

A review of director liability in France

June 2020

Daphné Moutardier, Counsel
Joseph Srouji, Avocat à la Cour

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Introduction

Director liability is a hot topic. Legal action against company management is increasingly the norm, bringing to light often flagrant abuses of company power and resources. As this storm continues to rage company directors are on the front line. Their powers are grouped into two realms: internal – to effectively manage a company on a day-to-day basis – and external – to represent the company before partners and other stakeholders. These powers are shaped and limited by general provisions of company law, company bylaws as well as the general notion of acting in the company's best interest. What are the risks of overstepping these limits?

We will begin our analysis with a high-level overview of how a company director can incur civil liability and then focus on the criminal liability aspects (uniquely considering French legal provisions, which are similar in many respects with other civil law jurisdictions in the EU). We avoid the extreme cases as played out under the Ghosn affair and instead stay focused on the average company director generally operating in good faith but who may not be fully aware or simply underestimate the risks inherent in his or her position.

We will also share a case of how a company director can face criminal liability for data protection violations – the General Data Protection Regulation (GDPR) is not just about significant administrative fines. No analysis would be complete with a mention of the impacts of Covid-19 so we have also included a brief section that highlights the issues that may face as part of the current health crisis.

For the sake of simplicity, we will focus on two common commercial limited liability companies under French law: the *Société à responsabilité limitée* (SARL) and the *Société anonyme* (SA). Generally speaking, this covers the small, family-run company compared to a big, multinational, respectively.

PART I

I. The case of civil liability

A. Company and its shareholders on the attack

1. *La faute de gestion*

There are primarily three reasons in which a director may be held liable to the company or its shareholders¹: 1) an infringement of legislative or regulatory provisions; 2) an infringement of the company's bylaws or 3) mismanagement or *faute de gestion*.

The first two are fairly straight-forward but the third one – *faute de gestion* – requires particular attention, especially since it's a gray area in which the limits have been largely shaped by case law.

Determining if a director has committed such a fault requires the courts to weigh the criteria of prudence, diligence and business activity. The fault may be intentional or caused by carelessness or simple negligence, which is often assessed in light of the company's corporate interest: do the actions or inactions of the director go against the company's interest? Decisions rendered by the French Supreme Court (*Cour de cassation*) provide insight.

For example, the qualification of mismanagement could be retained in the case of passive management when the business is operating at a loss.² There could also be mismanagement in the event of incomplete financial documentation³ or of failure to fulfil contractual obligations towards a contracting partner.⁴

2. Shareholder action

Shareholder action aims to repair the damage suffered by the company and restore its balance sheet. It may take two forms.

The first is initiated by the company itself, known under the social action *ut universi* and carried out by the company's legal representatives. Since a director would not normally initiate legal action against him or herself, this scenario is instead intended to be used by a new director taking aim at the faults committed by the former director (rarely used in practice).

The second type can only be initiated by the company shareholders: known as *ut singuli* shareholder action.⁵ This action must meet a specific legal requirement: for a SARL, the shareholders must represent at least 10 % of the company's share capital; for an SA, the

¹ Article L223-22 paragraph 1 (SARL) and article L225-251 (SA) of the French Commercial Code

² Com. 5 juin 1961

³ Com. 12 octobre 1993, n°91-17629

⁴ Com. 20 janvier 2015, n°13-28521

⁵ Article L223-22 paragraph 3 (SARL) and article L225-252 (SA) of the French Commercial Code

shareholders must represent at least 5 % of the share capital. In addition, any clause in the company's bylaws that would make such action subject to prior notice or authorisation by a shareholder meeting would be considered null and void (for the obvious reason that the company directors would not be able to block shareholders from taking action since the directors would usually convoke a shareholder meeting).

In the event the company director is eventually found guilty of a *faute de gestion*, then any monetary damages awarded would go directly to the company's social capital (and could potentially take the form of a dividend if agreed by company management).

3. Individual action by a shareholder

Shareholders may also initiate legal action on a personal level. There is one requirement, however: they must be able to demonstrate a personal harm distinct from that suffered by the company.

For example, the loss in value of shares as a result of the reduction in the share capital is not considered to be a separate personal loss.⁶ On the other hand, a shareholder of a company who has been induced to invest in the securities issued by the company and to hold them following false, inaccurate or misleading information provided by the directors⁷ would be considered as a personal injury. A fine line.

