

WHY ABOLISHING THE JUDICIAL PUBLIC INTEREST AGREEMENT WOULD BE A SERIOUS BLOW TO THE FIGHT AGAINST CORRUPTION – 8 April 2026

WHAT IS IT?

Introduced into French law by the *Sapin II* Act of 9 December 2016, the *convention judiciaire d'intérêt public* (CJIP – judicial public interest agreement) constituted a major legal innovation for sanctioning the most serious integrity violations¹. Under this mechanism, the Public Prosecutor, subject to oversight by a sitting judge, may open a negotiation phase with companies and then reach a settlement in exchange for the companies' acceptance of a fine, victim compensation, and/or a compliance programme. Companies, which are not found criminally guilty in the conviction sense, receive no entry on their criminal record and are not barred from public procurement.

WHY WAS SUCH A MECHANISM CREATED?

More than sixteen years after France ratified the Convention on Combating Bribery of Foreign Public Officials, the OECD's 2012 evaluation report² noted that not a single legal entity had been definitively convicted for corruption. The reasons cited were evidentiary difficulties, the complexity of international illicit financial flows, the lack of cooperation from certain countries, and France's economic sovereignty.

Dirty money moves fast and knows no borders³. In a globalised world where capital flows freely and instantaneously, it poses a permanent and growing challenge for states and societies⁴. Added to the slowness and inefficiency of the system was a loss of sovereignty: the French judicial arsenal did not protect French companies from convictions abroad, particularly in the United States⁵.

In practice, the conclusion was damning: securing a criminal conviction for integrity-related offences — particularly at the international level — was a risky gamble that almost never benefited the fight against corruption, as cases could rarely be brought to a successful conclusion. In France, in 25 years, only two international corruption cases (involving foreign public officials) had been brought to trial⁶.

¹Offences provided for in Articles 433-1, 433-2, 435-3, 435-4, 435-9, 435-10, 445-1, 445-1-1, 445-2 and 445-2-1, in the penultimate paragraph of Article 434-9 and in the second paragraph of Article 434-9-1 of the Criminal Code, for the laundering of offences provided for in Articles 1741 and 1743 of the General Tax Code, as well as for related offences, excluding those provided for in the same Articles 1741 and 1743.

²<https://www.oecd.org/fr/corruption/anti-corruption/FrancePhase3FR.pdf>

³Clotilde Champeyrache: "Le port d'Anvers est une véritable passoire" | L'Echo (lecho.be) / <https://crimhalt.org/2022/11/11/crimhalt-sur-rtl-la-belgique-nouvel-eldorado-de-la-mafia/>

⁴According to Transparency International's Exporting Corruption 2022 report, more than 50% of world exports originate from countries that perform poorly in sanctioning corruption offences.

⁵Parliamentary debates, 7 June 2016: <https://www.assemblee-nationale.fr/14/cri/2015-2016/20160206.asp#P801409>

⁶Elf case and Oil-for-Food case.

Could we remain satisfied with this de facto near-immunity, and with the slowness and inefficiency of our judicial system in the face of illicit, sophisticated, opaque and internationalised financial flows, all in the name of the necessary criminal trial?

It is instructive to look back at the amendment adopted in the Law Committee on 20 May 2016, which created the CJIP model and sets out the rationale:

"French courts have to date not definitively convicted any French company of active bribery of foreign public officials since 2000, when this offence was created. Moreover, proceedings for integrity violations involving legal entities are particularly **lengthy**. When sanctions are handed down, they come late, and they are very light and therefore disproportionate to the seriousness of the offences. Furthermore, a sanction loses its meaning when it is imposed five or six years after the facts. Finally, for equivalent conduct, our companies are hit abroad with heavy sanctions that are swiftly enforced. The substantial sums paid by companies to that end go to other States. It is therefore essential to break out of the current status quo so that **France regains its sovereignty in the criminal sphere and its repressive apparatus has a genuinely deterrent character. That is the objective of this amendment**, with the creation of a judicial public interest agreement designed to ensure the effectiveness of the criminal justice response in repressing all integrity violations. This is not the criminal settlement mechanism that appeared in the preliminary draft bill."⁷

It is also in this spirit that Transparency International France supported the model of an alternative to prosecution, at the conclusion of its September 2015 report:

"The use of the settlement mechanism should be reserved primarily for cases falling within the jurisdiction of the new financial prosecutor's office — namely all integrity offences and tax fraud of a certain degree of complexity, in particular given the large number of perpetrators, accomplices or victims, their international dimension, or the specific fraud techniques used — in which the cooperation of companies is, if not essential, at least highly useful to the work of justice."⁸...

