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Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest rrant and the surrender procedures between Member States, O.J. L 190, 7.2002, p. 1 (EAW); Framework Decision 2003/577/JHA of 22 July 2003 on the cution in the European Union of orders freezing property or evidence, O.J. L , 2.8.2003, p. 45 (FFWD); Framework Decision 2005/214/JHA of 24 February 05 on the application of the principle of mutual recognition to financial penalties, . L 76, 22.3.2005, p. 16 (FPFWD); and Framework Decision 2006/783/JHA of ctober 2006 on the application of the principle of mutual recognition to confisca- orders, O.J. L 328, 24.11.2006, p. 59 (CFWD). See further the author's doctoral sertation "The principle of mutual recognition in cooperation in criminal matters study of the principle in four framework decisions and in the implementation slation in the Nordic Member States," defended on February 18, 2011 in Bergen, way.

E.g., section 9(b) of chapter 31 in the Finnish Code of Judicial Procedure relat- to reversing final judgments in situations where extradition is not possible for all tences in a joint sentence.

See the Finnish EU Extradition Act 1286/2003 and EU Freezing Act 540/2005 as l as the Swedish EU Surrender Act 2003:1156 and EU Freezing Act 500/2005.

The Danish Execution Act 1434/2004, which implements the FFWD, FPFWD, l CFWD.

See the Finnish implementation by reference of the FPFWD by Act 231/2007 l the CFWD by Act 222/2008.

See section 5 of the first act and section 4 of the second act mentioned in e 5.

In the Swedish EU Surrender Act and EU Financial Penalties Act, the optional unds for refusal relating to extraterritorial jurisdiction are not included as they not considered necessary and would hardly ever be applied. The Finnish EU radition Act, on the contrary, includes the optional ground relating to extrater- riality in section 6(8), even though its rare application is stressed.

In contrast to Art. 5(2) EAW, there are no provisions relating to review or clem- cy of life sentences in the Swedish EU Surrender Act or the Danish EU Extradi- n Act 433/2003. In Sweden, the insertion of such a provision was considered to erfere with the issuing state's rules on sentencing or execution of sentences.

E.g., the ground for refusal related to the nationality of the person sought in rela- n to surrender in Finnish and Swedish implementation of the EAW.

This applies, e.g., in situations involving conflicts of jurisdiction.

In section 5(1)(6) of the Finnish EU Extradition Act, section 4(2) of chapter 2 of the edish EU Surrender Act, and section 10(h)(1) of the Danish EU Extradition Act.

12 The Finnish cases *Gataeva Khadizhat* Case R 10/363 Helsinki district court and *Gataev Malik* Case R 10/359 Helsinki district court, both of 25.1.2010.

13 In Finland and Denmark, the term extradition is still used instead of surrender.

14 See Arts. 15(2) EAW, 7(1)(a) FFWD, 7(1) FPFWD and 8(1) CFWD, 7(4) FFWD and 8(5) CFWD as well as Arts. 16 EAW and 11 CFWD.

15 See Arts. 2(2) EAW, 3(2) FFWD, 5(1) FPFWD, and 6(1) CFWD.

16 See Arts. 3(2), 4(2), 4(3) and 4(5) EAW, 7(1)(c) FFWD, 7(2)(a) FPFWD, and 8(2)(a) CFWD.

17 Human rights grounds in national legislation (mentioned above) and Arts. 20 EAW, 7(1)(b) FFWD, 7(2)(e) FPFWD and 8(2)(c) CFWD.

18 See Arts. 2(4) EAW, 3(4) FFWD, 5(3) FPFWD and 6(3) CFWD, Arts. 3(3) EAW and 7(2)(f) FPFWD, 4(6) and 5(3) EAW; see also Arts. 4(7) EAW, 7(2)(d) FPFWD and 8(2)(f) CFWD in addition to Arts. 3(1) EAW, 11(1) FPFWD and 13(1) CFWD.

19 The ECJ stated in the *Pupino* case, C-105/03 para. 47, that interpreting national legislation in case of failing implementation of a framework decision cannot lead to an interpretation *contra legem*, where the framework decision would be the sole basis for the sentence or increase in the severity of the sentence. This indirect effect does not seem to differ much from direct effects of directives (see *A. Klip*, European Criminal Law, 2009, p. 65).

