

The King of Farum

- A Danish Corruption Tale

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Abstract

With the background knowledge that Denmark is one of the least corrupt nations in the world, this article explores the case of a mayor that for eight years worked “miracles” for “his” municipality, but was later revealed to have built this community on circumvention of control mechanisms and laws. For this (and for his overwhelming consumption of expensive wines at the taxpayers’ expense) he was later sentenced to 4 years of imprisonment. He was not driven by personal economic gain, but more likely of a mixture between creating a municipality of his dreams and the almost absolute power that he ended up with just before the scandal hit the headlines. The case was revealed by two journalists from a yellow newspaper, but very soon police and other authorities as well as his fellow politicians followed up on the revelations and his former political friends turned their back on him. It is not the story of a mayor that was bribed – but of a mayor that turned out to be “corrupt” in a wider sense of the word.

Key Words: *corruption, Denmark, public sector, mayor, breach of trust, Farum, economic crime.*

Corruption in Denmark

Denmark is – along with the other Nordic countries – worldwide renown for being extremely non-corrupt societies. Denmark and Finland share the place as the second-less corrupt country in the world, only surpassed by New Zealand, according to the latest corruption perception index.¹ In Denmark during the time period from 2005 to 2010, only 26 cases concerning the offering or giving of bribes to public servants were handled by prosecution and/or courts, 7 cases concerning the

¹ Transparency International Corruption Perception Index 2011.

acceptance of bribes and 12 cases concerning so called “private bribery” – which means the granting or receiving of undue advantages in the private sector.²

This does not, however, mean that corruption does not occur in these countries, merely that corruption is perceived as unacceptable by the population in general, and that public officials in particular do not see themselves or their colleagues as accepting bribes. Bribery is thus neither an implied custom nor part of the relevant persons’ self-perception. Attempting to bribe a public official in these countries also involves a considerable risk, as there is every probability of facing an outright rejection and being reported to the police instead.³

The kind of corruption cases that pop up from time to time in Denmark to be discussed in the media are typically cases about politicians or public servants receiving free tickets for art exhibitions, football matches, music festivals etc. or maybe travels abroad that have been slightly (or much) too expensive. Such gifts and expenditures typically lie in the grey-zone area forming the bottom-line of what is legally regarded as bribes or breach of trust according to the penal law⁴. Very seldom the receivers of the gifts regard themselves as being corrupt and neither does the granter nor the public in general. It is probably fair to say that in almost every case gifts of these kinds are merely to be regarded as tokens of appreciation rather than tools to achieve specific future favors. In this way such gifts are means of bonds that unite the granter and the receiver.

Major cases of corruption thus are rare. The latest major “corruption” case involved 20 Danish companies that had been part of the so called “Oil for food – scandal”, where Iraqi authorities had been able to get hands on UN-blocked oil-money by making foreign companies selling them legally goods, charging 10 percent on top of the invoice and then returning the added 10 percent to the Iraqi authorities. Though the public labeled these cases “corruption” – they actually were not. Since the money the Iraqi regime received was its own money and since the receiver was not an individual but a government (or other official departments) the sections in the penal code concerning bribery etc. could not be used. Instead the behavior was regarded as a breach of the international obligations – a behavior that is covered by other sections in the penal code. On the other hand the purpose for

² The numbers have been kindly supplied by the Ministry of Justice to the author of this article.

³ *Langsted* (2009), 248

⁴ *Bønsing & Langsted* (2010), 333 f.

accepting to use the add-on method was to get the contracts on supply of goods. In this way there is a resemblance to bribery and the like.

In this article, however, I have chosen to focus on a very special case. As a matter of fact the case is so special, that it probably is the only one of its kind in Danish court practice. The reasons for focusing on this case anyway, are that it bears some resemblances to or elements of other kinds of corruptive behavior as well as to economic crime cases known from the private sector. A person (the main character) with a power hungry personality is surrounded by weaker personalities. The latter find it increasingly difficult to oppose the actions taking place – or they derive their own benefits from being part of the “network” being friendly towards the main character. At the same time it differs from more typical cases, where the perpetrator does not merely exploit possibilities that show up or join some corrupt practice already going on – but instead creates his own possibilities and his own – twisted – culture.

The Main Character

The main character of this story is Peter Brixtofte. His name is well known to the Danish public, but his name is of less importance in this »tale« about a politician, who became a modern version of a King in the municipality where he was mayor for 16 years.

