

**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 2024 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

Instructions

This document seeks to obtain information on the progress a participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer as completely as possible. Further details concerning the written follow-up process are in the [Phase 4 Monitoring Guide](#) (section C.1).

Personal data deriving from enforcement actions are made available to the Secretariat and lead examiners, and are not circulated to the Working Group.

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:	17 May 2024 (Complemented on 3 June 2024)

PART I: RECOMMENDATIONS FOR ACTION

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.

Text of 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.

***** Subsequent Working Group on Bribery decisions on this recommendation:**

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). 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 a 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.

In June 2023, Finland reported some progress made on legislative amendment plans, namely that the Ministry of Justice proposed to include in the Government Programme the adoption of a new anti-corruption strategy for 2024-2027, which should cover legislative amendments on foreign bribery, and commissioned a university research report on how legislation should be amended in practice. The Working Group invited Finland to report back in writing on concrete progress on the planned legislative amendments to address Phase 4 recommendation 3(a)(iii).

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

After the 2022 report conducted by the University of Lapland, Ministry of Justice commissioned another independent study on the Criminal Code provisions on bribery and foreign bribery offences, which will be published on the 31st of May, 2024. The study refers to the OECD phase 4 evaluation when stating an acute issue relating to foreign bribery regulation, as instances of foreign bribery have not been detected, investigated, or prosecuted in Finland since 2017. The study states that although these crimes fall under official charges, offenses related to actions primarily taking place abroad may not come to the attention of Finnish law enforcement or other anti-bribery authorities.

In a comprehensive legal case analysis, the study concludes with similar notes on the needs to reconsider the regulation than addressed in Phase 4 recommendation 3(a)(iii). The study notes, that:

- *Proving that a public official has become aware of a bribe or a promise of it is challenging; the threshold for proof is high, even though direct evidence of the facts at issue can rarely be proved (there have been circumstantial evidence in these cases).*
- *Fulfilment of bribery requires that the gift or benefit has been given for the actions of a public official in his or her employment relationship, i.e. the target of bribery must have a real opportunity to influence the issues that the briber seeks to influence, can proving this become a problem in the future?*
- *Trading in influence has not been criminalised in Finland. Would such criminalisation make it easier to intervene in acts committed especially through intermediaries or other persons? In this respect, attention must also be paid to the international obligations binding on Finland.*
- *The concept of a foreign public official is not interpreted in the same way as the concept of a Finnish public official. It would be justified to consider as a foreign public official a person who works in a company directly or indirectly owned by the State or in which the State holds majority ownership and who performs a key task for society, for example in the energy or defence sectors. If a person cannot be considered a foreign public official, should the provisions on bribery in business be applied?*

The study also proposes to change some of the wording of the regulations on acceptance of a bribe, giving of a bribe and bribery violation. The study suggested that by making such changes, it could be possible to address the challenges related to for example prosecuting and convicting regarding these crimes.

The analysis has also utilized a study report conducted by the Ministry of Justice, and the forementioned study by the University of Lapland, which focuses on the regulation related to bribery of foreign public officials. The conclusions made by the University of Lapland reported earlier to OECD, are reiterated in the new study, therefore giving a solid foundation and knowledge base for possible future considerations of legislative amendments.

At the moment, the preparation and updating of the next action plan of the national anti-corruption strategy will start in the beginning of June 2024.

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:

As mentioned, the study on the Criminal Code provisions on bribery and foreign bribery offences will be published on the 31st of May, 2024.

Next steps and possible amendments to the regulation are considered and implemented in relation to the EU-directive proposal on combatting corruption (currently negotiated in the EU council, possible national implementation could start during 2025 – spring / autumn). This concerns both the bribery and trading in influence offences.

Text of 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.

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

One of the objectives of the Action Plan for the Anti-corruption Strategy has been to raise awareness of bribery taking place abroad. Several training courses and seminars have charted foreign trade as a risk area for corruption. Raising awareness of the anti-corruption guide for SMEs has been discussed, for example, in the Fraud & corruption seminar, podcast and through press releases by the Ministry of Justice. Another objective of the Action Plan has been to ensure that public officials and elected officials participating in anti-corruption work have the necessary expertise in the prevention, prevention and investigation of corruption.

In 2020, 2021 and 2023, dedicated training (2 day training sessions) on corruption offences was organised for prosecutors, judges and police officers under the leadership of the National Prosecution Authority and the National Courts Administration. The number of participants and feedback on the training have been good. In 2023 – Finland invited an expert speaker from the OECD to participate in the training session.

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:

Ministry of Justice has applied and been granted (decision in the end of February 2024) funds from the EU Internal Security Fund. The project will start in autumn 2024. Part of the funding is targeted for planning and creating a national situation report of corruption for Finland. Another part is to plan and create an online course on corruption in accordance with this recommendation. Plans have already been discussed together with the Prosecution and courts administration, however funding has been missing. This project enables the MoJ and the relevant stakeholders to create this dedicated course that will be available for prosecutors, judges, the police when a corruption case occurs.

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 June 2023:**

The National Bureau of Investigation (NBI) has organised trainings on corruption / corruption crimes for all the police departments during 2023.

Whistleblower protection in relation to detection of foreign bribery-related cases:

Ministry of Justice has launched the Whistleblower Protection Training Project in September 2023. The goal of the project is to raise awareness and train government, public sector and private sector

organisations about the Whistleblower Protection Act. The trainings are offered to two different groups: 1) experts who are responsible of handling the reports in their organisation as well as leadership personnel; 2) all other personnel. Trainings for group 1 are more in-depth and extensive training sessions, and trainings for group 2 are more compact and specifically aimed for all potential reporters to improve their understanding and responsibility in reporting suspected wrongdoings. As a result, detection of foreign bribery cases may also improve. As of May 2024, the project's trainings and other awareness raising events have reached approximately 3,000 persons within Finnish government and public sector organisations. The project will last until end of April 2025.

Additionally, a dedicated section on Whistleblower Protection has been published at Ministry of Justice's www.anti-corruption.fi –websites. The mentioned section will be further complemented during the project. As a part of the project, a digital study course on Whistleblower Protection has been launched during March 2024 at eOppiva.fi. The course is open access and free of charge.

On cases - One foreign bribery investigation is ongoing.

If no action has been taken, please explain why: