
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 September and October 2024.

Please note that French legal concepts are translated into English for information only and not as legal advice. The concepts expressed in English may not exactly reflect or correspond to similar concepts existing under the laws of the jurisdictions of the readers.

If you would like to consult this newsletter from past months, please click [here](#).

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- **Audio-visual**

France - ARCOM presents a study on the environmental impact of audiovisual use in France

On October 7, 2024, ARCOM presented its [study](#) on the environmental impact of audiovisual uses in France. The study shows that audiovisual consumption alone accounts for a third of French electricity consumption, or 0.9% of the national carbon footprint. To counter this, the study recommends limiting the consumption of products such as televisions, tablets and smartphones, and favoring repairs in the event of breakdown rather than buybacks.

France - ARCOM publishes the conclusions of its fact-finding mission on AI and its impact on cultural creation and access to information

On October 14, 2024, ARCOM published its [report](#) on the impact of AI, in particular generative AI, in the media, audiovisual and digital communication sectors, whether in the creation of content or information. In particular, the report warns that the opt-out system, i.e. the manifestation of an author's wish to prohibit the use of his or her content, is rather difficult to enforce, and that robots are circumventing this opt-out and capturing content in spite of everything in order to feed generative AI algorithms.

France - ARCOM has published an opinion on the implementation report for the contracts of objectives and means of the public media: France Télévisions, Radio France and France Médias Monde.

On October 16, 2024, ARCOM published its [opinion](#) on the performance report for the contracts of objectives and means (COM) of France Télévisions, Radio France and France Médias Monde for the year 2023. In accordance with article 53 of the French law no. 86-1067 of September 30, 1986 on freedom of communication, the French State concludes a COM with each of the public audiovisual companies (France Télévisions, Radio France, France Médias Monde, Arte France and the Institut national de l'audiovisuel). The main purpose of the COMs is to set the strategic priorities of these companies, and to give them visibility on the multi-year evolution of their resources in relation to these priorities.

France - Senate adopts bill to strengthen media independence and better protect journalists

On October 17, 2024, the Senate adopted, on first reading and with amendments, [the so-called "Robert" bill](#) aimed at "reinforcing media independence and better protecting journalists", which must now be examined by the National Assembly. The bill :

- reinforces the obligations of the Committees for Honesty, Independence and Pluralism of Information and Programs (CHIP) within the audiovisual media, which will be required to publish all their opinions and annual reports, make public the list of their members, etc.
- introduces two mechanisms designed to improve the content and effectiveness of journalists' ethical charters;
- extends the right to secrecy protection to all journalists exercising their profession within the framework set by the Labour Code (who work for press companies or agencies or audiovisual media) and to publication or editorial directors. ;
- improves the effectiveness of the neighboring rights of publishers and press agencies by increasing the transparency of remuneration negotiations between publishers, press agencies and digital platforms. Platforms will be obliged to provide information to help clarify negotiations, the list of which will be set by decree. Should they fail to do so, the French Competition Authority may impose a fine of up to 5% of their average daily global sales for each day of delay.

France - ARCOM has published a report listing the services likely to meet the definition of an online content-sharing service.

In its [report](#), published on October 25, 2024, ARCOM wished to identify the services likely to correspond to the definition of online content sharing service in order to have an overall view of the services subject to articles L. 137-1 et seq. of the CPI.

As part of this report, 6 recommendations were issued to online content sharing service providers.

Authored by Iris Accary and Laura Chen

- **Capital Markets**

France – Amendments to the general regulation of the French Autorité des Marchés Financiers (AMF)

Pursuant to [order dated 7 October 2024](#) and [order dated 22 October 2024](#), the General Regulation of the AMF has been amended.

The amendments to Book III set out the conditions governing the intermediation of bearer securities recorded in a distributed ledger (order dated 7 October).

Article 516-5 of the General Regulation has been amended to remove the requirement for issuers to make a “public” offer when transferring securities from the Euronext professional compartment to the general compartment (order dated 22 October).

Authored by Charlotte Bonsch

- **Corporate**

France – Decree on the implementation of measures to modernize meeting and consultation procedures for decision-making bodies

[Decree no. 2024-904 of October 8, 2024](#), following the publication of [Law no. 2024-537 of June 13, 2024, aimed at increasing business financing and the attractiveness of France](#) (“attractiveness” law), sets the procedures for holding meetings of the boards and general meetings of certain types of commercial companies (*art. 18, II*).

