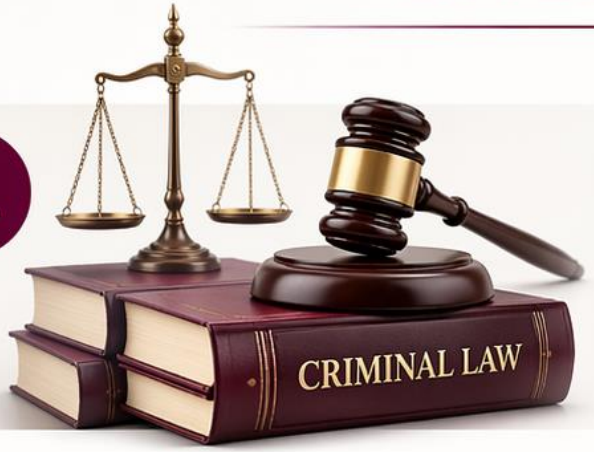
BRIBERY IN THE PRIVATE SECTOR

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INTRODUCTION

1. 

The Criminalization of Bribery in the Private Sector under Bulgarian Criminal Law

2. 

Criminal Law Characteristics of Bribery in the Private Sector under Bulgarian Criminal Law

3. 

The Balance between Public and Private Interests in the Regulation of This Criminal Offense

Historical Background

Bribery in the private sector was criminalized under Bulgarian criminal law in 2002:

- in fulfilment of certain obligations of the state under international legal instruments - The Criminal Law Convention on Corruption of the Council of Europe;

- in accordance with the developments of the European Union in this field, in particular the Joint Action of 22 December 1998 on corruption in the private sector.



International Obligations

Council of Europe Criminal Law Convention on Corruption

European Union Developments

22 December 1998
Joint Action on Corruption in the Private Sector

2002

Bribery in the private sector criminalized in Bulgarian law

International Context

- Globalization impact the legal and practical implications discussed in the report, highlighting its importance within Bulgarian criminal law and economic relations.
- Cross-border trade the legal and practical implications discussed in the report, highlighting its importance within Bulgarian criminal law and economic relations.
- EU and Council of Europe policy the legal and practical implications discussed in the report, highlighting its importance within Bulgarian criminal law and economic relations.



LEGAL NATURE



Bribery in the private sector has a complex legal nature, as the infringement of the private interest of the economic entity is particularly pronounced.

The legal sphere of the legal entity or sole trader for whom the perpetrator performs work is affected by the criminal act—namely requesting or accepting a gift or benefit,

accepting an offer or promise of a gift or benefit, or promising or offering such a gift or benefit, in order to perform or refrain from performing an act in breach of their duties in the course of commercial activity.

The intensity of this infringement varies depending on the form of the act, but in general it is significant due to the specific characteristics of this offense outlined below.

PROTECTION OF PRIVATE INTEREST

BREACH OF DUTIES IN COMMERCIAL ACTIVITY

AFFECTS THE LEGAL ENTITY OR SOLE TRADER

CRIMINAL ACT INVOLVING GIFTS OR BENEFITS

VARIES IN INTENSITY AND FORM

Legal Nature



Legal Characteristics of Bribery in the Private Sector under Bulgarian Criminal Law

Bribery in the private sector under Bulgarian criminal law is a form of economic crime regulated in **Article 225c** of the Criminal Code.



It has a complex legal nature, combining elements of corruption and offenses against the national economy. The protected interests include both fair competition and the proper functioning of market relations, as well as the integrity of internal relations within private entities.



PROTECTED INTERESTS

- FAIR COMPETITION
- PROPER FUNCTIONING OF MARKET RELATIONS
- INTEGRITY OF INTERNAL RELATIONS WITHIN PRIVATE ENTITIES
- NATIONAL ECONOMY

Legal Characteristics of Bribery in the Private Sector under Bulgarian Criminal Law





The objective elements of the offense consist of requesting, receiving, offering, or giving an undue advantage in order for a person performing work for a legal entity or sole trader to act or refrain from acting in breach of their duties in the course of commercial activity. The offense exists in both passive and active forms.



A **key feature** is the link to a specific obligation arising from employment or contractual relations connected to commercial activity. The conduct affects not only internal relations but also external business relationships and may harm the reputation and economic position of the entity.



REQUESTING
Asking for an undue advantage

RECEIVING
Accepting an undue advantage

OFFERING
Proposing an undue advantage

GIVING
Providing an undue advantage

Legal Characteristics of Bribery in the Private Sector under Bulgarian Criminal Law

From a **subjective perspective**, the offense requires direct intent and a specific purpose—obtaining an **improper advantage** through the violation of professional duties.



