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in 50 jurisdictions worldwide

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Sweden

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1 International anti-corruption conventions

To which international anti-corruption conventions is your country a signatory?

Sweden is a signatory to the following anti-corruption conventions:
- UN Convention against Corruption, 31 October 2003;
- UN Convention against Transnational Organized Crime, 15 November 2000;
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 17 December 1997;
- Council of Europe Criminal Law Convention on Corruption, 27 January 1999, with reservations against articles 12, 17, 29, 37;
- Council of Europe Additional Protocol of Criminal Law Convention on Corruption, 15 May 2003;
- Council of Europe Civil Law Convention on Corruption, 4 November 1999;
- Council of Europe Convention on the Protection of the European Communities' Financial Interests, 26 July 1995;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 8 November 1990, with reservations against articles 2(1), 21(2b), 25(3);
- Council of Europe Resolution (99) 5 of the Committee of Ministers of the Council of Europe: Agreement Establishing the Group of States against Corruption; and
- Council of Europe Resolution (97) 24 of the Committee of Ministers of the Council of Europe: Twenty Guiding Principles for the Fight Against Corruption.

2 Foreign and domestic bribery laws

Identify and describe your national laws and regulations prohibiting bribery of foreign public officials (foreign bribery laws) and domestic public officials (domestic bribery laws).

The basic provisions on bribery are found in the Swedish Penal Code. 1 July 2012, the revised Swedish legislation on bribery entered into effect the provisions on bribery are in chapter 10 'On Embezzlement, Other Acts of Breach of Trust and Bribery'. The principal cases of bribery are listed in Section 5(a) and Section 5(b) and are referred to as 'taking a bribe' respectively 'giving a bribe'. If an offence referred to in these provisions is considered gross, the offender will be convicted of gross bribe-taking or gross bribe giving in accordance with a specific provision, section 5(c). When assessing if an offence is gross, it will be taken into account as to whether the offence involved the abuse of or the targeting of a position involving important responsibility, concerned a significant amount, was part of systematic criminal activity or criminal activity of large proportions or otherwise was of a particularly dangerous kind, etc. The provisions on taking and giving a bribe are very similar to each another and they both consist of three key elements: (i) the persons involved; (ii) the relationship within which the reward is given (ie, that the reward must be given or accepted for the execution of employment or an assignment); and (iii) the nature of the reward itself (ie, that the reward is improper). The bribery provisions are applicable to corrupt acts both within the public and the private sectors and cover all employees and persons performing assignments (including self-employed persons without principals). Inter alia, 'an assignment' can be based on a contract, an appointment, duty or the outcome of an election.

Swedish law on bribery does not differentiate between bribery of foreign public officials and domestic public officials, thus the same legal rules are applicable to bribery of both foreign and domestic subjects.

In addition to the provisions on bribery described above, the new revised Swedish legislation on bribery now includes two new provisions regulating entirely new offences in Swedish law: 'trading in influence' and 'negligent financing of bribery'.

As an addition to the revised Swedish legislation the Swedish Institute Against Bribery (IMM) has published a Code on Gifts, Rewards and Benefits in the Business Sector. The Code was published 4 September 2012, and aims to be a part of the self-regulation of the business sector. During 2013 the IMM will devote special activity to providing the business sector with information about the code and its scope of application.

Acts of corruption may, in addition to the provisions on bribery, violate other Swedish laws such as the Marketing Act, the Competition Act, the Income Tax Act and the Public Procurement Act.

Foreign bribery

3 Legal framework

Describe the elements of the law prohibiting bribery of a foreign public official.

Initially, it is important to note that there are no specific laws or provisions targeting foreign bribery, thus the same provisions apply to both domestic and foreign bribery.

There are three key elements of the bribery provisions: the parties involved; the relationship within which the reward is given; and the nature of the reward itself. The first element will be discussed in detail below (see question 4) and the second and third elements are discussed in the following paragraphs.