"France does not appear to have grasped the legal risks (and collateral damage) that these extraterritorial laws pose to French companies; yet those companies are particularly vulnerable, since influence peddling in relation to foreign public officials is not a criminal offence under French law, whereas such conduct is criminally punishable under the Foreign Corrupt Practices Act (FCPA)⁹ and the UKBA¹⁰. In particular, there is currently no obligation in French law for companies to implement anti-corruption compliance programmes, nor are they incentivised to do so, since such initiatives are neither recognised nor rewarded before the judicial authorities — no leniency policy being applicable in such circumstances. In fact, according to the latest figures from

⁷Amendment CL 331: https://www.assemblee-nationale.fr/14/amendements/3623/CION_LOIS/CL331.asp

⁸https://www.transparency-france.org/wp-content/uploads/2016/04/note_jutice_transactionnellevf.pdf

⁹Source LexisNexis: "The Foreign Corrupt Practices Act (FCPA) is a US law enacted in 1977 aimed at combating the bribery of foreign public officials. [...] Due to its extraterritorial reach, this law may impact French companies, particularly if they have subsidiaries or employees on US territory."

¹⁰The UK Bribery Act 2010 ('UKBA'), which came into force on 1 July 2011, is the British law on the repression and prevention of corruption.

Ernst & Young, 44% of French companies have still not adopted genuine anti-corruption compliance programmes. These gaps in our framework are all the more regrettable in that, beyond limiting the exposure of our companies to transnational corruption — and hence their risk of criminal liability both in France and abroad — the existence of an anti-corruption compliance programme constitutes, before many foreign jurisdictions, a leniency factor that may allow the companies concerned to avoid criminal prosecution and/or benefit from a reduction in sanctions..."¹¹

By equipping its judges with a legal tool better suited to the challenges of fighting corruption, France enabled companies responsible for corruption, money laundering, or tax fraud (since 2018) to be incentivised to cooperate, sanctioned swiftly, and required to implement appropriate remediation programmes under the supervision of the French Anti-Corruption Agency or the competent tax authorities. In addition, the time and cost savings achieved allow the justice system to handle corruption and fraud cases more rapidly and to increase their volume.

WHAT IS THE TRACK RECORD?

Over the past ten years, the number of integrity violation cases has grown by 5.8% per year. In 2025, such cases accounted for 45% of cases handled by the National Financial Prosecutor's Office (*Parquet national financier* – PNF), compared with 47% for tax fraud cases¹².

Since 2016, the PNF has concluded 31 CJIPs in connection with integrity violations or tax fraud, in complex cases that have also enabled, in some instances, cooperation with foreign prosecution authorities¹³.

In 2020, the CJIP concluded with Airbus¹⁴ was the most significant prosecution of corruption offences ever carried out in France, imposing a record fine and enabling cooperation with foreign authorities (USA and UK).

Moreover, other prosecutors' offices have also concluded CJIPs, as their use is not the exclusive preserve of the PNF¹⁵. In total, more than 40 CJIPs have been concluded in 10 years in relation to integrity violations and tax fraud (including money laundering from tax fraud).

The total amount of fines, confiscations, damages and tax adjustments that the PNF alone imposed in 2025 in favour of the Treasury came to €345.67 million, CJIPs included¹⁶.

Furthermore, for those who consider the fines imposed to be insufficient, it should be noted that the sanction imposed on legal entities under a CJIP is often considerably heavier than the penalty they would face before a court.

This track record unquestionably demonstrates the usefulness and relevance of this mechanism: the CJIPs concluded concern serious offences, where investigation timescales would have been particularly long and the evidential threshold high. In its evaluation report of 9 December 2021¹⁷, the OECD had

¹¹Transparency International France report on negotiated justice, September 2015, p. 7

¹²<https://www.tribunal-de-paris.justice.fr/sites/default/files/2026-02/Plaque%20PNF%20complet.pdf>

¹³<https://www.tribunal-de-paris.justice.fr/75/convention-judiciaire-dinteret-public-cjip>

¹⁴https://www.tribunal-de-paris.justice.fr/sites/default/files/2021-09/CJIP%20AIRBUS_29%20janvier%202020.pdf

¹⁵<https://www.justice.gouv.fr/documentation/ressources/conventions-judiciaires-dinteret-public>

¹⁶<https://www.tribunal-de-paris.justice.fr/sites/default/files/2026-02/Plaque%20PNF%20complet.pdf>

¹⁷<https://transparency-france.org/actu/communiqu%20en%20pointant%20le%20manque%20de%20moyens%20et%20d%20independance...>

already highlighted the "remarkable progress" made by France. As a sign of this new effectiveness, it commended the definitive sanctions handed down to 23 legal entities and 19 natural persons between end-2012 and end-2021¹⁸.

