

TRIAL files a criminal denunciation to the Swiss Federal Prosecutor against a Swiss refinery company suspected of laundering looted gold from the Democratic Republic of the Congo.

TRIAL (Track Impunity Always) has submitted to the Swiss Federal Prosecutor a criminal denunciation against the precious metals refinery Argor-Heraeus SA. The Swiss anti-impunity NGO holds information suggesting that the company may have laundered pillaged gold. The investigation and the evidence gathered indicate that between 2004 and 2005, Argor-Heraeus SA may have refined almost 3 tons of gold that had been pillaged in the Democratic Republic of the Congo (DRC) by an unlawful armed group that financed its operations by trafficking in gold. According to TRIAL, the refinery knew or should have assumed that the gold resulted from pillage, a war crime. TRIAL therefore requests law enforcement authorities to open an investigation and to establish whether an offense has been committed, and if so, to sanction the company.

On 1 November 2013, TRIAL filed a complaint (dénunciation pénale) to the Swiss Federal Prosecutor supported by extensive evidence against the Swiss precious metals refinery Argor-Heraeus SA. The Swiss anti-impunity NGO suspects that the refinery may have committed «aggravated laundering» (under article 305bis of the Swiss Penal Code) when it allegedly refined pillaged gold from the DRC, the sale of which contributed to financing the operations of an unlawful armed group in a brutal conflict.

The complaint follows investigations into the DRC-sourced gold supply chain that were conducted in the years 2004-2005 by the United Nations Group of Experts on the Democratic Republic of the Congo, pursuant to its mandate to monitor the arms embargo on the country. All of the African businesses and businessmen implicated in this affair were severely sanctioned by the UN Security Council, while Western businesses and businessmen were not, notwithstanding recommendations from the Group of Experts that all participants in the illegal supply chain be sanctioned.

In light of the evidence obtained up to 2012 by Kathi Lynn Austin – former investigator in the UN Group of Experts – TRIAL believes that Argor-Heraeus SA could not have been unaware of the criminal origin of the gold.

Accordingly, in refining almost 3 tons of gold pillaged from the DRC in less than a year, Argor Heraeus SA may have committed aggravated money laundering. « *Even if Argor-Heraeus SA was able at the time to escape UN sanctions under the embargo, that does not mean that it did not violate Swiss law* », said Bénédict De Moerloose, TRIAL's lawyer in charge of the case.

Bénédict De Moerloose added : « *For a long time we have been investigating the activities of Argor-Heraeus SA during the years 2004-2005, with regard to Swiss law, in particular, money laundering. Today, thanks to newly obtained evidence, our suspicions are sufficiently well grounded for us to refer the matter to the international criminal law department of the Federal Prosecutor's office. It is now for them to determine if Argor-Heraeus SA should be criminally prosecuted for the alleged conduct.* »

For Philip Grant, Director of TRIAL : « *It is unacceptable that pillaged raw materials that are feeding violence in a brutal and horrific war should be refined and prepared for marketing in Switzerland, with total impunity. These practices run contrary to law, but without a clear signal from law enforcement authorities, they will continue. This complaint should serve as a reminder that corporations are subject to the law and must also be held accountable.* »

The Stop-Pillage Campaign

Supported by the joint forces of three NGOs dedicated to the struggle against impunity – TRIAL, Conflict Awareness Project (the NGO started by Kathi Lynn Austin), and the Open Society Justice Initiative – a broader campaign started in parallel of the filing of the complaint.

The Stop-Pillage Campaign seeks to raise public awareness in Switzerland and abroad regarding the impact of the pillaging of raw materials, its link to armed conflict, and the responsibility of all actors in the supply chain. The NGOs call for a judicial response to this problem targeting every link in the chain, no matter in which country.

www.stop-pillage.org.

Case Summary

The Front des Nationalistes et Intégrationnistes (FNI) is an unlawful armed group that began operating in 2002 in northeastern DRC, seizing control of the city of Mongbwalu (Ituri) and of a gold concession named « Concession 40 ».

In violation of the embargo imposed by the UN Security Council in 2003, the FNI exploited this concession to finance its operations and buy arms. The FNI is widely accused of massacres, systematic violence against the civilian population of Ituri, sexual violence, pillage, and recruiting child soldiers.

With the collaboration and air transport provided by a local businessman, Dr. Kisoni Kambale, a large portion of the gold was sold in Uganda to a company called Ugandan Commercial Impex Ltd. (UCI).

This company resold the gold, in turn, to a buyer named Hussar Limited, a Jersey, Channel Islands company, and its London affiliate, Hussar Services Limited, which asked the Swiss company Argor-Heraeus SA to refine the gold, in the period between July 2004 and June 2005. The refined gold ingots were then sold to banking institutions.

Context

The Democratic Republic of the Congo is a territory rich in widely coveted natural resources (gold, coltan, tungsten, diamonds, precious woods). The struggle for control of this natural wealth, together with regional tensions and ethnic conflicts, have led to devastating conflict in the Congo (with millions dead and hundreds of thousands displaced). Since 1994, the population of the Northeast of the country (North and South Kivu and Ituri) has suffered massive and continuing waves of crimes and grave human rights violations committed both by unlawful armed groups and by the Congolese national security forces. These regions have also been the locus of systematic pillage of natural resources by the armed groups in the region.

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