



ORGANISATION POUR LA COOPERATION ET LE
DEVELOPPEMENT ECONOMIQUES



UNITE DE LUTTE CONTRE LA CORRUPTION
DIRECTION DES AFFAIRES FINANCIERES, FISCALES ET
DES ENTREPRISES

SWEDISH IMPLEMENTING LEGISLATION IN REFERENCE TO THE OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS OF DECEMBER 17, 1997

(Official translation; Source: Swedish authorities)

LAGTEXT EU-BEDRÄGERIER OCH KORRUPTION

2 Law text

The Government proposes the following law text.

2.1 Proposal for a law on changes in the Penal Code

Prescribed herewith concerning the Penal Code

in part that Chapter 2 Section 5 a, Chapter 17 Sections 7 and 17, and Chapter 20 Sections 2 and 5 shall have the wording given below,

in part that a new Section, Chapter 9 Section 3 a, be inserted in the law with the wording given below.

Chapter 2 Section 5 a

If the question of responsibility for an act has been determined by a judgement that has acquired legal force pronounced in a foreign state in which the act was committed or in a foreign state that has acceded to any of the agreements named in the fourth paragraph, the accused may not be prosecuted for the same act in the Realm:

1. if he has been acquitted;
2. if he has been found guilty of the crime without a sanction being imposed;
3. if the sanction imposed has been enforced in its entirety or enforcement is in process; or
4. if the sanction imposed has lapsed under the law of the foreign state.

The first paragraph shall not apply to a crime referred to in Section 1 or Section 3, points 4, 6 or 7 unless legal proceedings in the foreign state were instituted at the request of a Swedish authority or following the extradition of the person from Sweden for legal proceedings.

If the question of responsibility for an act has been determined by a judgement pronounced in a foreign state and no impediment to legal proceedings exists by reason of what has been previously stated

in this Section, prosecution for the act may only be undertaken in the Realm by order of the Government or a person authorized by the Government.

The agreements referred to in the first paragraph are

1. The European Convention of 28 May 1970 on the International Validity of Criminal Judgements;
2. The European Convention of 15 May 1972 on the Transfer of Proceedings in Criminal Matters;
3. The Convention of 26 July 1995 on the Protection of the European Communities' Financial Interests, but only if the act falls under the agreement;
4. The Protocol of 27 September 1996 to the Convention on the Protection of the European Communities' Financial Interests, but only if the act falls under the agreement ;
5. The Convention of 26 May 1997 on the Fight against Corruption Involving Officials of the European Communities or of Member States of the European Union, but only if the act falls under the agreement.

If a crime has been committed partly in the Realm and partly also on the territory of the member state in which the judgement was pronounced, the provisions of the first paragraph are applicable if the act falls under the agreements referred to in the fourth paragraph, points 3-5.

Chapter 9 Section 3 a

A person who, in conflict with instructions or conditions, uses a contribution or exploits a benefit financed through or in some other way affecting the budget of the European Communities for a purpose other than that for which the contribution or benefit was granted, shall be sentenced for *misuse of subsidy* to a fine or imprisonment for at most two years. If the crime is petty, no punishment shall be imposed.

Chapter 17 Section 7

A person who, to

1. an employee,
2. a person referred to in Chapter 20, Section 2,
3. a minister of a foreign state, a member of the legislative assembly of a foreign state or a member of a body of a foreign state which corresponds to those referred to in Chapter 20, Section 2, second paragraph, point 1, or
4. a person who without holding an employment or assignment as aforesaid, exercises public authority in a foreign state,

gives, promises or offers a bribe or other improper reward, whether for himself or any other person, for the exercise of official duties, shall be sentenced for *bribery* to a fine or imprisonment for at most two years.

Section 17

In certain cases of bribery, a public prosecutor may prosecute only if the employer or principal of the person exposed to the bribery reports the crime for prosecution or if prosecution is called for in the public interest. This applies to bribery that has taken place in relation to a person who

1. is not an employee of the state or a municipality;
2. does not fall under the provisions of Chapter 20, Section 2, second paragraph, points 1-4 or 6 and
3. is not a minister of a foreign state or member of the legislative assembly of a foreign state.

Chapter 20

Section 2

An employee who, whether for himself or any other person, receives, accepts a promise of or demands a bribe or other improper reward for the performance of his duties shall be sentenced for *taking a bribe* to a fine or imprisonment for at most two years. The same shall apply if the employee committed the act before obtaining the post or after leaving it. If the crime is grave imprisonment for at least six months and at most six years shall be imposed.

The provisions of the first paragraph in respect of an employee shall also apply to:

1. a member of a directorate, administration, board, committee or other such body attached to the State, or to a municipality, county council, association of local authorities, parish, religious society or social insurance office;
2. a person who exercises an assignment regulated by statute;
3. a person falling under the Law on Disciplinary Offences by Members of the Armed Forces (Law 1994:1811) or other person performing an official duty prescribed by law;
4. a person who, without holding an employment or assignment as aforesaid, exercises public authority, and
5. a person who, in a case other than that falling under points 1-4, by reason of a position of trust has been given the task on another person's behalf of
 - (a) managing a legal or financial matter,
 - (b) carrying out a scientific or similar investigation,
 - (c) independently handling an assignment requiring qualified technical knowledge,
 - (d) exercising supervision over the management of the tasks designated in (a), (b) or (c), and
6. a member of the European Commission, the European Parliament, or the European Court of Auditors or judges of the European Court of Justice.

Section 5

A prosecutor may, without hindrance of other provisions which may exist, prosecute crimes through which an employee of the state or a municipality or other person referred to in Section 2 second paragraph, points 1-4, has neglected his obligations in the exercise of his employment or assignment.

However, notwithstanding the provisions of the first paragraph, the following shall apply:

1. the provisions of this Code specifying that prosecution may not take place without the authority of the Government or a person empowered by the Government and
2. the provisions of any other statute or statutory instrument concerning prosecution of an act for which a punishment may be imposed only if the act is committed by a holder of an employment or assignment as defined in the first paragraph.

If a crime of taking a bribe has been committed by a person not falling under the provisions of the first paragraph or of Section 2 second paragraph, point 6, a prosecutor may undertake a prosecution only if the crime is reported for prosecution by the employer or principal or if prosecution is called for in the public interest.

Unless otherwise prescribed for a given case, a prosecutor may prosecute a breach of professional confidentiality redounding to the benefit of an aggrieved person only if the latter reports the crime for prosecution or prosecution is called for in the public interest.

Prosecution of crimes committed in the exercise of employment or assignment by a Member of Parliament, Minister, Judge of the Supreme Court, Judge of the Supreme Administrative Court, or holder of an appointment or assignment with the Parliament or its bodies is the subject of separate provisions.

This law enters into force on 1 July 1999.

2.2 Proposal for a law on a change in the Law on Municipal Taxation (Law 1928:370)

Prescribed herewith that Section 20 of the Law on Municipal Taxation shall have the following wording.

Section 20

In reckoning income from special income sources, all costs incurred during the taxation year for the acquisition and maintenance of income are to be subtracted from the total takings in money or monetary worth (gross takings) which have been paid into the source of income during the taxation year.

Deductions may not be made for:

(enl Charlotte Lönnheims brev 990628 skall uppräknade undantag ej översättas. Jag översätter bara det som har skrivits i kursiv)

expenses for bribery or other improper reward.
(See further instructions).

This law enters into force on 1 July 1999 and is thereafter applicable in the matter of expenses.