



Anti-bribery and corruption legislation of former Soviet republics

Russia, Azerbaijan, Kazakhstan,
Kyrgyzstan, Turkmenistan, Uzbekistan

/ Introduction

Enforcement actions by U.S. and European enforcement agencies as well as the World Bank have drawn attention to bribery offences committed by multinational companies in Russia and other former Soviet republics, in particular in Central Asia.

We have therefore taken a look at the anti-bribery and corruption legislation of Russia, Azerbaijan, Kazakhstan, Kyrgyzstan, Turkmenistan, and Uzbekistan in cooperation with the following local law firms:

▶ Azerbaijan	MGB Law Offices
▶ Kazakhstan	BMF Partners
▶ Kyrgyzstan	Kalikova & Associates
▶ Turkmenistan	ACT
▶ Uzbekistan	Azizov Partners



/ Summary

Our review of the anti-bribery and corruption legislation of Russia, Azerbaijan, Kazakhstan, Kyrgyzstan, Turkmenistan, and Uzbekistan revealed significant differences:

- ▶ Only Russia, Azerbaijan and Kyrgyzstan also punish **companies** for the bribery of public officials as well as commercial bribery. In Kazakhstan, companies are punished only for the bribery of public officials. There is no company liability for bribery in Turkmenistan and Uzbekistan.
- ▶ In all countries, the company's **employees** are liable for the bribery of public officials irrespective of their position within the company. In the case of commercial bribery, however, Russia, Kazakhstan and Turkmenistan only punish those employees who perform executive functions.
- ▶ **Foreign persons** are punished for bribery offences committed within the relevant country to the same extent as domestic persons. Bribery offences committed by foreign persons outside of the relevant country can, under certain conditions, be prosecuted in all countries except Kyrgyzstan.
- ▶ Only in Russia do companies convicted of bribery face the risk of **significant fines** – up to 100 times the amount of the bribe. Employees on the other hand are exposed to severe penalty risks – including several years' **imprisonment** – in all of the countries.
- ▶ In Russia, Kazakhstan, and Uzbekistan, companies are obliged to implement **measures to prevent corruption**. However, only in Russia can companies claim that they have implemented these measures to be exempt from liability for bribery.
- ▶ In all countries, individuals can exclude themselves from liability for giving bribes by way of **reporting themselves** to the local law enforcement agencies. Only in Russia and Azerbaijan can companies also benefit from the self-reporting of bribery.
- ▶ Azerbaijan, Kazakhstan, Kyrgyzstan, and Uzbekistan have introduced varying rules aimed at the **protection of whistleblowers** reporting corruption. Kazakhstan and Kyrgyzstan even incentivize such whistleblowing with the payment of monetary rewards.
- ▶ Except for Uzbekistan, the laws of all countries provide for **hospitality restrictions** in relations with public officials. Russia, Kyrgyzstan, and Turkmenistan also restrict gifts in relations between commercial organizations.

These findings show that an assessment of the local liability risks for companies operating in these countries – which should also take into account the unpredictability of enforcement actions by local law enforcement agencies – must be conducted for each jurisdiction individually.

