

**Decision 2012-04 and 2014-04 bis of 10 January 2013 against Banque populaire Côte d'Azur (anti-money laundering and counter-terrorist financing arrangements and internal control)**

After the Conseil d'Etat repealed, on 11 April 2012, the sanction issued against the institution by the former Commission bancaire (Banking Commission) on 18 December 2009 (a reprimand and a fine of EUR 600,000), on 3 May 2012 the ACP College initiated a new disciplinary proceeding in respect of the same breaches. In its decision, the Committee judged, in particular:

- that it results from a combination of Articles L.612-1, L.612-4 and L.612-26 of the Monetary and Financial Code, stipulating that the ACP is an independent administrative authority with a College and a Sanctions Committee, whose decisions can be appealed before the Conseil d'Etat, and Article L.311-4 of the Administrative Justice Code, stipulating that the Conseil d'Etat's rulings on such appeals are full and final, that even though the Sanctions Committee is organised and functions in a similar way to a jurisdiction, lawmakers did not intend to grant it such status: as such, no priority question of constitutionality may be put to it;
- that even if it had been named in the previous decision, the institution could, without any breach of the double jeopardy rule, have action taken against it and be sanctioned again for the same offences as those that led to the initial sanction, in a public decision, if necessary in non-anonymous format;
- that an inspection of the institution had highlighted numerous deficiencies affecting various essential aspects of AML/CTF, in particular with respect to its reporting and due diligence obligations; that its internal procedures did not put it in a position to meet those requirements; that the implementation of permanent and periodic controls could not, at that date, contribute to a rapid improvement in its organisation in this area; and finally, that a number of reductions in the scope of the violations (relative to those upheld by the former Commission bancaire) and numerous remedial actions undertaken since the inspection justified, however, the decision to hand down a reprimand together with a fine of EUR 500,000 in a decision in which the institution was publicly named.