

ANTI-CORRUPTION GUIDEBOOK (ANTI-CORRUPTION POLICY)

RECIPIENTS: EMPLOYEES AND ENTITIES COOPERATING WITH THE COMPANY

Mission statement

The Company has a zero tolerance policy towards corruption.

Therefore, employees, cooperating entities and contracting parties of the Company cannot offer, promise, present, encourage to present or accept bribery in any form, be it financial or personal benefit for or from any person, contracting party, public officer, etc. in return for violation of obligations or abuse of authority.

Same rules apply to the benefits provided through the third party.

Any such behaviour or event may expose an employee or associate to the charge of corruption and the Company may be held liable.

This guidebook includes detailed explanations concerning the definition of corruption and its consequences.

What is corruption?

Corruption is a crime. There is public corruption (bribery of a public officer) or a private one (managerial corruption.)

Moreover, this phenomenon has a particularly adverse consequences for society and its functioning, as well as for a state and public administration, furthermore, it negatively influences free market mechanisms primarily through unfair competition among entrepreneurs.

Consequences of corruption include financial loss, reputational damage, decrease in the Company's value and loss of customers.

What does 'corruption' mean?

Corruption is:

- offering,
- promising,
- giving,
- accepting or
- demanding financial or personal gain

in return for (in expectation of) behaviour that is inconsistent with the duties of the recipient of such gain.

To promise, offer and give the gain constitute so-called active corruption.

To demand and accept the gain constitute so-called passive corruption.

It is a common belief that corruption in the public sector (public officials and persons holding public office) constitutes an offence.

However, corruption in the private sector is also subject to punishment, where, for example, a counterparty representative can be bribed in order to conclude a beneficial contract regardless of the market criteria.

WHEN DOES CORRUPTION TAKE PLACE?

Corruption takes place when the promise, offer, provision, demand or acceptance of a material or personal gain is issued.

Whether the activity in return for which a benefit was given had actually occurred is irrelevant.

What is public corruption?

Corruption in the public sector entails:

- giving, offering or promising material or personal gain to a person holding a public office in Poland or abroad, also within an international organisation;
- accepting or demanding undue gain by a person holding a public function. In accordance with the Polish Penal Code persons holding public functions include:
 - public officers,
 - members of local authorities,
 - persons working at an entity entrusted with the management or disposition of public funds, unless he or she is working exclusively with providing services;
 - any other persons whose rights and duties related to public activity are specified or recognised by law or international treaty which binds the Republic of Poland.

As practice shows, the term 'public officer' can have broad interpretation. An employee of the State Treasury bank (who is its shareholder), presidents of the Management Boards of building cooperatives or public companies as well as arbitrators in arbitration courts classify as public officers.

According to the Polish Penal Code public officials include: the President of the Republic of Poland, members of Parliament, senators, councillors, members of the European Parliament, judges, judicial assistants, prosecutors, officers of a financial body in preparatory proceedings or an entity which supervises financial body in preparatory proceedings, notaries, collectors, probation officers, official receivers, court supervisors and managers, adjudicating persons and disciplinary bodies acting on the basis of legal regulations, employees of the government administration or other state or local government body, unless he/she is only providing services as well as any other persons who are entitled to issuing administrative decisions or employees of the state or local government control body, unless it is only providing services, etc.

The objective of issuing (the offer or promise) or accepting (demanding) the gain may be to:

- obtain general preferential treatment by a person holding a public function while performing his/her function and tasks,
- violate the law,
- cause a situation in which a person holding a public function performs his/her duties if he/she performs them on condition of receiving the gain.

May I give minor gifts to a person performing public function to express gratitude?

You can give and receive minor gifts which are solely

an expression of gratitude or just common politeness (flowers, sweets) by custom which is accepted in a given body of rulings.

However, such gifts must be:

- symbolic and have little value,
- offered in a transparent manner
- not expected by a person holding a public function,
- offered only after concluding certain actions (never in advance),
- never consist of money or any other monetary form.

All expressions of gratitude in monetary form are prohibited!!!

GIVING MONEY TO A PERSON PERFORMING PUBLIC FUNCTION WILL ALWAYS BE CONSIDERED CORRUPTION.

