

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
WORKING GROUP ON BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

**FINLAND PHASE 4 WRITTEN FOLLOW-UP**

**Summary and Conclusions**

The document was adopted by the Working Group on Bribery on 6 March 2019.

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*Finland – Phase 4  
Two-Year Written Follow-Up Report*

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## Summary and Conclusions by the Working Group on Bribery

### Summary of findings<sup>1</sup>

1. In February 2019, Finland submitted its Phase 4 Written Follow-Up report to the OECD Working Group on Bribery (Working Group). The report outlined Finland's efforts to implement the 15 recommendations that it received and to address the follow-up issues identified during its [Phase 4 evaluation](#) in March 2017. In light of the information provided, the Working Group concluded that Finland fully implemented 2 recommendations, partially implemented 7 recommendations, and did not implement 6 recommendations. Overall, Finland has shown limited progress in addressing the Working Group's concerns. Nonetheless, the Working Group notes that Finland has taken steps to amend its Criminal Code on sanctions and to develop a guidance specifically targeting SMEs. Other reforms are also ongoing and seem to be pointing to the right direction, including in relation to institutional arrangements. The Working Group encourages Finland to complete the work thus initiated. The Working Group's summary and conclusions are presented below, and Finland's report is presented in Annex.

2. In Finland's Phase 4 report, the Working Group noted that Finland had been active in enforcing its foreign bribery laws and demonstrated its ability to effectively detect, investigate and prosecute foreign bribery. However, the Group raised concerns about Finland's discouragingly high acquittal rate, since all five proceedings referred to court resulted in the acquittal of all parties for foreign bribery. Two years later, the Working Group is seriously concerned about the lack of further enforcement efforts by Finland since its Phase 4 evaluation. No new allegation has been detected and no steps have been taken in relation to the allegations recorded in the Matrix.

### Regarding the detection of foreign bribery:

- *Recommendation 1(a) – Partially implemented:* The Ministry of Foreign Affairs has adopted an administrative norm for all officials posted abroad to require the reporting of foreign bribery and clarify the reporting channels. However, the document contains limited information on how to detect foreign bribery. No training plans to support the implementation of the norm have yet been adopted.
- *Recommendation 1(b) – Not implemented:* Finland has adopted further specific provisions in sectoral laws that are relevant to whistleblower protection, but this does not address the fragmented and incomplete nature of the current protection. Finland has put on hold its work on national legislation on whistleblower protection

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<sup>1</sup> The evaluation team for this Phase 4 two-year written follow-up evaluation of Finland was composed of lead examiners from **Luxembourg** (Ms. Cindy Coutinho, Attachée, Ministry of Justice, and Mr Christian Steichen, Head of Technical Department, Police Grand-Ducale) and **the Netherlands** (Ms. Kirsten Bosch, Policy Officer, Ministry of Justice and Security, and Ms Daniëlle Goudriaan, National Coordinating Prosecutor on corruption, National Public Prosecutor's Office for Serious Fraud, Environmental Crime and Asset Confiscation), as well as members of the **OECD Anti-Corruption Division** (Ms. Sandrine Hannedouche-Leric, Coordinator of the Phase 4 Evaluation of Finland and Senior Legal Analyst, and Ms. Solène Philippe, Anti-Corruption Analyst). See Phase 4 Procedures, paras 54 et seq. on the role of Lead Examiners and the Secretariat in the context of two-year written follow-up reports.

until the adoption of the EU Directive on the protection of persons reporting on breaches of Union law.

- *Recommendation 1(c) – Fully implemented:* Finland has amended section 18 of the Act on the Public Disclosure and Confidentiality of Tax Information to include suspected acts of corruption in the list of exceptions to the restrictions on confidentiality otherwise imposed to the Finnish Tax Administration.

### Regarding cooperation, resources, and specialisation in foreign bribery cases:

- *Recommendation 2(a) – Partially implemented:* Finland reported on steps taken towards establishing the new structure of the Prosecution Service that will be in place as of October 2019. The Act on the Prosecution Service (Bill 32/2019) was recently adopted by Parliament and approved by the President. While these plans seem to go in the right direction in ensuring that foreign bribery cases will continue to be assigned to prosecutors with sufficient specialisation and expertise, they have yet to materialise.
- *Recommendation 2(b) – Not implemented:* Finland reports that to date, the National Bureau of Investigation (NBI) has maintained the number of police officers assigned to it “for several years”. However, negotiations are ongoing to secure that number in 2020, despite a possible significant decrease in total police staff. Pending the outcome of these negotiations, concerns remain unchanged on the resources available for foreign bribery cases. Finland’s statement that prosecutorial resources currently allocated to foreign bribery cases are sufficient is not supported by new pieces of information and the situation hence remains unchanged from Phase 4.
- *Recommendation 2(c) – Partially implemented:* Judges have received two limited and optional trainings on the specificities of the foreign bribery offences. This is in line with the trainings available to judges at the time of Phase 4. The organisation of courts or processes for the specialisation of judges remains unchanged and Finland has yet to take steps to ensure that foreign bribery cases are heard by judges with specialised skills and experience.

### Regarding the evidentiary threshold for the foreign bribery offence:

- *Recommendations 3(a) and (b) – Respectively Not implemented and Partially implemented:* Finland has not developed clear and detailed written information for practitioners addressing the interpretation issues in the foreign bribery offence identified by the Working Group. The presentation material prepared by a Supreme Court judge for the purposes of anti-corruption training courses does not qualify as a detailed written information. It does not cover all the issues identified in the Phase 4 report regarding the application of the foreign bribery offence (in particular the requirement of proof of elements beyond those mentioned in the Convention and use of foreign judgements). In general, as noted above, training on the foreign bribery offence did not contain all the elements of the recommendations.

### Regarding sanctions for foreign bribery:

- *Recommendation 4(a) – Fully implemented:* Finland reports that the annual specialized prosecutors’ training (Economic Crime Seminar) systematically

discusses the importance of requesting business prohibition orders and the grounds for such requests in all cases of economic crime and corruption, including foreign bribery.

- *Recommendation 4(b) – Not implemented:* Finland has not considered introducing a system of settlement for legal persons as part of its efforts to increase enforcement of the foreign bribery offence.
- *Recommendation 4(c) – Not implemented:* Finland has not enacted legislation to increase the maximum criminal corporate fine under chapter 9 of the Criminal Code. The legislative process for the adoption of a government proposal including the relevant amendments has been under consideration by Parliament since 2016, due to constitutional problems that are unrelated to the provisions on sanctions. There is no clear timeline for the adoption of the changes.