/ Comparison of key issues

Part 1 – Russia, Azerbaijan and Kazakhstan

	Russia	Azerbaijan	Kazakhstan
Key offences committed by companies	<p>Unlawful remuneration on behalf of legal entity</p> <p>Article 19.28 of the Administrative Offences Code prohibits the bribery of Russian or foreign public officials or executives (i.e. individuals performing executive functions) in commercial or other organizations</p>	<p>Application of criminal law measures</p> <p>According to Article 99-4 of the Criminal Code, criminal law measures can be applied for bribery offences committed by certain individuals for the benefit of or in order to protect the interests of the legal entity</p>	<p>Unlawful material remuneration by legal entities</p> <p>Article 678 of the Administrative Offences Code prohibits the bribery of Kazakh public officials by legal entities, which does not already constitute a criminal offence (which can only be committed by individuals)</p>
Key offences committed by employees	<p>Commercial bribery</p> <p>Article 204 of the Criminal Code prohibits the giving of bribes to and taking of bribes by executives of commercial or other organizations* in connection with their role in these organizations <i>(*including state-owned companies)</i></p> <p>Bribe giving to public official</p> <p>Article 291 of the Criminal Code prohibits the giving of bribes to Russian or foreign public officials</p>	<p>Bribe taking</p> <p>Article 311 of the Criminal Code prohibits the taking of bribes by executives or employees of commercial or other organizations in connection with the exercise of their duties</p> <p>Bribe giving</p> <p>Article 312 of the Criminal Code prohibits the giving of bribes to Azerbaijani or foreign public officials or to executives or employees of any organizations in connection with the exercise of their duties</p> <p>Trading in influence</p> <p>Article 312-1 of the Criminal Code prohibits the taking or giving of any benefit, advantage or privilege for illegally influencing the decision-making of Azerbaijani or foreign public officials or of executives or employees of commercial or non-commercial organizations</p>	<p>Commercial bribery</p> <p>Article 253 of the Criminal Code prohibits the giving of bribes to and taking of bribes by executives of commercial or other organizations in connection with their role in these organizations</p> <p>Bribe giving to public official</p> <p>Article 367 of the Criminal Code prohibits the giving of bribes to Kazakh or foreign public officials* <i>(*including executives of state-owned companies)</i></p> <p>Unlawful material remuneration by individual</p> <p>Article 676 of the Administrative Offences Code prohibits the bribery of Kazakh public officials by individuals, which does not already constitute a criminal offence</p>

Facilitation payments	No exemption	No exemption	No exemption
Liability of foreign persons	<ul style="list-style-type: none"> ➤ If the offence is committed in Russia ➤ If the offence is committed outside Russia (i) if it is directed against the interests of Russia; or (ii) in the cases provided for by international treaties to which Russia is a party 	<ul style="list-style-type: none"> ➤ If the offence is committed in Azerbaijan ➤ If the offence is committed outside Azerbaijan (i) if it is directed against Azerbaijani citizens or the interests of Azerbaijan; or (ii) in the cases provided for by international treaties to which Azerbaijan is a party 	<ul style="list-style-type: none"> ➤ If the offence is committed in Kazakhstan ➤ If the criminal offence is committed outside Kazakhstan (i) if it is directed against the interests of Kazakhstan; or (ii) in the cases provided for by international treaties to which Kazakhstan is a party
Penalties for companies	<ul style="list-style-type: none"> ➤ Fine of up to 100 times the bribe ➤ Inclusion in the public register of offenders maintained by the General Prosecutor's Office 	<ul style="list-style-type: none"> ➤ Fine of up to 4 times the proceeds received from the offence ➤ Confiscation of property ➤ Liquidation of the legal entity 	Fine of up to 1,500 monthly calculated indexes (MCI; currently, one MCI is approximately USD 6.6)
Maximum penalties for employees	<p>Commercial bribery</p> <ul style="list-style-type: none"> ➤ Fine between RUB 2 million and RUB 5 million, 2 to 5 years' salary or 50 to 90 times the bribe and an occupational ban from certain professions for up to 6 years; or ➤ 7 to 12 years' imprisonment, a fine of up to 50 times the bribe and an occupational ban from certain professions for up to 6 years <p>Bribe giving to public official</p> <ul style="list-style-type: none"> ➤ Fine between RUB 2 million to RUB 4 million, 2 to 4 years' salary or 70 to 90 times the bribe and an occupational ban from certain professions for up to 10 years; or ➤ 8 to 15 years' imprisonment, a fine of up to 70 times the bribe and an occupational ban from certain professions for up to 10 years 	<p>Bribe taking</p> <p>5 to 10 years' imprisonment and an occupational ban from certain positions for up to 3 years</p> <p>Bribe giving</p> <ul style="list-style-type: none"> ➤ Fine between AZN 8,000 and AZN 12,000; or ➤ 4 to 8 years' imprisonment <p>Trading in influence</p> <p>For accepting benefits, advantages or privileges:</p> <ul style="list-style-type: none"> ➤ Fine between AZN 5,000 and AZN 8,000; or ➤ 2 to 5 years' imprisonment <p>For giving benefits, advantages or privileges:</p> <ul style="list-style-type: none"> ➤ Fine between AZN 4,000 and AZN 7,000; or ➤ 2 to 5 years' imprisonment 	<p>Commercial bribery</p> <ul style="list-style-type: none"> ➤ Fine of 70 to 80 times the bribe; or ➤ 10 to 15 years' imprisonment with confiscation of property and an occupational ban from certain professions for up to 5 years <p>Bribe giving to public official</p> <ul style="list-style-type: none"> ➤ Fine of 40 to 50 times the bribe; or ➤ 10 to 15 years' imprisonment with confiscation of property and an occupational ban from certain professions for life <p>Unlawful material remuneration by individual</p> <p>Fine of 200 MCI</p>

