



Brussels, 3.2.2014  
COM(2014) 38 final

ANNEX 4

**ANNEX**

**DENMARK**

*to the*

**EU Anti-Corruption Report**

---

# DENMARK

## 1. INTRODUCTION – MAIN FEATURES AND TRENDS

### *Anti-corruption framework*

**Strategic approach.** Denmark has a well-developed system of legislation, law enforcement and judicial authorities to deal with corruption,<sup>1</sup> although there is no national anti-corruption strategy. Few studies and statistical analyses have examined the nature or extent of corruption in Denmark.<sup>2</sup> The Danish International Development Agency (Danida) within the Ministry of Foreign Affairs has established procedures for reporting corruption, provided training on integrity issues and conducted corruption risk management.<sup>3</sup>

**Legal framework.** Danish criminal legislation covers all forms of corruption offences contained in the Council of Europe Criminal Law Convention on Corruption<sup>4</sup> and the Additional protocol,<sup>5</sup> except trading in influence.<sup>6</sup> In 2013, Parliament adopted legislative amendments intended to strengthen the prevention, investigation and prosecution of cases regarding economic crimes. As regards bribery, the maximum penalty for active bribery in the public sector increased from three years to six years. For bribery in the private sector and bribery of arbitrators, the maximum penalty increased from one year and six months to four years.<sup>7</sup> Access to information is regulated by law and anyone may access documents of any public administrative body.<sup>8</sup> In early 2013, draft legislation on access to information in the public administration was submitted to a committee in Parliament.<sup>9</sup> The new legislation would increase openness in the public administration and should make it easier to access documents.<sup>10</sup> During the public consultations, concerns were raised that parts of the new legislation would restrict the public's access to information in the legislative process.<sup>11</sup> The Danish Parliament adopted the law in June 2013. Denmark has not implemented the recommendations of the Council of Europe Group of States against Corruption (GRECO) aiming to improve the Danish regulation on financing of political parties, individual candidates and election campaigns.

**Institutional framework.** The Public Prosecutor for Serious Economic and International Crime is the main body responsible for investigating corruption, whose multidisciplinary team is composed

- 
- 1 Group of States against corruption (GRECO) second evaluation round report (2005) p. 15. The document is available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval2\(2004\)6\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval2(2004)6_Denmark_EN.pdf).
  - 2 Danish Statistics. 2011. Kriminalitet. Available from: <http://www.dst.dk/pukora/epub/upload/17949/krim.pdf> and Transparency International Danmark. National Integrity System Study Denmark (2012). Available from: [http://www.transparency.org/whatwedo/nisarticle/denmark\\_2012](http://www.transparency.org/whatwedo/nisarticle/denmark_2012).
  - 3 OECD Phase 3 Report on Implementing the OECD Anti-Bribery convention in Denmark. March 2013. p 47. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.
  - 4 Council of Europe Criminal Law Convention on Corruption (ETS 173).
  - 5 Council of Europe Protocol to the Criminal Law Convention on Corruption (ETS 191).
  - 6 Denmark has also made a reservation concerning this Convention in respect of Article 17 (jurisdiction). GRECO Third Evaluation Round Report – Compliance Report on Denmark, (2011) p. 6. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2011\)8\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2011)8_Denmark_EN.pdf).
  - 7 <https://www.retsinformation.dk/Forms/R0710.aspx?id=152268>.
  - 8 The Danish Access to Public Administration Files Act and the Danish Public Administration Act regulates general access to administrative information. GRECO Second Evaluation Round in 2005. p 8. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval2\(2004\)6\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval2(2004)6_Denmark_EN.pdf).
  - 9 Ministry of Justice. 2013. *L 144 Forslag til lov om offentlighed i forvaltningen*, Available from: <http://www.ft.dk/samling/20121/lovforslag/L144/index.htm#dok>.
  - 10 The law has been drafted on the basis of recommendations from a specially appointed commission, led by former Ombudsman Hans Gammeltoft-Hansen. Hans Gammeltoft-Hansen. 2009. '26 fremskridt – 5 tilbageskridt'. Available from: <http://www.aabenhedstinget.dk/26-fremskridt-5-tilbageskridt/>.
  - 11 OSCE media freedom representative concerned about proposed public information law in Denmark. Stockholm, 23 May 2013 – The OSCE Representative on Freedom of the Media, Dunja Mijatovi. Available from: <http://www.osce.org/fom/101841>. 86,000 signatures were also collected opposing the law.

