

DENMARK

● Limited enforcement

0.8% of global exports

Investigations and cases

In the period 2016-2019, Denmark opened 10 investigations, commenced no cases and concluded no cases.

The largest case of bribery abroad investigated by the Public Prosecutor for Serious Economic and International Crime (SØIK) was against the Danish company **Hempel AS**, which produces paint for ships. After the German authorities began an investigation of Hempel in 2016, Hempel conducted an internal investigation and self-reported to the SØIK in 2017 about illegal sales practices in Germany and other countries in Europe and Asia.¹ In 2019, together with its German subsidiary **Hempel (Germany)**, it entered settlements with both Danish and German authorities, involving payment of DKK220 million (US\$33.7 million) in fines to the Danish authorities.² There is no public information about whether this case involved bribery of foreign public officials or only private-to-private bribery, therefore this case has not been counted for the purposes of this report.

In 2017, the World Bank Sanctions Board debarred Danish company **Consia Consultants APS** in relation to the alleged bribery of government

officials in Indonesia and Vietnam.³ This led to an investigation by the Danish police, but no charges have been filed.⁴ Danish financial institutions have been the subject of allegations in connection with serious money laundering cases in recent years.⁵ **Danske Bank** and **Nordea Denmark** were reported to be involved in global corruption and bribery scandals, with more than €200 billion (US\$228 billion) in suspicious transactions reportedly passing through the banks.⁶ They have been under investigation in a number of jurisdictions, including Denmark, Estonia, Germany, the UK and the United States.⁷

Several foreign bribery allegations against major Danish companies have been widely reported in the media. **Maersk**, the world's largest shipping company, is being investigated by Brazil's *Lava Jato* Taskforce for allegedly paying US\$3.4 million in bribes related to 11 shipping contracts with Petrobras, worth more than US\$140 million.⁸ Construction company **Burmeister & Wain Scandinavian Contractor (BWSC)** has been accused of bribery in relation to tender processes in West Africa and has reported two of its employees to the police in Denmark.⁹ The Danish Development Finance Institute co-financed the BWSC projects in West Africa. In June 2020, BWSC was debarred for 21 months by the African Development Bank based on its conclusion that the company was likely to have engaged in fraudulent and corrupt practices in relation to a power generation project in Mauritius.¹⁰ The company **FLSmidth**, which provides services to the mining and cement industries, has

¹ <https://www.seatrade-maritime.com/europe/hempel-fires-four-german-bribery-scandal>; <https://fcablog.com/2019/03/05/danish-coatings-maker-resolves-global-bribe-case/>

² <https://www.hempel.com/news/2019/hempel-annual-report-2018-press-release>

³ <https://www.worldbank.org/en/news/press-release/2017/04/05/world-bank-debars-consia-consultants-aps-for-14-years>

⁴ https://development-today.com/archive/2017/dt-4--2017/world_bank_corruption_report_kicks_off_danish_police_investigation_of_consia

⁵ https://www.finanstilsynet.dk/Nyheder-og-Prese/Pressemeddelelser/2019/Hvid_rapport_090519

⁶ <https://www.occrp.org/en/poy/2018/>

⁷ <https://www.reuters.com/article/us-deutsche-bank-raid/german-authorities-raid-deutsche-bank-over-danske-scandal-idUSKBN1WA11X>

⁸ <https://www.reuters.com/article/us-brazil-petrobras-corruption/brazil-expands-car-wash-graft-probe-into-petrobras-shipping-contracts-idUSKBN1YM19M>

⁹ https://m.energywatch.eu/article/11206963;file:///C:/Users/gdell/AppData/Local/Temp/BWSC-press-release-breach-of-companys-code-of-conduct_06FEB2019_ENG-1.pdf; <https://www.capital-media.mu/2020/06/press-release-bwsc-settles-whistleblower-case-with-african-development-bank/>

¹⁰ <https://www.afdb.org/en/news-and-events/press-releases/integrity-development-projects-african-development-bank-debars-burmeister-wain-fraudulent-and-corrupt-practices-35995>

been accused of bribery in Tunisia.¹¹ Danish beer company **Carlsberg** has been accused by a whistleblower (a former employee) of making more than 200 bribery payments in India between 2015 and 2016.¹²

Recent developments

In recent years, the Prosecutor's Office (SØIK) received a significant budget increase, with resources for 2019 amounting to DKK104.7 million (US\$16 million) and 217 staff.¹³ However, this is primarily an increase intended for money laundering investigations.¹⁴ Political will to significantly increase the resources for combatting foreign bribery has not been demonstrated.

