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PRATT'S
**PRIVACY &
CYBERSECURITY
LAW**
REPORT



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France Formally Adopts Legal Privilege for Consultations By In-House Lawyers

*By Delphine Michot and Jean-Yves Garaud**

In this article, the authors discuss a new French law that extends legal privilege to in-house lawyers.

The French Senate has approved a bill¹ extending the scope of legal privilege to consultations of in-house lawyers for the first time (the Bill).

This landmark reform will make France one of a handful of European Union Member States to extend legal privilege to in-house lawyers, and marks the end of a long-standing debate in France regarding the scope of legal privilege.²

Following its approval, the Bill was validated by the French Constitutional Council.

The entry into force of the Bill requires the publication of an application decree, and orders detailing the technical requirements of the Bill, including the ethics training requirements that will be applicable to in-house lawyers.

THE LEGISLATIVE PROCESS IN FRANCE AND THE ENTRY INTO FORCE OF THE BILL

The Bill³ was adopted by the National Assembly on April 30, 2024, and subsequently approved by the Senate in identical terms earlier this year.

Article 4 of the Bill provides that entry into force shall occur on a date to be set by subsequent decree, and shall occur at the latest one year after promulgation.

In addition, in order for the confidentiality regime under the Bill to become effective, two joint orders of the Minister of Justice and the Minister of Economy are required, to set out the technical requirements of the Bill in two respects:

- The ethical training requirements that in-house lawyers must receive. The content of this joint order will be determined based on the proposal of a

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¹ Bill on the confidentiality of consultations of in-house lawyers, dated January 14, 2026, available at <https://www.senat.fr/petite-loi-ameli/2025-2026/261.html>.

² While the text of the Bill is now final, the Minister of Justice has indicated that “specific adjustments” may be made shortly via upcoming legislative proposals, such as the anti-fraud bill expected to be reviewed by the Senate in February 2026.

³ Bill on the confidentiality of consultations of in-house lawyers, dated January 14, 2026

commission, the composition and operating procedures of which are to be established by decree in due course; and

- A list of the degrees or qualifications required (equivalent to the French master's degree in law), which will allow in-house lawyers to be eligible to benefit from the confidentiality regime.

At this stage, no timetable has been established for the publication of these implementing measures.

THE REQUIREMENTS FOR LEGAL CONSULTATIONS PREPARED BY IN-HOUSE LAWYERS TO BENEFIT FROM LEGAL PRIVILEGE

The Bill establishes specific conditions that must be met in order for legal consultations prepared by in-house lawyers to benefit from legal privilege.

A. Requirements Relating to the Author

Legal Qualification

To benefit from legal privilege, the legal consultation must be drafted by an in-house lawyer, or by a member of their team acting under their authority, who meets specific qualification requirements.

The general rule requires the author to hold a master's degree in law, or an equivalent French or foreign diploma, the list of which remains to be set.

The Bill also sets out equivalence mechanisms for professionals already in practice. In particular, individuals who do not hold a master's degree in law may nonetheless qualify if they:

- Hold certain recognized degrees or titles (including a *maîtrise* or completion of the first year of a master's program in law);⁴ and
- Can demonstrate at least eight years of professional legal practice within the legal department of one or more companies or public entities.

Ethical Training Requirement

In-house lawyers must demonstrate that they have completed training in ethical rules. The content of the ethical training requirement remains to be determined.

⁴ Article 2 of the Bill provides that professionals who have validated the first year of a second-cycle program leading to a national master's degree in law, or holders of titles or diplomas recognized as equivalent by joint order of the Minister of Justice and the Minister responsible for universities who can demonstrate, as of the date of entry into force of this law, at least eight years of professional practice within the legal department of one or more companies or public administrations, are considered to hold a master's degree in law.

Territorial Application

While the Bill does not expressly define its territorial scope, the confidentiality regime is structured around the status and professional qualifications of the in-house lawyer and the conditions attached to the protected consultation. In practice, this will primarily concern in-house lawyers based in France or whose employment relationship is governed by French law, without the Bill expressly providing for such a territorial limitation.

B. Requirements Relating to the Protected Documents*Nature of the Documents*

Only “legal consultations,” which are defined as “a personalized intellectual service aimed at providing an opinion or advice based on the application of a legal rule,” will benefit from legal privilege under the new framework.⁵

This legal privilege will extend to successive drafts or versions of a given legal consultation.⁶

Mandatory Identification and Labelling

To benefit from legal privilege, the consultation must explicitly bear a label that states: “confidentiel – consultation juridique – juriste d’entreprise.”⁷

The consultation must also clearly identify its author and be subject to specific filing and classification procedures within the company’s records and, where applicable, within the records of other group entities receiving the consultation.