20 Admittedly, it is unclear whether regulations will be widely used to regulate mutual recognition cooperation.

21 Regarding the Convention of 15.12.2005 on surrender on the basis of an offence between the Nordic States (The Nordic Arrest Warrant), see *A. Strandbakken*, The Nordic Answer to the European Arrest Warrant: The Nordic Arrest Warrant, in: eucrim 3-4/2007, pp. 138-140.

"Yes we can!" – The UK Bribery Act 2010

r. Simone White

fter some foot-dragging, which did not go unnoticed inter- ationally,[1] the UK has adopted the Bribery Act 2010, which ceived Royal Assent in April 2010. It will come into force in pril 2011, after Government Guidance has been issued.

his has been described as one of the most significant reform to rporate criminal law in a century. It repeals the Public Bod- s Corrupt Practices Act 1889, the Prevention of Corruption ct 1906 and the Prevention of Corruption Act 1916. It also revokes relevant sections of diverse acts concerning criminal justice, local government, electoral procedure, housing and the armed forces.[2] It replaces a system of fragmented and complex offences with a comprehensive scheme of bribery offences, covering bribery both in the UK and abroad. The Act simplifies and expands the range of offences for which individuals and organisations can be prosecuted, but does not deal with the transparency of political financing. The Act implements the Organisation for Economic Cooperation and Development

(OECD) Convention on Combating Bribery of Foreign Public Officials in international business transactions of 1997,[3] taking into account the Council of Europe Criminal Law convention on Corruption,[4] and the Council of Europe Civil Law Convention on Corruption.[5]

The implementation of the EU *acquis*[6] on anti-corruption – in particular the Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union[7] and the Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector[8] – is favourable to the protection of the financial interests of the EU.

Historically, the UK has prosecuted corruption under the common law, until the crime of corruption entered statute law with the Public Corrupt Practices Act 1889, which outlawed bribery of public officials. The Prevention of Corruption Act 1906 extended bribery into the private sector and introduced the concept of bribing agents acting on behalf of a principal. The Prevention of Corruption Act 1919 widened the definition of "public body" and added a presumption of corruption for all payments made in connection with contracts to Crown employees or government departments. Section 59 of the Criminal Justice Act 2008 extended the powers of the Serious Fraud Office (SFO) to compel the production of documents in foreign bribery cases. The aim was to facilitate the collection of evidence at an earlier stage and to make for a swifter investigation.

The Act is also perceived as a response to the *BAE Systems*[9] case,[10] where the prosecution against the defence company was dropped after the intervention of Lord Goldsmith, then Attorney General. Subsequently, BAE agreed to pay £300 million in fines after signing up to a plea bargain with the SFO and the US Department of Justice. The BAE affair has been awkward for the UK. However, the new Act may reduce future embarrassments by creating a climate that is more propitious to enforcement without political interference.

Four offences are introduced by the Act. They will be examined in turn:

- Two general offences covering the offering, promising or giving of an advantage and requesting, agreeing to receive or accepting of an advantage (see title I. below);
- A discrete offence of bribery of a foreign public office (see title II. below) applying both the public and private sectors;
- A new offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage. Should an offence be committed, it will be a defence that the organisation has adequate procedures in place to prevent bribery (see title IV below).

I. New Bribery Offences

According to the Act, it is a criminal offence to give, promise or offer a bribe (active corruption) and to request, agree to receive or accept a bribe[11] (passive corruption) either within or outside the UK.[12] Activities relevant to the Act are any function of a public nature, any activity connected with a business, any activity performed in the course of a person's employment or any activity performed by or on behalf of a body of persons (whether corporate or incorporate).[13] A key element of the new bribery offences is that the intention of the briber is that the person being bribed improperly performs his duties. Improper performance[14] is defined by reference to a failure to perform one's duties in line with a relevant expectation. These relevant expectations are (i) that the function will be performed in good faith, (ii) that the function will be performed impartially or (iii) that the function imports a position of trust.

