

Ms. Lisa Osofsky
Director,
Serious Fraud Office
2-4 Cockspur Street
London, SW1Y 5BS

06/03/2020

Dear Ms. Osofsky,

Sri Lanka's Entitlement to Compensation Under Deferred Prosecution Agreement with Airbus SE

Transparency International Sri Lanka (TISL) is a national chapter of Transparency International, the global coalition against corruption. Since 2017, TISL has been paying close attention to developments surrounding the investigation into bribes paid by Airbus SE and its agents to actors in jurisdictions around the globe in order to secure contracts worth several billion dollars.

Whilst your office's investigation has now resulted in a Deferred Prosecution Agreement (DPA) with Airbus SE wherein the aircraft manufacturer has agreed to pay a fine and costs amounting to €991m in the UK, TISL is concerned that the "General Principles to compensate overseas victims (including affected States) in bribery, corruption and economic crime cases" (General Principles), has not been given due consideration.

In the context of the clear evidence of bribes being paid by Airbus SE and its agents to actors affiliated to SriLankan Airlines to influence the procurement of aircraft and the \$116m in cancellation costs that the state-owned airline was subsequently straddled with, we wish to pose the following queries to your office

1. Section 1 of the General Principles mandates the Serious Fraud Office (SFO), the Crown Prosecution Service (CPS) and the National Crime Agency (NCA) to consider the question of compensation in all relevant cases. What were the reasons that justified your decision not to consider this case in line with the General Principles?
2. Why did the Serious Fraud Office (SFO) and Crown Prosecution Service (CPS) not include compensation as part of the terms of the DPA entered into with Airbus SE in line with Section 2 (b) of the General Principles?
3. As per Section 3 of the General Principles, did the SFO work collaboratively with the Department for International Development (DFID), Foreign & Commonwealth Office (FCO), Home Office (HO) and HM Treasury (HMT) to -

- Identify potential overseas victims including affected states?
- Assess the case for compensation?
- Obtain evidence including statements in support of compensation claims?

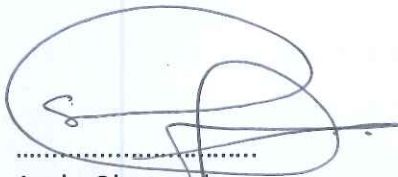
TISL is aware of 5 prior instances where the SFO working with the NCA and CPS have secured compensation for overseas victims totaling £42.9m, as disclosed on the SFO's website. We are therefore understandably concerned that it appears the same yardstick may not have been used to assess Sri Lanka's case for compensation.

It is noted that Sri Lanka does not have a comprehensive legal framework for the management of recovered assets. However, following the 2018 Global Forum on Asset Recovery, Sri Lanka has developed a Policy framework on Proceeds of Crime, involving multiple stakeholders from the state and civil society.

Whilst this Policy has not yet translated into law, in the event that the two Governments agree to return the proceeds of crime, it is noted that this framework and the global best practices on such return need to be given due consideration.

Thank you in advance for your prompt response.

Yours sincerely,



.....
Asoka Obeyesekere
Executive Director
Transparency International Sri Lanka