

SWEDEN

Moderate enforcement

1.1% of global exports

Investigations and cases

In the period 2016-2019, Sweden opened 11 investigations, commenced two cases and concluded one case with sanctions.

Criminal charges were filed in 2017 against **Telia Company's** former CEO Lars Nyberg and two other former company executives concerning alleged bribery of a local partner in Uzbekistan between 2007 and 2010 in connection with Telia's entry into the Uzbek telecom market.¹ The trial began in September 2018 and resulted in acquittals.² The prosecution reportedly failed to prove that the daughter of the President of Uzbekistan, who allegedly received the bribes, could be held liable for taking bribes.³

Bombardier case acquittal – World Bank steps in

In 2017, Swedish officials charged an employee of **Bombardier Transportation Sweden AB**, the rail division of Canadian **Bombardier Inc**, with bribing a public servant in Azerbaijan to win a procurement in 2013 for a new rail signalling system, with a contract value of around US\$350 million.⁴ The case ended with an acquittal in 2017, which was reportedly appealed by the Swedish prosecutor. According to Reuters, "Two contracts, obtained by Swedish Television's investigative program⁵ program

Uppdrag Granskning and News Agency TT and shared with the Organized Crime and Corruption Reporting Project (OCCRP) and the Canadian Broadcasting Corporation, show Bombardier Sweden selling equipment to **Multiserv Overseas**, which then sells the identical equipment back to Bombardier's Azerbaijan affiliate for an inflated price. As an intermediary, Multiserv made a profit of [US]\$85.8 million in the deal. The money was then channeled offshore." In 2019, Bombardier disclosed that it had received a show-cause letter from the World Bank's investigative unit in connection with the financial institution's audit of the Azerbaijan contract. The project, which was awarded to a consortium led by Bombardier, was heavily financed by the World Bank.⁶

The single case concluded with sanctions in September 2016 was brought against two managers of a small Swedish company providing translation services. Based on information provided by Swiss enforcement authorities, the two were charged with bribing a World Intellectual Property Organisation procurement official with payments with a total value of €850 (US\$993) for a spa treatment, champagne and other "leisure costs" in connection with a weekend event.⁷ It ended with conviction and a fine for one manager and acquittal of the other, with the acquittal upheld on appeal in 2017.

In December 2019, Sweden's Prosecution Authority initiated a preliminary investigation into possible bribery by employees of telecoms group **Ericsson**. Earlier that month, Ericsson agreed to pay more than US\$1 billion to resolve investigations by the US Department of Justice (DoJ). It admitted to conspiring with others to violate the US Foreign Corrupt Practices Act between 2000 and 2016 by engaging in a scheme to pay bribes and to falsify its books. A subsidiary, **Ericsson Egypt Ltd**, pleaded guilty for its role in the scheme. The DoJ said in a

¹ <https://www.reuters.com/article/telia-verdict/update-2-swedish-court-acquits-former-telia-ceo-in-uzbekistan-bribery-probe-idUSL5N20A2VF?il=0>

² <https://www.occrp.org/en/daily/9260-swedish-telecom-boss-acquitted-in-uzbekistan-bribery-probe>

³ <https://www.reuters.com/article/telia-verdict/update-1-swedish-court-acquits-former-telia-ceo-in-uzbekistan-bribery-probe-idUSL5N20A2VF>

⁴ <https://www.bnnbloomberg.ca/bombardier-worker-in-sweden-charged-with-aggravated-bribery-1.833302>

⁵ <https://www.reuters.com/article/telia-appeal/swedish-prosecutor-appeals-ex-telia-ceos-acquittal-in-uzbekistan-bribery-case-idUSL5N20V176>; <https://de.reuters.com/article/bombardier-appeal/swedish-prosecutor-appeals-bombardier-employee-acquittal-idUKFWN1N00FY>

⁶ <https://www.reuters.com/article/bc-finreg-canada-corruption-concerns-idUSKCN1T62JG>

⁷ <http://www.oecd.org/corruption/anti-bribery/The-Detection-of-Foreign-Bribery-ENG.pdf> page 139 Some information also provided by Swedish authorities.

press release that “Ericsson’s corrupt conduct involved high-level executives and spanned 17 years and at least five countries... [T]hrough slush funds, bribes, gifts and graft, Ericsson conducted telecom business with the guiding principle that ‘money talks’”.⁸

Sweden’s Economic Crime Authority (ECA) announced in April 2019 that it would not initiate a preliminary investigation after a notification by Hermitage Capital Management in relation to alleged money laundering through Swedbank accounts of funds originating in Russia.⁹ However, in March 2020, the Swedish Financial Supervisory Authority issued **Swedbank** with a warning and fined it SEK4 billion (US\$410 million) due to serious deficiencies in its management of the money laundering risk in its Baltic operations.¹⁰

