation to a payment made by a businessman after it had been determined by state officials that his business violated the building code.

The municipal secretary faces three charges, of theft, of obtaining money under false pretences, and of acquiring a sum of money knowing that it was the proceeds from the commission of predicate offences.

Pending trial, the defendant was released on €50,000 bail. He has surrendered all his travel documents and must report to the police three times a week.

Law and policy relating to issues such as facilitation payments and hospitality

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

Furthermore, article 105A of the Criminal Code provides that any person who by any means attempts to influence any authority, committee, collective body or any member of such authority, committee or collective body, or any public official in the course of their duties related to any procedure of taking, appointing, promoting, allocating, transferring or of exercising administrative control in a governmental service, whether for his own benefit or for the benefit of someone else, is guilty of a criminal offence punishable on conviction with imprisonment for up to 12 months, a fine of up to €1,700, or both. It also provides that

failure by any member of an authority, committee or collective body or any public official to report an approach for the purpose of obtaining preferential treatment within three days of the event is a criminal offence punishable on conviction with imprisonment for up to 12 months, a fine of up to €3,400, or both.

Key issues relating to investigation, decision-making and enforcement procedures

The Cyprus judicial process is traditional and has undergone little, if any, innovation or modernisation in recent years. Cyprus law has no provisions regarding plea agreements, settlement agreements, prosecutorial discretion or similar means without trial. While civil law remedies against corruption are also available (for example, a victim of corruption may initiate civil legal proceedings for restitution on grounds of unjust enrichment, that is the significant increase of the property assets of a public official, which cannot be reasonably justified in relation to the individual's lawful income) they have rarely been used.

There is no specific law protecting whistle-blowers; instead, provisions regarding whistle-blowers are spread around other legislation. Article 369 of the Criminal Code provides that: "Every person who, knowing that a person designs to commit or is committing a felony, fails to use all reasonable means to prevent the commission or completion thereof, is guilty of a misdemeanour," creating a defence against any prosecution based on their whistle-blowing activities. Article 69A of the Civil Servants Law requires public officials who become aware of instances of corruption to report them to their supervisor in writing, with supporting evidence. It is arguable that the requirement for reports to be in writing creates a disincentive to whistle-blowing, since it may require the whistle-blower to reveal his or her identity. The Labour Law requires objective grounds for dismissal of officials while article 9 of the 2004 Law Ratifying the Civil Law Convention on Corruption (Law 7(III) of 2004) provides that a person who imposes an unjustified punishment on a whistle-blower for reporting corruption commits an offence punishable by imprisonment of up to six months, a fine of up to €5,110, or both. A whistle-blower that has been unjustifiably punished or dismissed or unfavourably transferred has a right to damages under the law.

In the private sector, the Unfair Dismissal Law offers vague guidance on protecting company employees from unfair treatment.

Many senior officials, as well as the Unit of Administrative Reform, the official body responsible for modernising the civil service, have called for a new law to protect whistle-blowers who disclose abuse of power or other illegal behaviour in the public and private sector. They argue that legislation expressly dealing with whistle-blowers, matching the obligation to report actual or intended misdemeanours with protection for whistle-blowers by making it a criminal offence to prosecute or victimise them, would be beneficial and instrumental in creating a culture of transparency and accountability through the medium of active citizen reporting on crimes and corrupt practices. As yet, however, no action has been taken.

Overview of cross-border issues

Cyprus offers international co-operation in corruption cases through formal rogatory letters, through Interpol and other channels for the exchange of police information, and between financial intelligence units such as the Unit for Combating Money Laundering (MOKAS). The central authority for the execution of requests submitted according to the provisions of the European Convention on Mutual Legal Assistance in Criminal Matters, the Council of Europe Criminal Law Convention on Corruption and the European Convention on

Laundering, Search, Seizure and Confiscation of the Proceeds from Crime is the Ministry of Justice and Public Order, which forwards these requests to the appropriate authority for their execution. Furthermore, all of Cyprus's bilateral agreements on legal and judicial co-operation include provisions for assistance in criminal matters.

