

Lessons learned from investigating cases of corruption involving vast quantities of assets and bringing them to justice

In terms of fighting corruption, France is generally considered to be lagging behind the trend. Nevertheless, the establishment of the National financial prosecution office (PNF), by the act of 6 December 2013, has given a different direction to law enforcement of bribery cases in France. Also, the Sapin II law, promulgated on 9 December 2017, suggested an evolution in French anti-corruption enforcement policy. French authorities appeared ready to move towards meaningful regulation and enforcement.

Over 5 years of operational existence, the positive results of the PNF in terms of fighting bribery offences can be evaluated on the basis of several criteria.

First, it is important to highlight the significant increase of international bribery cases submitted to the PNF. As of December 31st 2018, the PNF dealt with 90 cases (out of 500 cases which are being investigated) related to foreign bribery offences. By comparison, in October 2012, only 33 cases related to foreign bribery offences had been initiated in France.

Moreover, the PNF has tremendously expanded its cooperation and coordination with its international counterparts. The way the PNF is organized as well as its working practices contributed to the implementation of international cooperation and coordination. Nowadays the PNF is greatly recognized by its international counterparts, and tends to become a privileged partner for judicial authorities of countries such as the US, the UK, Switzerland or Brazil. In 2018, the PNF has addressed 103 requests for judicial cooperation to foreign countries (Requests for judicial cooperation include mutual legal assistance requests, extradition requests and requests for provisional arrests). By comparison, in 2014, only 14 requests were issued by the PNF. International cooperation has also been a key aspect for allowing seizures and freezing of assets located abroad. Spain, Latvia, Switzerland, Luxemburg and the Principality of Monaco have provided some assistance in allowing these seizures on their territory (mostly bank assets). The PNF has also inaugurated some new working methods in order to prosecute more efficiently international corruption cases. That is the spirit in which the PNF concluded a joint investigation team together with SFO, on January 2017, in the AIRBUS case.

Ensuring effective prosecution of bribery offences is one of the major goals of the PNF. Prosecuting almost all international corruption cases in France gives the PNF a better understanding of the issues and allows its prosecuting service to efficiently develop investigation strategies. With the establishment of the PNF, pleas at hearing have become much more appropriate to the issues at stake. This has led to major effects on decisions handed down by the courts.

In addition, the Sapin II Law created a French equivalent to the Deferred Prosecution Agreement called Judicial convention of public interest. It aims at giving French authorities a tool to pragmatically engage with companies to avoid lengthy investigations and to encourage admissions and efficiency during the review and cooperation process. In November 2017, the PNF succeeded in striking a CJIP with

Swiss-based HSBC Private Bank, which agreed to pay € 300 million to France to close a tax fraud case. On June 4, 2018, the PNF and the DOJ announced the first coordinated resolution by US and French authorities in a foreign bribery case. Société Générale SA negotiated with the PNF to pay 250 million euros to end a foreign bribery case. France took half of a \$ 585 million fine from Société Générale SA in a first-of-its kind resolution. It is also worth noting that in the agreement with the PNF, Société Générale committed to have the French Anti-corruption Agency (AFA) assess the quality and the effectiveness of the anti-corruption measures it implemented for a two-year period. The DOJ, in recognition of the French monitoring that would take place, did not impose a monitoring requirement as part of its settlement. This resolution represents a remarkable evolution in anti-corruption cooperation and enforcement between US and French authorities. While France has long faced pressure to enhance its enforcement of anti-corruption laws, this coordinated resolution demonstrates a new commitment by French authorities towards regulating companies that operate within the country's jurisdiction, enforcing international anti-corruption standards and cooperating with the US in the process.

Five years after its creation and 1 year 1/2 since the entry into force of Sapin II, the PNF has established itself as an active enforcer in complex international fraud and bribery cases.