

Glencore: the Democratic Republic of the Congo

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Glencore, a trading and mining group run from Baar in the canton of Zug, was convicted by summary penalty order of the Office of the Attorney General of Switzerland of 5 August 2024, at the end of a four-year investigation. It was convicted on the basis of its corporate liability, for having failed to take all the reasonable and necessary organisational measures to prevent the bribery of foreign public officials by a business partner, following the latter's acquisition in 2011 of minority stakes in two mining companies of the Democratic Republic of the Congo from the state-owned mining company.¹ The company was ordered to pay a fine of CHF 2 million and a compensatory claim of USD 150 million, and waived its right of appeal.²

The investigation, opened in June 2020, followed a criminal complaint lodged by Public Eye in 2017. That complaint followed the publication of the *Paradise Papers*, which had shed light on contracts relating to copper and cobalt mines in the Democratic Republic of the Congo.³ The business partner in question, an Israeli businessman, had obtained a spectacular price reduction for Glencore in 2008 by renegotiating with the Congolese government, and had then acquired in 2011 shares in the state-owned mining company at a price well below their value.⁴ Glencore had already pleaded guilty in the United States, in May 2022, in corruption cases relating to the Democratic Republic of the Congo. The Office of the Attorney General of Switzerland had moreover ordered in May 2023 the payment of a compensatory claim of USD 29.7 million in the course of extending its investigation.⁵

At the same time the Office of the Attorney General discontinued the proceedings relating to the other aspects of Glencore's activity in the Democratic Republic of the Congo between 2007 and 2017, concerning the operation of its mines. The company's cooperation since the opening of the investigation earned it a reduction in the penalty.⁶ Glencore stressed that

the Office of the Attorney General had not identified any employees who had known of the bribery by the business partner, and had found that the company had not benefited financially from that partner's conduct.⁷ A parallel investigation by the Dutch Public Prosecution Service was also closed.⁸

The Glencore affair illustrates the liability of a company for the acts of its partners. The company was convicted for having failed to take the measures that would have made it possible to prevent its partner from bribing public officials in a transaction from which it benefited. This extension of liability to business relationships requires traders to exercise vigilance towards their partners, intermediaries and co-investors, particularly in countries where corruption is widespread.

1 Notes

1. Office of the Attorney General of Switzerland, press release of 5 August 2024, admin.ch. ↩
2. Le Matin, "Glencore condamnée par la justice suisse à payer 150 millions de dollars", 5 August 2024. ↩
3. Business & Human Rights Resource Centre, "RDC : Glencore condamnée pour corruption par le Ministère public de la Confédération en Suisse", accessed September 2026. ↩
4. Business & Human Rights Resource Centre, cited above. ↩
5. Business & Human Rights Resource Centre, cited above. ↩
6. RTS, "Le Ministère public de la Confédération inflige une amende de 2 millions à Glencore", 5 August 2024. ↩
7. RTS, 5 August 2024, cited above. ↩
8. Tribune de Genève, "Affaire de corruption en RDC : Glencore devra payer une amende de 2 millions de francs", 5 August 2024. ↩

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