Criminal acts of bribery consist of 'receiving, accepting a promise of or demanding' or 'giving, promising or offering' an improper reward for the execution of the employment, the assignment or the performance of certain other official duties. The nexus between the taking or giving of the bribe and the performance of the bribe-takers duties is a key element of both the bribery-taking and the bribe-giving provision. The relationship between the parties must be of a professional nature, which means that the recipient must be in

a position where he or she has a practical possibility to influence a decision or act upon which the giver is dependant in any way. It is irrelevant whether the receiver was actually influenced by the bribe and the prosecutor does not even have to prove a fraudulent intent, instead the relevant question is if the giver and the receiver have a professional or business relationship to each another. The Penal Code defines the briber as 'any person', thus the scope of the paragraph is broad. A person cannot escape responsibility by acting through a third party such as an agent, instead that third party can also be held responsible for complicity.

The Penal Code defines illicit payments as 'an improper reward'. In theory, anything of direct or indirect value to the recipient can be considered an improper reward. The key element is the word 'improper' and the interpretation of what should be viewed as improper will ultimately rest upon the notions of morality and ethics. The word 'improper' is ambiguous and an individual assessment in each case is necessary. Every transaction with the intent of having an effect on the way the recipient performs his or her duties shall be deemed improper. If there is evidence of the recipient performing his or her duties in a wrongful way or if there is proof of that being intended, the reward should again be deemed improper. If there is no evidence of corrupt intent, the assessment is more difficult to make. An important factor in the assessment is the value of the reward. A reward of an exceptionally low value runs little to no risk of being able to influence the way the recipient performs his or her official duties and is therefore unlikely to be deemed improper.

4 Definition of a foreign public official

How does your law define a foreign public official?

A bribe taker, such as a foreign public official, is defined in chapter 10, section 5(a), subsection 1 of the Penal Code. The bribe taker is defined as an employee or a person performing an assignment, who receives, accepts a promise of or demands an improper reward for the execution of employment or the assignment. The provision also applies to a person who participates in or is a functionary of a competition subject to publicly arranged betting if he or she receives an improper reward for his or her performance of duties in the competition. Subsections 2 and 3 of the same provision then state that the provision also applies in a situation where an offence was committed before the offender received a position referred to in subsection 1 or after the offender has left such position, and also to a person who receives accepts a promise of or demands an improper reward on behalf of another person. Thus, the provision targets politicians performing public functions and services within the Swedish government or municipalities as well as those acting as fiduciary in legal, economic, scientific or technical matters such as directors of companies, brokers, commercial agents, commissions agents and legal consultants (ie, all employees and persons performing assignments). The provision encompasses foreign officials such as a foreign state's minister or member of parliament, anyone exercising a foreign state's authority, anyone exercising a foreign arbitral assignment and a member of a supervisory body, decision-making body or parliamentary assembly in an international or supranational organisation of which Sweden is a member.

5 Travel and entertainment restrictions

To what extent do your anti-bribery laws restrict providing foreign officials with gifts, travel expenses, meals or entertainment?

As mentioned in question 3, there is no de minimis exception or limitation as to what can be construed as an illicit reward. Instead one must look to all relevant circumstances of each case in order to assess whether a reward is to be deemed improper. An important factor, in addition to the value of the reward, is the nature of the position or employment of the recipient. Rewards given to those working in the public sector are more likely to be deemed improper than those given to employees in the private sector. An important difference between the public and the private sector is whether the reward is given openly or in secrecy. The fact that a reward is given in the open or with the knowledge of the receiver's principal is rarely an eligible defence when the act concerns the public sector. However, if the act is carried out in the private sector, the knowledge by the principal could serve as a successful defence, since the main purpose of the criminal provisions (in relation to the private sector) is to protect the principal's interest of being able to trust his or her employees. A reward is normally deemed as proper if it is a customary element of the employment, such as business meals or educational trips. The expenditure must, however, be reasonable. Business expenditure related to entertainment or promotion of a company may also be deemed as proper provided that it is reasonable and necessary.

6 Facilitating payments

Do the laws and regulations permit facilitating or 'grease' payments?