Prohibited objects include, among others:

- expensive flower bouquets,
- valuable china,
- expensive books,
- collector fountain pens,
- skiing equipment,
- watches,
- expensive alcoholic beverages,
- paintings.

Are corporate items allowed?

It is accepted to give corporate items (pen, notebook, etc.).

Such a gift can only be given officially, in good faith and in a transparent manner. They cannot be expensive – as for gratitude expression gifts – they must be symbolic.

Persons holding public office are required to note the

acceptance of a corporate item in a correct gift register.

When corporate item expresses gratitude towards a person holding a public function, it may never have monetary form.

Are facilitation payments allowed?

To offer, promise and give money to persons holding public office is unacceptable. This also holds true for a situation in which such a payment serves to accelerate the review of a matter that is protracted.

So-called facilitation payments (minor payments customarily accepted in certain countries and not considered corruption) aimed at securing or expediting the performance of a routine or necessary action are not allowed in Poland and European countries.

The Company does not accept so-called facilitation payments, irrespective of the location of its business.

What is private sector corruption?

Private sector corruption also includes offering, giving, accepting or demanding material or personal gain of a person holding a managerial role in a company.

There is a broad range of persons considered to hold managerial positions. It includes also persons rendering work to an enterprise on the basis of an employment, specific task or works contract if they have or can have influence on decisions that are significant to the business of a company or its material situation.

The objective of giving (offering or promising) or accepting (demanding) the gain is for the person who holds managerial positions in a company (for example, managers, heads of branches of a company) to misuse the rights granted to him/her or to fail to perform his/her obligations, what can potentially:

- cause harm to a company,
- constitute an act of unfair competition or
- constitute a prohibited action preferential to a contracting party (including the selection of an offer of an existing or potential contracting party on the basis of non-market criteria).

Conduct in return for which a gain is given or accepted should not occur.

Corruption is committed at the moment of handing over or accepting the gain if it can be proven that there was an understanding between a briber and a bribe receiver concerning the briber's expectations in relation to the bribe receiver's behaviour.

The latter element is most often substantiated by the specific circumstances of the case and its context.

Who can commit a corruption crime?

In case of accepting or demanding the gain (passive corruption), corruption can be committed by:

- persons holding public functions -> public corruption
- persons holding managerial functions in a private entity -> private corruption.

Persons holding public functions include, for example, the state administration officer, president, member of Parliament, senator, judge, prosecutor or persons holding similar functions in public or local government institutions.

Persons holding managerial functions in a private entity include, for example, Management Board members, Sales Division manager, Purchases Division manager or manager.

As for the persons offering the gain in the form of a bribe, such a list is in no way limited (active corruption). Anyone who gives a bribe to a person holding public function or a managerial function in a private sector entity commits a corruption offence.

What kind of benefit can constitute a bribe?

A bribe can be a benefit of either material or personal nature.

Material benefit has economic value, e.g.

- money, including subsidies, loans, wire transfers, pre-paid cards or gift cards,
- increase in assets value (acquisition of shares in a company with assets),
- reduction of encumbrances, e.g. settlement of debt,
- benefit of monetary value (e.g. free apartment rental),
- movables (e.g. jewellery, original fountain pen, china),
- national or international travels,
- improvement of employment conditions.

Personal benefit has no financial value and serves to satisfy specific needs, e.g.:

- leisure (concert ticket, sport event, such as F1 race)
- sale,
- proposal of sexual nature,
- job offer,
- diploma.

Must a benefit be directed to a person we want to bribe?

Accepting or demanding benefit does not have to be directed to a person we want to bribe, it can be directed to a third party.

What actions of a person performing a managerial role should a briber expect in order for an act of private corruption to occur?

In this case, it can be a misuse of rights by a person holding managerial position or failure to comply with his/her obligations, what can potentially have the following effects:

- cause harm to a company,
- constitute an act of unfair competition,
- prohibited preferential act in favour of a product buyer or recipient.

Activities to the detriment of a company include:

- theft of confidential data, know-how, customers' database, documents, patents, etc.
- business decisions not justified by the Company's interests and economic criteria (sale of Company real estate at a grossly low price.)