### Regarding confiscation:

- *Recommendation 5(a) – Partially implemented:* Just before the on-site visit in 2016, Finland had taken legislative steps to ensure it is able to confiscate the proceeds of bribery, including the profits made from a contract obtained through a bribe. Finland expects court decisions to confirm that the amendments to the Criminal Code introduced in 2016 allow this interpretation. No court decision has been reported by Finland in this regard.
- *Recommendation 5(b) – Partially implemented:* Finland has taken limited training initiatives on the quantification of the proceeds of bribery. No written information has been provided to investigators and prosecutors on this topic.

### Regarding false accounting:

- *Recommendation 6 – Partially implemented:* Finland has adopted legislative amendments extending criminal corporate liability to aggravated accounting offences. However, a number of accounting and auditing offences covered under Article 8 of the Convention remain out of the scope of corporate liability.

### Regarding awareness:

- *Recommendation 7 – Not implemented:* Finland is currently developing a detailed guidance document for SMEs in both Finnish and English which covers corruption, including foreign bribery. A draft guidance document has been published for consultation on the Ministry of Finance’s website. The indicative date for the finalisation of the document is spring 2019.

### Dissemination of the Phase 4 report<sup>2</sup>

3. Finland reports that the Ministry of Justice published a news release on the Phase 4 report on 23 March 2017, including links to both OECD press release and the report (still

<sup>2</sup> The [Phase 4 procedures](#), para. 50, provide that “the evaluated country should make best efforts to publicise and disseminate the report and translated documents, for example, by making a public announcement, organising a press event, and translating the full report into the national language. In particular, the evaluated

available on the Ministry's website at [www.om.fi](http://www.om.fi) and on the new anti-corruption website at [www.korruptiontorjunta.fi](http://www.korruptiontorjunta.fi)). The OECD press release and the recommendations were translated into Finnish and were published on the Ministry of Justice's website on 7 July 2017. They are also available on the anti-corruption website. In addition, the Phase 4 report was sent to all the stakeholders who participated in the evaluation process.

## Conclusions of the Working Group on Bribery

4. Based on these findings, the Working Group concludes that recommendations 1(c) and 4(a) have been fully implemented; recommendations 1(a), 2(a), 2(c), 3(b), 5(a), 5(b) and 6 have been partially implemented; and recommendations 1(b), 2(b), 3(a), 4(b), 4(c) and 7 have not been implemented.

5. Finland is invited to report back orally in March 2020 on its enforcement efforts, and in writing in October 2020 on the implementation of outstanding recommendations<sup>3</sup>. As per the Phase 4 procedures (para. 60), Finland may also ask for a particular recommendation to be re-assessed at that time. The Working Group will then consider whether further additional measures should be adopted. The Working Group will also continue to monitor follow-up issues as case law and practice develop.

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country should share the report and translated documents with relevant stakeholders, particularly those involved in the evaluation”.

<sup>3</sup> The Working Group will discuss procedural issues relating to the general practice of Phase 4 additional reports at its June 2019 meeting. Following the conclusion of these discussions, this paragraph may be updated as relevant.

## Annex: Written Follow-Up Report by Finland

### **Instructions**

*This document seeks to obtain information on the progress each participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer all recommendations as completely as possible. Further details concerning the written follow-up process is in the [Phase 4 Evaluation Procedure](#) (paragraphs 55-67).*

*Responses to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.*

*Please submit completed answers to the Secretariat on or before **21 January 2019**.*

<b>Name of country:</b>	<b>FINLAND</b>
<b>Date of approval of Phase 4 evaluation report:</b>	<b>16 March 2017</b>
<b>Date of information:</b>	<b>Original version 21 January 2019</b> <b>Consolidated version 25 February 2019</b>

## PART I: RECOMMENDATIONS FOR ACTION

### **Text of recommendation 1(a):**

1. Regarding the detection of foreign bribery, the Working Group recommends that Finland:
  - a) Ensure the MFA develops guidance for all officials posted abroad to require the reporting of foreign bribery, explain the reporting channels, and provide advice on how to detect foreign bribery (e.g. through systematic media monitoring and alerts). [2009 Recommendation III.iv and IX.ii]

### **Action taken as of the date of the follow-up report to implement this recommendation:**

Following the recommendation issued by the Working Group, the MFA has issued an administrative norm 2/2019 on 16 November 2019 in order to require the MFA personnel, including all officials posted abroad, to report foreign bribery. The norm provides detailed instructions on how foreign bribery can be detected and contains a description of the procedures and mechanisms developed for the reporting of suspected acts of foreign bribery. The reporting obligations are part of the official duties of all MFA officials, and a breach can result in sanctions in accordance with the State Civil Servants Act. The reporting obligation covers all suspicions, regardless of the exact nature of the nexus between the Finnish individual and a company, but the main focus of the norm is on Finnish companies and/or their employees.

Training on the issues covered in this guidance will be provided in cooperation with other ministries. There are several actors in this field with whom the MFA needs cooperation and information sharing; the Ministry of Justice is the national coordinating body for anti-corruption work in Finland. In addition to the Ministry of Justice, other key actors are the Ministry of the Interior, the Ministry of Finance and the Ministry of Economic Affairs and Employment. In addition, the Ministry officials would probably benefit from training provided by other agencies such as the Police, the Office of the Prosecutor General and the court system.

For more information, please see the attached document (norm 2/2019, Attachment # 1).

**If no action has been taken to implement recommendation 1(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

### **Text of recommendation 1(b):**

1. Regarding the detection of foreign bribery, the Working Group recommends that Finland:
  - b) Amend its legislation to provide clear, comprehensive protections for whistleblowers, for example, by enacting a dedicated whistleblower protection law which applies across the public and private sectors. [2009 Recommendation IX.iii; Phase 3 recommendation 7]

### **Action taken as of the date of the follow-up report to implement this recommendation:**

Finland's Phase 4 evaluation report in 2017 outlined the results and conclusions of the working group on whistleblower protection (appointed by the Ministry of Justice for the years 2015–2016). Currently there is no comprehensive stand-alone piece of legislation on whistleblower protection in place. After 2017, however, there has been progress in the sector-specific regulation that improves the whistleblower protection and/or provides a foundation for establishing a whistleblowing mechanism.

Trade Secrets Act 595/2018

When it comes to revealing misconduct and exercising the freedom of expression, it is provided in the Trade Secrets Act that the use or disclosure of a trade secret is not unlawful, if the trade secret has been used or disclosed for the purposes of protecting the public interest in order to reveal misconduct or illegal activity.

