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The corporate anticorruption compliance framework in the light of the United States and France legal requirements

Abstract

Corruption harms the economy and business in all its elements, leading to distorted prices, inadequate quality services and products, and a sharp decline in innovation. Many market players suffer as a consequence of corrupt activities, and it also corrupts the market, which has a direct impact on public confidence and can ultimately destabilize society by damaging public trust in the integrity of public life and the social interest in the purity of economic and social processes.

In today's legal ecosystem, companies have to conduct their day-to-day business in an increasingly complex and stringent legal environment, both to comply with national laws and to comply with rules in cross-border jurisdictions (extraterritorial). This highly complex and organically evolving regulatory environment challenges companies to comply with a set of rules that led most multinational companies to incorporate *compliance programs* into their operating models. These have a number of functions, but one of the most important is to set the framework for regulatory compliance and *to prevent* corporate misconduct through built-in controls, thereby promoting ethical, transparent business operations, which are an integral part of a sustainable business model.

In this paper, the *reasons* for the development of the anti-corruption framework in the United States and France were explored, also the main *commonalities and differences* of the compliance framework set out by the U.S. and the French laws. Furthermore, the specific measures that companies subject to the legislation, including those operating abroad such as in Hungary, should put in place to reduce the anticorruption risks associated with corporate misconduct.

In this comparative study the author used *analytical method* in a way that common parts and differences are detected with combination of *law-in-context method* including historical dimension with socio-economic context[2] of the development and practical implementation of *compliance* as international legal instrument. The comparative law method helped identify the *legal transplant* that needs careful adoption into the new legal cultural environment as the example of CJIP[3] demonstrated and additional mechanisms are needed in order to sufficiently fit the new legal instrument into the new legal system. During the research relevant U.S. and French legislation, regulatory guidelines and related foreign literature were analyzed.

In my view, each of the anticorruption frameworks examined in the study provides safeguards to protect companies against the criminal risk of corruption, and therefore the implementation of compliance programs as proposed by the legislation is recommended for all companies, regardless of whether they are subject to these extraterritorial rules or not.

Keywords: Comparative methodology, Legal transplant, Anticorruption compliance framework, Corporate compliance program, Anticorruption, Extraterritorial enforcement, Corporate misconduct.

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[2] Based on pluralist toolbox defined by Mark Van Hoecke In: Van Hoecke, M. (2015). Methodology of comparative legal research. *Law and Method*, 1-35. doi:10.5553/REM/.000010

[3] French Court Settlement in the Public Interest, an alternative to traditional criminal trial, Convention Judiciaire d'Intérêt Public (CJIP), or Judicial Public Interest Agreement, introduced by the Sapin II Law in 2016.

1. Context and historical background

1.1. Context of the paper

In the recent, highly complex and organically evolving regulatory environment challenges most multinational companies, hence they incorporated *compliance officers* and *compliance programs* into their operating models in order to comply with the relevant set of rules. The focus of this study is on the anticorruption prevention programs recommended for companies by the U.S. extraterritorial anticorruption legislation, the FCPA[4] and the French Sapin II[5], as I consider that, if they are properly integrated into the business process, they can significantly reduce corruption risks and, in some cases even prevent corporate wrongdoing altogether.
The question arises as to why legislation in the United States or France might be relevant for a company operating in Hungary. The relevance of these laws is their extraterritorial criminal jurisdiction for Hungarian companies, which can be based on an email flowing through a server located in the United States of America, provided that the personal and territorial scope of the law are met, as was the case in 2011 in the Magyar Telekom case[6] or in the proceedings against the Hungarian company of Microsoft[7].

