

OSCE Conference “The Public-Private Partnership in the Fight Against Human Trafficking”

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*Panel 2 - International and national norms and practices. The government role and responsibility to prevent and combat THB*

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(Check against delivery)

Strengthening the Public-Private Partnership in the Fight Against Human Trafficking and more broadly in the protection of human rights, has been a deep concern in France for the last five years.

To pursue this goal, progress has been made both at the legislative and institutional levels:

**I. Major legislative reform : the due diligence law, 27th March 2017**

The draft law on the due vigilance of parent companies was adopted by the parliament on February 2017. Its goal is to give greater responsibility to large firms in order to avoid human rights and environmental violations in France and abroad. It requires an assessment and mitigation of human rights infringements and environmental risks regarding their activities and those of the whole supply chain, though the establishment of a “vigilance plan”. It aims at promoting decent work and, as a consequence, punishing all forms of trafficking for labour purposes and child labour.

**Origins:** This law was introduced in reaction to the Rana Plaza disaster, in which a building gathering several textile factories had collapsed in Bangladesh. This accident resulted in the death of 1 138 people. It has been demonstrated that those factories were subcontractors of many western brands, notably French businesses. One of the

objectives of this law was to target companies in high-risk sectors, such as the manufacturing – notably textile– and extracting sectors.

**International Context** : the adoption of this law is in line with the 2011 “United Nations’ guiding principles on business and human rights” as well as the Due Diligence concept covered within ILO, G7 and G20 discussions and OCDE, disseminated materials around decent work and supply chains. Due diligence is also present in resolutions of the Council of Europe and in debates on a binding UN international treaty on companies and human rights.

It fits in a European context in constant evolution where other similar initiatives have been put in place in neighbour countries, such as in:

- The United Kingdom: 2015 Modern Slavery Act obliges companies to make a statement on "slavery and human trafficking". By January 2017, more than 10,153 English companies had registered their statements on an open data site.
- The Netherlands: are currently passing a bill on due diligence and child labor.
- Italy: the Government announced in December 2016 that it would carry out legal clarifications with a view to introducing a duty of due diligence.

**Business concerned:**

- Companies having their head office in France, with at least 5 000 employees in their head office and in their direct and indirect subsidiaries.
- Companies having their head offices are located in France or abroad, with at least 10 000 employees in their head office and in their direct and indirect subsidiaries.

**Object:** Nearly 200 entities are concerned, which represents 2/3 of international trade by French companies, and will have to put in place effectively a "plan of vigilance" including:

*"Reasonable vigilance measures to identify risks and to prevent serious violations of human rights and fundamental liberties, affecting health and safety of people as well as the environment, resulting from the activities of the company as well as those of*

*their subsidiaries and suppliers with whom they had established business relationship."*

The plan, which is being developed by companies with their stakeholders will contain at least:

- Risks mapping,
- Regular procedure for evaluating the situation of subsidiaries and subcontractors,
- Appropriate actions to mitigate risks or prevent serious damage,
- Warning and collection mechanisms for reports on the existence or the realization of risks, drawn up in consultation with the trade union organization,
- Monitoring mechanisms on the implemented measures, assessing their effectiveness,

The vigilance plan and the report on its effective implementation will be made public.

**Business risks in case of non-compliance:**

- Formal notice to respect their obligations and injunction made by a court,
- Civil liability engaged in case of damage and seek for compensation if it is proven the business has not taken appropriate measures to prevent it,
- Reputational risks in particular through the publication, distribution or display of the decision or an excerpt of the decision.

It has to be noted that the law establishes an obligation of means and not an obligation of results.

The publication of the vigilance plan and the reporting on its implementation of the vigilance plan remains the best way to prove its good faith in the performance of the due diligence.

The existence of damage does not ipso facto prove the ineffectiveness of the plan of vigilance or its poor execution.

II. Institutional level: the recent legislative progress are embedded in several public policies in order to ensure its implementation and hence better prevent THB for labour purposes :

✓ In the framework with the national action plan against THB (2014-2017) and the national plan to combat illegal employment (2016-2018), the conclusion of a partnership agreement between professional organizations, trade unions and consular chambers in order to sensitize the business community on the consequences of the use of forced labor or the employment of victims of THB is expected by the end of this year. It mainly consists in implementing awareness raising measures (posters, leaflets) in businesses and producing materials to train employees and employers and reaffirming the commitment of the State and the business community in the prevention and the fight against of THB.

✓ The adoption in April 2017 of the National Action Plan for the Implementation of the United Nations Guiding principles on Business and Human rights. This plan was drawn up by the inter-ministerial working group lead by the French Ambassador on charge of Social Corporate responsibility, based on the orientations of the CNCDH and the CSR Platform, which I will develop a little later. It reflects several commitments of the State such as:

*- Monitoring the implementation of the law on the duty of vigilance of companies*

*- strengthening vigilance, particularly in sectors and countries at risk in the field of human rights.*

*- raising awareness within French companies on their obligations in the exercise of the duty of care on mineral supply chains, on the basis of relevant regulatory initiatives (eg, European Mining Conflict Regulation...).*

*- strengthening the training of employees on human rights and business issues*

✓ Since 2013, the National Platform for CSR, set up at the request of representative organizations of employers, employees and civil society was established by the Prime Minister in June 2013 as a forum for dialogue and consultation involving the various actors (Representatives of companies, employees, associations and NGOs, multi-stakeholder structures, etc.), and representatives of public authorities (central administrations, parliamentarians, local authorities, etc.). Its role is to "Issue opinions on the matters referred to the platform (eg. national action plan, due vigilance law...) and make recommendations on the social, environmental and governance issues raised by corporate social responsibility". A working group was launched in 2016 entitled "Responsible relations between mother companies and suppliers" which will devote its work to the definition and development of the content of due diligence measures or due diligence procedures to be implemented by Companies.