Swedish anti-corruption regulation does not exempt facilitation or grease payments from the criminalised area. Even a reward of a low value may constitute an illicit bribe if the key elements of the bribery provisions are met.

7 Payments through intermediaries or third parties

In what circumstances do the laws prohibit payments through intermediaries or third parties to foreign public officials?

An individual cannot escape criminal liability by acting through a third party such as an intermediary. He or she will either be held responsible as the perpetrator, for complicity or for instigation. The third party furthering the crime also risks liability for complicity. In the new revised Swedish legislation there is a specific provision targeting, inter alia, payments through intermediaries or third parties. Section 5(e), Chapter 10 of the Swedish Penal Code, includes 'negligent financing of bribery'. This provision targets a situation where a company funds a middle man acting on behalf of the company, and thus by gross negligence furthers bribe giving, gross bribe giving or trading in influence, and so prohibits payments via third parties.

8 Individual and corporate liability

Can both individuals and companies be held liable for bribery of a foreign official?

According to established legal principles in Swedish law, only physical persons can be held criminally responsible, which eliminates legal entities from criminal charges. If, for example, a company carries out illicit payments, the physical persons who participated in the corrupt activity such as board members or employees will be held responsible. A corporation can, however, under specific circumstances, be subject to a fine (see question 15). As described above, the category of persons that can be held liable for bribery has widened in the new revised Swedish legislation on bribery to cover all employees and persons performing assignments, including management. For example, the persons who can be held liable for 'negligent financing of bribery' are representatives of the company. Thus, some kind of indirect corporate liability can now also be actualised under Swedish law in addition to individual liability.

9 Civil and criminal enforcement

Is there civil and criminal enforcement of your country's foreign bribery laws?

Criminal enforcement is handled by the National Anti-Corruption Unit (see question 10).

10 Agency enforcement

What government agencies enforce the foreign bribery laws and regulations?

The National Anti-Corruption Unit is a national prosecution office within the Swedish Prosecution Authority, specialising in combating corruption. It has been acting in its present form since 2005 and consists of six specially trained prosecutors and three accountants. The Anti-Corruption Unit handles all criminal cases of bribery and bribe-taking as well as other offences closely linked to corruption. As mentioned in question 2, the IMM also has a limited role as an enforcing agency as it administers the Code on Gifts, Rewards and Benefits in the Business Sector (complementary regulation to the bribery legislation). The IMM is a non-profit organisation within the business sector established in 1923 by the Stockholm Chamber of Commerce, the Federation of Swedish Industries and the Swedish Retail Federation. The aim of the institute is, inter alia, to spread knowledge about the legal provisions against bribery and corruption, to make public legal cases in this field, to provide the public with advice on interpretation and usage of relevant legislation and to combat the system of illegal payments.

11 Leniency

Is there a mechanism for companies to disclose violations in exchange for lesser penalties?

No, there is no such mechanism provided for by Swedish law. In general, this is not the way Swedish law works – only in two areas of law is it possible to reduce or avoid penalties by providing information voluntarily. These are in tax law and in competition law. However, the revised Swedish legislation on bribery – specifically the provision on negligent financing of bribery – will have a significant impact on Swedish corporations and organisations that evidently need to take preventive measures. Since the Swedish legislator has not published any specific guidance as to what constitutes adequate preventive measures, we must rely on international best practice and the basic components of a compliance programme. Compliance programmes are generally of growing importance, both to national and international corporations and organisations.

12 Dispute resolution

Can enforcement matters be resolved through plea agreements, settlement agreements, prosecutorial discretion or similar means without a trial?

In contrast to other jurisdictions of the world, Swedish law does not provide for plea or settlement agreements. The prosecutor may, however, decide on a summary penalty order foregoing a formal trial. In such cases the prosecutor decides for the defendant to be sentenced to probation and or to pay a fine, provided that the defendant pleads guilty to the crime.

13 Patterns in enforcement

Describe any recent shifts in the patterns of enforcement of the foreign bribery rules.

