

Insights

SRERE, PÈRE AUTHOR ARTICLE IN 'LES ECHOS EXECUTIVES' ON FUTURE OF SETTLEMENT AGREEMENTS

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Washington Partner Mark Srere and Paris Counsel David Père co-authored an article published Jan. 7 in *Les Echos Executives* on the future of settlement agreements (Convention Judiciaire d'Intérêt Public - CJIP) in the French legal and judicial landscape in the light of the American experience.

Srere and Père explain the quasi-systematic American use of the deferred prosecution agreement (DPA), which imposes a settlement agreement on the accused companies to continue to operate, almost without judicial intervention. This systematic use of the DPA has resulted in a tendency for the Department of Justice (DOJ) to dispense with the need to gather sufficient evidence to ensure a conviction in the event of a trial.

In France, more than two years after its entry into force, the CJIP is proving to be a success with more than seven CJIPs signed for nearly 950 million euros in public interest fines for the benefit of the state. The adoption of this tool is not without consequences for our judicial system either, and the temptation is great for magistrates who suffer from a lack of means to propose CJIPs, if they are unable to support a solid prosecution case. Srere and Père point out that it is now more than essential to surround oneself with specialists who are able to assess the appropriateness of a transaction, which is not automatic.

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