Groupe d'Etats contre la corruption

Group of States against corruption

DIRECTORATE GENERAL I – LEGAL AFFAIRS
DEPARTMENT OF CRIME PROBLEMS

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First Evaluation Round

Evaluation Report on Norway

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I. INTRODUCTION

1. Norway was the twenty third GRECO member to be examined in the first Evaluation round. The GRECO evaluation team (hereafter referred to as the "GET") was composed of Ms Mary WALDRON, Crown Prosecution Service of the United Kingdom (general policies expert), Mr Flemming DENKER, Deputy Director of the Public Prosecutor for Serious Economic Crime of Denmark (Prosecution expert) and Mr Jaroslav PA'LOV, Deputy Director of the International Police Cooperation Bureau of Slovakia (police expert). This GET, accompanied by a member of the Secretariat, visited Norway from 12 to 15 March 2002, all meetings being held in Oslo. Prior to the visit the GET experts were provided with replies to the Evaluation questionnaire (document Greco Eval I (2002) 5E revised).

2. The members of the GET greatly appreciated the well organised and hospitable visit programme, and the large amount of material made available to the GET during the meetings.

3. The GET met with officials from the following Norwegian State institutions: Ministry of Justice and the Police (Justice, civil, legislation and police departments), Ministry of Foreign Affairs (legal Department), Oslo City Court, Director of Public Prosecution, National police Directorate, Ministry of Finance, National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM), Unit responsible for the investigation of cases involving members of the police and prosecution (SEFO), Ombudsman's office, Parliament (Standing committee on Scrutiny and Constitutional Affairs), National Customs and Taxation Directorate, Office of the Auditor General, Ministry of Labour and Government administration, Ministry of Trade and Industry. Moreover, the GET also met with members of the following non-governmental institutions: National Employer and Industrial Federation (NHO), the daily newspaper Aftenposten (the most important, non tabloid Norwegian newspaper), the Norwegian Chapter of Transparency International (under creation) and the Norwegian oil company STATOIL.

4. It is recalled that GRECO agreed, at its 2nd Plenary meeting (December 1999) that the 1st Evaluation round would run from 1 January 2000 to 31 December 2001, and that it agreed at its 6th and then 7th Plenary meetings (September and December 2001) to extend this round until 31 December 2002 in order to evaluate the newer members. It was also agreed at the 2nd Plenary meeting that, in accordance with Article 10.3 of its Statute, the evaluation procedure would be based on the following provisions:

   - Guiding Principle 3 (hereafter "GPC 3": authorities in charge of preventing, investigating, prosecuting and adjudicating corruption offences: legal status, powers, means for gathering evidence, independence and autonomy);
   - Guiding Principle 7 (hereafter "GPC 7": specialised persons or bodies dealing with corruption, means at their disposal);
   - Guiding Principle 6 (hereafter, "GPC 6": immunities from investigation, prosecution or adjudication of corruption).

5. The principal objective of this report is to evaluate the measures adopted by the Norwegian authorities, and wherever possible their effectiveness, in order to comply with the requirements deriving from GPCs 3, 6 and 7. The report will first describe the situation of corruption in Norway, the general anti-corruption policy, the institutions and authorities in charge of combating it -their functioning, structures, powers, expertise, means and specialisation- and the system of immunities preventing the prosecution of certain persons for acts of corruption. The second part

contains a critical analysis of the situation described previously, assessing, in particular, whether the system in place in Norway is fully compatible with the undertakings resulting from GPCs 3, 6 and 7. Finally, the report includes a list of recommendations to Norway in order for this country to improve its level of compliance with the GPCs under consideration.

II. GENERAL DESCRIPTION OF THE SITUATION

6. Norway is one of the Nordic countries, occupying the western part of the Scandinavian peninsula. It is bordered by sea in the west and south, and by Sweden, Finland and Russia in the east. It is a middle sized country (323 878 km^2), with a – comparatively - little population (4 500 000 inhabitants) which is quite evenly distributed on the territory. Apart from the central authorities, there are 19 counties and 435 municipalities all governed by locally elected boards. Norwegians usually live in small communities which are built up around one major business or industrial company. The country is characterised by a system of socio-economic equality and welfare state, a high standard of living and a prosperous economy (the unemployment rate is about 3%), notably thanks to the North Sea oil and gas fields discovered in the late 1960s. The country is ruled by a constitutional monarchy with a parliamentary system of government.

a. The phenomenon of corruption and its perception in Norway

Legal aspects

7. Corruption is criminalized in the Norwegian system in different, separate provisions. The Norwegian Penal Code makes a clear distinction between active and passive bribery offences. It also distinguishes between public and private sector offences. The public sector offences are dealt with in different sections. Section 128 deals with active bribery of persons exercising a public office or function (punishable by a fine or up to one year imprisonment). Since January 1999 this offence has been extended to bribery of foreign public officials and employees of international organisations as well as bribery of Norwegian public officials. Sections 112 and 113 deal with passive bribery in public offices or functions (punishable by fines, loss of office, or up to six months imprisonment under Section 112, and by up to five years imprisonment under Section 113).[1] The important distinction between sections 112 and 113 is that section 113 requires a breach of duty to be committed, while the mere receiving of an advantage is sufficient in section 112. It is clear that breach of duty encompasses any breach by the public servant which contravenes law, regulations, guidelines etc. Section 114 deals with the bribing of judges, jurors, assessors, experts and arbitrators. The wording used in Sections 112, 113, 114 and 128 to designate the illegal advantage is "favours" (considered to include both pecuniary and non-pecuniary advantages). In addition, the concept of "public servant" means any person exercising public functions, whether appointed or elected, including members of the parliament and judiciary.

8. Private sector bribery (private to private) is covered by Section 275 of the Penal Code. This section *does not specifically target* bribes but is concerned with breach of trust in general (it also applies to public sector corruption). Therefore prosecution for payment of bribes in the private sector under this section requires an element of breach of trust to be involved. Where there is no relationship of trust or duty of trust between the parties private to private sector is not covered. Section 276 covers gross breach of trust.

9. The GET further noted with interest that there are other provisions in the Penal Code, which would fall within the scope of corruption in other countries. Section 106 deals with bribing of a

[1] The Norwegian authorities are currently in a process of reviewing the level of sanctions for passive bribery.

voter. Section 111 criminalises what other countries call *concussion* or *concussione*. Section 121 para. 2 criminalizes breaches of secrecy for the purpose of acquiring in one's own - or another person's – interest an unlawful gain. Section 123 deals with the misuse of office for the purpose of obtaining an unlawful personal advantage, or an advantage for another person. Section 373 para.1 deals with the receiving and offering/doing of favours for voting in a certain way in the framework of the administration of an estate or in an enterprise. Section 401 covers corruption in the framework of public bids (see appendix I for the text of the above-mentioned provisions).

10. The period of limitation in Norway is determined by the length of imprisonment which can be imposed for the crime in question. If a crime is punishable by a maximum of one year's imprisonment, the limitation period is two years. Where the maximum term of imprisonment is 21 years, the period of limitation is 25 years. Limitation periods for crimes concerning corruption, vary between two and ten years. The period of limitation begins to run from the date the criminal activity has ceased. The Norwegian authorities indicated that in practice, the current regulations do not hinder the granting of extradition or other forms of mutual legal assistance.

11. Norway introduced the concept of criminal responsibility for legal persons (as opposed to natural persons) in 1991[2]. The establishment of and participation in a criminal organisation is not an independent offence in Norway. Money laundering has been a criminal offence in Norway since 1993. Section 317 of the Penal Code makes it an offence to receive or obtain proceeds of any crime including corruption. The Financing Activity and Financial Institutions Act – last amended in 1997 requires from a number of financial institutions to file a Suspicious Transaction Report ("STR") when they suspect a transaction may be related to a criminal act that is punishable with imprisonment for a term exceeding 6 months. The STRs are sent to the Money Laundering Unit, the Financial Intelligence Unit of Norway, situated at ØKOKRIM (see below). The Unit then investigates further to decide whether there are reasonable grounds to suspect a criminal offence has occurred. According to Section 34 of the Penal Code, proceeds of crime can be confiscated. The mechanism is also applicable to proceeds of corruption.

12. Norway has signed the Council of Europe Criminal and Civil Law Conventions on corruption in January 1999 and November 1999 respectively. The Ministry of Justice is currently preparing legislation to ratify these instruments. Norway has ratified the OECD Convention on combating bribery of foreign public officials in international business transactions and has adopted implementing legislation. The Norwegian Penal Code is being reformed at present to ratify the two Council of Europe Conventions mentioned above. A report has been commissioned by the Ministry of Justice and is due to be delivered to the Ministry in December 2002. The GET was informed that it is intended to introduce new legislation to cover bribery in both the public and private sectors. Norway does not require an international agreement to give effect to a request for mutual legal assistance in criminal matters which is conducted as extensively and informally as possible under its existing national legislation. Norway does not allow extradition of its nationals, except to Nordic countries and under certain conditions. However, proceedings can be brought in Norway against a Norwegian citizen if the prosecuting authorities assess the case and decide that the evidence available is sufficient to justify a prosecution in Norway.

[2] Under section 48 (a) and (b) of the Penal Code, a legal person can be held responsible for contravention of any penal provision including corruption and money laundering offences. However, it is discretionary whether the legal person should be prosecuted or not. Where criminal cases are brought against legal persons fines are invariably imposed. Legal persons can be held liable for acts committed by a natural person abroad, however this depends on whether or not Norway has jurisdiction over the criminal acts of the natural person.

Overview

13. Norway is regarded as being one of the countries in the world with the least corruption in society and business life, (cf. Transparency International's Perception Index). In daily life people do not encounter expectations or demands for palm greasing or bribes ("grafts") from people in the public or private sector, nor do they take the initiative to offer inducements to obtain unlawful gains. On the contrary, in almost all cases offers or expectations of graft are likely to cause offence and attract openly negative reactions.