Expectations are judged by UK, not local, standards.[15] Influencing a person to perform their duties improperly, for example by behaving partially, would cover a wide range of scenarios (for example, inducing the recipient to breach his contract with a third party). The issue of low threshold for improper performance was raised in the course of Parliamentary debate. The Government's response has been to maintain that prosecutorial discretion would prevent "non-criminal" cases from being prosecuted. This however sends a strong signal that a zero tolerance attitude to corrupt behaviour is needed.

The Act prohibits all corrupt payments, regardless of whether they are paid directly by the corporate entity or (indirectly) on its behalf by a third party.

A limited number of defences are allowed for by the Act. It is a defence for a person charged with a relevant bribery offence to show that his conduct was necessary for the proper exercise of any function of an intelligence service or of the armed forces when engaged in active service.[16] The Bill had proposed to exempt law enforcement agencies "where necessary for the prevention of a serious crime" but this defence was removed at the last minute in Parliament.

II. Bribery of Foreign Public Officials

Section 6 of the Act criminalises the bribery of foreign public officials. Bribery of a foreign public official does not need to include an intention that the foreign public official will improperly perform his duties nor does the payment need to be made corruptly as required by the US Foreign Corrupt Practices Act. There must be an intention to influence the foreign public official in his official capacity and an inten-

to obtain/retain business, or an advantage in the conduct
ısiness, the act not being permitted by local written law.
therefore a defence to show that, under the written laws
icable, the foreign public official is permitted to be in-
ıced.

ery of a foreign public official does not need to include an
tion that the foreign public official will improperly per-
his duties, nor does the payment need to be made cor-
y (as is required in the US Foreign Corrupt Practices Act).
offence can be committed anywhere in the world if per-
ed by an associated person who performs services for the
ɔany, even if operating through a subsidiary, agent, joint
ıre or other intermediary.

ɔayments of this kind, no matter how small, routine or
cted by local custom will be illegal. This differs from the
isions of the US Foreign Corrupt Practices act, which
: an exception for small facilitation or "grease" payments
to officials to smooth relevant processes of official ac-
. As a result, corporate executives have already expressed
ern that the measures will place them at a competitive dis-
ntage to companies in the US.

ign public officials are defined in the Act as individuals
hold a legislative, administrative or judicial position of
kind, whether appointed or elected, of a country or terri-
outside the UK; or an individual who exercises a public
ion for or on behalf of a country or territory outside the
ɔr for any public agency or pubic enterprise of that coun-
r territory; or an individual who is an official or agent of
ɔlic international organisation. This includes EU officials,
the Act defines public international organisations as or-
ıations whose are any of the following: (a) countries or
ories, (b) governments of counties or territories, (c) other
c international organisations or (c) a mixture of any of
bove.[17]

'erritorial Application for All Bribery Offences

ı-territoriality in matters relating to financial crime is
ming increasingly common. A natural person commits a
ry offence under the Act if any act or omission which
s part of the offence takes place within the UK or if the
ɔn who committed the acts has a close connection with
IK.[18] "Close connection" is defined as being a British citi-
[9] a body incorporated under the law of any part of the UK,
ɔttish partnership or an individual ordinarily resident in
IK. The last category will of course include EU nationals
reside in the UK or those who do not but whose busi-
:s are incorporated in the UK.

IV. Failure of Commercial Organisations to Prevent Bribery

Perhaps the most interesting aspect of the Bribery Act is the new offence of failing to have adequate procedures to prevent bribery, found in Section 7. Adequate procedures move up from the status of good practice to an urgent requirement under the Act. It is a strict liability offence – the failure to have adequate processes to prevent bribery will result in prosecution, regardless of whether prosecutors can show corrupt intent.

A relevant commercial organisation may be guilty of this offence if a natural person associated with it bribes another person, intending to obtain or retain business for the commercial organisation or an advantage in the conduct of business. A relevant commercial organisation is defined as either a body or partnership incorporated or formed in the UK and which carries on a business or a body corporate or partnership incorporated or formed outside the UK which carries on a business (or part of a business) in any part of the UK.

