

Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

GERMANY

(Information as of 19 April 2004)

Date of deposit of instrument of ratification/acceptance or date of accession

Germany ratified the Convention on 10 November 1998.

Implementing legislation

The implementing legislation contained in the Act on Combating Bribery of Foreign Public Officials in International Business Transactions of 10 September 1998 (Federal Law Gazette [Bundesgesetzblatt] Part II p. 2327, Annex 1) entered into force together with the Convention on 15 February 1999.

The general approach of this Act is to provide for the equal treatment of the offences of bribing domestic and foreign public officials and parliamentarians. Prior to the new legislation, only bribery of domestic public officials and parliamentarians had been punishable. A separate offence has been created for the bribery of foreign Members of Parliament and members of parliamentary assemblies of international organisations.

Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations

Legislation implementing the European anti-corruption instruments, notably the Second Protocol to the Convention for the Protection of the Financial Interest of the European Union as well as the European Joint Action on bribery in the private sector, was adopted by Parliament and came into force on 30 August 2002. The law contains amendments to the Criminal Code, extending the domestic private bribery offence to international bribery, as well as to the Regulatory Offences Act, extending the provisions on sanctioning of legal persons and providing for higher fines.

The adoption of the Second Protocol to the Convention for the Protection of the Financial Interest of the European Union and of the EU Bribery Convention was finalised and published in the Official Gazette in October 2002. The Second Protocol to the Convention for the Protection of the Financial Interest was ratified on 5 March 2003 and the EU Bribery Convention was ratified on 8 October 2003.

Other information

Reporting duties incumbent on authorities

On principle, all public administration staff are subject to the duty to report instances of suspicion of corruption within the administration. The finance authorities are under a statutory duty to report all facts substantiating the suspicion of commission of a criminal offence.

Relevant Internet links to national implementing legislation

Selected Laws in English:

<http://www.iuscomp.org/gla/>

Federal Laws in German:

http://www.gesetze-im-internet.de/bundesrecht/GESAMT_index.html

Texts on Corruption Prevention:

<http://www.bmi.bund.de/downloadde/19573/Download.pdf>

Signature of other international instruments

Germany has signed the Civil and the Criminal Law Convention on Corruption of the Council of Europe, the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

Working Group on Bribery Monitoring Reports

Phase 1: Review of Implementation of the Convention and 1997 Recommendation

<http://www.oecd.org/dataoecd/14/1/2386529.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions

<http://www.oecd.org/dataoecd/52/9/2958732.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions

<http://www.oecd.org/dataoecd/8/44/35927070.pdf>