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TRUE CRIME: THE SCENT OF FRENCH SCANDAL

David Ignatius on the Elf Aquitaine corruption case that rocked France's elite. Investigators caught big fish but the biggest got away.

By David Ignatius

When the French magistrate Eva Joly opened an investigation into the Paris-based oil company Elf Aquitaine in 1994, she took on a side of her country's elite that's usually hidden from view. Buried within the company's accounts was a chain of fraud and bribery that touched many of the leading politicians in France. It was as if she had unlocked a *caisse noire* where the elite's secrets were hidden.

Inside that black box was a trove of scandal: the money that purchased apartments for the mistresses of powerful men; the "retro-commissions" to French business and political leaders that flowed from many big French business deals abroad; Elf credit cards issued to friends of the company, who bought hundreds of meals in Paris's most lavish restaurants; the names of a loose fraternity of intermediaries who arranged payoffs for Elf and other big companies; and the numbers of secret bank accounts in Switzerland, Liechtenstein, and other places where Elf's beneficiaries had hidden their payoffs. Joly discovered the strands of what the French call *les réseaux*—the networks of hidden power woven through the nation's life.

She was fearless in pursuing this trail of evidence, and she made some dangerous enemies. Six years ago, the government assigned her full-time bodyguards, after "people were informed that I was in great danger and that they feared for my life," she explained in an interview. Some "very concrete events" convinced her the threat was real: Her office was broken into; her computers were invaded; sensitive documents vanished from a locked police vault. In addition, as she put it, "warning messages were carried by various people" that she should be careful about not pushing too far. "Many people are convinced that I am responsible for their unhappiness," the 58-year-old Joly told me quietly: "I am, for some people, the focus of hatred."

For almost a decade, using the broad investigative powers of her office, Joly has been in the vanguard of a legal assault against French corruption. She has had highly publicized successes—including the convictions last year of France's former foreign minister, Roland Dumas, and of the former head of Elf, Loïc Le Floch-Prigent. (Both have challenged their convictions and, at press time, hearings on their appeals were scheduled.) She has also illuminated a France that was unknown to most outsiders, and even many French people—a place closer to Beirut or Sicily than to the postcard images of the glittering, urbane Champs-Élysées. For this work, she has been demonized in the French press as a Madame Savonarola. Elsewhere on the continent, though, she has been celebrated and, in January, *Reader's Digest* named her "European of the Year."

Joly brought her eight-year investigation to a bravura conclusion in February, when she completed a final report naming 42 people as part of an alleged web of corruption surrounding Elf. The most prominent name on the list was France's former interior minister, Charles Pasqua—one of the most intimidating political figures in France over the past several decades. In addition to Pasqua, dozens of other former Elf executives and intermediaries were accused of misusing corporate funds.

Yet the real outcome of her investigation is decidedly ambiguous. Immediately after the close of the investigation, the French press speculated it could take years for any of the 42 to be tried, and the French establishment denounced her for pursuing an overzealous and abusive vendetta.

I have followed the Elf scandal since soon after it began, and have written about French corruption in many newspaper articles and in a novel. I see the Elf investigation the way Joly does—for its accomplishments, but also for the staying power of the system she uncovered. Joly now worries that she has "failed the citizens of France" because the system that supported Elf remains largely intact. Perhaps victory was impossible in this war on corruption—it was too big a battle for Joly and other magistrates to win alone, without stronger political allies. She pried open a door, at great personal risk, but the political class refused to follow her through it into a new era of accountability.

In 1994, the case that drew Joly's attention seemed a small matter, known initially as "*l'affaire Bidermann*." Auditors had discovered an Elf investment of 780 million francs (with 5.6 francs to the dollar, about \$139.3 million) in the textile business of an entrepreneur named Maurice Bidermann, known until then chiefly as the brother of the famous discotheque owner Régine. It was a peculiar use of funds for an oil company. Evidence soon emerged that Bidermann had been providing a London apartment and 30,000 francs a month to the ex-wife of Elf's recently resigned head, Le Floch-Prigent. An initial inquiry by the Commission des Opérations de Bourse, the French equivalent of the Securities and Exchange Commission, was referred to the prosecutor general's office in Paris, which assigned the case to Joly for criminal investigation.