B. Company vs director liability

In principle, in the event of harm suffered, an interested party would have to take legal action against the company as opposed to against the company director or directors. Only as an exception to the rule may the director be specifically singled out for personal liability.

For a director to face personal liability it must be proved that he or she has committed a fault separate from his or her duties. This key distinction of separate misconduct was introduced by the Commercial Chamber of the *Cour of Cassation* from a 20 May 2003 decision: "The director intentionally commits a fault of a particularly serious nature incompatible with the normal exercise of social functions."⁸

For example, such conduct would include a director who resells a vehicle to the buyer of his company, whereas the vehicle was leased (with an option to purchase) and should have been returned to the leasing company.⁹ The same applies to a director who allows an employee to use a vehicle without insurance and without informing him.¹⁰

If an interested party cannot demonstrate the existence of separate fault, then the only option is to initiate legal action against the company as a corporate entity. But in this (more

⁶ Com. 12 juin 2012, n°11-14.724

⁷ Com. 9 mars 2010, n°08-21.547

⁸ Com. 20 mai 2003, n°99-17092

⁹ Com. 15 mars 2017, n°15-22889

¹⁰ Com. 4 juillet 2006, n°05-13930

common) scenario, the company could then take legal action against its director for mismanagement.

C. Statute of limitations

The statute of limitations for director liability claims is 3 years starting from when the harmful event or its disclosure is revealed. This limitation period may extend to 10 years if the acts committed by the director are qualified as a crime.¹¹

PART II

II. The director and criminal liability

The protection that a limited liability company may offer a director for civil matters is much less of a shield when it comes to criminal liability. Article 121-2 of the French Criminal Code says that legal persons, excluding the State, are criminally liable for offences committed, for their benefit, by their organs or representatives and that the criminal liability of legal persons does not exclude that of natural persons who are perpetrators of or accomplices to the same acts.

Thus, companies as legal entities could be held criminally liable as well as the natural person – company director or directors – for the same offence. While there are many scenarios in which a company director could be held criminally liable, we will only focus on general considerations to keep in mind (with a special focus on tax fraud as a novelty offence). We will also look at employment and labour issues that directors should be aware of, as highlighted recently by the landmark France Télécom case, as well as the impact of the health crisis in 2020 on managerial responsibility.

A. Avoiding criminally liability

1. Infringements relating to the parent company's financial statements

a. Inaccurate presentation or publication of accounts

The presentation or publication of inaccurate accounts is an offence under Articles L241-3 3° (SARL) and L242-6 2° (SA) of the French Commercial Code.

Article L123-14 of the same Code states that the annual accounts must be regular, sincere and give a true and fair view of the company's assets, financial position and results. If this obligation is not respected, the director could incur up to 5 years' imprisonment and a fine of €375,000.

¹¹ Article L223-23 (SARL) and article L225-254 (SA) of the French Commercial Code

The annual accounts comprise the balance sheet, the income statement and the annotations, forming an inseparable whole. The *Cour de cassation* recalls this in a judgment of 25 February 2009¹² when it ruled in favour of the Grenoble Appeal's Court, which had imposed a suspended fine of €10,000 on a chairman of a management board. At a board meeting, the latter had presented incorrect annual accounts, in particular because the appendix included provisions for risk and expense, which were much lower than the amount of the contribution requested by the employment tax authority URSSAF (€45,575 of provision instead of the actual accrued liability of €644,233).

While such an offence may cause tangible harm to the legal entity and shareholders, it should also be noted that other stakeholders may also be impacted. Such was the case illustrated by a 25 June 2013 ruling¹³ in which the *Cour de cassation* struck down the ruling of the Investigation Chamber which had declared inadmissible the submission of a civil claim for damages by a company which had leased premises to another company and which had granted the associated company delayed payments of unpaid rent on the basis of falsified balance sheets. In a 2019 judgment,¹⁴ the *Cour de cassation* declared that this infringement could cause personal and direct damage to a banking institution that had granted financial assistance on the basis of the accounts submitted to it.

b. Failure to publish annual accounts

According to Articles L232-22 and L232-23 of the French Commercial Code, companies in the form of a SARL and SA are required to publish their annual accounts. In practice, the annual accounts must be filed with the official government registry within one month of their approval.

