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French anti-corruption association Anticor loses its anti-corruption accreditation

On June 23, 2023, the Paris Administrative Court handed down a decision whereby it decided to withdraw the accreditation of the anticorruption association Anticor, accreditation granted on April 2, 2021, which allowed it to act as a civil party[1] in cases concerning in particular corruption and breaches of probity.

The administrative judges considered that paragraphs 4° and 5° of Article 1 of Decree No. 2014-327 of March 12, 2014 on the conditions governing the accreditation of anti-corruption associations with a view to exercising the rights recognized to civil parties, **had not been complied with**.

Under the terms of these paragraphs, the French legislator laid down two criteria that condition the granting of the anti-corruption accreditation to an association:

- "4° *The disinterested and independent nature of its activities, assessed in particular with regard to the source of its resources;*
- *5° Its proper operation in accordance with its bylaws, with guarantees that its members are provided with all relevant information and participate effectively in its management.*"

In the matter at hand, the Prime Minister – who had noted that Anticor had not complied with the requirements laid down in the aforementioned provisions – considered that Anticor had, during the review of its application for renewal of its accreditation, "*expressed its intention to appoint an auditor to increase the transparency of its financial operations, and to overhaul its bylaws and internal rules and regulations*".

However, the administrative judges noted that paragraphs 4° and 5° of Article 1 of the Decree of March 12, 2014 do not allow the authority granting the anti-corruption to issue it in consideration of future elements.

Said granting can only be made on the basis of elements existing at the time of the application for renewal.

In other words, at the time of the application for renewal, the association could not demonstrate that its activities were disinterested and independent, that it operated properly and in accordance with its bylaws, and that it provided guarantees that its members would be provided with all relevant information and effectively

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involved in its management.

The Paris Administrative Court, therefore, found that "*the Prime Minister could not, without erring in law, rely on the fact that the association had undertaken to take corrective measures to comply with its obligations subsequent to the date of the accreditation decision*" and annulled the accreditation of March 12, 2014.

This annulment is retroactive.

As such, the annulled instrument is deemed to have never existed.

From there, it is clearly established that the order of April 2, 2021 that allowed Anticor to act as a civil party in proceedings relating to corruption and breaches of probity (in accordance with Article 2-23 of the French Code of Criminal Procedure) is deemed never to have existed.

Consequently, Anticor was not entitled to join proceedings as a civil party in corruption cases initiated after the entry into force of the annulled order.

The appeal lodged by Anticor against the judgment of the Paris Administrative Court has no suspensive effect. This means that this judgment took effect on the date it was issued.

It, therefore, appears that the legal certainty of a number of future court decisions and ongoing proceedings is seriously threatened until the forthcoming decision of the Paris Administrative Court of Appeals before which Anticorp brought the matter is rendered.

Wait and see…

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[1] Under French law, a natural or legal person who joins criminal proceedings to obtain compensation for the damage he/she/it deems to have suffered as a result of the offense(s) committed by the indictee(s).

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