

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 April 2024.

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For additional information, please speak to your usual contact.

## Contact

### Sophie Giono

Hogan Lovells (Paris) LLP  
17, Avenue Matignon  
CS 60021  
75008 Paris  
Tél. : +33 1 53 67 47 47  
Fax : +33 1 53 67 47 48

[Hoganlovells.com](https://www.hoganlovells.com)

- **Commercial**

### France – DDADUE Law and amendment of the Influencers Law

[Law No. 2024-364 of April 22, 2024](#), on various provisions adapting European Union law in matters of economy, finance, ecological transition, criminal law, social law, and agriculture ("DDADUE Law"), published in the Official Journal on April 23, 2024, transposes several directives and adapts French law to various rules derived from European texts, particularly concerning individuals engaged in commercial influencer activity via electronic communication means.

Indeed, the DDADUE Law empowers the government to amend, by way of ordinance within a period of 9 months from its promulgation, several provisions of [law No. 2023-451 of June 9, 2023](#) ("Influencers Law"). This pertains specifically to articles 1, 2, 4, 5, 8, and 9 of the Influencers Law, which address the definition of the term "influencer," the regulation and transparency of advertisements conducted by influencers, contractual agreements with advertisers, and the legal representation of foreign influencers not established within a member state of the European Union.

The DDADUE Law repeals certain provisions of the Influencers Law, specifically articles 10, 11, 12, 15, and 18, which have notably amended [law No. 2004-575 of June 21, 2004](#), on confidence in the digital economy ("LCEN") to reflect certain obligations resulting from [regulation \(EU\) 2022/2065](#) ("Digital Services Act").

*Authored by Charlotte Haddad and Inès Janicijevic*

- **Corporate**

**France – Publication of Law no. 2024-364 of 22 April 2024 containing various provisions adapting to European Union law in the fields of economics, finance, ecological transition, criminal law, social law and agriculture (DDADUE 2024)**

Law no. 2024-364 of 22 April 2024 containing various provisions for adapting to European Union law in the fields of economics, finance, ecological transition, criminal law, social law and agriculture (known as the DDADUE 2024 law) has been published in the Journal officiel of 23 April 2024.

Some provisions have an impact on company law, relating respectively to i) the ratification of the ordinance on mergers, divisions, partial contribution of assets and cross-border transactions and ii) the Government's authorisation to legislate by ordinance to transpose the Women on Boards Directive.

i. On the ratification of Order 2023-393 of 23 May 2023 on mergers, divisions, partial transfers of assets and cross-border transactions, Article 4 of the Act makes a number of adjustments applicable from 24 April 2024:

- the double voting rights regime, with the maintenance of the double voting rights transferred from the transferor to the transferee in the case of a partial contribution of assets (C. com., art. L. 225-124) ;
- domestic divisions and partial contribution of assets; and
- cross-border mergers, partial contribution of assets and transformations.

ii. With regard to the Government's power to transpose Directive 2022/2381 of 23 November 2022 on women on boards, Article 5 gives the Government a period of six months from the date of promulgation of the DDADUE 4 Act, with the following obligations:

- provide for transposition corresponding at least to the scope of articles L. 225-18-1 and L. 226-4-1 of the French Commercial Code;
- maintain the target of at least 40% parity on the boards of directors or supervisory boards of commercial companies;
- avoid new sanctions;
- designate an administration or body to oversee these provisions;
- provide for harmonisation of the rules for all companies in both the public and private sectors.

*Authored by Louis-Nicolas Ricard*

- **Environment**

**France – Enactment of the law adapting civil liability law to current challenges.**

[Law no. 2024-346 of 15 April 2024](#) *adapting civil liability law to current issues* was published in the Official Journal on April 16, 2024 (the “Law”).

The Law follows on from [law no. 2021-85 of 29 January 2021](#) *defining and protecting the sensory assets of the French countryside*, and the [government’s report](#) on the problem of abnormal neighbourhood disturbances submitted at the end of 2021.

As a reminder, liability for abnormal neighbourhood disturbance does not arise from the law, but from a so-called “praetorian” creation of the judges by virtue of the principle that “*no one may cause an abnormal neighbourhood disturbance to another person*” (cf. Cass. 2<sup>e</sup> civ., November 19, 1986, no. [84-16.379](#)).

The notion of abnormal neighbourhood disturbance may be defined as “*damage caused to a neighbour (noise, smoke, smells, disturbances, etc.) which, when it exceeds the ordinary inconveniences of the neighbourhood, is deemed abnormal and obliges the perpetrator of the disturbance to compensate the victim, even if the disturbance is inherent in a lawful activity and no fault can be attributed to the perpetrator*” (cf. G. Cornu, *Legal Terminology*).

Against a backdrop of increasingly frequent neighbourhood disputes, both in urban and rural areas, the Law introduces a new [article 1253](#) into the French Civil Code, incorporating the principle of strict liability based on abnormal neighbourhood disturbances. Accordingly, a neighbourhood disturbance gives rise to strict liability on the part of its perpetrator if it exceeds ordinary neighbourhood annoyances.

However, the Law does provide for exceptions. In this respect, the person listed in the new article 1253 (owner, tenant, etc.) cannot be held liable if the activity meets all three of the following conditions:

- the activity existed prior to the installation of the person complaining of the abnormal disturbance;
- the activity complies with the laws and regulations in force; and
- the activity continues under the same conditions or under new conditions that do not aggravate the abnormal neighbourhood disturbance.