Although this seems to be a simple formality, failure to comply with this obligation is punishable by criminal penalties: Article R247-3 of the same Code provides that this offence is punishable by a fifth-class fine (i.e. a maximum of €1,500 or even €3,000 in the event of a repeat offence).

If the accounts are not registered, Article L123-5-1 of the French Commercial Code provides that any interested party may ask the president of the Commercial Court to appoint an agent to carry out this formality. The *Cour de cassation* ruled that this request may be made by any person without any particular interest.^{15 16}

An exception to this obligation exists, however: Article L232-25 of the same Code specifies that *microenterprises* may request that the accounts not be made public. As such, small companies (with modest turnover) may request that the income statement not be made public; furthermore, medium-sized companies may request that only a simplified presentation of their balance sheet and annotations be made public.

¹² Crim. 25 février 2009, n°08-85596

¹³ Crim. 25 juin 2013, n°12-86.659

¹⁴ Crim. 29 janvier 2019, n°17-86974

¹⁵ Crim. 3 avril 2012, n°11-17.130

¹⁶ Crim. 6 décembre 2005, n°04-13.873

2. Offences relating to property, company funds

a. Abuse of property and social credits

This offence, which is found in Articles L241-3 4° (SARL) and L242-6 3° (SA) of the French Commercial Code, was created following the a case known as the Stavisky scandal: in the 1930s, Alexandre Stavisky set up a scam of counterfeit savings bonds and debt securities in the name of Crédit municipal de Bayonne, an establishment specialising in pawnbroking.

The offence consists of making use of the company's property, or credits, contrary to the company's interest, for personal purposes, or to favour a company in which the person has a direct interest (the person runs the risk of 5 years' imprisonment and a fine of €375,000).

The term "credit" here refers to the meaning of "trust," which would damage the company's reputation. The notion of "property" includes all tangible or intangible elements of the company's assets. As for the "social interest," there is no legal definition so it is up to the courts to define what would or would not be contrary to the company's social interest.

The below is a sampling of offences involving the abuse of property and social credits:

An act that damages the company's assets and impoverishes without consideration may qualify. A 2010 judgment¹⁷ of the Criminal Chamber of the *Cour de cassation* illustrates this example well: in this case, the CEO of a company (*société anonyme*) paid significant sums to a limited liability company, which he also managed, in exchange for "assistance" services that never took place. The director had also transferred the shares held by the company to another company managed by his brother, through a seller's loan that was never paid.

The fact that the company runs an abnormal risk may also qualify. The *Cour de cassation* considers that exposing the company's assets to an unjustified risk is contrary to the company's interest. This is the case of a director who decides to conceal part of his company's sales activity, in effect resulting in an "abnormal risk of criminal or tax sanctions," and that it is not justified that the proceeds of these operations be used solely in the company's interest.¹⁸

A recent story is also illustrative: in April 2019, the director Christian Pellerin was sentenced by the Nanterre Criminal Court to a 2-year suspended sentence and a €350,000 fine for abuse of property and social credits. Interestingly enough some 20 years earlier, his company SCI Trapèze sold land and building rights to another SCI in which he had a financial interest of more than 65 million francs (about €10,000,000), whereas the SCI Trapèze had acquired them the same day for 84 million francs (about €13,000,000). At the same time, SCI Trapèze granted a building lease to a subsidiary of a company which he also chaired.

b. Breach of trust

¹⁷ Crim. 24 février 2010, n°08-87.806

¹⁸ Crim. 6 avril 2016 n°15-81.859

Breach of trust is a crime found in Article 314-1 of the French Criminal Code, and therefore could be applied to company directors. It is defined as the act by a person of embezzling, to the detriment of others, funds, securities or any property given and accepted by him or her for the purpose of returning, representing or making a specific use of them. The second paragraph of this article states that the offence is punishable by three years' imprisonment and a fine of €375,000.

A breach of trust may occur when a person is given property and has accepted it. This property, given for a specific purpose, may be a sum of money, or more generally something of value, that can be appropriated. This notion of property is therefore to be interpreted broadly.

For example, the Criminal Chamber of the *Cour de cassation* held¹⁹ that the fact that an employee browses pornographic websites at the workplace while using the internet connection provided by the employer can be qualified as a breach of trust.

