

# TRANSPOSITION IN FRANCE OF DIRECTIVE 2019/1937

FROM THE PERSPECTIVE OF THE FRENCH DEFENDER OF  
RIGHTS

# 1) The French context before the directive was adopted

## 2000-2010 - CRÉATION SECTORAL PROTECTION

- health, environment,
- harassment, discrimination, conflicts of interest,
- French subsidiaries of large listed companies.

→ Various origins: scandales, European directives, Recommendations from the Council of Europe, the OECD and the ECHR.

# The French context before the directive was adopted

## 2016 : a pivotal year in France

- Conseil d'Etat reports: "*Whistleblowing: reporting, handling and protecting*"
- law of 9 December 2016 bearing on transparency, the fight against corruption, and modernisation of economic life
  - general definition of whistleblowers,
  - protection rules (public and private sectors)

# The definition of whistleblower

*“a natural person who has personal knowledge of information that he/believes should be disclosed or reported. This person must consider the facts to be constitutive of:*

*A crime; An offence; A serious and manifest violation of the law or regulations; of an international commitment or a serious threat or prejudice to the general interest”*

# The three step procedure

- **FIRST LEVEL** : reporting to the whistleblower 's employing organisation
- **SECOND LEVEL** : report to the authority deemed appropriate to remedy the misconduct
- **THIRD LEVEL** : make the alert public

e

## 2) The intervention of the directive

### Shortcomings in the implementation of the 2016 text :

- Gaps in the definition (disinterestedness criteria)
- Gaps in the protections
- Gaps the procedural rules (the obligation to go through the first level)

## 3) The transposition of the directive

### Acts and actions

- law of 21 mars 2022 to improve whistleblower's protection
- NEIWA network (Network of European Integrity and Whistleblowing Authorities).

# The transposition of the directive

## Transposition choices

- New rules for all whistleblowers covered by the law of 9 December 2016
- A largest definition of whistleblower
- Protected third parties
- The end of the obligation to go through an internal reporting channel before referring to an external authority
- List of prohibited retaliation measures
- Strengthens of the exemption measures from criminal and civil liabilities

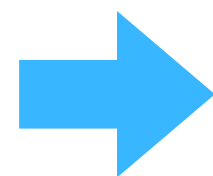


# The transposition of the directive

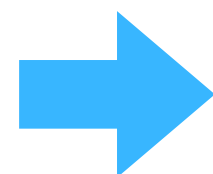
## **New role of the Defender of Rights:**

- redirect requests between external authorities;
- give an opinion (certification) on the status of whistleblower;
- make a report on the overall functioning of whistleblower protection to the President of the Republic and to Parliament.

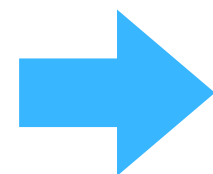
## 4) The aftermath off the transposition



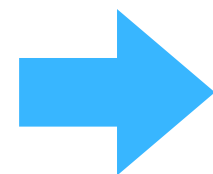
To know



To understand



To implement



To reassure