14. In recent years around 5 new corruption cases per year have been investigated in Norway, according to the official figures. These cases have been distributed fairly evenly between the private and public sector, but the majority of the cases have been related to business operations and not to administrative functions. The cases stemming from the public sector have only been discovered purely by chance by public supervisory bodies. Most corruption cases have been discovered by internal control in the companies that have been affected or through tip-offs to the police from individuals. In recent years Norwegian media have covered many stories involving suspicions of corruption. Some of these cases were reported to the police after first appearing in the press.

15. A recurring feature of the best-known corruption cases in the private sector in Norway is that the bribes have been linked to purchasing decisions and sales. The people who have accepted bribes have had leading positions in areas in which huge contracts are awarded to Norwegian and foreign companies. Another aspect of the cases is that with few exceptions they have had links or ties to other countries.

16. No sentences have been passed involving corruption in law enforcement or the courts.

17. The statistics provided to the GET were described as a best estimate of the number of corruption cases and convictions in Norway during the last 5 years (see table below).[3] This estimate is based on the central penal database of the police (STRASAK – which contains figures on possible corruption cases) and ØKOKRIM's specialised knowledge. The Norwegian authorities further indicate that the statistics were not specifically designed to single out corruption cases from other cases covered by the same paragraphs in the Penal Code.[4]

Number of cases where formal investigations have been initiated (ØKOKRIM cases in brackets)					
	1997	**1998**	**1999**	**2000**	**2001**
All §§ 275/276 cases	4(4)	2(2)	4(2)	3(1)	4(3)
All §§ 112/113 cases (also including possible §111 and §114 cases)	3(0)	2(0)	3(1)	2(1)	4(0)
Number of convictions (ØKOKRIM convictions in brackets). Convictions include cases with more than one person, and cases where the trials lasted for up to 3 months.					
All §§ 275/276 convictions	2(1)	2(2)	1(1)	2(2)	-
All §§ 112/113 convictions (also including possible §111 and §114 convictions)	1(0)	0(0)	0(0)	0(0)	2(0)

[3] They are similar to those cited in the "Situation Report on Corruption in the Baltic Sea Region" of the Task Force Clearing House on Corruption, (June 2001).

[4] This is specially the case with paragraph 128, which also covers threats against police officers and other public servants (the Norwegian authorities have reasons to believe that mostof - or even almost every - case which appears in the statistics under paragraph 128, involves threats and not gains. Therefore, they have not included any cases or convictions under this paragraph in their figures).

18. According to the Corruption Perception Index 2001, issued by Transparency International, Norway was listed as number 10. Its score is 8,6 out of 10 (where 0 is the worst and 10 the best). The most frequent explanations given to the GET for the low level of corruption were: the high moral standards of Norwegian civil servants; their independence in the exercise of their duties; the monitoring systems built into public administration; and, above all, the transparency of Norwegian institutions.[5] The media were also acknowledged as having an important role in this transparency in searching out, scrutinising and disseminating information on suspicious economic activities.

19. The GET was informed that considerable efforts have been made in the fight against corruption by the government agency NORAD, the Norwegian Agency for Development Co-Operation. It is in the forefront of the administration of Norwegian development aid funding. At the time of the GET's visit, the Ministry of Justice announced the appointment of a special advisor on corruption and money laundering. The appointee is an experienced French prosecuting magistrate who has prosecuted high profile corruption cases in France. It is intended that she should lead a Ministry of Justice taskforce against corruption and money laundering in Norway and to help Norway play an active role in the development of international cooperation and conventions in this area.

20. According to the Norwegian authorities, organised crime is a matter of concern although only a small number of criminal groups have been detected. Most of them are of limited size.

21. The Norwegian authorities have prepared national action plans to tackle the perceived threat of increased economic crime. The last action plan was issued in 2000. The GET was informed that the 2000 action plan contained specific measures to combat corruption (specialisation, expertise, international cooperation, involvement of the business sector). The GET was informed that there is a further action plan being prepared at present. The National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway created in 1989 (ØKOKRIM) has the major responsibility for implementing the policy set out in these national action plans.

b. Bodies and institutions in charge of the fight against corruption

b1. The police

22. The Norwegian police have responsibility for the prevention and investigation of crime, as well as for prosecuting criminal cases. The police in Norway is under the umbrella of the Ministry of Justice and Police. One of its departments is the Police Department which, together with the Directorate of the Police, constitute the central authority for the police. The Police Department has the administrative responsibility for the Superior Prosecution Authority and the Military Disciplinary Authority. It is in charge of overall administrative and other functions[6]. The National Police Directorate was established in 2001 as part of an important ongoing police reform. It has responsibility for the general management, administrative and strategic issues (through an organised crime, an analysis and a strategic planning unit). It has also under its direct responsibility some operational services (the National Criminal intelligence Service - NCIS – in charge of operational analysis, while strategic analysis is part of the Directorate's own

[5] Transparency in Norwegian society is promoted under the Freedom of Information Act (FIA of 1970, amended in 1997) which states that everyone has the right of access to public documents held by the State or local authorities. Derogations from this principle are only by express reservation under the FIA. They are broadly in the areas of national security.

[6] Through the Section for Planning and Research (Crime Policies, International Police, Co-operation, Norwegian Police Security Service, Emergency preparation and Administration), and the Section for Administrative Development (Management, Control with subordinate agencies, Information Technology, Organisational Development, Personnel Administration and Finance).

responsibilities; the Police computer service; the mobile police service; the national police academy; the Equipment Service; ØKOKRIM).

23. The Head of the National Police Directorate is a public servant: the National Police Commissioner.

24. Since January 2002, Norway is divided into four Police regions and 27 Police Districts (instead of 54, previously). The purpose of the reform is to have larger, more self-sufficient Police Districts, the improvement of efficiency, cutting down "red tape", having more officers involved in operational police work and less resources allocated to administration. The police are traditionally very decentralised, with working methods which may vary from district to district; therefore attention is being paid by the central bodies to unify the different approaches[7]. Each district is headed by a chief of police, appointed by the Minister following a proposal of 2 or 3 candidates by the Directorate (the vacancies are published in the media). The Chief of police is in charge of police tasks as well as the public prosecution activity. The districts are divided into various local sub-units. As part of the proposed reform, all districts will have an investigation department which will be further specialised in the bigger districts (e.g. in drugs and economic crime).

25. The National Police Directorate manages independently the budget allocated by the Ministry of Justice and Police. All police forces, even at local level, are independent in their criminal investigations and prosecutions. Only the King in Council may prescribe general rules and give binding orders as to how they shall discharge their duties *(Criminal Procedure Act §57).*

26. Approximately 12.000 employees work in the police force, 7.500 of them are police officers. After recruitment (2000 applicants per year, 1200 of which are interviewed and 240 recruited), a three-years training is provided by the academy. Salaries are considered satisfactory by the police officers met by the GET. A number of measures have been adopted to guarantee the integrity of staff: code of ethics since 1999, training in police ethics, publications on ethics by the Police trade union, awareness raising on SEFO, approval of extra positions and income outside official duties.

27. International co-operation of the Norwegian Police and law enforcement agencies is taking place through Interpol (since 1931), the Nordic Police and Customs Co-operation (1984), the Schengen system (2001) and Europol (2001).

28. Every three years, NCIS publish The National Threat Assessments, with an overview of trends within a number of criminal areas, as well as comments on the criminal statistics. One of the chapters in the Threat Assessments is "Economic Crime", with "Corruption" as one important part. In particular it mentions energy, transport, construction, oil industry, communications and finance as areas of activities with a high potential for corruption. The Threat Assessments recommend various preventive measures (close co-operation with industry to strengthen awareness of the problem of corruption etc.).

b2. Public Prosecution Service

General overview

29. The prosecuting authority is organized on three levels. It is headed by the Director of Public Prosecutions, who is responsible for the public prosecutors, who in turn are responsible for the police prosecuting authorities. The Director of Public Prosecutions has the ultimate responsibility

[7] e.g. the Organised Crime Unit as regards the practice of under-cover agents and informants by the various districts.

for public prosecution. He is independent of the Ministry of Justice: only the King in Council (the whole cabinet of ministers) may prescribe general rules and give binding orders as how the Director of Public Prosecutions shall discharge his/her duties. The King in Council may interfere in individual cases, but the King in Council does not use this power. Neither the Ministry of Justice nor any individual minister can give instructions in matters of prosecution.

30. Ten public prosecution districts, each headed by a chief public prosecutor and consisting of public prosecutors, report to the office of the Director of Public Prosecutions. This is in addition to the separate unit for the investigation and prosecution of serious economic crime (ØKOKRIM).

31. At the bottom of the prosecuting authority hierarchy are the chiefs of police, and their police prosecutors. The police prosecutor holds a law degree. They fulfil two roles: they are part of the district police forces and they are part of the prosecuting authority[8]. The prosecuting authority within the police will in minor cases decide whether the case is to be prosecuted, i.e. whether charges should be dropped or criminal proceedings are to be initiated, and prosecutes minor cases in the local courts. The prosecuting authority within the police has the power to prepare charges and decide whether certain coercive measures are to be used. The prosecuting authority will also request a court of justice for permission to use coercive measures in cases where this is required.

32. For serious cases, the matter is forwarded from the police to the next link in the prosecuting hierarchy - the public prosecutor - for a decision. The Director of Public Prosecutions makes the decisions for the most serious criminal cases. The prosecution of senior state officials and other officials appointed by the King for criminal acts committed by them in their official capacity is a matter to be decided by the King in Council.

33. Public prosecutors are appointed for life by the King in Council upon a proposal by the Minister of Justice. Police prosecutors are appointed by the Chief of police. Both these appointments result from open competitions. The Director of Public Prosecutions, the public prosecutors and the chiefs of police cannot be dismissed in an administrative way, but only by a court decision. As far as police prosecutors are concerned, they can be dismissed by administrative decision.

<u>Procedural aspects</u>

34. The prosecution service is responsible for the investigation of criminal cases. In practice the police initiate the investigation. However a public prosecutor can also initiate an investigation. The public prosecutor can give instructions to the police during the investigation, which the police are obliged to follow. Furthermore the Director of Public Prosecution and the public prosecutor may give directives regarding general matters. Certain coercive measures also rest with the prosecutor, such as issuing arrest orders or searches (with some exceptions). The police prosecutors normally conduct and supervise the investigation. When the investigation is finished the case is given to the public prosecutor, who may order further investigation. There is a closer co-operation between police prosecutors and public prosecutors in more complex cases.