UNITED KINGDOM

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Act on the Processing of Personal Data in Criminal Matters and in Maintaining National Security (1054/2018)

The Act on the Processing of Personal Data in Criminal Matters and in Maintaining National Security obliges the competent authorities to establish procedures for reporting to it confidentially any suspected infringements of the Act. The reporting procedure shall include appropriate and adequate measures to organise an appropriate consideration of the reports. The reporting procedure shall also include instructions that ensure the protection of the reporting person's identity.

Act on Providing Insurances (234/2018)

The Act on Providing Insurance requires the establishment of whistleblowing procedures, allowing the employees to report any suspected violations of the Act and the relevant EU Regulation. The Act also lays down further provisions on the whistleblower protection, confidentiality and data protection.

Act on Preventing Money Laundering and Terrorist Financing (444/2017)

It is provided in the Act on Preventing Money Laundering and Terrorist Financing that the obliged entities shall have in place whistleblowing procedures, i.e. procedures allowing their employees or agents to report any suspected violations of this Act and the provisions issued under it by means of an independent channel within the obliged entity. It is further provided in the Act that the supervisory authorities and lawyers' associations shall maintain a system enabling them to receive reports of suspected violations of the provisions of the Act.

Attached you will find the above-mentioned relevant provisions related to the whistleblower protection (Attachment # 2).

Finland is also committed to enhancing the whistleblower protection even further. Other measures advancing the possible amendment of the whistleblower protection legislation have been taken. The Government Resolution for a national strategy for tackling the shadow economy and economic crime for 2016-2020 has a component related to the anti-corruption work. For example, it includes a project titled 'Enhancing the Prevention, Identification and Detection of Corruption'. The steering group under the Ministry of Justice is in charge of the anti-corruption project related to the Government Resolution. One of the most important goals of the project is to improve the whistleblower protection and reporting of corruption. More specifically, the goal is to facilitate anonymous and confidential reporting of concerns about corruption, to strengthen the capabilities of the authorities receiving these reports, so that they are able to deal with the reports in an effective and confidential manner, and to enhance the cooperation between authorities, and to strengthen the essential structures and mechanisms of whistleblower protection.

One of the aims of this project is also to enhance the anti-corruption work by paying more attention to the legality and transparency of public procurement procedures especially in municipalities, and by improving the effectiveness of the supervision of public procurement. In addition, the steering group of the project will produce detailed guidelines for public officials involved in criminal procedures (the police and prosecutors) to enhance the prevention, detection and investigation as well as criminal liability in corruption-related cases. The project is scheduled to be carried out in 2017 – 2019.

The legislation on whistleblowing will most likely be further developed during the following years; however, the current work related to the whistleblower protection in Finland focuses on the proposed EU- whistleblower protection directive. The proposed EU Directive on whistleblower protection (COM(2018) 218 final) provides for the implementation of an internal and external whistleblowing reporting process, which will give employees and external persons an opportunity to report breaches of EU law and ensures that such reports will be followed up. At the time of this reply, the Directive is being prepared/negotiated at EU level and it is at the consultation stage. The Ministry of Justice has set up a working group to coordinate the work related to the Directive. The Directive defines the minimum level of regulation; hence it enables further measures concerning whistleblower protection in the national regulation. The European Commission has also encouraged the Member States to consider a more horizontal regulation on national level. Finland is committed to supporting the Directive, as it considers that the Directive is an important instrument to prevent and detect EU breaches, including corruption. Further work on the

national level towards more comprehensive protection will be carried out after the EU regulation is in place and the national implementation of the Directive will begin.

**If no action has been taken to implement recommendation 1(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 1(c):**

1. Regarding the detection of foreign bribery, the Working Group recommends that Finland:

c) Amend section 18 of the Act on the Public Disclosure and Confidentiality of Tax Information to allow the Tax Administration to report suspected corruption to law enforcement authorities, on its own initiative, notwithstanding legislative restrictions on confidentiality. [2009 Tax Recommendation]

**Action taken as of the date of the follow-up report to implement this recommendation:**

The Finnish Tax Administration has, as of May 5, 2018, by the amendment of section 18 of the Act on the Public Disclosure and Confidentiality, a right to report suspected corruption to law enforcement authorities, on its own initiative, notwithstanding legislative restrictions on confidentiality.

**The amendment is regulated as follows:**

*Act on the Public Disclosure and Confidentiality of Tax Information (1346/1999)*

*Chapter 3, section 18*

*Right of the tax administration to disclose information on its own initiative*

*Notwithstanding the confidentiality obligation, the tax administration may, on its own initiative, disclose taxation information with identifiers related to the taxpayer to:*

*(13) authority in charge of pre-trial investigation, about the found facts during tax control, which can be suspected to be affiliated with corruption or bribery offences as referred in chapter 14, § 2, chapter 16, § 13 to 14 b, chapter 30, § 7 to 8 a or chapter 40, § 1 to 5 and 7 to 10, of the Criminal Code (39/1889), or with misuse of a position of trust as referred in chapter 36, § 5, of the Criminal Code, (22/2018).*

*Source:*

<https://www.finlex.fi/fi/laki/ajantasa/1999/19991346?search%5Btype%5D=pika&search%5Bpika%5D=18%20%C2%A7%20Verohallinnon%20oikeus%20tietojen%20oma-aloitteiseen%20antamiseen>

**If no action has been taken to implement recommendation 1(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 2(a):**

2. Regarding cooperation, resources, and specialisation in foreign bribery cases, the Working Group recommends that Finland:

a) Ensure that under the planned restructure of the Prosecution Service, foreign bribery cases continue to be assigned to prosecutors with sufficient specialisation and expertise. [Convention, Article 5; 2009 Recommendation, Annex I.D]

UNITED KINGDOM

PHASE 4 WRITTEN FOLLOW-UP

**Action taken as of the date of the follow-up report to implement this recommendation:**

The restructure of the Prosecution Service has not yet entered into force, because the President of the Republic just recently approved it. It will enter into force and be operational on 1 October 2019. On 14 December 2017, the Prosecutor General issued a decision on the reform of the specialization system for prosecutors. The decision defines the prospective areas of specialization. Corruption offences and foreign bribery cases will continue to be assigned to special prosecutors for economic crime and other prosecutors specialised in dealing with corruption offences. No changes have been proposed to the resources of the special prosecutor system. In the future, special prosecutors will only be assigned cases that are particularly demanding when examined at national level. However, cases involving bribery of a foreign public official always fulfil the above mentioned criteria, because it is challenging to obtain proof and demanding to conduct a legal assessment in these cases.

