

Anti-corruption - France

In recent years there has been a marked increase in anti-corruption legislation across many jurisdictions, having a significant impact on businesses. Recent such legislation includes the UK Anti-Bribery Act implemented in the summer, and a recent relevant case is that of Bridgestone pleading guilty to participating in bid-rigging and bribery conspiracies. To find out more about these, and other issues surrounding anti-corruption law currently, *Lawyer Monthly* speaks to Philippe Goossens, partner at Paris-based law firm, Altana.

Q What are the main types of cases you deal with regarding anti-corruption?

Cases related to the fight against bribery are mainly handled by the framework of advising companies on putting in place systems of fighting against bribery, as well as litigation proceedings. The firm has recently advised a multinational company on making worldwide compliance compatible with French legislation. Our firm also advises clients on litigation proceedings related to acts of corruption committed during the closing of international contracts or public markets.

Q What are the main challenges that arise in these types of cases?

In the case of litigation proceedings, the French prosecution can sue individuals and/or companies. The condemnation of a company can have heavy consequences because it must generate an exclusion of public markets. The Company's lawyer in defense must be aware of this risk. The remaining question is to whether the company has to lay off the involved employee, which is a decision that has to be carefully considered, while being aware of the presumption of innocence.

Q How can companies protect themselves against corruption litigation?

Companies subjected to French Criminal Law must fit with French Law while making sure of the coherence with an actual system in place in the United States or the United Kingdom. Currently, companies set up charters in which they acknowledge their commitment in the fight against corruption acts. Regulations can also be added to each company's internal rules obviously with respect to Social rights and Data Privacy matters. Training sessions are also provided for making employees aware of corruption's risks and consequences. French authorities cooperate with some companies in order to help them in their training and preventive policy.

Q What is your opinion of the recent case involving Bridgestone Corporation?

(Bridgestone recently pleaded guilty to participating in bid-rigging and bribery conspiracies relating to the sale of marine hose, agreeing to pay a fine of \$28 million. The company was charged with conspiring to violate the Sherman Act and the Foreign Corrupt Practices Act, and is the fifth company to be charged in the Justice Department Antitrust Division's bid-rigging investigation.)

with the French Prosecutor. The Judiciary principles extremely differ from US and UK rights even if French Legislation experiences some evolving ways getting it closer to these rights – as for example in matters of fight against anti-trust where it is allowed to make deals with the French anti-trust authorities.

Q The UK's Bribery Act was implemented earlier this year; what effect will it have on businesses in other jurisdictions? Does your jurisdiction have similar legislation?

The consequences – in France - of the UK Bribery act will depend on the given interpretation of article 12 related to French enforcement. There are no examples of enforcement of this act in France but French companies working on UK territory are likely to be sued in the frame of the UK Bribery act which implies that they are well aware of the applicable laws.

France signed the Brussels Convention on May, 26th 1997 and the OCDE Convention on December, 17th 1997 and besides, the Criminal Convention on the European Council of January, 27th 1999 and to finish, the ONU Convention against bribery on October, 31st 2003. This is the reason France has been playing an important role in the evolution of its legislation regarding bribery acts for foreign agents, in particular, due to two laws: June 30th, 2000 and November, 13th 2007. Nevertheless, French Legislation is less repressive than FCPA or the UK Bribery act. One cannot forget that French Legislation experiences a further future evolution in a more repressive way and that the French prosecution is indeed more likely to prosecute legal proceedings. **LM**

Contact Details:

Philippe Goossens
Avocat Associé
ALTANA
Société d'Avocats à la Cour d'appel de Paris
45 rue de Tocqueville – 75017 Paris



Philippe Goossens

Tél : 01 79 97 92 76
Fax : 01 79 97 97 64
Email: pgoossens@altanalaw.com