



Q&A IN RELATION TO BRIBERY OFFENCES IN FINLAND

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1 Q&A In Relation to bribery offences in Finland

1. Legal Framework

What is the legal framework governing bribery in Finland?

- The Criminal Code of Finland 39/1889, as amended, (the CCF) provides the legal framework governing bribery.

2. What Constitutes a Bribe?

What constitutes a bribe?

- The CCF has multiple definitions of bribery, depending on the roles of the giver and the recipient and the activity to which the bribe relates. It contains separate sections for electoral bribes, bribes to public authorities, bribes to a Member of Parliament, and bribes in business activities.
- The common denominator is a financial or other advantage given or received etc., with the intention of inducing or rewarding the improper performance of a relevant function or activity.

What are the principal offences under this legal framework?

- **Electoral bribery** (Chapter 14, Section 2): promising, offering or giving to another a fee or other benefit so as to persuade them to vote in a given way or refrain from voting in a general election or referendum, or demanding a fee or another benefit for voting or refraining from voting in a general election or referendum.
- **Giving of bribes to public authorities** (Chapter 16, Section 13): promising, offering or giving to a public official in exchange for their actions in service a gift or other benefit intended for them or for another, that influences or is intended to influence or is conducive to influencing the actions in service of the public official.
- **Giving of bribes to a member of Parliament** (Chapter 16, Section 14(a)): promising, offering or giving a member of Parliament a gift or other benefit that is to be deemed other than customary hospitality, intended for them or another person in order to have the member of Parliament act or refrain from acting in their parliamentary mandate in a certain manner or as a reward for such action, and the act is conducive towards clearly undermining confidence in the independence of the exercise of the parliamentary mandate. Political campaign financing in accordance with the Act on Financing of Political Campaigns given to a candidate is not deemed to be the giving of a bribe to a member of Parliament, unless its purpose is to circumvent the aforementioned rules.
- **Giving of bribe in business** (Chapter 30, Section 7): promising, offering or giving an unlawful benefit to a person in the service of a business, a member of the administrative board or board of directors, the managing director, auditor or receiver of a corporation or of a foundation engaged in business, a person carrying out a duty on behalf of a business, or a person serving as an arbitrator and considering a dispute between businesses, between two other parties, or between a business and another party intended for the recipient or another, in order to have the bribed person, in their function or duties, favor the briber or another person, or to reward the bribed person for such favoring.
- Corresponding offences for receivers, demanders or acceptors of such bribes are included in separate sections of the CC.

3. Jurisdictional Reach

What is the jurisdictional reach of the legal framework?

- Finnish law applies to an offence committed in Finland (an offence is deemed to have been committed both where the criminal act was committed and where the consequence contained in the statutory definition of the offence became apparent), an offence that has been directed at or committed by a Finnish authority, an offence committed outside of Finland that has been directed at a Finnish citizen, a Finnish corporation, foundation or other legal

entity, and an offence committed outside of Finland by a Finnish citizen or a person who was permanently resident in Finland at the time of the offence. In relation to legal entities, if Finnish law applies to the offence, Finnish law applies also to the determination of corporate criminal liability.

4. Who may be liable?

Who may be liable for bribery? (public officials, private individuals, legal entities etc.)

- Private individuals, public officials, legal entities and their representatives may be liable.
- A corporation, foundation or other legal entity may be sentenced to a corporate fine when the offence has been committed in the operations of the entity, i.e. if the perpetrator has acted on behalf or for the benefit of the corporation, and belongs to its management or is in a service or employment relationship with it or has acted on assignment by a representative of the corporation. The main prerequisite for a legal entity's liability is that a person who is part of the entity's statutory organ or other management or who exercises actual decision-making authority therein has been an accomplice in bribery or allowed the commission of bribery or if the care and diligence necessary for the prevention of bribery have not been observed in the operations of the entity.

Can a parent company be liable for its subsidiary's involvement in bribery?

- Yes, if it can be established that the bribery was committed on behalf of or for the benefit of the parent company, and by assignment of the parent company's representative. Separateness of a parent and its subsidiaries is still a strong starting point, and liability of a parent for a subsidiary's actions is not assumed.

5. High Risk Areas

Are facilitation payments (i.e. small payments to speed up routine governmental action) considered bribes?

- Yes. Regardless of the amount, facilitation payments are considered bribery, if they meet the criteria.

Does the legal framework restrict political and charitable contributions?

- A political or charitable contribution could be considered a bribe if it is given or received with the intention of inducing a person to act improperly, or as a reward for having done so.

Does the legal framework place restrictions on corporate hospitality?

- Customary hospitality is considered acceptable, but otherwise the CCF contains no express provisions with regard to corporate hospitality. Any financial or other advantage given in that context would be assessed based on the provisions described above. Also, for example, the Association of Finnish Local and Regional Authorities has published a set of criteria to help assess acceptability of hospitality in respect of public authorities.

6. Legal Defences

Are there any defenses for bribery offences?

- There are no specific statutory defenses.

7. Regulatory and Enforcement Bodies

What are the key regulatory or enforcement bodies with regard to bribery?

- The Finnish Prosecution Service prosecutes bribery offences investigated by the police.

8. Legal Consequences

What are the legal consequences of being found guilty of bribery offences?

- Individuals face up to four years' imprisonment and/or a fine. A sentence of imprisonment may be imposed conditionally.
- Companies can receive a corporate fine of EUR850- EUR850,000.
- An individual and/or company may also face confiscation of proceeds of crime arising from the offence. This could include, in addition to the value of the bribe, the profits made from a contract obtained through a bribe.
- A sole proprietor or legal representative of an organization convicted of a bribery offence may face a prohibition of engaging in business for three to seven years.
- Companies convicted of bribery offences also face debarment from public procurement contracts, if the company or its representatives have been convicted of a bribery offence during the past five years.

9. Deferred Prosecution Agreements

Are deferred prosecution agreements (DPAs) or other similar settlement mechanisms available?

- Both corporate entities and individuals can enter into plea bargaining discussions with the prosecutor, where they agree to plead guilty to a charge in return for receiving a more lenient sentence. The system was introduced in 2015 and it is used quite rarely.

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