The text notably specifies:

- if the by-laws provide for this possibility, the information that must be included on postal voting forms; these measures concern SARLs, SCAs and SAs, but not SASs, for which the bylaws continue to be the means of dealing with these issues;
- for listed companies, the conditions under which members of decision-making bodies who take part in their meetings via a means of telecommunication that enables them to be identified are deemed to be present for the purposes of calculating quorum and majority;
- procedures for broadcasting, recording and consulting meetings of companies listed on a regulated market (Euronext).

France - Women On Boards Directive: publication of transposition order

The publication of [Ordinance no. 2024-934 of October 15, 2024 transposing Directive \(EU\) 2022/2381 of the European Parliament and of the Council of November 23, 2022 on a better gender balance among company directors](#), pursuant to [Article 5 of Law no. 2024-364 of April 22, 2024 containing various provisions for adapting to European Union law in the fields of economics, transition, criminal law, labor law and agricultural law](#) (known as the DDADUE 2024 Act), finalizes the transposition of [Directive \(EU\) 2022/2381 of the European Parliament and of the Council of November 23, 2022 on a better gender balance among directors of listed companies and related measures](#) (known as the Women on Boards Directive).

The ordinance builds on and strengthens the system introduced by Law no. 2011-103 of January 27, 2011, known as the “Copé-Zimmermann” law, which applies to all listed and unlisted companies with at least 250 employees and sales or total assets in excess of €50 million. While maintaining the provisions of domestic law, it includes in the basis for calculating the balance rule the directors representing employee shareholders and the directors representing employees, who were previously excluded. The procedures for appointing these directors have consequently been modified to ensure compliance with the principles of the directive.

European Union – CSRD: Infringement Procedures Regarding Sustainability Reporting Rules to 17 Member States

The European Commission decided to open [infringement procedures by sending a letter of formal notice](#) to **17 Member States** (Belgium, Czechia, Germany, Estonia, Greece, Spain, Cyprus, Latvia, Luxembourg, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia and Finland) for failing to notify their national measures transposing fully the Accounting Directive ([Directive 2013/34/EU](#)), the Transparency Directive ([Directive 2004/109/EC](#)) and the Audit Directive ([Directive 2014/56/EU](#)), as amended by the Corporate Sustainability Reporting Directive (CSRD) ([Directive \(EU\) 2022/2464](#)).

The transposition deadline expired on 6 July 2024.

The new sustainability reporting rules apply from financial years beginning on or after 1 January 2024.

Available resources:

- [Three months on from the CSRD transposition deadline - where are we now? - Hogan Lovells Engage](#)
- Comparative guide: <https://www.hoganlovells.com/en/our-thinking/comparative-guides/csr-transposition-tracker>
- [Guidelines](#) for the certification of sustainability information and taxonomy information from the French supervisory authority for auditing professionals (H2A). These notably include template reports such as:
 - Report on the certification of sustainability and taxonomy information and on the verification of disclosure requirements under Article 8 of Regulation (EU) 2020/852 :
 - Report presenting in appendix the developments relating to the elements which were the subject of particular attention;
 - Elements that have received particular attention

Authored by L.-N. Ricard

- **Insurance**

France - ACPR investigation regarding exclusion clauses in non-life insurance contracts

On 24 September 2024, the *Autorité de Contrôle Prudentiel et de Résolution* ("ACPR") has published the results of an investigation into a hundreds of non-life insurance contracts taken out by private individuals to assess the way in which court rulings and decisions by the insurance ombudsman regarding exclusions clauses are taken into account. According to the investigation, a significant number of contracts contain exclusions or limitations of cover that do not comply with applicable law, including clauses that have been censored by the French Supreme Court (*Cour de Cassation*).

In this respect, the ACPR considers that insurers' internal contract monitoring and review procedures could be improved and it therefore encourages insurers to strengthen their review procedures to ensure that the exclusion clauses in their insurance contracts are promptly brought into compliance with positive law.

Source : [Exclusion clauses: ACPR investigation regarding exclusion clauses in non-life insurance contracts](#)

France - Launch of the new ACPR portal

The *Autorité de Contrôle Prudentiel et de Résolution* ("ACPR") has announced the launch of the new ACPR portal to centralise exchanges with supervised entities and replace the Authorisations portal.

