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## **Enhancing the protection of internal legal advice: A key step to bolster France's and Europe's global attractiveness and competitiveness**

As a leading industrialised nation, France must address its current lack of protection for in-house legal advice. This deficiency has put French companies in a challenging position, making them less effective in addressing potential corruption and, furthermore, has put French companies at a disadvantage in the face of international economic competition. It has exposed them to extraterritorial standards and has brought a risk of having their strategic information exploited during litigation, in particular where the legal departments of their international counterparts enjoy broader protection.

This issue has been criticised, at home and abroad, for making French companies more vulnerable and subjecting them to a less favourable legal environment compared to their global competitors. Consequently, many businesses are considering relocating their legal departments to countries with stronger protections in place. Such relocations threaten the influence and attractiveness of French law, potentially leading to the displacement of legal decision-making centres and a loss of influence for the French legal community in Europe and beyond. Companies cannot fully integrate with the local legal system while knowing that relocation can become a potentially reasonable decision for the business. Similarly, it becomes harder to convince expanding businesses to choose countries like France as a potential option for opening new branches.

The French Ministry of Justice has realised the necessity of having a globally competitive system in this scope. It currently is developing a proposal supported by AFJE, Cercle Montesquieu, and Paris Place de Droit. The proposal aims to protect legal opinions by attaching the confidentiality to the document itself, rather than the author's status. This would enable companies to maintain confidentiality, subject to judicial discretion during seizure, or opt to waive it as needed.

The proposed protection potentially brings numerous benefits, including:

1. Levelling the playing field for French companies against their international competitors.
2. Safeguarding the influence and attractiveness of the French legal community.
3. Enhancing corporate anti-corruption efforts, ultimately improving France's position in international rankings.
4. Providing effective protection against extraterritorial investigations by foreign authorities, which often target large French companies.

ECLA has long stood for the right of protection of legal advice given by in-house lawyers – it stands as the foundation on which the Association is built and supports our core goals – to lessen the functional differences between external and internal counsel, and to bring legal clarity to Europe that would effectively increase the competitiveness of the Internal Market, especially when concerned with litigation with international counterparts. We commend AFJE Cercle Montesquieu, and Paris Place de Droit in supporting this initiative and are willing to provide any support necessary.