

ISRAEL

Active enforcement

0.5% of global exports

Investigations and cases

In the period 2016-2019, Israel opened 10 investigations, opened one case and concluded three cases with sanctions.

The Israeli media reported in April 2020 that an Israeli court had approved a settlement under which the former board members and executives of **Teva Pharmaceuticals Industries Ltd** would pay the company an amount of US\$50 million, covered by an insurance company.¹ The company had paid a US\$22 million fine to settle foreign bribery charges with the Israeli Ministry of Justice in January 2018, admitting all charges in relation to illegal payments to government officials to win business in Russia, Ukraine and Mexico. It had also paid a US\$519 million fine to settle a related case under the Foreign Corrupt Practices Act in the United States in 2016.

In September 2019, according to a notification made by **Shapir Engineering and Industry Ltd** to the Tel Aviv stock exchange, an Israeli court approved a civil forfeiture consent agreement reached with the company by the State Prosecutor's Office. Pursuant to this agreement, the company forfeited the amount of NIS4.3 million (US\$1.2 million), under section 22 of the Anti-Money Laundering Law, in connection with a case of alleged bribery to win a contract in Romania.² Earlier in the year, the police had closed without criminal charges an investigation commenced in 2015 of possible involvement of

Shapir and its four controlling shareholders, in bribery to win a contract in Romania. The investigation had reportedly looked into suspicions that the manager of the company's subsidiary **Shapir Structures** paid bribes to win a contract to build a US\$10 million housing project in the town of Constanta.³ Payments were allegedly transferred through another Shapir Engineering group company, **Larton Consultants** in Cyprus, to a company incorporated in Liechtenstein and controlled by an Israeli businessperson. One of the payments was transferred to an account in Israel in the **Israeli Discount Bank**.⁴

The Israeli police's national fraud investigation unit Lahav 443 was reported in June 2020 to have detained former executives of **Frutarom Industries Ltd**, a flavour and fragrance company, on suspicion of bribing public officials in Russia and Ukraine. The executives were being questioned as part of a joint investigation with the Israel Securities Authority.⁵ In August 2019, NYSE-listed International Flavors & Fragrances Inc. had submitted to the US Department of Justice (DoJ) the results of its internal investigation regarding Frutarom, which it had acquired in 2018. Media reports claimed the DoJ had launched a criminal investigation into this matter.⁶

In March 2020, Israeli prosecution terminated without indictments an investigation into **Israel Shipyards**, a private company owned by the **Shlomo Group**. In March 2018, the Israeli police and the Tax Authority reportedly detained three senior officials of the company on suspicion of bribing African officials to facilitate defence export deals worth tens of millions of US dollars.⁷

The Israeli police and Israel Securities Authority reportedly announced in May 2019 that they had enough evidence to proceed with a foreign bribery case against **Shikun & Binui Holdings Ltd**, Israel's largest construction group, its units and some of the

¹ <https://www.calcalistech.com/ctech/articles/0,7340,L-3767069,00.html>

² Copy of notification dated 29 September 2019 received by the authors. Section 22 allows civil forfeiture of property belonging to a person other than the person suspected of committing an offence if the forfeited property was purchased or transferred to them without consideration by a suspect who is not permanently located in Israel or cannot be served with an indictment. See also, <https://www.calcalist.co.il/local/articles/0,7340,L-3777295,00.html>

³ <https://en.globes.co.il/en/article-shapir-engineering-in-romanian-bribery-probe-1001177841>

⁴ <https://en.globes.co.il/en/article-shapir-engineering-in-romanian-bribery-probe-1001177841>

