

Germany Agreed Sanctions Cases / Siemens Unnamed Individual Defendant #10

Case ID:

ST-164

Case Cluster :

Germany Agreed Sanctions Cases / Siemens Unnamed Individual Defendants

Jurisdiction of Settlement:

Germany

Jurisdiction of Settlement / Enforcement Agency:

Unspecified

Jurisdiction of Foreign Public Official(s) :

Unspecified

Month/Day of Settlement (or Notes):

Between 2005 and end 2010

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Criminal

Legal Form of Settlement:

Arrangement under section 153a of the Criminal Code of Procedure

Monetary Sanctions (Types):

Criminal Fine

Criminal Fine / Penalty (Explanation):

Unknown Amount

Monetary Sanctions Returned / Ordered Returned (Explanation):

Unspecified

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1

Offenses - Alleged:

Unspecified

Offenses - Settled:

Unspecified

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to Germany's March 2011 Phase 3 Report by the OECD, "From 2005 to end 2010, 69 individuals were sanctioned, of which 30 were criminally convicted, 35 were sanctioned under an arrangement under section 153a of the Criminal Code of Procedure [] and 4 were found liable in administrative proceedings." (Source: Organisation for Economic Co-operation and Development, Directorate for Financial and Enterprise Affairs, "Germany: Phase 3 Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in

International Business Transactions and the 2009 Revised Recommendation on Combating Bribery in International Business Transactions," approved and adopted by the Working Group on Bribery in International Business Transactions on 17 March 2011, at para 19.) The Report also noted that of the 35 individuals agreed to arrangements under section 153a of the Criminal Code of Procedure, 24 of which (over two thirds pertained to the Siemens case." (Source: Ibid., at para 39.) According to the Report, "individuals sanctioned under section 153a CCP [Code of Criminal Procedure] and in administrative proceedings were only sanctioned to paying fines. The amounts of fines were, in a majority of cases, within the lower range of fines available except for a few particularly aggravated cases involving senior executives. [] For instance, the size of fines ranges from EUR 1800 to a record amount of EUR 2.16 million." (Source: Ibid., at para 20.) According to the procedure of agreements under section 153a CCP, the Report notes that, "individuals may be sanctioned un the context of the conditional exemption from prosecution by the public prosecutor []. The condition for exemption, which must be agreed by both the court and the individual, may consist of the payment of a sum of money to the treasury or to a non-profit organisation." (Source: Ibid., para 98.)

Sources :

Organisation for Economic Co-operation and Development, Working Group on Bribery: 2010 Data on Enforcement of the Anti-Bribery Convention, accessed at <http://www.oecd.org/dataoecd/47/39/47637707.pdf>; Organisation for Economic Co-operation and Development, Directorate for Financial and Enterprise Affairs, "Germany: Phase 3 Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Revised Recommendation on Combating Bribery in International Business Transactions," approved and adopted by the Working Group on Bribery in International Business Transactions on 17 March 2011, accessed at <http://www.oecd.org/dataoecd/5/45/47416623.pdf>. <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/Germanyphase3reportEN.pdf>