Although the Cyprus Constitution prohibits extradition of nationals by article 14, which provides that no citizen shall be banished or excluded from the Republic under any circumstances, a Cypriot national who commits such an offence abroad can be prosecuted in Cyprus under the provisions of article 5(I)(d) of the Criminal Code, which deals with extraterritorial jurisdiction, and the relevant provisions of the Law Ratifying the Criminal Law Convention on Corruption.

Corporate liability for bribery and corruption offences

Law No. 23(III) of 2000 makes no distinction between natural and legal persons, but there is no codified offence corresponding to the UK offence of failing to prevent bribery contained in the Bribery Act 2010.

Proposed reforms / The year ahead

The latest EU Commission anti-corruption report found that perceptions of corruption in Cyprus were generally similar to the average for Europe as a whole. It concluded that Cyprus has demonstrated commitment to prevent and address corruption by amending legislation and establishing a co-ordinating body to combat corruption. However, in the opinion of the EU Commission, the small number of cases investigated, prosecuted or adjudicated in Cyprus indicates the need to strengthen the enforcement system and implement transparency and integrity safeguards facilitating detection and collection of evidence. The Commission recommended additional efforts to ensure closer co-ordination of relevant bodies, effective disclosure of assets and conflicts of interest, and greater transparency in the financing of political parties as well as in public procurement, and highlighted the following issues for attention:

- Strengthening the disciplinary regime for public servants, streamlining procedures to ensure effective investigation of corruption within the police and ensuring an effective co-ordination of anti-corruption policies by giving the co-ordinating body the necessary powers.
- Introducing codes of conduct for elected and appointed officials for them to declare assets periodically and to disclose potential conflicts of interests, with independent supervision and effective penalties.
- Reducing the thresholds for donations to political parties, limiting state-owned companies' freedom to sponsor political events, regulating donations to election candidates and campaigns, obliging parties to publish their financial statements and accounts online (including the identity of donors), and establishing external supervision of election candidates' income and expenditure. Developing uniform and effective tools to prevent and detect corruption in public procurement at national and local level, including internal and external control mechanisms and risk management tools within contracting authorities.
- Introducing new legislation offering protection to whistle-blowers who disclose abuse of power or other illegal behaviour in the public and private sector.

The government has recently announced that six bills have been prepared, two more are under review at the government legal service and another draft bill has been presented to

parliament in the fight against police corruption. The first six bills are understood to relate to the establishment of an internal audit service for the police. The service will report directly to the chief of police and its investigations will be overseen by the attorney-general. The other measures include the introduction of the right to access recorded communications, a requirement for senior police officers to report their sources of wealth, regulation of the operation of undercover agents, a draft bill to encourage whistle-blowing by offering increased protection, and another to allow the lifting of privacy in communications for serious offences, including bribery and corruption.

Additional measures in the pipeline include stricter punishment for such offences, and criminalising the failure to report them.

A new webpage to collect anonymous information will also be created, commensurate with the standards under which other European states operate such sites.

The government has announced that it wishes the new bills to pass through parliament quickly so that legislation will be in place within a few months.

Considerable progress has been achieved with legal and institutional reform since the 2013 banking crisis and we expect to see this momentum continue.

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Costas Stamatiou was born in Limassol, Cyprus. He graduated in law from the University of Wales, Cardiff in 2001 and obtained a Master's degree in Legal Aspects of Marine Affairs from the same university in 2002 and a Master's degree in European Legal Studies from Bristol University in 2003. He was admitted to the Cyprus Bar in 2004. In 2009, he was appointed as a member of the shipping committee of the Cyprus Bar Association and, for the past few years, has also acted as a visiting law lecturer in local universities. Costas speaks Greek and English and his main areas of practice are corporate, commercial, finance, shipping and energy law and associated litigation.

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Andreas Christofides was born in Limassol, Cyprus. He graduated in law from the University of Sheffield in 2012 and was awarded an LL.M. by King's College London in 2013. Andreas joined Andreas Neocleous LLC in 2013 as a trainee and on completion of his legal training and admission to the Cyprus Bar in 2014, he continued his career as an associate in the litigation department.

Andreas speaks Greek and English and has a working knowledge of French. His main areas of practice are corporate litigation and general litigation, commercial law, admiralty and shipping.

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