Its **social danger** lies in distorting competition, undermining trust in business relations, and negatively affecting the functioning of the market economy.



- Violation of professional duties
- Obtaining an improper advantage
- Direct intent and specific purpose
- Distorts competition and undermines trust
- Negatively affects the market economy



AFFECTED RELATIONSHIPS

Bribery in the private sector leads to the impairment of three categories of legal relationships within the sphere of the legal entity or sole trader:

1



Employment or contractual relations between the trader and the perpetrator, affected by a breach of duties in the course of commercial activity;

2



The specific commercial relationship between the entity and its counterparty, in connection with which the bribe is offered, requested, or received;

3



Existing or future commercial relations with third parties, which may be adversely affected.

INTEGRITY | TRUST | COMPLIANCE | REPUTATION | SUSTAINABILITY

Business Impact

Bribery in the private sector negatively affects **business entities** by undermining internal trust and encouraging breaches of professional duties. It distorts commercial relationships, leading to unfair decisions, financial losses, and inefficient business operations.



- **UNDERMINES INTERNAL TRUST**
- **ENCOURAGES BREACHES OF DUTIES**
- **DISTORTS COMMERCIAL RELATIONSHIPS**
- **LEADS TO FINANCIAL LOSSES**
- **CAUSES INEFFICIENT BUSINESS OPERATIONS**

Additionally, it creates serious **reputational risks**, reducing competitiveness and harming relationships with business partners. Overall, bribery weakens trust, disrupts decision-making, and hinders the sustainable development of businesses.



- **REDUCED COMPETITIVENESS**
- **HARMED RELATIONSHIPS WITH PARTNERS**
- **DISRUPTS DECISION-MAKING**
- **HINDERS SUSTAINABLE DEVELOPMENT**

Bribery weakens trust, damages reputation, and creates long-term obstacles to the growth and sustainability of business entities.

Public Interest

Bribery in the private sector produces significant public harm by distorting fair **competition** and undermining **market efficiency.** It creates unfair advantages, weakens trust in business relations, and disrupts the normal functioning of the economy.



- **DISTORTS FAIR COMPETITION**
- **CREATES UNFAIR ADVANTAGES**
- **WEAKENS TRUST IN BUSINESS RELATIONS**
- **DISRUPTS THE NORMAL FUNCTIONING OF THE ECONOMY**

Such conduct also **threatens the rule of law** and fosters a **broader culture of corruption.** In a globalized context, its effects may extend **beyond national borders**, affecting international trade and economic cooperation.



THREATENS THE RULE OF LAW
Erodes legal integrity and undermine justice.

FOSTERS A BROADER CULTURE OF CORRUPTION
Normalizes unethical behavior in society and business.

EFFECTS BEYOND NATIONAL BORDERS
Has transnational impact in a globalized world.

AFFECTS INTERNATIONAL TRADE
Distorts trade flows and unfairly disadvantages honest businesses.

HARMS ECONOMIC COOPERATION
Undermines partnerships and slows sustainable economic growth.

Private Interest

Employment or contractual relations between the trader and the perpetrator are **adversely affected**, as the latter breaches professional duties in the course of the employer's or principal's commercial activity.



Such conduct **undermines trust** within the organization, weakening internal discipline and the reliability of professional performance.



It may also lead to **legal and disciplinary consequences** for the perpetrator, including termination of employment or contractual relations and potential liability.



In the long term, it **negatively impacts** the stability and effectiveness of internal business operations.



OVERALL IMPACT

- Weakens trust in business relationships
- Leads to unfair advantages
- Results in financial losses
- Reduces efficiency and productivity
- Undermines stability and sustainable growth

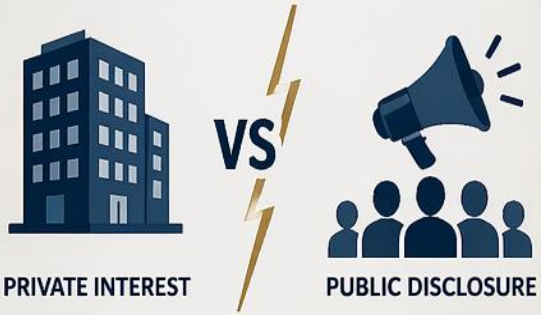
CONFLICT BETWEEN PUBLIC AND PRIVATE INTERESTS IN BRIBERY IN THE PRIVATE SECTOR

1 INITIAL ALIGNMENT OF INTERESTS:



The affected legal entity or sole trader has an interest in the detection and punishment of the unlawful conduct, which coincides with the public interest in combating corruption.