35. The rules on investigation and prosecution are laid down in the Criminal Procedure Act of 1981 (last amended in 1998). These rules apply to the investigation and prosecution of all criminal

[8] In fact, according to Section 55 of the Criminal Procedure Act, are considered as officials of the prosecuting authority: "the chiefs of police, the deputy chiefs of police, the head of the security service, the assistant chiefs of police, police prosecutors, police intendants I, and police intendants II, in so far as they have a law degree and serve in an office or position that confers the authority to prosecute".

offences. Pursuant to Section 224 of the Criminal Procedure Act, a criminal investigation shall be carried out when as a result of a report (based on all kinds of information) or other circumstances there is reasonable ground to inquire whether a crime has been committed. The Director of Public Prosecutions has set down guidelines in order to determine whether there is reasonable ground to institute an investigation.

36. When the investigation is completed, the prosecuting authority determines whether, based on the result of the investigation, there is basis for prosecuting the matter. The basic rule is that the prosecuting authority will institute a prosecution for those criminal acts, which it considers that it is capable of proving, have been committed by one or more specific persons. However, a principle of discretionary prosecution applies. Section 69 of the Criminal Procedure Act states that: "Even though guilt is deemed to be proved, a prosecution may be waived provided that such special circumstances exist that the prosecuting authority on an overall evaluation finds that there are weighty reasons for not prosecuting the act." Thus, the prosecuting authority may waive a prosecution if the circumstances involved are such that it finds, on the basis of an overall evaluation, that there are weightier reasons for not prosecuting the criminal act than for doing so. A waiver of prosecution may be granted on conditions that the person charged does not commit another criminal act within a period of two years, and on condition that he gives the aggrieved party full or partial compensation. However, prosecutions are very seldom waived nowadays. Prosecuting authorities virtually always take action when so warranted by the evidence. As a rule, the decision whether or not to waive a prosecution is made by the person responsible for prosecuting the case. The prosecutor is independent, so his superior can't give instructions as to whether he is going to prosecute or not. However the superior prosecuting authority may change the decision[9]. Furthermore, "a superior prosecuting authority may wholly or partly take over the conduct of a case that comes under a subordinate prosecuting authority, or by a decision in the individual case transfer its conduct to another subordinate prosecuting authority." (Section 59).

37. The rules on the right to appeal to the superior prosecuting authority are laid down in Section 59(a) of the Criminal Procedure Act: a decision not to prosecute or a decision to waive prosecution may be appealed by way of complaint to the immediately superior prosecuting authority[10].

b3. Criminal investigation and prosecution of corruption

38. The investigation and prosecution of criminal offences including corruption and bribery offences is normally started by a complainant reporting an incident for investigation and prosecution. The public prosecutors or any other institution can also initiate the investigation and prosecution of serious criminal cases. Sometimes, corruption cases have started in this way, following the publication of information in the media or on the basis of ØKOKRIM's intelligence activity.

39. The police in Norway have the right to receive information necessary for the prevention or disclosure of any criminal offence. No bank, insurance, tax or business information can be

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[9] This may happen in two situations:

- the first situation occurs when the final decision rests with the public prosecutor; the police prosecutor makes the recommendation to the public prosecutor who then can agree or change the decision;
- the second situation occurs when a complaint is made by an affected party to the higher prosecutorial authority.

[10] Pursuant to section 59(a), third paragraph, the right to appeal by way of complaint can be exercised by the person to whom the decision is directed, other persons with a legal interest in the complaint, and an administrative body provided the decision concerns its area of administrative responsibility. However, it should be noted that nothing prevents the superior prosecution service from evaluating a decision not to prosecute after being approached by a non-party.

withheld following a police request for information in the course of a criminal investigation and prosecution.

40. Corruption is investigated and prosecuted in Norway in the same manner as any other criminal offence and all local police forces can handle such cases. Basically, standard investigative methods are used for corruption cases, that is searches and seizures (with the approval of a court). Interception of communications[11] are possible only in cases where the offence in question is liable to imprisonment of 10 years or more (e.g. homicide, but not corruption), as well as serious drug-related crimes and cases concerning national security and vital national interests (Criminal Procedure Act, chapter 16a). Bugging is not provided for in Norwegian law. Despite recent provisions allowing for the use of anonymous informants, this situation is not provided for in cases concerning corruption. It is restricted to cases that concern certain serious crimes (e.g. homicide, unlawful seizure of aircraft, aggravated drug offences etc.). Undercover police officers, entrapment and so-called "deception" are regulated by guidelines and in line with the jurisprudence of the European Court of Human Rights. Although such operative measures usually apply to drug-cases, deception can be used under specific circumstances also in corruption cases (if the other operative measures remain inefficient). The Chief Constable only can initiate such measures and his request must first be approved by the Public Prosecutor.

41. In July 2000, the Penal Code was amended in order to provide better protection for different persons participating in criminal proceedings. It resulted in the criminalization of violence, threats, vandalism and other unlawful acts against judges, public prosecutors, witnesses, defence lawyers etc. A national programme for the protection of witnesses, taking into account possibilities of cooperation with neighbouring countries, is under discussion in Norway.

ØKOKRIM

42. ØKOKRIM*, The National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway,* was established in 1989. The aim was to better enable the police and the prosecution authorities to fight serious and complex economic and environmental crime by providing a central, national organisation with a high level of competence and an emphasis on multidisciplinary co-operation and targeted investigation. ØKOKRIM can investigate and prosecute cases throughout the whole Norway. As a key body within the police, the Police Directorate runs ØKOKRIM, but it is subject to the authority of the Director of Public Prosecutions in relation to individual cases.

43. The Director of ØKOKRIM holds the rank of both chief constable [*politimester*] and chief public prosecutor [*førstestatsadvokat*]. He may, on his own initiative, launch an investigation of a case. An investigation may also be started at the request of a local chief of police and public prosecutor, of an official supervisory body, or on the orders of the Director of Public Prosecutions. Chief public prosecutors are each heading a separate, specialised investigation team. These investigation teams are multidisciplinary; they usually consist of special investigators with police

[11] Including interception of telephone, facsimile and telex communications on public and private telephone networks, as well as interception of electronic communications, mainly interception of e-mail and other internet-based forms of communication. Pursuant to Section 216 of the Norwegian Criminal Procedure Act, the gathering of information on data traffic may only be used in cases where the offence in question is liable to imprisonment of 5 years or more, as well as serious computer crimes. This method is therefore normally allowed in serious cases of corruption which constitutes a violation of the Norwegian Criminal Code section 113 and section 275, cf. section 276. A court order is required in order for the police to obtain information on traffic data fom telecom operators. Moreover, an application for interception of communication may only be granted if it is "of essential significance for the clarification of the case and that such clarification will otherwise be made considerably more difficult".

experience and special investigators with experience in business administration or accountancy. The number of staff is about 120.

44. Special plans of action have been prepared and implemented to combat economic and organised crime and to supplement the capacity of the legal system for dealing with speculation in bankruptcy and crime that often follows in the wake of such activities.

45. ØKOKRIM conducts its own investigations and provides assistance to other police authorities. The aim of the organisation is to supervise whether the important cases, and those involving issues of principle, should be brought to trial - with a satisfactory result - following an efficient and targeted investigation. Where support and assistance to the other police authorities is needed, the aim is to improve the ability of the police and prosecution authorities to investigate economic crime including bribery and corruption.

ØKOKRIM's anti-corruption team

46. In 1994 a special Anti Corruption Team was established with national responsibility. It consists of 1 chief public prosecutor (heading the team), 1 police prosecutor, 2 special investigators with business administration background, 4 special investigators with police background and 1 executive officer. In addition to purely investigative work, the team is involved in prevention (visiting companies and institutions, participating in conferences and workshops, giving lectures at the Police Academy etc.) and the gathering of criminal intelligence to combat corruption.

47. In recent years most corruption cases have been associated with the offshore oil industry in the North Sea. Therefore, ØKOKRIM's corruption team has a dedicated office in Stavanger for uncovering and investigating petroleum-related corruption.

48. In 1998 ØKOKRIM began working systematically with the business sector to combat corruption. The collaboration covers in the first instance preventive measures and assistance in specific cases where the company suspects corruption is taking place. A company itself can help reduce opportunities for corruption though its choice of leadership style, working environment, administrative procedures and guidelines, internal information and reactions in the event cases are discovered. External factors beyond the control of the company can also create a climate for corruption in an organization. These include general attitudes in the industry, competitive conditions, forms of communication betweens the players in the industry, the number of international transactions etc. ØKOKRIM gives support within the fields of economic crime – also in the cases of corruption handled by the local police – where special expertise is needed.

SEFO (The Special Investigations Commission)

49. Until 1997, investigations concerning specific categories of officials were carried out internally. As a result of a Circular of the Director General of Public Prosecutions of 1997, this model was revisited and an independent Special Investigation Commission (SEFO) was established to guarantee the independence of such investigations. This commission and its various branches are under the responsibility, only and directly, of the Director General of Public Prosecution. The latter is the sole authority having the right to give instructions. SEFO's jurisdiction applies to offences (both crimes or misdemeanours) committed in the course of their duties by "senior state officials or officials in the police or the prosecuting authority" from the top to the lowest. Where the offence is not committed in the course of duty (during working time and in relation to his/her duties), a substitute chief of police handles the case.

50. Altogether, there are 11 Commissions with one in each public prosecutor's district and two in Oslo. Each commission comprises one judge (who meets the criteria for appointment as a Supreme Court Judge and who is leading the team), one lawyer with experience in criminal cases and one person with experience as a police investigator. The commission was created for a period of four years with a possibility of reappointment for further four years. The aims of this commission are high independence, competence, credibility, impartial investigation and short processing times.

