

## Observatoire ARGAs

### ARGA Atlas

## LEGAL REVIEW MEMORANDUM

### **Legal Risk Assessment for the Submission of an Analytical Compliance Dossier to Australian Authorities and Institutions**

#### I. Purpose of the Memorandum

This memorandum provides a preliminary legal assessment of the principal risks and compliance considerations associated with the transmission of an analytical and compliance dossier concerning PJSC TogliattiAzot (TOAZ) and related matters to Australian governmental authorities, parliamentary bodies, regulators, research institutions, and other potential recipients.

The purpose of this review is not to assess the substantive merits of the underlying case but to identify legal and procedural considerations that should be taken into account before any submission is made in Australia.

Particular attention is given to:

- Australian defamation law;
- privacy and personal-information obligations;
- procedural fairness considerations;
- requirements for communications with governmental authorities;
- use of witness materials and personal testimony;
- confidentiality and data-protection issues;
- risks associated with public dissemination of materials.

#### II. Executive Risk Assessment

Based on the current structure of the proposed Australian package, the overall legal risk associated with confidential submission of materials to Australian governmental authorities appears materially lower than the risk associated with public publication.

The principal legal exposure does not arise from providing information to competent authorities in a neutral and documented manner. Rather, the greatest risks arise where allegations concerning identifiable individuals are publicly disseminated without sufficient evidentiary support, where language may be interpreted as asserting criminal conduct as established fact, or where confidential information is disclosed without appropriate authorization.

Accordingly, the legal strategy should prioritize:

- documented facts rather than conclusions;
- procedural chronology rather than accusations;
- institutional awareness rather than advocacy;
- neutral analytical language;
- express disclosure of source limitations;
- clear distinction between facts, allegations, findings, and opinions.

### III. Defamation Law Considerations

Australia maintains one of the more claimant-friendly defamation regimes among common-law jurisdictions. Although reforms have been introduced in recent years, significant legal exposure remains where publications identify individuals and communicate material capable of damaging reputation.

The primary legal risk arises where a dossier may be interpreted as asserting that a named individual engaged in criminal conduct, corruption, fraud, abuse of office, asset seizure, money laundering, sanctions evasion, or similar conduct without the existence of a final and authoritative factual basis supporting such statements.

Accordingly, the dossier should avoid language such as:

“X committed fraud.”

“X orchestrated a corporate takeover.”

“X abused the justice system.”

“X engaged in corruption.”

Instead, neutral formulations should be used:

“The documentary record contains allegations concerning...”

“Court proceedings addressed claims relating to...”

“Certain participants asserted that...”

“Materials reviewed by ARGA indicate that...”

“According to documents contained within the archive...”

The distinction is important because Australian courts frequently examine how an ordinary reader would understand the publication rather than focusing exclusively on technical legal wording.

The risk is substantially reduced where:

- statements are supported by documentary evidence;
- sources are identified;
- competing positions are acknowledged;
- uncertainty is disclosed;
- conclusions are not presented as established fact.

#### IV. Qualified Privilege and Government Communications

A significant protective factor exists when information is provided to governmental authorities for legitimate public-interest purposes.

Communications submitted in good faith to competent authorities for consideration within their official functions may benefit from legal protections not available in ordinary public publications.

However, such protection is not absolute.

The protection is strongest where:

- the recipient has a legitimate interest in receiving the information;
- the sender honestly believes the information may be relevant;
- the communication is proportionate;
- the sender does not act maliciously;
- the sender does not knowingly provide false information.

Accordingly, all submissions should clearly state:

“ARGA does not request any particular sanctions decision, enforcement action, regulatory outcome, or legal determination.”

“ARGA provides these materials solely for institutional awareness and independent assessment.”

This language strengthens the argument that the communication serves a legitimate informational purpose rather than an advocacy campaign directed against particular individuals

#### V. Procedural Fairness Considerations

Australian institutions place considerable importance on procedural fairness and balanced presentation of information.

Although private organizations are generally not subject to the same procedural obligations as public authorities, submissions that appear one-sided or omit significant contrary information may be viewed as less reliable.

For this reason, the dossier should consistently:

- acknowledge competing interpretations;
- identify unresolved factual disputes;
- distinguish allegations from findings;
- identify where proceedings remain ongoing;
- avoid presenting contested issues as settled facts.