Within this area, the most recent shift in Sweden is the revision of the Swedish legislation on bribery. The new legislation on bribery is a more modern legislation, better adapted to its purpose. The changes made are both substantive and structural and have made the legislation stricter. As mentioned above, the category of persons that may be held liable for taking or giving a bribe has been widened, as has the criminalised area. Accordingly, the legislation includes the new offences of 'trading in influence' and 'negligent financing of bribery', which will likely have significant impact on Swedish corporations and organisations that evidently need to take more preventive measures than earlier. According to Transparency International, Swedish authorities are 'moderately' active in their enforcement actions regarding foreign bribery cases and Sweden has more work to do in order to live up to its obligations under the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The convention currently has 38 parties and each year Transparency International publishes a progress report to evaluate the enforcement action taken by each nation. The parties are classified according to three categories: 'active enforcement', 'moderate enforcement' and 'little or no enforcement'. The classification is based on the number and importance of cases and investigations brought by each nation, taking into account the size of the nation's exports. All of the countries have remained in the same category as last year – not much progress in enforcement action worldwide, in other words. Sweden, along with Argentina, Belgium, Finland, France, Japan, South Korea, the Netherlands and Spain are classified in the 2011 report in the moderate enforcement category, which is considered an inadequate deterrent. Transparency International cites insufficient resources, complaint mechanisms and whistle-blower protection, inadequate training of investigators and lack of public awareness-raising as key inadequacies in enforcement.

Transparency International recommends that Sweden, among other things:

- ensures that there are enough well-trained police investigators directly seconded to the National Anti-Corruption Unit;
- introduces adequate penal law provisions against corporations bribing through subsidiaries, joint ventures or agents (or both);
- introduces heavier fines for corporations and other legal entities;
- abolishes the prerequisite of dual criminality; and
- introduces an effective, specific law providing protection for whistle-blowers.

14 Prosecution of foreign companies

In what circumstances can foreign companies be prosecuted for foreign bribery?

Corporations are legal entities and may as such not be held criminally liable under Swedish law. Individuals associated with a corporation may, however, be held criminally responsible provided that Swedish courts have jurisdiction. A crime committed in Sweden is always under the jurisdiction of Swedish courts. Specific rules apply for acts of bribery and bribe-taking committed outside of Swedish territory. According to chapter 2 of the Penal Code, Swedish courts have jurisdiction over acts committed abroad if the act was committed by a Swedish citizen or a foreign citizen living in Sweden; a foreign citizen who after the crime was committed became a Swedish citizen or lives in Sweden or a Danish, Norwegian, Finish or Icelandic citizen while in Sweden; a foreign citizen while in the territory of Sweden if the crime is punishable by six months' imprisonment. A prerequisite for prosecution in the above-mentioned cases is that the act was criminalised in the state where it was committed.

Local practice where the act was committed must be taken into consideration when a Swedish court establishes whether a reward is to be deemed as proper or improper according to Swedish law, which may cause a discrepancy between the legality of rewards given or accepted in or outside the territory of Sweden.

15 Sanctions

What are the sanctions for individuals and companies violating the foreign bribery rules?

Both bribe-taking and bribe-giving are, according to the Penal Code, punishable by a fine or imprisonment for two years at the most. If the crime is gross it is punishable by imprisonment for at least six months and for six years at the most. The new offences 'trading in influence' and 'negligent financing of bribery' are also, according to the Penal Code, punishable by a fine or imprisonment of up to two years. In addition to the criminal sanctions provided for by the provisions on bribe-taking and bribe-giving, an employee guilty of bribe taking stands the risk of additional sanctions provided for by labour law such as dismissal or salary reduction. Furthermore, the Penal Code criminalises actions such as unlawful disposal and breach of faith and breach of duty.

Accountancy law provides an efficient complement to the provisions on bribery and bribe-taking, as all businesses have a legal duty to be able to verify all commercial transactions. The court may also declare illicit payments confiscated to the state treasury, unless it would be manifestly unreasonable to do so. This includes not only the illicit payment itself, but also estimated economic advantages resulting from the crime. If, for example, a corporation has been able to secure an advantageous business deal by bribing its counterpart, the actual or estimated profits from that business deal may be confiscated.

