
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 May 2019.

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Audiovisual

- **France – Publication of the Boutonnat Report related to funding of audiovisual and cinematographic creation**

The Minister for Culture published on 13 May 2019 [the Boutonnat Report related to private sector funding of cinema and audiovisual production and distribution](#).

The mission delegated on 17 May 2018 to Dominique Boutonnat, a producer, by the Minister for Culture, the Minister for Economy and the Minister for Public Expenses, conducted its research between June and November 2018, auditing private and public actors from the field of cinema and audiovisual creation.

The Report, written in December 2018, makes various recommendations aimed at promoting private investment in cinematographic and audiovisual creation to enable French production companies to compete with new production and distribution patterns. It also aims to develop further on multi-canal exploitation of the works to benefit from the profits made from their exploitation to finance the creation of future works.

The Report suggests leaning upon the existing structures dedicated to funding as well as upon the new ones provided in application of the new PACTE Law.

The Report also puts an emphasis on modernizing the functioning of the Cinema and Audiovisual Registry and on favoring a blockchain system and the use of smart contracts relating to the multiple chains of titles resulting from assignment and/or licensing

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agreements which are very usual in this field.

In the light of these recommendations, the government wishes to launch a "Summit of cultural and creative industries" and announced the implementation of new funding facilities by the end of the year.

- **European Union – Publication of Directive establishing new rules facilitating cross online TV and radio content**

New [Directive 2019/789 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organizations and retransmissions of television and radio programs](#), approved by the Council of the European Union on 15 April 2019, was published in the OJEU on 17 May 2019 (please see Legislative and Regulatory updates – April 2019).

The Directive enters into force on 6 June 2019 and Member States shall implement it into their domestic legal framework by 7 June 2021.

Automotive

- **France - Clarification by the PACTE law of the experimentation conditions and of the criminal liability rules applicable to vehicles with driving delegation**

The article 125 of the [PACTE law](#) amends the ordinance No. 2016-1057 dated 3 August 2016 on the experimentation on public roads of vehicles with driving delegation.

This article specifies the conditions for the experimentation of vehicles with driving delegation. The necessary authorisation for the use of vehicles with driving delegation for experimental purposes on the public road is only granted if the driving delegation system can be neutralized or deactivated by the driver at any time. If the driver is located outside the vehicle, he/she must be ready to take control of the vehicle at any time.

The PACTE law specifies that only vehicles with driving delegation used for a public passenger transport service may operate on collective transport lanes. For other vehicles, this possibility is subject to the assent of the competent traffic police authority and of the transport organizing authority.

The PACTE law also clarifies the criminal liability regime applicable to vehicles with driving delegation.

When the vehicle's driving delegation system is activated and operates properly, the driver is not criminally liable for offences that he/she commits in the driving of the vehicle within the meaning of Article L121-1 of the French Highway Code.

However, the driver becomes criminally liable again following the solicitation of the driving system and at the end of a period specified in the experimentation authorisation to take back control of the vehicle. The driver is also liable when he/she ignored the obvious circumstance that the conditions for using the driving delegation system were not or no longer met when it was activated.

If the driving of the vehicle, whose driving delegation system is activated, violates rules the breach of which constitutes a

contravention, the holder of the authorisation shall be financially liable for the payment of fines.

If the driving caused an accident resulting in personal injury, the holder of the authorisation shall be criminally liable for the offences of involuntary offence to the life or physical integrity of the person, if a fault is established, within the meaning of Article 121-3 of the French Criminal Code, in the implementation of the driving delegation system.

Banking

- *France – PACTE act on the growth and transformation of companies (JORF n°0119 of 23 may 2019)*

- **Accreditation to reform by order the law of securities**

Article 60 of the [PACTE act](#) authorizes the government to pass by orders, within two years from the act's publication, measures to simplify the law of securities and strengthen its efficiency. It is also planned to include in the Civil Code the possibility of assigning a receivable as security and the transfer of money to the creditor as security. This reform is also about the rules relating to security interests in insolvency proceedings.