In June 2017, the Danish Parliament adopted the new Danish Anti-Money Laundering Act.¹⁵ An August 2017 review by the Financial Action Task Force (FATF) criticised Denmark for lacking a national anti-money laundering policy and for failing to commit adequate resources to combatting money laundering. It urged the country to "do more to properly assess and understand the risks it is exposed to".¹⁶ The review has reportedly triggered a response by Denmark, including allocation of more resources and greater cooperation.¹⁷ In March 2018, the government published a national strategy for combatting money laundering and financing of terrorism for 2018-2021.¹⁸

Also in 2018, Denmark adopted an amendment to the Penal Code increasing the prison terms for

money laundering from a maximum of six years to eight years, and expanding the scope of the criminal offence so that it also deals with some pre-crimes and criminalises so-called "self-laundering".¹⁹

Transparency of enforcement information

Denmark does not publish statistics on foreign bribery investigations or cases, nor does it publish statistics on requests for mutual legal assistance (MLA) made and received.

Important Danish court decisions are published in the official judicial journal, *Ugeskrift for Retsvæsen*,²⁰ which can be accessed either via a fee-paying subscription or from public libraries. Copies of court decisions can be obtained for a fee from the relevant court if the person requesting knows the case number.²¹ However, the public is not informed of cases opened or concluded, which makes it challenging to follow them. Likewise, the public may request information on penalty notices issued to a company, but not a natural person, under a settlement, but as the public is not informed of settlements, this is also somewhat redundant.²²

Beneficial ownership transparency

There is a public central register of beneficial ownership of companies in Denmark – the Central Business Register – as required by the 5th EU Anti-Money Laundering Directive. Since July 2018, it has

¹¹ <https://finans.dk/erhverv/ECE11916642/flsmidth-er-involveret-i-sag-om-korruption-for-225-mio-kr/?ctxref=ext;>
<https://finans.dk/erhverv/ECE11977320/flsmidth-gav-medarbejdere-frit-lejde-i-korruptionssager/?ctxref=ext;>

<https://finans.dk/erhverv/ECE11964117/bagmandspolitiet-korruptionssagen-i-flsmidth-er-foraeldet/>

¹² <https://www.businesstoday.in/current/corporate/carlsberg-india-bribed-govt-officials-for-favours-danish-newspaper-berlingske/story/379565.html>

¹³ Email of 20 August 2019 from SØIK to Transparency International Denmark.

¹⁴ Agreement between the government (Venstre, Liberal Alliance and the Conservative People's Party) and the Social Democrats, the Danish People's Party, the Radical Left and the Socialist People's Party, "Strengthening efforts against financial crime", Copenhagen, 2019,

https://www.regeringen.dk/media/6607/aftale-om-styrkelse-af-indsatsen-mod-finansiel-kriminalitet-270319_endelig.pdf

¹⁵ [http://www.bechbruun.com/-/media/Files/Viden-center/Nyhedsbreve/Finans+og+kapitalmarked/2017/Den+nye+hvidvasklov+uk_web+\(2\).pdf](http://www.bechbruun.com/-/media/Files/Viden-center/Nyhedsbreve/Finans+og+kapitalmarked/2017/Den+nye+hvidvasklov+uk_web+(2).pdf)

¹⁶ <http://www.fatf-gafi.org/media/fatf/documents/re-ports/mer4/MER-Denmark-2017.pdf>

¹⁷ <https://www.bloomberg.com/news/articles/2018-05-16/u-s-sanctions-head-of-hezbollah-in-joint-action-with-qatar-jh9ilw52>

¹⁸ <http://www.ft.dk/samling/20171/almdel/REU/bi-lag/258/1885338.pdf>

¹⁹ <https://www.ft.dk/samling/20171/lovforslag/l147/index.htm>

²⁰ <https://dab.dk/node/119>

²¹ The fee is 175 Danish kroner (US\$27).

