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Is your business particularly prone to corruption risk?

More than a year has passed since the revised Swedish bribery legislation entered into force 1 July 2012. During the past year anti-corruption has been a hot topic in the media and at the same time, the awareness of and actions against corruption has increased within the Swedish judicial system. On the whole, it seems that the focus on corruption has increased in Sweden and for many companies and public authorities it is important to review their risks and their risk management. In order to make the best possible assessment, it is advisable that the risk assessment is based on the specific internal and external risks faced by the business in question. A report published by the Swedish National Council for Crime Prevention (Sw: Brottsförebyggande rådet, hereinafter "Brå") in July this year, "The reported corruption in Sweden - Structure, risk factors and countermeasures," (Sw: "Den anmälda korruptionen i Sverige – Struktur, riskfaktorer och motåtgärder") (Report 2013:15) ("the Brå report"), may thereby serve as guidance. In the report industries and situations which are particularly exposed to corruption are identified. Elisabeth Eklund, partner, and Sofia Karlsson, associate, comment below on the report and finally give some advice on important measures for anti-corruption work.

The scope of the Brå report

As the title indicates, the Brå report assesses the reported corruption in Sweden, i.e. the corruption which has been detected and reported. The report is based on cases received by the National Anti-Corruption Unit (Sw: Riksenheten mot korruption), i.e. the unit within the Swedish Prosecution Authority dealing with suspected bribes in Sweden. Between the years 2003 to 2011 the unit investigated 684 cases in total which are now closed, in addition to 1284 alleged corruption cases. The report cannot be said to provide a complete picture of the corruption in Sweden but still it provides a valuable indication of circumstances that could lead to corruption and what industries and sectors that are particularly vulnerable. Below is a brief description of some conclusions from the report. A full version of the report is available [here](#) (only available in Swedish).

Taking of bribe, mostly in the public sector – giving of bribe, mostly in the private sector
Corruption is often described as "abuse of power" in the sense that an individual who receives a bribe often finds himself or herself in such a position that he/she can abuse the power of that position in order to benefit his/her own interests. In line with this description the Brå report shows that the typical bribe-taker is an individual who either

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has a powerful position as manager or otherwise through his/her expertise or position has the opportunity to influence decisions in his/her professional capacity. According to the report, the bribe-taker is often someone within the public sector while the bribe-giver is most often a private person or a representative from a company in the private sector.

One-fifth of the cases relate to “business to business” corruption

A common and erroneous perception is that the legislation on bribery does not apply to transactions in the private sector and thus, bribery is not actualized in so-called “business to business” transactions between two private companies. Important to note is however that the legislation on bribery also applies to bribery and other improper actions within the private sector. The fact that corruption occurs even in the private sector is also evident in the Brå report which shows that a fifth of the reviewed cases concern corruption in the private sector. The tendency to report crimes has in our view historically been much lower within the private sector but with more and more companies (and authorities) applying so-called whistleblowing systems for employees to anonymously report irregularities such as bribery, such notifications and investigations can be expected to be more common in the future.

The bribe-giver as well as the bribe-taker is usually a middle-aged man in a white-collar position

According to the Brå report, the most common bribe situation is a private individual or a private company bribing a public servant of the state, a municipality or a county council. Among the cases received by the National Anti-Corruption Unit middle-aged men in official positions dominate as both the bribe-giver and the bribe-taker.

Three industries are described as particularly vulnerable to corruption

According to the report three business sectors are particularly vulnerable to corruption: the construction industry, the manufacturing/wholesale industries and the retail industry. The construction industry, which is in other reports described as having problems with white collar crimes, stands out even among the cases received by the National Anti-Corruption Unit. Nearly a third of the alleged bribe-givers are from the construction industry.

Our experience is that some companies in these industries have taken these issues seriously and have worked hard to adopt more efficient and business specific compliance programs as well as implemented training of management and employees in order to prevent corruption.

Public procurement is a particular risk

In the Brå report, public procurement is identified as a particular risk for corruption. Examples mentioned in the report are major public procurements in areas such as infrastructure, education and official buildings, or regarding local services such as

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garbage collection and real estate maintenance. These large public procurements are often of a high value, there are many competitors involved and for some companies the procurement is of critical importance to be able to continue its business. These factors may lead to a desire to influence the procurement and it thus increases the risk of corruption in this context.

As part of the risk assessment it is important to note that with the revised legislation there was a tightening in relation to particularly public procurement situations. A company where a representative has been convicted for corruption is also at risk – in addition to other penalties – to be excluded from upcoming procurements under the public procurement legislation.

Simple bribes of low value are most common

The Brå report shows unsurprisingly that the most common bribes rarely involves particularly complex transactions with high values, intermediaries and foreign accounts. Such cases exist but are often related to other crimes and thus are investigated by other investigative units than the National Anti-Corruption Unit. In three out of five cases received by the National Anti-Corruption Unit the bribe only consists of an economic value in the form of a cash payment. The bribes are often of relatively low values, rarely exceeding a thousand Swedish kronor (about 120 EUR), and are offered by individuals in exchange for various types of favorable decisions, such as building permits or licenses. Quite common are also bribes that can be said to have both an economic value and a personal value, such as a journey, a technical product or an experience.

The big cities dominate the statistics

When it comes to how the corruption is spread around the country, the Brå report shows that crimes related to corruption are most common in the three metropolitan areas in Sweden. Stockholm dominates the statistics (45 %) followed by Skåne (11 %) and Västra Götaland (10 %). Although metropolitan areas dominate, the report shows that corruption occurs over virtually the whole country. In this regard it can also be mentioned that 43 of the cases received by the National Anti-Corruption Unit has some kind of international connection. Of these cases, the private sector accounts for almost two-thirds (63 %). The cases concerns different situations such as Swedish employees who have been offered bribes from foreign suppliers and Swedish citizens working abroad who allegedly have given bribes in the country of employment.

Concluding remarks – recommendation for the anti-corruption work

Overall, the Brå report shows that there are problems related to corruption in Sweden and these must of course be taken seriously and handled with. This report should be seen as an important contribution to the work of taking actions against corruption; this by outlining areas of risk and risk factors and increase the awareness about this within the municipal departments, public authorities and private companies. The hope is obviously that increasing knowledge and awareness lead to that preventive measures

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against corruption are taken to a larger extent and thus, reduce the corruption within the society. Meanwhile, businesses in the industries identified as critical in the report should be aware that they are particularly likely to be subject to review in the future.

It is in our experience essential to take preventive measures in the form of business-specific compliance programs to reduce the risks of corruption in an organization. Compliance programs should consist of practical guidelines for management and employees combined with training to educate about the basic rules about giving and taking of bribes and related crimes, learn to recognize risky situations, discuss different scenarios and experiences and find common solutions on how to handle certain business activities from an anti-corruption perspective. This should be done for the purpose of raising the awareness for these matters within the organization and also to guide employees how to act in different situations. To implement a compliance program may also be a good course of action for a company or authority in order to set even higher standards than the legislation with regard to certain business practices which the organization does not want to be associated with although they might be legal. A compliance program also provides an opportunity to establish good procedures for how the organization shall respond if something improper occurs, such as in the event an employee or the company itself would be accused of being involved in corruption. Implementation of a business specific compliance program will certainly require investments in time and money, but it should be remembered that the alternative could be much more expensive, especially taking into account the risks of badwill. It is according to our experience of great importance that the company's management "practice what it preaches" and that the organization continuously follow-up and discuss these issues.



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