In this context, on 21 October 2024 the ACPR has published Instruction 2024-I-11 on exchanges between the ACPR and insurance, reinsurance and supplementary occupational pension undertakings. Reporting entities required to submit information relating to applications for authorisation, declarations or notifications must now do so exclusively via the ACPR portal.

However, Instruction 2024-I-11 does not apply these new requirements to communications already covered by specific procedures, such as those relating to the fight against money laundering and terrorist financing sent before 20 January 2025, requests relating to customer protection, documents or information disclosed during an on-site inspection, and/or to the submission of annual and quarterly documents, the procedures for which are already set out in instructions 2023-I-09, 2023-I-10, 2023-I-14, 2023-I-20, 2024-I-01, 2024-I-02, 2022-I-18, 2022-I-01, 2018-I-20 and 2017-I-11.

Instruction 2024-I-11 is published in the ACPR's official register and will come into force on 2 December 2024.

Source: [Instruction 2024-I-11 on exchanges between the Autorité de contrôle prudentiel et de résolution and insurance, reinsurance and supplementary occupational pension undertakings.](#)

France - Adoption of a CCSF opinion on improving the clarity and strengthening the guarantees of funeral insurance contracts

On 15 October 2024, the *Comité Consultatif du Secteur Financier* ("CCSF") has adopted an opinion on funeral insurance contracts, particularly those taken out by a natural person or as part of a group policy with individual adhesion, and based on "whole life" cover.

The CCSF has identified shortcomings in terms of clarity of the pre-contractual information provided to policyholders.

The opinion adopted by the CCSF therefore proposes the introduction of standardised tables enabling insureds to compare available offers more easily, in particular by specifying the cumulative amount of contributions according to the age at which the policy was taken out and the terms of contributions. The insurers have undertaken to publish these tables on their websites, thereby providing an educational tool that will make it easier for distributors to exercise their duty to advise.

In addition, insurers have also undertaken to limit for new contracts marketed the length of the waiting period to a maximum of one (1) year, to systematically offer an alternative to the lifetime payment of contributions, with at least one option for temporary contributions, to limit contractual exclusion clauses and to explicitly state in the information notice the payment of the surrender value in the event of death falling within the scope of the exclusions mentioned in the funeral insurance contract. Insurers have also undertaken to make it easier to consult Agira's funeral services.

These commitments will have to be implemented by insurers by 1st July 2025 at the latest, and a review of their implementation will be carried out one (1) year later.

Source: [Opinion of the CCSF on improving the clarity and strengthening the guarantee of funeral insurance contracts](#)

France - The DGCCRF calls for consumer vigilance about misleading commercial practices relating to funeral insurance and funeral services

Following on from the CCSF's opinion, on 31 October 2024 the *Direction Générale de la Concurrence, de la Consommation et de la Répression des fraudes* ("**DGCCRF**") has issued recommendations to consumers in light of findings of misleading commercial practices concerning the marketing of funeral insurance products and funeral services.

With regard to funeral insurance contracts, the DGCCRF recommends that consumers inform their relatives of the existence of a funeral insurance contract as soon as they take out the policy; find out about the different types of funeral insurance policies (and the associated payment terms) and; check with the *Association pour la Gestion des Informations sur le Risque en Assurance* ("**AGIRA**") whether a funeral insurance contract has been taken out by the deceased.

Source: [DGCCRF press release calling for consumer vigilance concerning funeral insurance and funeral services](#)

European Union - Publication of an opinion by the European Supervisory Authorities on the European Commission's rejection of the draft implementing technical standards on registers of information

The European Supervisory Authorities ("**ESAs**") have released on 15 October 2024 an opinion addressing the European Commission's rejection of their draft Implementing Technical Standards ("**ITS**") on registers of information under the Digital Operational Resilience Act ("**DORA**"). This ITS was intended to regulate the registers of information that financial entities must maintain regarding their contracts with third-party Information and Communication Technology ("**ICT**") providers. Indeed, in September 2024, based on the principle of proportionality, the European Commission challenged the mandatory use of Legal Entity Identifier ("**LEI**") for third-party ICT service providers of the European Union, arguing that the European providers should have a choice between the use of the LEI and the European Unique Identifier ("**EUID**").

