

LUXEMBOURG

Little or no enforcement

0.6% of global exports

In the period 2016-2019, Luxembourg opened an unknown number of investigations, commenced no known cases and concluded one case with sanctions.

Investigations and cases

In February 2020, Italian authorities brought foreign bribery charges against **San Faustin**, a financial holding company that, through **Techint**, controls pipe-manufacturer **Tenaris**.¹ All three companies are officially headquartered in Luxembourg. In 2017 it was reported that Argentinian authorities had opened a foreign bribery investigation relating to Tenaris,² while Brazilian authorities from the *Lava Jato* Taskforce are reportedly investigating Techint for bribery, money laundering and cartel formation.³ There are no reports of an investigation of these companies in Luxembourg.

Luxembourg has played a role in investigating other kinds of international corruption, in particular in relation to money laundering through offshore or Luxembourg companies with Luxembourg bank accounts, such as in relation to funds embezzled to the detriment of the Malaysian sovereign wealth fund **1Malaysia Development Berhad (1MDB)**,⁴ as well as various “laundromat” dossiers.⁵ The 1MDB embezzlement was allegedly carried out through offshore companies with bank accounts in Singapore, Switzerland and Luxembourg, with hundreds of millions of US dollars paid in exchange

for the issuance of bonds in May and October 2012. In June 2017, Luxembourg’s financial regulator fined the **Banque Privée Edmond de Rothschild (Europe)**, the Luxembourg branch of the Swiss private bank, €9 million (US\$10.3 million) for failing to put in place a robust internal governance system for compliance with professional anti-money laundering and counter-financing of terrorism obligations.⁶ The fine related to its handling of funds from 1MDB. No allegations of foreign bribery were made in relation to these transactions.

In 2016, the Criminal Court of the district of Luxembourg City convicted a European civil servant and another individual of trading in influence in relation to a call for bids carried out by the European Parliament. A leased car was provided in exchange for the civil servant’s influence over the evaluation process for the bids.⁷

Recent developments

The 5th EU Anti-Money Laundering Directive was implemented into Luxembourg law by the Law of 25 March 2020. In May 2020, the European Commission sent a letter of formal notice to Luxembourg for having only partially transposed the Directive.

In response to the 4th EU Anti-Money Laundering Directive of 2015,⁸ the Luxembourg Law of 23 December 2016 extended the money laundering offence to aggravated tax evasion and tax fraud from 1 January 2017. The Luxembourg Law of 13 February 2018 (Amending Law), which entered into force on 18 February 2018, introduces further amendments to Luxembourg’s anti-money laundering legislation, including an amended definition of “beneficial owner” of corporate entities and trusts, setting different thresholds for customer due diligence measures and enhanced

¹ <https://www.reuters.com/article/techint-brazil-corruption/update-1-techint-owners-ordered-to-stand-trial-in-brazil-graft-case-idUSL8N2AD54S>; <https://www.reuters.com/article/techint-brazil-corruption/italian-prosecutors-ask-for-techint-owners-to-stand-trial-in-brazil-graft-case-sources-idUSL5N26O599>

² <https://www.cronista.com/economiapolitica/Investigan-a-Tenaris-en-Argentina-Italia-y-Brasil-por-supuestas-coimas-20170823-0065.html>

³ <http://www.mpf.mp.br/pr/sala-de-imprensa/noticias-pr/executivos-ligados-ao-grupo-techint-sao-investigados-pela-lava-jato-por-participacao-no-cartel-de-empreiteiras>

⁴ <https://justice.public.lu/dam-assets/fr/publications/rapport-activites-crf/rapport-crf-2016.pdf>

⁵ <https://justice.public.lu/dam-assets/fr/publications/rapport-activites-crf/rapport-crf-2016.pdf>

⁶ https://www.cssf.lu/fileadmin/files/Publications/Communiqués/Communiqués_2017/C_sanction_220617_eng.pdf

⁷ Decision number: 1691/2016. N°JUDOC 100028498, 2 June 2016.

⁸ EU Directive 2015/849

requirements for professionals to carry out risk assessments.⁹ The Act also increases criminal sanctions and sanctions for supervisory authorities.¹⁰

A March 2017 European Parliament report found Luxembourg (along with the Baltic States and Cyprus) among the EU countries disproportionately threatened by money laundering in relation to their Gross Domestic Product. It noted that in the Panama Papers, Luxembourg was linked to 10,877 offshore entities, the second highest number after the UK.¹¹

Transparency of enforcement information

The financial intelligence unit of the Luxembourg Prosecutor publishes annual statistics on corruption matters, including the number of files opened, persons prosecuted, judicial information files opened, judgments issued and people convicted. However, the figures do not allow identification of activities specifically related to foreign bribery.¹² Some statistics regarding cooperation on corruption matters between Luxembourg and the other Europol members are published, including the number of messages sent and received.¹³

Court decisions and other case resolutions are not published in full.

Beneficial ownership transparency

The law establishing a Register of Beneficial Owners for Luxembourg-registered entities came into force as of 1 March 2019.¹⁴ National authorities will have full access and other persons will have limited access, namely to all information except the private and professional addresses and the national or foreign identification numbers of the ultimate beneficial owners.

Inadequacies in legal framework

Luxembourg's current whistleblower protection legislation only protects whistleblowers against dismissal, not against prosecution. In April 2015, the Minister of Justice indicated that the government would consider extending the scope of protection to whistleblowers reporting additional forms of wrongdoing relating to security or working conditions, and would improve and simplify the existing reporting channel.¹⁵ This has yet to happen.

Inadequacies in enforcement system

According to an interview with the deputy prosecutor at the Economic and Financial Prosecutor's Office and the director of the Financial Intelligence Unit in January 2020, five years after the LuxLeaks revelations, the fight against white-collar crime has not taken off.¹⁶ This is due to a lack of qualified staff and the increasing complexity of financial transactions.

Recommendations

- Improve access to enforcement statistics and case law
- Develop and implement the extension of whistleblower protection legislation, strengthen reporting channels and put in place provisions for an independent body to handle corruption allegations
- Improve training for judges, prosecutors, members of the administrative courts and other court personnel
- Complete implementation of the 4th and 5th EU Anti-Money Laundering Directives.

⁹ Among others, the Luxembourg Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended ("2004 Law").

¹⁰ <https://www.elvingerhoss.lu/publications/anti-money-laundering-amendments-legislation>

¹¹ [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/595371/IPOL_STU\(2017\)595371_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/595371/IPOL_STU(2017)595371_EN.pdf)

¹² <http://www.justice.public.lu/fr/publications/rapport-activites-crf/rapport-crf-2016.pdf>

¹³ <https://police.public.lu/fr/votre-police/statistiques.html>

¹⁴ <https://globalcompliancenews.com/luxembourg-register-beneficial-owners-new-transparency-obligations-registered-entities-20190506/>

¹⁵ www.lesentiel.lu/fr/news/luxembourg/story/22068220

¹⁶ <https://www.riskscreen.com/kyc360/news/luxembourgs-financial-crime-watchdog-bemoans-lack-of-firepower/>