One of the objectives of the restructuring is to deepen special prosecutors' expertise also in the area of corruption offences and to extend the scope of corruption-related training so that it will be provided to all experienced prosecutors in the future.

**If no action has been taken to implement recommendation 2(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 2(b):**

2. Regarding cooperation, resources, and specialisation in foreign bribery cases, the Working Group recommends that Finland:

b) Ensure that the National Bureau of Investigation (NBI) resources for foreign bribery are maintained and that prosecutorial resources are sufficient to enable the early involvement of prosecutors in foreign bribery cases. [Convention, Article 5; 2009 Recommendation, Annex I.D]

**Action taken as of the date of the follow-up report to implement this recommendation:**

The Strategic Police Plan 2017-2020 sets crime prevention as one of the four main priorities. Within this priority, special attention is to be paid on the international priorities and on the investigation of crime against life and health as well as on crimes that are the most harmful to society. In the implementation, economic crime has been named as one of the crime types most harmful to society. A detailed implementation list of those offences is set out in the planning documents signed between the Ministry of Interior and the National Police Board, as well as in the documents made between the National Police Board and the police departments. The documents are the operating and financial plan and performance agreements. These documents are available only in Finnish.

The National Police Board is nationally in charge of the Police's resource allocation. The number of police officers now (in February 2019) is approximately 7,250 (persons/year estimate). The current planned budget for 2020 would allow only 6,675 persons/year, and therefore the National Police Board is soliciting for an increase that would allow raising the number to 7,360. The negotiations will be finalised during 2019, and the number of officers in 2020 will be defined during autumn 2019. However, no decrease in the number of financial crime investigators is likely to take place. Regarding economic and financial crime investigations, the National Police Board has decided, in January 2017, January 2018 and January 2019, that the police departments have to maintain the number of personnel assigned to these investigations at least on the same level as in the previous year. The police departments must comply with these decisions, and the compliance is monitored through checks and reporting.

According to the decision made by the National Police Board, the National Bureau of Investigation (NBI) should have 87 police officers responsible for detecting and investigating financial crimes, including corruption and bribery. This figure has been the same for several years. The majority of investigators work at the NBI's Investigation Department (Financial Crime Division) in Vantaa. A small part of investigators work at the Financial Crime Intelligence Division and some at the NBI's five regional offices. Other resources for Financial Crime investigations have remained the same, too.

Attached you can find the relevant pages of the Strategic Police Plan that emphasise the crime prevention and list the offences most harmful to society (Attachment # 3 and # 4).

Considering the number of foreign bribery cases in Finland, the special prosecutor system has sufficient resources. The prosecution service provides corruption-related training also to other experienced prosecutors, which guarantees that we have a possibility to assign prosecutor pairs and groups to deal with these cases.

**If no action has been taken to implement recommendation 2(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 2(c):**

2. Regarding cooperation, resources, and specialisation in foreign bribery cases, the Working Group recommends that Finland:

c) Ensure that foreign bribery cases are heard by judges with specialised skills and experience. [Convention, Article 5; 2009 Recommendation, Annex I.D]

**Action taken as of the date of the follow-up report to implement this recommendation:**

There are separate divisions for criminal and civil cases in some courts, for example in the Supreme Court and in some of the 20 district courts (at least in the Helsinki District Court, West Uusimaa District Court, Pirkanmaa District Court, and Central Finland District Court). Judges can, in accordance with their interest and experience, specialise in certain types of cases, for example in white-collar crimes. In many courts there are judges specialised in white-collar crimes who hear those cases. In addition, in many courts there are judges that are responsible for following legislation, development and case law of certain types of cases, for example white collar crimes. These judges inform and train other judges in the court. Judges' understanding of foreign bribery offences has been recently improved as they have attended a course on corruption and bribery organised by the Office of the Prosecutor General, the Ministry of Justice and the National Police Board. Amongst the training topics were foreign bribery offences and proving the defendant's intent in corruption and bribery cases. The course was organised in October 2017 and November 2018, and the participants were prosecutors, police officers and judges from the district courts, courts of appeal and the Supreme Court. For more information, please see the answers to recommendations 3(a) and 3(b).

**If no action has been taken to implement recommendation 2(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 3(a):**

3. Regarding the evidentiary threshold for the foreign bribery offence, the Working Group recommends that Finland:

a) Provide detailed written information to investigators, prosecutors, and judges (whether separately or collectively) on the requirements of the foreign bribery offence under Article 1 of the Convention and its commentaries. This information should, at a minimum, clarify:

- i. the type of evidence (whether circumstantial or direct) required to prove a briber's intent with respect to each element of the offence. This should emphasise that a direct link between a bribe payer and bribe recipient is not required in all cases and that circumstantial evidence should be sufficient;

- ii. that an error of law is only a defence in the limited circumstances set out in chapter 4, section 2 of the Criminal Code.
- iii. the exact elements of the offence that must be met to ensure a conviction. This should clarify that for the purposes of foreign bribery, it does not matter whether a foreign public official is in fact in a position to influence matter for which the bribe was paid, nor is there a requirement that the bribe recipient be aware of the offer, promise, or gift of a bribe;
- iv. the admissibility of foreign judgments on the same matter in Finnish foreign bribery cases. [Convention, Article 1; 2009 Recommendation, Annex I.D; Phase 3 Recommendation 1]

**Action taken as of the date of the follow-up report to implement this recommendation:**

The recommendations of the working group were taken into consideration when planning the materials for the courses, which are described in more detail in the answers regarding training. The written material has been distributed to the participants (judges, prosecutors and police), and it has also been made available to the participants after the course. Please see the attached (attachment # 5) material provided by Pekka Koponen (Justice of the Supreme Court, Supreme Court) on the requirements of the foreign bribery offence.

The Police has selected and sent investigators to these courses organised by the Office of the Prosecutor General (approx.10 persons/year), including investigators from the NBI.

Furthermore, the working group appointed by the Ministry of Justice is currently preparing detailed guidelines for public officials involved in criminal procedures (police and prosecutors) to enhance the prevention, detection and investigation as well as criminal liability in corruption related cases. For further information, see our answer to recommendation 1 (b).