The moment was ripe for a free-wheeling investigation. The presidency of François Mitterrand had been marked by pervasive corruption and his newly elected successor, Jacques Chirac, seemed to want to break from the ways of the past. Elf itself, formerly a government-controlled company, had just been privatized as a 97-billion-franc enterprise, and its new head, Philippe Jaffré, was eager to cooperate with investigators. For years, Elf had been rumored to operate as a piggy bank for its political friends at home and abroad, but nobody had dared investigate how Elf spent billions of taxpayer francs. The leading French newspaper, *Le Monde*, embarrassed by its lack of aggressive reporting during the Mitterrand era, was also ready to make up for lost time.

All the elements for a vigorous investigation were there, but it was Joly who made the difference. She was a newcomer then, having just been appointed as a *juge d'instruction*, an investigating magistrate assigned, in her case, to a section charged with handling financial cases. But, in a sense, her whole life had prepared her for this opportunity to rock the boat.

When Joly arrived in France from Norway in 1964, she was Gro Eva Farseth, the 20-year-old daughter of a Norwegian tailor. She had come to work as an au pair for the Jolys, a family well-known among the French bourgeoisie. But she promptly fell in love with their 21-year-old son and married him. His indignant parents promptly disinherited him, and Joly went to work as a secretary to put him through medical school.

Joly came of age in the liberating turmoil of the 1960s in France, but her story was one of ambition rather than anarchy. She studied law at night while raising two children and eventually obtained a law degree and a doctorate. When a chance arose in 1981 for her to become a magistrate by taking a special exam, she grabbed it. She spent the 1980s working on ordinary criminal cases as a regional judge, but eventually she was called to Paris—first in 1989, to work in the Finance Ministry, then in 1993 in the special section of the *magistrature* that investigates financial fraud. By then, her new role made her dangerous to the elite: She was an outsider on the inside, a foreigner with the name of a prominent French family and the power of a magistrate.

Joly's first major case was the 1994 investigation of a high-flying businessman named Bernard Tapie. He had political friends everywhere, and had been appointed minister of urban affairs by Mitterrand in 1992. At first, he thought he could ignore Joly, and refused a summons to appear at her office. But by then she was a *juge* with greater powers than a simple magistrate. She threatened to use them to arrest him, and he backed down—beginning a process that led to the collapse of his financial empire and his conviction for misuse of corporate assets.

When the post of *juge d'instruction* was formally created in 1808, Napoleon called the *juge* the "most powerful man in France." Joly soon discovered that her new position gave her unusually wide latitude to explore possible criminal activity—far more than either prosecutors or judges have in the American legal system.

As one of France's 660 *juges d'instruction*, Joly had the power to gather evidence, interrogate witnesses, and direct the work of the *police judiciaire* assigned to her—with the exclusive prerogative of deciding when an inquiry should end. In the so-called accusatory tradition of Anglo-Saxon law, police and then prosecutors gather and present evidence to the judge or jury that tries a case. But in the French "inquisitorial" system, the *juges* are seen as the embodiment of the will of the people, and they act both as prosecutors and judges. They are "true Janus[es] in the judicial world," according to Renaud Van Ruymbeke, a leading magistrate whom Joly drafted in 2000 to help her investigate Elf.

When they find evidence of a crime, *juges* can order that suspects be *mis en examen*, or put formally under examination—which amounts to a kind of preliminary indictment. They also have the right to jail suspects to keep them from sabotaging the inquiry—a controversial power that Joly used aggressively. When the *juges* have finished their investigation, they send the evidence back to prosecutors, who review it and then present it to a tribunal of judges, who later render a verdict and impose a sentence if they find guilt.

Investigating magistrates are common elsewhere in Europe, for example in Italy, Spain, Belgium, and the Netherlands. Some have had famous successes—notably the anti-Mafia magistrate Giovanni Falcone, until he was assassinated in Sicily in 1992, and Antonio Di Pietro, a Milanese magistrate who launched what's known as the "clean hands" investigation of political and business corruption in the early 1990s. But until Joly, French magistrates had lagged behind their Italian counterparts in drive and effect.