⁵ <https://www.calcalistech.com/ctech/articles/0,7340,L-3829870,00.html>

⁶ <https://www.calcalistech.com/ctech/articles/0,7340,L-3768185,00.html>

⁷ <https://www.haaretz.com/israel-news/business/prosecutor-drops-probe-against-businessman-samy-katsav-and-israel-shipyards-1.8793992>

company's former senior executives.⁸ They planned to send the evidence to the State Prosecutor's office department for taxation and economics. No further action has been reported in the case. The Israeli authorities claimed they had evidence of bribes totalling tens of millions of shekels, to win projects in Africa worth hundreds of millions of shekels. Company units, including **SBI International AG**, a wholly owned Swiss subsidiary, were also allegedly involved in systematically making illegal payments to African public officials during the period 2008-2016.⁹ Until 2018, **Arison Investments** had a controlling shareholding in Shikun & Binui and in February was reported to be under investigation in relation to alleged bribery of public officials in Africa, with billionaire owner Shari Arison called in by police for questioning.¹⁰

In December 2016, Israeli billionaire Beny Steinmetz was detained and questioned in Israel in connection with an extensive investigation by Israeli authorities of bribery allegations relating to activities of his mining company **BSG Resources (BSGR)** in Africa.¹¹ The company denied any wrongdoing and said the investigation had been initiated by the Government of Guinea, which had opened a review of mining contracts signed before 2011.¹² The Guinean government reportedly claimed that BSGR obtained an iron ore mining concession in Simandou by paying over US\$1.5 million in cash through a representative to the then-wife of the country's president. In February 2019, the Government of Guinea agreed to drop its claims in exchange for

BSGR renouncing the Simandou concession.¹³ In August 2019, Steinmetz and two of his partners were reportedly indicted in Switzerland in connection with the case.¹⁴ In another case, Steinmetz was detained and questioned in Israel in 2017 based on allegations of complicity in money laundering in Romania related to real-estate deals. He had been indicted in March 2016 by the Romanian National Anti-Corruption Directorate on related allegations.¹⁵

In other jurisdictions, there were media reports in 2018 and 2019 about investigations underway in the Democratic Republic of Congo (DRC), Switzerland, the UK and the United States into allegations of corruption in the DRC by Israeli billionaire Dan Gertler.¹⁶ In 2017 and 2018, the United States placed Gertler and his affiliated companies on its Global Magnitsky sanctions list, stating that Gertler had "amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo".¹⁷

The Israeli media reported in May 2020 that as part of the US authorities' settlement **with Bank Hapoalim**, Israel's largest bank and its Swiss subsidiary paid a total of US\$30 million of forfeiture and criminal fines for involvement in the FIFA soccer bribery affair.¹⁸ The bank also paid US\$874 million to settle tax charges.

Transparency of enforcement data

⁸ <https://www.reuters.com/article/uk-israel-shikun-police-idUKKCN1SW014>

⁹ <https://en.globes.co.il/en/article-police-recommend-indicting-shari-arison-for-bribery-1001287189> ; <https://allafrica.com/stories/201905290124.html>

¹⁰ <https://www.occrp.org/en/daily/8477-israel-s-wealthiest-woman-questioned-for-bribery> ; <https://www.reuters.com/article/us-shikun-africa-probe/israel-police-questioning-more-officials-in-shikun-bribery-probe-idUSKBN1KX07R>

¹¹ <https://www.bbc.com/news/world-africa-49331091>

¹² <https://www.reuters.com/article/us-israel-steinmetz/israeli-billionaire-steinmetz-held-in-custody-in-fraud-probe-police-idUSKCN1AU0PS>

¹³ <https://www.nytimes.com/2017/08/14/business/dealbook/beny-steinmetz-israeli-billionaire-detained.html>; <https://www.theguardian.com/business/2019/feb/25/beny-steinmetz-settles-dispute-guinea-iron-ore-simandou>

¹⁴ <https://www.bbc.com/news/world-africa-49331091>; <https://www.haaretz.com/israel-news/business/geneva-prosecutors-indict-israeli-billionaire-steinmetz-in-guinea-corruption-case-1.7678360>