- **Market facilities related measures**

Article 84 of the PACTE act softens the management of market facilities in order to enhance the attractiveness of Paris, but also to prepare for Brexit.

Particularly, this article provides for some market infrastructure rules to be drafted in a language customary in financial matters other than French, but also removes the obligation for clearing houses to obtain authorisation as credit institutions.

European Union – Prudential regime for financing companies

The decree of April 24th 2019 ([JORF n°0104 of May 4th 2019](#)) aims to align the prudential regime for finance companies and credit institutions by making all delegated regulations, implementing regulations and enforcement decisions adopted by the European Commission for credit institution applicable to financing companies, under the regulation No. 575/2013 of the European Parliament and the Council of June 26th 2013 and under the directive 2013/36/UE of the European Parliament and the Council of June 26th 2013.

This decree entered into force on the 5th of May 2019.

Commercial

- **France – The PACTE law strengthens *name & shame* in the event of non-compliance with payment terms**

[Article 3.II.5 of the PACTE law](#) rewrites Article L470-2 of the French Commercial Code and strengthens *name & shame* in the event of

non-compliance with payment terms.

The sanction by the Directorate General for Competition, Consumer Affairs and Fraud Control (DGCCRF) for non-compliance with payment terms is now published on the DGCCRF's website and in a legal notice publication at the expense of the person sanctioned.

Competition

- **France – The Constitutional Council declares the PACTE law partially in conformity with the Constitution**

By decision of 16 May 2019, the Constitutional Council, by a decision rendered on May 16th, 2019 declared article 221 of the PACTE Law contrary to the French Constitution because of its legislative rider. This article empowered the Government to transpose by ordinance the ECN+ Directive and to take various competition measures.

Nevertheless, the Constitutional Council considered that article 212 authorizing competition authority' officials to obtain information on fadettes, i.e. technical telephone and communication data, with the exception of data relating to the very content of communications, was in conformity with the Constitution. Such a measure had already been considered under the Macron Act, but had at the time been retooled for lack of sufficient guarantees of the right to privacy.

Data Protection

- **France – Adoption of the new decree implementing the French data protection act**

On 29 May 2019, the government adopted [the new decree implementing the French data protection act](#) (act No. 78-17 of 6 January 1978). The adoption of this implementing decree finalizes the adaptation of the French legal framework for the protection of personal data to the General Data Protection Regulation (GDPR).

The adoption of this decree follows the amendment of the French data protection act by the law dated 20 June 2018, followed by its rewriting by the ordinance dated 12 December 2018.

The decree improves the readability of the French data protection regulatory framework. It also makes some substantive amendments and repeals the decree No. 2005-1309 implementing the French data protection act.

The decree clarifies and specifies, for example, the regime applicable to professional secrecy, and the role of the French data protection authority ("CNIL") as lead supervisory authority or concerned supervisory authority.

It also provides for the possibility for data subjects to exercise their rights via a mandate and specifies the rules for the settlement of penalty payments in the event of non-compliance with an injunction to comply with the law.

Employment

- **France – The Action Plan for Business Growth and Transformation Act (*Loi PACTE*)**

[The PACTE Act](#), published in the Official Journal dated 23 May mainly modifies the rules governing the calculation of employees and employees' savings schemes in the employment area.

- **On the headcount thresholds**

Article 11 of the PACTE Act has harmonized the methods of calculation of headcount by giving priority to the methods mentioned in the French Social Security Code, which will apply to certain obligations under employment law (such as the obligation to employ disabled workers).

In addition, the PACTE Act has rationalized the number of headcount thresholds by giving priority to the 11, 50 and 250 headcount thresholds and by reducing the number of thresholds set at 20 employees. Thus, the obligation to establish internal regulations will now apply to companies with 50 or more employees instead of companies with 20 or more employees.

Finally, a system for smoothing the threshold effect has been implemented in the event of an increase in the number of employees exceeding a threshold that will only be taken into account when this threshold has been reached or exceeded for 5 consecutive calendar years. On the other hand, the downward crossing will be taken into account from the first full calendar year and the 5-year carry-over rule mentioned above will apply again for the future.