The current independence of the French *juges* is a paradox, since in France the judiciary is part of the Ministry of Justice. Until the mid-1970s, it was common for the ministry to intervene and block politically sensitive investigations. That began to change under the presidency of Valéry Giscard d'Estaing, who—perhaps influenced by the Watergate scandal then unfolding in America—moved to stop the old political interference. The new judicial independence was reinforced in 1996. That year, under the presidency of Jacques Chirac, Justice Minister Jacques Toubon's efforts to slow an investigation of corruption in the office of the Paris mayor during Chirac's tenure as mayor were exposed in the French press. When the socialists won legislative elections and formed a new cabinet, the new justice minister, Elisabeth Guigou, pledged she would end such direct political intervention. In theory, the *juges* were now free to investigate a trail of illegality wherever it led.

While independence is the *juges'* greatest strength, it has also been their weakness. As Joly discovered, *juges* are isolated. They simply don't have the resources or the political support necessary to investigate big cases. They don't have the money, the staff, or the investigative expertise to pursue all the leads they uncover. When Joly arrived at her new magistrate's office in 1994, she found a battered Olivetti typewriter, no fax machine, no computer, and almost no budget to conduct real investigations. So she borrowed her daughter's computer, bought a fax machine, and, out of her own pocket, paid for some of the travel necessary to conduct parts of the investigation. But that wasn't enough to overcome her lack of resources, and some analysts now speculate that defense attorneys may have defeated Joly and her colleagues by overwhelming them with evidence.

Against Joly, and all the *juges*, stood the establishment and at its top the elite civil servants who ran nationalized companies like Elf. They tend to be graduates of the so-called *grandes écoles*—*l'Ecole Nationale d'Administration*, *l'Ecole des Mines*, or *l'Ecole Polytechnique*. Validated by a meritocratic system of exams that controls entry to these elite schools, the graduates form a kind of mandarin caste, whose power embraces all the historical roots of the French state—from the centralizing ethos of Louis XIV, to the powerful bureaucracy of Napoleonic France, to the socialist *dirigisme* of Mitterrand.

These civil servants may well be France's best and brightest, but they are also its most arrogant, a law unto themselves. That is partly because, over the years, their power has become subtly intertwined with a darker side of the French elite—the tough guys from Corsica and southern France who hold key positions in the police, the government's intelligence services, and the security departments of major French companies. By the 1990s, these mandarin and mobster strands of power had become tightly intertwined in a network that has been dubbed "France Inc." The ruling clans needed each other—and they protected each other. It was these *réseaux* that Joly challenged, summoning prominent witnesses, questioning them harshly, and, when they refused to answer her questions, ordering them to prison.

The Elf investigation went slowly at first, as Joly explored Bidermann's questionable ties with Le Floch-Prigent. The evidence suggested misuse of company funds, but secret slush funds were notorious at Elf. They were arguably required to fulfill the company's mission—especially in the francophone nations of Central Africa that were Elf's most important sources of crude oil. "Historically, Elf was at the heart of French African policy," note Valérie Lecasble and Airy Routier, the authors of one of the best books on the Elf scandal, *Forages en eau profonde (Drilling in Deep Water)*. "It was the oil company that paid part of the finances of African chiefs of state, and returned to France money that financed the political parties."

Elf's role as an African paymaster had developed in the 1950s under President Charles de Gaulle, and the company (then called Société Nationale des Pétroles d'Aquitaine) was known as a hub of right-leaning influence. When the leftist Mitterrand became president in 1981, he wanted the socialists and their friends to share in the spoils. That was part of why he sent his trusted lieutenant Le Floch-Prigent to run the company in 1989. But by the time Joly began looking at Elf, Mitterrand had only about a year left in office, Le Floch-Prigent was gone, and the new head, Jaffré, was trying to clean up the mess.

What galvanized Joly into action against Elf was the new President Chirac's decision in late 1995 to

name Le Floch-Prigent head of the French railway system. The system was plagued by labor strife and, Chirac evidently believed, needed a socialist manager. Chirac's endorsement was a signal for Joly to stand aside and stop trying to track down a few million missing francs. But she defied the president and refused to halt the investigation—ordering a raid on Bidermann's home and offices the day after Le Floch-Prigent was named to the railway job. After the Tapie case, she had become suspicious of the connections between politicians and business, and she wasn't a woman who made compromises on issues of principle. Six months later, in July 1996, Joly arrested Le Floch-Prigent and sent him to prison to compel his testimony about Elf's secret financial dealings. Joly continued to push the investigation relentlessly that year, going after figures who had sometimes intimidated magistrates, including a notorious Corsican middleman for Elf named André Guelfi, whom she also jailed. Probably hoping to save themselves by implicating higher-ups, Le Floch-Prigent and Guelfi began describing an astounding network of shadowy Elf operations.