51. The GET was informed that SEFO does not have its own premises. It can request the assistance and expertise of most law enforcement agencies to obtain information, forensic expertise, for a large scale investigation etc. The number of all cases investigated by SEFO in 1998 was ca. 400 and in 1999 ca 700. Out of this number about 40 % concern cases in the Oslo region. The increase has led SEFO to request the creation of a third commission in Oslo. Corruption and bribery are not singled out in the statistics and the representative met by the GET did not mention any such case:

Type of offences	**Proportion of overall cases**
Illegal use of force	20%
Crimes of gain/vandalism	10%
Serious lack of judgement/dereliction of duty (breach of confidentiality, illegal use of means of enforcement, improper conduct etc.	48%
Traffic offences	10%
Other	12%

52. In 1999, out of the ca. 700 cases, 3 ended in charges being brought and the GET was told that it is difficult in practice to obtain a court decision. As seen in the beginning of this report, no sentences have been passed involving corruption among public officials in law enforcement (or the courts) in recent years. However, organised crime groups pose a major problem and SEFO observe an increase of (abusive) complaints by criminal groups against investigating police officers who follow their activity too closely

b4. The courts

53. A discussion was initiated in Norway some years ago concerning the general organisation of the judiciary. The Norwegian Law Courts Commission was created by royal decree in 1996 and instructed - in the light of European trends and the need to assure public confidence in the judiciary - to report on five main subjects. For each subject, a number of conclusions were drawn and some of the proposals are currently being implemented.

i) The court system

54. In Norway there are no specialized courts (with minor exceptions). Thus, there is no division between civil and criminal courts. Following a major reform set in motion in 1995, all criminal cases now commence in the District Court as the court of first instance (they are also called "rural and urban municipal courts). The most serious offences, such as homicide, sexual assault (rape), and serious drug offences used to go directly before a jury at the Court of Appeal level, and appeal possibilities from that decision were limited. Following the reform, the issue of guilt can, in all cases, be appealed to the Court of Appeal.

55. Criminal cases are now tried in the district court by one professional judge and two lay judges, in its capacity as a court of criminal jurisdiction. In special cases, the court may be fortified with two extra professional judges and three lay judges. The members of the bench vote equally to decide whether the accused is guilty and to pass sentence. The lay judges are, as their title indicates, not lawyers. For special types of cases, for example, financial crime, separate committees of expert lay judges are arranged. Court proceedings take place orally, and the proceedings and pronouncement of Judgment and sentence are usually open to the public. During the main proceedings, the accused normally has the right to be assisted by a defence counsel at public expense.[12] The Judgment is based solely on the evidence lead during the trial.

56. Judgments handed down by District Courts may be appealed to the Court of Appeal. The grounds of appeal may be the issue of guilt ("full appeal "), or the sentence, application of the law, or an error in procedure ("partial appeal"). If the issue of guilt is the ground of appeal, the Court of Appeal completely retries the case. In cases where the maximum sentence for the offence in question is over six years (not corruption cases, with one or two exceptions), a jury decides the issue of guilt. The three professional judges and four lay judges, including the chairperson, then determine the sentence jointly. For appeals on the issue of guilt in cases where the maximum sentence is up to six years (e.g. most corruption cases), the court sits in its capacity as a court of criminal jurisdiction, with three legally trained judges and four lay judges, who all vote equally. At least five of the seven judges must find the accused guilty to reach a conviction. Appeals as to sentence and other partial appeals are usually decided in writing by three legally trained judges. However, if the appeal concerns an offence for which the maximum sentence is over six years, the Court of Appeal will decide the case in its capacity as a court of criminal jurisdiction.

57. Except for appeals where the maximum sentence in question is over six years, the Court of Appeal may refuse leave to appeal if, following preparatory examination, it unanimously finds that the appeal clearly will not succeed. Three legally trained judges carry out the preparatory examination. Where only a fine or seizure has been imposed, the appeal may only be brought with leave from the Court of Appeal, and only in special cases. There are also other rules of examination, which apply when the prosecuting authority is the appellant. The Court of Appeal also decides on interlocutory appeals, i.e., appeals against how the district court (or possibly the court of examination and summary jurisdiction) ruled on the procedure, prison sentences, etc. Three legally trained judges decide interlocutory appeals. Some decisions may be further appealed to the Appeal Committee Supreme Court, subject to specific rules.

58. Decisions in criminal cases handed down by the Court of Appeal may be appealed to the Supreme Court with respect to sentence, alleged error in procedure or application of the law.

ii) The administration of courts

59. The greater part of judicial activity in Norway is exercised by the ordinary courts of law, i.e. the Supreme Court, the Appeals Committee of the Supreme Court, the Courts of Appeal, and the District or Municipal Courts. The Conciliation Boards are also ordinary courts of law. Norway has six Courts of Appeal, 92 District Courts and approximately 440 Conciliation Boards. On a national basis, the District Courts had, as of 1 January 2000, a staff of 315 ordinary judges, 162 assistant judges and 874 positions without judiciary responsibilities. On the same date, the Courts of Appeal were staffed with 127 judges and 88 clerks. As of 1 January 2001, the Supreme Court

[12] There are some exceptions, such as when the charge is driving with alcohol concentration above the prescribed limit, fines, etc.

employed 20 justices including the Chief Justice, and in addition a Director, a secretariat with 15 jurists and 22 office and clerical posts.

60. The principle of the independence of the courts in judicial activities is an underlying principle of the Constitution, although this principle is not expressed directly in the Constitution[13]. The central administration of the ordinary courts falls under the Department of Courts Administration in the Ministry of Justice. This Department is responsible for personnel administration, drafting the courts' budgets and allocating the budget among the individual courts, for ensuring that the courts have serviceable premises and appropriate equipment, for training and other competence-building measures, and for developing the organization of the courts.

61. As a result of the findings of the Law Courts Commission and according to the Parliamentary Bill no. 44 (2000-2001), the Ministry of Justice proposed the creation of a new Courts Administration outside the Ministry of Justice. In the bill it was said, that it is the very essence of a state governed by law that the courts should not be placed under any political steering or control in the performance of their judicial functions.[14] In late 2002 the courts administration will be established in Trondheim as an external agency.

iii) The judges

62. In the remarks to the above-mentioned bill the Ministry of Justice underlined that the quality of judges is crucial for a well-functioning judiciary, and the appointment of judges is therefore an important task. The selection procedure must ensure a sound evaluation of the applicants' professional and personal qualities, and the evaluation must not be influenced by ulterior considerations. It is also important, to ensure public confidence in the courts, for people to be able to see that the procedure is secure, reliable and proper and that no unlawful or irregular influence is being exerted in the selection process.

63. Under the Constitution, the King in Council is authorized to appoint judges. Today, vacant judgeships are announced publicly by the Ministry of Justice, which also receives applications and is responsible for the technical part of the administrative handling of the applications. With the exception of vacancies for Supreme Court justices and interim appointments for less than one year, the Advisory Council for the Appointment of Judges receives all applications for assessment. The Advisory Council for the Appointment of Judges consists of three members who are appointed by the Ministry on the recommendations of the Norwegian Association of Judges, the Norwegian Bar Association and the Norwegian Association of Lawyers. The Council submits a recommended nomination to the Ministry of Justice. The department in charge in the Ministry draws up a recommendation, which is assessed by the Minister. A draft Royal Decree is then prepared, which is dealt with by the King in Council.

64. As regards the appointment of Supreme Court justices, the Supreme Court Chief Justice submits an oral opinion to the Minister of Justice after having consulted the other Supreme Court justices.

[13] The Law Courts Commission proposed in its report that the principle of the independence of courts be expressly fixed in the Constitution.

[14] One of the principles adopted by the constituent assembly at Eidsvoll in 1814 determined that the judiciary should be separated from the legislative and executive powers. The key element of this principle is the independence of the courts in their judicial activities. The reason for wishing to see greater independence also in administrative respects is above all that it would support the independence of the work carried out by judges, and would make it more evident to the public.

65. In Norway it has traditionally been considered desirable for the body of judges to reflect the broadest possible professional legal background. It has been considered positive to maintain a broadly based recruitment of judges, so that they may combine knowledge from various areas of society and legal work. The Ministry of Justice wished to continue the current system with a broadly based recruitment of judges: all people with a legal background will remain recruitable (e.g. lawyers from the industry etc.). After the recruitment, some training will be provided weekly (seminars, lectures etc.), with salaries made more attractive.

66. At the same time, and taking into account the proposals of the Law Courts Commission, the Ministry of Justice proposed the establishment of a new external Judicial Appointments Board, which will have considerable influence on the appointment of judges[15].

b5. Other institutions and mechanisms

i) Prevention and detection of corruption mechanisms

General mechanisms

67. There is no general obligation in Norway for public officials to declare their assets or income. The only exception is for special categories of personnel, namely public procurement officials and tax officials. The information they declare is confidential and only their employer has access to it. As far as MPs are concerned, since 1990 the parliamentary Committee on Scrutiny (see below) is holding a register in which MPs may declare their professional position, assets, shares, gifts over 2000 Norwegian Crowns (about 300 €), revenues etc. The register does not indicate the amounts concerned, only their origin. Although the system is based on a voluntary basis, 154 MPs had registered at the time of the visit, that is 90% of them. Given the nature of this system there is no control of the declarations, but the register can be consulted by any citizen.

68. In addition to the criminal law provisions on corruption, section 20 of the Act Relating to Civil Servants of 4 March 1983 No3, provides that "no senior civil servant or civil servant may on behalf of himself or others accept a gift, commission, service or other payment which is likely, or which by donor is intended, to influence his official actions, which regulations forbid the acceptance of. Violation may entail disciplinary measures or summary discharge". According to the information provided to the GET, each individual public agency is responsible for enforcing the prohibition within its own department.

