

ECBA Conference Corruption Panel

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Pal Szilagyi

The Hungarian Criminal Code (Act Nr. IV of 1978). According to the Criminal Code bribery is a felony both in active and passive form. [Passive forms (S 250-252.), active forms (S. 253-255)]

S 296/B. prohibits (some hard-core) anticompetitive agreements regarding public procurement procedures or concession procedures. (Legislative history, reasons for adopting the amendment of the Hungarian Criminal Code)

In practice the two offences would be treated as separate offences if committed regarding the same public procurement. These would be most likely treated as 'cumulation of crimes' (S. 12) (Reasons)

Approx. 5-8 mins.

Hungarian Criminal Code

S.250 Any public official who requests an unlawful advantage in connection with his actions in an official capacity, or accepts such advantage or a promise thereof, or agrees with the party requesting or accepting the advantage, is guilty of a felony punishable by imprisonment between one to five years.

S. 251 Any employee or member of a budgetary agency, economic organization or non-governmental organization who requests an unlawful advantage in connection with his actions in an official capacity, accepts such advantage or a promise in exchange for violating his responsibilities or agrees with the party requesting or accepting the advantage is guilty of a misdemeanour punishable by up to two years' imprisonment.

S. 252 Any employee or member who is authorized to act in the name and on behalf of a budgetary agency, economic organization or non-governmental organization, who requests an unlawful advantage in connection with his actions in an official capacity, or accepts such advantage or a promise thereof, or agrees with the party requesting or accepting the advantage, is guilty of a felony punishable by imprisonment between one to five years.

S. 253 Any person who gives or promises unlawful advantage to a public official or to another person on account of such official's actions in an official capacity is guilty of a felony punishable by imprisonment not to exceed three years.

S. 254 Any person who gives or promises unlawful advantage to an employee or member of a budgetary agency, economic organization or non-governmental organization, or to another person on account of such employee or member, to induce him to breach his duties is guilty of a misdemeanor punishable by imprisonment not to exceed two years.

S. 255 Any person who gives unlawful advantage to another person, or to a third person on account of such person, to induce him to refrain from exercising his lawful rights in a court or other judicial

proceeding, or to induce him to neglect his duties is guilty of felony and may be punished by imprisonment not to exceed three years.

S. 296/B. Subsection (1) of Section 296/B of the Criminal Code, provides that any person who concludes an agreement or concert his practice concerning fixing prices and other business terms or allocation of markets under a public procurement or a concession procedure during an open or limited tender in order to influence the result of the tender and in consequence, the competition is restricted, commits a felony offence and shall be punishable with imprisonment of up to five years.

Any person who participates in the decision of social organisations of undertakings, public corporations, associations or other similar organisations in order to influence the result of the tender, and in consequence, the competition is restricted, shall be punishable as described in Subsection (1). The punishment shall be imprisonment of up to two years, labour in the public interest, or a fine for misdemeanour, if the act defined in Subsections (1) and (2) is committed in respect of not more than a considerable public procurement value.

ⁱ Dr.Pal Szilagyí is the Director of the Hungarian Competition Law Research Centre in Hungary and teaches competition law and policy and European law at the Pazmany Peter Catholic University in Budapest. He graduated at the same institution and obtained a PG Diploma in Competition Law and an LL.M. in Competition Law at King's College London.