

CORRUPTION WATCH

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Airbus: An Ever Growing Corruption Scandal



Airbus

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Key facts:

- Airbus is under investigation by authorities in 6 jurisdictions (the UK, France, US, Austria, Kuwait, Poland and Sri Lanka).
- Allegations of corruption have been made against Airbus in at least 14 countries, with \$689.3 million worth of alleged bribes and commission payments paid or agreed to be paidⁱ on \$33.1 billion worth of contracts, across both defence and aerospace parts of its business.
- It is highly likely that corruption may have occurred in several other jurisdictions. A source familiar with an internal investigation conducted into the allegations by Hughes, Hubbard and Reed, told French news outlet, *Mediapart*, in 2017, “*There are not many contracts that were done properly.*”ⁱⁱⁱ

Specific allegations that have emerged publically include the following:

Austrian Eurofighter deal - 'wilful and fraudulent deception'

In February 2017, the Austrian Federal Ministry of Defence and Sports (FMDS) filed a criminal complaint against two Airbus companies involved in delivering a 2002 €1.959 billion contract for the sale and maintenance of 18 Eurofighter jets. The criminal complaint accused Airbus of "wilful and fraudulent deception"ⁱⁱⁱ and claimed compensation for the FMDS of up to €1 billion. A 2012 taskforce established by the FMDS, whose findings formed the basis of the complaint, found that Airbus fraudulently inflated the cost of the contract price by 10% to cover the costs of offsets. The taskforce also found that Airbus fraudulently claimed it could deliver fighter-jets despite not being in a position to do so. The Vienna Public Prosecutor has also been investigating allegations of corruption on the contract since 2012.

In February 2018, Airbus agreed a €81.2 million settlement with the Munich prosecutor in Germany which had been investigating alleged bribe payments related to the Eurofighter deal. The settlement covered allegations that Airbus failed in its supervisory duties with regards to payments of €114 million made through two UK based companies, City Chambers Ltd and Vector Aerospace. According to the Munich prosecutor's statement, the funds "which bypassed internal controls and were largely without provable return, were used for unclear purposes."^{iv} The Austrian criminal investigation is ongoing.

Chinese commercial airlines – Turkish intermediaries and a fictitious Caspian pipeline

In January 2015, French media outlet, Mediapart, revealed that France's Financial Brigade had started an investigation into \$250 million worth of commission payments made by Airbus on a 2007 \$17.4 billion contract to provide 160 Airbus planes^v to two different Chinese Airline companies.^{vi} The commissions came to light after two Turkish businessmen who had acted as agents for Airbus on the contract, brought a 'breach of trust' suit against Airbus in Paris in April 2014. They alleged that they had received only \$2 million each, much less than the commission agreed. The commissions were alleged to have been disguised through payments to a fictitious Caspian pipeline.^{vii} The case was dismissed by the Paris Prosecutor's Office, according to Mediapart, for 'technical reasons' after a 'light' preliminary investigation.^{viii} However, press reports suggest that the use of intermediaries in China forms part of the investigation opened in 2016 by France's Parquet National Financier (PNF) and the UK's Serious Fraud Office (SFO).^{ix}

In a March 2018 judgement from the Commercial Court of Toulouse, Airbus was reportedly ordered to pay \$825,000 to an intermediary that helped secure sales in China. Airbus was made to hand over the money despite submitting to the court that its relationship with the intermediary was 'tarnished' by corruption.^x However, Airbus reportedly failed to substantiate these allegations by providing the court with its internal investigation findings – the company said the ongoing French and British investigations prevented it from handing over the information.