In this respect, the ESAs argue that such choice would increase the complexity and operational burden on financial institutions. Taking into account the European Commission's suggestion to allow a choice between the use of the LEI and the EUID, the ESAs suggest that, if both identifiers are to coexist, preference should be given to the LEI, which is already standardised and widely used across financial sectors.

The ESAs also recommend consistency in identification codes for related ICT providers, emphasizing that further adjustments to the ITS would be needed to effectively incorporate the EUID if the European commission opted to move forward with the EUID.

Furthermore, the ESAs' opinion provides for other technical and editorial amendments taking into account practical feedback received from the "dry run" exercise on the reporting of information registers including both technical changes to the register of information templates and the text of the revised draft ITS.

As a next step, the European commission is expected to publish the revised ITS in the near future.

Source: [European Supervisory Authorities' opinion on the European Commission's rejection of draft implementing technical standards for information registers](#)

European Union – EIOPA publication of the benchmark methodology for unit-linked and hybrid insurance products

On 7 October 2024, the European Insurance and Occupational Pensions Authority ("EIOPA") has published a benchmark methodology for the value for money of unit-linked and hybrid insurance products.

EIOPA suggests categorising financial products in order to obtain indicators based on value for money, so as to be able to establish a common benchmark and facilitate the identification and surveillance of products presenting high risks in terms of value for money by the Competent National Authorities ("NCAs").

The methodology proposed by EIOPA breaks down into three (3) stages:

- *Product features for clustering*: this stage consists of grouping insurance products into groups according to their common characteristics and the needs of policyholders in order to allow consistent comparisons between similar products and thus avoid applying the same criteria to different products due to the great diversity of insurance products within the European market;
- *Value for money indicators*: EIOPA defines indicators on the basis of which value for money benchmarks are calculated, such as entry fees, total cost of the product, yield reduction measures and insurance benefits (*i.e.* the specific benefits associated with the product). According to EIOPA, these indicators allow a transparent and reliable comparison of products for policyholders and will help to identify insurance products that offer little value to policyholders;
- *Setting benchmarks*: EIOPA plans to use existing data such as that collected for its report on costs and past performance to establish and regularly adjust these benchmarks so that they remain relevant to market developments.

It will be adjusted one (1) year after its final adoption and will be reviewed at least every two (2) years until a consistent methodology is developed.

Source: [Publication of the benchmark methodology for unit-linked and hybrid insurance products.](#)

Authored by Ghina Farah and Mohamed Boukesra

- **Intellectual Property**

France – The Conseil supérieur de la propriété littéraire et artistique (CSPLA) launches a mission on architecture and copyright

On October 17, 2024, CSPLA announced that it had entrusted professors Tristan Azzi and Pierre Sirinelli, members of CSPLA, with a [mission concerning copyright and architecture](#). This mission will be assisted by a rapporteur, Pauline Léger, lecturer at the Université Paris-Saclay.

This mission will analyze the main legal issues involved in protecting architects and architectural works with regard to copyright (moral rights and economic rights). It will deliver its conclusions by December 2025.

European Union – Publication of Implementing Regulation 2024/2399 of September 12, 2024 on the introduction of computerized systems in the European Union concerning formalities for customs seizures of counterfeit goods

In order to take account of the introduction of computerized systems in the European Union, [European Commission Implementing Regulation \(EU\) 2024/2399 of September 12, 2024](#) amends Articles 1 and 2 of [Implementing Regulation \(EU\) No 1352/2013 of December 4, 2013](#) laying down the forms provided for in [Regulation \(EU\) No 608/2013 of the European Parliament and of the Council of June 12, 2013](#). These standard forms are intended either for applications to the customs authorities for action on goods suspected of infringing intellectual property rights, or for the amendment of such applications and the extension of the period during which the customs authorities must take action.

European Union - Council of the European Union adopts design reform package

On October 10, 2024, the Council adopted the legislative reform package on EU designs. The legislation comprises two texts: [the recast directive on the legal protection of designs](#), and the [amending regulation on Community designs](#).

After being signed by the President of the European Parliament and the President of the Council, the Directive on the legal protection of designs will be published in the Official Journal of the European Union and will enter into force on the twentieth day following its publication. Member States will have 36 months to take the necessary measures to transpose the directive.

