



**Office of the Attorney General of  
Switzerland**

# GUNVOR SA held criminally liable for acts of corruption in Ecuador

**Bern, 01.03.2024 - The Office of the Attorney General of Switzerland has convicted the company GUNVOR SA, sentencing it to pay a sum of nearly CHF 86.7 million, including a fine of CHF 4.3 million. An investigation conducted by the Office of the Attorney General of Switzerland found that the Geneva commodities trading company did not take all the reasonable and necessary organisational measures in order to prevent the commission by its employees, at least from February 2013 to February 2017, of offences of bribery of foreign public officials, in relation to its activities in the petroleum industry in Ecuador. This conviction takes place in the context of a coordinated outcome with U.S. authorities.**

In June 2021, based in particular on court documents from a criminal investigation conducted by U.S. authorities, the Office of the Attorney General of Switzerland (OAG) opened a criminal investigation against persons unknown on suspicion of bribery of foreign public officials (Art. 322septies Swiss Criminal Code (SCC)), in relation to potential bribes paid to Ecuadorian public officials. The OAG carried out various investigative measures and in particular requested and obtained mutual legal assistance in criminal matters from the United States of America. In January 2023, the criminal investigation was extended to include the company GUNVOR SA on suspicion of bribery of foreign public officials.

In a summary penalty order dated 1 March 2024, the OAG sentenced GUNVOR SA to pay an amount of nearly CHF 86.7 million, including a fine of CHF 4.3 million. The Geneva commodities trading company is found criminally liable for the bribery of foreign public officials (Art. 322septies para. 1 SCC in connection with Art. 102 para. 2 SCC).

The OAG's summary penalty order is part of a coordinated outcome with the U.S. Department of Justice, who entered into a Plea Agreement with GUNVOR SA relating to the same complex of facts. This agreement was approved today by a New York court.

### **Payment of bribes and lack of organisation**

The investigation conducted by the OAG established that from at least February 2013 to February 2017, bribes of nearly USD 7.5 million were paid to an Ecuadorian public official who held an executive position at the state petroleum company EMPRESA PÚBLICA DE HIDROCARBUROS DEL ECUADOR (PETROECUADOR). These bribes were paid with the assistance of a former employee of the GUNVOR Group as well as two intermediaries acting through an offshore company, all three of whom have pleaded guilty in the United States of America. According to the OAG's summary penalty order, these bribes, some of which transited through the Swiss financial centre, directly benefited the GUNVOR Group, as they led PETROECUADOR to award oil-related contracts to two companies with whom the GUNVOR Group had entered into 'back-to-back' contracts.

In this context, the risk analysis, anti-corruption measures and processes applicable within the GUNVOR Group between February 2013 and February 2017, as well as their effective implementation, were manifestly insufficient in preventing the realisation of the substantial risks of corruption inherent to the group's activities in the petroleum industry involving a state-owned company in Ecuador.

### **Fine and equivalent claim**

Under Article 102 paragraph 3 SCC, the fine to be imposed on a company found to be criminally liable is primarily determined by the seriousness of the offence, the degree of lack of organisation, the damage caused and the financial capacity of the company. The maximum fine set by the legislator is CHF 5 million (Art. 102 para. 1 in fine SCC). GUNVOR SA has been sentenced to pay a fine of CHF 4.3 million, which takes into account the company's cooperation in the investigation. It should also be noted that certain measures were implemented by the GUNVOR Group, albeit belatedly, which led it to terminate the relationship with the aforementioned intermediaries.

In addition, GUNVOR SA has been sentenced to pay an equivalent claim of nearly CHF 82.3 million, that is the countervalue of USD 93.5 million, corresponding to part of the profits made by the GUNVOR Group through the contracts tainted by corruption. Under Article 71 paragraph 1 SCC, an equivalent claim is upheld where there are no assets directly available for forfeiture. The portion of the profits targeted by this measure was determined by agreement between the Swiss and U.S. authorities. In accordance with the applicable legal principles, assets resulting from the same corrupt payments should not be forfeited twice.

GUNVOR SA has declared that it will not appeal the summary penalty order. The order is therefore final and legally binding.

The summary penalty order may be requested, subject to the usual conditions, at the OAG's Communications Service ([info@ba.admin.ch](mailto:info@ba.admin.ch)).

The time of publication of this press release takes into account the coordinated outcome with U.S. authorities and today's approval of the Plea Agreement in New York.

*Original version of the text in French*

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