Never before have integrity violations by legal entities been so widely prosecuted and adjudicated in France.

WHY SO MUCH RESISTANCE DESPITE AN UNQUESTIONABLY POSITIVE TRACK RECORD?

A derogatory mechanism struggling to establish its acceptability

Under the terms of the Act of 9 December 2016, the judicial agreement, which derogates from ordinary law, is justified only if it serves the public interest. It must therefore be strictly governed and used in a manner consistent with the spirit of the Sapin II Act.

It is neither a prosecutorial convenience for lack of time and resources to investigate, nor a right for companies, their managers, employees and shareholders to manage criminal risk — but a relevant tool designed to sanction integrity violations more effectively and more rapidly within the scope defined by law (acts of corruption or influence peddling, active or passive, tax fraud, the laundering thereof introduced in 2018, or any related offence) in complex cases that may involve one or more foreign countries. It is this sole criterion of public interest that must guide the use of such a mechanism and justifies its existence.

It follows that resort to the judicial public interest agreement — a sanctions procedure alternative to prosecution that decriminalises corruption, and therefore significantly derogatory from ordinary law — is not intended to substitute for the criminal liability of legal entities and must be very explicitly justified: only on this condition can the legitimacy, soundness and balance of the mechanism be ensured.

- However, Transparency International France has noted that recent legislative developments relating to the introduction of a judicial public interest agreement for environmental offences, as well as their application, have undermined the public interest criterion.

Indeed, the Act of 24 December 2020, relating to the European Public Prosecutor's Office, **environmental justice** and specialist criminal justice, created a **judicial public interest agreement** in environmental matters.

One is entitled to question the appropriateness of using such a procedure when the offences in question are committed exclusively in France, are of relative seriousness, and do not require extraordinary investigative means — if the facts described in the text of the agreements or the amounts of the fines imposed are anything to go by.

- Furthermore, the guidelines published on 16 January 2023 by the National Financial Prosecutor's Office set out and endorsed an expansive conception of the public interest that may have contributed to weakening the derogatory nature of this procedure.

Under the initial guidelines drawn up jointly by the National Financial Prosecutor's Office and the French Anti-Corruption Agency and published on 26 June 2019, *"The use of the CJIP satisfies the public interest when it significantly reduces investigation timescales, ensures the effectiveness and firmness of the*

¹⁸<https://www.oecd.org/fr/daf/anti-corruption/France-Rapport-Phase-4-FR.pdf>

judicial response to the conduct in question, ensures victim compensation, and contributes to the prevention of reoffending through the implementation of effective mechanisms for detecting integrity violations."

The new guidelines drawn up by the PNF alone go further and specify that *"insofar as it directly contributes to the public interest, the interest of the legal entity is taken into account"*¹⁹.

This doctrinal shift seeks to meet the PNF's stated objectives of greater legal certainty for companies and greater predictability of their criminal risk²⁰. The aim is to incentivise companies to submit to the CJIP, on top of the already strong inducement linked to the absence of a finding of guilt and a criminal record.

While Transparency acknowledges the value of legal certainty for legal entities, such a conception raises legitimate concerns about the balance and acceptability of the CJIP.

Indeed, this is not without consequences for the conditions of use of such a procedure and for the preservation of its derogatory nature. By stating that the company's interest contributes to the public interest, resort to the CJIP could be justified on broader criteria than those initially set out in the guidelines, namely: the previous record(s) of the legal entity, the degree of cooperation with the prosecution authority and the conduct of an internal investigation, the voluntary nature of the disclosure, the implementation of remediation measures upon learning of the unlawful acts, and victim compensation. Some of these factors could also be used to increase or decrease the amount of fines²¹.

Furthermore, certain concluded CJIPs have departed very substantially from the spirit of the Sapin II Act.