<p>Adequate procedures as corporate defence</p>	<ul style="list-style-type: none"> ➤ Article 13.3 of the Anti-Corruption Law obliges organizations to develop and implement measures to prevent corruption ➤ Legal entity may claim that it fully complied with its obligations under Article 13.3 of the Anti-Corruption Law in order to be exempt from administrative liability for bribery 	<p>None</p>	<p>Article 16 of the Anti-Corruption Law obliges organizations to develop and implement measures to prevent corruption</p>
<p>Self-reporting</p>	<p>Legal entities and individuals can exclude themselves from liability for giving bribes by way of reporting themselves to the competent law enforcement agencies</p>	<p>Legal entities and individuals can exclude themselves from liability for giving bribes by way of reporting themselves to the competent law enforcement agencies</p>	<p>Individuals can exclude themselves from liability for giving bribes by way of reporting themselves to the competent law enforcement agencies</p>
<p>Whistleblowing</p>	<p>No special protection of whistleblowers reporting corruption</p>	<ul style="list-style-type: none"> ➤ State authorities and state-owned companies receiving reports must keep the whistleblower's identity confidential ➤ Disclosure of whistleblower identity, or threatening or causing harm to whistleblower or his relatives, entails administrative and criminal liability ➤ On the basis of an application to the prosecutor, security measures must be taken to protect the whistleblower and his relatives 	<ul style="list-style-type: none"> ➤ Identity of whistleblowers reporting on corruption is protected as state secret, the disclosure of which entails criminal liability ➤ Government pays remuneration to whistleblowers reporting corruption
<p>Hospitality restrictions</p>	<ul style="list-style-type: none"> ➤ Article 575(1) of the Civil Code prohibits any gifts in relationships between commercial organizations, except for common gifts with a value of up to RUB 3,000 ➤ General prohibition on public officials accepting any gifts 	<p>Prohibition on public officials accepting gifts if their value exceeds AZN 55 within one year, provided that the gifts do not impair the impartial exercise of official duties</p>	<p>General prohibition on public officials accepting any gifts</p>

Part 2 – Kyrgyzstan, Turkmenistan and Uzbekistan

	Kyrgyzstan	Turkmenistan	Uzbekistan
Key offences committed by companies	<p>Application of criminal law measures</p> <p>According to Article 123 of the Criminal Code, criminal law measures can be applied to legal entities if bribery offences under the Criminal Code are committed by individuals on behalf of or through the legal entity in the interest of the legal entity, irrespective of whether these individuals are held liable under the Criminal Code</p>	None	None
Key offences committed by employees	<p>Commercial bribery</p> <p>Article 237 of the Criminal Code prohibits the giving of bribes to and the taking of bribes by executives (i.e. individuals performing executive functions) in commercial or other organizations* in connection with their role in these organizations <i>(*including state-owned companies)</i></p> <p>Bribe taking by employees</p> <p>Article 238 of the Criminal Code prohibits the acceptance of bribes by an organization’s employees who are not public officials in connection with their role in these organizations</p> <p>Bribe giving to public official</p> <p>Article 328 of the Criminal Code prohibits the giving of bribes to Kyrgyz or foreign public officials</p>	<p>Bribe giving to executives</p> <p>Article 268 of the Criminal Code prohibits the giving of bribes to executives in commercial or other organizations* in connection with their role in these organizations <i>(*including state-owned companies)</i></p> <p>Bribe taking by executives</p> <p>Article 269 of the Criminal Code prohibits the taking of bribes by executives in any organization in connection with their role in these organizations</p> <p>Bribe giving to public official</p> <p>Article 185 of the Criminal Code prohibits bribes being given to Turkmen public officials</p>	<p>Commercial bribery by executives</p> <p>Article 192-9 of the Criminal Code prohibits the giving of bribes to and the taking of bribes by executives in commercial or other organizations in connection with their role in these organizations</p> <p>Commercial bribery by employees</p> <p>Article 192-10 of the Criminal Code and Article 61-1 of the Administrative Offences Code prohibit the giving of bribes to and the taking of bribes by employees of any organization in connection with their role in these organizations</p> <p>Bribe giving to public official</p> <p>Articles 211 and 213 of the Criminal Code prohibit bribes being given to Uzbek public officials* <i>(*including executives and employees of state-owned companies)</i></p>

