



14 July 2023

Since its creation by the Sapin II law of 9 December 2016, the Judicial Public Interest Agreement (“Convention Judiciaire d’Intérêt Public” or “CJIP”) has demonstrated its flexibility in handling various types of cases, both in terms of geographical location and the breadth of offenses covered. Initially, the CJIP underwent testing by the National Financial Prosecutor’s (“PNF”) Office in cross-border cases involving multiple prosecuting authorities. Subsequently, regional prosecutor’s offices started using CJIPs more modest cases. Moreover, the CJIP has expanded its coverage to encompass a wide range of offenses, including breaches of probity, tax fraud, and environmental violations. Over the past 12 months, a total of 16 CJIPs have been signed, and new guidelines regarding their implementation have been published.

Offenses and fines



Offenses

Over the past 12 months

Related fines



regarding environmental matters

56%
of CJIP

from €3,000 to €140,000
CJIP SCEA Maison de la Mirabelle,
(Campbell Shipping Company Ltd)



regarding breach of probity
(i.e., influence peddling, corruption)

25%
of CJIP

from €3,800,000 to €123,000,000
CJIP Abanca Corporacion Bancaria, GIE
UNILABS France, Crédit Suisse AG



regarding aggravated tax fraud
and/or tax fraud laundering

19%
of CJIP

from €7,964,000 to €154,792,000
CJIP Bouygues and Linkcity, CJIP Airbus II,
Technip Energies France and Technip UK

Dissuasive fines

€123,000,000 Crédit Suisse AG

€15,856,044 Airbus II

€13,816,000 GIE UNILABS France

New guidelines for the implementation of a CJIP issued by the National Financial Prosecutor’s Office in January 2023



Good faith by the company is required during negotiations

There are several criteria for good faith:

- **Conducting an internal investigation**

so that the company can participate fully in revealing the truth

- **Spontaneous disclosure of facts**

within a reasonable period of time

- **Adaptation of a compliance program**

ie. spontaneous implementation by companies not subject to the Sapin II law, rapid adoption of corrective measures to strengthen its quality and effectiveness, adaptation of the group’s strategy to the risks identified

- **Prior compensation for victims**



Confidentiality of communication

The public prosecutor and the company agree on the date from which the CJIP proposal is formalized in order to preserve the confidentiality of information and exchanges



Transparency in fine calculation

Setting up a system comparable to the cooperation credits used by the US Department of Justice (Doj)

- **Aggravating and mitigation factors of the fines capped based on the severity of the observed violations and the company’s cooperation level**

Example: 50% cap the aggravating criterion relating to repeated acts

Example: 20% cap for the mitigating criterion relating to the relevance of internal investigations

- **Details of the calculation method published in each CJIP**

Example: CJIP Guy Dauphin Environnement: maximum fine: €1,135.6 million / fine imposed: €1,230 million

Key takeaways



- **First CJIP concluded in favoritism case**

CJIP Bouygues and Linkcity for acts of concealment of favoritism



- **For the first time, one company was the subject of two CJIPs: Airbus**

Second CJIP at the end of 2022, covering new facts but complementary to the first of January 2020. The second fine takes into account the first as well as Airbus’ cooperation in the investigation phase and its compliance with the monitoring scheduled for 2020.



- **Cooperation in good faith is required and is one of the reducing factors in the calculation of the fine**

First applications: 17 May 2023 CJIP Guy Dauphin environnement and CJIP Bouygues Bat Sud-Est and Linkcity Sud-Est