

# Insights



## Evelyn Sheehan and Carolina Leung Unpack Shifts in the U.S. DOJ's Prosecutorial Reach of Foreign Defendants in The Anti-Corruption Report

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Recent U.S. federal court decisions have reeled back the extraterritorial jurisdiction of the U.S. Department of Justice (DOJ), expanding due process rights and defenses for foreign defendants. Kobre & Kim's Evelyn Sheehan and Carolina Leung unpack what this means in an article for *The Anti-Corruption Report*.

In *U.S. v. Rafoi-Bleuler*, a U.S. district court relied on *U.S. v Hoskins* to recognize new limits to the Foreign Corrupt Practices Act's (FCPA) reach, finding that the FCPA does not apply to foreign nationals unless they either (a) act illegally in the United States, or (b) act illegally outside the United States as an "officer, director, employee, or agent" of a U.S. domestic concern.

Beyond limitations on the FCPA, another ruling from the Second Circuit signals further limitations to the DOJ's prosecutorial reach, overruling a district court and finding that the defendant in *U.S. v. Bescond* could not be considered a fugitive and therefore does not need to physically travel to the U.S. to defend herself. All these recent decisions demonstrate that, with the help of experienced specialists, foreign nationals at risk of U.S. criminal prosecution can access new paths to success against U.S. criminal prosecution.

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