

The Paris office of Hogan Lovells is pleased to provide this English language edition of our monthly e-newsletter, which offers a legal and regulatory update covering France and Europe for December 2024.

Please note that French legal concepts are translated into English for information only and not as legal advice. The concepts expressed in English may not exactly reflect or correspond to similar concepts existing under the laws of the jurisdictions of the readers.

If you would like to consult this newsletter from past months, please click [here](#).

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- **Audio-visual**

France – Resolution of December 5, 2024, Amending the General Regulation on Financial Aid from the National Center for Cinema and the Moving Image (CNC)

On December 21, 2024, the Official Journal published [Resolution No. 2024/CA/37](#) of December 5, 2024, which amends the [General Regulation on Financial Aid](#) from the National Center for Cinema and the Moving Image (CNC), including for local cinemas.

The resolution introduces the possibility of taking into account distribution contracts abroad with a guaranteed minimum. It also allows three production companies to share the status of delegated production, provided they act jointly from the first request for automatic or selective audiovisual work production aids.

Finally, it increases the financial ceilings for development and preparation aids, with a cumulative limit raised to €200,000 and a maximum financing rate increased to 50%.

These adjustments apply to aid requests submitted from January 1, 2025.

France - Reform of Public Audiovisual Financing Adopted

As we mentioned in our previous newsletter, the [organic law of December 13, 2024](#), reforming the financing of public audiovisual services has been adopted. It was published in the Official Journal on December 14, 2024, and was found to be in compliance with [the Constitution by the Constitutional Council on December 12, 2024](#). This law secures the financing of public entities (France Télévisions, Radio France, ARTE, INA, etc.) through a portion of VAT revenues, a temporary mechanism introduced in 2022 following the abolition of the television license fee.

This reform amends the organic law concerning finance laws to ensure the independence of public media through a dedicated resource, while avoiding their assimilation to state-controlled media.

Authored by Iris Accary and Léonie Barrat

- **Commercial**

France – Recommendation on price revision and renegotiation clauses in relationships between manufacturers and distributors

Recommendation No. 24-1, published by the Commercial Practices Review Commission (CEPC) on December 8, 2024, aims to enhance the effectiveness of automatic price revision clauses (CRA) and renegotiation clauses as provided for in Articles L. 443-8 and L. 441-8 of the French Commercial Code. These mechanisms, stemming from the EGAlim 1 and EGAlim 2 laws, are intended to ensure the proper pass-through of cost variations, particularly in agricultural raw materials, throughout the value chain. The CEPC's involvement is based on the observation that the clauses provided in the aforementioned articles have not achieved their intended objectives.

According to the CEPC, CRAs face several challenges: the lack of standardized written contracts upstream, a lack of reliable published indicators, and poorly adapted transparency options. To address these issues, the CEPC recommends, in particular, introducing identical thresholds and implementation timelines for both upward and downward revisions, adopting realistic trigger thresholds, and using formulas tailored to production cycles.

Renegotiation clauses, on the other hand, are rarely used due to burdensome formalism without any guarantee of results. The CEPC therefore recommends that parties only consider the most relevant cost items, particularly among those specified by the regulations, and urges recognized interprofessional organizations to regularly publish benchmark indicators for the agricultural products they represent.

This recommendation paves the way for the implementation of more effective tools, greater transparency in cost pass-through mechanisms, and a sustainable strengthening of balance in commercial relations.

Source : [Recommendation no. 24-1 on a guide to best practices for automatic price revision clauses and renegotiation clauses in relations between manufacturers and distributors.](#)

Authored by Charlotte Haddad and Camille Raymond

- **Environment**

France - Order amending the order of February 5, 2020, implementing point V of Article L. 171-4 of the Construction and Housing Code

The [order dated November 21, 2024](#) amending the order of February 5, 2020, implementing point V of Article L. 171-4 of the Construction and Housing Code was published in the Official Journal on December 14, 2024 (the "Order").