He was born in 1949 and became Member of Parliament in 1973 to 1977, again from 1979 to 1981, and from 1990 until February 2005. He was tax minister from November 1992 to February 1993. In 1978 he became a member of the City Council of the Municipality of Farum, and from 1985 he was mayor. It is fair to say that his whole life was centered about politics.

It was as a Mayor Peter Brixtofte had his days of glory. During his reign Farum evolved from a normal middle sized municipality in the wealthy area north of Copenhagen to what was to be called the »Crown jewel« among municipalities. Farum thus became highly esteemed because of the Mayors’ ability to tax the citizens very little, and at the same time to provide them with a lot of common goods and not least because the Municipality was able to send its retired citizens on free vacations in Spain just as it was able to build a lot of sporting Arenas. At the same time much effort

was done to focus on integration of foreigners and with a lot of success. Visitors from all over the world came to visit Farum in order to see how this was all done.

In 1995 Peter Brixtofte wrote in a newspaper that his “dream was that Denmark would be a role model to the world, just as Farum is to Denmark”⁵. Not only Brixtofte himself however but also other members of Venstre (the Liberal Party that Peter Brixtofte belonged to), praised Farum very highly: »The Crown Jewel«, later prime minister Lars Løkke Rasmussen said in 2001 and the later Minister of Finance, Thor Pedersen, publicly stated that »... the problem is, that all municipalities have not done as they have in Farum«⁶

As it later was to be seen Peter Brixtofte had in these golden days been in a position where he “had to” circumvent the controls and standard procedures, including the normal requirements for decisions concerning expenditures and approval of accounts that was the authority of the City Council. His ability and will to do this was supported by his strong personality as well as by his willingness to get rid of employees asking critical question. Maybe he didn’t actually fire them, but replaced them to an empty office with none or meaningless assignments. This was also known as the »mushroom treatment«: put him in a dark spot, pour a bucket of excrements over him, and then he will soon forget his opposition. In 1992 when some city-council members had filed a complaint against Brixtofte to the supervisory committee, Peter Brixtofte said that they were just: “some tongue-out-sticking smurfs that could not be used to anything sensible. I don’t give a damn about their complaints”⁷

The Scandal

But in February 2002 it all exploded. Two journalists from the yellow newspaper BT revealed on the front page that Peter Brixtofte within 24 hours had been drinking for 150.000 DKK (app. 20.000 €) at the »taxpayers’ expense« as it was put in the headline. Inside the newspaper the reader found that this enormous amount among other things was due to the fact that Brixtofte preferred a special red wine at the cost of 9.000 DKK per bottle.

⁵ Berlingske Tidende October 9th, 1995.

⁶ Both quotations stem from *Offersen, René (2006)*, p. 29.

⁷ Statement given to Farum Newspaper about some city council members, which had filed a complaint against Peter Brixtofte, re <http://www.b.dk/danmark/brixtofte-citater> (homepage for the Danish newspaper: Berlingske.)

In the days and weeks to come all media in the country covered »Farum-sagen« (the Farum case) as it was soon to be called. Each week had its own scandal: Brixtofte had delayed a municipal payment to one of his friends so the municipality had to pay the friend 325.000 DKK that was to be paid because the payment was not made on the date due; Brixtofte had made municipality pay the wages for the employees at Farum Boldklub (a professional sports club) and so forth.

Shortly after the revelations Peter Brixtofte went on a three months leave and in March 2001 he was suspended from his position as a Mayor. When he is interviewed immediately after his suspension, he states: »I am a fighter of exceptional skill, and I intend to stay for many years to come. I'm not the kind of person that is easy to get rid of. I hope the courts have finished the case within half a year, so I can return as a mayor before Christmas.«⁸

In April 2008 he was sentenced to two years of imprisonment for a part of his acts during his time as a Mayor by Supreme Court⁹ and in October 2009 he was sentenced another two years of imprisonment for the rest of his acts by Eastern High Court¹⁰.

The *modus operandi*:

This is not the story of a bribery-case but a case concerning misuse of power – or of corruption in a wider sense of the word. Instead of receiving money and benefits for his own good Peter Brixtofte used public money to support his own interests and friends – but also to create a whole community after his own ideas.

