

LUTTE CONTRE LA CORRUPTION

78 The Airbus CJIP

Result of an Exceptionnal Cooperation



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C'est à la veille de son sixième anniversaire que le Parquet national financier (PNF) a fait valider la convention judiciaire d'intérêt public (CJIP) signée avec Airbus en parallèle des DPA signés avec le Serious Fraud office (SFO) et le Department of Justice (DoJ). Le PNF a souligné la nature exceptionnelle de la coopération mise en œuvre dans ce dossier.

Convention judiciaire d'intérêt public between the National Financial Prosecutor of the tribunal judiciaire of Paris and Airbus SE, 29 Jan. 2020

1. The Lead Role Played by the PNF in Coordinating this Mutli-Jurisdictional Investigation and Resolution

The CJIP between the PNF and Airbus carries several strong messages. It provided an opportunity to coordinate the application of the blocking statute in connection with parallel investigations by British and American authorities (A) and to assert the competence of the PNF and the French Anti-Corruption Agency (AFA) to coordinate a joint investigation and a global resolution in international corruption matters involving multiple jurisdictions (B).

A. - The PNF's Coordination of the International Cooperation with Respect to the Collection of Evidence in Compliance with the Blocking Statute

In April 2016, Airbus revealed irregularities in a report to the UK export credit agency. In mid-June, the PNF, triggered by information it had received from its British counterpart, the SFO, opened a preliminary investigation into allegations of bribery of foreign public officials, forgery, organised gang fraud, abuse of company assets and breach of trust, and money laundering. The PNF referred the matter to the Central Office for Combating Corruption, Financial and Fiscal Offences (OCLCFF). In 2017, the DoJ opened its own Airbus-focused investigation, following the company's revelations of violations of the US Arms Export Control Act and irregularities and misrepresentations regarding the use of intermediaries under the International Traffic in Arms Regulation (ITAR).

On 30 January 2017, the PNF and the SFO signed a Joint Investigation Team (JIT) "in order to implement a coordinated investigation strategy, facilitate the collection of evidence and technical analysis of data, ensure the sharing of relevant information between the prosecuting authorities in accordance with the provisions of Law No. 68-678 of 26 July 1968, known as the "blocking statute", and to use such evidence for the purposes of criminal proceedings or the conclusion of settlement agreements".

The joint investigation carried out by the PNF and the SFO in different countries ultimately revealed acts of bribery of foreign public officials and private corruption committed in connection with contracts for the sale of civil aircraft and satellites concluded by entities of the Airbus group.

The CJIP specifies the process that had been put in place with respect to the blocking statute in this case: "In order to ensure the application of Law No. 068-678 of July 26, 1968, the documents resulting from the Airbus internal investigation were transmitted by the company only to the PNF, which forwarded them to the SFO in compliance with the provisions of Article 694-4 of the Code of Criminal Procedure. (...) The PNF also shared certain elements of its investigation with the DoJ, in accordance with the provisions of the Law of 26 July 1968 and Article 694-4 of the Code of Criminal Procedure".

Similarly, with respect to the AFA's three-year monitorship of Airbus, the PNF "will inform the SFO and the DOJ of the progress of this measure, in compliance with the provisions of Law No. 068-678 of July 26, 1968".

B. - A Global Resolution Coordinated Among the Prosecuting Authorities

It is evident that, throughout the Airbus investigation, the PNF acted as the interface between Airbus and the PNF's British and American