Among the many stories they told was of an alleged payoff of 256 million francs by Elf to grease its purchase of the Leuna refinery in eastern Germany in 1992. According to Le Floch-Prigent and Guelfi, the Leuna commissions had been destined for the political party of German Chancellor Helmut Kohl—and had been authorized by Mitterrand himself. The witnesses must have hoped that by invoking the most sensitive matters of state, they would bring down the lid on the investigation, but they were wrong. The news promptly leaked to the French press, and Joly kept on going.

As Joly probed, she realized that many of Elf's payoffs had been channeled through a subsidiary in Switzerland known as Elf Aquitaine International. With crucial help from a Swiss magistrate, Paul Perraudin, Joly untangled Elf's secret accounts in Geneva. She discovered that Elf Aquitaine International was run by an executive named Alfred Sirven and that its payroll included a number of men who were linked in press reports to Pasqua, the former interior minister. Joly also discovered on the books of Elf Aquitaine International the name of Christine Deviers-Joncour. She was the mistress of the former foreign minister, Dumas, and soon became so notorious that she mockingly titled her autobiography *The Whore of the Republic*. By the time of the investigation, Dumas had become president of the Conseil Constitutionnel, France's constitutional court. Dumas was a true prince of the French system—a lawyer of refinement who, in addition to his government work, had acted as executor of the estate of Pablo Picasso and represented the widow of the sculptor Alberto Giacometti. He is said to have been among the late President Mitterrand's cronies, who helped the imperious leader outwit his enemies.

Joly discovered that Deviers-Joncour had been receiving millions of francs from Elf for little apparent work. The company had bought her a 17-million-franc apartment on the fashionable rue de Lille near St.-Germain-des-Prés. Under a 1990 contract, she was paid a retainer of 50,000 francs a month, plus the use of a company credit card on which she charged as much as 200,000 francs a month. Some of that she used to buy extravagant goodies for Dumas, including an 11,000-franc (\$1,964) pair of handmade ankle-high boots, or *bottines*, from a Parisian shop called Berluti, so exclusive that its owner invited customers to bring in their shoes once a year to be washed in champagne. The *bottines* became the infamous symbol of the Elf scandal.

When Dumas was *mis en examen* in 1998, the Elf scandal moved into a new phase, uncovering the broad network of French companies, intelligence operatives, and arms dealers of "France Inc." The evidence suggested that Elf had, in effect, loaned Deviers-Joncour to another state-owned company, the defense giant Thomson-CSF, to lobby her lover Dumas, so he would reverse his public opposition to the sale of Thomson frigates, or missile boats, to Taiwan.

Dumas did drop his opposition, and in 1991 Thomson sold the frigates to the Taiwanese navy. Between that year and 1996, more than 3 million francs in cash allegedly moved into Dumas's bank account. When Joly questioned him about the money, Dumas is said to have claimed it had come from a private sale of some of his art collection.

The commissions on the frigate sale reportedly totaled as much as 5 billion francs, or more than 30 percent of the 16-billion-franc purchase price. In press interviews, Dumas hinted that if the names of the ultimate recipients were disclosed, it would cause an international crisis. The French press speculated that the recipients included prominent political personalities in Beijing (who may have been paid to acquiesce in the deal) and in Taiwan, as well as in France.

From 1997 on, it was clear that the crucial witness in the Elf case was Sirven, the head of Elf International in Switzerland and Le Floch-Prigent's primary aide. Sirven had the keys to the *caisse noire*, but he fled France in 1997, and a global manhunt ensued. Some knowing Parisians speculated that Sirven would never survive. But he eventually turned up in the Philippines, and the French government arranged for his extradition to France in February 2001.

As he was captured, Sirven swallowed the computer chip in his cell phone, so his telephone contacts while in exile have remained unknown. But his address book was discovered and promptly published in

the French magazine *Paris Match*. Sirven's contact list was a devastating document: It included the private phone numbers of some of the most prominent politicians and business figures in France. "I see so many resemblances, in France and abroad, between the corruption of the state and the mafias of various sorts," Joly wrote in 2000, in a memoir called *Notre affaire à tous* (*Our Business Is Everyone's*): "The same networks, the same henchmen, the same banks, the same marble villas."