As a reminder, Article [L. 171-4](#) of the Construction and Housing Code, stemming from the Climate and Resilience Law, mandates the installation of canopies incorporating a renewable energy production process and the greening of rooftops for buildings and parking lots with a footprint of more than 500 square meters.

The purpose of the Order is to amend the [order of February 5, 2020 implementing point V of Article L. 171-4 of the Construction and Housing Code](#) to take into account the legislative developments introduced by [Law No. 2023-175 of March 10, 2023 concerning the acceleration of renewable energy production](#) (referred to as the "APER Law").

In essence, the Order defines the circumstances under which all or part of the obligations to integrate a renewable energy production process or a greening system may be waived or subject to specific implementation conditions for classified facilities for the protection of the environment ("ICPE") that are subject to authorization, registration, or declaration, provided that the obligations are incompatible with the characteristics of the facility, particularly the risks it presents.

The Order came into effect on December 15, 2024.

France - Order defining the conditions for exemptions for classified installations for environmental protection (ICPE) and infrastructures where dangerous goods transport vehicles are parked regarding the obligations for the installation of canopies and renewable energy production processes

The [order dated December 4, 2024](#) defining the conditions for exemptions for classified installations for environmental protection and infrastructures where dangerous goods transport vehicles are parked regarding the obligations for the installation of canopies and renewable energy production processes was published in the Official Journal on December 14, 2024 (the "Order").

The Order is issued in application of Articles 1 and 4 of [Decree No. 2024-1023](#) of November 13, 2024 *implementing Article 40 of Law No. 2023-175 of March 10, 2023 concerning the acceleration of renewable energy production* – which pertains to the installation of photovoltaic canopies for parking lots (new or existing) larger than 1,500 square meters – and Article [R. 111-25-7](#) of the Urban Planning Code – which applies to shading devices for parking lots larger than 500 square meters associated with buildings under Article [L. 171-4](#) of the Construction and Housing Code and to new public parking lots larger than 500 square meters.

The Order defines the circumstances under which all or part of these obligations do not apply to classified facilities for the protection of the environment (ICPE) as well as to certain infrastructures where vehicles transporting dangerous goods are parked, when these obligations are incompatible with the characteristics of the installation (*e.g.*, exacerbation of a technological risk).

The Order came into effect on December 15, 2024.

France - Decree concerning the water management and development schemes (SAGE)

[Decree No. 2024-1098 of December 2, 2024](#) *concerning the water management and development schemes* was published in the Official Journal on December 4, 2024 (the "Decree").

As a reminder, the water management and development schemes (the "SAGE") are planning tools aimed at the balanced and sustainable management of water resources. They were established by [Law No. 92-3 of January 3, 1992 on water](#) (now repealed and replaced by [Law No. 2006-1772 of December 30, 2006 on water and aquatic environments](#)).

In essence, the Decree:

- clarifies the procedures for drafting, amending, and revising SAGEs;
- specifies the content of SAGE documents;
- improves the functioning of local water commissions (CLE);
- facilitates the integration of rules derived from SAGE into urban planning documents, particularly concerning wetlands as defined in Article [L. 211-1](#) of the Environmental Code. In urban (U), to be urbanized (AU), agricultural (A), and natural (N) zones, the Decree notably requires that the graphical documents of the local urban planning regulations indicate, where applicable, the sectors of wetlands subject to prohibitions on drainage, sealing, flooding, or infilling, when they are mapped in the SAGE at a scale allowing for precise localization (*Cf.*, Article [R. 151-32](#) of the Urban Planning Code).

The Decree came into effect on December 5, 2024. However, it should be noted that the provisions do not apply to local urban planning documents ("*plans locaux d'urbanisme*") whose drafting or revision was prescribed before the publication date of the Decree (*i.e.*, December 4, 2024). The competent authority for drawing up the urban planning document may, however, decide to apply these provisions as long as the draft plan has not been adopted.

