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Sustainability in practice



113
members
97 of which are French



13%
of the French
employees

13%
of the
GDP

78%
of the market
capitalisation

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Agenda

Commission action plan on financing sustainable growth: *Action 10*

1. Development of a sustainable strategy along the supply chain (eg. The French law on the duty of care)
2. Clarify the rules to which directors are expected to act in the company's long term interest
3. Invite ESAs to collect evidence of undue short term pressure from capital markets on corporations (eg. Shareholder activism)

Proxy Advisors

Action 10 : Study on due diligence requirements through the supply chain

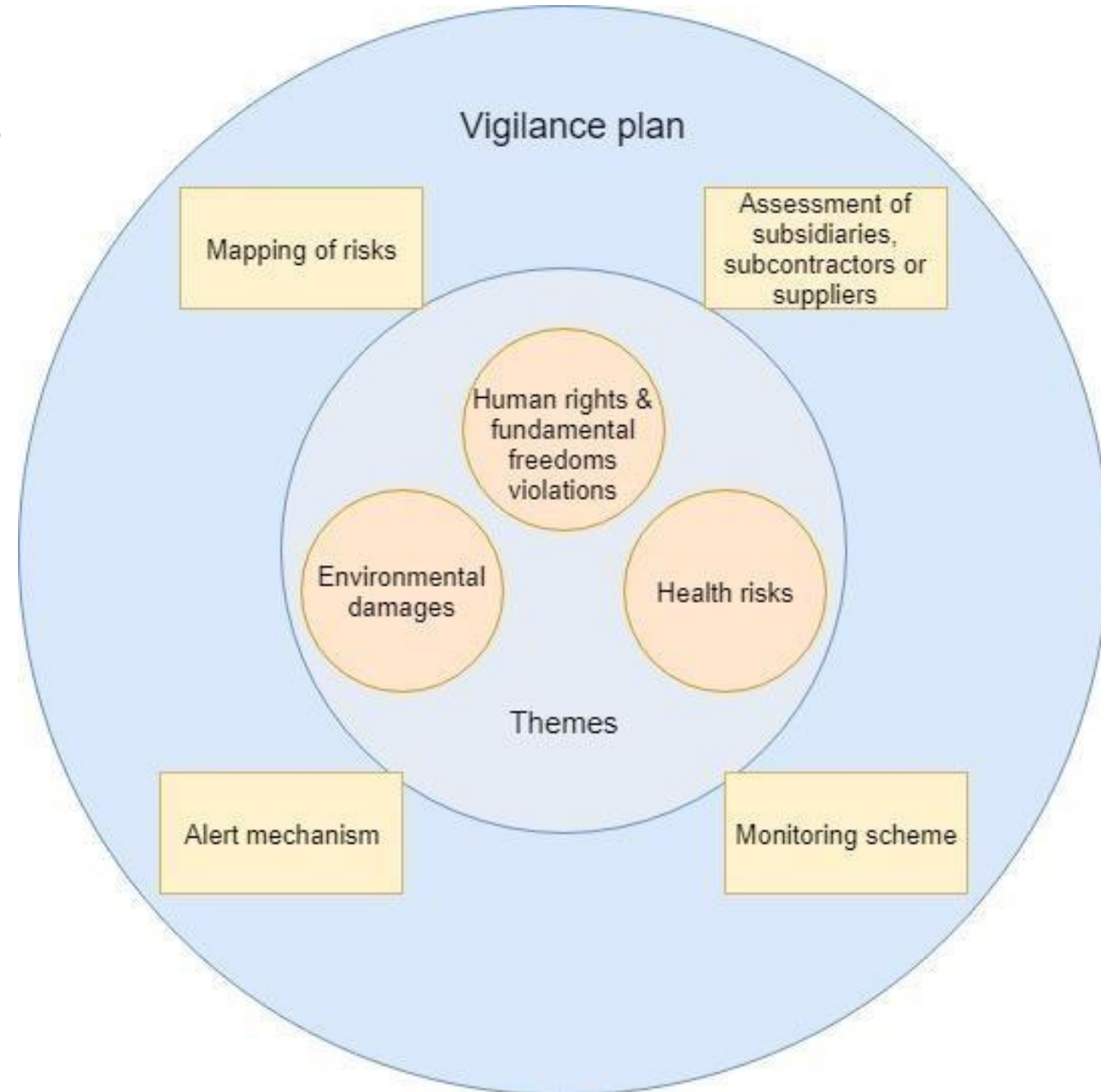
The Commission evaluates the following options :

- New voluntary guidelines
- New obligations for companies to report on due diligence throughout the supply chain
- New regulation requiring businesses to undertake mandatory due diligence

Afep opposed to the introduction of a European Duty of Vigilance and favours EU guidance drafted in collaboration with EU companies and endorsing internationally recognized standards

1. French law on the duty of care of parent companies along the supply chain

- The law requires companies to establish a vigilance plan which includes measures to allow for risk identification and prevention (i) severe violations of human rights and fundamental freedoms, (ii) health risks and (iii) serious environmental damages.
- The law provides that the vigilance plan includes a mapping of risks, regular assessment of subsidiaries, subcontractors or suppliers, an alert mechanism and a monitoring scheme.
- It provides sanctions such as the company's liability if the vigilance plan is not robust enough to avoid the risk.



The main problems which derive from the law are the following :

- The law does not define the precise rules and the normative reference frame.
- The law does not define the scope of the value chain (Tier 1 or the entire value chain).
- Despite the lack of clarity of the legal framework, companies are facing huge responsibilities.
- The legislation raises competition issues, as foreign companies which import goods will not be subject to the same obligations.



2. Clarify the rules to which directors are expected to act in the company's long term interest

Recent modification of the French civil code and commercial code :

- The company is managed in its social interest, by taking into consideration the social and environmental issues of its activities.
- The possibility to include the company's purpose (*raison d'être*) in its bylaws: the "purpose" is constituted of the principles which the company is endowed with and for the respect of which it intends to allocate means in the performance of its activity.

CSR issues are at the heart of the Board of Directors' concerns, but companies must not be diverted from their primary purpose of generating value and making profits.

There is no need to consider a European directive or regulation. Soft law should be preferred.

3. Invite the ESAs to collect evidence of undue short term pressure from capital markets on corporations : shareholder activism

Active funds	Activist funds
<ul style="list-style-type: none">• Can have a positive effect on disciplining boards and management• Remain in the framework of customary relations and generally respect the established governance	<ul style="list-style-type: none">• Use aggressive methods undermining the balance of powers and shareholder democracy• Characteristics:<ul style="list-style-type: none">• Minority shareholding (generally through derivatives)• Challenge the governance, the scope of activities and/or the economic performance• Short-term profit motive• Sometimes use speculative methods (short-selling) coupled with massive securities lending and borrowing operations

Proxy Advisors

- We cannot deny Proxy advisors provide useful services to investors.
- The market is dominated by 2 major players: ISS and Glass Lewis.

3 major problems can be identified :

- The formulation of their policies should be better suited to the local legal context.
- The quality of dialogue with issuers should be improved.
- Conflicts of interests should be better managed :
 - when they develop consulting services at the same time as they offer voting recommendations ;
 - when they develop voting systems (robot voting)