The property involved in this offence may also be intangible. This is the case with customers: the *Cour de cassation* recalled in a judgment of 22 March 2017²⁰ that the latter constitutes an important element of a commercial company's business, because it has a patrimonial value, an element that can be transferred but also diverted.

The breach of trust can materialise when property is misappropriated, and the misappropriation depends on what was agreed at the time of delivery. This may be a personal appropriation of the property, a refusal to return the property or simply a failure to comply with the use initially agreed.

As an example, the Court of Appeal of Amiens²¹ affirmed the judgment of the Criminal Court of Amiens of 24 February 2005, which sentenced two persons, one to 1 year's suspended imprisonment and a fine of €15,000, the other to 12 months' imprisonment, including 6 months' suspended imprisonment and a fine of €20,000. The present case concerned two sisters, one a director of a limited liability company and the other a de facto director of another company. The offences of breach of trust and receiving goods resulting from a breach of trust were constituted because the defendants misused the electronic payment terminal which had been entrusted by La Poste to the limited liability company, in the context of local operations. In reality, remote operations were carried out for the second company, for amounts far exceeding the sums for which the electronic payment terminal had been authorised.

B. The *Verrou de Bercy*: the new horizon of fiscal responsibility

Tax fraud has emerged in France as the new risk for directors.

Criminal penalties for tax fraud were previously subject to a special regime: a complaint from the tax authorities was required before any criminal investigation could be taken (in

¹⁹ Crim. 19 mai 2004, n°03-83953

²⁰ Crim. 22 mars 2017, n°15-85929

²¹ Cour d'appel d'Amiens, CT0074, 29 mars 2006

the form of an authorisation by the Commission of Tax Offences (*Commission des Infractions Fiscales*, or CIF)). This much criticized requirement, known as the "*le Verrou de Bercy*" (literally the "lock" of the French Tax Ministry). Its longevity was explained by the fact that the tax administration actually had the power to negotiate financial transactions with the accused.

In order to make this measure more flexible, a 2018 law on the fight against fraud²² broke this monopoly of the tax administration by requiring it to forward cases relating to tax adjustments exceeding €100,000 or fraud cases with high penalties directly to the public prosecutor, without seeking the opinion of the CIF.²³

The French Constitutional Council (*Conseil Constitutionnel*) declared this measure constitutional on 27 September 2019.²⁴ The Council of State (*Conseil d'Etat*), on 2 July 2019, sent the Constitutional Council (also referred to as "the Council of Wise Men") a preliminary ruling on constitutionality (*Question Prioritaire de Constitutionnalité*), a question raised by the AFEP, the association for the defence of the interests of private companies, which considered that this provision did not respect the principle of equality before the law.

Thus, since last year, directors are more likely to be prosecuted for tax fraud offences for the sums declared during their term of office.²⁵

The offence of tax fraud is provided for in Article 1741 of the French General Tax Code, and is punishable by 5 years' imprisonment and a fine of €500,000, or 7 years' imprisonment and a fine of €3,000,000 if the acts were committed in an organized group. The amount of the fine may be increased to twice the proceeds of the offence, and that tax penalties may be imposed in addition to these criminal penalties.

C. The criminal liability of directors in labour law: the case of psychological harassment and France Télécom

The criminal responsibility of directors exists in a completely different field: labour law. This is the case of psychological harassment, prohibited by Article L1152-1 of the French Labour Code, and the sanction of which is found in Article 222-33-2 of the French Criminal Code: the employer may incur up to 2 years' imprisonment and a fine of €30,000.

Such an offence may be constituted regardless of the hierarchical relationship within the company. Thus, any person may be subject to the offence, regardless of their position or function in the company. Senior directors may therefore be prosecuted for complicity in psychological harassment suffered by employees, even if they were not under their responsibility at the time of the events.

²² Loi n°2018-898 du 23 Octobre 2018 relative à la lutte contre la fraude

²³ Article L228 du Code Général des Impôts

²⁴ Cons. Const. n°2019-804 DC du 27 septembre 2019 QPC

²⁵ Crim. 2 mars 1987, n°85-93947

The *Cour de cassation* had the opportunity to recall this in a France Télécom case of 2018.²⁶ In this case, two company directors were prosecuted for complicity in psychological harassment during a time in which the telecoms company was desperately trying to modernise the company to make it more competitive (which involved significant layoffs coupled with an aggressive weeding out of unproductive staff). Both contested the decision, which was validated by the investigating chamber, and confirmed by the *Cour de cassation*: it did not matter whether the victims had been relieved of their management duties or whether the damage claimed had occurred after one of them had left office.

