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French Corporate Duty of Vigilance Law

French Corporate Duty of Vigilance Law, in force as of 27 March 2017, requires parent companies which meet the relevant criteria to establish, publish and implement a "vigilance plan" to prevent, mitigate and remedy human rights violations and environmental risks arising from their own business activities and those arising throughout their global value chains.

The Law Applies to Companies:

- Based in France

  and
- Employing at least 5,000 employees in France, including through their direct and indirect subsidiaries

  or
- Employing at least 10,000 employees worldwide, including through their direct and indirect subsidiaries.

5,000 Employees → France

or

10,000 Employees → Worldwide

Risks to be Identified by Companies:

- Human Rights Violations
- Violation of Fundamental Freedoms
- Serious Bodily Injuries
- Environmental Damages
- Health Risks

In the scope of the Law, these risks may arise directly or indirectly from the operations of:

- the relevant companies,
- their subsidiaries (including transnational ones) and/or
- their subcontractors or suppliers with whom the companies have an "established commercial relationship"

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Human Rights Due Diligence Obligations in the Law

The Law mainly focuses on the creation and implementation of a UNGP based vigilance plan to identify and prevent aforementioned risks. According to the Law, the vigilance plan must include:

- An assessment and prioritisation of risks concerning third party harms that may arise from business activities
- A risk mapping and regular risk assessment concerning the business activities of subsidiaries, subcontractors or suppliers with whom the company maintains an established commercial relationship
- Appropriate actions to prevent, mitigate or remedy potential or actual risks and violations
- An alert and complaints mechanism developed in collaboration with other stakeholders.
- A monitoring mechanism to follow up on the measures implemented and to assess their efficiency

According to the Law, the vigilance plan and its effective implementation report shall be publicly disclosed and included in the company's annual management report.

Consequences of Failure to Comply

- Any concerned party may file a complaint about the company before the court, and
- the company will be given formal notice to comply with its vigilance obligations within a three-month period.
- If non-compliance persists, the court may oblige the company to publish a plan and impose periodic penalty payments.

Specific reference is made to Articles 1240 and 1241 of French Civil Code on extra-contractual liability for damages resulting from failure to comply with legal obligations

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