Reading the French 2017 corporate-duty-of-vigilance legislation

Development: 2017-03-27

Independent historical commentary. This is not the former publisher's PDF or a recovered translation.

A document-specific account of France's 2017 duty-of-vigilance law, its plan requirements, enforcement route and the distinction between retained duties and a censured fine proposal.

The statute and its scope

Law 2017-399 of 27 March 2017 established a duty-of-vigilance framework for covered large companies. The French Treasury's contemporaneous explanation described the threshold as at least 5,000 employees in France or 10,000 worldwide. The law requires a vigilance plan and its effective implementation. The enacted law is the primary text; the Treasury explanation provides a historical account of its reach and operation. The 2017 explanation is not itself the statute.

A connected plan, not a single checklist

The statutory plan brings several functions together: risk mapping; regular assessment of subsidiaries and relevant subcontractors and suppliers; measures to prevent or mitigate serious harms; an alert mechanism established in consultation with representative trade unions; and monitoring of implementation. These elements connect identification to response and review. The law thus describes a continuing process across specified business relationships, rather than a one-time statement of policy.

Our analysis: The sequence matters to how the obligation is read. Mapping identifies where risks may arise; assessment and mitigation respond to those risks; union-consulted alerting and monitoring create routes for information and follow-through. Treating any one component as the whole duty would obscure the statute's linked design.

Formal notice and judicial enforcement

The law provides a route in which a person with an interest may formally put a company on notice to meet its obligations. If the company does not comply, a court may be asked to order compliance, including under a penalty payment. That injunction route is distinct from a damages claim under ordinary civil-liability rules. The statute's enforcement structure therefore does not make every alleged failure an automatic payment to claimants. The law's text sets out the plan and enforcement provisions.

What did not survive constitutional review

The Constitutional Council censured the proposed civil fines attached to breaches of the plan duty. The plan and the possibility of civil liability remained. The Treasury's May 2017 explanation records that distinction, which is important when describing the legislation's consequences. The Treasury's historical account helps separate the enacted duties from the removed fine proposal.

Our analysis: Reading the statute together with that contemporaneous explanation prevents two opposite errors: treating the censured fine as operative, or assuming that removal of the fine erased the plan duty and other routes to judicial enforcement. This note is a new account of the legislation, not the original explanatory guide or a

recovered PDF.

Original sources and reporting

France: Law 2017-399 of 27 March 2017 on the corporate duty of vigilance
https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626

French Treasury: explanation of the 2017 duty-of-vigilance law
https://www.tresor.economie.gouv.fr/Articles/2017/05/09/devoir-de-vigilance-des-societes-meres-et-des-entreprises-donneuses-d-ordre

HTML note: https://bhrinlaw.org/articles/french-vigilance-law-document-2017/