Section 8 of the Act defines "associated person" as someone who performs services for or on behalf of the commercial organisation. This may be an agent, an employee or a subsidiary. "Associated person" is not defined by reference to the nature of the relationship with, or control exercised over, the associated person, unlike under the US Foreign Corrupt Practices Act. What this means in practice is that where a company has operations carried out by another individual or entity on its behalf, even in a small part, it must ensure that the third party is aware of and commits itself to the Company's anti-bribery policy. The same third party will also need to be subjected to appropriate monitoring by the company.

The only defence available is for a commercial organisation to say that it had in place adequate procedures designed to prevent persons associated with the commercial organisation from undertaking such conduct.[20] The Act does not define adequate procedures and the Secretary of State will provide guidance in 2011. It is understood that this guidance will not be prescriptive. Draft guidance is at present arranged around six core themes: risk assessment, top-level commitment, due diligence, clear, practical and accessible policies and procedures, effective implementation and monitoring and review.[21] This will give an incentive to commercial organisations to try to "design out" corruption.

The failure to prevent bribery applies to any corporate or partnership as long as it carries on a business or part of a business, in the UK or to any commercial organisation incorporated or formed in the UK where the person committing the offence

is associated with the organisation. It also applies to conduct that takes place outside the UK. This means that, as long as it carries out business in the UK, a foreign company can commit the failure to implement adequate procedures offence in relation to conduct in a foreign country that is not connected with any business undertaken in the UK. In this, the Act's extra-territorial reach is broader than that of the US Foreign Corrupt Practices Act.

V. The Possibility of Debarring Commercial Organisations in Breach of Section 7

Transparency International UK warns that "if a company is reliant on selling to EU governments it should not ignore the risk of debarment arising from a conviction under the Bribery Act".[22] However, it is currently a moot point whether a corporate entity convicted of a failure to implement adequate procedures would be debarred from participating in future public contracts in accordance with EU Directive 2004/18.[23] Article 45 of this Directive requires the compulsory exclusion from participation in a public contract of any candidate or tenderer who was the subject of a conviction by final judgment of corruption as defined in Art. 3 of the Council Act of 26 May 1997[24] and Art. 3(1) of the Council Joint Action 98/742/JHA.[25]

Art. 3 of the Convention on the Fight against Corruption involving officials of the European Communities or officials of the Member States of the European Union refers to active corruption, defining it as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party to act or refrain from action in accordance with his duty or in the exercise of his functions in breach of his official duties. Art. 3(1) of the Council Joint Action on Corruption in the Private Sector defines active corruption in the private sector as the deliberate action of promising, offering or giving, directly or through an intermediary, an undue advantage of any kind whatsoever to a person, for himself or for a third party, in the course of the business activities of that person, in order that the person should perform or refrain from performing an act, in breach of his duties.

It therefore does not appear that a commercial organisation having failed to prevent bribery under Section 7 of the Bribery Act could be excluded on the grounds found in Art. 45(1)(b) of Directive 2004/18, unless for example the director had a prior conviction for active corruption. This means that the 2006 Public Contracts Regulation implementing the 2004 Directive needs not be amended to include the offence of failure to prevent bribery.

Let us see if other exclusion grounds found in Art. 45 of the Procurement Directive 2004/18 could apply to this offence of failing to prevent bribery. Art. 45 also states that any economic operator may be excluded from participation in a contract where that economic operator has been convicted by a judgement which has the force of res judicata in accordance with the legal provisions of the country of any offence concerning his professional conduct (Art. 45(2)(c)); where he has been guilty of grave professional misconduct proven by any means which the contracting authorities can demonstrate (Art. 45(2)(d)); or when he is guilty of serious misrepresentation in supplying the information required and has not supplied the information required (Art. 45(2)(g)). It is conceivable that in some cases, an omission such as a failure to prevent bribery may constitute grave professional misconduct. Yet as there is no harmonised interpretation of "grave professional misconduct" in the EU, there may be some reluctance to use this ground for exclusion in the context of prevention.

There is a mismatch between the compulsory debarment procedures (criminal law based) and Section 7 of the Bribery Act (seeking to prevent bribery), so it might prove difficult to invoke Section 7 for the purpose of debarment.