69. There are no statutory or other formal rules obliging public officials to inform their superiors of corruption cases that come to their knowledge while performing their functions. However, it is assumed that the non-statutory principle of loyalty to the employer, which has been established in case law and legal theory, obliges public officials to report misconduct that detrimentally affects

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[15] The Ministry proposed that this Judicial Appointments Board be composed of three judges, two lawyers from outside the courts and two public representatives, who should all be appointed by the Government. The Appointments Board should provide the broadest possible range of professional contacts with potential recruitment environments. The Ministry assumes that the Courts Administration will be in charge of the secretariat's functions. On the basis of a thorough assessment of the applicants to vacant judgeships, the Appointments Board shall submit a recommendation to the Ministry of Justice, stating their reasons and proposing the order of candidates for the appointment. The president of the court in question shall be drawn actively into the appointment process. The Ministry of Justice will then make a very limited assessment of the proposal. The King in Council will freely select a candidate from among those nominated. Provided that there are a sufficient number of qualified applicants, the Appointments Board shall always nominate three candidates. If the Government wishes to appoint applicants that have not been nominated, the matter must be reconsidered by the Appointments Board. The Minister of Justice shall then submit the matter to the King in Council, which will still be the competent authority for the appointment.

the employer. The normal procedure is to bring the matter to the attention of the public official's immediate superior first, unless the superior is the actual or suspected wrongdoer. The superior, or his superiors, will then decide whether the case should be reported to the police. Depending on the seriousness of the case and the harm caused, failure to report may result in disciplinary reactions, the most serious being dismissal. There is no general obligation for public officials to report to law-enforcement or judicial authorities possible cases of corruption that come to their knowledge in the course of their duty. State agencies are not obliged to report such incidents either. With regard to exposing wrongdoing ("whistle-blowing"), a Government-appointed Commission on freedom of expression recommended in its 1999 report that whistle-blowing be statutorily regulated, and the proposal is now before the relevant committee in Parliament. The Ministry of Labour and Government Administration's report (see below) on "The Ethics Infrastructure of the Norwegian Government Administration" recommends internal discussion of how to best regulate this area.

The Ministry of Labour

70. Besides the above-mentioned responsibility for the Civil Service Act, The Ministry of Labour and Government Administration is responsible for guidance, training and counselling in ethics for civil servants. The GET was informed that little has been done in this area so far. In 2001 the Ministry of Labour and Government Administration commissioned a report to review the ethics management system of the Norwegian government administration on the basis of the twelve Principles for Managing Ethics in the Public Service that underlie the OECD Recommendation (1998) on Improving Ethical Conduct in the Public Service. Their report, which is entitled "The Ethics Infrastructure of the Norwegian Government Administration", was submitted in February 2002. The Ministry of Labour and Government Administration are considering how to follow up the recommendations of the report.

71. The Ministry of Labour and Government Administration is further responsible, within all government departments, for setting general terms and conditions of employment within the framework of law and collective bargains, and can therefore initiate changes within all ministries. It commissioned the above report of its own volition for the purpose of improving the ethics infrastructure of the central government administration in line with above-mentioned OECD principles for ethics management[16].

The Ministry of Finance

72. The Storting exercises its Regulations for Financial Management ("Regulations") through the Ministry of Finance. The Regulations are designed to ensure that State funds are used within the framework and conditions laid down by the Storting. They implement Storting resolutions on expenditure and revenues and are aimed at safeguarding the State's material goods and values. The Ministry of Finance lays down supplementary "Functional Requirements" ("Requirements") to implement the Regulations.

73. The Requirements give more detailed rules and guidance as to standards and conduct of public financial management. They include accounting systems and procedures for money transmission, documentation and wages, rules on the purchase of goods and services and rules for grants,

[16] The GET was informed that as a follow-up of the above report, and in line with the Council of Europe's Recommendation (2000) on Codes of Conduct for Public Officials as well as the above-mentioned OECD Recommendation, a Code of Conduct for the Norwegian civil service is now being drafted. The other recommendations of the report are pending decision in the Ministry of Labour and Government Administration.

subsidies and guarantees settlements. The GET was informed by representatives of the Ministry of Finance that it sees itself as a mainly preventative function rather a control function. This is because Norway has a system of ministerial rule. Each minister is constitutionally and politically accountable to the Storting. The Regulations delegate considerable responsibility to the ministries. The Ministry of Finance is involved in public procurement, although the Ministry of Trade has primary responsibility for administering the Regulations in this area.

74. Each ministry in Norway is responsible for controlling its own use of public funds as well as ensuring that any of their subordinate agencies have established internal control systems. The GET was informed that the Ministry of Finance regularly carries out evaluations for other ministries but bases its reports on the other ministries' own reports on themselves. External auditing of the Ministry of Finance is conducted by the OAG.

75. The GET, having in mind notably the high taxation pressure in Norway, was informed that there was no specific research available on what the Ministry of Finance considers to be the major at risk areas in relation to corruption. The Ministry has started compiling a paper assessing this risk in respect of each government department, but this is for its internal use only.

ii) The Norwegian Customs and Excise

76. The Norwegian Customs and Excise is an autonomous agency under the Ministry of Finance. The agency consists of a central directorate and a regional administration comprising 10 regional Customs offices, 34 Customs offices and eight customs clearance and anti-smuggling unit. The Customs administration does not carry out criminal investigations, e.g. drug trafficking (such cases are given systematically to the police).

77. There is no special internal control or disciplinary body apart from the central internal audit unit as the main emphasis is put on preventive aspects: mutual control of staff and division of tasks, design of the IT system, short time clearance, training and ethics etc. with concrete best practices to be followed. Heads of the regional Customs offices are entrusted with the disciplinary authority: they can issue a warning, suspend the officer etc. the Headquarters must be informed of any such suspension. In the period 1996-2001, 15 disciplinary cases were conducted, of which four ended up in dismissals (one embezzlement case, one case of alcohol trafficking, one for misconduct, one for mental illness). When asking about corruption cases, the GET was informed that limited corruption exists from time to time at the border cross – points (about one case per year). Cases which are not serious to society (e.g. embezzlement with small amount) are investigated by the Customs, while serious cases were transmitted to the police.

iii) The Parliamentary Ombudsman

78. The Parliamentary Ombudsman (hereafter the "PO") is the representative chosen by Parliament (the Storting) to investigate and to express an opinion complaints against decisions of Norwegian authorities (whether the decisions are considered to be wrong or have been dealt with in an improper manner). Private disputes are outside the PO's jurisdiction. The purpose of the PO is to try to prevent mistakes or injustices which affect the individual. The first PO was appointed in 1962. The PO must be a lawyer who has attained the qualifications of a Supreme Court Judge. S/he is appointed by Parliament. S/he must be able to act impartially. They are independent of those they control, but they are nevertheless a part of the Norwegian public administration.

79. The PO can only investigate a case or make a statement after the administration has announced its final decision on an issue and all avenues of appeal have been exhausted. There is no right of appeal from the PO's pronouncements. The PO's staff consist of 25 lawyers, and a clerical staff of 10. They deal with 2000 plus cases per year.

iv) The Office of the Auditor General (Riksrevisjonen)

80. The Office of the Auditor General (hereafter the "OAG") is an independent authority established in Norway in 1816. The OAG's overall responsibility is to ensure that public assets are used and administered according to sound financial principles and in keeping with the decisions and intentions of the Storting[17].In 2000 work was carried out on 46 performance audit projects. Of these only 8 have been completed and sent to the Storting to date. The OAG sends an annual report, (called the OAG's document series), to the Storting concerning the results of its review of government accounts. It also prepares a number of separate reports on its examination of various financial areas concerning the government ministries and public administration.

81. The senior management of the OAG is composed of a board of five Auditors General appointed by the Storting for a period of four years ("the Board"). The composition of the Board reflects the parliamentary composition of the Storting. Although elected politically, the Board is considered to act impartially. The GET was informed that to date there had been a joint understanding that the OAG, within the limits given by the Storting, enjoys an independent status. It determines the content of its own audit responsibilities and how they should be carried out. The GET were informed that the OAG's auditing standards were based on the standards drawn up by the International Organisation of Supreme Audit Institutions.

82. The OAG has approximately 400 plus staff consisting of seven departments (four for financial auditing, one for special auditing, one for performance auditing, and one for administrative tasks). About 90 staff work at the level of the 20 regional OAG offices.

83. The GET was informed that new legislation passed in 1999 involves private sector auditing bodies in the detection of infringements. Discussions on introducing similar measures for the public sector are taking place at the moment.

v) The Ministry of Trade and Industry and the supervision of public procurement rules

84. The Ministry of Trade and Industry is responsible for enforcing public procurement rules and procedures. Norwegian state, regional, local authorities and other bodies are subject to the EEA Agreement and GPA rules on public procurement. These contain mandatory detailed procedures for allocation of public contracts above certain EU/GPA thresholds. They are similar to the rules that apply generally throughout EU member states and are designed to make the most effective use of public resources and to allow equal treatment between bidders when allocating public procurement contracts. Since June 2001 similar but more simplified national rules apply for tendering of public procurement contracts of lesser size, namely above approx. 25000 Euros net value and below the above EU/GPA thresholds.

[17] The OAG is responsible for auditing the central government accounts and recommending their approval to the Storting. It also audits the accounts of subordinate government agencies, state-owned commercial enterprises and state foundations and funds. It monitors the public administration of state interests in enterprises. It also monitors government spending to ensure it is in accordance with the intentions of the Storting. It is a think tank for the Storting about major matters of auditing principle.

85. Both sets of rules require public authorities to publish invitations to tender on a public database. In cases of rejection or loss of a tender, the unsuccessful bidder has the right to request a written justification from the public authorities. The unsuccessful bidder may also appeal possible infringements to the court. In respect of a supplies, works or services contracts, the court has authority to stop an ongoing tender in order to correct the procurement procedure. The court can also award compensation for loss of contract or for expenses incurred on preparation of an unsuccessful tender. It should be noted also that any infringements of the EEA agreement may be notified to the EFTA's surveillance authority. The GET was informed that during the last 6 months only about a quarter of local authorities had published their invitations to tender for their procurement contracts. The GET was informed that the reason behind this low figure was a lack of awareness of the June 2001 legislation, some resistance to parts of the legislation, lack of resources to prioritise the implementation of new legislation and a preference to relate to local suppliers.[18] The issue had received extensive political attention and media coverage at the time the legislation was passed.

