

Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

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(Information as of 15 June 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

The Convention was signed on 17 December 1997. The Ratification Bill was adopted by the Senate on 20 April 1999 and by the Chamber of Representatives on 29 April 1999. The Ratification Act received royal approval on 9 June 1999. Belgium deposited its ratification instrument with OECD on 27 July 1999.

Implementing legislation

To meet the requirements of the OECD Convention, and more generally to modernise the Criminal Code's provisions on bribery, which dated from 1867 and had not been substantially amended since then, the Belgian Parliament adopted two Acts. The first is the Bribery Prevention Act of 10 February 1999, adopted by Parliament on 4 February 1999 and signed by the King on 10 February 1999, which entered into force on 3 April 1999, following publication in the *Moniteur belge* (Official Gazette) on 23 March 1999. This Act amends in particular the provisions contained in Title IV of the Criminal Code in Articles 246-252 of Chapter IV on "The Bribery of Public Officials". The second Act is that of 4 May 1999, which entered into force on 3 August 1999. This Act establishes the criminal liability of legal persons, henceforth subject to the provisions the Bribery Prevention Act of 10 February 1999.

The main objectives of the amendments to the Criminal Code, as explained by the Minister of Justice in his introductory presentations to the Senate and later to the Chamber of Representatives, are three-fold. The first objective is to cover new offences contained in the OECD Convention and not previously covered by Belgian legislation (bribery of foreign public officials and international civil servants), as well as other offences such as bribery of an applicant for a public function, trading in influence and private corruption. The second objective is to fill some gaps in the field of sanctions, primarily by adapting penalties to current penological trends (higher minimum and maximum penalties for sentences involving deprivation of liberty and for fines), by introducing new administrative sanctions against public works contractors who engage in bribery, and by amending the Income Tax Code to limit the tax deductibility of bribes. The third objective is to broaden the extraterritorial jurisdiction of Belgian courts, in particular as regards bribery involving foreign public officials.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Concerning other relevant international instruments, Belgium has ratified the Council of Europe Criminal Law Convention on Corruption. The Ratification Bill of 19 February 2004 was published in the *Moniteur belge* on the 10th May 2004 and entered into force ten days later.

Belgium has signed the United Nations Convention against Corruption on 10 December 2003 but not yet ratified. A ratification bill is being prepared right now in the Ministry of Justice. Ratification is expected before the end of the year 2004.

On the EU-level Belgium has signed, ratified and implemented the first and second protocol to the Convention on the Protection of the Financial Interests and the Convention on the fight against corruption

involving officials of the European Communities or officials of the Member States of the European Union. Ratification was done in one bill of 17 February 2002, published on the 15 May 2002 and entered into force ten days later.

Some other recent laws and bills that can be of importance to the subject matter:

- Bill of 29 November 2001 modifying article 90ter of the Criminal Procedure Code (this bill included corruption offences in the list of offences for which telecommunication interception is possible in the course of the investigation) (Moniteur belge: 7 February 2003);
- Bill of 8 April 2002 concerning the anonymity of witnesses (MB: 31 May 2002);
- Bill of 7 July 2002 concerning the protection of witnesses (MB: 10 August 2002);
- Bill of 19 December 2002 extending the possibilities of seizure and confiscation (MB: 14 February 2003);
- Bill of 6 January 2003 concerning the special investigation techniques (MB: 12 May 2003);
- Bill of 26 March 2003 creating the Central Office for Seizure and Confiscation (MB: 2 May 2003).

Other information

Relevant authorities

1. Relevant authorities to whom one may report information on a bribery offence, are the local and federal police, the public prosecution authorities and the investigating judges.
2. Central authority for mutual legal assistance:
Ministry of Justice
Boulevard de Waterloo 115
1000 Brussels
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3. Other relevant authorities:
 - Federal Prosecution Service (Rue Quatre Bras, 19, 1000 Brussels)
 - Central Organ for Seizure and Confiscation (Rue Quatre Bras, 19, 1000 Brussels)
 - Anti-Money Laundering Office (Avenue de la Toison d'Or, 55 boîte 1, 1060 Brussels)
 - Central Bureau for the fight against corruption (special federal police Unit) (Rue du Noyer, 211, 1000 Brussels)

Relevant Internet links to national implementing legislation

Ministry of Justice: <http://www.just.fgov.be>

Moniteur belge: <http://www.ejustice.just.fgov.be/cgi/welcome.pl>

Central Organ for Seizure and Confiscation: <http://www.confiscaid.be>

Anti-Money Laundering Office: <http://www.ctif-cfi.be>

Federal Police: <http://www.polfed.be>

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/13/7/2385130.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/59/8/35461651.pdf>

<http://www.tcu.gov.br>.

Signature/Ratification of other relevant international instruments

- Promulgation of the Inter-American Convention against Corruption (OAS) . Decree no 4.410, October 7, 2002;
- Signature of the United Nations Convention against Corruption (UN), on December 9, 2003, at Mérida, México.

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Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/52/46/33742137.pdf>

Phase 2: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/61/30/39801089.pdf>