1.2. The historical background and the current framework of the United States anticorruption law- the phenomenon of corruption as an incentive for compliance

Corruption harms the economy and business in all its elements, leading to distorted prices, inadequate quality services and products, and a sharp decline in innovation. Many market players suffer as a consequence of corrupt activities, and it also corrupts the market, which has a direct impact on public confidence and can ultimately destabilize society by damaging public trust in the integrity of public life and the social interest in the purity of economic and social processes[8].
During the development of the legal institution of compliance, a number of major scandals have been the root cause of the increased demand for corporate governance. Such scandals include the Watergate case in the United States of America and the Enron scandal. Given that the state, in its role as a defender, can take real action to remedy a criminalization hole primarily by legislating and enforcing the law, the first compliance-related laws were enacted in the U.S. as a result of the aforementioned cases. As a consequence, the U.S. Congress adopted the FCPA in 1977. Subsequently, the Enron scandal[9] generated the Sarbanes-Oxley Act (SOX)[10], a U.S. federal law whose main purpose is to increase the accuracy and reliability of financial statements published by public companies. Both laws have also played a prominent role in the creation and spread of the compliance legislation.

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[4] U.S. Foreign Corrupt Practices Act, (furthermore as FCPA). Letöltve: U.S. Foreign Corrupt Practices Act
[5] Sapin II Act, TRANSPARENCY, ANTI-CORRUPTION AND ECONOMIC MODERNISATION BILL (furthermore Sapin II) The French anticorruption law.
[6] United States District Court Southern District of New York, Complaints, ad. 39, 12 p. SEC vs. Elek Straub, Andras Balogh and Tamas Morvai. The US authorities have indicted Hungary's largest telecommunications operator and three of its former executives for bribing government and political party officials in Macedonia and Montenegro. The case has been settled and the Hungarian entity and its parent company have paid $95 million to settle the civil and criminal charges, of which the company has paid a particularly large fine of $59.6 million to the authorities as a criminal sanction and has agreed to operate a compliance programme in the future)
[7] Microsoft was also charged with bribery by the US authorities in a case against the Hungarian company, which ended in a settlement in 2019 and resulted in a criminal penalty of a fine (USD 8.7 million) and a compliance programme.
[8] KARSAI KRISZTINA (szerk.) Nagykommentár a Büntető Törvénykönyvhöz. Wolters Kluwer. Budapest. 2022, 687 p.
[9] MOLNÁR 2021, 29.p
[10] *l.*

The scope of FCPA: it is an extraterritorial statute that has jurisdiction outside the United States under certain conditions, so that its antibribery provisions apply to conduct both inside and outside the United States.
The provisions prohibit U.S. persons and entities (domestic concern), domestic and foreign public companies listed on a U.S. exchange or subject to periodic reporting to the U.S. Securities and Exchange Commission (SEC) (issuer), and certain foreign persons and entities acting within the United States (territorial jurisdiction) from making corrupt payments to foreign officials to obtain or retain business.[11]
The scope of the regulation covers three groups of persons, as described above: (1) US residents and corporations (domestic residents or corporations); (2) domestic and foreign companies listed on a US exchange or subject to periodic reporting to the SEC (issuers); (3) foreign residents and corporations doing business in the US, regardless of nationality. In all three cases, the personal scope includes officers, directors, employees, agents or shareholders acting on behalf of the person or entity.[12]
Following the example of the FCPA, other countries have also enacted similar anticorruption legislation, including the UK Bribery Act 2010, the French Sapin II (the French anticorruption law), the Brazilian anticorruption legislation of 2013, the Indian Corruption Prevention Act, etc.

1.3. The historical background and the present framework of the French anticorruption legislation

The French Sapin II law, which is a law adopted by the French Parliament and formally known as *Law 2016-1691 on transparency, anti-corruption and modernization of the economy*. The aim, as stated by its foreword by the reigning minister at the time of its adoption, Michael Sapin, is to "bring French legislation into line with the highest European and international standards on transparency in public decision-making and the fight against corruption, in particular corruption of foreign public officials"[13].
The French anti-corruption framework is defined by two main pieces of legislation: the criminal offences defined in the French Criminal Code and the law known as Sapin II, which establishes new obligations for business and the public sector to prevent and detect corruption[14]; entered into force on 1 June 2017, confirms the extraterritorial scope of French criminal law on bribery and influence peddling, "which allows for the prosecution not only of natural persons who are French nationals but also of any natural or legal person who commits an offence abroad and

