

Regulating transnational corporate bribery: Anti-bribery and corruption in the UK and Germany

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Abstract Recent large-scale cases involving multi-national corporations such as the BAE Systems and Siemens bribery scandals illustrate the difficulties faced by the UK and German sovereign states in controlling complex trans-national and multi-jurisdictional crimes. This article analyses the mixture of enforcement, self-regulatory and hybrid mechanisms that are emerging as part of UK and German responses to controlling transnational corporate bribery. This regulatory landscape incorporates a diverse array of direct and indirect state and non-state ‘regulatory’ actors of varying levels of formality. Mechanisms of a self-regulatory nature vary in terms of their mandatory/voluntary requirements and manufactured/organic formation. However, there is an assumption that the emergence of a variety of enforcement, self-regulatory and innovative hybrid mechanisms is sufficient but in reality this is not the case. Instead, the key argument of the article is that while these mechanisms are aiding the response, they are likely to fail leading to the default position of accommodation by state agencies, even where the will to enforce the law is high.

Introduction

The particular nature of transnational corporate bribery creates several obstacles to enforcement responses: for example, the social relations and practices that characterise the organisation of corporate bribery at the trans-national and multi-jurisdictional level are often clandestine and frequently involve consenting actors whereby both parties benefit from the corrupt transaction. Furthermore, the lack of identifiable consequences (e.g. few direct victims or harms), the ‘invisibility’ of the actors, their

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