No-poach practices: the Autorité de la concurrence fines four companies in the engineering, technology consulting and IT services sectors

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Background

The *Autorité de la concurrence* has fined two separate anticompetitive agreements between Ausy (now Randstad Digital) and Alten, on the one hand, and Expleo and Bertrandt, on the other, for introducing general no-poach agreements. These practices took the form of gentlemen's agreements aimed at prohibiting the companies in question from soliciting and hiring each other's employees, an essential competitive parameter in the labour markets in which the companies are active.

The *Autorité* learned of the practices through a leniency application submitted by Ausy in April 2018 and through dawn raids in November 2018.

In respect of the two objections upheld, the *Autorité* has imposed a total fine of €29.5 million on Alten, Expleo and Bertrandt. Ausy has received full immunity from fines due to its status as a leniency applicant.

In addition, the *Autorité* has ordered the parties to publish a summary of this decision on the social network LinkedIn, as well as in electronic and paper editions of the newspaper *Le Monde Informatique*.

Human resources, a key competitive parameter in the engineering, technology consulting and IT services sectors

The engineering, technology consulting and IT services sectors are characterised by the strategic importance of human resources, which lie at the heart of the services offered by companies operating in these sectors.

These sectors also experience high employee turnover, which can disrupt business operations and the assignments entrusted to these service providers by their customers.

Introduction of gentlemen's agreements

In this context, the sanctioned companies introduced no-poach agreements in the form of general gentleman's agreements with no time limit.

- **Agreement between Ausy and Alten**

The purpose of the anticompetitive agreement between Alten and Ausy was to prohibit the companies from poaching (direct solicitation from the competitor) and hiring (spontaneous application) business managers, and for the companies to consult each other when moves were planned.

This general agreement, in place between 2007 and 2016, was revealed to the *Autorité* by the leniency applicant and corroborated by several items in the investigation file, which referred to the existence of "*a gentlemen's agreement not to chase each other's management teams*"

The scope of this agreement was not limited in duration and applied to all business managers, regardless of the mission to which they were assigned or

the customer for whom they worked.

- **Agreement between Bertrandt and Expleo**

The no-poach agreement between Bertrandt and Expleo, in place between February and September 2018, similarly took the form of a gentlemen's agreement on the non-poaching of their respective employees, and also covered hiring in the event of spontaneous applications.

Several items seized during the dawn raids revealed the existence of this agreement, the functioning of which was regularly recalled, with the two companies contacting each other on several occasions to "*reiterate the message concerning the gentlemen's agreement*", in particular to avoid engaging in a "*hiring war*".

- **Dismissal of the agreement between Ausy and Atos**

With regard to a third objection notified by the Investigation Services, the *Autorité* cleared Atos and Ausy as there was insufficient evidence of a "non-aggression pact" concerning their human resources.

Dismissal of non-solicitation clauses in partnership contracts

The Investigation Services also accused Bertrandt and Expleo (objection 2) and Ausy and Atos (objection 3) of anticompetitive practices in the form of non-solicitation clauses in partnership contracts.

In view of the information in the case file and after analysing the content, economic and legal context and objectives of the clauses, the *Autorité* considered that, in this case, the clauses could not be qualified as restrictions with an anticompetitive purpose. The *Autorité* also considered that the

documents in the case file were not sufficient to establish that the practices had led to anticompetitive effects.

The *Autorité de la concurrence* sanctions no-poach gentlemen's agreements and issues, for the first time, a decision on employee non-solicitation clauses

In this decision, the *Autorité* recalls that general no-poach agreements between companies aimed at prohibiting the companies involved from soliciting and hiring each other's employees are anticompetitive practices by object.

While the *Autorité* has already sanctioned such practices as part of more global anticompetitive agreements[1], it reiterates here that, even taken in isolation, these practices remain anticompetitive, particularly when implemented as part of general agreements whose temporal and material scope is broad and imprecise.

The *Autorité* also conducted a detailed analysis of non-solicitation clauses in partnership contracts. While, in this case, it considered that the clauses could not be qualified as restricting competition, notably given their limited temporal and material scope and their objectives, this analysis does not prejudge the possibility that, in view of the circumstances specific to each case, such clauses might be considered anticompetitive by object in future cases.

[1] Decision 24-D-06 of 21 May 2024 regarding practices implemented in the pre-cast concrete products sector.

The *Autorité* imposes a fine of €29,500,000 and orders the companies concerned to publish a summary of this decision on the social network LinkedIn

The *Autorité* recalls that (i) horizontal anticompetitive practices are among the most serious anticompetitive practices, (ii) they concerned sectors in which human resources are an essential criterion of competition, and (iii) they affected, in this case, employees, whose prospects for mobility and improved working and living conditions may have been impacted.

For these reasons, the *Autorité* has decided to impose fines totalling €29.5 million. The leniency applicant, Ausy/Randstad, has been granted full immunity from the fines incurred.

Company	Fine
Ausy/Randstad	€0 (full immunity from fines)
Alten SA	€24,000,000
Bertrandt SAS	€3,600,000
Expleo France	€1,900,000
Total	€29,500,000

In addition, the *Autorité* has ordered the companies to publish a summary of this decision on the social network LinkedIn, as well as in electronic and paper editions of the newspaper *Le Monde Informatique*.

Presentation slides
See the press conference slides

DECISION 25-D-03 OF 11 JUNE 2025

regarding no-poach practices in the engineering, technology consulting and IT services sectors

See the full text of the decision (in French)

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