of prosecutors and investigators. The Danish civil service is considered to have a high degree of integrity.<sup>12</sup> Due to Denmark's tradition of high ethical standards and transparency in public procedures, few formal rules regulating integrity and anti-corruption are in place in the public administration.<sup>13</sup> Denmark has a Code of Conduct for public officials since 2007.<sup>14</sup> The Code deals with practical aspects describing situations that may arise in the public administration including 'fundamental values and principles,' 'freedom of expression,' 'duty of confidentiality,' 'impartiality' and the 'acceptance of gifts.'<sup>15</sup> The Code has been distributed in public-sector workplaces, and information activities have been carried out in order to raise awareness about the Code. In 2007, The Ministry of Justice issued the brochure 'How to Avoid Corruption.' The brochure gives examples and interpretations of the Danish anti-corruption legislation.<sup>16</sup>

### *Opinion polling*

**Perception surveys.** Denmark is consistently ranked among the least corrupt countries in the EU. According to the special Eurobarometer on corruption in 2013, only 20 % of the Danish believe that corruption is widespread in their country (EU average: 76 %) and only 3 % of the Danish respondents felt personally affected by corruption in their daily life (EU average: 26 %). For both of these issues, Denmark is the highest placed country in the EU.

**Experience of corruption.** Fewer than 1 % were asked or expected to pay a bribe over the last 12 months (EU average: 4 %), and 12 % say they personally know someone who has taken bribes (EU average: 12 %).<sup>17</sup>

**Business surveys.** According to a Eurobarometer survey, 19 % of responding Danish managers<sup>18</sup> believe that favouritism and corruption hamper business competition in Denmark (EU average: 73 %). Only 4 % of the Danish businesses believe that corruption is a problem for their company when doing business (EU average: 43 %).<sup>19</sup>

In the area of public procurement, according to the 2013 Eurobarometer business survey on corruption,<sup>20</sup> 14 % of respondents consider that corruption is widespread in public procurement managed by national authorities and 20 % in public procurement managed by local authorities (the EU average is 56 % and 60 %). For both of these issues, Denmark is among the highest placed countries in the EU.

### *Background issues*

**Private sector.** As concerns the legal framework, Denmark has correctly transposed Framework Decision 2003/568/JHA regarding the definition of active corruption in the private sector and the

---

12 Transparency International Denmark. National Integrity System Study Denmark 2012. Executive summary. Available from: [http://www.transparency.org/whatwedo/pub/national\\_integrity\\_system\\_assessment\\_denmark\\_executive\\_summary](http://www.transparency.org/whatwedo/pub/national_integrity_system_assessment_denmark_executive_summary).

13 GRECO Second Evaluation Round, 2004. p 10. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval2\(2004\)6\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoEval2(2004)6_Denmark_EN.pdf).

14 The Code was prepared by the Agency for the Modernisation of Public Administration in cooperation with various ministries, public employers' and employees' organisations. The Code of Conduct for public officials is available from: <http://hr.modst.dk/Publications/2007/God%20adfaerd%20i%20det%20offentlige%20-%20Juni%202007.aspx>.

15 GRECO Second Evaluation Round, Addendum of the Compliance Report on Denmark. 2009. p 3. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC2\(2007\)2\\_Add\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC2(2007)2_Add_Denmark_EN.pdf).

16 Ministry of Justice. 2007, Undgå corruption: [http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/andre\\_publ/korruption/index.html](http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/andre_publ/korruption/index.html).

17 2013 Special Eurobarometer 397.

18 2013 Flash Eurobarometer 374.

19 2013 Flash Eurobarometer 374.

20 2013 Flash Eurobarometer 374.

penalties applicable to natural and legal persons.<sup>21</sup> On foreign bribery, the OECD Working Group on Bribery raised serious concerns about the lack of enforcement of the foreign bribery offence and that cases had been closed without adequate investigation or sufficient efforts to secure foreign evidence.<sup>22</sup> On the other hand, the OECD commended Denmark, among other things, for its efforts to raise awareness and to promote corporate social responsibility.

