

The liability of executives and intermediaries

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The sentencing of Trafigura's former second-in-command to a term of imprisonment, described above, marked a turning point: the criminal liability of companies, introduced in 2003, had until then served to sanction entities without their executives being prosecuted. Critics denounced this situation as impunity. The public trial of 2024-2025 showed that the Office of the Attorney General of Switzerland intended to prosecute natural persons, executives and intermediaries alike, at the same time as the company, and that the courts were prepared to impose custodial sentences.¹ The intermediaries, agents and business introducers through whom corrupt payments pass are exposed as well: the cases described led to convictions of intermediaries in Switzerland and abroad.

For the executives of the Geneva houses, this development has changed the calculation. Whereas a corporate fine is a cost borne by the shareholder, a prison sentence is a personal risk that the executive cannot insure against. Compliance programmes, whose components the preceding section describes, have become, beyond the protection of the company, the protection of individuals. Executives who fund, apply and document them reduce their personal exposure, while those who circumvent them increase it. Swiss law has thus, belatedly, caught up with the US and British logic of individual accountability.

1 Notes

1. “Pétrole en Angola : Trafigura est la première firme condamnée pour corruption à l’issue d’un procès en Suisse” (Oil in Angola: Trafigura is the first firm convicted of corruption following a trial in Switzerland), cited in the bibliography; judgment of the Federal Criminal Court of 31 January 2025. ↩

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