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## ROLLING OUT YOUR CODE OF ETHICS/ CONDUCT IN FRANCE



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Rolling out your Code of Ethics/Conduct in France may require a bit more work than expected. Here are some key points you should keep in mind to avoid common pitfalls and plan the necessary resources.



## YOU MAY HAVE TO MODIFY YOUR CODE

French law may prohibit certain parts of your Code or require you to add certain obligations. For example, social media or conflicts of interests policies can be challenging because employees' freedom of expression and right to privacy is highly protected in France. You may also need to add local obligations on anti-corruption, money-laundering, psychological harassment, sexual harassment and discrimination. It is therefore crucial that you have local counsel review your Code before rolling it out to your French employees.

**QUICK TIP** the more your Code is detailed, the more likely you will need to adapt. A Code containing only general principles can be easier to roll out with links to more detailed policies adapted to the local legal constraints of each country in which you operate. If your Code does need to be adapted, make sure that you have a version of the Code as applied in France in your local language for your future reference.



## YOUR CODE SHOULD BE TRANSLATED INTO FRENCH

Even if your French employees understand the language in which your Code is written, it is highly recommended to have it translated. This is mandatory for any rules relating to health and safety which your Code will no doubt contain. Also, if you have decided to integrate your Code into your French subsidiary's Internal Work Rules this is mandatory.

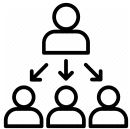
**QUICK TIP** turn this constraint into an opportunity. Get your French subsidiary's management to participate in translating your Code. Not only will this ensure a better translation but it will also create engagement as they will have participated in creating the document.



## YOU MAY HAVE TO ADAPT YOUR WHISTLEBLOWING POLICY

If you have more than 50 employees working in France, you will be subject to the French anticorruption law (“Loi Sapin II”) which namely requires you to have a whistleblowing policy. There are strict rules on what can be reported and how reports must be handled and investigated as well as strict data privacy rules on what data can be collected, used, kept and transferred abroad. You will have to inform and consult the Staff Representatives on this policy (see below).

**Quick Tip** if you are using an external whistleblowing provider, ensure that they are aware and up to date on French regulations.



## YOUR CODE MAY NEED TO BE REVIEWED BY STAFF REPRESENTATIVES AND VALIDATED BY THE LABOUR INSPECTOR

Your French subsidiary may have Staff Representatives (“Comité Economique et Social-CSE”) and/or Internal Work Rules (“Règlement Intérieur”). The contents of the Internal Work Rules are defined by law and namely cover such subjects as health and safety, harassment, discrimination and the company’s disciplinary policy. In principle, you cannot discipline staff for misbehaviour which is not prohibited in the Internal Work Rules. You therefore will probably want your Code to be integrated to these Rules. To do so, you need to inform and consult your Staff Representatives and communicate your Code to the local Employment Tribunal and also to the local Labour Inspector who has the power to impose changes in case of non-compliance with French law.

**Quick Tip** If applicable to your operations in France, do not try to rush through this process as putting pressure on Staff Representatives to give their opinion quickly can be considered a criminal offence.



## YOU SHOULD NOT ASK THIRD PARTIES TO COMPLY WITH YOUR CODE

In France, having employee status offers a high level of legal protection against termination and many benefits. What distinguishes an employee from a contractor/service provider is the level of control the company exerts on their activity and behaviour. Asking a contractor/service provider to comply with your Code could therefore be used to try and obtain employee status.

**Quick Tip** most of your Code can usually be redrafted into a contractor/service provider “code” to be included in their service contract. For suppliers, it is preferable to draft a specific Supplier Code as expectations will not be the same. For example, additional environmental or human rights obligations may need to be added.

*For further advice or additional assistance on ethics and compliance programs, please contact our Ethics, Diversity & CSR Practice: <https://www.flichygrange.com/ethics-diversity-and-csr.htm>*

## ETHICS, DIVERSITY AND CSR PRACTICE

Companies are faced with growing regulation and enforcement with regards business ethics, CSR, diversity & inclusion and data privacy as well as rising stakeholder expectations (NGOs, consumers, candidates, etc.). This requires them to increase their vigilance in these areas and to put into place specific policies and programs.

Our Ethics, Diversity and CSR Practice, composed of specialized lawyers including a former Ethics Officer of a leading multinational, offers solutions which are legally sound and operationally effective, both for French entities but also foreign subsidiaries thanks to L&E, our international network in 29 countries.

The Ethics, Diversity and CSR Practice regularly helps clients—regardless of industry, size and level of maturity—ensure they are both compliant but have also put in place governance systems in line with international best practices.

The Practice namely assists clients in identifying their priorities through anti-corruption (Sapin II), human rights (Vigilance) and data privacy (GDPR) due diligence and assessments, drafting internal policies (Code of Ethics, anti-corruption Code of Conduct, Human Rights policy, anti-discrimination/sexual and psychological harassment policies, IT charters, social media policies, conflict of interests/gift and entertainment registers, supplier codes of conduct). The Practice can also carry out ethics and compliance acquisition due diligence and advise on corporate reporting requirements. Further services include day-to-day support of Ethics, Compliance and CSR teams, management and employee training, whistleblowing lines and internal investigations. The Practice also assist clients in case of legal proceedings or regulatory controls (in particular Labour Inspectorate, Défenseur des Droits—French Ombudsman, CNIL—Data Protection Agency).

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66, avenue d'Iéna - 75116 Paris  
Tel + 33(0)1 56 62 30 00  
contact@flichy.com  
www.flichygrange.com