

# STRASBOURG CONVENTION ON CORRUPTION BECOMES THE LAW

The Criminal Law Convention on Corruption signed in Strasbourg on the 27<sup>th</sup> of January 1999 enters into force in Russia on the 1<sup>st</sup> of February 2007. By joining the Convention Russia becomes a member of the Group of States against Corruption – GRECO. As the Russian law stands the treaty will have a direct effect and precedence over the internal legislation. Earlier Russia enforced the United Nations Convention against Corruption of 31 October 2003 which became the law in Russia on 9<sup>th</sup> of May, 2006.

The Strasbourg Convention lays down measures to be taken by the member states to fight corruption domestically and to co-operate with other states in establishing a common anti-corruption criminal policy.

## **Corruption offences.**

The immediate consequence of joining the convention is that Russia must adopt legislation to incriminate and to prosecute corruption offences, in particular: (i) bribery of domestic or foreign public officials or members of domestic or foreign public assemblies; (ii) bribery in private sector; (iii) bribery of officials of international organisations or parliamentary assemblies; (iv) bribery of judges or officials of international courts; (v) trading in influence; (vi) money laundering of proceeds from corruption offences; (vii) account offences such as creating or using an invoice or any other accounting document or record containing false or incomplete information, or unlawfully omitting to make a record of a payment; (viii) aiding or abetting the commission of any of the corruption offences. It is illegal to commit active (to promise, offer or give an improper advantage) or passive bribery (to request or receive a bribe).

**Liability of legal entities.**

The convention contains provisions to hold legal entities liable for the criminal offences of active bribery, trading in influence and money laundering committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on a power of representation of the legal person, or an authority to take decisions on behalf of the legal person, or an authority to exercise control within the legal person. A legal entity is liable for involvement of such a natural person as accessory or instigator in the corruption offences. Moreover, a legal person can be liable where the lack of supervision or control by a natural person possessing proper authorities has made possible the commission of the offences for the benefit of the legal person by a natural person under its authority.

Liability of a legal person does not exclude criminal proceedings against natural persons who are perpetrators, instigators of, or accessories to, the criminal offences.

Sanctions include criminal prosecution as well as monetary penalties and confiscation of property.

**International co-operation.**

Specialised and independent entity or entities must be designated to fight against corruption domestically and co-operate with relevant organisations in the member states. National anti-corruption authority must inform a relevant body of another state upon its request as well as provide necessary information on its own initiative where there are reasonable grounds to believe that the offences have been committed.

The member states must adopt necessary measures to facilitate gathering of evidence related to the offences and to identify, trace, freeze and seize instrumentalities and proceeds of corruption, or property the value of which corresponds to such proceeds. The convention specifies that bank secrecy can not be an obstacle to such measures.

**Legal effect.**

The treaty by itself neither incriminates the corruption offences nor implements anti-corruption procedures. Measures required by the convention need to be laid down by means of domestic legislation. However, failure to do so can result in legal actions against the state.

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