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Ref: Questionnaire for NHRIs – Corruption and Human Rights

**REPLY**

With regard to your questionnaire, please find the Finnish Ombudsman Office's reply below.

There is no anti-corruption agency in Finland. Anti-corruption mechanisms are instead comprised of the aggregate effect of various separate functions, such as good and functioning legal framework as regards the administration and the position of civil servants, prima facie publicity of official documents, trust in law enforcement officials etc. The Parliamentary Ombudsman and the National Human Rights Institution are additional safeguards against corruption.

The Ombudsman – and two Deputy Ombudsmen acting with similar jurisdiction – mainly investigate complaints lodged by individual persons, associations, enterprises or, for example, litigating lawyers. The Ombudsman may also instigate proceedings on his or her own motion. The number of yearly decisions to own initiatives is about 60 whereas about 4 500–5 000 decisions are given to individual complaints.

In both statistics (i.e. own initiatives and complaints) combating corruption has not been the focus of the activities of the Ombudsman. The very small number of individual complaints suspecting or alleging corruption is a positive indication of the state of the society in this respect. There is however always some forms of corruption in any society and also the Ombudsman is needed as an additional safeguard. There are also other important factors that effectively prevent corruption, such as relatively small differences in people's income, independency of the judiciary and effective legislation regarding publicity of official documents.

People are generally well informed about the Ombudsman institution and the threshold for issuing a complaint to the Ombudsman is low. For instance media coverage about public officials receiving free benefits from private enterprises is very likely to lead to either directly filing a criminal

report or lodging a complaint to the Ombudsman – investigation of such a case may also be instigated ex officio.

As a remedy the Ombudsman may be regarded as de facto effective. The Ombudsman has wide-ranging powers to obtain information from various sources. The normal method of examining complaints is to invite written statements from the subject of the complaint. In most severe cases the Ombudsman may order that a preliminary investigation be carried out by the police in order to clarify a matter. The Ombudsman can also order criminal charges be brought against public officials.

Typical cases in the Ombudsman's case law concern: unreasonable length of administrative and judicial proceedings, the principle of equality, negligence in the performance of public duties, improper/lacking reasoning of decisions, lack of publicity, shortcomings in the hearing of the parties involved, insufficient advice etc. The nature of the cases is closer to the category of maladministration and the realization of basic and human rights, rather than of strict corruption.

The Human Rights Centre does not investigate complaints but has instead wide ranging powers to conduct, e.g., studies and surveys also in the private sector in human rights related issues. The Human Rights Centre has for example held a seminar on corporate responsibility for human rights: The event concentrated on remedies which enterprises should provide if they have caused or contributed to adverse human rights impact.

There are some occasional, but very rare, Ombudsman's decisions on the subject matter of corruption. In January 1995 the Ombudsman ordered criminal charges on accepting a bribery to be brought against a head of department in the Ministry of Education. The head of department had participated in the European Championship Tournament in football, a qualifying football match and in the Football World Championship Tournament. All trips were financed by a Finnish football association. The overall value of the free trips was almost 6 000 euros. The association had annually received government subsidies, which in fact were issued on the introduction of the said department in the Ministry of Education. The department had granted the football association an extra subsidy of 83 000 euros during the World Championships' year. The head of department had not issued the decision himself, but he was in a position to influence the decision-making process. – The Court of Appeal as the first instance handling the case acquitted the head of department. The Supreme Court however (KKO:1997:33) found the head of department guilty of accepting a bribery and sentenced the defendant to pay fines.

Another decision was given in July 1997 in a case in which the Ombudsman ordered criminal charges be brought against several judges of the Water Rights Court as they had received entertainment from a company with pending issues before the Court (entertainment consisted of, e.g., lunches and social evenings). The criminal proceedings ended with the Supreme Court's ruling (2000:40) in which the President of the Water Rights Court and two judges were found guilty of negligent failure to perform their public duties.

In 2006 the Ombudsman regarded the conduct of the Director General of the Social Insurance Institution as not unlawful but poorly premeditated as he – together with his wife – had received hospitality and a free opera evening in connection with a work-related visit. What was problematical was that the private enterprise offering the hospitality was a grand-scale provider of health care services for the Social Insurance Institution. The State Prosecutor had previously decided not to press criminal charges against the Director General of the Social Insurance Institution. The Ombudsman found that the decision not to press charges fell within the discretion of the State Prosecutor.

Another decision concerning offering of free hospitality to civil servants was also given in 2006. The Ombudsman found that the level of hospitality offered to participants of health-care professionals' seminar did not go beyond what can be regarded as appropriate and customary. The Ombudsman however criticised the fact that the public body responsible for the organization of the seminar, i.e., a health care district, allowed a private pharmaceutical corporation to offer the hospitality instead of offering the hospitality itself.

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