These provisions will enter into force on 1 January 2020.

- **On the profit sharing scheme ("*participation*")**

The obligation to set up a profit sharing scheme will now apply to companies with at least 50 employees as from the first open fiscal year following a period of five consecutive calendar years during which this threshold has been reached or exceeded and no longer as soon as the number of employees reaches at least 50 for 12 months, consecutive or not, during the last three fiscal years.

In addition, when the distribution of the special profit-sharing reserve is proportionate to the wages received, the salary used as the basis for its calculation is now capped at a maximum of 3 times the annual social security ceiling (EUR 121.572 in 2019) and no longer 4 times the annual social security ceiling (EUR 162.096 in 2019).

- **On the incentive scheme ("*intéressement*")**

The PACTE Act has secured incentive schemes by providing that, in case the Labour Administration (*DIRECCTE*) has made no observations at the end of the four-month period following the filing of the incentive scheme, the tax exemptions provided for in Articles L. 3315-1 to L. 3315-3 of the French Labour Code are deemed to have been granted for the duration of the agreement and no longer only for current or previous financial years when the objection occurs.

Nevertheless, the Labour Administration (*DIRECCTE*) has an additional two-month inspection period in order for the company to comply with the observations for the second and third financial years of the agreement. If no observations are made during that

period, the agreement is considered valid for its entire duration, with tax and social security exemptions guaranteed.

The PACTE Act has raised the ceiling of the individual incentive bonus, which is now set at three quarters of the annual social security ceiling (i.e. EUR 30,393 in 2019) and no longer at half of the annual social security ceiling (i.e. EUR 20,262 in 2019). The limits on the application of tax exemptions on incentive bonuses paid in whole or in part on an employee savings plan are also increased to three-quarters of the annual social security ceiling.

The PACTE Act has also granted the right to immediately redistribute the remaining of the incentive bonus, in the event that the individual ceiling is reached, thus allowing immediate distribution among all beneficiaries of the incentive scheme who have not already reached the individual ceiling, within the limit of this ceiling, provided that this option is expressly provided for in the incentive scheme agreement and that the distribution of the remaining is made in the same way as the initial distribution.

The PACTE Act has allowed the use of a pluri-annual objective linked to the company's results or performance in the formula of the incentive scheme.

Finally, The PACTE Act has modified the project incentive scheme (*intéressement de projet*) which could previously be set up only in companies or groups that already had a profit-sharing agreement and that contributed with other companies to a well-defined and coordinated activity. From now on, it is possible to provide for a so-called project incentive scheme defining a common objective for all or part of employees at the level of a single company only.

Insurance

- **France - Impact of the so-called "*Loi Pacte*" on life insurance**

The [law n°2019-486 dated 22 May 2019](#) relating to growth and transformation of companies (*"Loi relative à la croissance et la transformation des entreprises"* – "*Loi Pacte*"), has been promulgated and published in the French Official Journal on 23 May 2019. Article 72 of the *Loi Pacte* amends certain provisions relating to the French regime applicable to life insurance contracts, including:

- (i) the list of eligible assets that may be proposed as unit of accounts for life insurance contracts by:
 - o extending the list to new types of assets, such as alternative investment funds opened to professional investors, subject to certain conditions being met, in particular with respect to the financial situation, knowledge, or financial experience of the policyholder,
 - o imposing to propose at least one (1) unit of account composed of UCIT or any other asset eligible;
- (ii) certain provisions governing the transfer of securities or shares upon settlement of the contract;
- (iii) creation of new information disclosure obligations :
 - o on a quarterly basis, including on the surrender value and the value of the units of accounts,

- on an annual basis, including on the commission received by the insurer in consideration of the asset management, and generally on the fees charged by the insurer;
- (iv) creation of a new mandatory pre-contractual information obligation for insurance intermediaries and insurance undertakings distributing life insurance policies composed of units of accounts.