**Conflicts of interest and asset disclosure.** Danish Members of Parliament (MPs) are under no legal obligation to disclose their assets, nor are they subject to any other form of rules to monitor conflicts of interest. However, certain political parties demand that their MPs disclose their assets without any formal obligation; the control is exercised by the Parliament Presidium.<sup>23</sup> The Presidium also deals with cases of conflict of interest relating to ministers or MPs. Moreover, the Danish Parliament has set a positive example in improving the transparency of ministers' expenses through the 'openness scheme,' an agreement between political parties whereby ministers are encouraged to declare their monthly spending, travel expenses, gifts received and other relevant information of this kind.<sup>24</sup> On a voluntary basis, ministers also disclose their personal and financial interests on the Prime Minister's Office website.<sup>25</sup>

**Whistleblowing.** Denmark does not provide any comprehensive whistleblowing protection for employees in the public or private sector. Denmark's Code of Conduct for Public Servants<sup>26</sup> provides guidelines when public employees are entitled to freely disclose non-confidential information to the press and to other external partners.<sup>27</sup> The Danish Labour Code does not offer any protection against dismissal for private-sector employees reporting suspicions of bribery.<sup>28</sup> In 2009, the Ministry of Employment published an Explanatory Memorandum and a Code of Guidance with particular focus on whistleblowing and freedom of speech for private-sector employees.<sup>29</sup> The Code is not legally binding and therefore offers little legal recourse to whistleblowers.<sup>30</sup> As a consequence, the OECD Working Group on Bribery identified the need to improve the whistleblowing regime for employees in the public and private sector in Denmark.<sup>31</sup> The Government recently established a committee to examine the need for reform in this area.<sup>32</sup>

**Transparency of lobbying.** Lobbying is not regulated in Denmark. There is no specific obligation to register or report contacts between public officials and lobbyists. An American consultancy firm argued in a report from 2009 that access to Danish regulators is markedly easier than in other

---

21 COM(2011) 309 final, Second Implementation report of FD 2003/568/JHA of 6 June 2011: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0309:FIN:EN:PDF>.

22 OECD Phase 3 Report on Implementing the OECD Anti-Bribery convention in Denmark. March 2013. p 5. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.

23 Transparency International. National Integrity System Study Denmark 2012. Available from: [http://transparency.dk/wp-content/uploads/2011/12/19.1.12.\\_elektronisk\\_nis\\_final1.pdf](http://transparency.dk/wp-content/uploads/2011/12/19.1.12._elektronisk_nis_final1.pdf).

24 Politisk aftale mellem regeringen og Dansk Folkeparti, Socialdemokratiet, Socialistisk Folkeparti og Det Radikale Venstre om en ny åbenhedsordning om ministres udgifter og aktiviteter. Available from: [http://www.stm.dk/multimedia/Politisk\\_aftale\\_om\\_benhedsordningen.pdf](http://www.stm.dk/multimedia/Politisk_aftale_om_benhedsordningen.pdf).

25 [http://www.stm.dk/\\_a\\_1628.html](http://www.stm.dk/_a_1628.html).

26 According to the Code of Conduct, an employee can either consult the organisation for professional assistance or complain to the Parliamentary Ombudsman. p 37. The Code of Conduct for public officials is available from: <http://hr.modst.dk/Publications/2007/God%20adfaerd%20i%20det%20offentlige%20-%20Juni%202007.aspx>.

27 The Act on the Legal Relationship between Employers and Salaried Employees also deals with unfair dismissal and the provisions apply to both the public and private sector. But the provisions do not cover other forms of retaliation such as demotion and harassment. OECD Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Denmark. March 2013. p 46. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.

28 OECD Phase 2 Report on Implementing the OECD Anti-Bribery Convention in Denmark. 2006. p. 17. Available from: <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/36994434.pdf>.

29 [http://bm.dk/da~/media/BEM/Files/Dokumenter/Beskaeftigelsesomraadet/Arbejdsret/privatansattes\\_ytringsfrihed.ashx](http://bm.dk/da~/media/BEM/Files/Dokumenter/Beskaeftigelsesomraadet/Arbejdsret/privatansattes_ytringsfrihed.ashx)

30 OECD Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Denmark. March 2013. p. 46. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.

31 OECD Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Denmark. March 2013. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.

32 <http://www.justitsministeriet.dk/nyt-og-presse/pressemeddelelser/2013/regeringen-neds%C3%A6tter-udvalg-om-offentligt-ansattes>.

European markets.<sup>33</sup> Professional lobby groups in Denmark have requested a lobby register. However, the plans to set up such a register were recently abandoned by Parliament.

## 2. ISSUES IN FOCUS

### *Financing of political parties*

The Danish system of transparency of political financing at national level is regulated in the Accounts of Political Parties Act (APPA) and the Public Funding Act (PFA).<sup>34</sup> These two laws have been gradually amended and improved in recent years to provide more transparency of political funding; for example, political parties are obliged to report donations above EUR 2 700 and Parliament makes party accounts available to the public.<sup>35</sup>

Nevertheless, gaps still remain in the current legislation on the transparency of political party funding. For example, there are no limits on donations from abroad, from legal persons or from anonymous donors, and there are no restrictions on the amounts that may be donated.<sup>36</sup> This leaves the public with few means to assess possible links between private funding and policy decisions.