[11] FCPA Rescource Guide. Second Edition. 2020, 1.p.
[12] *I.*
[13] Michael Sapin, Minister for Finance and Public Accounts, Foreword to TRANSPARENCY, ANTI-CORRUPTION AND ECONOMIC MODERNISATION BILL, March 2016, „The bill approved today by the French Government represents an essential stage in the drive to strengthen the values underpinning our democratic, economic and social compact – values that make ethics the lodestar for both public life and economic activity. As a continuation of what I have been endeavouring to accomplish for years, it is designed to build on the progress brought about by the 1993 Sapin Act. The bill's purpose is to make France a great, contemporary, transparent democracy with effective means to counter corruption – a major reason why citizens distrust government and business alike. By unfairly tilting the competitive playing field, corruption also penalises companies"… "The constitutional bylaw and act on the transparency of public life of 11 October 2013 and the act of 6 December 2013 against tax evasion and economic and financial crime, both passed during François Hollande's term of office, have placed significantly higher ethical demands on public officials. By introducing new public notice and control procedures, those laws have helped strengthen the bonds between citizens, elected officials and government departments"..."Enhancing transparency means working to increase the respect for our institutions, to enforce the law, to foster greater understanding between citizens and government and business representatives. It also means breaking out of the vicious circle of distrust and promoting a democracy less ridden with strife."
[14] *See* at AFA Presentation of various regulatory frameworks for promoting business integrity across the world, May 2023, 5. p.

whose habitual residence or the exercise of all or part of his economic activity is located in France"[15].Ultimately, the legislator wanted to create a modern, effective and operational system to prevent and combat corruption.
The scope of Sapin II: According to Article 17 of Sapin II, companies with at least 500 employees or belonging to a group of companies whose parent company is established in France and whose turnover or consolidated turnover exceeds €100 million must implement an anti-corruption program which includes measures to prevent and properly detect acts of *corruption* or *influence peddling* committed in France or abroad. This obligation applies to subsidiaries and companies controlled by these groups in France and abroad.
Summarizing the extraterritorial scope of these regulatory pieces outlined above, in the case of a corruption offence committed by a Hungarian citizen or on the territory of Hungary, the U.S. or French authorities may prosecute under the FCPA or Sapin II – in case the scope of the legislation is met -, so it is essential for Hungarian companies to be fully aware of these rules.
The jurisdiction of a state extends as a general principle to the borders of the country, but there are some laws which, because of their personal or territorial scope, are an exception to this by defining the extraterritorial jurisdiction of the state (too)[16]. As Krisztina Karsai defines it, "the determination of criminal jurisdiction is a competence of the legislator of a given state, an exercise of sovereignty and a manifestation of ius puniendi. Depending on the rules of the particular state, criminal jurisdiction may also extend to acts that fall outside its territorial jurisdiction, thus creating so-called extraterritorial jurisdiction."[17]

2. How "legal imperialism" forced France to accelerate the issuance of Sapin II

"France and the United States share a commitment to combating corporate foreign corruption as exemplified by their early support and promotion of the Organization for Economic Co-operation and Development ("OECD") Antibribery Convention. However, the divergent paths taken in their efforts to foster corporate compliance and enforce anticorruption laws have resulted in geo-political tension as illustrated by French allegations of "legal imperialism" and economic warfare and espionage" following the institution of antibribery criminal proceedings by U.S. authorities against large French corporations. "[18]
"French companies have been particularly hard hit in FCPA cases, with the fines levied against four companies (Alstom, Total, Technip, and Alcatel) figuring among the top ten highest in history when made. The fines levied were respectively: Alstom[19] (2014)—$772 million, Total (2013) —$398 million, Technip (2010) —$338 million, Alcatel-Lucent (2010)—$137 million. The fact that all but subsequently "merged" or were largely acquired by U.S. companies—Alstom (power generation division to GE), Alcatel (merger with Lucent), and Technip (merger with FMC Technologies)—has contributed to suspicion in France that the U.S. is using the

[15] *l.*
[16] Karsai Krisztina: Morális egyenlőtlenségek és büntető joghatóság az európai igazságügyi térségben (MJ, 2024/10., 604-612. o.) 1. fejezet.
[17] *l.*
[18] Fred Einbinder: CORRUPTION ABROAD: FROM CONFLICT TO CO-OPERATION: A COMPARISON OF FRENCH AND AMERICAN LAW AND PRACTICE, Introduction, (2020) 669 p.
[19] *l.* "The debate in France over how to improve its much-criticized foreign antibribery enforcement record arose from intense discomfort with the application by American authorities (DOJ & SEC) of the FCPA to French companies, particularly its "national champions" such as Alstom."