This was the case with the CJIP concluded between LVMH and the Paris Public Prosecutor on 15 December 2021²²; by offering LVMH a CJIP encompassing two cases involving distinct offences — one relating to the surveillance of the professional and personal life of journalist François Ruffin, the other to the monitoring of executives at rival luxury group Hermès — the justice system allowed LVMH, on grounds of connexity, to benefit from an agreement covering conduct falling outside the scope of the CJIP²³. It is no coincidence that journalist and MP François Ruffin sponsored the amendment adopted on 1 April last aimed at abolishing the CJIP mechanism.

The same is true of the Nestlé Waters CJIP concluded on 2 September 2024 in environmental matters²⁴. The Épinal Public Prosecutor's Office took the view that the conduct susceptible to being characterised as fraud could be considered as connected to the conduct prosecuted under the provisions of the Environmental Code and, consequently, be dealt with under the environmental judicial public interest agreement.

¹⁹<https://www.tribunal-de-paris.justice.fr/sites/default/files/2023-01/Lignes%20directrices%20sur%20la%20mise%20en%20oeuvre%20de%20la%20convention%20judiciaire%20d%27int%C3%A9r%C3%AAt%20public%20PNF%20version%20sign%C3%A9e.pdf>

²⁰<https://www.tribunal-de-paris.justice.fr/sites/default/files/2023-01/Lignes%20directrices...> , page 1

²¹<https://www.agence-francaise-anticorruption.gouv.fr/files/files/Lignes%20directrices%20PNF%20CJIP.pdf> , pages 6 et seq.

²²https://www.justice.gouv.fr/sites/default/files/2023-05/CJIP_LVMH_20211215.pdf

²³https://www.justice.gouv.fr/sites/default/files/2023-05/CJIP_LVMH_20211215.pdf

²⁴https://www.justice.gouv.fr/sites/default/files/2024-09/CJIPE_Nestle_Waters_20240902.pdf

Transparency International France had at the time deplored the extension of the CJIP to conduct unrelated to integrity offences, by means of connexity²⁵, and had stressed that *"the CJIP must be used with caution so that it remains a derogatory mechanism, fully justified by a public interest that cannot be equated with the mere sound administration of justice. Its acceptability depends on this — not only for victims but more broadly for citizens and civil society organisations that champion the fight against the offences prosecuted."*²⁶

A mechanism that does not give sufficient weight to victims

The impact of corruption on the functioning of democratic institutions and the respect of human rights needs no further demonstration; the bribery of foreign public officials illustrates this cruelly, as Transparency International's Corruption Perceptions Index²⁷ shows each year.

In this context, taking victims into account — their identification, their effective compensation and their protection — must appear as an essential concern from the moment the proposal to negotiate a CJIP is made.

This is all the more necessary given that, before the court, even though a victim cannot call for a sentence, they can attend and participate in the proceedings, thereby contributing to the establishment of the truth. In a negotiated justice mechanism where confidentiality is a fundamental feature, the victim is excluded from the process, which fully justifies the prosecution authorities paying particular attention to victims from the moment the proposal is made to the company.

Transparency International France acknowledged the National Financial Prosecutor's Office's intention to pay greater attention to victims and their compensation in its guidelines published on 16 January 2023²⁸.

However, it regrets that the compensation criterion appears mainly as a mitigating factor for the fine amount. Moreover, it questions the prerogative given to the company to identify victims and compensate them before the CJIP proposal is made, without indicating how that identification is to be carried out²⁹.

In its report of 27 June 2024³⁰, Transparency International France noted that:

- Victim identification takes place mainly on the initiative of the victims themselves.
- Nearly 45% of CJIPs provide for victim compensation.
- Half of these CJIPs were concluded in environmental matters.
- Nearly 40% of identified victims ultimately receive no compensation.
- Two thirds of companies identified as victims were compensated.
- Integrity-related CJIPs account for the majority of cases where no harm was invoked by victims.

²⁵<https://transparency-france.org/2024/10/16/affaires-nestle-waters-lvhm-quand-la-connexite-etend-le-champ-application...>

²⁶Ibid.

²⁷<https://transparency-france.org/2026/02/10/indice-de-perception-de-la-corrupcion-2025-une-alerte-mondiale-pour-les-democraties/>

²⁸<https://www.tribunal-de-paris.justice.fr/sites/default/files/2023-01/Lignes%20directrices...>, page 20

²⁹Section 3.3.1 of the guidelines of 16 January 2023.

