

Corporate Sustainability Due Diligence

2022/0051(COD) - 23/02/2022 - Legislative proposal

PURPOSE: to lay down an EU legal framework on sustainable corporate governance, including cross-sector corporate due diligence along global value chains.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: EU companies operate in complex surroundings and, especially large ones, rely on global value chains. Given the significant number of their suppliers in the Union and in third countries and the overall complexity of value chains, EU companies, including the large ones, may encounter difficulties to identify and mitigate risks in their value chains linked to respect of human rights or environmental impacts.

Identifying these adverse impacts in value chains will become easier if more companies exercise **due diligence** and thus more data is available on human rights and environmental adverse impacts.

A number of Member States have already introduced national rules on due diligence and some companies have taken measures at their own initiative. However, there is need for a larger scale improvement that is difficult to achieve with voluntary action.

CONTENT: the proposed Directive will set out a **horizontal framework** to foster the contribution of businesses operating in the single market to the respect of the human rights and environment in their own operations and through their value chains, by identifying, preventing, mitigating and accounting for their adverse human rights, and environmental impacts, and having adequate governance, management systems and measures in place to this end.

Subject matter

The proposal lays down rules on obligations for companies regarding actual and potential human rights adverse impacts and environmental adverse impacts, with respect to their own operations, the operations of their subsidiaries, and the value chain operations carried out by entities with whom the company has an established business relationship and on liability for violations of the obligations mentioned above.

In order to comply with the corporate due diligence duty, companies need to:

- integrate due diligence into policies;
- identify actual or potential adverse human rights and environmental impacts;
- prevent or mitigate potential impacts;
- bring to an end or minimise actual impacts;
- establish and maintain a complaints procedure;
- monitor the effectiveness of the due diligence policy and measures;

- and publicly communicate on due diligence.

Scope

The proposed Directive shall apply to companies which are formed in accordance with the legislation of a Member State and which fulfil one of the following conditions:

EU companies:

Group 1: all EU limited liability companies of substantial size and economic power (with 500+ employees and EUR 150 million+ in net turnover worldwide).

Group 2: Other limited liability companies operating in defined high impact sectors, which do not meet both Group 1 thresholds, but have more than 250 employees and a net turnover of EUR 40 million worldwide and more. For these companies, rules will start to apply 2 years later than for group 1.

Non-EU companies active in the EU with turnover threshold aligned with Group 1 and 2, generated in the EU.

SMEs are not directly in the scope of this proposal however they could be impacted by its provisions as contractors or subcontractors to the companies which are in the scope. Therefore, the proposal includes, accompanying measures, which will support all companies, including SMEs, that may be indirectly affected. Measures include the development of individually or jointly dedicated websites, platforms or portals and potential financial support for SMEs.

Monitoring

Companies should monitor the implementation and effectiveness of their due diligence measures. They should carry out periodic assessments of their own operations, those of their subsidiaries and, where related to the value chains of the company, those of their established business relationships, to monitor the effectiveness of the identification, prevention, minimisation, bringing to an end and mitigation of human rights and environmental adverse impacts. Such assessments should verify that adverse impacts are properly identified, due diligence measures are implemented and adverse impacts have actually been prevented or brought to an end. In order to ensure that such assessments are up-to-date, they should be carried out at least every 12 months and be revised in-between if there are reasonable grounds to believe that significant new risks of adverse impact could have arisen.

Directors' duty of care

Member States should ensure that, when fulfilling their duty to act in the best interest of the company, directors of companies take into account the consequences of their decisions for sustainability matters, including, where applicable, human rights, climate change and environmental consequences, including in the short, medium and long term.

European Network of Supervisory Authorities

The Commission should set up a European Network of Supervisory Authorities that will bring together representatives of the national bodies, in order to ensure a coordinated approach and enable knowledge and experience sharing.

Fines

Member States should supervise that companies comply with their due diligence obligations. They could impose fines to companies, or issue orders requiring the company to comply with the due diligence obligation.

It is particularly important to enable **victims** to obtain compensation for damage. Therefore, the proposal will also give those affected by harm the opportunity to hold companies to account. This means that victims will have the possibility to bring a civil liability claim before the competent national courts.