86. The Storting has recently authorised the establishment of a public procurement dispute resolution agency with the purpose of making it easier and less expensive to file a complaint against public authorities for alleged infringement of these procurement rules. It is anticipated that the agency will be operational from January 2003 and will be able to speed up the complaint handling so that any corrective steps can be taken before a public procurement contract is signed.

vi) The Standing Committee on Scrutiny and Constitutional Affairs (Stortinget)

87. The Stortinget is a special permanent committee of the Storting. It was set up after the general election in 1993 to scrutinise government and public administration. A high priority is given to this scrutiny function. As well as responsibility for such constitutional matters, the Stortinget reviews records of the Council of State, annual reports from the government concerning appointments of senior officials, government boards and councils, and all reports from the Auditor General. The Stortinget also considers complaints brought by private persons. The Stortinget is the only committee in the Storting that is empowered to make whatever investigations into public administration that it finds necessary. In 1996 a trial arrangement was adopted enabling Stortinget hearings to be held in public. Previously all hearings were carried out in private. This has been regarded as a particularly important development. So far it has carried out eight such public hearings.

vii) Initiatives concerning the private sector

<u>The Banking, Insurance and Securities Commission (KreditTilsynet)</u>

88. The KreditTilysynet was established in 1986 by the merger of different existing bodies. In 2002 it has 173 employees. It is financed by the institutions under its supervision. It was one of the first integrated supervisory authorities in the world to supervise the whole financial sector to ensure that its institutions operate in an appropriate and proper manner and in accordance with the law. It is both a government agency reporting to the Ministry of Finance and an independent authority.

[18] The Norwegian authorities indicated after the visit that the Ministry of Trade and Industry would keep up its work to improve the information framework and information channels in order to elevate the awareness of the new legislation. At the same time, latest statistic confirms a growing number of public tender notices. Furthermore, the Ministry recently has taken the initiative to establish a working group that will evaluate ways to increase the number of public tender notices, including evaluating appropriate sanctions when public entities are neglecting the rule of publishing tenders.

It gives independent advice to the Ministry of Finance and has an independent regulatory function in relation to individual financial institutions.

89. To avoid corruption in the KreditTilsynet itself there are a number of standards imposed on its own employees. There are restrictions on share ownership in companies under its supervision. Employees have a duty not to disclose confidential information. There is a reporting mechanism whereby every employee has to report to the Director General of the KreditTilsynet every year.

90. In its external supervisory role, the KreditTilsynet has a number of supervisory mechanisms. These include: on-site inspections; document-based economic reporting; macroeconomic surveillance; development and simplification of regulations etc. They have the power to withdraw licences from institutions who are non-compliant. The GET was informed that on-site inspections were considered as a particularly useful tool when carried out regularly and without warning. The KreditTilsynet conducted 396 on-site inspections in 2000.

The Confederation of Norwegian Business and Industry (NHO)

91. NHO is the biggest employer organisation in Norway. It has put private sector corruption on its agenda with profile raising information campaigns such as "Standpoint Corruption" (launched in 1999). It has also adopted several measures: creation of a Standing Group on Ethics, dialogue with NORAD as well as building partnerships with other non-governmental organisations, setting up of a focus group to produce a set of working practices for their members etc. In November 2000 they carried out a survey of their members to ascertain both their awareness of corruption and their knowledge of international changes in the area[19].

92. NHO informed the GET that they do not consider bribery in domestic business as much of a problem in Norway. They said that members had reported very few instances of corruption compared with problems experienced by members in external, vulnerable markets. Their members identify the key problem areas as being construction (international competitive bidding and untying of aid), telecommunications and European road haulage.

c. Immunities from investigation, prosecution and adjudication for corruption offences

93. Article 66 of the Constitution provides that "Representatives on their way to and from the Parliament [Storting], as well as during their attendance there, shall be exempt from personal arrest, unless they are apprehended in "public crimes" [*flagrante delicto*], nor may they be called to account outside the meetings of the Parliament [Storting] for opinions expressed there. Every representative shall be bound to conform to the rules of procedure therein adopted."

94. MPs or ministers do not enjoy further immunities. Interlocutors of the GET mentioned that in recent years, there had been approximately two cases against MPs and one case against a Minister (concerning fraud, embezzlement and travel expenses).

[19] Before this survey they had not publicized the subject very much. In their opinion the Ministry of Justice had not publicised the international changes for business enough as it had only issued a small press release. NHO stated that their survey was reported by the press and this, besides highlighting the lack of knowledge about corruption amongst their own membership, also helped increase public awareness about it.

III. ANALYSIS

a. General anti-corruption policy

95. There is a general feeling, expressed by the representatives of all the Norwegian institutions visited by the GET, that there is little domestic corruption in Norway. It is not perceived to be a large-scale problem and it is also true that the rate of detected and evidenced corruption cases is low. The GET also noted that corruption is strongly condemned by the Norwegian society. The GET was particularly impressed by the involvement in, and commitment of the private sector to the fight against both private/private sector and private/public sector corruption. This involvement is self critical and concrete (studies, adoption of codes of conduct, awareness raising activities etc.). Organisations such as NHO play a leading role as coordination and impulsion bodies in this commendable activity.

96. The GET noted with satisfaction that the national action plan for 2000 – and to a certain extent the risk assessments of the police - promote a multi-disciplinary and interagency approach to tackling corruption issues within the wider context of economic and serious crime. ØKOKRIM's specialist corruption unit provides advice to other prosecutors outside of their unit. They appear to have been effective in raising awareness of corruption generally both within public administration and the private sector. The appointment of a French/Norwegian investigative judge as a special advisor to the Government is another interesting initiative (to be evaluated in the future). There is a general awareness of the need to anticipate and to keep the problem of corruption under control also from this point of view.

97. A number of complementary governmental agencies such as ØKOKRIM and the KreditTilsynet provide important institutional safeguards against corruption in Norway but the most important instrument against corruption is seen to be transparency and openness within Norwegian society itself. The public seems to enjoy considerable rights of access to information on public-sector activities. This public and media scrutiny is then complemented by independent institutions such as the Office of the Auditor General and the Parliamentary Ombudsman who investigate and make recommendations about the actions of the Executive. This framework has been in place a long time, and has contributed to an established culture of openness and scrutiny of the actions of public servants. This is complemented by other initiatives, such as the requirement for tax and public procurement officials to declare their income and assets to their employer.

98. Even if Norwegian authorities are not complacent in their attitude to corruption and their exposure to corruption from the international community it must not assume that there is no effect on its domestic arena. There was an increased awareness of the potential threat of corruption in international business transactions and overseas development. It was also acknowledged that the domestic arena is most vulnerable to corruption in the field of public procurement.

99. The GET reached the conclusion that the current efforts are impressive for a country where corruption is little perceived. However, the GET found out that there is room for a better evaluation of the real extent of corruption.

100. The statistics available sometimes do not specifically focus on corruption cases and those made available do not cover all provisions on corruption-related crimes that can be found in the Penal Code. Certain provisions of the Penal Code do not allow the authorities to single out a corruption-related crime as these provisions sometimes apply to other offences too. This makes the collection of focused statistics more difficult.

101. The GET considered that the collection of better statistical evidence and research on sectors affected by corruption/sectors at risk would clarify the extent of corruption and facilitate the development of anti-corruption measures and assumed that this would be included in the future work when revising the national action plan. **The GET recommended to consider the development of targeted statistics and research on the various forms of corruption in Norway.**

102. Finally, the GET noted that sanctions for passive bribery under Section 112 of the penal code were relatively low. It took note, however, of the information provided by the Norwegian authorities according to which:

- Section 113 would be applied when a public official receives a bribe;
- Section 275 may also be used, on the basis of Supreme Court decisions which state that the mere acceptance of a bribe is also a breach of duty.

b. Institutions, bodies and services dealing with the prevention, investigation, prosecution and adjudication of corruption offences

b1. Police, Public Prosecution and Judiciary

103. The police appear to be well organised. With the exception of certain investigative techniques, they make use of advanced working methods, such as risk assessments, and there is a strong emphasis on preventive aspects, ethics etc. The GET also noted that the police and prosecution are trying to develop new working methods aimed at facilitating the gathering of proofs for serious crime cases (introduction of rewards for information, new incentives for confession and collaboration etc.). The existence of specialised economic crime units at the level of the larger districts makes the necessary expertise available where the economic activity is intense.

104. The GET was satisfied that the police is independent from the political levels and only subject to the direction of prosecutors in concrete cases. It seems that the supervision is delegated to a large extent to the police prosecutors. The GET was informed of no controversies on this issue.

105. ØKOKRIM appears to be a positive solution to address the challenges of cooperation between the police and prosecution, to provide a framework for multidisciplinary working methods. The anti-corruption unit within ØKOKRIM exchange support and expertise with other units, e.g. where a case involves different crimes such as corruption and fraud. The presence of the anti-money laundering unit within the same premises also facilitates the exchange of information from this point of view. The head of ØKOKRIM plays a major role as he makes the decision as to whether a case handed over by another authority is accepted or rejected. In this respect, the GET was informed that all serious crime cases and those difficult ones (for which other investigative bodies may not have sufficient resources) are taken over by ØKOKRIM. The GET also believes that this central institution allows to handle "local" cases which could otherwise be subject to certain forms of pressure or perception of partiality by the public. The GET was also confirmed that the quality checks of files to be sent to courts also takes into account procedural aspects.

106. Preventive and awareness raising work are another interesting task of ØKOKRIM: staff of the anti-corruption unit organize or attend various activities and conferences aimed at companies and public institutions, including the police Academy.

107. As far as the prosecution system is concerned, prosecutors seem to perform independently. Decisions in serious cases are made either by the superior prosecution authorities or by the special unit of ØKOKRIM. Although the reasons for waiving the prosecution are drafted in a way which leaves a large margin of appreciation to prosecutors, waivers occur seldom as the GET was told. And there are possibilities to appeal the decisions to the superior authorities if the citizen who had reported the offence disagreed with the decision.

108. As far as the courts are concerned, the GET noted that for special types of cases, for example financial crime, separate committees of expert lay judges are arranged. This is an interesting practice as it can provide the courts with specific expertise. Such cases are sometimes very sophisticated and may require various forms of expertise (in accounting, business, financial, investment, tax and other similar areas). In this regard, the expertise of ØKOKRIM in the preparation of the case is valuable.

