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The road to legislative hell is paved with good... ideological... intentions

The publication in the Official Journal of the Law dated April 16, 2013 on the independence of expertise in health and environmental matters and on the protection of *lanceurs d'alerte*^[1] (the “Law”) went almost unnoticed in the maelstrom of irrational violence that dominated the world headlines in the past few weeks.

Yet, it provides the most radical environmental activists with new weapons in their fight against entire industrial sectors such as chemistry, agrochemistry, biotechnologies or even the nuclear industry. That is bad news for the Minister for Industrial Renewal who will have a terrible time curbing the relocation of production tools and the brain drain.

Let everyone form his/her opinion.

First, the language of the Law itself. The objective of the Law is to protect the *lanceur d'alerte*, a term that appeared in France in the 1990's to refer, in a heroic tone, to a new race of resistance fighters, primarily researchers at the CNRS (French National Center of Scientific Research) or at other public bodies having problems with their superiors.

Pursuant to Article 1 of the Law “*any individual or legal entity has the right to publicize or to spread in good faith a piece of information concerning a fact, a data or an action, insofar as the ignorance of that fact, data or action seems to him/her/it to pose a risk to public health or the environment*”.

No doubt that the assessment of the “*good faith*” by the judge will vary according to circumstances. And the expression “*seems to him/her/it to pose a risk*” will be relied upon to justify many errors and inaccuracies.

Once considered outcasts, these *lanceurs d'alerte*, the rigor of whose works is often challenged by the scientific community, have now become untouchable.

The employee is also granted a right to whistleblowing. And if he/she exercises such right, he/she will be afforded protections that will be denied to his/her more timid colleagues. Henceforth, *“no individual can be denied access to a recruitment procedure, an internship or a professional training session, nor be punished or be subjected, directly or indirectly, to discriminatory measures, especially concerning remuneration, treatment, training (...) for having recounted or testified in good faith, either to his/her employer or to the judicial or administrative authorities, facts related to a serious risk to public health or the environment that he/she may have become aware of while performing his/her duties.”*

The employer should experience the greatest difficulty in proving that his decision has no connection with the employee’s “revelations” on a hypothetical risk to public health or the environment.

The employee *lanceur d’alerte* will thus become a sacred cow.

The *Front de Gauche*, another minority component of the left-wing coalition, had, for its part, managed, with the help of socialist senators, to have the French Senate adopt a Bill that would have granted amnesty for facts committed during labor protests and industrial or trade-union actions.

Under this Bill, would have been automatically amnestied all offenses punishable by up to five years of imprisonment, perpetrated by individuals and legal entities *“in connection with industrial protests or during trade-union or industrial agitations conducted by employees, public agents, including during street demonstrations or demonstrations in public places (...), collective industrial, associative or trade-union movements, relating to issues associated with housing problems (...).* » The Bill stipulated that an amnestied person would have had the right to be reinstated in the job he/she used to hold prior to his/her dismissal or in an equivalent job.

Even better, for a period of 12 months as from his/her reinstatement, he/she would have benefited from the protection afforded by law to trade-union representatives. Some sort of bonus awarded to perpetrators of amnestied crimes and denied to their less virulent workmates.

The National Assembly was supposed to review and discuss the Bill on April 24. Under the pressure of the Government, the Law Commission rejected at the very last minute all the articles of the Law that had been adopted a few weeks earlier by the Senate.

Contrary to the environmentalists, the last proponents of class struggle should not, this time, have their own heroes.

The Government will now be able to care for the entrepreneurs and the producers. They create jobs.

[1] French cousin concept of “whistleblowers”, meaning literally the shot putter of alerts.



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