FCPA as a weapon in its economic competition, often hyperbolically referred to as "economic war"[20], with French national champions."[21]
The pressure from the OECD Working Group on Bribery and the fact that French companies paid billion of U.S. dollars to the U.S Treasury in order to resolve some enforcement actions by DOJ eventually achieved its objective, since after months of debate France adopted its very own anticorruption legislation, the Sapin II.[22]

3. Main highlights of the anticorruption framework of France and U.S.

3.1. The French anticorruption framework

Overall, Sapin II was needed and significantly improved the anticorruption landscape in France. In order to enforce Sapin II effectively, the French Anti-Corruption Agency (Agence Francaise Anticorruption, hereafter AFA) was created, which also has a strong control function in the French anti-corruption ecosystem.[23] AFA also issues guidelines to assist private and public sector operators in the proper implementation of the legislation and has been given broad advisory and investigative powers to properly monitor and audit the measures taken to prevent corruption in companies subject to the legal framework.
The new legislation has also created the possibility to establish a Court Settlement in the Public Interest - Convention Judiciaire d'Intérêt Public (hereafter CJIP), a form of negotiated settlement whereby the prosecutor can propose to the accused legal entity a CJIP as an alternative to the traditional criminal trial, in order to ensure effective action.
Worth mentioning that this new type of settlement was a completely new legal solution in France. "Before the Sapin 2 Law's enactment, the only type of pretrial settlement available for criminal offenses in France was the guilty plea agreement (comparution sur reconnaissance préalable de culpabilité or CRPC), enabling companies and individuals to acknowledge the facts while "negotiating" a sentence with the public prosecutor. Contrary to the CJIP, the CRPC entails an admission of guilt and is not limited to corporate entities." (…) "This (CJIP) procedure is comparable to the DPA[24] in U.S. and UK laws, as it entails no admission of guilt, no criminal conviction, and, therefore, no exclusion from public procurements. After a settlement is reached with the prosecution, the CJIP must be approved by a judge; according to publicly available information, no judge has refused to approve a CJIP to date."[25]
In accordance with the AFA guide CJIP "has openly taken inspiration from the American and British "deferred prosecution agreement" (DPA) models"[26].
Using this newly created legal tool in France in case the company suspected of corruption, influence peddling, tax fraud or other offences the French prosecutor can offer to the legal entity in charge this settlement including a fine (up to a limit of 30% of the entity's average annual turnover during the previous three years); compensation of victims; set up a compliance program supervised by AFA up to 3 years.[27]

[20] France Lets U.S. Lead in Corruption Fight - The New York Times, 06. April, 2015
[21] Einbinder (2019). 669 p. "The high fines levied against French banks for sanctions violations, in particular the $8.974 million against BNP Paribas, is viewed in France as providing further evidence of American "legal imperialism."
[22] Saskia Zandieh: France's New Anti-Corruption Law: A Game Changer or More of the Same? Downloaded: https://www.millerchevalier.com/publication/frances-new-anti-corruption-law-game-changer-or-more-same
[23] The French Anticorruption Agency Guidelines, AFA, I.26., I.3.10, 11, 12.
[24] Meaning deferred prosecution agreement (DPA)
[25] Latham&Watkins https://www.lw.com/admin/upload/SiteAttachments/Alert-3063.pdf
[26] AFA Guide: CJIP : The French DPA | Agence française anticorruption
[27] AFA Guide: CJIP : The French DPA | Agence française anticorruption