Finally, it should be noted that additional exemptions specific to agricultural activities are also set out in [Article L. 311-1-1](#) of the French Rural and Maritime Fishing Code.

*Authored by Laure Nguyen, Julie Paladian & Dicle Yildirim*

- **Intellectual Property**

**European Union – Publication of EU Regulation 2024/1143 on geographical indications for wine, spirit drinks and agricultural products.**

[Regulation \(EU\) 2024/1143 of 11 April 2024](#) on geographical indications for wine, spirit drinks and agricultural products was published on 23 April 2024. It will come into force on 13 May 2024.

This regulation, which comes just a few months after the adoption of Regulation 2023/2411 of 18 October 2023 on the protection of geographical indications for artisanal and industrial products, is part of a European Union policy aimed at harmonizing and consolidating the protection of geographical indications within the EU.

The regulation simplifies and shortens the application procedures for new geographical indications, which will now be handled by the European Union Intellectual Property Office (EUIPO).

The EUIPO's role in the protection of geographical indications has been strengthened, particularly online. Indeed, the EUIPO will play an active role in the fight against the illicit use of domain names designating geographical indications, and a new domain name alert system, managed by the EUIPO, will be envisaged and could be implemented in the coming months.

The regulation also gives a more prominent place to producers, who will have the means to take action, through producer groups, against any commercial practices detrimental to the image and value of geographical indications.

*Authored by Iris Accary and Anaïs Le Coq*

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- **Public Law**

**France – Transformation of EDF into a limited company of national interest**

[Law no. 2024-330 of 11 April 2024](#) aimed at protecting the Electricité de France ("EDF") group from dismemberment, published in the OJFR of 12 April 2024, amends article L.111-67 of the energy code to state that EDF is now a limited company of national interest solely owned by the French State (which percentage is reduced, where applicable, by employee shareholding), compared with a capital holding of "more than 70%" previously. This provision acknowledges the simplified takeover bid made by the French State, which has held the entire share capital of EDF since June 2023. In addition, the law provides for the conclusion of a ten-year contract between EDF and the State, which must set out the company's various objectives in terms of financial trajectory, investment, decarbonisation of electricity generation, price control and adaptation of generation capacity to changes in electricity demand. EDF will be required to report on the implementation of this contract in its annual business report, which will be sent to Parliament and the Energy Regulation Commission.

In addition, the law extends regulated electricity sales tariffs to small municipalities and very small enterprises, by removing the criterion relating to the maximum power subscribed.

## **France – New version of the guide on public procurement of innovative solutions**

The 2024 edition of the [guide on public procurement of innovative solutions](#) of the Economic observatory of public procurement ("EOPP"), which is an update of the first version published in 2019, was published on 16 April 2024.

The EOPP recommends, in 16 thematic sheets, the use of innovation as a lever for implementing public policies on sustainable development, industrial sovereignty and technological sovereignty that can help buyers achieve their environmental and social objectives.

The guide also emphasises the usefulness of using a set of indicators to characterise an innovative solution. In order to do so, buyers can use the "Innov'score" tool, which allows them to determine the level of innovation of a solution.

In addition, the guide provides an update on procurement procedures (in particular the exemption from advertising and competitive tendering for innovative solutions contracts under €100,000 excluding VAT), purchasing techniques (such as framework agreements with subsequent contracts and dynamic purchasing systems) and contractual arrangements (such as global performance contracts) that can be used to boost innovation in public procurement.

## **France – Law containing various provisions for adaptation to European Union law: role of the Transport Regulation Authority in the changes in airport charges**

[Law no. 2024-364 of 22 April 2024](#) containing various provisions for adaptation to European Union law in the fields of economics, finance, ecological transition, criminal law, social law and agriculture, published in the OJFR of 23 April 2024, contains provisions relating to airport concession contracts. Article 24 amends the transport code to specify the consultative role of the Transport Regulation Authority ("TRA") with regard to preliminary draft multiannual contracts relating to the conditions for changes in airport charge tariffs entered into between Aéroports de Paris or the operators of civil aerodromes falling within the State's remit, and the State. The draft contracts are then submitted to the TRA for its assent. The TRA gives its opinion in particular on compliance with the procedure for drawing up these draft contracts, the weighted average cost of capital adopted by the parties and the conditions for changes in tariffs provided for in these draft contracts.

## **France – Practical guide on amicable dispute resolution in public procurement**

On 2 May 2024, the Economic observatory of public procurement ("EOPP") published its first [practical guide on amicable dispute resolution](#) ("ADR") in public procurement. This guide encourages the public procurement players to settle their disputes using ADR methods such as the submission of a statement of claim by the contract holder, mediation or conciliation. The EOPP points out that these mechanisms are advantageous because they allow fairness to be taken into account, flexibility in the management of disputes, smoother management of relations between co-contractors and shorter deadlines for settling disputes. For example, it takes around three months to settle a dispute through mediation, and six months to settle a dispute through a conciliation before the Consultative committees for the amicable settlement of disputes relating to public procurement contracts.

*Authored by Bruno Cantier and Astrid Layrissé*

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