Political parties in Denmark at the national, regional and the local levels receive significant public funding from the State. Nonetheless, the limited regulation of private funding of political parties and individual party members combined with the lack of rules on lobbying, asset declarations and special regulations governing conflict of interest make the system potentially vulnerable to corruption.<sup>37</sup>

According to Transparency International, the limited transparency of private party financing is one of the biggest weaknesses of the Danish integrity system.<sup>38</sup> In a recent Global corruption barometer, the Danish respondents perceived political parties in Denmark to be one of the institutions most affected by corruption.<sup>39</sup> GRECO submitted nine recommendations to Denmark to improve the transparency of party funding.<sup>40</sup> After a discussion in the Danish Parliament, the Danish authorities saw 'no need for any measures to be taken in order to amend the current legislative framework of party financing.'<sup>41</sup> In its compliance report, GRECO described it as disappointing that nothing substantial had been achieved in respect to the recommendations even though compliance does not necessarily require legislative measures.<sup>42</sup> According to the Government Programme 'a Denmark that stands together,' the Government will set up an Expert Committee to make recommendations to improve transparency of financing of political parties.<sup>43</sup> In 2013, the Speaker of the Parliament initiated a review of the rules on party funding. The work is

33 The report is available from: <http://www.slideshare.net/Dianova/burson-marsteller-effective-lobbying-guide-in-europe>.

34 The two sets of legislations constitute the legal basis for transparency in respect of political financing. <https://www.retsinformation.dk/Forms/R0710.aspx?id=2409>. See also GRECO Third Evaluation Round in 2009. p 12.

Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)9\\_Denmark\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)9_Denmark_Two_EN.pdf)

35 GRECO Third Evaluation Round. Compliance Report. 2011, p. 7. Available from:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2011\)8\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2011)8_Denmark_EN.pdf).

36 GRECO Third Evaluation Round in 2009. p 11. Available from:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)9\\_Denmark\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)9_Denmark_Two_EN.pdf)

37 Transparency International. National Integrity System Study Denmark 2012. Executive summary. Available from:

[http://www.transparency.org/whatwedo/pub/national\\_integrity\\_system\\_assessment\\_denmark\\_executive\\_summary](http://www.transparency.org/whatwedo/pub/national_integrity_system_assessment_denmark_executive_summary)

38 Transparency International. National Integrity System Study Denmark 2012. English summary. Available from: [http://transparency.dk/?page\\_id=1258](http://transparency.dk/?page_id=1258).

39 The Transparency International Global Corruption Barometer 2013 showed that 30% of the Danish respondents felt that political parties were corruption/extremely corruption. Available from:

<http://www.transparency.org/gcb2013/country/?country=denmark>.

40 GRECO Third Evaluation Round in 2009. p 16-17. Available from:

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)9\\_Denmark\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)9_Denmark_Two_EN.pdf).

41 GRECO Third Evaluation Round Report – Compliance Report on Denmark. 2011. p. 6-7.

42 GRECO Third Evaluation Round Report – Compliance Report on Denmark, 2011. p. 6-7.

43 Government Programme. A Denmark that stands together, 9 October 2011. p76. Available from:

[http://www.stm.dk/publikationer/Et\\_Danmark\\_der\\_staar\\_sammen\\_11/Regeringsgrundlag\\_okt\\_2011.pdf](http://www.stm.dk/publikationer/Et_Danmark_der_staar_sammen_11/Regeringsgrundlag_okt_2011.pdf).

still in an incipient stage and GRECO has therefore not yet received information regarding the content of the reform.<sup>44</sup> The need to improve the transparency of the financing of political parties and individual candidates was recently debated in Parliament.<sup>45</sup>

### **Foreign bribery**

Denmark has a number of firms with a worldwide customer base, mainly in the sectors of machinery and instruments, meat and dairy products, pharmaceuticals, and wind turbines. Denmark's trade with and investment in emerging economies are relatively low but are expected to increase.<sup>46</sup> Although the Eurobarometer 2013 shows that only 4 % of Danish people within the business community believe that corruption is a problem when doing business in Denmark, the lowest out of all 28 countries,<sup>47</sup> another survey shows that almost half of Danish companies believe they have to bribe or break formal rules if they want to do business in certain countries such as Brazil, Russia, India or China.<sup>48</sup> Civil society representatives in Denmark have confirmed this perception.<sup>49</sup>

