

Egypt's Comprehensive Legislative Measures Against Corruption



Judge/ Ahmed El-Beharawy
First Attorney General
Cairo Court of Appeals

Since ancient times, the Egyptian state has been committed to combating and tracking corruption through all legislative and institutional means. It has aimed to develop its methods and tools to keep up with the evolving nature of crime in this regard and to work on containing and preventing all forms of corruption.

In this context, the Egyptian constitution issued in January 2014 includes clear and comprehensive provisions for combating corruption. In Chapter Seven, under the title "National Councils, Independent Authorities, and Oversight Bodies," it emphasizes the technical, financial, and administrative independence of the bodies and agencies working in the field of combating corruption. It stipulates that the appointment of the heads of these bodies is done by the President of the Republic, and these bodies are required to submit annual reports to him regarding their activities.

The Egyptian legislator has enacted numerous punitive legislations in this field, with the Penal Code being foremost among them. The third and fourth sections of the second book of the Penal Code address the provisions and penalties for crimes of bribery and embezzlement of public funds, respectively. The third section criminalizes and penalizes all forms of bribery, expanding the definition of a public official beyond the scope of administrative law. It includes employees in government-affiliated or government-supervised departments, members of national or local legislative councils, whether elected or appointed, arbitrators, experts, bankruptcy trustees, judicial guardians, board members, managers, and employees of companies and institutions in which the state holds any share.

This broad scope of criminalization thus encompasses anyone connected to public service in any capacity, facilitating the prosecution of those who exploit their positions for personal gain. It criminalizes not only the act of bribery but also the mere request or acceptance of a bribe or the promise thereof, as well as accepting mediation in such matters.

Similarly, the legislator has applied the same approach in the fourth section of the second book of the Penal Code concerning crimes of embezzlement of public funds, expanding the definition of a public official. Under the provisions of this section, it includes individuals carrying out public authority duties, state employees, employees of local administration units, heads and members of popular councils and organizations, and others with a general representative capacity. It also includes anyone authorized by a public authority to perform a specific task and employees of entities whose funds are considered public funds under this section.

The legislator's commendable expansion of the definitions of criminalization aims to provide necessary protection for public funds and achieve the required deterrence against those who tamper with it. Embezzlement is considered a crime as soon as the perpetrator changes their intention regarding the funds in their possession due to their work, thus opening the door for criminalization and deterrence as soon as they contemplate appropriating public funds. Additionally, the mere attempt to profit illegally is considered a complete crime, and in cases of facilitating others' acquisition of public funds and profiting others, the public official is considered a principal perpetrator in these criminal acts, as they are the primary target of criminalization and deterrence in this context.

Legislative Leniency and Procedures Regarding Statute of Limitations

The legislator has relaxed the calculation of the statute of limitations period, commencing it from the date a public official leaves their position. This measure prevents officials from exploiting their powers to conceal their crimes until the statute of limitations for criminal prosecution expires. The legislator ensures that the statute of limitations is calculated from the date the official leaves office unless investigations had already begun prior to that date.

Furthermore, the legislator has granted public prosecutors, with the rank of Chief Prosecutor at minimum, the powers of an investigating judge for crimes of embezzlement of public funds and bribery, excluding the detention periods for the latter. This provision aims to facilitate the prosecution's ability to detect and gather evidence of

The law stipulates the establishment of the Illicit Gains Department within the Ministry of Justice, composed of a director chosen from among the advisors of the Courts of Appeal and a number of presidents from the primary courts. This department is responsible for requesting data and clarifications related to complaints, as well as assisting the examination bodies tasked with reviewing financial disclosure statements submitted by those subject to the provisions of this law.



House of Representatives-Egypt

crimes, preparing for the punishment of the perpetrator. Additionally, the public prosecutor has the right to request the competent court to seize the assets of the accused, as well as those of their spouse and minor children, ensuring the fulfillment of any financial penalties or restitution that may be imposed.

The Illicit Gains Law No. 62 of 1975 defines those subject to its provisions, including individuals carrying out public authority duties and those working in the state's administrative apparatus, except for third-level categories. It includes the President and members of the People's Assembly, presidents and members of local popular councils, and those with a general representative capacity, whether elected or appointed. It also encompasses presidents and members of boards of directors, and employees of public authorities, institutions, and economic units affiliated with them, excluding third-level categories. Additionally, it includes presidents and members of boards of directors, and employees of companies in which the government or public authorities, institutions, or economic units hold shares. Moreover, it covers presidents and members of the boards of professional syndicates, labor unions, public benefit associations, and cooperative associations, except for those whose earnings do not exceed the final financial link of the third level. It also includes village heads, mayors, tax collectors, their deputies, trustees of deposits, cashiers, procurement and sales representatives, and members of procurement and sales committees in the aforementioned entities. Furthermore, it applies to taxpayers under the tax card system, according to Law No. 82 of 1973, if the total transactions of the taxpayer with the aforementioned entities exceed fifty thousand pounds.