The different provisions of the Loi Pacte enter into force the day after the law is published, subject to specific provisions.

- **European Union - Solvency II – Technical information**

The [Regulation 2019/699](#) adopted by the European Commission in accordance with Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance ("**Solvency II**") was published Official Journal of the European Union (the "**Regulation**") dated 7 May 2019.

The Regulation clarifies technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 March 2019 until 29 June 2019 by insurance and reinsurance undertaking.

The Regulation shall directly apply in all members States from 31 March 2019.

- **European Union - Insurance Distribution – Minimum amounts for professional indemnity insurance and for financial guarantee**

The [Delegated Regulation C\(2019\)](#) adopted on 28 May 2019 by the European Commission amends the Insurance distribution Directive 2016/97 ("IDD") of the European Parliament and of the Council with regard to regulatory technical standards adapting the base euro amounts for professional indemnity insurance and for financial capacity of insurance and reinsurance intermediaries.

Article 1 of the delegated Regulation amends the minimum amounts for professional indemnity insurance and for financial capacity of insurance and reinsurance intermediaries referred to in Article 10 of Directive 2016/97 to reflect the percentage increase of the European index of consumer prices determined for the Union European by Eurostat.

The delegated Regulation has not entered into force yet, because the Council and the Parliament have a certain period of time to issue objections. The date of application of the delegated Regulation will take into account a transitional period of 6 months to allow Member States to adapt their national legislation and to give insurance and reinsurance intermediaries and their insurance providers time to take the necessary implementation measures.

Intellectual Property

- **France – Enactment by Parliament of the Parliamentary bill creating a neighboring right for press agencies and press editors**

On 9 May 2019, the National Assembly amended at first reading the [Parliamentary bill](#) already adopted by the Senate creating a

neighboring right for press agencies and press editors.

This Parliamentary bill aims at implementing Article 15 of the Digital single market Directive, which provides a neighboring right for publishers of press publications.

In line with the Directive provisions, the Commission for Cultural Matters of the National Assembly amended the original Parliamentary bill by reducing from fifty down to two years the term of protection, by setting exceptions for acts of hyperlinking and for use of individual words or very short extracts of a press publication.

Nonetheless, this Parliamentary bill sets an obligation for online information service providers to give information on the online use of press publications.

The Senate shall now review the Parliamentary bill at second reading.

- **France - Enactment and publication of the Law relating to companies' growth and transformation (PACTE law)**

Further to the ruling held by the Constitutional Court dated 16 May 2019, the [Law No. 2019-486 relating to companies' growth and transformation](#) was enacted in 22 May 2019 and published in the Official Journal on 23 May 2019 (see Legislative and regulatory updates – [January](#), [February](#) and [April](#) 2019).

Under the provisions of the Law, Government shall take ordinances by 22 February 2020 to set an opposition right to patents granted by the French Industrial Property Office and the admissible means to challenge the resulting decisions. Furthermore, Government shall take ordinances by 22 November 2019 to implement Directive 2015/2436 related to national trademarks.

The provisions related to the examination of the inventive step and the industrial application of inventions by the French IPO shall enter into force on 22 May 2020 and shall be applicable to the patent applications filed from the date thereof.

The absence of statute of limitation of the claims for cancellation of industrial property titles is applicable from 23 May 2019 as well as the provisions regarding the new starting point of the statute of limitation for infringement actions.

- **France - Update of the private copying levy applicable to broadband and TV routers**

On 12 May 2019, Decision of the "Private Copying" Commission dated 12 March 2019 was published in the Official Journal.

It updates the fee scale for making private copies through TV routers and multimedia memory storage routers.

The Decision entered into force on 1 June 2019.

- **European Union – Publication of the Directive on Copyright in the Digital Single Market**

Adopted on 26 March 2019 by the European Parliament, [Directive 2019/790 on Copyright in the Digital Single Market](#) was published in the OJEU on 17 May 2019 (see Legislative and regulatory updates – [February](#), [March](#) and [April](#) 2019).