An act of unfair competition is action contrary to the law or good practice if it threatens or breaches the interests of another entrepreneur or customer.

Acts of unfair competition include, in particular:

- the transfer, disclosure or use of information constituting a business secret or its acquisition from an unauthorised party if it threatens or infringes the interest of an entrepreneur,
- encouragement of persons rendering work to an entrepreneur on the basis of an employment contract or other legal relationship to fail or not duly carry out work duties or other contractual obligations in order to gain benefits,
- slander or unfair praise,
- hindered market access,
- dishonest or prohibited advertising,
- public corruption,
- selection of a supplier according to vague and arbitrary criteria other than those with an economic basis.

Prohibited preferential acts in favour of the buyer or recipient of goods or services:

Preferential act occurs when a given action is not based on market criteria (such as price, quality, guarantee, production conditions, etc.), but rather on the basis of criteria of the decision-making person's own interests:

- preferential treatment of the selected party to the tender procedure,
- conclusion of a trade agreement on terms more beneficial to a contracting party in comparison with other contracting parties, but without a market/business justification,
- promotional services under the guise of services rendered by an entrepreneur, but actually provided in exchange for a bribe that constitutes "remuneration" paid to the employee, and not the company-entrepreneur rendering a promotional service.

What behaviour of a person holding public office should a person giving a bribe expect in order for public corruption to occur ?

In such a situation we may deal with the following scenarios:

- potentially preferential treatment of the briber related to holding public function (settlement of a matter, acceleration of a case or violation of regulations beneficial to the bribe giver, preferential assessment during a public tender);
- violation of legal regulations;
- a situation in which a person holding public function performs his/her duties if he/she performs them on condition of receiving the gain.

Is it necessary to give a bribe to a decision-making body for public corruption to occur?

No, we may also deal with the so-called influence peddling. In such a situation a benefit is delivered to a person (intermediary), who declares ability to influence a decision or actions of a person holding public office.

It is irrelevant whether an intermediary can actually influence a decision or actions of a person holding public office or merely makes such an impression (a sensible influence).

Corruption is the mere provision of a benefit to a person who is to serve as an intermediary in settling a matter. Whether an intermediary has the actual ability to influence or has actually undertaken mediation and settlement of a matter is irrelevant.

Can any benefit, even of small value, constitute a bribe?

Yes, if it is meant to obtain one of the above described unfair or harmful actions (the purpose of providing a benefit has key significance).

Legal regulations do not specify the lowest value below which a benefit is not of corruptive nature.

Theoretically, therefore, benefits of any value, even minimal, may be prosecuted if their purpose is bribery. Assessment rests on the circumstances of a given case.

If a single minor sum is given to elicit certain behaviour, prosecuting bodies may not take action by finding that such action constitutes an act of minor social danger.

However, authorities will prosecute if benefits, even of insignificant value, are provided repeatedly, whereas the total value of all benefits becomes significant, and their ultimate purpose is a bribe. All identified actions in the form of providing a benefit will be recognised as a single action – a single corruptive practice extended in time.

Are gifts or marketing or promotional expenses allowed?

To give and accept minor gifts which promote a given entrepreneur, meals during business meetings, or training for customers is an existing standard of market reality.

On the other hand, it is an area of risk as an overly expensive gift may be treated as a bribe.

At Rekeep Polska, promotional and marketing expenses ("expenses") as well as the acceptance and offering of minor gifts are allowed if they are rational and proportionate to goals we wish to attain.

In order to determine whether an expense or gift meets the above-mentioned criteria, their purpose should be specified with consideration of time and circumstances surrounding an expense or gift with an assessment of whether this is a corruption attempt.

It is prohibited to accept or offer any gifts in monetary form (cash, bank transfer, prepaid card, restaurant vouchers or other documents expressing a given monetary amount.)

Receiving or offering a gift of a value exceeding PLN 250 is possible exclusively upon the superior's consent.

The Rekeep Polska chief executive officers can accept small customary gifts up to a total value of PLN 2000 per year, which should be duly documented. The acceptance of any gifts that would imply exceeding the threshold of PLN 2000 per year requires an authorisation of the Company's Supervisory Board.

How to determine whether a given gift or marketing or promotional expense is allowed?

