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

Phase 4 evaluation of Finland: Additional written follow-up report

This report was submitted by Finland for the June 2023 plenary meeting of the Working Group on Bribery in International Business Transactions. It does not reflect the views or opinions of the Working Group on Bribery.

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PHASE 4 EVALUATION OF FINLAND: ADDITIONAL WRITTEN FOLLOW-UP REPORT

Name of country:	FINLAND
Date of approval of Phase 4 evaluation report:	16 March 2017
Date of approval of Phase 4 two-year written follow-up:	6 March 2019
Date of information:	15 May 2023 (written report) 29 May 2023 (additional information)

PART I: RECOMMENDATIONS FOR ACTION

In June 2022, Finland reported that it had ordered a comprehensive study covering, among other things, the interpretation of the foreign bribery offence by Finnish courts, in order to implement recommendations 3(a) and 3(b).

These recommendations are as follows:

Recommendation 3(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 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 the 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.

Recommendation 3(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.

In June 2022, the Working Group noted that the study concludes that Finnish law needs to be changed in relation to issue (iii), to clarify that it does not matter for the offence whether a foreign public official is in fact in a position to influence the 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.

In December 2022, Finland was invited to report in June 2023 on concrete plan to address the issues identified in relation to the foreign bribery offence in the study, including concrete measures and a clear timeline, reflecting the urgency of the issue.

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

In Finland, regular training on bribery offences has been arranged for criminal investigation authorities, prosecutors and judges. The next training will be held from 30.-31.10.2023. The training programme has been designed to cover the issues mentioned in recommendation 3a. According to the preliminary programme,

- 1) detecting, identifying and exposing corruption offences
- 2) regulation of bribery offences, bribery offences of public officials and bribery in business life
- 3) an analysis of the case law (especially insofar as the study commissioned by the Ministry of Justice mentions) and the recommendations of the study carried out.
- 4) intent and the threshold for proving intent in bribery offences
- 5) Ministry of Justice report on the prevention of corruption in the municipal sector (identification of corruption, areas of crime in the administration and example cases)
- 6) abuse of influence (identification of the phenomenon and the key content of the relevant legislative project)

In order for the training to be as well as possible in line with the OECD recommendation, we have also requested a lecture from the OECD representative on the identification of corruption offences, the threshold for conviction and the content of the recommendations of the OECD Convention in this respect and possible practices. We have received a preliminary positive response to our request for a lecturer. The education programme is ready and currently being translated in English.

The training is organised so that so many criminal investigation authorities, prosecutors and judges can participate in it remotely. After the training, the training material will be available on the Internet and, if necessary, in writing.

Parliamentary elections were held in Finland at the beginning of April 2023, and the composition of the new Government and its action plan are currently being negotiated. Negotiations are still under way. The Ministry of Justice has proposed a new anti-corruption strategy for 2024-2027 in the new Government Programme. The current anti-corruption strategy will be in force until the end of 2023. The aim is to introduce into the new strategy the necessary legislative amendments concerning bribery offences. The proposal for the EU Anti-corruption Directive published by the EU on 3.5.2023 may necessitate a more extensive reform of the provisions on bribery offences in Finland, so it may be appropriate to make the changes at once. The OECD recommendation to Finland will be included in the necessary legislative amendments.

The Ministry of Justice is also preparing for possible amendments to the provisions on bribery offences by launching a new research project to examine in detail how the legislation should be amended technically. The call for tenders for universities was made in April 2023 and the decisions on the implementer of the research will be made in early June 2023 at the latest. The OECD recommendation to Finland is included in this invitation to tender.

If no action has been taken, please specify in the space below the measures you intend to take and the timing of such measures or the reasons why no action was taken:

PART II: REPORT ON FOREIGN BRIBERY-RELATED ENFORCEMENT ACTIONS

Please describe any development in the detection, investigation, prosecution and/or resolution of any foreign bribery-related case since December 2022, including those cases listed in the Matrix over which Finland has jurisdiction.

If no action has been taken, please explain why:

No new cases. Finland has requested cases mentioned in the Matrix to be deleted. Grounds for deletion requests have been explained in the separate deletion request formulas.

ADDITIONAL INFORMATION (Provided on 29 May 2023)**Concerning recommendations 3(a)&(b):**

- 1) Please provide, as soon as it becomes available in English, the preliminary program of the training that Finland is organising for October 2023.

Programme of the training is attached (file: Corruption crimes 30.-31.10.2023 Schedule.docx).

- 2) Has Finland already taken steps to reach out to the relevant training participants? If so, which participants have been specifically targeted (or will be targeted), and which steps have been taken?

Yes. The training is targeted to the judges and prosecutors. In addition, in the training can join 5 pre-trial investigators dealing with corruption cases in the Police and 3 pre-trial investigators from the Tax Administration.

The training has been advertised in the training programme of both the National Prosecution Authority and the National Courts Administration. It has also been displayed on the internal internet and in the registration system.

Prosecutors with completed basic training at the core of prosecutors' work have been selected from the prosecution side. No other separate criterion has been set for participation.

At the moment (29.5.) there are 17 judges and 11 prosecutors registered for the training.

- 3) Please provide, if already available, the draft anti-corruption strategy for 2024-2027. If the draft is not available yet, please provide the strategy as laid out in the government program, even if negotiations on the text are still on-going.

We haven't been able to start drafting the new strategy yet. The main decision on including the new strategy needs to be accepted first by the new Government. Ministry of Justice has proposed that a principle decision that drafting and implementing a new strategy will be included into the new Government's programme.

Attached you will see our proposal for the new Government, machine translation (see file: Government Programme Card MoJ proposal 2023 corruption).

- 4) Please indicate the timeline for the adoption of the anti-corruption strategy. Please also explain very briefly the adoption procedure (i.e. which institution submits the proposal, and which one adopts it).

The present Anti-Corruption Strategy is valid until the end of this year. The next strategy would be in force 2024-2027. We need first drafting and implementing of a new strategy to be included into the new Government's programme. When this is done, Ministry of Justice will prepare the strategy in a working group. As soon as the strategy will be ready, it will be sent to the Government to be accepted.

- 5) How will the new anti-corruption strategy address the fact that both (i) the legislative changes necessary to align with the EU framework and (ii) the results/conclusions of the research project commissioned by the Ministry of Justice will probably not be known yet when the strategy is adopted?

We will start drafting the new strategy as soon as it will be included into the Government's Programme. We can/will include all needed questions/actions into the new strategy with needed timetables and details.

Results of this new research project can be included into the new Anti-Corruption Strategy in the end of this year. Deadline for the research project results will be end of this year.

- 6) Please provide the language addressing the OECD recommendation in the Ministry's call for tenders for universities.

Attached, only in Finnish (see pdf-files; call for tender and explanation of the needed content).

- 7) Please indicate the timeline for the new research project (when are the results expected?).

Research project provider will be selected 12.6. Deadline for the results is 31.12.2023.

- 8) Please also indicate, when this information becomes available, who has been selected to implement the research project.

Finland will provide this information after 12.6.

Concerning enforcement of the foreign bribery offence:

- 9) In the report submitted for the WGB December 2022 plenary, Finland mentioned that resources for four new temporary vacancies had been given to the Police for bribery cases (3 for the National Bureau of Investigations and 1 for the Helsinki police). Has this new personnel been hired since then?

Yes, they were all hired. Two of those temporary vacancies have now been changed to be permanent (in the National Bureau of Investigation).