

FACILITATION PAYMENTS

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Facilitation payments are made in various cases, ranging from corruption to racket and extortion.

Such cases arise when somebody holding powers of any kind seeks a pretext or abuses a legitimate reason in order to obtain a bribe (monetary or otherwise) in exchange for performing or not performing his duties. By such behaviour, this person impedes the application of normal procedures knowing that this will lead the victim, who becomes an accomplice, to agree or propose the payment of a bribe.

Facilitation payments also occur when a person tries to obtain an advantage by offering directly or indirectly a gift.

Almost all countries profess to fight corruption and extortion. Unfortunately, inactivity predominates. Many considerations promote these dishonest behaviours, namely: unstable jobs, weak purchasing power, delays in payment of salaries, lack of social security, social pressure of a community on an individual or a group of individuals, political funding, impunity, laxity in the application of the law, etc...

The fact that civil servants, employees, politicians enjoy a lifestyle in disproportion to their income often draws attention but seldom leads to a better control.

It is utopian for companies to admit such practices without reconsidering their anti-corruption policy. Some companies strictly forbid these practices. Others are reluctant to use them but explicitly tolerate them. Giving a definition of practices that are tolerated leads to an unclear situation and gives way to interpretation, thereby severely reducing the scope of anti-corruption policy.

In some countries, companies have to deal with situations which amount to economic terrorism and affect their performance. Hampered by important industrial investments which need to turn to profit, depending on large state markets or on public bodies controlled by ruthless people or mafias, these companies are obvious targets. Corrupted officials try to obtain financial advantages by awarding public contracts, interpreting rules, laws or tax practices, and unduly withholding payments. Refusal is the only acceptable answer for these companies, but consequently, in most cases, the honest company will be excluded from deals, face outrageous costs or be trapped in proceedings ruled by dishonesty. Increasingly, companies having adopted an anti-corruption code of conduct are irritated to see their profitability lowered by undue costs and try to leave these outlaw countries and sell their local infrastructures. Investors with a lower morality are in demand for such opportunities. Many infrastructures in those countries have fallen in the hands of entities from emerging countries with different ethic standards.

Such practices are commonplace in many countries where corruption and extortion are widespread and the leadership is an accomplice, if not the instigator. This leaves no alternative to the victims.

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Some companies avoid the difficulty by sub-contracting their business to local or offshore companies, independent agents or representatives - importers and retailers. These third parties buy the company's products and meet, at the cost of their own profit margin, the responsibility for their actions and the incongruous costs.

Is this moral and compliant with the spirit of an anti-corruption code of conduct?

The anti-corruption rules which apply in most countries seem adequate. The problem is the permissive application of these rules, reflecting a lack of independence, the dysfunction of the justice system and the influence of mafia organizations.

In countries where most of the people live below poverty line (regardless of natural resources) corruption, trafficking of any kind, money laundering, forgery, crime, wars are made easier and lasting. Only an restless struggle against poverty and a change in the way Western countries grant aid for development, conduct their business dealings and behave with politicians will have an impact on evolution towards a better, morally cleaner world.

International media and newspapers play an important part by providing information about these dealings and drawing attention to them. The relevance of the work of journalists has to be noticed. They are too often physically harmed only because of investigations in shady environments ruled by impunity.

Switzerland has widened its criminal law provisions regarding corruption, which is a first step. But it should promote, at the international level (UN), the establishment of a body ensuring the protection of companies and individuals suffering in certain foreign countries extortion attempts which sometimes remain unpunished.

Switzerland and most countries maintain diplomatic relationships with rogue states. Their leaders, civil servants and businessmen are seldom prevented from traveling abroad. Moreover, international organizations finance and monitor substantial development projects in those countries.

Under the pretext that it should be unfair to blame the leaders' misdeeds and crimes on the people, development aid projects including financial support to democratic elections and good governance are sustained. With the exception of dictatorships, peoples choose and elect their own leaders: one should therefore take into account the responsibility of those who have elected and supported ruthless and dishonest leaders.