Where criticism of specific proceedings is included, it is advisable to reference procedural events rather than character assessments.

For example:

“The defence requested a repeat expert examination which was not granted.”

is preferable to:

“The authorities deliberately suppressed evidence.”

Similarly:

“The court declined to hear additional expert testimony.”

is preferable to:

“The court intentionally prevented a fair trial.”

This approach significantly reduces legal and credibility risks.

## VI. Witness Statements and Testimonial Materials

Witness materials require particular care.

Australian authorities generally distinguish between:

- primary documentary evidence;
- sworn evidence;
- witness testimony;
- hearsay statements;
- personal opinions.

The dossier should clearly identify the status of every witness document.

Recommended terminology includes:

“Witness Statement”

“Personal Account”

“Declaration”

“Interview Summary”

“Affidavit”

“Supporting Testimony”

The dossier should avoid implying that witness accounts have been independently verified unless such verification has actually occurred.

Where testimony relates to allegations involving third parties, the document should expressly state:

“This statement reflects the personal knowledge and recollection of the witness.”

“This statement has not been independently verified by ARGA except where specifically indicated.”

Such language materially reduces legal risk.

## VII. Privacy Law and Personal Information

Australia's privacy framework imposes obligations concerning the collection, storage, use, and disclosure of personal information.

Although foreign organizations are not automatically subject to all provisions of Australian privacy legislation, Australian recipients may nevertheless be sensitive to privacy concerns.

Accordingly, the dossier should avoid unnecessary disclosure of:

- passport numbers;
- residential addresses;
- telephone numbers;
- private email addresses;
- banking information;
- family-member information;
- medical information;
- personal identifiers unrelated to the subject matter.

Personal information should be included only where directly relevant to the purpose of the submission.

Where possible, sensitive information should be redacted in versions intended for broad circulation.

## VIII. Confidentiality and Source Protection

The documentary record appears to include materials originating from former executives, witnesses, legal representatives, and associated individuals.

Prior to transmission, ARGAs should verify:

- authority to disclose the materials;
- applicable confidentiality obligations;
- contractual restrictions;
- court-imposed confidentiality requirements;
- data-protection restrictions in originating jurisdictions.

Particular care should be exercised regarding:

- unpublished witness statements;
- asylum materials;
- immigration records;
- Interpol-related documentation;
- legal correspondence;
- draft legal filings.

Where disclosure authority is uncertain, the safer approach is to provide a summary rather than the original document.

## IX. Public Dissemination Versus Government Submission

A critical distinction should be maintained between:

- (A) confidential institutional submissions; and
- (B) public reports.

Materials transmitted directly to competent authorities generally present lower legal risk than publicly distributed reports.

If public publication is contemplated, additional review should be conducted regarding:

- defamation exposure;
- copyright issues;
- privacy concerns;
- confidentiality restrictions;
- jurisdiction-specific publication risks.

For public-facing documents, more cautious language should be used than in governmental submissions.

## X. Recommendations for the Australian Package

Before submission, every document should include a disclaimer stating that:

- ARGA is an independent analytical organization;
- ARGA does not request sanctions measures;
- ARGA does not request enforcement action;
- ARGA does not determine guilt or liability;
- all findings remain within the competence of relevant authorities;
- materials are provided solely for informational and analytical purposes.

Every factual assertion should, where possible, be traceable to a document within the archive.

Every allegation should be attributed to its source.

Every witness statement should be clearly identified as testimony rather than established fact.

Every compliance analysis should be framed as risk assessment rather than factual determination.

## XI. Overall Conclusion

Subject to appropriate drafting safeguards, the legal risks associated with providing a documented analytical dossier to Australian governmental authorities are manageable and substantially lower than the risks associated with public advocacy campaigns or media publications.

The most significant risks arise from potential defamation exposure, disclosure of confidential information, privacy-related concerns, and presentation of disputed allegations as established fact.

These risks can be materially reduced through careful drafting, source attribution, neutral language, procedural fairness safeguards, clear disclaimers, and rigorous separation between documented facts, witness testimony, analytical observations, and institutional conclusions.

Provided these safeguards are implemented, the proposed Australian dossier can be presented in a manner consistent with Australian expectations regarding good-faith institutional communication, procedural fairness, and responsible disclosure of information to public authorities.