¹⁵ <https://www.haaretz.com/israel-news/b; eny-steinmetz-s-arrest-linked-to-real-estate-deals-in-romania-1.5442979>; <https://www.ynetnews.com/articles/0,7340,L-5006758,00.html>

¹⁶ <https://www.haaretz.com/israel-news/business/.premium-congo-probing-israeli-billionaire-s-loan-to-state-firm-1.8316991>; <https://www.theguardian.com/business/2019/dec/05/serious-fraud-office-investigates-glencore-over-suspected-bribery#img-1>; <https://www.theguardian.com/business/2017/nov/05/what-is-glencore-who-is-dan-gertler-drc-mining>; <https://www.icij.org/investigations/paradise-papers/u-s-obtains-swiss-bank-records-congo-corruption-probe/>

¹⁷ <https://home.treasury.gov/news/press-releases/sm0243>; <https://home.treasury.gov/news/press-releases/sm0417>

¹⁸ <https://en.globes.co.il/en/article-hapoalim-agrees-904m-fines-us-tax-evasion-fifa-bribery-fines-1001327079>

Israel does not publish statistics on the number of investigations opened, cases commenced or cases concluded. Nor does it publish statistics on requests for mutual legal assistance (MLA) made or received.¹⁹

The Supreme Court publishes decisions on its website.²⁰ Other courts' decisions can be found on the judicial website.²¹ Several other websites publish court resolutions and decisions on a subscription basis.²² Settlements are presented in court for approval and the court's approval is then published along with its explanation.²³ This includes details of the agreement brought before the court and the reasons for approving or rejecting it. In case of a non-prosecution agreement, the details must be published on the website of the relevant prosecution authority.²⁴ The details published will include the matter of closing a case in an arrangement, the nature of the offence and its circumstances, a description of the facts in which the suspect confessed and an indication of the provisions of the legislation specified in the arrangement, and the terms of the arrangement.

However, in case of a civil forfeiture consent agreement, such as in the Shapir case, no information is publicly available.

Recent developments

In October 2019, the Israeli State Prosecutor's Office published new guidance regarding the indictment of corporations. According to the guidance, the State Prosecutor will consider, among other elements, the corporate culture, including whether the corporation has internal compliance procedures that could have prevented such offences.²⁵ The guidance details factors to consider in criminal

sanctioning of corporations, referring to a company's compliance programme as a possible mitigating factor. It also gives elements for assessment of an effective compliance programme.²⁶

In the same month, the Israeli State Prosecutor's Office published revised guidance regarding the financial penalties for bribery offences, clarifying that the 2010 increase in the court's authority to determine higher economic penalties was intended, among other things, to enable it to set deterrent sanctions for corporations.²⁷

Recently, the Israeli Parliament (*Knesset*) lowered the monetary threshold for acts prohibited by article 4 of the Prohibition on Money Laundering Law to approximately US\$42,000.²⁸ In addition, in March 2018, the Law for Reducing the Use of Cash(2018) was approved by the *Knesset*. The draft Criminal Procedure Bill (Forfeiture of Criminal Proceeds) published in 2018, is designed to establish a general framework for forfeiture of the proceeds of crime. Under the Bill, property that has the same value as the proceeds of a crime may be forfeited with regard to all offences, rather than only some offences, as is currently the case. The Bill would also enable a broader confiscation in respect of convicts whom the court determines are engaged in a "criminal lifestyle".

Beneficial ownership transparency

There is no central register of beneficial ownership information. Basic information on the creation and types of legal persons is publicly available. The Israeli Corporations Authority maintains publicly accessible registers of companies, partnerships and public trusts.²⁹ The Israeli Tax Authority maintains a

¹⁹ However, as is the case with many countries, statistics on MLA requests were officially reported to the OECD WGB as part of its evaluations of Israel, and the relevant data appears in the reports published by the OECD WGB.