The Directive shall enter into force on 6 June 2020 and Member States shall implement it into their domestic legal framework by 7 June 2021.

- **European Union - Publication of Regulation 2019/787 updating and reinforcing rules regarding the protection of geographical indications related to alcoholic beverages**

[Regulation on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages](#), adopted on 17 April 2019 was published in the OJEU on 17 May 2019.

The Regulation updates the provisions set by [Regulation \(EC\) No 110/2008](#) which it repeals. It specifically extends the scope of protection conferred by the geographical indications related to alcoholic beverages to their use as an ingredient and to their transit on the European Union territory.

Furthermore, the Regulation strengthens the provisions regarding the administrative registration and opposition procedures for geographical indications and sets rules in the event of contentious posterior trademarks.

The Regulation entered into force on 25 May 2019 and is applicable from 8 June 2019 onward, excluding some provisions which shall be applicable from 25 May 2021 onward.

- **European Union - Parisians facilities for the central Division of the Unified Patent Court**

The location of the central division of the court of first instance's headquarters was disclosed on 20 May 2019. The headquarters shall be located Quai de la Mégisserie and shall be easily accessible from the main hub of the capital.

They shall not be fully operational until complete ratification of the Agreement on a Unified Patent Court.

Litigation

- **France – The Decree no. 2019-402 of 3 May 2019 on various measures relating to electronic communication in civil matters and the service of documents abroad**

The [Decree of 3 May 2019](#) aims to develop electronic communication in civil matters and clarify the date of service of documents abroad.

The Decree amends article 748-8 of the French Code of Civil Procedure to allow the implementation of the "Litigant's portal" which will provide the latter with the possibility of monitoring online the progress of his/her civil and criminal cases. The litigant, who has given his/her prior consent, will then be able to receive notices, summonses and receipts on the portal when they are intended to be sent by any means, by simple letter or registered letter without acknowledgement of receipt.

The Decree also introduces a new article 687-2 of the French Code of Civil Procedure aimed at clarifying the notion of the effective date of service *vis-à-vis* the addressee of a document established abroad. One of the objectives of this amendment is to establish the starting point for the time limits for appeals. Thus, the date of service of a document abroad is, in respect of the person to whom it is

made, the date on which the document is delivered to him/her or duly served.

More innovatively, the third paragraph of the new article 687-2 of the French Code of Civil Procedure deals with the situation in which no return of service could be obtained from the competent foreign authorities, despite the steps taken by them. It is thus provided that in such a case, the service is deemed to have been made on the date on which the document was sent to them. As it stands, the practical scope of this new provision is, difficult to understand since it does not have a time limit after which it can be definitively considered that there is no return.

- **France - The Decree no. 2019-507 of 24 May 2019 implementing the provisions of the Law 2019-2022 of 23 March 2019 on programming 2018-2022 and reform for justice, relating to digital procedure, investigations and prosecutions**

The [Decree of 24 May 2019](#) sets out the modalities by which victims will be able to file complaints online. It specifies the information that must be given to the victim according to which he/she still has the possibility to come to the police station to file a complaint and that he/she has the opportunity to be heard at a later stage.

The Decree also specifies the provisions relating to the digital procedural file, which contains any procedural document and any act (inquiry, investigation or judicial decision), drawn up or converted into digital format. The latter may be transmitted or consulted by persons authorised pursuant to the provisions of the French Code of Criminal Procedure, such as police services and any public or private person with express authorisation.

The Decree also regulates the detention of an adult in police custody and the obligation for the police officer to ask him/her whether he/she is subject to a legal protection measure. If so, the guardian, curator or agent is notified of the custody and may (i) appoint a lawyer or request that a lawyer be appointed by the Chair of the Bar, (ii) request that the person be examined by a doctor.