**If no action has been taken to implement recommendation 3(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 3(b):**

3. Regarding the evidentiary threshold for the foreign bribery offence, the Working Group recommends that Finland:

b) Use the written information outlined in recommendation 3a as the basis for comprehensive training sessions for investigators, prosecutors, and judges on the application of the foreign bribery offence. [Convention, Article 1; 2009 Recommendation, Annex I.D; Phase 3 Recommendation 1]

**Action taken as of the date of the follow-up report to implement this recommendation:**

The Office of the Prosecutor General has, together with the Ministry of Justice (for judges) and the National Police Board, planned and organised corruption-related training intended for all the stakeholders. Besides providing additional information on the essential elements of corruption offences, the course deals with the detection of corruption, confiscation of the proceeds of crime, and other criminal sanctions. A topic particularly focused on during the course is the assessment of intent in corruption offences, especially from the perspective of the criticism presented in the OECD Phase 4 evaluation report. Moreover, a domestic case related to bribery of a foreign public official and the importance of cooperation between the police and the prosecutor during the criminal investigation of foreign corruption cases have been discussed during the course.

Other topics of the course include:

- Bribery of foreign public officials

- Confiscation and money laundering
- Corruption offences as a predicate offence in money laundering
- Corporate criminal liability
- Criminality - Bribery in business

Number of participants in each category:

- Corruption Crimes -Training (20 April 2017): 29 participants, among them 21 prosecutors and 4 judges (+ 4 Public Legal Aid Attorneys)
- Corruption Crimes Seminar (2-4 October 2017): 31 participants, among them 9 prosecutors, 7 judges and 10 police officers (+ 2 Public Legal Aid Attorneys, 2 representatives of the Tax Administration, 1 representative of the Competition Authority)
- Corruption Crimes Seminar (5-7 November 2018): 26 participants, among them 7 prosecutors, 9 judges and 9 police officers (+ 1 Public Legal Aid Attorney)

For more detailed information on the contents of the courses, please see the attachments (Attachments # 6 and #7).

So far, the above-mentioned Corruption Crimes Seminar intended for judges, prosecutors and police officers has been held twice, and the next seminar is scheduled to take place on 5 November 2019. The course has received very positive feedback from all the stakeholders.

After the OECD evaluation, the Office of the Prosecutor General has also arranged a two-day course dealing with criminal liability of legal persons. All stakeholders were invited to attend the course. In addition to the substance of the relevant legislation, the national legal practice was also discussed during the course. The course participants were encouraged to develop the legal practice in accordance with the objectives of the legislation so that the punishments imposed for corruption offences would better correspond to the degree of reprehensibility of the acts. The recommendations of the working group were taken into account when planning these courses.

In addition, the material and information provided during these training sessions and courses has also been utilised when organising training in police departments, and when training newly recruited investigators in order to develop their professional skills.

**If no action has been taken to implement recommendation 3(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 4(a):**

4. Regarding sanctions for foreign bribery, the Working Group recommends that Finland:

a) Encourage prosecutors to make full use of business prohibition orders in foreign bribery cases. [Convention, Article 3(4); 2009 Recommendation III.ii]

**Action taken as of the date of the follow-up report to implement this recommendation:**

After the OECD Phase 4 evaluation, Finnish prosecutors have not had a single case where they would have brought charges for bribery of a foreign public official. The prosecutors have been encouraged to make use of business prohibition orders in all possible cases. In the education and training of prosecutors, attention has been paid to the importance of requesting a business prohibition in all cases of economic crime and corruption. Requesting the imposition of such prohibitions and the grounds for the requests are topics that are constantly being discussed in the other economic crime-related training, which also covers corruption.

UNITED KINGDOM

PHASE 4 WRITTEN FOLLOW-UP

**If no action has been taken to implement recommendation 4(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 4(b):**

4. Regarding sanctions for foreign bribery, the Working Group recommends that Finland:

b) Consider introducing a system of settlement for legal persons as part of its efforts to increase enforcement. [Convention, Article 3(1); 2009 Recommendation III.ii]

**Action taken as of the date of the follow-up report to implement this recommendation:**

The plea bargaining system was introduced in the Finnish criminal procedure and criminal law very recently, in 2015. Therefore, Finland has currently very limited experience of the system and the legislation concerning it. These being the circumstances, it is unlikely that a legislative project reassessing the system will take place any time soon. However, when such an assessment will take place in the future, the issue will be given consideration.

**If no action has been taken to implement recommendation 4(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 4(c):**

4. Regarding sanctions for foreign bribery, the Working Group recommends that Finland:

c) Enact legislation to increase the maximum criminal corporate fine under chapter 9 of the Criminal Code. [Convention, Article 3(1); 2009 Recommendation III.ii]

**Action taken as of the date of the follow-up report to implement this recommendation:**

A government proposal for amending the provisions of the Criminal Code concerning the day-fine system and for increasing the maximum criminal corporate fine under chapter 9 of the Criminal Code was submitted to the Parliament in 2016 (Government proposal 1/2016). The revision package has faced certain constitutional problems, which have caused delays. However, these problems identified by the Constitutional Law Committee are not connected to the corporate fine and no amendments have been made to the original proposal in this regard. At this stage, it is difficult to predict the timeline for the adoption of the proposal.

Please find the relevant extracts from the proposal attached (Attachment # 8)

**If no action has been taken to implement recommendation 4(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 5(a):**

5. Regarding confiscation, the Working Group recommends that Finland:

a) Take steps, including amending legislation if necessary, to ensure it is able to confiscate the proceeds of bribery, including the profits made from a contract obtained through a bribe. [Convention, Article 3(3)]

**Action taken as of the date of the follow-up report to implement this recommendation:**

The provisions on the forfeiture of the proceeds of crime, laid down in chapter 10, section 2 of the Criminal Code, were amended in 2016. The amendments entered into force on 1 September 2016. The concept 'proceeds of crime'

is defined in the amended section 2, subsection 1, paragraphs 1–5. The previous section did not include such a definition. The legislation was amended to nationally implement the Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.

According to Article 2(1) and (2) of the Directive: “For the purpose of this Directive, the following definitions apply: (1) ‘proceeds’ means any economic advantage derived directly or indirectly from a criminal offence; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits; (2) ‘property’ means property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title or interest in such property.”

The aim of the amendment of section 2 of chapter 10 of the Criminal Code was to implement the definitions cited above, among other things. Section 2 of chapter 10 of the Criminal Code of Finland must be construed, of course within the boundaries of the principle of legality, in the light of the provisions of the Directive – as it is to be construed in the light of the provisions on confiscation set out in the OECD Convention, as well.

