

# NORWAY

## Moderate enforcement

0.6% of global exports

### Investigations and cases

In the period 2016-2019, Norway opened two investigations, commenced no cases and concluded two cases with sanctions.

In 2017, **Yara International ASA**'s former chief legal officer was sentenced on appeal to seven years in prison in connection with bribery in India and Libya. Three other Yara executives were acquitted.<sup>1</sup> The company had reached a landmark settlement with the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) in 2014.<sup>2</sup>

In an appeal by a former sales manager for **Kongsberg Defence Communications**, the Court of Appeals confirmed in 2019 his conviction for misappropriation of funds, money laundering and tax evasion. The court increased his jail term to four years and eight months, (with two years conditional) and confirmed confiscation of around NOK15 million (US\$1.6 million).<sup>3</sup> In February 2014, Økokrim had charged **Kongsberg Gruppen ASA** and **Kongsberg Defence & Aerospace AS** with

corruption related to deliveries of communications equipment to Romania in the period 2000-2008, but dropped those charges in 2016, instead charging the former sales manager.<sup>4</sup> Økokrim alleged that the accused had paid out about US\$22 million to consultants or agents without their performing any real work, and used secret bank accounts in Switzerland.<sup>5</sup> The case reportedly involved a Romanian general and Romania's intelligence agency.

In the **VimpelCom** case, in 2017 Økokrim dropped its two-year investigation of the former CEO.<sup>6</sup> In a global foreign bribery resolution with the US Department of Justice and the Netherlands Public Prosecution Service, the company and its wholly owned Uzbek subsidiary admitted to paying more than US\$114 million to Uzbek officials to enable them to enter and remain in the Uzbek telecommunications market.<sup>7</sup> VimpelCom was part-owned by **Telenor**, a company in which the Norwegian government is a majority stakeholder.

In 2018, Økokrim dismissed charges brought in 2015<sup>8</sup> and closed its investigation into suspicions that employees of **Sevan Drilling**, a subsidiary of **Sevan Marine**, had paid bribes to secure billion-dollar contracts with Petrobras.<sup>9</sup> Sevan Marine had self-reported in 2015 after internal investigations indicated potential misconduct by employees and potential payments of more than US\$140 million to offshore accounts in Monaco, Panama, Switzerland and the British Virgin Islands.<sup>10</sup>

<sup>1</sup> <https://www.reuters.com/article/us-yara-intl-corruption/former-yara-ceo-acquitted-of-corruption-legal-chief-convicted-idUSKBN13R0YF>; <https://www.occrp.org/en/daily/5982-norway-american-executive-sentenced-to-seven-years-for-bribery>

<sup>2</sup> <http://www.oecd.org/corruption/anti-bribery/Norway-Phase-4-Report-ENG.pdf>; <https://www.tnp.no/norway/economy/4769-biggest-corruption-trial-in-norway-continues-india-libya-yara-bribe>; <https://www.dn.no/nyheter/naringsliv/2014/05/15/Korrupsjon/rederiet-klaveness-funnet-skyldig-i-korrupsjon>

<sup>3</sup> <https://www.nettavisen.no/na24/skjerpet-straff-for-kongsberg-direktor/3423589094.html>

<sup>4</sup> <https://www.kongsberg.com/newsandmedia/news-archive/2016/okokrim-drops-the-corruption-case-against-kongsberg/>; <https://www.reuters.com/article/kongsberg-gruppe-fraud/update-1-norway-police-to-prosecute-former-kongsberg-executive-clears-company-idUSL8N1AX1BR>

<sup>5</sup> <https://www.newsenglish.no/2017/08/31/trial-starts-over-corruption-at-kongsberg/>

<sup>6</sup> <https://www.bloomberg.com/news/articles/2015-11-05/norwegian-police-arrest-former-vimpelcom-ceo-jo-lunder-nrk-says>; <http://www.norwaynews.com/norway-drops-case-against-former-vimpelcom-ceo/>

<sup>7</sup> <https://www.justice.gov/opa/pr/vimpelcom-limited-and-unitel-llc-enter-global-foreign-bribery-resolution-more-795-million>

<sup>8</sup> <https://www.newsenglish.no/2015/10/19/rig-firm-charged-with-corruption/>; <https://www.marinelink.com/news/petrobras-drilling437208>; <https://www.complianceweek.com/sevan-marine-self-reports-bribery-probe/11619.article>

<sup>9</sup> <https://www.offshore-energy.biz/sevan-drilling-off-the-hook-in-petrobras-bribery-probe/>

<sup>10</sup> <https://politica.estadao.com.br/noticias/geral,noruega-investigapropina-em-contratos-com-petrobras,70002291132>; <https://www.newsenglish.no/2015/10/19/rig-firm-charged-with-corruption/>; <https://www.newsenglish.no/2016/03/25/former-sevan-director-arrested-in-portugal/>

Norwegian authorities were reported in 2019 to be investigating whether **DNB**, the country's largest bank, broke any laws in its handling of payments from an Icelandic fisheries company to Namibian officials between 2011 and 2018.<sup>11</sup> The investigation appears to have been triggered by Wikileaks' publication of "the Fishrot Files" and investigations by Icelandic media.<sup>12</sup>

Other Norwegian companies have also been caught up in the Operation *Lava Jato* investigations in Brazil, but there is no information about investigations by Norwegian authorities. **Viken Hull**, a Brazilian subsidiary of **Viken Shipping**, was charged in Brazil with paying US\$400,000 to officials of Transpetro, a Petrobras-owned shipping company, in exchange for contracts. **Noroil** was charged in Brazil with paying nearly US\$3 million in bribes in exchange for contracts with Transpetro. In both cases, bribes were allegedly shared between officials and politicians.<sup>13</sup>

## Recent developments

Amendments to the Norwegian whistleblower protection legislation entered into force in January 2020, clarifying the circumstances where whistleblowing protections are applicable and giving employers more responsibility to act when reports of irregularities are presented. A new Anti-Money Laundering Act entered into force in October 2018, transposing the 4th EU Anti-Money Laundering Directive.