Yet debarment should be possible after convictions under Section 1 of the Bribery Act (active corruption) and Section 6 (bribery of foreign officials). It remains to be seen whether a commercial organisation's debarment could be shortened or cancelled (the so-called "cleansing" or "rehabilitation" process, which does not exist in all legal systems), using a Section 7 defence – that the commercial organisation had put in place adequate procedures designed to prevent persons associated with the commercial organisation from undertaking bribery. If so, the Act will have served to make debarment more difficult.

In the present state of EU legislation, it will not be possible to debar for a conviction under Section 2 of the Bribery Act (passive corruption) and it will be difficult, if not impossible to debar under Section 7 (failure of commercial organisations to prevent bribery), as we have just seen.

It would be advantageous if Art. 45 of the Procurement Directive could be extended to cover passive corruption. A way could also be explored to proportionately include cases where there has been no attempts to put in place systems to prevent bribery.

VI. Penalties

Natural persons found guilty under the Act of one of the principal offences are liable on conviction to imprisonment of up to

ears, or to a fine, or to both. This increases the maximum alty from seven to ten years. The Act also penalises those or officers of the corporate entity with whose "consent and nivance" the bribery was committed – although where the ery takes place overseas, they must have a close connec- with the UK. This could be committed for example by the ive acquiescence of a director, if in practice that amounted onsent to the bribery.

ommercial organisation guilty of an offence under Sec- 7 (failure to prevent bribery) is liable on conviction to nlimited fine. Failure to maintain "adequate procedures" d also render directors vulnerable to civil claims. Penal- for corruption seem to vary within the EU. For example, lar offences exist in the French system, although penalties r: France has maximum fines of €150,000 and €750,000. resting comparisons can also be made between the French British limitation periods, and respective approaches to ate and public sectors, which are illustrated in table 1.

Guidance on How to Prevent Bribery

ion 9 of the Act requires the Secretary of State to publish ance about procedures that relevant commercial organisa- s can put in place to prevent persons associated with them bribing. The guidance is arranged around six principles is due to be consolidated in 2011.

first principle relates to risk assessment. The commercial nisation should regularly and comprehensively assess the re and extent of the risks relating to bribery to which it is exposed. Key bribery risks will need to be identified. Internal risks can include a lack of clarity in the organisation's policy on gifts, whilst an external risk can be country-specific – there may be a perceived high level of corruption – or relate to the transaction itself or to the partnership: business partners may be located in higher-risk jurisdictions.

The second principle is that there should be "top-level commitment". The top-level management of a commercial organisation (be it a board of directors, the owners or any other equivalent body or person) should be committed to preventing bribery. They should establish a culture within the organisation in which bribery is never acceptable. They should also take steps to ensure that the organisation's policy to operate without bribery is clearly communicated to all levels of management, the workforce and any relevant external actors. Codes of conduct and anti-bribery policies should be published, communicated to employees, subsidiaries and business partners.

Thirdly, due diligence is required. The commercial organisation should have due diligence policies and procedures which cover all parties to business relationships, including the organisation's supply chain, agents and intermediaries, all forms of joint venture and similar relationships and all markets in which the commercial organisation does business. In practice this means that the commercial organisation must be able to show that it made enquiries, for example to establish whether individuals or other organisations involved in key decisions – such as intermediaries consortium or joint venture partners, contractors or suppliers – have a reputation for bribery and whether anyone associated with them is being investigated or prosecuted, although in practice this may not always be easy.

	UK	France	
nitation period	None	3 years	
nalties	Both public and private sector	Public Sector	Private Sector
ividuals/ mpany Officers	Up to 10 years in prison and/or unlimited fine	■ Up to 10 years in prison and/or fine up to €150,000* ■ Additional penalties**	Up to 5 years in prison and/ or maximum fine of €75,000
mpanies	■ Unlimited fine ■ Debarment***	■ Fine up to €750,000 ■ Debarment*** ■ Additional penalties	■ Fine up to €375,000 ■ Additional penalties
fences	Company must show that adequate procedures were put in place	Defence of coercion or imminent danger, but only for individual	

1: Penalties for corruption – comparing the UK with France;[26] *Arts. 435-1 and 435-2 of French Penal Code;
t. 432-17 of French Penal Code: civic and professional bans, confiscation; ***Art. 45 of Directive 2004/18.