The new section 2 of chapter 10 appears, in certain respects, more extensive than the previous one. The section is applied to offences that have been committed after the section entered into force. The contents of the section will be further and in more detail clarified in future authoritative court decisions, especially those of the Supreme Court. Please note that for some reason the Annex 3 of the Phase 4 Report has the extracts from the old legislation. Please, find the current extract of the Criminal Code, Chapter 10, Section 2 attached (entered into force 1 September 2016). Attachment # 9

In corruption-related training, the question of how to quantify the proceeds of bribery and the possibilities to confiscate the proceeds have been discussed. For further information on training, please see the answer to the recommendations 3(a) and 3(b).

**If no action has been taken to implement recommendation 5(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 5(b):**

5. Regarding confiscation, the Working Group recommends that Finland:

b) Regularly provide detailed written information and training to investigators and prosecutors on how to quantify the proceeds of bribery. [Convention, Article 3(3)]

**Action taken as of the date of the follow-up report to implement this recommendation:**

An Asset Tracing Coordinator (Detective Chief Inspector) of the Finnish police works at the NBI. The Coordinator organises training in cooperation with the Police University College of Finland, for instance. The coordinator also runs an asset recovery network in which all eleven police departments are represented. In addition, the State Prosecutor from the Office of the Prosecutor General has participated in the activities of this network. The network offers a regular platform for updating knowledge and organising training. For example in 2017, the Asset Tracing Coordinator organised training on new legislation at each police department separately. Prosecutors, enforcement officers (bailiffs) and tax authorities also took part in these training sessions.

Please also see the answers 3(a), 3(b) and 5(a).

**If no action has been taken to implement recommendation 5(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 6:**

6. Regarding false accounting, the Working Group recommends that Finland ensure that corporations can be held liable for all conduct prohibited under Article 8 of the Convention. [Convention, Article 8; 2009 Recommendation X.A.i]

**Action taken as of the date of the follow-up report to implement this recommendation:**

Due to the rather similar recommendation previously issued by the OECD, Finland has thoroughly assessed its criminal law when it comes to the extension of the scope of the provisions on the criminal liability of legal entities. The Bill extending criminal corporate liability to include aggravated accounting offence based on the Government Bill 258/2016 vp, was enacted through the Act 213/2017 and entered into force on 1.6.2017. The aggravated accounting offence is provided in chapter 30, section 9a of the Criminal Code.

In contrast to many other offences graded according to levels of seriousness into basic, aggravated and/or petty types, which is typical of the Finnish Criminal Code, the vast majority of all accounting offences fall within the ambit of the aggravated type of the offence, thus without doubt covering most, if not practically all, cases of foreign bribery. Consequently, it is unlikely that a new assessment and legislative project would be started in order to extend the scope of the criminal liability of legal entities even further to encompass the pettier forms of the accounting offence or the auditing offence.

Furthermore, corporate liability has been covered in certain sector-specific legislation. The following is provided in chapter 10, section 2 (626/2016), subsection 1 of the Auditing Act: “The Audit Board shall withdraw an auditor’s approval if the auditor: 1) has deliberately or out of gross negligence materially violated this Act or any provisions given by virtue thereof, or the act on auditing public administration entities and public finances, or provisions on auditing in other statutes; or 2) no longer meets the requirements for approval. According to chapter 1, section 2, paragraph 1,”for the purposes of this Act, auditor shall mean a natural person approved as an HT, KHT or JHT auditor or a firm approved as an audit firm as referred to in chapter 6, section 1”.

According to chapter 10, section 2, subsection 5 of the Auditing Act, “where an auditor's approval has been withdrawn or he or she has been banned from carrying out audits as referred to in section 3, the Auditor Oversight Unit shall, immediately after the decision becomes legally valid, notify the relevant competent authorities in EEA states that keep registers of auditors of the withdrawal or the ban and its reasons”.

According to chapter 10, section 2, subsection 6 of the Auditing Act, “an auditor whose approval has been withdrawn under subsection 1(1) cannot be re-approved until three years have elapsed from the date on which the decision on withdrawal became legally valid”.

In addition, corporations can be liable for conduct prohibited under tort law, for example the Tort Liability Act (412/1974). Regarding auditors, see chapter 10, section 9 on the liability for damages, which applies to both natural and legal persons, such as auditors.

**Extracts from the Auditing Act***Section 3 (622/2016)**Temporary ban on carrying out audits*

*If the Audit Board deems that a warning is too mild and withdrawal of approval too severe a sanction, the Audit Board may ban an auditor or a key audit partner from carrying out audits and signing audit reports for a set period of at most three years.*

*Chapter 4**Section 13 (622/2016)**Reporting suspicions*

*Auditors shall provide for persons employed by them an internal procedure ensuring that these persons can anonymously report any suspected breaches of audit regulation.*

*The reporting procedure shall contain actions that protect the person who reports a breach and secure the protection of personal data concerning both the person reporting a breach and the person whom the report concerns. The reporting procedure shall also include instructions for protecting the identity of the person reporting a breach, unless otherwise provided in an act in order to investigate a breach or in provisions on an authority's right to access information. (1131/2018)*

*An auditor shall retain the necessary information concerning a report referred to in subsection 1. The information shall be deleted after five years have elapsed from the submission of the report, unless retaining the information further is necessary because of a criminal investigation, pending court proceedings, an official investigation, or in order to protect the rights of the person reporting a breach or the person suspected of a breach. The necessity of retaining the information shall be reviewed at the latest three years after the most recent similar review. Records must be kept of these reviews.*

#### *Chapter 10*

##### *Section 5 (622/2016)*

###### *Penalty fees and their determination*

*The Audit Board may impose a penalty fee on an auditor who fails to comply with the periods referred to in Chapter 4, section 11 regarding employment by an audited entity.*

*The maximum penalty fee for failing to comply with the period referred to in Chapter 4, section 11 shall be EUR 50,000.*

*The penalty fee shall be payable to the state.*

*In addition to the provisions of the section 34, subsection 1 of the Personal Data Act (1050/2018), the person whom the report referred to in subsection 1 of this section concerns shall not have the right of a data subject referred to in Article 15 of the Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), hereafter the Data Protection Regulation, to access data concerning him or her referred to in subsection 1 and 2 of this section, if providing access to the information could hinder the investigation of the suspected breaches. Any restrictions of the data subject's rights shall comply with the provisions of section 34, subsections 2–4 of the Personal Data Act. (1131/2018)*

*The Auditor Oversight Unit may issue more detailed orders on the submission and processing of reports referred to in subsection 1.*