- **France - The Decree no.2019-508 of 24 May 2019 implementing the provisions of the Law 2019-2022 of 23 March 2019 on programming 2018-2022 and reform for justice, relating to the investigation, exercise of remedies and enforcement of sentences**

The [Decree of 24 May 2019](#) specifies the procedure for house arrest with electronic surveillance during the investigation, including the information to be given to the person under arrest. The person must be informed that the bracelet cannot be placed without his/her consent, but that refusing the device is a violation of his/her obligations that may result in his/her being remanded in custody.

The Decree determines the procedures for exercising some requests or legal remedies, in particular to limit the scope of an appeal or to refer it to a college of judges. For example, the new provisions provide for the president of the investigating chamber to have jurisdiction to rule alone on requests or appeals or disputes relating to the seizure of property. However, the author of the request or appeal may specify that he/she refers the matter to the three judges of the investigating chamber.

Public Law

- **France – Implementation of the railway reform regarding interoperability of the rail system and railway safety**

- In the framework of the implementation of the railway reform, [Decree n°2019-525 dated 27 May 2019 relating to safety and interoperability of the rail system and amending or repealing certain regulatory provisions](#), published in the ORJF dated 28 May 2019, transposes at a regulatory level the provisions of EU Directive 2016/797 on the interoperability of the rail system within the European Union and of EU Directive 2016/798 on railway safety within the European Union, which have already been transposed at the legislative level by the [Ordinance n° 2019-397 dated 30 April 2019](#). This decree defines the role of the main stakeholders, the organisation of safety management, as well as the conditions for placing on the market interoperability constituents, mobile subsystems and for commissioning fixed installations in order to ensure the interoperability of the rail system within the European Union. It will enter into force on 16 June 2019, with the exception of certain provisions which already entered into force on 29 May 2019. **France - Impacts of the "PACTE" law on public procurement**

[Law n° 2019-486 dated 22 May 2019 relating to the growth and transformation of companies](#), known as the "PACTE" law, published in the ORJF dated 23 May 2019, contains several provisions concerning the financing of public procurement contracts. Article 106 of the Law introduces into the public procurement code the practice of reverse factoring, which allows a public purchaser or a public authority which awards a contract to request a third party to ensure the advance payment of some of its invoices. Article 195 of the Law prohibits the practice of service orders without any counterpart in public works contracts. Finally, article 193 of the Law fills a gap in the public procurement code by codifying the regime applying to electronic invoicing, in particular the modalities of transmitting and receiving invoices in electronic form.

Real Estate

- **France - #PACTE Commercial leases and collective proceedings**

The [PACTE law](#) of 22 May 2019 supplements article L.642-7 of the French Commercial Code in order that any clauses in a lease contract rendering the assignee liable for the assignor's provisions in the case of a disposal plan (either in the case of a judicial settlement or insolvency proceedings) be deemed unwritten

This new provision serves to clarify the solidarity clauses which are almost systematically included in commercial leases in case of collective (insolvency or receivership) proceedings and, more precisely, the clauses which would render the assignee liable for the assignor's debts. This type of clause seems ill-suited when the assignee is to be liquidated or when they dispose of a part of their activities.

Please note: this new provision does not apply to proceedings already in progress on the date of the publication of the Law.

- **France - Publication of a regulatory decree of the Elan law allowing for the examination (instruction) of planning permission requests by private companies**

Article 6 of the [law ELAN](#) of 23 November 2018 authorises (by means of an amendment to article L. 423-1 of the French Town planning Code) the appropriate authorities to delegate the examination of planning permission requests (construction permits, demolition permits or advance notification) by one or more private companies on the condition that said authority remains the

authorised signatory of the procedural acts.

This article specifies that the tasks conferred upon the private companies must not be of a nature that would allow them any influence over the construction projects to be accepted.

Decree n°2019-505 of 23 May 2019 re the examination of planning permission requests by private companies amends article R. 423-1 of the French Town planning Code to add to private companies to the list of person which may be put in charge of the examination of the planning permission requests.

