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French Judges Rule on Corporate Duty of Vigilance Obligations

Minding Your Business on **August 5, 2025**

- The new Paris Court of Appeal chamber specializing in "emerging litigation (i.e., Chamber 5-12, which held its first hearings in March 2024) issued a ruling on June 17, 2025, in the so-called *La Poste* case (No. RG 24/05193), in a dispute between the company La Poste and the workers' trade union Sud-PPT.
- This ruling is the first substantive decision based on the Duty of Vigilance Law (Law No. 2017-399 of March 27, 2017), which was enacted after the Rana Plaza collapse.
- The Duty of Vigilance Law requires large French companies to establish, implement, and publish a vigilance plan aimed at identifying and preventing risks of human rights and fundamental freedom violations, environmental harm, and threats to health and safety. It applies not only to the companies' own activities, but also those of their subsidiaries, subcontractors, and suppliers with whom they have an "established commercial relationship."
- The Sud-PPT trade union had challenged La Poste's compliance with the Duty of Vigilance Law, claiming that portions of La Poste's vigilance plan "turned a blind eye" to subcontractors' use of undocumented workers for certain La Poste subsidiaries.
- This appellate ruling validates the methodological criticisms made when Sud-PPT sued La Poste before the Paris Court of first instance in 2021.
- Companies within the scope of the duty of vigilance legislation are receiving clarity (eight years after enactment of the law) on what is expected from their internal processes in order to be compliant.

Judicial Criticism of the Methodology Used for Vigilance Plans

The first-instance decision, upheld on appeal, highlights the importance of risk mapping (and the proper methodology for risk mapping). The Paris Court of Appeal emphasized that risk mapping is "*at the forefront of the measures to be included in a company's vigilance plan*." This analysis is reminiscent of the obligations and recommendations stemming from the Sapin II Law, which requires large companies to implement anti-corruption compliance programs.

Judges added that the risk mapping methodology must allow for the assessment of actual and potential risks as well as for their prioritization, particularly by including a severity criterion. Moreover, risks must not be described in overly general terms, as it was done by La Poste in its 2021 plan.

Since risk mapping is considered the “fundamental” cornerstone of the vigilance plan, suppliers and subcontractors’ evaluation mechanisms must align with the specific risks identified in the mapping exercise. This reasoning also applies to the monitoring system implemented for vigilance measures, which depends on the results of the risk mapping and the related actions.

Building a Whistleblowing Mechanism Through Concertation

This case also allowed the Paris Court of Appeal to clarify how companies should demonstrate that their whistleblowing and reporting mechanism was established properly in concertation with trade unions and representative organizations. Unlike simple consultation, concertation implies the sharing of information and an exchange of views and proposals before the mechanism is developed.

In this case, La Poste had the burden of proof regarding such concertation. The evidence showed that the company had adapted its existing whistleblowing mechanism to include alerts regarding new obligations under the Duty of Vigilance Law. And the company only provided slides used in a meeting (a diagram), without more detailed evidence (e.g., meeting minutes) of any concertation process. Therefore, it failed to demonstrate that it had implemented a new whistleblowing and reporting mechanism in concertation with representative trade unions. This highlights the importance for companies to maintain traceability of their compliance efforts.

Helpful Clarifications in an Uncertain Context

The Paris Court of Appeal explicitly referenced the need to align analyses with the provisions of the proposed Corporate Sustainability Due Diligence Directive (“CS3D”), whose transposition deadline has been postponed. However, this directive is under significant debate within various “omnibus” packages (aimed at “simplifying reporting and due diligence rules” for European companies and “boosting” EU competitiveness), and may be substantially amended.

Meanwhile, in the United States, a Republican senator introduced a bill in March 2025 “to prohibit entities integral to the national interests of the United States from participating in any foreign sustainability due diligence regulation, including the CS3D.”

One thing is certain: whether through future rulings from Chamber 5-12 of the Paris Court of Appeal, at the European level, or internationally, human rights and environmental compliance will remain a hot topic.

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