The court case against Brixtofte was split into two separate cases. The first case was about some sponsorships that Peter Brixtofte persuaded private companies to yield to the sporting club in order to get work for the municipality – but when the sponsorship wasn't as big as he thought fit, he supplemented the sponsorship with public money:

- a) When negotiating a Contract on the renovation of one the Arenas in the municipality with a large Development firm he asked them to become sponsors for the local handball club

⁸ Re Pihl & Priess-Sørensen (2002), p. 239.

⁹ Published in Ugeskrift for Retsvæsen 2008.1607 H

¹⁰ This verdict is unpublished. It was given October 6, 2009 under the number: 12. Afd. A.s nr. S-1208-07.

(where Peter Brixtofte was member of the board – and a very enthusiastic spectator to all their matches.) To be more precise, he wanted them to sign up for a sponsorship for 10 million DKK. When the firm rejected the »offer« because it exceeded the limit of 1 million DKK for sponsorships in the firm, Brixtofte told them that they shouldn't worry about that. All they had to do was to add 9 million DKK to the bill to the municipality. So instead of giving an offer of 18 million DKK, that was the amount that the renovation would cost, they should raise the asking to 27 million DKK. When the municipality accepted the offer and finally would pay the bill – the firm were to transfer the add-on of 9 million DKK to a sponsorship for the handball club. Keine Hexerei – nur Behändigkeit: the firm would have paid 1 million DKK of the sponsorship themselves and the municipality the remaining 9 million DKK. It wasn't legal for the Municipality to support a professional handball club in this way so for Peter Brixtofte it was important to give the club this support and at the same time conceal it from the paperwork that it was in fact public money for the better part. For this Peter Brixtofte was sentenced to two years of imprisonment, the administrative director of the Municipality to one year and 3 months, that were suspended because of his poor health conditions and finally two directors from the development firm were sentenced to each one year of imprisonment that were also suspended.

- b) The second case – in the public known as the “main case” – primarily concerned circumvention in different ways of rules and standard procedures to be taken when decisions about expenditures, sale of land etc. were to be made. Thus Peter Brixtofte was found guilty of having concealed expenditures, taking of loans and exceeding of grants from the city council and of having paid a business-companion 9 Million DKK (1.2 mill €) that he was not entitled to pay.

The most sensational part of this second case, however, was the part concerning Peter Brixtoftes consumption of wine. Over the years Peter Brixtofte – who always worked a lot – had turned it into a habit, that whenever his meetings, that very often took place in restaurants – especially one of the restaurants was his favorite – lasted more than an hour or so, he would buy food and wine for himself and for his guests. Most often he bought a very expensive red-wine for the price of around 6-7000 DKK (850 €) pr. bottle and the food was very often quite luxurious as well. When he came to trial the court found that he was guilty

of Breach of Trust the times where he hosted meetings that had nothing to do with his job as a Mayor (no matter what the cost of the wine and foods was) – and for the numerous occasions, where the meeting and dining itself was relevant to the municipality but where the price for drinks and food exceeded a sum of 1.000 DKK (135 €) per head.

It was – of course – this part of the case that was best and most intensely covered by the media, but also the part that gave rise to most discussion afterwards – since the “price-limit” of a 1.000 DKK was a limit drawn by the city court without any codes of conducts or the like to support it – and later sustained by the Court of Appeal.

Police investigation

The first revelations were brought in the paper on February 6, 2002 and on February 9 in the evening police made a coordinated search and seizure not only at the city hall and in Peter Brixtoftes private home, but also at the premises of some the private firms, the restaurant where he most usually had his lunch and dinners and so on. During the intervening three days, public pressure had been put on the local police to start investigations but in vain until a Central Police Unit took action. It is of course very seldom that Police starts investigations within three days and at the beginning only on the basis of newspaper articles – but the documentation brought in the paper made very little room for doubt that at least some crimes had taken place.

Charges and court cases and the results

As described earlier there were two cases brought on Peter Brixtofte. In the first case he was sentenced to two years of imprisonment for Breach of Trust (Section 280 CC) and in the second case he was also convicted to two years of imprisonment. In the part concerning the red wine and the dinners he was convicted for Breach of Trust and in the other parts of the second case it was mainly for abuse of public office or function (Section 155 CC)

The city manager was charged and convicted for aiding and abetting Peter Brixtofte in some of his crimes, but had a more lenient sentencing, partly because his role were of a much more passive nature and partly because of the special personality of the mayor as it was put in the Court of Appeal verdict, that made it hard to resist his demands.

