

Article 1

After Article L. 225-102-3 of the Trade and Industry Code, an Article L. 225-102-4 shall be inserted reading as follows:

"*Art. L. 225-102-4. – I. – Any company that at the end of two consecutive financial years, employs at least five thousand employees within the company and its direct and indirect subsidiaries, whose head office is located on French territory, or that has at least ten thousand employees in its service and in its direct or indirect subsidiaries, whose head office is located on French territory or abroad, must establish and implement an effective vigilance plan.*

"The controlled subsidiaries or companies that exceed the thresholds mentioned in the first paragraph are deemed to satisfy the obligations laid down in this Article from the moment that the company which controls them, within the meaning of Article L. 233-3, establishes and implements a vigilance plan for the company's operations, as well as the operations of all the subsidiaries or companies that it controls.

"The plan shall include the reasonable vigilance measures to allow for risk identification and for the prevention of severe violations of human rights and fundamental freedoms, serious bodily injury or environmental damage or health risks resulting directly or indirectly from the operations of the company and of the companies it controls within the meaning of Article L.233-16, II, as well as from the operations of the subcontractors or suppliers with whom it maintains an established commercial relationship, when such operations derive from this relationship.

"The plan shall be drafted in association with the company stakeholders involved, and where appropriate, within multiparty initiatives that exist in the subsidiaries or at territorial level. It shall include the following measures:

"1° A mapping that identifies, analyses and ranks risks;

"2° Procedures to regularly assess, in accordance with the risk mapping, the situation of subsidiaries, subcontractors or suppliers with whom the company maintains an established commercial relationship;

"3° Appropriate action to mitigate risks or prevent serious violations;

"4° An alert mechanism that collects reporting of existing or actual risks, developed in working partnership with the trade union organizations representatives of the company concerned;

"5°(new) A monitoring scheme to follow up on the measures implemented and assess their efficiency.

"The vigilance plan and its effective implementation report shall be publicly disclosed and included in the report mentioned in Article L. 225-102.

"A Council of State decree can add to the vigilance measures laid down in 1° to 5° of this Article. It can specify the modalities for elaborating and implementing the vigilance plan, within multiparty initiatives that exist in the subsidiaries or at territorial level where appropriate.

"II. – When a company does not meet its obligations in a three months period after receiving formal notice to comply with the duties laid down in I, the relevant jurisdiction can, following the request of any person with legitimate interest in this regard, urge said company, under financial compulsion if appropriate, to comply with its duties.

"An application may be made to the president of the court, ruling in interlocutory proceedings, for the same purpose.

Article 2

After the same Article L. 225-102-3, an Article L. 225-102-5 shall be inserted reading as follows:

"Art. 225-102-5. – According to the conditions laid down in Articles 1240 and 1241 of the Civil Code, the author of any failure to comply with the duties specified in Article L. 225-102-4 of this code shall be liable and obliged to compensate for the harm that due diligence would have permitted to avoid.

"The action to establish liability shall be filed before the relevant jurisdiction by any person with a legitimate interest to do so.

"The court may order the publication, distribution or display of its decision or an extract thereof, in accordance with its procedures. The costs shall be paid by the person convicted.

"The court may order its decision to be carried out under financial compulsion."

Article 3

{Non conformed}

Article 4

Articles L. 225-102-4 and L. 225-102-5 of the Trade and Industry Code, in their current wording resulting from this Law, shall apply from the report mentioned in Article L. 225-102 of the same Code on the first open financial year after the publication of this Law.

Notwithstanding the first paragraph of Article 4, for the financial year during which the present Law has been published, article L. 225-102-4, I of said Code shall apply, with the exception of the report provided for in its second to last paragraph.

Deliberated in public session, Paris, 29 November 2016.