

Decision 2012-07 of 18 June 2013 against Arca Patrimoine (compliance with requirements in respect of pre-contractual information and advice)

In a decision in which the company was publicly named, the Sanctions Committee handed down a warning together with a fine of EUR 150,000.

In this case, the respondent institution – one of the main insurance brokers selling life insurance policies – was charged with breaching its obligations in respect of pre-contractual information and advice.

In particular, the Committee sanctioned deficiencies in relation to the information gathered on customers' financial position and financial knowledge and the motivation for the advice provided.

It also clarified the obligations incumbent upon the prosecuting authority as regards evidence of the alleged violations: "Whereas it is always up to the prosecuting authority to establish before the Committee the violations it intends to sanction; it should, however, be considered as having fulfilled this responsibility when it provides prima facie evidence making the violation sufficiently likely, if, in response, the prosecuted institution merely denies the allegations without providing any contrary evidence that it has, or should have, in its possession; conversely, such denials may form a sufficient basis to set aside a complaint that relies solely on prima facie evidence if the institution does not, and is not required to, have in its possession contrary evidence."

In determining the sanctions handed down, the Committee took into account actions undertaken by the company to remedy the shortcomings found during the inspection, which it notified to the ACP shortly after the inspection and before the disciplinary proceeding was initiated.