³⁰<https://transparency-france.org/2024/06/27/rapport-justice-negociee-quelle-place-pour-les-victimes/>

- Barely more than 40% of CJIPs explicitly set out the amount or the calculation method for the requested compensation.

At the conclusion of its report, Transparency International France set out a series of recommendations useful to the acceptability of the tool³¹.

A mechanism whose transparency and pedagogy are insufficient

Since this mechanism derogates from ordinary law, the requirements for reasoning in the judicial public interest agreement are essential.

Before a court, any citizen may attend the hearings of the criminal court competent to try integrity violations. They may be present during the debates, the prosecution submissions and the pleas, and are able to understand and assess the conduct at issue, its seriousness, the possible responsibilities of the defendants and the decision handed down. By contrast, negotiated justice is a mechanism governed by secrecy that excludes citizens from its proceedings.

The guidelines published by the National Financial Prosecutor's Office on 16 January 2023 specifically emphasise the confidentiality surrounding exchanges and the communication of documents: *"oral exchanges take place under a seal of confidentiality and court privilege"*. They provide companies with guarantees in the direction of consolidating that confidentiality³².

A 2017 survey³³ showed that confidence in the judicial institution had fallen significantly. The perception that justice is slow, expensive and complex makes transparency about the exercise of justice all the more necessary, in order to restore trust in the institution.

Transparency in the use of the CJIP is not optional. The very name of this mechanism implies it: it must be fully public and there is no room for opacity.

This is a democratic imperative that underpins the legitimacy of the tool and ensures the effectiveness of the fight against corruption.

Transparency International France has recommended that particular attention be paid to the reasoning of decisions, that approval hearings be given wide publicity and be conducted in a clear and accessible manner³⁴.

CONCLUSION

The amendment adopted as part of the bill on social and tax fraud reflects the deep divide animating the debate around negotiated justice. It reflects a failure of acceptability. It does not advance the cause of fighting corruption as championed by international organisations such as Transparency International.

Sometimes excessively in favour, sometimes detractors far removed from the realities of prosecuting and achieving convictions for transnational integrity violations, the proponents or opponents of the CJIP cannot set aside the motivations that led to the adoption of this text within the framework of the Sapin II Act when assessing its relevance: the CJIP is a mechanism that is valuable only if it remains

³¹https://transparency-france.org/wp-content/uploads/2024/06/Infographie-Victimes_VF_FR.pdf

³²<https://www.tribunal-de-paris.justice.fr/sites/default/files/2023-01/Lignes%20directrices...>, page 11

³³<http://www.institutpourlajustice.org/medias/cevipof-confiance-autorite-judiciaire/>

³⁴https://transparency-france.org/wp-content/uploads/2023/02/La-Convention-Judiciaire-dInteret-Public_Note-de-position_Transparency-France_Janvier-2023.pdf

public in cases where the criminal trial fails to meet citizens' demands for justice in relation to serious, complex matters involving international financial flows, foreign public officials³⁵ and State cooperation.

Outside this framework, the CJIP is fragile because it no longer meets the acceptability requirements that underpin its legitimacy.

As we celebrate the tenth anniversary of the Sapin II Act, is this bill on social and tax fraud the right vehicle for erasing, at a stroke, ten years of progress in fighting integrity violations and tax fraud? In the name of defending their competitiveness, will large companies tomorrow be lobbying for the abolition of criminal liability for legal entities?

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FOR FURTHER READING ON ALL NOTES, REPORTS AND RECOMMENDATIONS FROM TRANSPARENCY INTERNATIONAL FRANCE:

Position Paper by Transparency International France (January 2023): https://transparency-france.org/wp-content/uploads/2023/02/La-Convention-Judiciaire-dInteret-Public_Note-de-position_Transparency-France_Janvier-2023.pdf

Report: Negotiated Justice — What Place for Victims? (June 2024): https://transparency-france.org/wp-content/uploads/2024/06/Infographie-Victimes_VF_FR.pdf

Articles:

The misuse of the CJIP in the LVMH/Squarcini case must not condemn this essential tool in the fight against corruption. (<https://transparency-france.org/2022/06/02/...>)

Nestlé Waters and LVMH Cases: When connexity extends the scope of the judicial public interest agreement to offences unrelated to integrity violations or the environment: the risk of non-acceptability. (<https://transparency-france.org/2024/10/16/...>)

³⁵The current hearing before the Court of Appeal on Libyan financing once again illustrates the full difficulty of prosecuting offences pursued under the head of corruption of foreign public officials.