#### *Act on the Financial Supervisory Authority*

##### *Section 31*

###### *Auditors' duty to report*

*Auditors of authorised supervised entities shall report, without undue delay, to the Financial Supervisory Authority any fact or decision concerning a supervised entity of which they have become aware while performing their duties and which can be considered as:*

- 1) constituting a material breach of the legal provisions concerning the requirements set for the supervised entity's authorisation or conduct of business and the regulations issued thereunder;*
- 2) jeopardising the continuation of the supervised entity's conduct of business; or*
- 3) leading to the issuance in the auditor's report of an opinion other than the standard opinion referred to in the Auditing Act or a comment as referred to in chapter 3, section 5, subsection 5 of the Auditing Act. (1071/2017)*

*Auditors of authorised supervised entities shall likewise report to the Financial Supervisory Authority any fact or decision referred to in subsection 1 of which they become aware while performing their duties in an undertaking which belongs to the same conglomerate or group as the supervised entity.*

*Auditors acting in good faith shall not be held liable for any financial loss that may result from measures taken in compliance with this section.*

*The provisions of this section shall also apply to insurance associations, pension funds, insurance funds, unemployment funds, the farmers' pension institution and the seamen's pension fund.*

**If no action has been taken to implement recommendation 6, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 7:**

7. Regarding awareness, the Working Group recommends that Finland develop training and/or detailed written information on foreign bribery specifically targeted at SMEs. [2009 Recommendation III.i, X.C.i and Annex II; Phase 3 recommendation 5(c)]

**Action taken as of the date of the follow-up report to implement this recommendation:**

Based on the OECD Working Group's recommendation, the Ministry of Economic Affairs and Employment together with Suomen Yrittäjät<sup>4</sup>, the Ministry of Justice and the Ministry for Foreign Affairs has launched a project for drafting Guidance for SMEs on Anti-Corruption, including foreign bribery. The aim of the guidance is to raise awareness among the Finnish SMEs on corruption, including foreign bribery, and to provide basic tools for preventing corruption. The aim is to send out the draft to stakeholders for comments during the winter. Comments will be requested from businesses, NGOs, trade organizations, business organizations, government representatives, and the academia. The request for comments will also be published online. The Ministry of Justice will send the draft to the OECD for information and possible comments when it is published for comments.

A revised version of the guidance will be published based on the received stakeholder comments in Finnish, Swedish, and English in spring 2019.

A draft version of the guidance was provided to the lead examiners and secretariat (Attachment #10).

**If no action has been taken to implement recommendation 7, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

<sup>4</sup> Suomen Yrittäjät is an interest and service organization for small and medium-sized enterprises (SMEs) and their owners.

## PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

16. The Working Group will follow up as case law and practice develop with regard to the following issues:

**Text of issue for follow-up 8(a):**

a) The ability of Finland's FIU to independently detect foreign bribery through suspicious transaction reports.

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

Having distinct core functions and legal powers. The FIU's duties are regulated in the FIU Act. Other authorities do not set any requirements, limitations or administrative hindrances to the work of the FIU. FIU Finland, operating as a police unit, has a wide range of powers and competence to obtain information for the purpose of analysis and investigation under the Act on the Financial Intelligence Unit 445/2017 ('the FIU Act'), Act on Preventing Money Laundering and Terrorist Financing 444/2017 ('the AML/TF Act'), Criminal Investigation Act 805/2011 and the Coercive Measures Act 806/2011. Although the FIU has the power to conduct a criminal investigation, this is not its core function, but almost all cases are referred to other police units for criminal investigation. The core of the FIU's work is the analysis of STRs.

Procedures for the appointment and dismissal of the Head of the FIU. The FIU is organisationally part of the National Bureau of Investigation (NBI). According to the NBI Rules of Procedure Chapter 3.4, the Head of FIU is in charge of the operational work of the FIU and responsible for the results of the unit, for the supervision of the unit, for the further development of the unit, for the cooperation with national and international partners and for annual personal development of the FIU personnel. The head of the unit is appointed by open public announcement. The decision is reasoned based on the applicants' qualifications and experience. The head of the unit is appointed by the head of the NBI. The grounds for dismissal are based on the law. Dismissal of the head of the units has not occurred during the history of the FIU. There is no political interference on the appointments on this level. The head of the FIU is competent to give statements to the media, but this competence is limited to the FIU's core tasks. The FIU publishes independently FIU Annual Reports. The results of the FIU's work are also reported as part of the NBI Annual Reports.

Managing accountability with operational independence. The FIU is an operationally independent and autonomous unit with the authority and capacity to take autonomous decisions without involvement of third parties to analyse, request and disseminate its analyses to competent national and international authorities where there are grounds to suspect money laundering, associated crimes or terrorist financing. This also includes bribery cases regardless national or international ones. The penal code defines the extraterritorial competence of Finnish authorities in criminal cases.

According to the NBI Rules of Procedure, Chapter 4, the Management must be informed of fundamental and significant matters without delay. The Director, the Deputy Director or the Head of Division or Administration may, in individual cases, take over decision making on matters that would otherwise be decided by an official under him or her. The official concerned and, where necessary, his or her supervisor must be informed of such decision without delay. In the last five years, this 'power of veto' has not been used towards the FIU. It would only be used in very exceptional circumstances.

Powers to engage independently with other agencies domestically and internationally. The NBI Rules of Procedure, Chapter 2.2, provide a task for the FIU: the FIU is responsible for the national and international tasks assigned to it and for signing the international MOUs related to its work. The FIU has signed 37 MOUs with foreign counterparts. The FIU is part of the Egmont Group and participates actively in the FIU Platform Forum work and its' projects.

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The FIU has right to disseminate information directly to the counterparts in other countries, and may submit information to other competent authorities. This includes the FIUs and other competent units responsible for AML/CFT prevention, detection and investigation regardless of their organizational position/location and regardless of their respective status. The FIU may exchange information spontaneously or on request. Cooperation is possible with LE authorities, judicial authorities and with administrative authorities. The information provided by FIU Finland may be disseminated to competent authorities for analysis, intelligence or investigation purposes. This information may be used as evidence in judicial proceedings with prior consent of the FIU. The information provided by FIU Finland shall be used for preventing, disclosing and investigating money laundering, the associated predicate offences or financing of terrorism.

AML/CFT reporting entities are obliged do the enhanced CDD when possible politically exposed persons, the family members or close associates are their customers. This also includes responsibility to file report on possible suspicious transactions (STR). The FIU receives STRs where further corruption and bribery related analysis may be considered and reasoned, annually five to ten STRs. Total number of STRs was in 2017 around 50.000 and in 2018 around 40.000 STRs. The FIU have some corruption related analysis cases pending.