Thus, it can be concluded that the Sapin II law "facilitated the prosecution of cross-border corruption through its provisions on the jurisdiction of French courts and created *new criminal law instruments* to improve the efficiency of the judicial response to acts of corruption"[28].
An obligation that companies of a certain size implement a compliance program must include implementing an anti-corruption program (comprising eight measures): (1) a code of conduct; (2) an internal reporting mechanism; (3) a corruption risk assessment mechanism; (4) third-party due diligence procedures; (5) accounting controls; (6) training programs for employees in high-risk positions; (7) disciplinary procedures; and (8) a mechanism for evaluating the effectiveness of the compliance program.[29]

3.2. The U.S. framework

The U.S. framework includes making and keeping accurate books and records; devise and maintain internal accounting controls; design and implement effective anti-corruption compliance program.[30] The FCPA provides for a range of criminal and civil penalties for companies and individuals who violate its rules. The DOJ has both criminal and civil enforcement powers, while the SEC has civil enforcement powers under the FCPA. Criminal sanctions may include fines and imprisonment, or a combination of both.[31] In accordance with the Resource guide of the FCPA[32] the hallmarks of the effective compliance programs are clearly defined in this edition with the guiding principle that each company "may have different compliance needs depending on their size and the particular risk associated with their business, among other factor, (…) " there is no one-size-fits-all program"[33]. However the DOJ and SEC will take the following hallmarks of a compliance program into account in their inspections: (1) Commitment of senior management and a clearly articulated policy against corruption; (2) Code of conduct and compliance policies and procedures (3) Oversight, Autonomy and resources (4) Risk assessment, (5) Training and continuing advice, (6) Incentives and disciplinary measures, (7) Third-party due diligence and payments, (8) Confidential reporting and Internal Investigation, (9) Continuous improvement: Periodic testing and review, (10) Merge and acquisition: pre-acquisition due diligence and post-acquisition integration, (11) Remediation of misconduct.[34]
The DOJ and the SEC seek in their procedures to avoid duplication of fines, forfeitures, and damages for the same conduct, and seek to similarly offset fines, penalties and forfeitures imposed by foreign authorities on the same company for the same conduct. As in United States v. Braskem case involving a publicly traded Brazilian petrochemical company, the DOJ, the SEC, the Brazilian authorities and the Swiss authorities mutually approved each other's actions in imposing fines and determining the level of forfeitures.[35]

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[28] AFA Presentation of various regulatory frameworks for promoting business integrity across the world, May 2023, 6. p
[29] AFA Presentation of various regulatory frameworks for promoting business integrity across the world, May 2023, 18. p
[30] *l.*
[31] FCPA Rescource Guide. Second Edition. 58. p
[32] *l.*
[33] *l.*
[34] *l.*
[35] "Such brazen wrongdoing calls for a strong response from law enforcement, and through a strong effort with our colleagues in Brazil and Switzerland, we have seen just that. I hope that today's action will serve as a model for future efforts."…"These resolutions are the result of an extraordinary multinational effort to identify, investigate and prosecute a highly complex and long-lasting corruption scheme that resulted in the payment by the defendant companies of close to a billion dollars in bribes to officials at all levels of government in many countries," said U.S. Attorney Capers. Letöltve: Office of Public Affairs | Odebrecht and Braskem Plead Guilty

Furthermore, the DOJ coordinated resolutions with foreign authorities in more than 10 cases and the SEC in at least five cases.
An important finding, however, is that in many cases the effective compliance program already in place provided evidence to the authorities when a corporate misconduct occurred, so that they could reduce the penalty or even avoid taking action against the company, thus avoiding severe sanctions. The latter happened in the U.S. in the Morgan Stanley Group case in 2012, when the former CEO pleaded guilty for his role in circumventing internal controls required by the FCPA, but the investigating authorities found that Morgan Stanley had an effective system of internal controls, and the DOJ declined to bring a criminal prosecution against Morgan Stanley for the offence. [36]
There are many commonalities between the anticorruption frameworks of the two countries required of the companies, highlighting that (1) both have dedicated authorities to inspect the companies, (2) and both have a clear set of compliance measures that companies subject to the framework must implement in their operations to mitigate or prevent anticorruption risk. Finally, (3) both pieces of legislation have extraterritorial scope of the legislation.