The defendants were considered to have participated in the implementation of a company policy, i.e. by participating in round tables, in the coordination of the actions and solutions of the programme set up for the transformation of France Télécom, which would have had an impact on the situation of all the group's employees.

Thus, France Télécom as a legal entity, the former CEO of the company Didier Lombard and six other managers of the company were charged with multiple counts of psychological harassment or complicity to psychological harassment. The Criminal Court heard the defendants and the victims or victims' families for more than two months. On July 11, 2019, the prosecutor's office recommended the maximum penalty: €75,000 against France Télécom, and one year's imprisonment and €15,000 in fines against the former CEO, his former right-hand man and the former HRD.

On Friday 20 December 2019²⁷, three of defendants and former France Telecom executives, including Didier Lombard, were found guilty of institutional psychological harassment and sentenced to one year in prison, eight months of which were suspended, and fined €15,000. The company was fined €75,000, the maximum penalty allowed the other defendants were found guilty of complicity in harassment. The decision is currently under appeal.

D. Data Protection law: new obligations on the director

While rare in practice, it is also possible for a company director to be convicted of committing the offence mentioned in Article 226-18 of the French Criminal Code, which is collecting personal data by fraudulent, unfair or unlawful means. This offence is punishable by five years' imprisonment and a fine of €300,000.

On 14 March 2006, the Criminal Division of the *Cour de cassation*²⁸ had the opportunity to confirm the decision of the Paris Court of Appeal of 18 May 2005, which fined the director of a company €3,000 for having implemented two software programs allowing the registration of electronic addresses of individuals, appearing in the public space of the Internet, and subsequently sending them advertising messages. In particular, the director was accused of having used the data collected for purposes unrelated to the purpose of putting them online, and of not having obtained the consent of the data subjects.

²⁶ Crim. 5 juin 2018, n°17-87.524

²⁷ TGI Paris, 32^e ch., 2^e sect, 20 décembre 2019, n°0935790257

²⁸ Crim. 14 mars 2006, n°05-83.423

This decision was handed down in accordance with the Directive 95/46/EC of 24 October 1995, the alleged acts having been carried out in 2002. With the entry into force of General Data Protection Regulation in May 2018²⁹, it is likely that such an offence would be more severely sanctioned. Indeed, the objective of the new regulation is to introduce greater accountability of companies and directors responsible for ensuring compliance. This goes hand in hand with greater diligence in data security, data documentation, and increased penalties for non-compliance with the applicable rules.

E. Covid-19 Health Crisis: A risk of criminal liability cases

1. Non-compliance with the provisions concerning the short-time working scheme

Short-time working can be set up by the employer under certain conditions³⁰ and can be³¹:

- a decrease in the company's activity (working hours practiced in the establishment below the legal working hours) during which the employee's initial working time is divided in two:
 - non-working hours during which the employment contract is suspended;
 - hours worked.
- a total and temporary closure of the company: the employee is 100% off work, the employment contract is fully suspended.

For hours off work, the employee is paid an hourly allowance by the employer corresponding to 70% of gross pay³². The latter will receive an allowance financed by the State and the unemployment insurance scheme, corresponding to 70% of the gross hourly pay of employees³³, depending on the number of hours of unemployment per employee declared.

The hours worked will be paid at their "normal" rate by the employer who will not be able to benefit from an allowance for these hours.

Thus, if an employer declares that the hours actually worked by the employees are not worked, this constitutes concealed work³⁴, and may be punished by three years' imprisonment and a fine of €45,000. In addition to the additional penalties provided for,³⁵ the employer may also be asked to reimburse in full the sums received as partial unemployment and be prohibited from receiving public aid for employment or vocational training for a maximum period of 5 years.

In addition, other cases of fraud may exist, such as claims for reimbursement intentionally increased in relation to the amount of wages actually paid, or claims for compensation for

²⁹ Règlement (UE) 2016/679 du Parlement européen et du Conseil du 27 avril 2016 relatif à la protection des personnes physiques à l'égard du traitement des données à caractère personnel et à la libre circulation de ces données, et abrogeant la directive 95/46/CE (règlement général sur la protection des données).