The regulation amending the Community Design Regulation will enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It will be applicable 4 months later.

European Union - Joint EUIPO and Europol report exposes the far-reaching consequences of IP crime in Europe

On October 23, 2024, EUIPO and EUROPOL published a [report](#) highlighting the widespread dangers of intellectual property crime in Europe. The report reveals how, through the steady stream of counterfeit products on the European market, consumers are unknowingly putting their health, safety and the economy at risk.

International - WIPO publishes Global Innovation Index 2024

On September 26, 2024, WIPO published the 2024 edition of the "[Global Innovation Index](#)". It ranks one hundred and thirty-three economies on the basis of seventy-eight indicators, including figures on industrial property titles.

This seventeenth edition shows a decline in some of these indicators, including investment in innovation, venture capital financing, R&D expenditure, international patent filings and scientific publications.

Against this backdrop, Switzerland, Sweden, the USA, Singapore and the UK top the rankings, while China, Turkey, India, Vietnam and the Philippines show the strongest progress over ten years. France, which loses one place to China, regains the position it occupied in 2020 and 2022.

International - Uruguay joins the Patent Cooperation Treaty

In its [press release of October 7, 2024](#), WIPO announces that the Government of Uruguay has deposited its instrument of accession to the Patent Cooperation Treaty (PCT) with the Director General of WIPO. The PCT will enter into force for Uruguay on January 7, 2025.

By joining the PCT, Uruguay will become the 158th member of the PCT Union.

From January 7, 2025, applicants and inventors from Uruguay will be able to file patent applications under the PCT in order to obtain patent protection in PCT contracting states.

Authored by Iris Accary and Laura Chen

- **Public Law**

France – Transports: the French Transport Regulatory Authority strategic orientations for 2024-2029

The French Transport Regulatory Authority ("ART") presented its [strategic plan](#) regarding challenges the transport sector, and transport infrastructures in particular, faces, at its press conference on September 24, 2024. In that respect, the ART has defined four priorities for the period 2024-2029:

- promoting transport infrastructures in line with future needs, through rigorous monitoring of the performance - price and quality - offered by infrastructure managers, and fair treatment of all players;
- ensuring smooth mobility at controlled prices, by removing the barriers to entry faced by transport operators, and by promoting transparency and access to travel information, notably through the development of digital mobility services;
- promoting sustainable mobility, by supporting the development of less polluting modes of transport, environmental pricing and efficient green investments;
- fostering a culture of dialogue and continuous improvement, by maintaining regular exchanges with public authorities, infrastructure managers, carriers and users.

France – Offshore wind energy: updating of strategic façade documents and mapping of priority maritime and land areas

The [planning decision](#) of 17 October 2024 following the public debate “the sea in debate” concerning the updating of the strategic sections of the façade strategy documents and the mapping of priority maritime and land areas for offshore wind energy was published in the OJFR of 18 October 2024. As a reminder, this debate, which was held from 20 November 2023 to 26 April 2024, concerned the planning of offshore wind energy for 10 years and 2050, as well as the updating of maritime façade strategies.

The decision provides for the launch of call for tenders n°10 (“AO10”), which will contribute to the objective of 18 GW of capacity in service for offshore wind power by 2035. Details of the priority areas selected for this tender are available on a [dedicated portal](#).

Secondly, the Government presents the study sectors of the priority areas for the development of “strong protection” of biodiversity at sea identified at the end of the public debate and the mapping of the priority areas for the development of wind-based renewable energy production facilities at sea, also identified at the end of this debate.

France – Renewable energies: clarification of the presumption of imperative major public interest in Corsica and the Overseas in the light of protected species legislation

The [decree no. 2024-899 of 4 October 2024](#) concerning the application of article L. 211-2-1 of the Energy Code in Corsica, Guadeloupe, French Guiana, Martinique, Mayotte, La Réunion and Saint-Pierre-et-Miquelon, published in the OJFR of 6 October 2024, sets the power thresholds above which renewable energy production and hydroelectric storage projects are presumed to fulfil an imperative major public interest allowing derogation from protected species legislation. For example, in these regions, the threshold is 1 megawatt peak for photovoltaics and 7 megawatts for onshore wind power.

Authored by Bruno Cantier, Astrid Layrissé and Joseph Okito

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