Authored by Laure Nguyen, Julie Paladian and Ilia Sedoikin

- **Insurance**

France - The ACPR publishes a document on the AML Package, the new body of AML/CFT regulations

In December 2024, the *Autorité de Contrôle Prudentiel et de Résolution* ("**ACPR**") has published a document that provides an overview of the new Anti Money Laundering ("**AML**") package, consisting of the 6th Anti-Money Laundering Directive ("**AMLD6**") and two regulations, one establishing a new European authority to prevent money laundering and terrorist financing ("**AML-FT**"), the European Anti-Money Laundering Authority ("**AMLA**"), and another regulation concerning the requirements that supervised entities must meet in order to protect the EU internal market against AML-FT risks ("**AMLR**").

The AMLD6 clarifies the rules with respect to cooperation between national authorities and financial intelligence units ("**FIUs**"), centralizes data and provides a legal framework for enhanced collaboration between the different supervising authorities.

The AMLR extends the scope of supervision to include new service providers, such as crypto-asset service providers, traders in luxury goods, and other high-risk professions, and strengthens due diligence measures with mandatory customer identification prior to any transaction, and provides supervision of crypto-assets for any transaction exceeding €1,000.

The AMLA regulation establishes a new European authority which is dedicated to prevent money laundering and terrorist financing ("**AML/CFT**"), this authority will be able to impose sanctions in the event of serious breaches.

The AMLD6 came into force on 10 July 2024 and must be transposed by Member States by 2027 at the latest.

Source: [ACPR - The AML package, a new body of regulations](#)

European Union - EIOPA revokes several guidelines and part of an opinion concerning the regulation of digital operational resilience

In the context of the imminent entry into force of the Digital Operational Resilience Regulation ("**DORA**"), the European Insurance and Occupational Pensions Authority ("**EIOPA**") has decided on 19 December 2024 to revoke two guidelines and to remove a subsection of an opinion that provided guidance on the use of Information and Communication Technologies ("**ICT**")".

The revoked documents consist of (i) [the guidelines on information and communication technology \(ICT\) security and governance](#) (EIOPA-BoS-20/600) dated 12 October 2020 issued under Solvency II and (ii) [the guidelines on outsourcing to cloud service providers \(EIOPA-BoS-20-002\)](#) dated 6 February 2020 also issued under Solvency II,. The EIOPA has also amended [the opinion on the supervision of](#) the management of operational risks faced by IORPs dated 11 July 2019 by removing the section on cyber risks set out therein.

The purpose of these removals is to unify risk management, and avoid potential overlaps insofar as EIOPA considers that the DORA Regulation fully covers the objectives and provisions set out in these documents.

These changes will take effect on 17 January 2025. National supervisors will need to adapt their national frameworks to eliminate any duplication and continue to ensure a level playing field.

Source: [EIOPA - Removal of two guidelines and a sub-section of an opinion to avoid regulatory overlaps](#)

Authored by Ghina Farah and Maxime Kaya

- **Intellectual Property**

France – Report of the Mission on Artificial Intelligence (CSPLA)

On December 11, 2024, the CSPLA published its [report](#) on the analysis and implementation of the European Regulation on Artificial Intelligence.

This document introduces a model for a “detailed summary” of the data used to train general-purpose AI models, in compliance with the transparency obligation set forth in Article 53 of the regulation. The report advocates for a content-type-based approach, balancing the protection of trade secrets and copyright, with increasing levels of detail for more sensitive content.

This model aims to ensure regulatory compliance while allowing copyright and related rights holders to verify the lawful use of their works, particularly through “opt-out” clauses.

European Union - Second Draft of the General-Purpose AI Code of Practice

On December 19, 2024, [the second draft of the General-Purpose AI Code of Practice](#) was published as part of the implementation of the AI Act, the European legislation aimed at regulating the development and use of artificial intelligence. Drafted by independent experts, this document is intended to assist providers of AI models in ensuring compliance with regulatory obligations.

The Code outlines obligations regarding transparency and copyright. Particular attention is given to systemic risks associated with the most advanced AI models, including risk assessment and mitigation measures such as model evaluations, incident reporting, and cybersecurity requirements.