Efforts have been made to raise awareness of and to prevent foreign bribery and to promote corporate social responsibility and the Danish authorities and business organisations have issued several guidelines and policy documents.<sup>50</sup>

### **Good practices: preventing foreign bribery**

*The Mediation and Complaints-Handling Institution for Responsible Business Conduct is the OECD's National Contact Point in Denmark. The Institution is part of the government's '2012-2015 Action Plan' for Corporate Social Responsibility<sup>51</sup> and has the power to initiate investigations and to take a decision regarding breaches of the OECD's Multinational Enterprises Guidelines.<sup>52</sup>*

*The Corporate Social Responsibility compass is a free online tool available to companies that can help companies and sub-suppliers to implement responsible supply chain management and to document and live up to environmental standards, human rights and workers' rights etc.<sup>53</sup>*

44 GRECO Third Evaluation Round Report – Second Interim Compliance Report on Denmark. 2014. P 5. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2013\)11\\_Second%20Interim\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)11_Second%20Interim_Denmark_EN.pdf).

45 § 20-spørgsmål S 347 Om økonomisk partistøtte. Available from: <http://www.ft.dk/samling/20131/spoergsmaal/S347/index.htm>.

46 OECD Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Denmark. March 2013. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.

47 The Eurobarometer special surveys on attitudes of Europeans towards corruption 2013 are available from: [http://ec.europa.eu/public\\_opinion/archives/eb\\_special\\_en.htm](http://ec.europa.eu/public_opinion/archives/eb_special_en.htm).

48 Det Glemte o-rige. The Trade Council. Udenrigsministeriet. 0113. p.31. Available from: <http://ipaper.ipapercms.dk/Udenrigsministeriet/Eksportfokus/Eksportfokus012013/?Page=31>.

49 GRECO Third Evaluation Round in 2009. p 11. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)9\\_Denmark\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)9_Denmark_Two_EN.pdf).

50 These guidelines and policy documents are: (1) Ministry of Justice booklet 'How to Avoid Corruption'; (2) Confederation of Danish Industries publication 'Avoid Corruption'; (3) Danish Trade Council's Anti-Corruption Policy; (4) Danish Investment Funds Anti-Corruption Guidelines; and (5) Danida's Anti-Corruption Code of Conduct. Danida's Code was replaced in 2011 by the Ministry of Foreign Affairs' Anti-Corruption Policy. OECD Phase 3 Report on Implementing the OECD Anti-Bribery convention in Denmark. March 2013. p.14. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>

51 Responsible growth. Action Plan for Corporate Social Responsibility 2012-2015. Available from: [http://csrgov.dk/file/318420/uk\\_responsible\\_growth\\_2012.pdf](http://csrgov.dk/file/318420/uk_responsible_growth_2012.pdf).

52 Annual Report on the OECD Guidelines for Multinational Enterprises 2012. The Report is available from: <http://www.oecd.org/daf/inv/mne/2012annualreportontheguidelinesformnes.htm>; <http://oecdwatch.org/news-en/oecd-watch-welcomes-denmark2019s-strengthened-ncp>.

53 The CSR Compass is available from: <http://csrcompass.com/about-csr-compass>.

*The Danish Ministry of Foreign Affairs (MFA) has undertaken a range of activities to raise awareness of corruption among its employees. The new MFA Anti-Corruption Policy includes an Anti-Corruption Code of Conduct applicable to all employees working in the MFA in Copenhagen, at the Danish embassies, representative offices, the Trade Commission and to advisers and consultants employed by the MFA. The purpose of the new Code is to prevent corruption within the Danish aid delivery system, to prevent corruption in the use of development aid and to help combat corruption in countries receiving Danish support.*<sup>54</sup>

Despite these efforts, the OECD's Working Group on Bribery expressed the concern that only one foreign bribery allegation out of 13 has resulted in prosecution and sanctions.<sup>55</sup> The charges against this company were resolved out of court. Under the settlement, the company admitted to committing private corruption, which is a less serious offence than foreign bribery.<sup>56</sup> The Danish authorities have also concluded 14 cases of sanctions evasions and breaches of the UN embargo on Iraq relating to the UN Oil-for-Food programme. These cases did not result in court verdicts, as the statute of limitations had expired; however, the proceeds of the offences were confiscated.