²⁰ <https://supreme.court.gov.il/sites/en/Pages/home.aspx>

²¹ https://www.gov.il/en/departments/the_judicial_authority

²² For example, <https://www.nevo.co.il/>; <http://www.takdin.co.il/>; <http://www.dinimveod.co.il/>

²³ <https://www.court.gov.il/NGCS.Web.Site/Viewer/NGCSViewerPage.aspx?DocumentNumber=de3a276d41a946c6873abc71dc5fe3a9>.

²⁴ <https://www.justice.gov.il/Units/StateAttorney/Criminal/Pages/Conditional-Order.aspx>

²⁵ <https://www.justice.gov.il/Units/StateAttorney/Guidelines/01.14.pdf>

²⁶ <https://www.justice.gov.il/Units/StateAttorney/Guidelines/01.14.pdf>

²⁷ <https://www.justice.gov.il/Units/StateAttorney/Guidelines/09.15.pdf>

²⁸ Book of Laws, number 2672, pp. 55, 7 December 2017.

²⁹ <https://ica.justice.gov.il/GenericCorporationInfo/SearchCorporation?unit=8>

non-public register of Israeli resident trusts and holds information on the beneficial ownership of companies and trusts.

Inadequacies in legal framework

The present common law regarding the liability of legal persons is not codified as part of Section 23 of the Penal Code 1977. A draft bill published in 2014 was intended to do this, but to date has not been approved.

There is no general arrangement regarding the forfeiture of crime proceeds. Only some of the laws on forfeiture of property allow forfeiture of the defendant's property of the same value, rather than the property related to the offence itself. As mentioned above, a draft bill was published in 2018 that will address this matter, if passed.

There are limitations on jurisdiction under Penal Code article 14(b)(2). If an offence was committed on a territory under the jurisdiction of another state, Israeli penal laws only apply if the person charged has not already been found innocent in another state or, if found guilty, has not already served the sentence imposed.³⁰

Sanctions for foreign bribery are subject to a dual penalty requirement (Penal Code article 14(c)). Israeli law also says that if a person is tried in Israel for foreign bribery, the penalty cannot be more severe than it would have been in the other jurisdiction.³¹

The duty of public officials to report any acts of foreign bribery which they identify is not sufficiently specified within the scope of relevant codes of ethics.

Inadequacies in enforcement system

Israel's Defence Export Controls Agency has not established formal guidelines on conducting due diligence on applicants, including the use of international debarment lists, nor has it provided sufficient training for officials on foreign bribery risks. The country has not adopted a policy permitting procurement authorities to exclude a person from bidding for public contracts on the basis of a foreign bribery conviction, or encouraging

them to consider applicants' compliance programmes or international debarment lists.³² However, procuring authorities may have discretion to exclude companies under police investigation or convicted of foreign bribery from publicly funded contracts, and Israel is developing an ordinance on the denial of tenders and on termination of contracts with suppliers, on the basis of foreign bribery investigations and convictions.

Recommendations

- Publish statistics on foreign bribery enforcement, from investigations to concluded cases, as well as statistics on MLA requests made and received
- Establish a central public register of beneficial ownership information
- Amend the Penal Law to ensure that sanctions for foreign bribery are not subject to the dual penalty requirement (article 14(c)) and that the limitations to jurisdiction that exist under article 14(b)(2) do not apply to foreign bribery
- Ensure that the Ministry of Defence continues to develop quality standards and a mechanism to oversee the implementation of anti-corruption compliance programmes for defence-related exports
- Consider completing the amendment of the Criminal Procedure Law 1982 and section 23 of the Penal Law 1977, as described above
- Specify, within the scope of relevant codes of ethics, the duty of public officers to report any act of foreign bribery they identify in their position.

³⁰ Israeli Penal Code Section 14(b)

³¹ Israeli Penal Code Section 14(b)

³² <http://www.oecd.org/corruption/anti-bribery/Israel-Phase-3-Written-Follow-Up-Report-ENG.pdf>