Tax

- **France – Promulgation of the so-called “Loi PACTE”:** main tax measures

The so-called [Act for growth and transformation of businesses](#) (No. 2019-486), also known as the "Loi Pacte", was promulgated on 22 May 2019. This act complements, in particular, the tax measures included in the 2019 French Finance Act, and amends the rules relating to: (i) share savings plans (so-called “*Plans d’Epargne en Actions*” or PEA), (ii) free shares and (iii) business creator shares (so-called “*bons de souscription de parts de créateur d’entreprise*” - BSPCE).

You will find more details on the above-mentioned tax measures and on the implementation of certain measures resulting from the so-called “loi ESSOC” dated 10 August 2018 (No. 2018-727) in the [attached presentation](#).

- **France - Implementation of the new finances judicial investigation service ("Tax Police")**

Until the adoption of the [Anti-Fraud Act dated 23 October 2018 \(No. 2018-898\)](#), the investigation services of the French ministry of finance were limited to the national judicial customs service, which was attached to the customs and indirect taxes’ General Director. This service was composed of judicial customs officers, carrying out judicial police missions. On the other hand, the judicial tax officers reporting to the tax authorities’ General Director could not carry out such missions.

By a [decree dated 16 May 2019 \(No. 2019-460\)](#), the Government acted the creation of a national service called the "finances judicial investigation service". This new service, attached to both the customs and indirect taxes’ General Director and the tax authorities’ General Director, will be composed of judicial customs and tax officers who will carry out judicial police missions when placed under the authority of the Minister in charge of the budget.

These missions will be of three kinds: (i) the investigation of offences in the field of customs, indirect taxes or taxation, (ii) the collection and use of information necessary for the performance of the duties of these officers and, finally, (iii) the carrying out of analyses relating to fraud and criminal phenomena identified in the course of judicial investigations.

- **France - Continuation of the reward procedure for tax administration’s indicators**

By a [decree dated 15 May 2019 \(No. 2019-459\)](#) adopted pursuant to Article 21 of the Anti-Fraud Act dated 23 October 2018 (No. 2018-898), the Government acted the continuation of the reward mechanism implemented for tax indicators, originally set up by Article 109 of the French Finance Act for 2017 dated 29 December 2016 (No. 2016-1917).

As a reminder, this mechanism authorises the tax authorities to reward any person who is not a member of the public administration and who provides them with information useful in tackling certain tax violations. The violations covered by the text concern, in particular, the rules of tax residence, transfer pricing policies or the territoriality of corporation income tax, or the deduction of certain expenses.

The mechanism, which was originally designed as an experiment and which application was to be limited to two years as from 24 April 2017, pursuant to a [decree dated 21 April 2017 \(No. 2017-601\)](#), is therefore extended indefinitely, without any fundamental change in its operation.

- **European Union – Amendment by the European Union of its black list of non-cooperative jurisdictions**

On 17 May 2019, the European Union amended its black list of non-cooperative tax jurisdictions, reducing it from 15 to 12 countries, with Aruba removed and Barbados and Bermuda transferred to the grey list.

As a reminder, since 2017, the European Finance Ministers works on the fight against tax fraud and tax evasion has led to the publication of European [lists of so-called "non-cooperative" jurisdictions \(OJ 2017/C 438/04\)](#). The "black" list refers to non-cooperative countries and territories that do not meet the criteria for good tax governance established by the Council of the European Union and do not intend to implement remedies; the "grey" list refers to countries that do not meet the said criteria but undertake to remedy them before the end of 2019. By comparison, France publishes its own list of so-called "Non-Cooperative Countries and Territories" ("**NCCT**"), which was last updated on 8 April 2016.

Since the adoption of the Anti-Fraud Act dated 23 October 2018 (No. 2018-898), any future update of the French list of NCCTs will have to include the states and territories listed on the European Union's black list, which includes, in particular, Oman and the United Arab Emirates, with which France has entered into double tax treaties. However, at this stage, no update of the French list of NCCTs has been announced. It should be noted that inclusion on the list of NCCTs has many negative tax consequences, such as the impossibility of deducting NCCTs' withholding taxes from corporate income tax, or the non-deductibility of expenses paid in a NCCT.

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