The Bill provides for criminal sanctions in the event of fraudulent designation of a legal consultation as confidential, punishable by up to one year’s imprisonment and a fine of €15,000.⁸

C. Requirements Relating to Recipients

To benefit from legal privilege, the legal consultation must be addressed exclusively to one or several of the following recipients:

- The legal representative of the company, their delegate, or any other management, administrative or supervisory body of the company employing the in-house lawyer;
- Any entity providing advice to the management or to the administrative or supervisory bodies of the company employing the in-house lawyer;

⁵ Article 1. 1° I. 4°.

⁶ Article 1. 1° I. 5°.

⁷ Article 1. 1° I. 5°.

⁸ Article 1. 2°.

- The management, administrative or supervisory bodies of the company that controls⁹ the company employing the in-house lawyer; or
- The management, administrative or supervisory bodies of subsidiaries controlled¹⁰ by the company employing the in-house lawyer.

SCOPE AND EFFECT OF LEGAL PRIVILEGE

A. Principle and Exceptions to Non-Seizability of Privileged Consultations

The primary effect of the privilege regime is that protected consultations cannot be seized or discovered by the authorities, except:

- in criminal and tax matters; or
- by European Union authorities, including the European Commission, when exercising their investigative or supervisory powers.¹¹

Privileged consultations may also not be relied upon by third parties in civil, commercial, or administrative proceedings.

The company remains free, however, to waive legal privilege voluntarily, in whole or in part, if it considers it strategically appropriate to produce a legal consultation.

B. Invoking the Privilege of a Legal Consultation

When an investigative measure is conducted in a civil or commercial dispute, or when a dawn raid is conducted in the context of administrative proceedings, the Bill establishes a specific procedure for the treatment of legal consultations:

- Only a judicial officer (commissaire de justice) may seize the disputed consultation;
- The seizure of the consultation takes place in the presence of (i) a representative of the company, and (ii) the claimant or the authority in the relevant proceedings;
- The disputed consultation is immediately placed under seal by the judicial officer, who draws up minutes of these operations; and
- The seal and minutes are kept in the judicial officer's office.

⁹ Within the meaning of Article L. 233-3 of the French Commercial Code.

¹⁰ Ibid.

¹¹ Article 1. 1° II.

The authority or the claimant in the relevant proceedings has 15 days to challenge the privileged nature of the consultation. In the absence of any such challenge, the company then has 15 days to seek restitution of the documents under seal, failing which, the judicial officer will proceed to destroy the documents in question.¹²

C. Procedure for Challenging or Lifting Privilege

In civil or commercial discovery measures, any party may challenge the alleged privilege of one or more legal consultations by initiating summary proceedings (*référé*) before the president of the court that ordered the investigative measure, within 15 days from the implementation of that measure.¹³

In inspections or dawn raids by administrative authorities, the relevant authority may refer the matter to the Judge of Freedoms and Detention (*Juge des Libertés et de la Détention* or JLD) within 15 days, either to challenge legal privilege or to seek the waiver of privilege where the consultation allegedly facilitated or encouraged regulatory breaches. Decisions of the JLD are subject to appeal before the First President of the Court of Appeal, who must rule within three months. By contrast, the Bill does not expressly provide for an appeal mechanism against decisions rendered by the judge overseeing civil investigative measures.¹⁴

In all cases, the company employing the in-house lawyer must be represented by a lawyer in proceedings relating to the contestation or lifting of confidentiality.

In all matters, when a challenge occurs:

- As soon as the judicial officer is informed, it must promptly transmit to the court registry (*greffe*) the document(s) under seal together with the minutes of operations.
- The judge then opens the seal in the presence, of (i) a representative of the company and, (ii) of the claimant or the administrative authority. After adversarial debate, the judge rules on the challenge and the waiver of legal privilege:
 - If the judge grants the request to challenge/lift confidentiality, the disputed consultations are produced in the proceedings.
 - If the judge does not grant it, they are returned without delay to the company.¹⁵

¹² Article 1. 1° III. A.

¹³ Article 1. 1° III. B.

¹⁴ Article 1. 1° III. B.

¹⁵ Article 1. 1° III. C to E.