The legislator has adopted an expansive approach in defining the scope of those subject to this law, including categories beyond those carrying out public authority duties. The legislator requires individuals in these categories to submit a financial disclosure statement detailing their assets, including those of their spouse and minor children, and to provide such statements periodically in January every five years. Subsequent statements must include explanations for any increases in their financial assets. The law stipulates imprisonment or fines, or both, for those who fail to submit their financial disclosure statements within the legally prescribed timeframes or deliberately provide false information in such statements.

The legislator has commendably expanded the scope of criminalization in order to provide the necessary protection for public funds and to ensure the necessary deterrence for those who manipulate them.

The Illicit Gains Law also mandates that the specified entities report relevant data about their personnel who are subject to its provisions, imposing fines for non-compliance. It imposes severe penalties on those who acquire illicit gains, prescribing imprisonment, a fine equal to the value of the illicit gains, and restitution of the illicit gains.

Legislative Provisions on Illicit Gains

The law stipulates the establishment of the Illicit Gains Administration within the Ministry of Justice, comprising a director selected from among the appellate court advisors and several presidents of primary courts. This administration is tasked with requesting data and clarifications related to complaints and assisting the examination bodies responsible for reviewing financial disclosure statements submitted by those subject to the provisions of the law.

The legislator did not stop with the aforementioned laws to combat corruption; they also enacted Law No. 106 of 2013 concerning the conflict of interest of state officials. This legislation aims to preclude and eliminate corruption at its source. It explicitly defines the term "government official" for the purposes of its application and describes a "related person" as anyone with a kinship relation to the government official up to the fourth degree, as well as companies in which they have shares or manage. The law defines conflicts of interest as any situation where the

The legislator has delayed the commencement of the statute of limitations period to the date the public employee leaves their position, anticipating the misuse of their powers to conceal any crimes committed in this field until the criminal case's statute of limitations expires. Thus, the legislator ensured this by calculating the statute of limitations period from the date the employee leaves the position, unless the investigation had already begun before that.

government official or a related person has a material or moral interest that absolutely or relatively conflicts with the requirements of their position or job, the integrity and independence required, and the safeguarding of public funds, or that results in illicit gains for themselves or the related person.

The law further delineates an absolute conflict of interest as any situation that results in direct or definite harm to the public interest or job, whereas a relative conflict of interest is any situation that might potentially cause harm to the public interest or job. The law mandates that in cases of absolute conflict of interest, the government official must eliminate the conflict either by relinquishing the interest or by leaving the position or job. In cases of relative conflict, the government official must disclose the conflict and take necessary measures to prevent harm to the public interest.

The law explicitly states that holding a government position while serving on the boards of private commercial companies or working in them constitutes an absolute conflict of interest. It requires the government official to resign from such memberships or positions immediately upon appointment to a public office.

Additionally, the law requires a government official, upon appointment, to take necessary actions to separate their ownership of shares or stakes in companies or commercial enterprises from the management of any shares or stakes in these companies. The law allows them to retain ownership of these shares or stakes provided they are not in companies under their supervision or directly or indirectly affiliated with their government role.

The law prohibits the government official, throughout their tenure, from purchasing shares or stakes in companies or commercial enterprises or increasing their holdings, except when participating in capital increases of a project in which they were involved before assuming office, provided that the increase is offered to all partners or through subscription in Egyptian investment funds open to public subscription, and that the purchase is at a fair price.

Legislative Provisions

The law prohibits government officials from receiving or accepting gifts or any other forms of courtesy from any entity, whether public or private. Exceptions are made for symbolic gifts customarily given during holidays and special occasions, provided their value does not exceed three hundred Egyptian pounds, and for gifts presented by visitors or officials, whether Egyptian or foreign, during official events, according to customary practices and considerations of courtesy. Such gifts must be handed over to the respective workplace and recorded in its registers.

The law also prohibits government officials, upon leaving their position for any reason, from assuming any role or position in the private sector with a company or entity that was affiliated with or related to their previous work, or under their supervision, for six months following their departure. They are also prohibited from engaging in private professional work related to such entities or interacting with the entity they previously headed, unless approved by the Anti-Corruption Committee.

Violation of the aforementioned provisions results in penalties of imprisonment, fines, or both.

Lastly, the Egyptian legislator enacted the Anti-Money Laundering Law No. 80 of 2002, with its subsequent amendments, the latest being Law No. 154 of 2022. This law aims to deprive the accused of any benefit from the proceeds of a crime, whether a felony or misdemeanor, by imposing a penalty of imprisonment for up to seven years and a fine equal to twice the amount and assets involved in the crime, provided the required criminal intent is established.

Through these measures, the Egyptian legislator has effectively achieved its objective of both general and specific deterrence by enacting laws to combat corruption and punish its perpetrators.