Recent developments

In November 2019, the Swedish Parliament approved a legislative reform package on corporate liability that increased the amount that companies can be fined, including in relation to foreign bribery, from SEK10 million (US\$1 million) to SEK500 million (US\$50 million).¹¹ The reform allows prosecutors to

levy fines of up to SEK3 million (US\$318,000) without initiating legal proceedings, if they can prove that an individual acting for the company has committed a criminal offence. The law also removes a prerequisite that prosecutors must secure the conviction of a company employee who took part in a scheme before pursuing the company. It further states that fines against companies will not constitute a criminal conviction.¹² Adoption of the legislative reforms was pending when the OECD WGB sent a High-Level Mission to Sweden in June 2019 to urge legal reform, because Sweden’s legal provisions to hold companies accountable for foreign bribery did not meet the requirements of the OECD Anti-Bribery Convention.¹³

As reported in the *Exporting Corruption* Report 2018, Sweden passed the Act on Special Protection against Victimisation of Workers who Sound the Alarm about Serious Wrongdoings (Whistleblowing Act) in 2016.¹⁴ In June 2019, the government announced that a Commission of Inquiry would propose how the EU Whistleblower Protection Directive should be implemented into Swedish law.¹⁵ The Commission presented a comprehensive report on 29 June 2020, which calls for a new whistleblower protection law in Sweden.¹⁶

⁸ The Swedish authorities are understood to have assisted the US when the investigation was opened, <https://www.justice.gov/opa/pr/ericsson-agrees-pay-over-1-billion-resolve-fcpa-case>; <https://uk.reuters.com/article/uk-usa-ericsson-sweden/sweden-opens-ericsson-bribery-probe-after-u-s-settlement-paper-idUKKBN1YG246?il=0>

<https://www.svt.se/nyheter/ekonomi/svensk-forundersokning-mot-ericsson-1>

<https://globalinvestigationsreview.com/article/1212130/sweden-investigates-ericsson-over-bribery>

⁹ <https://www.ekobrottsmyndigheten.se/press/nyheter/2019/4/ekobrottsmyndigheten-inleder-inte-forundersokning-efter-anmalan-om-penningtvatt-i-swedbank/>

¹⁰ <https://www.fi.se/en/published/sanctions/financial-firms/2020/swedbank-receives-a-warning-and-an-administrative-fine-of-sek-four-billion/>

¹¹ “Decision – Stricter Criminal Penalties Against Companies”, with effect as of 1 January 2020, https://www.riksdagen.se/sv/dokument-lagar/arende/betankande/skarpta-strafrattsliga-sanktioner-mot-foretag_H701JuU10, <https://globalinvestigationsreview.com/article/1212289/swedish-companies-to-face-larger-penalties-for-foreign-bribery> and <https://www.regeringen.se/4adaff/contentassets/f8880c89e0a34aa5abe49d37e9f59608/skarpta-strafrattsliga-sanktioner-mot-foretag-prop.-201819164>

¹² This is allegedly because the government did not consider it clear that to do so would improve the efficiency of the system, and thought it could disrupt the fundamental principles of Swedish criminal law.

¹³ <https://www.oecd.org/corruption/sweden-must-urgently-implement-reforms-to-boost-fight-against-foreign-bribery.htm>

¹⁴ *Lag (2016:749)*, In 2017, this was added to by the Act on the Protection of Whistleblowers in Certain Specific Sectors, *Lag (2017:151)*, which addresses whistleblower protection in privately run institutions in the health care, education and elderly care sectors, that are partially or fully publicly funded.

¹⁵ <https://www.government.se/government-policy/labour-law-and-work-environment/2016749-act-on-special-protection-for-workers-against-reprisals-for-whistleblowing-concerning-serious-irregularities/>

<https://www.regeringen.se/rattsliga-dokument/kommitteredirektiv/2019/06/dir.-201924/>

<https://www.dataguidance.com/sweden-establishing-corporate-criminal-activity-may-prove-difficult-whistleblowing-act/>

<https://www.aklagare.se/om-oss/organisation/visselblasarfunktion-pa-aklagarmyndigheten/>

¹⁶ <https://www.regeringen.se/49f2d1/contentassets/8da2073fda1645ec946ca4eca8bd6b6a/okad-trygghet-for-visselblasare-sou-2020-38.pdf>

The Anti-Money Laundering Act came into force in 2017 to implement the 4th EU Anti-Money Laundering Directive.¹⁷

Transparency of enforcement information

There are no official statistics on foreign bribery enforcement. The Police Anti-Corruption Unit provides information on investigations on request, including a breakdown by year. The statistics department of the Swedish Prosecution Authority was only able to provide its own general “statistics on suspicions of crime” relating to active bribery, domestic and foreign.¹⁸ Updated statistics regarding mutual legal assistance requests are generally not published. Statistics are sometimes reported by individual agencies, such as in the ECA 2018 annual report.