2 DIVERGENCE UPON PUBLIC DISCLOSURE:



REPUTATIONAL DAMAGE IN A COMPETITIVE ENVIRONMENT

In a competitive environment, the public disclosure of the offense may lead to significant reputational damage for the business entity, placing private interest in conflict with public interest.

3 RISK OF GREATER ADVERSE CONSEQUENCES:



Criminal prosecution and publicity expand the circle of persons aware of the offense, potentially affecting the entity's reputation and market position.

A balance must be struck between the public interest in effective enforcement and the private interest in protecting business reputation and sustainability.

Conflict of Interests

Initial alignment of interests:

Both the trader and the organization seek to achieve legitimate business goals and ensure successful cooperation.

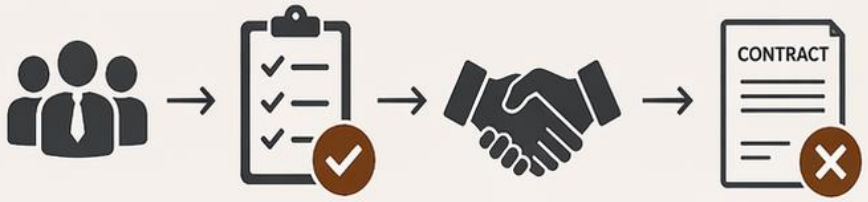
Practical reluctance to report:

Due to these risks, in practice affected entities often lack the incentive to report the offense, even when it has been established.



Preference for internal resolution:

Instead of resorting to criminal law mechanisms, relationships are frequently resolved internally through disciplinary measures or termination of employment or commercial contracts.



These dynamics create a conflict between the organization's interest in addressing misconduct and the potential costs of disclosure, leading to a preference for internal solutions.

Legislative Challenges

- **Need for balance:**
  Public and private interests require different levels of protection, which necessitates a balanced legal approach.

- **Key distinction from public sector bribery:**
  The existence of a strong private interest that does not always coincide with the public interest fundamentally distinguishes private sector bribery from bribery in the public sector.



Policy Recommendations

1. Differentiated legal regulation:

The legal framework should reflect the specific nature of private sector relations by avoiding a full alignment with public sector bribery rules and instead adopting tailored provisions.



2. Flexible procedural mechanisms:

Consideration may be given to introducing procedural solutions that take into account the interests of the affected entity, such as complaint-based prosecution or limited publicity in certain cases.



3. Balanced enforcement policy:

Criminal law intervention should remain proportionate, avoiding over-criminalization while ensuring effective protection of economic relations.



TAILORED APPROACH
Reflects the nature of private sector relations

FAIR AND FLEXIBLE
Takes into account the interests of affected entities

EFFECTIVE AND PROPORTIONATE
Ensures justice without over-criminalization

PROTECTS ECONOMIC RELATIONS
Supports fair competition and trust in business

PROMOTES SUSTAINABLE GROWTH
Strengthens the foundation for economic development

Policy Recommendations

1. Protection of business reputation:

Legal measures should aim to minimize unnecessary reputational harm, for example through confidentiality safeguards during investigations and proceedings.



- Confidentiality safeguards
- Restricted access to information
- Protection of sensitive data
- Minimization of public exposure

2. Encouragement of internal compliance mechanisms:

Companies should be incentivized to implement effective internal controls, reporting systems, and anti-corruption policies.



KEY BENEFITS

- Protects business reputation and goodwill
- Strengthens trust in business relationships
- Promotes a culture of compliance
- Supports effective and proportionate enforcement
- Enhances long-term sustainability and integrity

Conclusion & Contact

CONCLUSION

- Bribery in the private sector represents a **complex legal and economic phenomenon** that affects both individual business entities and the overall functioning of the market economy. Its regulation requires a **careful balance** between public interest in effective enforcement and private interest in protecting business reputation and autonomy.

- A well-calibrated legal approach—combining **precise regulation**, **proportionate enforcement**, and **effective internal compliance mechanisms**—is essential to ensure both fair competition and sustainable economic development.



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Protects business reputation and autonomy

Promotes fair competition and market efficiency

Supports sustainable economic development

Ensures effective and proportionate enforcement

Balances public interest with private sector realities