³⁰ Article R5122-1 du Code du travail

³¹ Article L5122-1 du Code du travail

³² Article R5122-18 du Code du travail

³³ Articles R5122-12 et D5122-13 du Code du travail

³⁴ Article L8221-5 du Code du travail

³⁵ Article L8224-3 du Code du travail

the partial activity for hours when the employee was on leave or special category leave days known as “RTT.”

In this case, Article 441-6 of the French Criminal Code would apply³⁶ which punishes attempts to obtain undue payment from a public person with 2 years' imprisonment and a fine of €30,000.

In France, more than 990,000 companies have made use of this system, affecting more than 12 million employees. In order to avoid abuses, the government has announced that reinforced controls will take place at the end of the state of health emergency.

2. Failure to comply with the obligation to ensure the safety and health protection of employees³⁷
 - a. Sanctions directly related to non-compliance with obligations to ensure the safety and health of employees

The employer must implement measures to protect their employees, such as:

- Legal obligations: ventilate the premises³⁸ or allow employees to take meals in premises other than those where they work³⁹ etc;
- Measures to respect the barrier actions advocated by the government: reject employees who may have been exposed to the virus; impose teleworking for employees when possible; provide employees with hydro-alcoholic gel, masks and gloves etc.

The context of the current health crisis has encouraged complaints against directors for having disregarded this obligation to ensure the safety and health protection of employees. What are the possible consequences?

First of all, sanctions for non-compliance with safety rules are provided for in Articles L4741-1 of the French Labour Code and following. The employee can also use his or her right of withdrawal and/or has the possibility of holding the employer liable for inexcusable fault.⁴⁰ If this fault is proven, the employee may be granted compensation.

However, this requires proving that 1) the director was or should have been aware of the danger to which the employee was exposed in the company 2) did not take the necessary measures to protect the employee. If for the latter the employer shows that the necessary measures have been taken, the inexcusable fault will not be retained⁴¹.

- b. The emergence of director liability on the basis of an unintentional offence

³⁶ Article L5124-1 du Code du travail

³⁷ Article L4121-1 du Code du travail

³⁸ Article R4222-4 du Code du travail

³⁹ Article R4228-19 du Code du travail

⁴⁰ Article L452-1 du Code de la sécurité sociale

⁴¹ Soc. 22 septembre 2016, n°15-14.005

Thus, it is noted that the most commonly used basis for complaints against directors during the health crisis is the *mise en danger de la vie d'autrui*,⁴² which translates as placing another's life in danger. An unintentional offence, initially created to increase repression, the Criminal Code punishes both if the fault has caused damage (considered as an aggravating circumstance) and if it has not. In the latter case, only risk-taking is sanctioned.

Thus, Article 223-1 of the French Criminal Code defines this offence as the fact of directly exposing another person to an immediate risk of death or injury likely to cause mutilation or permanent disability by manifestly deliberate breach of a particular duty of care or safety imposed by law or regulation. The penalty is one year's imprisonment and a fine of €15,000.

However, it is complicated to prove certain elements of the offence: how to prove the deliberate intention to breach a particular duty of care or legal or regulatory safety requirement? How can we determine with certainty the causal link between a death due to the virus and the lack of action taken by the employer when the virus infection may have occurred outside the workplace?

In any event, and certainly to avoid too many complaints based on unintentional offences, the parliament wished to recall that, in the event that a director is accused on the basis of Article 121-3 of the French Criminal Code, the judge, when assessing the director's competences, powers and means, must take into account the health context.

As a reminder, Article 121-3, paragraph 3, of the French Criminal Code provides that it is also an offence, where the law so provides, in the event of imprudence, negligence or failure to comply with an obligation of prudence or safety laid down by law or regulation, if it is established that the perpetrator did not take due care, taking into account, where appropriate, the nature of his duties or functions, his competence and the power and means at his disposal.

Thus, the Act of 11 May 2020⁴³ amended Article L. 3136-2 of the French Public Health Code to specify that the Article 121-3 of the French Criminal Code shall be applicable taking into account the competence, power and means available to the perpetrator in the crisis situation that justified the state of health emergency, as well as the nature of his or her missions or functions, in particular as a local authority or employer.

⁴² Article 223-1 du Code pénal

⁴³ Loi n°2020-546 du 11 mai 2020 prorogeant l'état d'urgence sanitaire et complétant ses dispositions