The general rapporteur of the Autorité de la concurrence indicates objections were recently stated in the nuclear clean-up and decommissioning sector

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The general rapporteur of the Autorité de la concurrence indicates objections were recently stated in the nuclear clean-up and decommissioning sector.

On 11 February 2019, dawn raids were carried out by the Autorité's investigation services with companies suspected of having implemented anticompetitive practices in the concerned sector.

On 23 June 2022, ten anticompetitive agreement objections were notified to six undertakings. The infringement prosecuted concern information exchange practices, hedging offers and allocation of prizes in the context of public procurement procedures.

This investigation opens inter partes proceedings and allows the parties to exercise their rights of defence. It does not prejudge the guilt of the entities that have received a statement of objections. Only an inter partes investigation that respects the rights of defence of the parties concerned will enable the Board to determine, after exchanging written observations and following an oral hearing, whether or not the objections are well-founded.

The Autorité de la concurrence will not comment further on the practices or the companies in question.

The Autorité will now communicate on statements of objections

Article L. 463-6 of the French Commercial Code provides that the Autorité may publish brief information relating to the acts it performs with a view to the investigation, observation or sanction of anticompetitive practices, when the publication of this information is carried out in the public interest and in strict compliance with the presumption of innocence of the companies or associations of companies concerned.

This possibility results from an amendment to the Commercial Code by ordinance 2021-649 of 26 May 2021 relating to the transposition of Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 aimed at providing Member States' competition authorities of the means to more effectively enforce competition rules and to ensure the proper functioning of the internal market.

Other European competition authorities use this option, such as the European Commission, the Austrian, Belgian, Greek, Dutch and Portuguese competition authorities.

What is a statement of objections?

The statement of objections is the "indictment". This document is sent by the Autorité's investigation services to companies or organisations suspected of having implemented anticompetitive practices (mainly cartel and abuse of a dominant position).

This investigative act opens the *inter partes* proceedings before the Autorité during which the parties can make any legal or factual observation, while respecting the rights of the defence.

The written *inter partes* proceedings was reformed by the law of 3 December 2020, known as the "DDADUE law".

Now, depending on the characteristics of the case, there may be one or two written *inter partes* rounds.

In all cases, the case gives rise to an oral hearing before the board, during which the parties, the government commissioner, and, where applicable, witnesses or experts are heard.

A statement of objections does not prejudge in any way the culpability of the companies or organisations concerned. It is only at the end of the investigation, and following a hearing, that the board independently determines whether the grievances are well-founded.



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