

# Compliance

## Focus on ADP INGENIERIE and SEVES Group / SEDIVER CJIPs

On December 4, 2023, the Paris judicial court (*tribunal judiciaire de Paris*) approved two *conventions judiciaires d'intérêt public* (CJIP) (French deferred prosecution agreements) for corruption of foreign public officials: the first signed between the National financial prosecutor's office (*procureur national financier - PNF*) and ADP INGENIERIE (ADPI), the second with SEVES Group / SEDIVER.

### • ADPI CJIP

The investigation conducted by the PNF shows that ADPI committed acts in Libya and in the UAE that, according to the PNF, were likely to be considered as corruption of foreign public officials, namely: (i) having access to confidential information on a call for tenders and being awarded a contract thanks to intermediaries' facilitations, (ii) benefiting from local financial arrangements in return for a payment made to the competent administrative body, and (iii) concluding contracts with local service providers and subcontractors at prices higher than the market price and at prices excessive in relation to the scope of work.

For these facts, ADPI agreed to pay a public interest fine (*amende d'intérêt public*) of 14,600,000 euros, calculated on the basis of the benefits obtained from the breaches identified (restitutive part) and taking into account major and minor factors such as the accumulation of separate acts and ADPI's active cooperation (afflictive part). As ADPI has been subject to a two-year control on the implementation of its compliance program by an independent expert as part of a settlement agreement signed with a development bank, the PNF did not ask for the implementation of a compliance program.

### • SEVES Group / SEDIVER CJIP

The PNF's investigations revealed facts that, according to the PNF, were likely to be considered as corruption of foreign public officials, namely: the payment of commissions by SEDIVER to public officials to promote its selection as a subcontractor in the context of a World-Bank financed contract concluded between a state-owned company in the DRC and an Indian company, as well as similar facts committed in the course of other projects and countries (Algeria, Nigeria and Libya).

For these facts, SEDIVER agreed to pay a public interest fine of 13,373,000 euros considering the benefits obtained from the breaches identified as well as minor and major



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factors (particularly compensation for the damage suffered by the DRC through payments made to the World Bank pursuant to a settlement agreement). SEDIVER was also required to implement a compliance program under the supervision of the AFA to ensure that SEVES Group's anti-corruption system is in place and effective. The PNF agreed to the implementation of a "golden clause" which provides that the CJIP also covers facts of the same nature likely to have been committed in a list of nineteen countries between 2009 and 2015 by SEDIVER. This clause only applies if such facts have not been concealed during the procedure and that, should they be committed, they are immediately reported.

These two CJIPs highlight the different methods for assessing sanctions, as well as the practical and pragmatic approach to the facts applied by the PNF. They also reveal the omnipresence of development banks and the impact that the procedures they lead may have on the modalities of concluding a CJIP in France. It should also be noted the application of the "golden clause" in compliance with the last PNF Guidelines, a way to make the procedure more attractive for companies.





## Practice Area News

**The Enforcement Committee of the French Market Regulator (AMF) Cleared 12 Individuals in an Insider Dealing Case.** The AMF Enforcement Committee ruled - against the opinion of the AMF Board (*Collège*) - clearing 12 individuals in an insider dealing case. In line with the previous cases handed down, the Enforcement Committee qualified the information at stake, relating to Total's acquisition of Direct Energie, as inside information. It considered however that the elements gathered were insufficient to ascertain that the disputed orders resulted from such possession.

**The French "Anti-gift" Law Targeting Healthcare Professionals.** The investigation carried out against pharmacists in the Urgo case in France provides an opportunity to recall the existence of the "**anti-gift**" law, which prohibits, subject to certain exceptions, healthcare professionals from receiving, offering or promising benefits and requires them to publish the agreements they enter into, as well as the remuneration and benefits they grant, in order to fight corruption and maintain the balance of this particularly competitive market.

**The French Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA).** On February 12, 2024, the Council and Parliament adopted the final text of the provisional Proposal for a Regulation establishing the **AMLA**, which must now be approved by the Member States' representatives and the Parliament before being formally adopted. This text demonstrates EU firm commitment to AML-CFT within the Union and, given the missions and powers entrusted to the AMLA, its ambition to make it the cornerstone of the AML-CFT.

**French Anti-Corruption Agency (AFA) Publishes its Practical Guide to Sponsorship and Patronage Operations.** On March 26, 2024, the AFA published its **practical guide** concerning sponsorship and patronage operations. This guide describes the situations and risk factors of probity violations that companies may face in the course of these operations. It also proposes preventive, detection and remedial measures they can implement in order to mitigate their risks.

## In the Firm

• **Navacelle's Panel on Ethics & Arbitration During the 2024 Paris Arbitration Week.**

Panelists from different jurisdictions shed light on issues of conflicts of interest, independence and impartiality of arbitrators.

Replay available [HERE](#).

• **"The Internal Investigation Shaped by Lawyer's Ethics", an Article by Navacelle, for Dalloz Editions.**

Navacelle contributes to Dalloz Editions' book "*Compliance and the rights of the defense - International investigation - CJIP - CRPC*", writing on "*The internal investigation shaped by lawyer's ethics*".

Article available in English [HERE](#).