

Deutsche Telekom AG / Magyar Telekom

Case ID:

ST-141

Case Cluster :

Deutsche Telekom AG

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Department of Justice

Jurisdiction of Foreign Public Official(s) :

Montenegro

Year of Settlement:

2011

Month/Day of Settlement (or Notes):

12/29

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Legal Person

Type of Settlement:

Criminal

Legal Form of Settlement:

Deferred Prosecution Agreement

Monetary Sanctions (Types):

Criminal Fine

Total Monetary Sanctions (US\$):

\$59,600,000.00

Criminal Fine/Penalty (US\$) :

\$59,600,000

Monetary Sanctions Returned / Ordered Returned (US\$):

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.23

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2, Art. 7, Art. 8

Offenses - Alleged:

Bribery of foreign officials, Falsification of books and records

Offenses - Settled:

Bribery of foreign officials, Falsification of books and records

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the US Department of Justice Press Release, "Magyar Telekom Plc., a

Hungarian telecommunications company, and Deutsche Telekom AG, a German telecommunications company and majority owner of Magyar Telekom, have agreed to pay a combined \$63.9 million criminal penalty to resolve a Foreign Corrupt Practices Act (FCPA) investigation into activities by Magyar Telekom and its subsidiaries in Macedonia and Montenegro. [] The department filed a criminal information against Magyar Telekom and a two-year deferred prosecution agreement in U.S. District Court for the Eastern District of Virginia today. The three-count information charges Magyar Telekom with one count of violating the anti-bribery provision of the FCPA and two counts of violating the books and records provisions of the FCPA. At the time of the charged conduct, Magyar Telekom's American Depository Receipts (ADRs) traded on the New York Stock Exchange (NYSE). As part of the deferred prosecution agreement, Magyar Telekom agreed to pay a \$59.6 million penalty for its illegal activity [] According to court documents, Magyar Telekom's scheme in Macedonia stemmed from potential legal changes being made to the telecommunications market in that country. In early 2005, the Macedonian government tried to liberalize the Macedonian telecommunications market in a way that Magyar Telekom deemed detrimental to its Macedonian subsidiary, Makedonski Telekomunikacii AD Skopje (MakTel). Throughout the late winter and spring of 2005, Magyar Telekom executives, with the help of Greek intermediaries, lobbied Macedonian government officials to prevent the implementation of the new telecommunications laws and regulations. [] According to court documents, in order to secure the benefits in the protocol of cooperation, the Magyar Telekom executives engaged in a course of conduct with consultants, intermediaries and other third parties, including through sham consultancy contracts with entities owned and controlled by a Greek intermediary, to pay €4.875 (approximately \$6 million) under circumstances in which they knew, or were aware of a high probability that circumstances existed in which, all or part of such payment would be passed on to Macedonian officials. The sham contracts were recorded as legitimate on MakTel's books and records, which were consolidated into Magyar Telekom's financials. Deutsche Telekom, which owned approximately 60 percent of Magyar Telekom, reported in the results of Magyar Telekom's operations in its consolidated financial statements. Additionally, the criminal information charges Magyar Telekom with falsifying its books and records in regard to its activity in Montenegro. According to the court filing, Magyar Telekom made improper payments in connection with its acquisition of a state-owned telecommunications company in Montenegro. These payments were documented on Magyar Telekom's books and records through the execution of four bogus contracts. For example, two of the contracts were backdated and concealed the true counterparties, and no legitimate services were provided under the contracts even though the contracts were for €4.47 million. The department today also entered into a two-year non-prosecution agreement with Magyar Telekom's parent company, Deutsche Telekom, for its failure to keep books and records that accurately detailed the activities of Magyar Telekom. Deutsche Telekom, which is headquartered in Germany, agreed to pay a \$4.36 million penalty in connection with the inaccurate books and records. [] Significant assistance was provided by the FBI Washington Field Office's dedicated FCPA squad, the SEC Division of Enforcement, the Criminal Division's Office of International Affairs and international legal partners in Switzerland, Germany, Greece, Hungary and the Republic of Macedonia. (Source: US Department of Justice Press Release, Magyar Telekom and Deutsche Telekom Resolve Foreign Corrupt Practices Act Investigation and Agree to Pay Nearly \$64 Million in Combined Criminal Penalties," December 29, 2011.)

Sources :

US v. Magyar Telecom, Plc, Case No. 1:11-cr-00597 (E.D. Va.), Information filed December 29, 2011, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/magyar-telekom/2011-12-29-information-magyar-telekom.pdf>; Deferred Prosecution Agreement filed December 29, 2011, accessed at

29-dpa-magyar.pdf. US Department of Justice, In Re: Deutsche Telekom AG, Non-Prosecution Agreement dated December 29, 2011, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/deutsche-telekom/2011-12-29-deutsche-telekom-npa.pdf>; US Department of Justice Press Release, Magyar Telekom and Deutsche Telekom Resolve Foreign Corrupt Practices Act Investigation and Agree to Pay Nearly \$64 Million in Combined Criminal Penalties," December 29, 2011, accessed at <http://www.justice.gov/opa/pr/2011/December/11-crm-1714.html>