3.3. How CJIP differs from DPA

This new type of legal settlement instrument is derived from US and UK law, there are aspects that the French differ from the original type of settlement. The CJIP "does not entail a *declaration of guilt* and has neither the nature nor effects of a conviction"[37], however "under certain circumstances, companies may be required to acknowledge a statement of facts and their legal significance (i.e., acknowledge that such facts constitute the offense of which the company is accused)"[38]. Should be noted that these acknowledgments of facts might be relevant in other proceedings where the victims may claim to company officials, given that the CJIP is only available to legal entities and not to individuals. In the U.S "DOJ files charges against the defendant and the defendant acknowledges facts sufficient to support a conviction"[39].
In the French CJIP the fines imposed on the accused company has a *capped monetary limitation*, while in the US such limitation does not apply by law. Also, the *judicial review* of the CJIP will provide the effect of the agreement, similarly with the English type of agreement, while in the U.S. "court has relatively little authority to consider the merits or implementation of a DPA"[40].

Conclusions

France was late with the Sapin II but has irrevocably entered the international anticorruption regime and I agree that "more participants in the market for global antibribery enforcement may change the dynamic for prosecutors in unpredictable ways. However, a broadening international

and Agree to Pay at Least $3.5 Billion in Global Penalties to Resolve Largest Foreign Bribery Case in History | United States Department of Justice.
[36] U.S. Sec. and Exchange Comm., SEC Charges Former Morgan Stanley Executive with FCPA Violations and Investment Adviser Fraud, No. 2012- 78 (Apr. 25, 2012) https://www.sec.gov/newsroom/press-releases/2012-2012-78htm
[37] AFA Guide: „CJIP : The French DPA | Agence française anticorruption"
[38] Keith Krakaur, Ryan Junck, Valentin Autret, Jamie Boucher and Khalil Maalouf: Inside France's 1st Deferred Prosecution Agreement. (2017) Published: https://www.law360.com/articles/996822/print?section=banking

[39] Keith Krakaur, Ryan Junck, Valentin Autret, Jamie Boucher and Khalil Maalouf: Inside France's 1st Deferred Prosecution Agreement. (2017) Published: https://www.law360.com/articles/996822/print?section=banking
[40] Keith Krakaur, Ryan Junck, Valentin Autret, Jamie Boucher and Khalil Maalouf: Inside France's 1st Deferred Prosecution Agreement. (2017) Published: https://www.law360.com/articles/996822/print?section=banking

base for pursuing foreign corruption may also boost the legitimacy and effectiveness of antibribery regimes to the mutual benefit of all."[41]
When the Sapin II enacted the CJIP there have been some challenges due to cultural and legal differences between the French and U.S legal system and additional guides were needed in order to bring more consistency and transparency into the use of such a new legal instrument. "A critical lesson is that adoption of another system's anticorruption tools (such as DPA)[42], as the French acceptance of American style corporate plea bargaining requires careful modification to render them palatable to the legal culture adapting the new mechanism."[43] The CIJP has no admission of guilt, no criminal conviction, that is a significant change comparing to the previously available CRPC that entails an admission of guilt. Due to the newly available legal instrument, there were some inconsistency and uncertainty how to use this type of agreement. "On January 16, 2023, the French Financial National Prosecutor (the "PNF") published revised guidelines on the use of the French-style deferred prosecution agreements (…) in order to bring more transparency and predictability to the negotiation process and encourage companies to come forward, cooperate and possibly help identify individual wrongdoers."[44] Legal transplant always needs carful adoption. On one hand legislators have a great opportunity to examine the advantages and disadvantages of the adapted legal instrument, the way it works in the legal system it serves as an example, and to incorporate any experience gained into the new legislation. On the other hand, great care must be taken in applying these instruments, especially if a similar institution already existed in the legal system and is being adapted by the legislator with completely new conditions.
Under the current political circumstances, the accusations cited in this paper as *the U.S. is using the FCPA as a weapon in its economic competition* may end or take a different direction, since on 10 February 2025 President Trump issued an Executive Order (EO) to halt FCPA enforcement due to the reason that "(FCPA) has been systematically, and to a steadily increasing degree, stretched beyond proper bounds and abused in a manner that harms the interests of the United States"[45]. The halt of FCPA proceedings is the response to its "overexpansive and unpredictable enforcement" in the past[46]. It is uncertain over where the new guidelines will navigate the FCPA, but "several days before President Trump issued the EO, AG Pamela Bondi

