



# **Q&A IN RELATION TO BRIBERY OFFENCES IN NORWAY**

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## 1 Q&A In Relation to bribery offences in Norway

### 1. Legal Framework

#### What is the legal framework governing bribery in Norway?

- The Norwegian Penal Code (2005) section 387, 388 and 389 provides the legal framework governing bribery in Norway. These sections apply to conduct occurring from the implementation date of October 1, 2015.

### 2. What Constitutes a Bribe?

#### What constitutes a bribe?

- A bribe is defined in section 387 of the Norwegian Penal Code as:

(...) any person who:

- a. for themselves or others demands, receives or accepts an offer of an improper advantage in connection with the conduct of a position, an office or performance of an assignment; or
- b. gives or offers any person an improper advantage in connection with the conduct of a position, an office or performance of an assignment.

Position, office or assignment in the first paragraph also means a position, office or assignment abroad.

#### What are the principal offences under this legal framework?

- Receiving, demanding or accepting an offer of an improper advantage.
- Giving or offering an improper advantage.

### 3. Jurisdictional Reach

#### What is the jurisdictional reach of the legal framework?

- The general rule in the Norwegian Penal Code section 5 regarding criminal acts committed abroad, applies to all criminal offences, including bribery. Outside of Norway, the criminal legislation applies to acts committed by a Norwegian national, by a person domiciled in Norway or on behalf of an enterprise registered in Norway, when the acts also are punishable under the law of the country in which they are committed.

### 4. Who may be liable?

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

- Private individuals and public officials.
- Legal entities if the person liable for the bribery has acted on behalf of the entity.
- A necessary condition in Norwegian law for criminal liability is that the defendant had the requisite intent to commit the crime, unless provisions provide that negligence is sufficient. Negligent bribery is not regulated as punishable in Norwegian criminal law.

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

- Yes, if the subsidiary has acted on behalf of the parent company.

## 5. High Risk Areas

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

- Yes, provided that they meet the criteria of section 387 of the Norwegian Penal Code that if the advantage is considered to be improper, facilitation payments are considered bribery.

### Does the legal framework restrict political and charitable contributions?

- A political or charitable contribution could be considered a bribe if the contribution meets the criteria of section 387 of the Norwegian Penal Code.

### Does the legal framework place restrictions on corporate hospitality?

- The Norwegian Penal Code gives no express provisions with regard to corporate hospitality.
- However, if the corporate hospitality amounts to a crime pursuant to section 387 of the Norwegian Penal Code, the legal framework indirectly place restrictions on corporate hospitality.

## 6. Legal Defences

### Are there any defenses for bribery offences?

- Any of the common defenses of Norwegian criminal law applies as defenses for bribery offences.
- For bribery, the most relevant defense is lack of requisite intent with regards to the actions constituting bribery.
- Pursuant to the Norwegian Penal Code section 17, there would be a defense to bribery offences if the offence is committed to save life, health, property or other interests from a risk of harm which cannot be averted in another reasonable manner, and this risk of harm is far greater than the risk of harm associated with the bribery offence.

## 7. Regulatory and Enforcement Bodies

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

- All crimes, including bribery crimes, are prosecuted by the Norwegian public prosecuting authority.
- The Norwegian Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM) may decide to prosecute the case instead of the local public prosecuting authority, depending on:
  - the scope of the investigation;
  - the complexity and economic scope of the case;
  - if the case has cross-border elements; and
  - the principal significance of the case.

## 8. Legal Consequences

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

- Individuals face up to ten years' imprisonment on conviction.

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- Companies can receive an unlimited fine.
- An individual and/or company may also face confiscation of criminal property arising from the offence.

## 9. Deferred Prosecution Agreements

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

- In general, there is no way of agreeing to resolve a criminal investigation through pre-trial diversion or an agreement to defer prosecution in Norwegian criminal law. A defendant may seek to reach an agreement with the prosecution regarding criminal liability and sentencing. This will, however, not be binding to the court. However, the dialogue between the prosecution and the indicted will be taken into consideration by the court when assessing the case.

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Content Correct as of June 2019.

Cover Image: Transparency International Corruptions Perception Index 2018