Court decisions in Sweden are not published, but are available on request from the courts, and some court decisions are available from subscription-based databases. Prior to providing a court decision, the court makes a secrecy assessment and may conclude that certain information should not be disclosed, e.g. to protect an individual or public interests. Other forms of case resolutions are not published. However, since 2017, the Swedish Anti-Corruption Institute (*Institutet Mot Mutor*), an independent organisation, has published reports about bribery cases in Sweden.¹⁹

Beneficial ownership transparency

There is a central register of beneficial ownership information, accessible to the public. A new Law on Beneficial Ownership was passed in 2017 and has since been amended, most recently in 2019.²⁰ The majority of Swedish companies, associations and legal entities must register beneficial ownership information with the Swedish Companies Registration Office.²¹ Newly registered companies and associations must register beneficial ownership information within four weeks of their registration date.²² Trusts must be registered if they are managed from Sweden, and are therefore included in the register.²³ The register is publicly available.²⁴

Inadequacies in legal framework

The whistleblower protection regime has improved, but remains flawed. The 2016 Whistleblowing Act only regulates whistleblowers’ right to damages in the event of retaliation by an employer. The original 2014 proposal for the law offered a more complex legal framework by also protecting the whistleblower’s identity and requiring employers to facilitate the reporting of misconduct.²⁵

The 2017 Anti-Money Laundering Act did not implement all aspects of the 4th and 5th EU Anti-Money Laundering Directives, especially issues regarding supervision and sanctions for law firms and members of the Swedish Bar Association.²⁶

Sweden has yet to update its law on dual criminality, which means that to be prosecuted, an offence has to be a crime under the law of the country in which it was allegedly committed, as well as under Swedish

¹⁷ Lag (2017:630)

¹⁸ *Brottsmisstankestatistiken för brottskod 1708 givande av muta*

¹⁹ <https://www.institutetmotmutor.se/english/> ; <https://www.institutetmotmutor.se/rattsfallsbank/>

²⁰ Lag (2017:631)

²¹ *Bolagsverket*. <https://bolagsverket.se/en>

²² <https://bolagsverket.se/om/oss/fler/verklig-huvudman>
<https://bolagsverket.se/en/us/about/beneficial-ownership-register>
https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2017631-om-registrering-av-verkliga_sfs-2017-631

²³ <https://bolagsverket.se/en/us/about/beneficial-ownership-register>

²⁴ <https://bolagsverket.se/pb/etjanster/verklig-huvudman/sok>; <https://bolagsverket.se/en/us/about/beneficial-ownership-register>

²⁵ <https://www.dataguidance.com/sweden-establishing-corporate-criminal-activity-may-prove-difficult-whistleblowing-act/>

²⁶ <https://www.anti-moneylaundering.org/europe/sweden.aspx>

<https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32018L0843>

<http://rkrattsbaser.gov.se/sfsr?bet=2017:630>

law.²⁷ This means Swedish prosecutors could fail, on jurisdiction grounds, to act against Swedish companies that bribe abroad in countries where bribery is not a crime.

There continues to be no legal basis for settlements or plea bargaining.²⁸

Inadequacies in enforcement system

The enforcement system is generally sound, and the main concern of whistleblower protection has been addressed. Nevertheless, there continue to be concerns about the low number of foreign bribery investigations and cases, suggesting that foreign bribery enforcement is not proactively pursued by the Swedish authorities.

Recommendations

- Establish a comprehensive database of statistics on foreign bribery investigations and other information on foreign bribery cases, in order to enhance information accessibility
- Introduce a legal framework for settlements and plea bargaining, as a channel to hold companies to account for wrongdoing and resolve foreign bribery cases without resorting to a full trial or administrative proceeding
- Strengthen the Whistleblowing Act to include protection of the whistleblower's identity and requiring employers to facilitate the reporting of misconduct
- Review the provisions on dual criminality
- Develop provisions requiring companies to take preventive measures, with a view to achieving modern and effective bribery legislation, including enacting a new law on liability for legal persons.

²⁷ Swedish Penal Code

²⁸ There is an ongoing Commission of Inquiry on this point <https://www.regeringen.se/rattsliga-dokument/kommittedirektiv/2019/11/dir.-201985/>