²² <http://www.oecd.org/daf/anti-bribery/Denmark-Phase-3-Written-Follow-Up-Report-EN.pdf>

not been possible to register a company or a trust in Denmark without registering its beneficial owners.²³ If a company fails to register its beneficial owners, the sanction of compulsory dissolution can be applied by a court.

Inadequacies in legal framework

Danish anti-bribery legislation still does not cover trading in influence. Although it has been encouraged to do so by the OECD WGB, Denmark has not increased the maximum sentence for false accounting offences in the Criminal Code.²⁴ Regarding corporate liability, the OECD WGB raised substantial concerns in its Phase 3 Follow-up Report in 2015 about “prosecutorial guidelines that reduced the basis for imposing corporate liability”, noting that Denmark planned to issue new guidelines.²⁵ However, no new guidelines have been issued to date.

Denmark has no specific laws to protect whistleblowers. The new EU Directive on Whistleblower Protection is expected to significantly improve the situation of whistleblowers in Denmark when it is finally transposed. No steps have been taken to establish a clear framework for out-of-court settlements in Denmark.²⁶ The country has also not yet been successful in getting Greenland and the Faroe Islands to agree to be parties to the OECD Anti-Bribery Convention.

The European Council noted in 2019 that “preventing money laundering and terrorism financing has become a priority for Denmark against the background of a large money-laundering scandal involving the largest financial institution in Denmark. [...] However, challenges remain and the financial supervisor still needs to adopt additional measures and guidelines to strengthen supervision in these areas”.²⁷

According to the 2019 FATF Follow-up Report on Denmark, progress has been made in anti-money laundering efforts, but there are still some

shortcomings.²⁸ These include the fact that financial institutions and designated non-financial businesses or professions are not clearly required to take enhanced measures to mitigate their risks, and it is not clear that there are formal requirements to monitor internal controls or take measures to mitigate identified high risks. Financial supervisors such as the Danish Supervisory Financial Authority are also not yet authorised to issue administrative penalty notices, meaning they still have limited powers to enforce their own orders.²⁹

Inadequacies in enforcement system

The amount of resources allocated to enforcement of the legislation on bribery of foreign public officials has not increased since 2018, which means that SØIK has also not increased the number of prosecutors or investigators working on bribery of foreign officials.

Denmark has also not issued any official guidance on self-reporting for individuals or legal persons.

Recommendations

- Improve transparency of enforcement information concerning foreign bribery
- Formulate an overall strategy, an action plan and a monitoring framework for more effective implementation of legislation related to combatting bribery of foreign officials
- Adopt holistic whistleblower protection legislation which covers both EU and non-EU regulated policy areas
- Extend foreign bribery legislation to cover Greenland and the Faroe Islands
- Establish a permanent structure within the national authorities to act as the lead institution for implementing this strategy
- Impose significantly higher fines on companies for bribery and introduce other sanctions for natural and legal persons, such as debarment
- Allocate significantly more human and financial resources to investigation and prosecution of bribery of foreign public officials
- Ensure that the police and SØIK have the necessary

²³ <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/5amld-patchy-progress/>

²⁴ <http://www.oecd.org/daf/anti-bribery/Denmark-Phase-3-Written-Follow-Up-Report-EN.pdf>

²⁵ <http://www.oecd.org/daf/anti-bribery/Denmark-Phase-3-Written-Follow-Up-Report-EN.pdf>

²⁶ <http://www.oecd.org/daf/anti-bribery/Denmark-Phase-3-Written-Follow-Up-Report-EN.pdf>

²⁷ COM/2019/504 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1560258090909&uri=CELEX%3A52019DC0504>

²⁸ <http://www.fatf-gafi.org/countries/d-i/denmark/documents/fur-denmark-2019.html>

²⁹ <http://www.fatf-gafi.org/countries/d-i/denmark/documents/fur-denmark-2019.html>

tools and methods to investigate and prosecute foreign bribery, including, if necessary, to raise the level of penalty to allow the use of special investigative techniques, such as office and home searches • Ensure that the Danish Development Finance Institution has effective and transparent anti-corruption compliance procedures and practices • Ensure effective supervision and the enforcement of the anti-money laundering framework.