109. The GET also was informed that there is a strong public confidence in the way corruption-cases are handled in Norway at the judicial levels.

110. As far as SEFO is concerned, the GET observed that the creation of this body is another interesting initiative. Its structure is currently being reviewed by the Ministry of Justice. The workload appears to be important and the results obtained so far perhaps not in line with the expectations of its founders (700 cases in 1999 and charges brought in three cases only).

b2. Sources of information

111. The GET was informed that a number of corruption cases have been detected by investigative journalists and once reported in the media have been followed up by the prosecuting authorities. It was also said to the GET that cases stemming from the public sector have only been discovered purely by chance by public supervisory bodies, and that some private sector entities prefer to handle possible corruption cases internally, in order to protect their image. The GET, together with the Norwegian authorities, recognise that this latter situation is not acceptable.

112. In addition to the existence of guidelines on informants, the GET noted that a recent reform allows for the use of anonymous witnesses at the trial stage, a measure which would encourage the disclosure of information at least at this stage.

113. The GET were informed that the normal procedure for a public servant should be to report any suspicion of wrongdoing to his immediate superior. If the suspected wrongdoer is the superior, the procedure should be to report to someone higher up in the organisational hierarchy. As stated earlier, the principle of loyalty to the employer obliges the public servant to report to his employer knowledge or well-founded suspicion of wrongdoing that harms, or is likely to harm, the employer. There are no statutory or formal rules regulating reporting to the police or to the press. These options would be subject to ethical consideration. Public servants who report or expose wrongdoing have no right to protection, but they may be granted anonymity pursuant to provisions in the Public Administration Act and the Freedom of Information Act. The GET also found that there was uncertainty in the mind of some of its interlocutors, as to what the exact rules and their status are.

114. In the light of the above, the GET reached the conclusion that there is room for improving the situation and the legal framework applicable to crime reporting and "whistleblowing". Therefore, **the GET recommended:**

- **to review the current mechanisms on the reporting of information on corruption,**
- **to clarify the obligation on public servants when and how to report unlawful, improper or unethical behaviour, or behaviour which involves maladministration,**
- **to ensure that all appropriate allegations are reported to the police and prosecution.**

115. Law enforcement agencies are precluded from using certain means of investigation in corruption cases, for example, telephone tapping. These measures can only be applied to investigate cases where the offence in question is liable to imprisonment of 10 years ore more as well as serious drug-related crimes and cases concerning national security and vital interests. The GET recalled that the detection and investigation of corruption and other - sometimes sophisticated – similar forms of crime, involve many difficulties and could be seriously hindered if the authorities are deprived of "effective means for gathering evidence". Corruption is by definition a very secretive and covert form of criminality. Some Norwegian representatives in charge of investigating corruption cases were in agreement with the need for these techniques to be made available. The GET shared this opinion of a need in Norway for more powerful means of investigation of serious corruption, considering at the same time the respect for fundamental human rights.

116. Therefore the **GET recommended to extend, as far as possible, the use of special investigative means to cases of corruption, in line with the principle of proportionality and existing safeguards.**

c. Other institutions involved in the fight against corruption

117. Despite the – commendable - strong emphasis on ethics in Norway, the GET observed that there was limited awareness of corruption issues as such in the public sector and there seemed to be a narrow understanding of this issue in Norway, which could be due to the fact, that bribing a public official in Norway is considered as inconceivable. On the other hand, the failure by public officials to promote awareness of corruption issues in the public sector is being balanced by efforts in the private sector by organisations such as NHO. Their measures are, however entirely voluntary. The GET observed with satisfaction the informed approach of NHO to raising the profile and disseminating information to its membership as well as developing relationships with other NGO's such as NORAD and Transparency International. The GET viewed this development of closer liaison between all the various parties as a positive one. The GET noted that ØKOKRIM has taken positive steps to develop a working relationship with NHO and it is to be hoped that other government agencies such as the Ministry of Justice and the Ministry of Labour follow this lead, so that the Norwegian's active participation with international efforts to tackle corruption is matched by improved detection and reporting measures and a proactive dialogue at home.

118. The Ministry of Labour seems to play a major role in Norway. The GET observed that it would be a positive initiative if this Ministry were to take more active steps in carrying out its responsibilities to promote awareness and issue specific guidelines and training on corruption issues among civil servants and officials under section 20 of the Act Relating to Civil Servants (1983).

119. The GET also welcomes the recent modernisation of auditing in Norway and the steps taken in the private sector as regards the detection of offences. The GET noted that for the time being, if the OAG detects corruption or any other wrongdoing they can report it to the institution concerned. If the institution doesn't react, the OAG can do nothing until the audit is completed which in many cases can take up to a year or 18 months. In any case, the principle is that, should any irregularity be detected, it is to be reported first to the institution concerned. The GET was informed that - although it may itself occasionally face difficulties with some ministries - the OAG

has a much better access to documentation than the police, and that the latter sometimes addresses the OAG to obtain information; such information or documentation cannot be provided as it was submitted to the OAG in confidence. Furthermore, the GET was told that although the OAG receives anonymous claims about corruption concerning public procurement, this kind of intelligence cannot be forwarded either.

120. It was therefore clear to the GET, that the OAG can be a valuable source of information which is – and can - not fully be exploited to reveal corruption. The current statutory limitations affect the sharing of information with the police and prosecution bodies. The present situation was sometimes considered by other law enforcement representatives as unsatisfactory, notably as under the current system, there are risks that evidence be destroyed or becomes otherwise obsolete. For these reasons, **the GET recommended to review the regulatory framework applicable to the cooperation between the Office of the Auditor General, the police, ØKOKRIM and other relevant law enforcement bodies. The OAG should be allowed to report any suspicions to the police/ØKOKRIM immediately and confidentially upon discovery whilst the audit is continuing.**

121. A similar problem affects the Banking, Insurance and Securities Commission (KreditTilsynet). The GET was informed by its representatives that they do not have an absolute duty to report any wrongdoing to the police/ØKOKRIM with the exception of money laundering offences. If an offence other than money laundering was discovered by KreditTilsynet, Section 6 of the Act regulating KreditTilsynet would apply as it states that the latter may report it to the police. To determine whether to report a case or not, KreditTilsynet would take into consideration the principle of proportionality, including the seriousness of the offence (it is likely that corruption offences would therefore be reported to the police). The discussions held by the GET have shown that there was some uncertainty as regards the exact scope of the reporting faculty to report suspicions of wrongdoing to the police if the financial institution concerned did not do so. Having in mind the increase in economic crime and of tip-offs on money laundering in Norway, the fact that corruption is often present where huge interests are concerned without necessarily appearing as such at first sight, and given controversies raised by the media as regards the phenomenon of insider trading, the GET believed that the Banking, Insurance and Securities Commission is another valuable source of information which could be better involved in the fight against corruption. **The GET recommended the Norwegian authorities to adopt formal written guidelines stressing the importance for KreditTilsynet to report grounded suspicions of criminal offences to the police or prosecuting authorities (see also para. 114 above).**

122. As far as the Customs are concerned, many initiatives have been adopted to promote the integrity of staff and to reduce corruption opportunities. The figures provided to the GET seem to confirm the effectiveness of the current efforts. Given the experience of other countries – which shows that customs are often a sector at risk - the GET stressed the importance of remaining vigilant in this regard.

d. Immunities

123. The scope of immunities in Norway is very narrow. Leaving aside diplomatic immunities and the royal family, only parliamentarians enjoy an immunity - which is very limited as it follows from paragraph 93. The GET also noted the absence, in the constitution, of a system for the lifting of immunity – a procedure which is unnecessary in view of the very restrictive scope of immunities in this country. As a conclusion on this subject, the system of immunities in Norway is fully in compliance with GPC 6.

IV. CONCLUSIONS

124. The GET was impressed by the well-developed institutional framework within Norway for promoting integrity, and combating economic crime and corruption. The ethical standards within the public sector are high and the private sector seems firmly involved in the fight against corruption. Despite an overall level of reported corruption which is low according to the available figures, Norwegian authorities remain vigilant and acknowledge that the current situation should not be a reason for inactivity with regard to these issues.

125. Human rights and individual freedoms in Norway are very important values, both in theory and practice.

126. Self-regulatory mechanisms, ethics, flexibility and broader regulatory frameworks prevail over detailed, mandatory and strict regulations.

127. The GET is convinced that, within this model, there is room for introducing more stringent anti-corruption mechanisms without altering the system. For the time being, the understanding and measure of corruption is variable, and the system does not guarantee that the information on possible cases is processed as it could be: operative investigative means are difficult to apply against corruption and the sharing of information and tips is sometimes hindered by regulatory, institutional and other barriers.

128. In view of the findings of the report, GRECO addressed the following recommendations to Norway:

   i. **to consider the development of targeted statistics and research on the various forms of corruption in Norway**

   ii. **to review the current mechanisms on the reporting of information on corruption; to clarify the obligation on public servants when and how to report unlawful, improper or unethical behaviour, or behaviour which involves maladministration; and to ensure that all appropriate allegations are reported to the police and prosecution.**

   iii. **to extend, as far as possible, the use of special investigative means to cases of corruption, in line with the principle of proportionality and existing safeguards;**

   iv. **to review the regulatory framework applicable to the cooperation between the Office of the Auditor General, the police, ØKOKRIM and other relevant law enforcement bodies. The OAG should be allowed to report any suspicions to the police/ØKOKRIM immediately and confidentially upon discovery whilst the audit is continuing;**

   v. **to adopt formal written guidelines stressing the importance for KreditTilsynet to report grounded suspicions of criminal offences to the police or prosecuting authorities.**

129. Moreover, GRECO invites the authorities of Norway to take account of the observation made by the experts in the analytical part of this report.

130. Finally, in conformity with article 30.2 of the Rules of Procedure, GRECO invites the authorities of Norway to present a report on the implementation of the above-mentioned recommendations before 31 December 2003.