Greece – helicopters and dubious investments

In March 2017, Greek Parliamentarians voted for an inquiry into possible corruption in defence procurements between 2001-2003, including \$650 million contract between Greece and Airbus for 20 NH-90 helicopters.^{xi} German newspaper, Bild, published allegations in March 2015, that Airbus had paid €41 million in bribes to Greek officials to win the contract.^{xii} In March 2018, German newspaper Handelsblatt reported that German investigators are also looking at investments made by Airbus in seemingly worthless projects ahead of negotiations for Airbus aircraft contracts which include financing schools in Greece.^{xiii}

India – whistleblower emerges in helicopter corruption allegations

In May 2018, the Economic Times of India reported that an anonymous report had been made to the Indian Defence Ministry alleging corruption in the bidding process for a deal with Airbus to supply the Indian Coast Guard with 14 helicopters.^{xiv} The anonymous report alleged benchmarking norms were changed and spare engine part costs hidden, that three top coast guard officials had benefited, and that various agents had been used by Airbus. These agents were alleged to have included fugitive arms dealer Sanjay Bhandari, and businessman Deepak Talwar, both wanted by Indian police.^{xv} Most alarmingly to government officials, the anonymous report included classified government documents. Airbus confirmed that it was conducting an internal investigation into corruption allegations by an internal whistleblower in relation to the helicopter bid. Airbus had emerged as the lowest bidder but the contract had yet to be signed.

Indonesian commercial airlines - the Rolls Royce connection

In January 2017, the Corruption Eradication Commission in Indonesia (KPK) announced that it was opening a formal investigation against two suspects, EmirSyah Satar (the former chief executive of the Indonesian national airlines, Garuda), and Soetikno Soedarjo, an Indonesian businessman who acted as an agent for Airbus and Rolls Royce in the country.^{xvi} The allegations relate to decisions made by Garuda under Satar's leadership to buy 50 aircraft from Airbus between 2005 and 2014. In 2017, Rolls Royce agreed a Statement of Facts under a Deferred Prosecution Agreement with the UK's Serious Fraud Office in which it admitted to failing to prevent bribe payments made by an agent to a senior employee of Garuda, widely thought to be Soedarjo and Satar respectively.^{xvii} Payments to Soedarjo are thought to be among those flagged by Airbus when it reported "irregularities concerning third party consultants" to the UK export credit agency, UKEF. Soedarjo is one of the intermediaries that was suing Airbus after Airbus terminated a contract with his Singapore based company, Connaught.^{xviii}

Kazakh-gate - Airbus helicopters and satellites in Kazakhstan

In March 2013, France's PNF opened an investigation into allegations of kickbacks on a 2010 contract to build 45 Eurocopters for Kazakhstan.^{xix} French investigators, who raided Airbus offices again in November 2017, were said to be looking at allegations that Airbus paid Uzbek businessman, Patokh Chodiev, a 4% fee, or €12 million, in relation to the sale of the Eurocopters alleged to be for the Kazakh prime minister, Karim Masimov.^{xx}

It is also alleged that, in exchange for Chodiev's assistance in getting the Eurocopter deal, then French Prime Minister Nicholas Sarkozy helped persuade Belgium to change its laws so that Chodiev could escape charges relating to separate allegations about commission payments made by him on behalf of Belgian company, Tractabel, in Kazakhstan. These allegations are still under investigation by the Belgian Parliament.^{xxi} There have also been allegations that 'retro-commissions' were paid back by Chodiev to an advisor of Sarkozy.^{xxii}

Raids by French police on Airbus headquarters in February 2016 and a subsequent internal audit by Airbus seen by Mediapart uncovered further suspect payments of €9.6 million in relation to a separate 2009 €300 million satellite deal between Airbus and the government of Kazakhstan.^{xxiii} These payments were made to a Tunisian business man, Lyes Ben Chedli, via bank accounts in Singapore, in addition to a €300,000 monthly fee to assist with negotiations for the contract, and are alleged to represent a 3% success fee for winning the contract for Airbus.

Kuwait – another disgruntled middleman

In December 2017, allegations were referred to the Kuwaiti Public Anti-Corruption Authority after it emerged, in the French magazine Marianne, that a middleman had demanded \$76 million on a \$1.1 billion contract between Airbus and Kuwait for 30 helicopters.^{xxiv} In March 2017, Kuwaiti businessman, Farid Abdelnour, who acted as the agent for Airbus in the case, wrote to Airbus saying that if they did not pay him the \$76 million (€64.3 million) owed to him under his consultancy agreement – an amount that represented 6% of the contract price - he would trigger the dispute mechanism under the agreement. In February 2018, the Public Anti-Corruption Authority confirmed it was examining the case.^{xxv} The Kuwait Court of Audit has also been instructed to review all the documents, statements and procedures relating to the deal.^{xxvi}