## Transparency of enforcement information

Publication of data on foreign bribery enforcement is limited. The UN Convention against Corruption first cycle review of Norway in 2013 concluded that "Norway is encouraged to adapt its information system to allow it to collect data and provide more

nuanced and detailed statistics on corruption offences".<sup>14</sup> There are no statistics on mutual legal assistance (MLA) requests made or received.

Court decisions are available on request to the relevant court, and online access to Supreme Court decisions is available to everyone free of charge via Lovdata.no. The full text of all court decisions on corruption can be accessed by subscribers.<sup>15</sup> Final and accepted penalty notices are not public documents but may be published based on specific considerations in each case. Transparency International Norway also publishes a collection of all corruption cases, which it updates on an annual basis.<sup>16</sup>

## Beneficial ownership transparency

There is currently no central register of beneficial owners of companies in Norway. In February 2019, the Norwegian Parliament passed legislation to establish beneficial ownership registration in Norway, but the Act has not entered into force and further regulation is pending. Once completely set up, the register is expected to be a fully open, continuously updated register of beneficial owners of all forms of companies that are incorporated or have activity in the country.<sup>17</sup>

## Inadequacies in legal framework

The OECD WGB, in its 2018 Phase 4 Review of Norway, raised concerns about the new Penal Code's provisions on jurisdiction, especially nationality jurisdiction over foreign bribery, which may be limited to acts that are "also punishable under the law of the country in which they are committed".<sup>18</sup> An amendment to the Penal Code proposed by the Ministry of Justice and Public

<sup>11</sup> <https://www.reuters.com/article/us-namibia-iceland-dnb/norwegian-police-probe-bank-dnb-over-namibia-fisheries-scandal-idUSKBN1Y21XA>

<sup>12</sup> <https://stundin.is/grein/9920/an-icelandic-fishing-company-transferred-70-million-dollars-through-a-tax-haven-in-norways-largest-bank/>

<sup>13</sup> <http://www.mpf.mp.br/pr/sala-de-imprensa/noticias-pr/forca-tarefa-do-mpf-pr-ja-ofereceu-14-denuncias-em-2019;>  
<https://newsbeezer.com/norwayeng/accused-of-paying-bribes-to-norwegian-companies-in-brazil-corruption-act/>

<sup>14</sup> <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1388733e.pdf>

<sup>15</sup> [www.lovdata.no](http://www.lovdata.no)

<sup>16</sup> [http://transparency.no/wp-content/uploads/Domssamling2019\\_web\\_.pdf](http://transparency.no/wp-content/uploads/Domssamling2019_web_.pdf)

<sup>17</sup> <https://www.pwc.nl/assets/documents/the-ubo-register-update-december-2019.pdf>

<sup>18</sup> <http://www.oecd.org/corruption/anti-bribery/Norway-Phase-4-Report-ENG.pdf>

Security to address this problem was passed by Parliament and entered into force on 1 July 2020.<sup>19</sup>

Meeting the burden of proof set forth in the Penal Code, as amended by the 2003 anti-corruption legislation, has been especially difficult, owing to the frequent use of third parties (agents), offshore jurisdiction payments and complex legal person structures. As noted by the OECD WGB in 2018, there is also a lack of clarity about the extent to which companies may be held liable for the acts of intermediaries, including for offences committed on behalf of foreign subsidiaries.<sup>20</sup> Likewise, there is lack of clarity about the scope of corporate liability for offences committed through the operations of related entities, such as subsidiaries and joint ventures.

The Ministry of Justice and Public Security has commissioned a study to assess and revise regulations on corruption and develop new proposals to address issues concerning corporate liability.<sup>21</sup> However, the government initiative to introduce the necessary framework has been delayed. Such a framework would also address the OECD WGB's observation in 2018 that "high priority should be attached to clarifying the application of penalty notices and the use of mitigating factors".

## Inadequacies in enforcement system

As the amounts of fines and confiscation penalties imposed for foreign bribery are not calculated in a fully transparent manner, they risk not being sufficiently dissuasive. More information should be provided on the application of penalty notices and the use of mitigating factors. Despite guidance issued to prosecutors, there is also not enough information to allow companies to fully understand their obligations under the law, and the procedures for self-reporting in the context of foreign bribery.<sup>22</sup> There is insufficient coordination among law enforcement authorities, including the Financial Intelligence Unit.

## Recommendations

- Improve data collection and publish statistics on foreign bribery enforcement
- Fully establish the

central register of beneficial ownership information

- Approve legislation further cementing the liability of companies for the offences committed by intermediaries
- Improve the system for non-trial resolution of bribery cases
- Improve coordination among law enforcement authorities, including the Financial Intelligence Unit, to fully engage and use all available resources, including intelligence, against foreign bribery
- Provide better information on how penalties (fines) are calculated.

<sup>19</sup> <https://stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=79326>

<sup>20</sup> <http://www.oecd.org/corruption/anti-bribery/Norway-Phase-4-Report-ENG.pdf>

<sup>21</sup> <https://www.regjeringen.no/no/aktuelt/skal-se-pa-reglene-om-foretaksstraff-og-korrupsjon/id2603117/>

<sup>22</sup> <http://www.oecd.org/corruption/anti-bribery/Norway-Phase-4-Report-ENG.pdf>