When the Elf trial finally took place in January 2001, however, it was an anticlimax. Sirven refused to testify; Dumas denied any wrongdoing; and Deviers-Joncour and Le Floch-Prigent had already told their secrets. The judges sentenced the defendants to relatively short prison terms—six months for Dumas, 18 months for his mistress, three and a half years for Le Floch-Prigent, and four years for Sirven. Friends of Joly say she doubts they will ever serve this time, thanks to appeals and delays.

Through the years of the Elf investigation, when every day's issue of *Le Monde* seemed to carry a new leak, one prominent name was rarely mentioned: Pasqua, the former interior minister. Though he was linked with Sirven and others—and though for years he had been one of the French officials most involved in secret dealings with Elf's political contacts in Africa—Pasqua's name was conspicuously absent from the investigation. He appeared to be untouchable. Perhaps that was because people were afraid of him. That veil of secrecy and intimidation began to lift recently, when a French book, *Noir silence* (*Black Silence*), examined the mysterious deaths of several of Pasqua's political enemies in 1979 and 1980. Joly reviewed extensive evidence about Pasqua, but she had difficulty framing clear charges against him. The decision by Joly and Van Ruymbeke to name Pasqua in their final dossier was an act of courage and commitment.

Joly's parting shot was the massive report filed in February this year detailing the evidence gathered over the years of the Elf investigation. She recommended charges against dozens of people who had been involved in Elf's illegal activities. While it was a bold attempt to summarize the case, many French lawyers doubt that it will lead to many new convictions. The facts are too complicated, the investigative resources too few. What's missing most of all is the political will to discover all the truth.

It's as if Joly had netted a load of fish, which are now left to rot in the sun while the French public politely holds its nose. Worse, Joly and her fellow magistrates find themselves on the defensive. She has been compared to the American independent counsel Kenneth W. Starr—a scathing insult in a France still astonished that a president could be impeached for lying about oral sex. And the institution of *juges d'instruction* has come under fire from the political class, left and right, which thinks that they went too far in the Elf affair and that they hold too much power.

Last summer, an important constraint was imposed on the *juges*. In June 2001, the Cour de Cassation, France's ultimate court of appeals, issued an obscure ruling on the statute of limitations for a crime known as *abus de biens sociaux*, or misuse of corporate assets, that will partly disable the *juges*. The statute on *abus de biens sociaux* is relatively minor, but it has proven as useful in convicting French officials like Dumas as the United States tax code was in finally putting Al Capone in jail. Because the time limit for charging someone with *abus de biens sociaux* started running only when the abuse was discovered, not when it was committed, investigators used it to pursue tips that came years after the crime—after a change in government, for example. But last June, the Cour de Cassation took away that flexibility when it ruled that the statute of limitations for *abus de biens sociaux* would begin when auditors closed the books at the end of the fiscal year in which an abuse occurred.

With French presidential and legislative elections approaching soon, more limitations are likely to be imposed on the *juges'* powers. Both Chirac and his socialist rivals fear further revelations; politicians all want the meddlesome magistrates to go away.

And one by one, the magistrates have begun to quit. A key colleague, Laurence Vichnievsky, left late last year to become a judge in Chartres. Joly herself began considering another career. Her friends say she has concluded that reforming France from the inside may be impossible. The task could only be accomplished by Europe-wide institutions that could investigate fraud and corruption and hold the powerful to account.

I asked Joly what she saw as the lessons of the Elf case. "The investigation would not have been possible without the independence of the *juges*," she said. But independence alone is not enough, and Joly believes "it is necessary to have the public will to fight corruption." Until there is a politician who is willing to transform the system, the *juges* will have limited success.

To Joly, the Elf investigation was a missed opportunity for France. For a moment at least, the system was weak, exposed, and perhaps even ready to topple, but it survived because of the code of silence of the French elite. It was easier to blame the excesses of the magistrates—the meddling of a Norwegian parvenu and her fellow *juges*—than to go through the pain of change. Ask who is the candidate of

change in the republic and the French shrug their shoulders: Nobody, of course.

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