Gifts vs. bribes

In this specific case the Mayor didn't receive any gifts, hence he wasn't charged with bribery. Instead he used his power to make the public pay for his interests in sports as well as in food and wine. It might be argued, that the firm in the case described under a) might have been charged with a bribe-indictment, since they agreed to pay 1 million DKK as a sponsorship to the handball-team in order to get the job. That was never, however, part of the case. Hence the "corruption" in this case was the Mayors spending of public money on gift-like entertaining of his guests and on his own private hobbies and interests. One might also argue that Brixtofte's way of circumventing the official rules and of "helping" his friends was typical for corrupt behavior.

The role of the media

As described above the main part of the case was dug up by two journalists from a yellow newspaper, BT, but very soon the rest of the media covered the story intensely. It is fair to say that the scandal was the main topic during the spring 2002 but also later, when the cases were handled in the court. Although Peter Brixtofte was interviewed quite a lot during the press coverage and was invited as a guest to several talk shows on TV media angle most of the time was that Peter Brixtofte had been violating rules as well as the trust of the citizens in Farum. The most sympathy Peter Brixtofte got was on the part of the luxurious entertaining. Many journalists thus were critical towards the "invention" of the 1.000 DKK limit for entertaining that the courts made. This more critical attitude, however, soon seemed to be outweighed by indignation.

The attitude of Government/politicians

Leading politicians from all sides of the political specter – including his own party – were very hasty to condemn Peter Brixtofte's behavior. This condemnation was for most of the politicians without doubt real but as commentators those days pointed out some of the politicians especially from his own party might have seen the case as perfect excuse to get rid of a sometimes difficult, always colorful and sometimes cross party member.

Already in June 2002 Parliament decided to establish an investigative committee that was to go through the entire sequence of events and in May 2003 Parliament decided to waive Brixtoftes

immunity against criminal charges that all MPs have as a rule. 103 votes out of Parliaments 179 members were for the waiver and no one voted against it.

The investigative Commission began its work September 1, 2003 and has finished its work March this year (2012). The final report¹¹ is 12546 pages long – including documentation i.e. The report doesn't really cast any new lights upon the events – just as it does not suggest any material changes in the laws in order to avoid such events another time. It is fair to say, I think, that the establishing of a commission was a political necessity at the time – but that no one really believed that the commission would bring up important new material.

Other consequences of the case

There weren't really any consequences of this case other than a long aftermath where part of the case was tried in three Court instances, an expert from a University (the author of this article) was reported to the Police by Peter Brixtofte for having interfered with a sitting court and having tried to influence Supreme Court – this report was rejected by the Police as being without any grounds at all, and on November 1, 2011 City Court of Lyngby stated that Peter Brixtofte had violated the honor of the city court Judge from Brixtoftes own criminal trial by accusing him of being driven by political motives and being a racist. For this Peter Brixtofte was sentenced to 10 day fines of 1.000 DKK each.

In November 2007 the ordinary members of The City Council at the time, were found not guilty in having neglected their duties in respect of controlling the expenditures of the municipality. The main reason for the acquittal was the fact that they had all been tricked by Peter Brixtofte and the administrative director.

The only lasting legal mark this case has left – apart from being a scandal of its own – is the limit of 1.000 DKK per guest when public money are being spent for entertaining. Most people regard this amount as being the absolute maximum for such expenditures. This is however an over-interpretation of the verdicts. Thus Eastern High Court explicitly stated that the limit was acceptable to use under the very special circumstances of the case, among other things having regard to the fact

¹¹ The whole report in Danish: <http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/farum/index.html>

that Peter Brixtofte often went over this limit even for ordinary “work-lunches”. Thus the court opinion is that sometimes the limit must be lower than a 1.000 DKK and sometimes it is acceptable to spend more than this amount¹².

The characteristics of Peter Brixtofte

Apart from the pleasure of consumption of the very expensive red wine it is fair to say that Peter Brixtofte never got any personal, economic gain out of his crimes. The circumvention of the standard (and legal) procedures seemed to have been done in order for Peter Brixtofte to create a municipality where the citizens would thrive and most of the gains from his other crimes went to friends and to the sporting club that was Peter Brixtoftes great interest. Giving such benefits to his friends and network of course sustained and expanded his power until it was almost absolute. As for his drinking habits, Peter Brixtofte is said to have stated, that »I drink more than most people, after all I love good red wine, but I don't have a drinking problem«

The premises of the Eastern High Court¹³ for the rather lenient sentencing giving to the administrative director, that was the head of the municipal administration, however, contributes to the drawing of a picture of Peter Brixtoftes personality: »High Court is aware that [the administrative director] would have been put under severe pressure had he put his foot down given the idiosyncrasy and strength of his political leader [Peter Brixtofte], and might have been subject to dismissal, deterioration of his working conditions or the like, if had he tried to. The fact that the health of [the administrative director] was weak during 2001 probably made it more difficult for him to put up the resistance that he was supposed to«.

