The General Rapporteur of the Autorité de la concurrence announces that several companies from the engineering, technology consulting and IT services sectors were notified of statements of objections regarding anticompetitive agreements in job markets

Published on November 23, 2023

Companies from the engineering, technology consulting and IT services sectors have been accused of allegedly concluding and implementing “non-poaching” agreements, aiming at banning each other from solicitating and hiring their respective staff.

The Autorité’s investigation services notified a few days ago statements of objections to these companies.

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 the objections are well-founded or not.

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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