Bribery offences may also lead to disbarment from public procurement according to chapter 10 of the Public Procurement Act. As mentioned, an entity with a legal personality cannot be subject to criminal charges. It can, however, under specific circumstances be subject to a fine. If the criminal act of bribery or bribe-taking has been committed in the name of a corporation and the person acting is a high-level employee such as a vice president or a board member, or if a corporation has failed to do what could be expected of it to prevent the criminal act, the corporation may be subject to a fine in accordance with the Penal Code. The fine may range from 5,000 to 10 million kronor.

16 Recent decisions and investigations

Identify and summarise recent landmark decisions or investigations involving foreign bribery.

The National Anti-Corruption Unit has had little practice in enforcement action involving acts of bribery taking place abroad. A single case of bribery of a foreign public official has resulted in a conviction in Sweden. The case involved two Swedish consultants bribing a public official of the World Bank, sentenced to one year and 18 months in prison respectively. However, there is one pending case, originally brought in 2009, against three executives of Volvo Construction Equipment International AB, a subsidiary of Volvo AB, charged and recently sentenced for gross bribery offences. They were charged for having paid bribes in Iraq in connection with the UN Oil-for-Food programme. Company officials of Scania AB may be facing similar charges also in connection with the Oil-for-Food programme. During 2010 two cases of foreign bribery where dropped by the National Anti-Corruption Unit. One of those concerned allegations that Saab Tank Control paid bribes in connection with the Oil-for-Food programme. Finally, since late 2012, Telia's activities for obtaining a mobile communication licence in Uzbekistan have been under scrutiny and the company faces possible charges.

Financial record keeping

17 Laws and regulations

What legal rules require accurate corporate books and records, effective internal company controls, periodic financial statements or external auditing?

There are a number of Swedish laws regulating requirements in relation to accurate corporate books and records, effective internal company controls, periodic financial statements and external auditing. The following list is not exhaustive:

- the Companies Act (2005:551);
- the Swedish Act on Partnerships and Non-registered Partnerships (1980:1102);
- the Accounting Act (1999:1078);
- the Auditing Act (1999:1079);
- the Accountants Act (2001:883);
- the Annual Reports Act (1995:1554);
- the Income Tax Act (1999:1229); and
- the Money Laundering and Terrorist Financing (Prevention) Act (2009:62).

In addition, companies listed on a Swedish stock exchange are subject to listing contracts, which provide for fines, or at worst a combination of fine and delisting, in case of breach of the contract.

18 Disclosure of violations or irregularities

To what extent must companies disclose violations of anti-bribery laws or associated accounting irregularities?

There is nothing formally stipulated regarding disclosure of violations; however, under the Accounting Act and the Income Tax Act it is evident that a payment of a bribe is likely to trigger accounting as well as tax issues. Furthermore, a company listed on any of the Swedish stock exchanges is also likely to be in conflict with the listing contract as there is a requirement under these contracts to report matters which may affect the price of the shares. However, so far there are no known cases of companies having been penalised or required to pay fines for a breach of these rules based on improper accounting of expenses or similar.

19 Prosecution under financial record keeping legislation

Are such laws used to prosecute domestic or foreign bribery?

No, only the bribery provisions of the Penal Code are used to prosecute domestic or foreign bribery. However, the Swedish Anti-Corruption Unit investigates and prosecutes cases of both bribery as well as economic crimes related to bribery.

20 Sanctions for accounting violations

What are the sanctions for violations of the accounting rules associated with the payment of bribes?

An individual who intentionally or through carelessness neglects the obligation to maintain accounts in accordance with the Auditing Act (1999:1078) by failing to keep accurate records and books may be sentenced for a bookkeeping crime to imprisonment for two years at the most or, if the crime is petty, to a fine. If the crime is considered gross, the perpetrator can be sentenced to imprisonment for a minimum of six months and a maximum of six years according to chapter 11, section 5 of the Penal Code.

21 Tax-deductibility of domestic or foreign bribes

Do your country's tax laws prohibit the deductibility of domestic or foreign bribes?