IN ORDER TO AVOID THE CHARGE OF VIOLATING THE COMPANY'S ANTI-CORRUPTION POLICY, CONSIDERATION SHOULD BE GIVEN TO THE TIME AND CIRCUMSTANCES SURROUNDING A GIVEN EXPENSE OR GIFT AND WHETHER IT IS AN ATTEMPT AT CORRUPTION BEFORE AN EXPENSE IS INCURRED OR A GIFT IS RECEIVED.

In order to make a correct decision, the following actions are necessary:

1. to define the nature of our relationship with the entity, the representative of which will benefit from a gift or entertainment;
2. to define the purpose of a given gift or marketing or promotional expense, said purpose may be related to:
 - a. establishing or maintaining business contact (marketing),
 - b. caring for the professional image and reputation of the Company,
 - c. promoting a product,
3. to ensure the situation in which actions relating to the giving or receipt of such a gift are in good faith and do not conceal an offer, promise or consent to any abuse,
4. As for the time when the gift is given, it has to be determined whether:
 - a. The Company currently takes part in a tender in which the entity offering a gift is also participating,
 - b. The Company currently takes part in a tender which is held by the entity in which the Company's representative is offering a gift,
 - c. persons to whom a gift is offered or given have previously received a gift from the Company, and if that was a case what were the circumstances,
 - d. persons from the Company to whom a gift is offered or given have previously received a gift from the offering or giving party and if that was a case what were the circumstances.

According to practice adopted at the Company, the acceptance or giving of a gift, incurring a marketing or promotional expense or participating in an event

organised by another entity is permissible if its value does not exceed PLN 250 and the aforementioned assessment criteria are met and necessary steps taken to avoid any allegations of bad faith or corrupt proposal.

Whereas, if the value of a gift, promotional or marketing expense or the cost of participating in an event organised by another entity exceeds or may exceed PLN 250, the acceptance or giving of a gift, incurring an expense or participation in an event requires consent of the superior.

The consent procedure and application for consent are set forth in the procedure constituting Attachment no. 3 to the Company's Anti-corruption Policy.

Any gifts or marketing items for persons holding public function should be symbolic and meet other conditions as specified in this Guidebook, or simply avoided.

Can a benefit granted through a third-party be considered corruption?

Yes. Corruption also occurs when a benefit is granted through a third party, e.g. company that allegedly renders services to the entrepreneur financing a bribe. In such a case the corruption procedure frequently entails the issue of so-called empty invoices in exchange for fictional services by intermediaries, agents, advisors, suppliers or joint-venture companies, etc.

Persons from the third party entity subsequently transfer benefits to their ultimate recipient.

Frequently, the flow of corruption benefits takes place under the guise of consulting services (fictitious orders, training, etc.).

Can a corruption offence be committed if we are not participating in the act of delivering a benefit?

Yes. Liability for corruption can also be incurred by persons who did not directly deliver a benefit, but who – in performing a decision-making function in a company – consented to the financing of corruptive benefits from the company's budget and knew about the corruption procedure.

Can a company be held liable if its employee or representative engages in corruption?

Yes. A company may be liable if, as a result of a bribe,

the company gained a benefit, whereas provision of the bribe by an employee or representative was the result of improper organisation within the company, improper control and supervision or improper employee selection.

What are the consequences of corruption?

EMPLOYEES AND ASSOCIATES

Failure to comply with the Company's Anti-corruption Policy leads to legal and disciplinary action toward employees and termination of cooperation in the case of associates and contracting parties.

Corruption also leads to the criminal liability of an individual - employee, manager or associate if such individual:

directly engaged in corruption through the giving, offering or promising a benefit or its demand or acceptance;

knowingly engaged in corruption, i.e. ordered a bribe or consented to the targeting of company's funds for bribes. In this form, corruption may involve, among others, a finance director or chief accountant, as well as a general director, etc.

Corruption of an individual elicits the following imprisonment:

- up to 8 years in the case of private corruption,
- up to 12 years in the case of public corruption.

These thresholds can change if the amendment to the Polish Penal Code enters into force. In the public sector, the imprisonment will be up to 20 years and in the private sector – up to 25 years.