A third draft is expected during the week of February 17, 2025.

European Union – Signing of a Validation Agreement with the EPO

On December 13, 2024, the EPO announced the signing of [a validation agreement with Costa Rica](#), making it the seventh state to join this system.

This mechanism allows for the validation of European patents in a non-member state via an international agreement. This system ensures that applicants can obtain patent protection in the state allowing validation, using the same procedure as that applied before the EPO.

In addition to Costa Rica, six other countries have already entered into such agreements: Morocco, Moldova, Tunisia, Cambodia, Georgia, and Laos.

European Union – EPO Expands PPH Agreements with Brazil and New Zealand

On December 1, 2024, a [new Patent Prosecution Highway \(PPH\)](#) agreement came into effect between the EPO and the Intellectual Property Office of New Zealand (IPONZ), bringing the total number of PPH agreements signed by the EPO to 17.

The PPH is a bilateral agreement between two intellectual property offices that allows for the expedited processing of patent applications when a similar application has already been deemed admissible in another country. This allows applicants to save time in the examination of their international applications.

Moreover, [the PPH agreement between the EPO and the National Institute of Industrial Property of Brazil](#) (INPI Brazil) has been extended for an additional five years, starting from December 1, 2024, and will remain in effect until November 30, 2029.

International – First Ratification of the WIPO Treaty on Genetic Resources

Malawi has become the first signatory country to ratify the [WIPO Treaty on Intellectual Property related to Genetic Resources and Traditional Knowledge](#), adopted on May 24, 2024. This ratification, which took place on December 5, 2024, marks a significant step in the implementation of the treaty.

As a reminder, the treaty will take effect once fifteen instruments of ratification or accession have been deposited with WIPO, in accordance with Article 17 of the treaty. The treaty aims to legally protect genetic resources and traditional knowledge, while recognizing their role in global heritage and respecting the rights of local communities.

Authored by Iris Accary and Léonie Barrat

- **Life Sciences**

France – Publication of decree no. 2024-1235: health cooperation groups now entitled to hold healthcare activity authorizations

The French Decree no. 2024-1235, published on December 31st, 2024, allows healthcare cooperation groups (GCS de moyens) to hold new authorizations for healthcare activities. This measure is part of a reform initiated by Order no. 2021-583, designed to provide a better response to patient care needs. Through this reform, the list of healthcare activities subject to authorization has been extended, now including nuclear medicine and interventional radiology. Previously, these practices only required authorizations to use heavy equipment (EML), which was often held by the health cooperation group. However, the previous legal framework did not allow these health cooperation group to hold healthcare activities authorizations. As a result, these health cooperation group could no longer carry out appropriate authorizations to continue to perform nuclear medicine and interventional radiologies activities. Health groups were therefore required to modify their internal structure to make sure that appropriate authorizations were held by entities entitled by French law to do so. To address this challenge, the Valletoux Law of 2023 amended the French Public Health Code to allow health cooperation

group to hold certain healthcare activities authorizations, the list of which was subsequently to be set by decree. Decree no. 2024-1235 removes these legal uncertainties by allowing health cooperation group to hold authorizations for nuclear medicine and interventional radiology. If you're interested in more information on this decree and its implications, please [click here](#) to read our article.

Authored by Mikael Salmela, Joséphine Pour, Léanne Fortuna.

France – Extension of experimentation of the medical use of cannabis in France for an additional six month period

On 2 January 2025, the French minister of health announced the extension for a further 6 months period of the experimentation of the medical use of cannabis in France, until 30 June 2025. This decision aims to ensure continuity of treatment for the 1 200 patients already included in the experimentation, initiated in 2019. Initially scheduled for two years, the experimentation was extended several times to assess the efficacy and safety of the medical use of cannabis in the treatment of pathologies such as epilepsy and neuropathic pain. According to the ANSM, the experimentation demonstrated reassuring results, with a secure circuit and few serious side effects. Despite the scheduled end of the experimentation on 31 December 2024, healthcare professionals have alerted on the need to continue this experimentation, in the absence of alternatives covering all indications. This extension only concerns patients already included and excludes any opening to recreational use of cannabis. For more information on this topic, please click [here](#) to read our article.