Illicit payments are not deductible according to chapter 9, section 10 of the Income Tax Act (1999:1229).

Domestic bribery

22 Legal framework

Describe the individual elements of the law prohibiting bribery of a domestic public official.

The answer to this question is identical to that to question 3, as the same provisions apply to both foreign and domestic bribery.

There are three key elements of the bribery provisions, namely the parties involved, the relationship within which the reward is given and nature of the reward itself.

The Penal Code defines the briber as 'any person', thus the scope of the paragraph is broad. A person cannot escape responsibility by acting through a third party such as an agent. A bribe taker is defined in chapter 20, section 2, subsection 1 of the Penal Code. The bribe taker is defined as an employee who, whether for himself or for any other person, receives, accepts a promise of or demands a bribe or other improper reward for the performance of his official duties. Subsection 2 of the same provision then lists a number of positions that, in addition to employees, fall within the scope of possible bribe takers. The provision targets politicians performing public functions and services within the Swedish government or municipalities as well as those acting as fiduciary in legal, economic, scientific or technical matters such as directors of companies, brokers, commercial agents, commissions agents and legal consultants.

The criminal acts of bribery consist of 'giving, promising or offering' or 'receiving, accepting a promise of or demanding' a bribe or other improper reward for the performance of official duties. The nexus between the giving or receiving of the bribe and the performance of the receiver's duties is a key element of both the bribery and the bribe-taking provision. The relationship between the parties must be of a professional nature, which means that the recipient must be in a position where he or she has a practical possibility of influencing a decision or act upon which the giver is dependant in any way. It is irrelevant whether the receiver was indeed influenced by the bribe and the prosecutor does not even have to prove a fraudulent intent, instead the relevant question is if the giver and the receiver have a professional or business relationship to each another.

The Penal Code defines illicit payments as 'a bribe or other improper reward'. In theory, anything of direct or indirect value to the recipient can be considered a bribe or an improper reward. The key element is the word 'improper' and the interpretation of what should be viewed as improper will ultimately rest upon the notion of moral and ethics. The word 'improper' is ambiguous and an individual assessment in each case is necessary. Every transaction with the intention of having an effect on the way the recipient performs his or her official duties shall be deemed improper. If there is evidence of the recipient performing his or her official duties in a wrongful way or if there is proof of that being intended, the reward should, again, be deemed improper. If there is no evidence of corrupt intent, the assessment is more difficult to make. An important factor in the assessment is the value of the reward. A reward of an exceptionally low value runs little to no risk of being able to influence the way the recipient performs his or her official duties and is therefore unlikely to be deemed improper.

23 Prohibitions

Does the law prohibit both the paying and receiving of a bribe?

Yes. Giving, promising or offering a bribe or other improper reward is criminalised as bribery in chapter 17, section 7 of the Penal Code. Receiving, accepting a promise of or demanding a bribe or other improper reward is criminalised as bribe-taking in chapter 20, section 2 of the Swedish Penal Code.

24 Public officials

How does your law define a public official and does that definition include employees of state-owned or state-controlled companies?

The bribery provisions of the Swedish Penal Code do not distinguish between acts of bribery taking place in the private and public sector. Thus both public officials and employees of private entities are encompassed by the bribery provisions. However, there are differences between the public and the private sector as regards case law. A reward that may be deemed proper in a private sector context may be deemed improper in a public sector context. Exercising public authority is regarded as an area specifically worthy of protection from undue influence, and employees of state-owned or state-controlled companies may very well be included in this sphere.

25 Public official participation in commercial activities

Can a public official participate in commercial activities while serving as a public official?

There are no general Swedish rules prohibiting public officials from participating in commercial activities.

26 Travel and entertainment

Describe any restrictions on providing domestic officials with gifts, travel expenses, meals or entertainment. Do the restrictions apply to both the providing and receiving of such benefits?