Organisations would also wish to ensure that enquiries are made of partners' internal anti-corruption measures.

The fourth principle relates to the need to adopt clear, practical and accessible policies and procedures. The commercial organisation's policies and procedures to prevent bribery being committed on its behalf should be clear, practical, accessible and enforceable. Policies and procedures take account of the roles of the whole workforce from the owners or board of directors to all employees, and all people and entities over which the commercial organisation has control. Procedure documentation should contain:

- A clear prohibition of all forms of bribery including a strategy for building this prohibition into the decision-making processes of the organisation;
- Guidance on making, directly or indirectly, political and charitable contributions, gifts and appropriate levels and manner of provision of bona fide hospitality or promotional expenses to ensure that the purposes of such expenditure are ethically sound and transparent;
- Advice on relevant laws and regulations;
- Guidance on what action should be taken when faced with blackmail or extortion, including a clear escalation process;
- The organisation's level of commitment to the Public Interest Disclosure Act 1998 (employment law for whistleblowers) and an explanation of the process. Any employee should be able to report allegations of bribery or breaches of corporate anti-bribery policy in a safe and confidential manner;
- Information on anti-corruption programmes relevant to the sector.

Managers may also wish to consider the resistance to bribery of particularly vulnerable operational areas, such as procurement and supply chain management mechanisms, addressing any issues identified.

The fifth principle refers to effective implementation. The commercial organisation effectively implements its anti-bribery policies and procedures and ensures they are embedded throughout the organisation.

Other guidance has also been issued. The OECD has produced good practice guidance on internal controls, ethics and compliance.[27] Transparency International (TI) UK has already made guidance notes available ahead of the Bribery Act's commencement so that companies can start putting in place procedures. They stress that adequate procedures will include training for staff; internal audit procedures, spot checks and the adoption of whistle blowing procedures. TI aims to complement official guidance by providing greater details to be used as the basis for designing a new anti-bribery programme if none exists. The TI guidance also aims to allow companies with systems already in place to cross-check and benchmark their procedures against a good practice standard. The idea is that corruption will be "designed out" by corporations taking preventive action.

Monty Raphael has argued that organisations did not need to wait for official guidance – they already knew what needed to be done.[28] Indeed guidance seems to have been widely available from public bodies, international organisations and consultants for some time so it should be possible for corporate entities to choose a regime that suit their size and their exposure. What has been missing hitherto for the UK has been political will.

VIII. Conclusion

The Bribery Act 2010 represents a big step forward for the UK. It is the first step in a strategy, which will also involve supporting ethical business, enforcing the law and international cooperation and capacity building.[29] The Director of the SFO believes that the legislation will have a positive role in creating an ethical business culture and that the SFO looked forward to contributing directly to a common ethical culture for all corporations large or small, by working with them to improve their procedures. The Act might be expected to increase in investigations (and perhaps prosecutions). However, in the present climate of budget constraints, it is unclear whether public resources will be extended to deal with the practical consequences of the Act.

To conclude, in the light of the adoption of the UK Bribery Act 2010, there are three areas that the European Commission might wish to include in its anti-corruption strategy.

1. It seems that the EU's forthcoming accession to GRECO (the Council of Europe's Group of States against corruption) would make easier the monitoring of anti-corruption legislation in the EU Member States and beyond, so that we can look to international standards being met and an even playing field. Szarek-Mason has made this point.[30]

2. There is a need for comparative work, to gauge the impact of limitation periods and penalties within the EU. We need to know the likely impact of various (i) approaches to extra-territoriality, (ii) mixes of prevention and criminal law approaches and (iii) approaches to the private and public sectors in national legislations.

3. Lastly, there is a need to look at the application of Article 45 of Regulation 2004/18 in order to see to what extent debarment can be used in corruption cases and how "rehabilitation" is applied. EU-level guidelines may be needed there.