In addition to imprisonment, a court may also order, for example, an obligation to redress damage.

If a person is convicted of private corruption with the court lawful decision, he/she loses the ability to act as a member of a company's body or as a liquidator.

In the case of public corruption, the court can order such a ban.

Judgment of conviction for corruption results in being entered into the national criminal record.

COMPANY

If an employee or associated entity engages in corruption, the Company will incur severe consequences for its reputation. Corruption can also inflict harsh financial losses on the Company,

stemming, among others, from its legal liability for corruption.

Company may incur criminal liability, among others, on the basis of the Collective Entity Accountability Act.

In accordance with this act, in the event of the conviction of the Company's employee or associate entity for corruption that brought this Company a benefit, said Company may incur a financial penalty of up to PLN 5 million. If punished, a court will also order for the benefits that Company gained through Corruption or their equivalent to be forfeited.

Other possible sanctions for the Company may include a ban, among others, on:

- promoting or advertising of business, producing or selling the products or rendered services or benefits,
- co-financing from the public funds (including subsidies, co-payments and other forms)
- with public order in mind.

These bans can cover the period of one to five years.

Moreover, if the Company incurs a penalty, the court can publish the decision.

Simultaneously with being punished, the Company will be entered into the national criminal record.

It should be mentioned that the regime of corporate criminal liability may change if a new law concerning collective accountability is enacted.

According to the draft law, a conviction of an individual will no longer be a prerequisite for a company's criminal liability. Therefore, it will be possible to prosecute companies simultaneously with individuals.

Companies may incur penal liability because of a criminal offence committed by its management board, even without determining an individual, by members of corporate bodies, persons representing a company, its employees or contractors.

The array of sanctions will be broader and will provide for the possibility to impose:

- a financial penalty up to PLN 30 000 000, and in some cases – up to PLN 60 000 000
- dissolution of the collective entity,
- forfeiture of property or financial benefits or their equivalent,
- ban on promoting or advertising,
- ban on conducting a certain type of business,
- ban on using subsidies or other forms of financial support coming from public funds,
- ban on pursuing public procurements,

- obligation to return to the State Treasury the equivalent of financial support from public funds received from the moment the offence was committed until the time of issuing the court decision;
- obligation to publish the court decision,
- obligation to redress damage or to compensate for non-pecuniary loss.
- obligation to pay punitive damages,
- permanent or temporary closure of a branch of a collective entity.

Examples of corruption:

1. The act of giving material benefits in the form of money or Sodexo coupons by representatives of a clothing manufacturer (salespersons) to sale managers in a retail network distribution chain in exchange for listing the products, orders for the products, favourable exhibition on store shelves and the opportunity to benefit from promotional campaigns on terms more beneficial than other suppliers.

The bribes were given by "intermediaries" – persons running individual businesses. These persons allegedly rendered merchandising consulting services to clothing manufacturers and also to sale managers.

Funds dedicated to bribes were delivered on the basis of invoices issued for alleged services.

The financial manager of a manufacturing company who approved invoices for payment was also implicated in corruption, as was a general manager who consented to and instructed fund allocation from the marketing budget toward bribes for sale managers in retail (which the clothing manufacturer's representatives should have honestly spent on business relations with the network.)

2. Representatives of a company, in exchange for favourable treatment in tenders, gave expensive gifts to a person holding public office (art work and an original pen worth PLN 12000) claiming that these were birthday gifts. A court found that corruption took place. A benefit worth PLN 12000 cannot be considered an ordinary gift.
3. Representatives of a private company pursuing an order within a tender funded exotic travel to chairmen of management boards of housing cooperatives.

The prosecutor filed an indictment as he thought it was a corruptive practice. Law enforcement authorities were not convinced that these trips served promotion or training for innovative technology used by these companies. The mere geographic location of these trips (savannah, safari, desert) prevented use of the promoted technology and presentation of its application.

4. A representative of a provider of facility management services presented to a

management board member of a company producing spare parts for cars, an air conditioning unit worth PLN 2000

The air conditioning unit was given in return for the abuse of rights by the management board member consisting of unjustified preferential treatment of the company providing the services within the tender for new installation of air conditioning system in warehouses where spare parts for cars were manufactured.