

In re Airbus SE 2020

Nature of the Business.

Airbus SE (“Airbus”) is a publicly traded aerospace and defense company headquartered in Leiden, Netherlands. Its main office is in Toulouse, France and its shares are traded in France, Germany, and Spain. Its core business consists of the manufacture and sale of (1) civilian aircraft, (2) military aircraft and other products and services used by governmental agencies, and (3) helicopters.

Influence to be Obtained.

According to the DOJ, Airbus senior executives, and employees of a business division specifically responsible for managing third-party partnerships, participated in a far-reaching bribery scheme. The unnamed executives and the business division’s agents allegedly assisted Airbus in securing contracts with Chinese state-owned and state-controlled enterprises for the sale and delivery of Airbus aircraft. In addition to monetary bribes paid through consultancy agreements, Airbus also allegedly paid for Chinese officials, and occasionally their families, to attend all-expense-paid events in China, Utah, and Hawaii. The U.S.-based events served as a part of the territorial jurisdiction for DOJ enforcement. The United Kingdom Serious Fraud Office (SFO) and the French Parquet National Financier (PNF) investigated similar bribery in Malaysia, Sri Lanka, Taiwan, Indonesia and Ghana.

ITAR Violation

According to the DOJ, Airbus also failed to report, or under-reported, certain political contributions, fees, and commissions for the sale of defense-related products in Vietnam. The company had contracted with the Vietnamese Ministry of Defense for the sale of aircraft. It then allegedly submitted false statements to the Department of State’s Directorate of Defense Trade Controls in violation of the recordkeeping obligations of the International Traffic in Arms Regulations (ITAR). For purposes of this ITAR violation, Airbus received self-disclosure credit for bringing the conduct to the attention of the DOJ.

Enforcement.

On January 31, 2020, the DOJ entered into a non-prosecution agreement with Airbus, pursuant to which it agreed to pay a monetary penalty of \$582,224,475 (\$5,000,000 of which is to be paid directly to the DDTC). This settlement includes a monetary penalty of \$294,488,085 for a violation of the FCPA and \$287,736,390 for a violation of ITAR. Airbus received a twenty-five percent discount off the recommended minimum sentence under the U.S. Sentencing Guidelines for the company’s full cooperation and remediation efforts. As the global bribery investigation was initiated by the SFO, Airbus did not receive any self-disclosure credit for its FCPA charge. Airbus received a discount of more than fifty percent for the ITAR-related penalty for, among other factors, its voluntary self-disclosure to the DOJ and its cooperation.

As part of a global settlement, Airbus entered into a deferred prosecution agreement with the SFO to pay approximately \$1.09 billion, and settled with the PNF for approximately \$2.29 billion in a Convention Judiciaire d’Intérêt Public, or Judicial Public Interest Agreement. Both the SFO and PNF settlements represented a fifty percent discount rate off the original penalties.

Key Facts

Citation. *In re Airbus SE (2020)*.

Date Filed. January 31, 2020.

Country. China.

Date of Conduct. 2013 – 2015.

Amount of the value. More than \$550 million.

Amount of business related to the payment. Not stated.

Intermediary. Employees; Agents; Consultants.

Foreign official. Unnamed Chinese officials.

FCPA Statutory Provision. Anti-Bribery.

Other Statutory Provision. International Traffic in Arms Regulations (ITAR).

Disposition. Non-Prosecution Agreement.

Defendant Jurisdictional Basis. Territorial.

Defendant’s Citizenship. Netherlands.

Total Sanction. \$294,488,085 (FCPA), \$287,736,390 (ITAR).¹

Compliance Monitor/Reporting Requirements. Three-year Reporting Requirement.

Related Enforcement Actions. None.

Total Combined Sanction. \$3,967,456,559. (Global Resolution);² \$587,224,475 (U.S. Recovery).

¹ Includes \$50,000,000 as part of a civil forfeiture agreement for ITAR-related conduct and \$5,000,000 to be paid to the Department of State’s Directorate of Defense Trade Controls.

² Includes credit for up to \$1,090,000,000 to be paid to the UK Serious Fraud Office and \$2,290,000,000 to be paid to the French Parquet National Financier.