'he OECD 2005 Phase two report on the UK recommended, as did an earlier 3 Working Group report, that the UK enact modern foreign bribery legislation e earliest possible date. The OECD criticised the UK for its lack of prosecu- s for bribery: "it is surprising that no company or individual has been indicted ied for the offence of bribing a foreign public official since the ratification of Convention by the UK", especially given the size and nature of its exports and vard Foreign Direct Investment. See also GRECO's evaluation papers http:// v.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp and the OECD king Group on Bribery Annual Report 2007, http://www.oecd.org/dataoecd/21/ 0896091.pdf. In 2007, the UK undertook a review of the law on bribery and the Commission issued their report in 2008.
See Schedule 2 of the Act for a complete list.
n 2001, the UK had failed to implement the OECD convention to the satisfaction ie OECD.
Opened to signature on 27 January 1999.
Opened to signature on 4 November 1999.
ttp://www.libertysecurity.org/IMG/pdf_jls_acquis_oct_2008_update.pdf
O.J. C 195 of 25 June 1997, p. 2.
O.J. L 192 of 31 July 2003, p. 54.
BAE Systems is an international company that develops defence and aerospace ems.
HL Deb, 1 February 2007, col 339 Back. See also http://www.wiwi.uni-passau. ileadmin/dokumente/lehrstuehle/lambsdorff/downloads/BAE_Systems_and_ _Rule_of_Law.pdf and http://www.telegraph.co.uk/finance/newsbysector/indus- 3239575/Lord-Goldsmith-urges-plea-bargaining-in-bribery-cases.html
The bribe can be given in anticipation or as a reward.
Sections 1-2 of the Act.
Section 3 of the Act.
Section 4 of the Act.
Section 5(2) of the Act.
Section 13(1) of the Act.
Section 6(6) of the Act.
Section 12(3)(b) of the Act.
The various types of citizenships are included: British citizen, British overseas itories citizen, British national (overseas), British Overseas citizen, a person under the British nationality Act 1981 was a British subject, a British protected son within the meaning of that Act.
Section 7(2) of the Act.
UK Ministry of Justice Consultation on Guidance about Commercial Organisa- ns Preventing Bribery (Section 9 of the Bribery Act 2010), Consultation Paper 11/10.

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22 *P. Wilkonson*, The 2010 UK Bribery Act adequate procedures – Guidance on good practice for corporate anti-bribery programmes, Transparency International 2010; see also Transparency International (ed.), Business principles for countering bribery – a initiative led by Transparency International, 2009.
23 Directive 2004/18 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, O.J. L 134 of 30 April 2004, p. 114.
24 O.J. C 195 of 25 June 1997, p. 1. Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union.
25 O.J. L 358 of 31 December 1998, p. 2. Joint Action 98/742/JHA on corruption in the private sector.
26 UK Bribery Act, New Compliance Challenges for International Businesses, presentation by McGuireWoods Business Department, 2009. The table has been checked and adapted. See also GRECO, Third Evaluation Round, Evaluation Report on France on Incriminations, 2009.
27 This good practice guidance was adopted by the OECD Council as an integral part of the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions of 26 November 2009 and adopted on 18 February 2010.
28 Presentation at seminar held in London on 20 October, 2010 – Fraud Advisory Panel, Best Practice Forum, Designing Out Bribery and Corruption. See also *M. Raphael*, Blackstone's Guide to the Bribery Act 2010, Oxford University Press 2010.
29 See HM Government, UK Foreign Bribery Strategy, 2010.
30 *P. Szarek-Mason*, The European Union's fight against corruption – The evolving policy towards Member States and candidates countries, Cambridge Studies in European Law and Policy, 2010.

Gegenseitige Anerkennung von Geldstrafen und Geldbußen in Deutschland

ur Umsetzung des Rahmenbeschlusses 2005/214/JI in das deutsche Recht

r. Christian Johnson / Dr. Stefanie Plötzgen-Kamradt*

ouncil Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties was nplemented into German law in October 2010. With this instrument, it is for the first time possible to enforce financial penal- es in all Member States of the European Union using a uniform procedure, provided that the Member States have adopted the ecessary implementation laws. FD 2005/214/JHA is governed by the principle of mutual recognition, which became a corner- one of cooperation both in civil and in criminal matters at the Council meeting in Tampere in 1999. In particular, the concept of