

Case 2: Siemens Bribery Scandal

Source: Crawley et al., 2013, Chapter 11

According to Joseph Persichini Jr, Assistant Director in Charge of the FBI's Washington Field Office, Siemens and its three subsidiaries had to pay a substantial fine, of over 450 million US dollars, in combined criminal fines. Siemens, through its subsidiaries, was found guilty of having paid bribes and kickbacks to officials for contracts in Iraq, Argentina, Venezuela, and Bangladesh between 1998 and 2007. In the Department of Justice press release it stated: 'Today's filings make clear that for much of its operations across the globe, bribery was nothing less than standard operating procedure for Siemens.'

'This pattern of bribery by Siemens was unprecedented in scale and geographic reach. The corruption involved more than US\$1.4 billion in bribes to government officials in Asia, Africa, Europe, the Middle East, and the Americas', said Linda Chatman Thomsen, Director of the SEC's Division of Enforcement, US Department of Justice (2008a). In connection with the cases brought by the Department, the SEC, and the Munich Public Prosecutor's Office, Siemens AG was asked to pay a combined total of more than \$1.6 billion in fines, penalties, and disgorgement of profits, including \$800 million to US authorities, making the combined US penalties the largest monetary sanction ever imposed in an FCPA [Foreign Corrupt Practices Act] case since the act was passed by Congress in 1977.

The Department and the SEC closely collaborated with the Munich Public Prosecutor's Office in bringing these cases. The high level of cooperation, including sharing information and evidence, was made possible by the use of mutual legal assistance provisions of the 1997 Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which entered into force on 15 February 1999.

In the Siemens case, it is clear that many managers who were involved in these practices were influenced by the prevailing ethical attitude in the regions in which they operated, while accountants and others behind the scenes helped to make the payments possible. Employees were acting in accordance with prevailing cultural norms and were aware that the business deals they were seeking could probably only be obtained if such payments were made, thus demonstrating the application of relative ethics. However, international law has now demonstrated that this is no longer acceptable. Some might regard such legislation as 'ethical imperialism' as it seeks to impose the standards and laws of the USA or Europe on countries generally outside their jurisdiction.

While fines may be a deterrent to this type of activity and send a clear warning to corporations, the sentencing of senior executives to jail terms sends a message to those who might be tempted to bribe others. Ernst Keil von Jagemann and Wolfgang Rudolf admitted to 'being accessories to misappropriation and corruption', thereby assisting in a €1.3 billion worldwide web of bribery. However, they were only sentenced to two years and nine months respectively, in suspended sentences, and fined (DW-World, 2008). In the Siemens case, the company was made to pay substantial fines for its activities. In addition, there were subsequent cases in which

executives were sentenced to jail terms. Based on the case, answer the following questions:

1. What are the difficulties associated with finding the people ultimately responsible for the illegal activities in large multinational organizations?
2. Do you think fines alone will in future prevent organizations from paying bribes for business?
3. In your group's opinion, which ethical theory informed Siemen's decision to pay bribes in its different subsidiaries?
4. Can you name any other ethical theories or models that could have enabled more ethical behaviour for MNCs?