Authored by Mikael Salmela, Joséphine Pour, Charlotte Sors.

- **Public Law**

France - Public procurement: maintenance of the threshold for exemption from prior advertising and competitive tendering for works contracts

[Decree no. 2024-1217 of 28 December 2024](#) on the threshold for exemption from prior advertising and competitive tendering for public works contracts, published in the OJFR on 29th December 2024, extends for one year the application of the threshold for exemption from prior advertising and competitive tendering for public works contracts with an estimated value of less than €100,000 excluding tax.

This threshold, which was originally set to expire on 31st December 2024, has been extended until 31st December 2025 and applies to works contracts for which a consultation is launched or a tender notice is sent for publication on or after 1st January 2025. This provision aims to help economic operators and public purchasers to overcome the difficulties associated with the economic situation, particularly in the construction sector. However, public purchasers must take care to select a relevant bid, make good use of public funds and avoid systematically awarding contracts to the same economic operator.

France - Public procurement: new simplification measures

[Decree no. 2024-1251 of 30 December 2024](#) regarding various measures to simplify public procurement law, published in the OJRF of 31st December 2024, introduces various measures to simplify access to public procurement for businesses and to make the rules on the financial execution of public procurement contracts more flexible.

These measures include the possibility to constitute a consortium or change its composition between the submission of the candidatures and the signing of the public procurement contract as part of procedures involving negotiation or dialogue phases, as well as raising the threshold for exemption from advertising and competitive tendering for innovative defence or security contracts to €300,000 excluding tax.

In addition, measures in favour of small and medium-sized enterprises ("SMEs") include an increase from 10% to 20% in the minimum proportion of contracts that the contract holder undertakes to award to SMEs or craftsmen in the context of global public procurement contracts, partnership public procurement contracts and concession contracts, and a reduction from 5% to 3% in the maximum amount of the guarantee deduction for public procurement contracts entered into by certain purchasers with an SME.

Moreover, regulatory measures have been introduced to implement law no. 2023-973 of 23rd October 2023 regarding green industry, concerning the possibility for a contracting authority to reject a bid that includes products from certain countries outside the European Union.

France - Public procurement: reduction in the rate of interest on arrears

By a [decision dated 12th December 2024](#), the Governing Council of the European Central Bank ("ECB") decided to lower the ECB's three key interest rates by 25 basis points. Since 18th December 2024, the rate on the ECB's main refinancing operations has therefore been set at 3.15%. Consequently, in accordance with article R. 2192-31 of the French Public Procurement Code, the rate of interest on arrears has been 11.15% since 1st January 2025, down from 12.25% in the second half of 2024. This new rate applies to all public procurement contracts, regardless of the nature of the purchaser.

France - Public procurement: report by the French Court of Auditors on the integration of sustainable development issues in the State's purchases

The French Court of Auditors' ("*Cour des Comptes*") [report](#) on the integration of sustainable development issues in the State's purchases, published on 6 December 2024, provides an update notably on compliance with the objectives set by the National Plan for Sustainable Procurement ("*PNAD*"), namely that by the end of 2025, 30% of public contracts notified in the course of a year will include at least one social consideration and that all will include at least one environmental consideration. In 2023, the Court found that 55% of public procurement contracts of the State included environmental criteria and 25% included social considerations.

France - Motorways: publication of the ART's summary regarding the accounts of motorway concession operators for 2023

The [summary](#) regarding the accounts of the motorway concession companies ("SCAs") for the financial year 2023, published on 19th December 2024 by the French Transport Regulatory Authority ("Autorité de Régulation des Transports" – "ART"), highlights that 2023 was mainly marked by a significant increase in tolls, due to the high inflation observed in 2022. The main aggregate financial indicators of the SCAs have returned to the levels of 2019, confirming the significant recovery of the sector, with revenues of €12.3 billion, representing an increase of 6.3% between 2022 and 2023.

