

Glencore: the Zug case

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The case against Glencore International AG, the principal trading company of the group in Baar, is the most important application of Article 102 in the canton of Zug. On 5 August 2024, the Office of the Attorney General convicted the company by summary penalty order for failing to take the required precautions to prevent the bribery of a Congolese official by a business partner in 2011, in connection with the acquisition of stakes in mining companies in the Democratic Republic of Congo. It imposed a fine of 2 million francs and a compensation claim of 150 million dollars.¹ The company did not acknowledge the findings but waived its right to challenge the order.

Three features of the Glencore case deserve attention. First, the bribe was paid by a business partner of Glencore. The case shows that the organisational measures required by Article 102 extend to the company's relationships with its business partners, joint venture partners and intermediaries, whose conduct the company must monitor. Second, because the case concerned the acquisition of mining assets, it shows that the risks of corruption accompany the vertical integration of the traders described in Part D. Third, the Swiss proceedings followed the resolutions of 2022 in the United States, the United Kingdom and Brazil and the settlement with the Democratic Republic of Congo. They thus illustrate the multiplication of proceedings for the same pattern of conduct in several jurisdictions.

1 Notes

1. swissinfo.ch, "Bundesanwaltschaft verurteilt Glencore zu Millionenstrafe", 5 August 2024: conviction under Art. 102 of the Criminal Code; failure to take the required precautions to prevent bribery of a Congolese official by a business partner in 2011 in connection with the acquisition of mining stakes; fine of CHF 2 million and compensation claim of US\$150 million. ↩

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