Facilitation payments	No exemption	No exemption	No exemption
Liability of foreign persons	If the offence is committed in the Kyrgyz Republic	<ul style="list-style-type: none"> ➤ If the offence is committed in Turkmenistan ➤ If the offence is committed outside Turkmenistan (i) if it is directed against the interests of Turkmenistan; or (ii) in the cases provided for by international treaties to which Turkmenistan is a party 	<ul style="list-style-type: none"> ➤ If the offence is committed in Uzbekistan ➤ If the offence is committed outside Uzbekistan, in the cases provided for by international treaties
Penalties for companies	<ul style="list-style-type: none"> ➤ Fine between 2,000 and 15,000 specified indexes (SIs; currently, one SI is KGS 100); ➤ Restriction of rights (e.g. prohibition of carrying out certain activities, participating in tenders, or receiving loans, tax benefits, subsidies or subventions from state budgets); ➤ Liquidation on the basis of a court decision; ➤ Confiscation of its property 	N/A	N/A
Maximum penalties for employees	<p>Commercial bribery</p> <ul style="list-style-type: none"> ➤ 5 to 7.5 years' imprisonment, an occupational ban from certain professions for up to 3 years and a fine between 1,400 and 1,800 SI <p>Bribe taking by employee</p> <ul style="list-style-type: none"> ➤ Fine between 2,600 and 3,000 SI; or ➤ 2.5 to 5 years' imprisonment with fine from 1,000 to 1,400 SI <p>Bribe giving to public official</p> <ul style="list-style-type: none"> ➤ 5 to 7.5 years' imprisonment 	<p>Bribe giving to executives</p> <ul style="list-style-type: none"> ➤ Fine between 50 and 100 average monthly salaries; or ➤ Up to 3 years' imprisonment <p>Bribe taking by executives</p> <ul style="list-style-type: none"> ➤ Up to 5 years' imprisonment with or without confiscation of property <p>Bribe giving to public official</p> <ul style="list-style-type: none"> ➤ 5 to 10 years' imprisonment with or without confiscation of property 	<p>Commercial bribery by executives</p> <ul style="list-style-type: none"> ➤ Fine between 300 to 600 minimum monthly salaries; or ➤ 5 to 8 years' imprisonment <p>Commercial bribery by employees</p> <ul style="list-style-type: none"> ➤ Fine between 20 to 30 minimum monthly salaries; ➤ Up to 240 hours' compulsory community service; or ➤ Up to 1 year corrective labor <p>Bribe giving to public official</p> <ul style="list-style-type: none"> ➤ 10 to 15 years' imprisonment

Adequate procedures as corporate defence	None	None	Article 20 of the Anti-Corruption Law obliges commercial organizations to implement certain measures to prevent corruption
Self-reporting	Individuals can exclude themselves from liability for bribe giving by way reporting themselves to the competent law enforcement agencies	Individuals can exclude themselves from liability for bribe giving by reporting themselves to the competent law enforcement agencies	Individuals who have been subject to extortion can exclude themselves from liability for bribe giving by way of reporting themselves to the competent law enforcement agencies within 30 calendar days after committing the bribery
Whistleblowing	<ul style="list-style-type: none"> ➤ According to the recently introduced Law “On the protection of persons who report corruption offences”, whistleblowers must be protected with special security measures ➤ Whistleblowers reporting corruption receive remuneration of one third of the amount owed to the relevant law enforcement agencies, but not more than KGS 1m 	No special protection of whistleblowers who are not Turkmen public officials	<ul style="list-style-type: none"> ➤ Whistleblowers reporting corruption are protected by the state ➤ However, the law does not provide for any specific protection measures
Hospitality restrictions	Article 511 of the Civil Code prohibits any gifts in relations between commercial organizations and to public officials in connection with the performance of their official duties, except for common gifts with a value of up to 10 SI	General prohibition of gifts to public officials in connection with the performance of their duties and to executives of any organization, regardless of the amount	None

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