[41] RACHEL BREWSTER AND SAMUEL W. BUELL: THE MARKET FOR GLOBAL ANTICORRUPTION ENFORCEMENT. (2017)
[42] "Article 22 of Sapin II introduces U.S.-style Deferred Prosecution Agreements to the French legal landscape in certain cases, including in cases of domestic and foreign corruption. Under Sapin II, companies will have to agree to the facts enumerated in the DPA but will not be required to admit guilt. Sapin II also requires that DPAs be reviewed by a court during a public hearing. https://www.millerchevalier.com/publication/frances-new-anti-corruption-law-game-changer-or-more-same#menu,
[43] Einbinder (2019). 796 p. "Studying this process of adaptation offers a practical guide to the risks and opportunities for legal transplants by stimulating inquiry into how best to implement improvements in a country's international anticorruption arsenal. To be successful, "grafting" of mechanisms rooted in the soil of another legal culture will need the care of experienced gardeners cognizant of the difficulties inherent in such endeavors"
[44] Debevoise and Plimpton: France's Revised Guidelines for Deferred Prosecution Agreements Promote Voluntary Self-Disclosure: 13_frances-revised-guidelines-for.pdf
https://www.tribunal-de-paris.justice.fr/75/actualites-mensuelles-parquet-national-financier
[45] Presidential Action, Executive Order to halt FCPA enforcement, (10.02.2025)
https://www.whitehouse.gov/presidential-actions/2025/02/pausing-foreign-corrupt-practices-act-enforcement-to-further-american-economic-and-national-security/
[46] Presidential Action, Executive Order to halt FCPA enforcement, (10.02.2025) „(…) overexpansive and unpredictable FCPA enforcement against American citizens and businesses — by our own Government — against American citizens and businesses — by our own Government — for routine business practices in other nations not only wastes limited prosecutorial resources that could be dedicated to preserving American freedoms, but actively harms American economic competitiveness and, therefore, national security (…)

directed DOJ's FCPA Unit to prioritize cases of foreign bribery that facilitate cartel operations and transnational criminal operations (TCOs).”[47]
Finally, multinational companies often use standardised and centralised compliance programs, sometimes developed under the U.S. or French antibribery framework and adapted locally for use in other countries, so I agree with Soyer and Pollak, as “it can be argued that by applying standards that are local in one state to another state, *compliance leads to internationalisation of law and harmonisation of compliance requirements*. This can be done, for example, by a company requiring its foreign subsidiaries to apply domestic standards or by a company requiring foreign investors to comply with domestic standards.”[48]

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Closed: 24.02.2025

[47] Holland & Knights, President Trump Issues Executive Order to Halt FCPA Enforcement, 20.02.2025
President Trump Issues Executive Order to Halt FCPA Enforcement | Holland & Knight LLP - JDSupra
See more „Consequently, companies should increase due diligence in countries where cartels and TCOs operate. It is anticipated that the revised FCPA policy and guidance may allow for prosecutorial discretion, particularly in cases involving critical minerals, deepwater ports or key infrastructure or assets where DOJ might exercise leniency.”

[48] RICHARD SOYER - SERGIO POLLAK: Criminal compliance; In: Kert Robert, Kodek Georg (Szerk.): Das große Handbuch Wirtschaftsstrafrecht. Wien, MANZ Verlag, 2021. 2. Kiadás. – magyar nyelvű rövidített változat, mely tanulmányt fordította Prof. Dr. Jacsó Judit és Dr. Udvarhelyi Bence. Miskolci Jogi Szemle 17. évfolyam, 2022/ 5. szám (3. különszám), 212. p