France - Airport and rail transport : publication by the ART of the annual economic and financial monitoring report on airports and the report on the French rail transport market in 2023

On 17 and 18 December 2024 respectively, the French Transport Regulatory Authority ("Autorité de Régulation des Transports" – "ART") published [its annual report on the economic and financial monitoring of airports in 2023](#) and its [report on the French rail transport market in 2023](#). In the first document, the ART notes that the levels of activity and profitability of airport companies are close to those prior to the health crisis. Among other things, the second document assesses the opening up of contracted rail services to competition, noting that 7 lots have been awarded, while more than 40 lots remain to be awarded following a competitive tendering procedure between now and 2034.

Authored by Bruno Cantier, Astrid Layrisse and Elisa Brunet.

• Town Planning

France - Order concerning various measures related to urban planning authorization forms

The [order dated October 18, 2024](#) concerning various measures related to urban planning authorization forms was published in the Official Journal on October 19, 2024 (the "Order").

The Order introduces various adjustments to the provisions contained in Book IV of the regulatory part of the Urban Planning Code, which is dedicated to the regime applicable to constructions, developments, and demolitions.

The main contributions of the Order include the introduction into the Urban Planning Code of the ability for the beneficiary of a decision of non-opposition to a prior declaration to:

- submit a request for modification of the decision of non-opposition to a prior declaration of which they are the holder (Cf., articles [A. 431-3-1](#) (for construction projects) and [A. 441-3-1](#) (for development projects) – [Cerfa form No. 16700*01](#)); and
- transfer to a third party the decision of non-opposition to a prior declaration of which they are the holder (Cf., articles [A. 431-3-2](#) (for construction projects) and [A. 441-3-2](#) (for development projects) – [Cerfa form No. 16701*01](#)).

It should be noted that these possibilities for modification or transfer are only available on the condition that the decision of non-opposition to a prior declaration is still valid and that the authorized works have not been completed.

These new measures apply to urban planning authorization requests submitted from January 1, 2025.

France - Decree concerning various provisions related to urban planning authorizations

[Decree No. 2024-1043 of November 18, 2024](#) concerning various provisions related to urban planning authorizations was published in the Official Journal on November 20, 2024 (the "**Decree**").

The Decree has two main contributions:

- on one hand, the Decree establishes, starting January 1, 2025, an obligation for legal entities to submit urban planning authorization requests electronically in municipalities with more than 3,500 inhabitants; and
- on the other hand, the Decree introduces a new modality for development permits in the Urban Planning Code, allowing them to be executed and financially guaranteed in phases based on the completion of each phase (*Cf.*, article [R. 442-13-1](#) of the Urban Planning Code). The financial guarantee will be released upon the submission of the declaration of completion of the works related to the relevant phase. This latter measure applies to urban planning authorization requests submitted after the expiration of a thirty-day period following the publication of the Decree.

France - Decree amending the Urban Planning Code

[Decree No. 2024-1256 of December 30, 2024](#) amending the Urban Planning Code was published in the Official Journal on December 31, 2024 (the "**Decree**").

The Decree aims to align national law with [Article 15](#) of Directive 2012/18/EU of the European Parliament and Council of July 4, 2012, concerning the control of hazards related to major accidents involving dangerous substances, commonly referred to as the "Seveso III Directive."

In essence, the Decree establishes a public participation procedure prior to the issuance of urban planning authorizations for projects located within the vicinity of certain Seveso installations (*Cf.*, article [R. 423-58-1](#) of the Urban Planning Code). This applies to works that, due to their characteristics or location, may exacerbate the risk or consequences of a major accident and are not subject to another public participation procedure.

The provisions of the Decree apply to urban planning authorization requests submitted from January 1, 2025.

Authored by Laure Nguyen, Julie Paladian et Ilia Sedoikin

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