Denmark has a system of sanctions for legal persons committing foreign bribery; they are subject to fines which are set taking into account for example the company's turnover. In the case referred to above, the defendant paid EUR 335 000 in fines, and a further EUR 2.7 million were confiscated in the out-of-court settlement. However, these sanctions appear to be low compared to the value of the bribe, which was EUR 760 000, and of the contract won by the defendant, EUR 109 million.

Moreover, the OECD Working Group on Bribery reports that the absence of prosecutions raises concern over whether sufficient inquiries have been made before cases were closed, whether Danish authorities rely too much on investigations by foreign authorities and whether adequate efforts have been made to secure foreign evidence and co-operation. GRECO has reported that the precondition of dual criminality for prosecuting bribery offences significantly limits Denmark's score to fight corruption committed in certain foreign states.<sup>57</sup> GRECO believes that this legal requirement sends the wrong message regarding Denmark's commitment to fight corruption in a determined manner.

Finally, the GRECO report refers to 'double standards' in the Danish legislation with regard to the use of 'certain token gratuities' or facilitation payments to a foreign public official.<sup>58</sup> A facilitation payment is a payment of small sums of money or small gifts to public employees performing tasks, for example, processing a passport or issuing a permit.

Danish legislation makes it clear that any form of undue advantage is covered by the provision of bribery of domestic and foreign public officials. However, it appears from the preparatory works

---

54 The Danish Ministry of Foreign Affairs' new Anti-Corruption Policy was approved by the Ministry's management in 2011. The new policy and anti-corruption code of conduct replaces Danida's Anti-Corruption Code of Conduct from 2008 on which it to a large extent is based. The document is available from:  
<http://uganda.um.dk/en/~media/Uganda/Documents/English%20site/Danidaframeworktopreventandfightcorruption.pdf>.

55 Of the remaining 12 cases, nine cases have been terminated without prosecution while three are ongoing. OECD Phase 3 Report on Implementing the OECD Anti-Bribery convention in Denmark. March 2013. p 8. Available from:  
<http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>

56 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. OECD Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Denmark. March 2013. p 9. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.

57 The precondition of dual criminality means that Danish residents cannot be prosecuted for bribery offences committed abroad if the offence is not punishable in the foreign State. Moreover, Danish courts may not apply sanctions that are more severe than those applicable under the law of the foreign state. GRECO Third Evaluation Round Report, Theme I. 2009. p 15. Available from: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)9\\_Denmark\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)9_Denmark_One_EN.pdf).

58 GRECO Third Evaluation Round. Compliance Report. 2011, p. 3:  
[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2011\)8\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2011)8_Denmark_EN.pdf).

of the provisions on bribery in the Criminal Code that facilitation payments to a foreign public official cannot be precluded in certain countries, taking into consideration local customs and laws. The Ministry of Justice in 2007 clarified further in a booklet that facilitation payments will always be undue, and thus constitute a criminal offence in connection with international business relations, if the purpose is to induce a foreign public employee to breach his or her duties.

Nonetheless, the OECD Working Group on Bribery reports that the facilitation payment defence lacks clarity and thus encouraged Denmark to ensure that the defence should be clearly defined, legally binding and consistent with Article 1 of the OECD Anti-Bribery Convention.<sup>59</sup>

### 3. FUTURE STEPS

Denmark is among the EU's top performers in terms of transparency, integrity and control of corruption. Several international surveys show that corruption is not considered to be a problem in Denmark, either by the Danish themselves or by international experts. As there are only few corruption cases in Denmark, the issue does not feature prominently on the political agenda. Some room for improvement remains, however, especially with regards to the financing of political parties and the framework for prosecuting and sentencing Danish corporations on grounds of foreign bribery.

The following points require further attention:

- Further strengthening preventive action regarding **party funding** by giving consideration to GRECO recommendations to improve the transparency and supervisory mechanisms for the financing of political parties and individual candidates.
- Pursuing the efforts for **fighting foreign bribery** by: raising the level of fines for corporations and legal entities; consider reviewing the provision of dual criminality in respect of foreign bribery offences and ensuring that the small facilitation payment defence is clearly defined, legally binding and consistent with the OECD Anti-Bribery Convention.

---

<sup>59</sup> Article 1 of the OECD Convention reads: Each Party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business. OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. OECD Phase 3 Report on Implementing the OECD Anti-Bribery convention in Denmark. March 2013. p 15. Available from: <http://www.oecd.org/daf/anti-bribery/Denmarkphase3reportEN.pdf>.