**Text of issue for follow-up 8(b):**

b) The ability of Finland's accountants and auditors to detect and report foreign bribery.

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

In addition to what is stated above in connection with our answer to recommendation 6, it should be noted that the regulation on combatting money laundering and terrorist financing (due to the new AML/CFT Act, 444/2017) has been recently amended, which has also influenced the accounting and auditing sectors. There are requirements on e.g. KYC checks and a duty to notify suspicious transactions, and the supervision of different sectors has been tightened.

In addition, the provisions of the Auditing Act, which have been referred to above, are currently in chapter 4, section 8 (obligation of confidentiality and professional secrecy) and section 13 (reporting suspicions). The requirements concerning the independence of an auditor are essential and strictly regulated (chapter 4, sections 6 and 7), and an auditor shall always perform his or her duties with professional competence, integrity, objectivity and professional scepticism, and in the public interest (chapter 4, section 1).

**Text of issue for follow-up 8(c):**

c) Whether, once the planned restructure of the Prosecution Service is implemented, the assigned prosecutors continue to be involved early in foreign bribery investigations and participate fully throughout the investigation process, including through regularly reviewing and assessing the adequacy of the investigation plan.

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

Because the new structure of the Prosecution Service will not be operational until 1 October 2019, this issue cannot be assessed.

Prosecutors are always involved in the criminal investigation of foreign bribery cases. An investigation plan is always drawn up in the criminal investigation of demanding offences. Prosecutors are taught how to draw up an investigation plan already during their basic education, and its importance as a tool in the prosecution work is emphasised throughout the education. From Finland's standpoint, there is no reason to believe that the planned restructure would hinder the current prosecutors' active involvement in the investigation of foreign bribery cases.

**Text of issue for follow-up 8(d):**

d) The composition of the courts in future foreign bribery cases to ensure that lay judges are subject to the necessary guarantees of independence and to avoid the appearance of improper influence.

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new case law on foreign bribery or other relevant developments since the adoption of Phase 4 report.

However, as it was explained earlier during the Phase 4 evaluation, the lay judges, when acting as sitting judges, are considered to be public officials, and the Code of Judicial Procedure act and the Criminal Code apply to them in the same manner as they do apply to professional judges. Finland reiterates its stand on this issue and states that the necessary guarantees of the judicial independence are indeed in place.

Furthermore, the question of lay judges' independence seems irrelevant, since all foreign bribery cases to date have been heard solely by professional judges in all instances, and most likely will be also in the future. In practice, more serious or complex cases, including foreign bribery, are heard by a district court composition comprised of professional judges (without the involvement of lay judges).

**Text of issue for follow-up 8(e):**

e) The practical operation of the new plea bargaining system in foreign bribery cases, including the waiver of charges and whether the sanctions applied are effective, proportionate, and dissuasive.

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new case law related to the plea bargaining system in foreign bribery cases. However, when the legislation on plea bargaining was enacted, Parliament obliged the Ministry of Justice to report on the functioning of the new legislation to the Legal Affairs Committee of Parliament by the end of 2017. In this connection in 2017, the Institute of Criminology and Legal Policy at the University of Helsinki conducted a study on the application of the plea bargaining legislation in Finland in 2015-2016. In the study, the need for further research was pointed out (at p 39).

**Text of issue for follow-up 8(f):**

f) The courts' use of waivers under §9:4(2)(2) of the Criminal Code to ensure they are applied to bribery cases in exceptional circumstance only.

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

The Finnish situation is outlined in the latter part of para 120 of the OECD Report. No new case law or developments in this area. Situation remains the same as it was during the Phase 4 report.

### PART III: ADDITIONAL ISSUES FOR INFORMATION

#### Foreign bribery and related enforcement actions since Phase 4

##### Action taken as of the date of the follow-up report:

Phase 4 report stated that Finland has two ongoing investigations that are potentially foreign bribery cases. The other one of these cases was not, even at the time of the evaluation, confirmed to be a foreign bribery case. Moreover, while the investigation progressed, it came even more evident that this case is not a foreign bribery investigation (bribery of foreign public officials).

The second case mentioned in the Annex 1 of the Phase 4 report is still pending as an aggravated giving of a bribe. In this case, several steps have been taken in order to verify the preliminary suspicions, including sending of an MLA. Finland never received an answer to the MLA (sent on the basis of the original suspicion), and has not been able to determine whether there are grounds for a case under the OECD Convention.

Further information regarding these two cases was provided to the lead examiners and the secretariat. This document is STRICLY CONFIDENTIAL.

Related to the possible foreign bribery cases in the Matrix, no procedural steps taken since Phase 4. The cases listed in the Matrix could be erased.

No other new investigations underway or terminated since phase 4.

**Efforts made to publicise and disseminate the Finland Phase 4 report**, for example, through public announcements, press events, sharing with relevant stakeholders, particularly those involved in the on-site visit [*Phase 4 Evaluation Procedures, para. 50*]

##### Action taken as of the date of the follow-up report:

The Ministry of Justice published a press release on the Finland Phase 4 report on 23 March 2017. The press release included links to both the OECD press release and the complete Phase 4 report. The press release is still available on the website of the Ministry of Justice at [www.om.fi](http://www.om.fi) as well as on the new anti-corruption website at [www.anti-corruption.fi](http://www.anti-corruption.fi).

The OECD press release and the recommendations were translated into the national language and published on the website of the Ministry of Justice on 7 July 2017. They are also available at the national anti-corruption website.

The Phase 4 report was also sent to all of the stakeholders who participated in drafting the report.

#### Attachments:

1. Administrative norm 2/2019, MFA (recommendation 1 (a))
2. Extract of relevant legislation related to whistle blower protection (recommendation 1 (b))
3. The relevant pages of the Strategic Police Plan (recommendation 2 (b))
4. The relevant pages of the Strategic Police Plan, Strategic measures (recommendation 2 (b))
5. Written information to investigators, prosecutors, and judges: Pekka Koponen (recommendation 3 (a))
6. Agenda for the Corruption Crimes Seminar 2017 (recommendation 3 (b))
7. Agenda for the Corruption Crimes Seminar 2018 (recommendation 3 (b))
8. Relevant extracts of the government proposal 1/2016, Corporate Fine (recommendation 4 (c))
9. Relevant extracts of the Criminal Code, confiscation (recommendation 5 (a))
10. Draft version of the Anti-Corruption Guidance for SMEs (recommendation 7)