APPENDIX I

Selected provisions from the penal code
Extraction of relevant provisions from the Penalty Code [Straffeloven]
(unofficial English edition from 1994)

§ 67. The period of limitation is:

- two years when the maximum penalty prescribed is fines or imprisonment for a term not exceeding one year,
- five years when the maximum penalty prescribed is imprisonment for a term not exceeding four years,
- 10 years when the maximum penalty prescribed is imprisonment for a term not exceeding 10 years,
- 15 years when a penalty for a specified period not exceeding 15 years may be imposed
- 25 years when imprisonment for a term not exceeding 21 years may be imposed.

Detention is deemed to be equivalent to imprisonment when calculating the limitation period.

The fact that fines or loss of civil rights may be imposed in addition to another penalty is of no significance when calculating the limitation period.

If any person has by the same act committed two or more offences which pursuant to the first paragraph should become time-barred at different times, the longest period of limitation shall apply to all the offences.

The period of limitation of criminal liability applicable to enterprises shall be calculated on the basis of the penalty scale for individual persons in the penal provision that has been contravened.

§ 68. The period of limitation begins to run from the date the criminal activity has ceased.

When criminal liability is dependent on or influenced by a subsequent effect, the period of limitation does not begin to run until the date on which such effect occurs. The same applies when the prosecution is dependent on the occurrence of a subsequent event.

If the criminal act is committed on a Norwegian ship outside the realm, the period of limitation begins to run from the date the ship arrives at a Norwegian port. The commencement date of the period of limitation cannot pursuant to this provision be postponed for more than one year.

§ 105. Any person who by threats, by doing or promising a favour, by false inducements or by other improper means seeks to influence another person's behaviour or voting in public affairs or to prevent another person from voting, or who is accessory thereto, shall be liable to detention for a term not exceeding three years. Under especially extenuating circumstances, fines may be imposed.

§ 106. Any person who when voting in public affairs votes in a certain way or abstains from voting or promises to vote in a certain way or to abstain from voting because of any favour agreed upon or received shall be liable to fines or imprisonment for a term not exceeding six months.

§ 111. If a public servant demands for himself or another public servant or for the public authorities any unlawful tax, duty or remuneration for services rendered or receives what is mistakenly offered to him as due in this respect, he shall be liable to imprisonment for a term not exceeding five years.

If he keeps what he has received in good faith after his attention has been drawn to the mistake, he shall be liable to fines, loss of office, or imprisonment for a term not exceeding three months

§ 112. A public servant who for the performance or omission of an official act demands or receives for himself or another any unlawful favour or promise thereof, knowing that this is given or promised to influence his conduct in his official capacity, shall be liable to fines, loss of office, or imprisonment for a term not exceeding six months.

§ 113. If the act or omission referred to in section 112 for which the favour was received or promised was in breach of duty, or if the public servant has refused to perform an official act in order to extort such a favour for himself or another, he shall be liable to imprisonment for a term not exceeding five years.

The same penalty shall apply to any person who receives a favour knowing that it is given to him in return for having performed an official act in breach of his duty.

§ 114. If a judge, juror, assessor, or expert demands or receives for himself or another any unlawful favour or the promise thereof for acting or having acted in such capacity for or against the interests of any of the parties to a legal dispute, he shall be liable to imprisonment for a term not exceeding eight years.

These provisions also apply to arbitrators if the arbitration award has the force of a court judgment.

§ 121. Any person who wilfully or through gross negligence violates a duty of secrecy which in accordance with any statutory provision or valid directive is a consequence of his service or work for any state or municipal body shall be liable to fines or imprisonment for a term not exceeding six months.

If he commits such breach of duty for the purpose of acquiring for himself or another person an unlawful gain or if for such a purpose he in any other way uses information that is subject to a duty of secrecy, imprisonment for a term not exceeding three years may be imposed.

This provision also applies to any breach of the duty of secrecy committed after the person concerned has concluded his service or work.

§ 123. If a public servant misuses his position so as to violate any person's right by performing or omitting to perform an official act, he shall be liable to fines or to loss of office or to imprisonment for a term not exceeding one year.

If he has acted for the purpose of obtaining an unlawful gain for himself or another person, or if serious injury or violation of rights has been wilfully caused by the felony, imprisonment for a term not exceeding five years may be imposed.

§ 128. Any person who by threats or by granting or promising a favour seeks to induce a public servant illegally to perform or omit to perform an official act, or who is accessory thereto, shall be liable to fines or imprisonment for a term not exceeding one year.

The term public servant in the first paragraph also includes foreign public servants and servants of public international organisations.

The provisions of the previous section, third and fourth paragraphs, shall apply correspondingly.

§ 255. Any person shall be guilty of embezzlement who for the purpose of obtaining for himself or another an unlawful gain illegally disposes of, mortgages, consumes or otherwise appropriates any chattel which is in his possession, but which wholly or partly belongs to another, or who unlawfully disposes of money which he has collected for another or which is otherwise entrusted to him.

No penalty pursuant to this section shall be imposed for any act that comes under section 277 or 278.

The penalty for embezzlement is fines or imprisonment for a term not exceeding three years. The penalty for aiding and abetting is the same.

§ 256. The penalty for gross embezzlement is imprisonment for a term not exceeding six years. The penalty for aiding and abetting is the same.

In deciding whether the embezzlement is gross, special regard shall be paid to whether the value of the object embezzled is considerable, whether the embezzlement has been committed by a public official or any other person in breach of the special confidence placed in him as a consequence of his position or activity, whether false accounts or books have been kept, or whether the offender has knowingly caused material loss or danger to another's life or health.

§ 275. Any person who, for the purpose of obtaining for himself or another an unlawful gain or inflicting damage, neglects another person's affairs which he manages or supervises or acts against the other person's interests shall be guilty of breach of trust.

The penalty for breach of trust is imprisonment for a term not exceeding three years. Fines may be imposed in addition to a sentence of imprisonment. An accomplice shall be liable to the same penalty. Under especially extenuating circumstances fines alone may be imposed.

A penalty pursuant to this section shall not be applicable to an act that comes under section 255, cf. section 256.

§ 276. The penalty for gross breach of trust is imprisonment for a term not exceeding six years. Fines may be imposed in addition to a sentence of imprisonment. An accomplice shall be liable to the same penalty.

In deciding whether a breach of trust is gross, special regard shall be paid to whether the act has caused considerable economic damage, whether it has been committed by a public official or any other person by a breach of the special confidence placed in him as a consequence of his position or activity, whether the offender has kept false accounts or books or has destroyed, damaged, or concealed accounts, books or other documents, or whether he has knowingly caused material loss or danger to another person's life or health.

§ 286. Any person who wilfully or negligently essentially disregards provisions relating to book-keeping, making annual financial statements, or keeping accounts, laid down in any Act or regulations made pursuant to an Act, shall be liable to fines or imprisonment for a term not exceeding one year or to both.

If there are especially aggravating circumstances, imprisonment for a term not exceeding three years may be imposed.

§ 317. Any person who receives or obtains for himself or another person any part of the proceeds of a criminal act, or who aids and abets the securing of such proceeds for another person shall be guilty of an offence[20] and shall be liable to fines or imprisonment for a term not exceeding three years. Aiding and abetting shall be deemed to include collecting, storing, concealing, transporting, sending, transferring, converting, disposing of, pledging or mortgaging, or investing the proceeds. Any object, claim or service substituted for the proceeds shall be regarded as equivalent thereto.

Such offence takes place even though no person may be punished for the act from which the proceeds are derived, by reason of the provisions of sections 33 and 46.

An aggravated offence shall be punishable with imprisonment for a term not exceeding six years. In deciding whether an offence is aggravated, special importance shall be attached to what kind of criminal act the proceeds are derived from, the value of the proceeds that the offender has been concerned with, the amount of any advantage the offender has received or obtained for himself or another person, and whether the offender has habitually been engaged in such offences. If the proceeds are derived from a drug offence, importance shall also be attached to the nature and quantity of the substance with which the proceeds are connected.

If the offence is concerned with the proceeds of a drug offence, imprisonment for a term not exceeding 21 years may be imposed under especially aggravating circumstances.

If the offence is committed by negligence, it shall be punishable by fines or imprisonment for a term not exceeding two years.

No penalty pursuant to this section shall, however, be applicable to any person who receives the proceeds for the ordinary maintenance of himself or another person from a person who is obliged to provide such maintenance, or to any person who receives the proceeds as normal payment for ordinary consumer goods, articles for everyday use or services.

§ 373. Any person shall be liable to fines or imprisonment for a term not exceeding three months who in the administration of an estate or in an enterprise in which decisions are made by a majority vote

1. unjustly offers or does any person a special favour, or receives for himself or another any such favour or promise thereof for voting in a certain way,
2. fraudulently gains access to unauthorized participation in voting or to casting more votes than he is entitled to, or who is accessory thereto, or
3. causes the result of a vote to be distorted, or is accessory thereto.

§ 401. Any person who for the purpose of obtaining an unlawful gain for himself or another person seeks to restrain or prevent other persons from bidding at a public sale or purchase by spreading false notions, by gifts or similar conduct, or who is accessory thereto, shall be liable to fines or imprisonment for a term not exceeding four months.

§ 405. Any person who, in cases where the price of a commodity or the remuneration for work or services rendered is lawfully fixed by some public authority, demands or receives a payment higher than that prescribed shall be liable to fines, but in the case of repeated offences to fines or imprisonment for a term not exceeding three months.

[20]The Norwegian legal term for this offence is *heleri*.

The same penalty shall apply to any person who in any agreement stipulates for himself an advantage which it is prohibited to include in a contract.

§ 405 a. Any person who unfairly obtains or attempts to obtain knowledge or control of a trade secret shall be liable to fines or imprisonment for a term not exceeding three months.

§ 405 b. If any person who is employed by or acts as attorney for another without the latter's knowledge demands or receives a gift or any other advantage or promise thereof from a tradesman or any person on his behalf in order to give or procure for the said tradesman an unjustified advantage in regard to the supply of goods, work, or other services, he shall be liable to fines or imprisonment for a term not exceeding three months.