In 2009 after having served his first sentence Peter Brixtofte said in nationwide television among other things about the city court (and the city court judge): »It is utterly absurd, I have done nothing wrong, it is a political verdict« and later in the same interview: »I am 100 percent certain that we did municipality nothing but good.«¹⁴

¹² ”acceptable” in the meaning that it does not constitute the crime breach of trust – but it may very well be unacceptable according to public code of conducts or locally set rules.

¹³ Page 56 of the verdict. Translation of the author.

¹⁴ TV2.dk, 6/10-09.

Concluding remarks

As stated in the introduction, this case has been unique in Danish court practice. It is probably fair to say, that it has been unique in every way. Although mayors sometimes have been accused of running their municipality as if it belonged to them personally, and although administrative directors – especially before the big reform in 2007, that reduced the number of municipalities from 271 to 98 – from time to time has complained about mayors that showed little or no interest in the “legal right solution” but just wanted a “practical solution” – not even rumors has known anything as the »Farum Case«. A lot of factors working together made it possible for Peter Brixtofte to act as he did for more than 8 years. His personality and his ability to generate creative solutions to problems and challenges facing the municipality without raising the taxes explain his popularity. Without this popularity among a lot of citizens it would have been easier for his political opponents to stop him at a much earlier stage.

I have pointed out that Peter Brixtofte never got any personal, economic gain out of his crimes. This of course does not mean that all his acts were of a purely altruistic kind. This is obvious true as for his excessive consumption of food and red wine. Power itself as well as fame and admiration however are also strong incentives for many people – incentives they will go very far to achieve because they can be just as or even more meaningful than money and luxurious goods. Furthermore the “beauty” of these immaterial incentives is that they are very easily confused with real altruism by the surroundings and might sometimes be interwoven in a way that makes it easy even for the perpetrator himself to deny any egocentric rationale behind his own behaviour.

As for the institutional control mechanisms some of them worked – but were ignored by Peter Brixtofte – others were not as sufficient as they might have been. Auditing e.g. was criticized afterwards for being too lenient, but the rules concerning public auditing were rather diffuse at the time, so there was no cases brought to courts afterwards against the auditors.

In the aftermath of the Farum Commissions report this year some debate were raised whether Peter Brixtofte might have been stopped at an earlier stage if the municipality had had some sort of whistleblower mechanism. One former employee, however, was of the opinion, that Peter Brixtofte

would immediately have been able to spot a whistleblower and stopped his whistling before anyone would hear it.

Literature & reports

- 1) **Bønsing, Sten & Langsted, Lars Bo** (2010). ”Uberettigede” gaver til offentligt ansatte - en forvaltningsretlig og strafferetlige analyse” [Undue advantages for civil servants – an Administrative and Criminal Law analysis]. Ugeskrift for Retsvæsen 2010B.333-340.
- 2) **Langsted, Lars Bo** (2009). Bribery, Bribery across Borders and the Like from a Danish Perspective. Scandinavian Studies in Law, 54:248-268.
- 3) **Officersen, René** (2006). Imperator – sagen uden om Brixtofte [Imperator – the case around Brixtofte]. København: Gyldendal
- 4) **Pihl, Morten & Priess-Sørensen, Jakob** (2002). Brixtofte – Historien om en afsløring [Brixtofte – the story of a revelation], København: Lindhardt & Ringhof.
- 5) **Report from the Farum Commission**, April 2012,
(<http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/farum/index.html>)
- 6) **Transparency International Corruption Perception Index 2011**
(http://transparency.dk/wp-content/uploads/2011/12/CPI_table_December_2011_11.pdf)

Final Court Decisions

- 1) **Supreme Court**, decision of April 15, 2008 – published in Ugeskrift for Retsvæsen 2008.1607.
- 2) **Eastern High Court**, decision of October 6, 2009, 12. Afd. A.s. nr. S-1208-07 – unpublished
- 3) **Hillerød City Court**, decision of November 29, 2007, SS 1562/2005 – unpublished