Mali – the goldmine that produced no gold

In June 2016, French news outlet, Mediapart, reported that Airbus had been cited in a criminal complaint filed in March 2016 in France by investors in a bankrupt goldmine in Mali. The complaint alleged ‘fraud and breach of trust.’^{xxvii} The goldmine belonged to a Malian businessman, Aliou Diallo, who had close connections to the current president of Mali. The Malian government also held a 20% stake in the mine. In 2012, Airbus is alleged to have invested €15 million euros in the goldmine ahead of negotiations to sell helicopters and military aircraft to Mali which began in March 2013.^{xxviii} Airbus bought shares in the goldmine company through a web of secrecy jurisdictions including BVI, Switzerland and Luxembourg. The mine was closed towards the end of 2013, having produced only 170 kilogrammes of gold. Airbus sold its shares in March 2014 once the company had collapsed, having renounced any right to be paid for its investment.^{xxix} The Malian government went on to purchase two second hand Puma helicopters and a military transport plane from Airbus in 2016. Diallo denies any wrongdoing or any connection between the goldmine and Airbus contracts with the government.

Mauritius - Mr Sharp and the Airbus connection

In February 2015, former Prime Minister of Mauritius, Navin Ramgoolan was arrested after £4 million of cash was discovered in his house.^{xxx} Ramgoolan, who lost power in December 2014, was charged with money laundering and other offences and released on bail. Among the allegations was that Ramgoolan or his associates had received bribes in relation to a \$1.2 billion purchase of six Airbus aircraft for Air Mauritius in July 2014. According to the UK’s Independent, Mauritian police asked the UK’s National Crime Agency to investigate claims that Ramgoolan had assets in the UK that were the proceeds of crime.^{xxxi} Mauritian newspaper Le Express reported details of emails between the CEO of Air Mauritius, Andre Viljoen, and an Irish intermediary acting for Airbus, Frank Gleeson, known as ‘Mr Sharp’. The emails showed that Airbus’s bid had been unfairly favoured over one from

Boeing.^{xxxii} All charges against Ramgoolan in Mauritius have been dropped and Ramgoolan claims the allegations were part of a political conspiracy against him.

Poland – cancelled helicopter deal

In December 2017, Polish prosecutors confirmed that they are investigating whether a tender for 50 Caracal helicopters worth \$3.7 billion for the Polish Ministry of Defence had been designed to favour Airbus over other international and local companies.^{xxxiii} Poland cancelled the deal in October 2016. Poland's Deputy Defence Minister was also said to have recently notified Poland's Central Anti-Corruption Bureau about potential irregularities in the tender.

Sri Lanka - “ordering aircraft like three-wheeled scooters”

In April 2015, the office of newly elected Sri Lankan Prime Minister, Ranil Wickremesinghe, ordered a criminal investigation into alleged corruption at the national Sri Lankan airlines that occurred while former President Rajapaksa was in power. This was on the back of a preliminary investigation by a Board of Inquiry (BOI) which found corruption running into “billions of dollars” at the airline, and irregularities in a 2013 deal to buy \$2.3 billion of aircraft from Airbus.^{xxxiv} As a result of apparent over-ordering of aircraft under the previous Airline administration run by Rajapaksa's brother in law, the new management has had to cancel the lease of some aircraft at a cost of \$98 million, and is in negotiations with Airbus to cancel the purchase of four of the ten aircraft. In February 2018, Sri Lanka's President announced a further Commission to look into irregularities and malpractice at three state-owned airline companies.^{xxxv}

Tunisia - Ben Ali's son-in-law helps clinch a deal

Airbus' 2016 Annual Report states that it 'is cooperating with French judicial authorities pursuant to a request for mutual legal assistance made by the government of Tunisia in connection with historical aircraft sales.'^{xxxvi} In 2008, Airbus signed a €1 billion contract with Tunisia's main passenger airline, Tunisair, during a state visit by former French President, Sarkozy, for sixteen aircraft.^{xxxvii} The deal was signed during the rule of former dictator Zine el Abidine Ben Ali, who was overthrown in 2011. Allegations have been made that sweeteners were given to Sakher el-Materi, Ben Ali's son-in-law, in order to secure the aircraft deal. An A-340 was gifted to el-Materi for his personal use. El-Materi is alleged to have participated in the negotiations for the deal with the Tunisian Minister of Transport.^{xxxviii} A few days after Ben Ali was deposed, the boss of Tunisair told one French newspaper

that he was 99.9% certain commission had been paid, with another French publication estimating the commission at around €70 million.^{xxxix}