As mentioned (see questions 3 and 5), there is no de minimis exception or limitation as to what can be construed as an illicit reward. Instead one must look at all the relevant circumstances of each case in order to assess whether a reward is to be deemed improper. An important factor, in addition to the value of the reward, is the nature of the position or employment of the recipient. Rewards given to those working in the public sector are more likely to be deemed improper than those given to employees in the private sector. An important difference between the public and the private sector is whether the reward is given openly or in secrecy. The fact that a reward is given in the open or with the knowledge of the receiver's principal is rarely an eligible defence when the act concerns the public sector. However, if the act is carried out in the private sector, the knowledge of the principal could serve as a successful defence, since the main purpose of the criminal provisions (in relation to the private sector) is to protect the principal's interest of being able to trust his or her employees. A reward is normally deemed as proper if it is a customary element of the employment, such as business meals or educational trips. The expenditure must, however, be reasonable. Business expenditure related to representation or promotion of a company may also be deemed as proper provided that it is reasonable and necessary.

27 Gifts and gratuities

Are certain types of gifts and gratuities permissible under your domestic bribery laws and, if so, what types?

Swedish law does not explicitly provide for any exemptions to the bribery provisions; instead one must look to all relevant circumstances when determining if a reward is to be deemed improper.

28 Private commercial bribery

Does your country also prohibit private commercial bribery?

Yes, as stated in question 2, Swedish law criminalises corrupt acts committed both within the public and the private sectors.

29 Penalties and enforcement

What are the sanctions for individuals and companies violating the domestic bribery rules?

Both bribery and bribe-taking are, according to the Penal Code, punishable by a fine or imprisonment for two years at the most. If the crime is grave it is punishable by imprisonment for at least six months and for six years at the most. In addition to the criminal sanctions provided for by the provisions on bribery and bribe-taking, an employee guilty of bribe-taking stands the risk of additional sanctions provided for by labour law such as dismissal or salary reduction. Furthermore, the Penal Code criminalises actions such as unlawful disposal and breach of faith and breach of duty.

Accountancy law provides an efficient complement to the provisions on bribery and bribe-taking, as all businesses have a legal duty to be able to verify all commercial transactions.

The court may also declare illicit payments confiscated to the state treasury, unless it would be manifestly unreasonable to do so. This includes not only the illicit payment itself, but also estimated economic advantages resulting from the crime. If, for example, a corporation has been able to secure an advantageous business deal by bribing its counterpart, the actual or estimated profits from that business deal may be confiscated.

Bribery offences may also lead to disbarment from public procurement according to chapter 10 of the Public Procurement Act. As mentioned, an entity with a legal personality cannot be subject to criminal charges. It can, however, under specific circumstances be subject to a fine. If the criminal act of bribery or bribe-taking has been committed in the name of a corporation and a person acting is a high-level employee such as a vice president or a board member, or if a corporation has failed to do what could be expected of it to prevent the criminal act, the corporation may be subject to a fine in accordance with the Penal Code. The fine may range from 5,000 to 10 million kronor.

30 Facilitating payments

Have the domestic bribery laws been enforced with respect to facilitating or 'grease' payments?

As indicated above, Swedish law makes no distinction between facilitating payments as opposed to bribes; also, facilitating or grease payments are against the law. However, when it comes to enforcement against these types of payments, case law is scarce if non-existent and thus there are no known cases solely involving such payments.

31 Recent decisions and investigations

Identify and summarise recent landmark decisions and investigations involving domestic bribery laws, including any investigations or decisions involving foreign companies.

The number of investigations involving bribery in Sweden each year is usually low and the cases brought tend to focus on fairly trivial acts of corruption. This fact may have led people to believe that corrupt acts are rare in Sweden.

However, this notion may be about to change, as a corruption scandal in Gothenburg erupted in the spring of 2010. In 2010 and 2011 the National Anti-Corruption Unit was engaged in a number of preliminary investigations, which included numerous individuals and corporations, concerning the matter. A number of cases have been brought to trial and there have been convictions. The investigations and the cases involved acts of bribery, unlawful disposal and breach of faith, as well as fraud by local governmental bodies on the one hand and privately owned construction companies on the other, linked together in public procurement.

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