Saudi Arabia - military deals

In August 2012, the UK's SFO opened an investigation into allegations of corruption by a UK subsidiary of Airbus, GPT Special Project Management, on a government to government contract between the UK's Ministry of Defence and Saudi Arabia.^{xi} The allegations, brought to the SFO by a whistle-blower, were that £15 million of irregular payments had been made to a subcontractor based in an offshore jurisdiction in the run up to negotiations for a renewed \$2.6 billion contract.^{xii} The investigation is separate from the SFO's larger investigation into Airbus, which started in July 2016^{xiii} following a report by Airbus to the UK's export finance agency, UKEF, about undeclared intermediaries.^{xiiii} The length of the SFO probe has raised concerns about political interference. A separate investigation started in December 2014 by Munich prosecutors into allegations of corruption on sales of border defence equipment to Saudi Arabia (and Romania) by Airbus was dropped in October 2016, according to the 2016 Airbus annual report.

Breaches of export control laws in the US and the US investigation

In October 2017, Airbus admitted that it had breached US arms export regulations by making inaccurate filings in relation to third-party agents and had reported this breach to the US State Department.^{xlv} Under the International Traffic in Arms Regulations (ITAR), companies must disclose payments over \$100,000 to third parties. Most of Airbus' exports from the US do not contain technology that would bring them within the scope of ITAR, with the exception of its Lakota helicopters.^{xlv} So far, Airbus appears to have exported Lakota helicopters to only one destination outside of the US: Thailand in 2014.^{xlvi} Airbus submitted an initial notification of potential issues to the State Department in November 2016, with a formal notification and internal investigation handed over in July 2017.^{xlvii} In a further development, in February 2018, Airbus announced that it had been asked to provide the US Department of Justice with "information relating to the conduct forming part of the SFO/PNF investigation that could fall within US jurisdiction."^{xlviii}

Joint Venture Woes in Greece, Peru and Turkey – submarines and torpedoes

In June 2017, Bremen public prosecutor in Germany ordered Atlas Elektronik - a joint venture between Airbus and German defence company, Thyssen Krupp – to

pay €48 million in disgorged profits in relation to contracts in Greece and Peru.^{xlix} The prosecutor stated that Atlas had paid a Greek intermediary €13 million in relation to the purchase of submarines by the Greek military. The statement said that suspicious payments had also been made on the sale of torpedoes to the Peruvian military. Allegations about further payments by Atlas in Turkey for the sale of submarines, which were initially under investigation by the Bremen prosecutorⁱ, were not included in the final statement. Thyssen Krupp agreed to buy Airbus's 49% stake in Atlas in January 2017, prior to the disgorgement order by the Bremen prosecutor.

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https://www.flickr.com/photos/falcon_33/

ⁱ Following Airbus' termination of many agency agreements in 2014, some of these commissions were not paid, leading to multiple suits by agents against Airbus.

ⁱⁱ https://www.mediapart.fr/en/journal/france/010817/huge-corruption-scandal-threatening-airbus?page_article=2

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^{iv} <https://www.justiz.bayern.de/gerichte-und-behoerden/staatsanwaltschaft/muenchen-1/presse/2018/02.php>

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^{vi} <https://www.mediapart.fr/journal/france/290115/airbus-est-menace-par-une-affaire-de-commissions-occultes>

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^{ix} <https://www.standard.co.uk/business/airbus-in-talks-to-settle-fraud-claims-for-1-billion-a3635761.html>

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^{xi} <https://www.ft.com/content/8d0fd550-149f-11e7-b0c1-37e417ee6c76>

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^{xiv} <https://economictimes.indiatimes.com/news/defence/alarm-in-govt-as-whistleblower-sends-classified-documents/articleshow/64117305.cms>

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