

The new European Directive on Corporate Sustainability Due Diligence

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Today, on Wednesday, 23 February 2022, the European Commission released its highly anticipated [Draft Directive on Corporate Sustainability Due Diligence](#), also known as the mandatory human rights and environmental due diligence Directive (mHREDD). This is a historic moment for the field of business and human rights, ESG and the strive towards sustainable and responsible business conduct that upholds respect for human rights, decent work and environmental standards throughout the entire global value chain.

The Directive is based on the BIICL-led [Study on due diligence requirements through the supply chain](#) (the EC study), published on 24 February 2020, exactly two years minus one day before the Draft Directive. This has also been followed by a [Draft Directive](#) of the European Parliament calling for such a law, in March 2021.

The EC study underlined the limited uptake of voluntary due diligence expectations by companies in Europe: Just over one-third of business respondents indicated that their companies undertake due diligence which takes into account all human rights and environmental impacts, and for the vast majority of these, the due diligence exercise was limited to first tier suppliers. It also highlighted the appetite for regulation at the EU level across stakeholders, including companies themselves: 70% of business respondents anticipated that the introduction of mandatory human rights and environmental due diligence at the EU level (mHREDD) would benefit business insofar as it would increase legal certainty, avoid fragmentation by creating a unified standard at the EU level rather than a plethora of diverging standards at the domestic level, and provide a level-playing field. The Draft Directive responds to these findings in its objectives and articles.

In this briefing, we set out a few selected aspects of the draft law. [Click here](#) to read the briefing.

Key overview points include:

- The Draft Directive sets out duties for companies to undertake due diligence for actual or potential adverse human rights and environmental impacts in their own operations, those of their subsidiaries and in their value chains. It follows broadly the concepts set out in the UN Guiding Principles on Business and Human Rights (UNGPs).
- It applies to certain large European and non-European companies that operate in the single market, and within two years will expand to mid-cap companies that operate in certain 'high impact' sectors;
- It provides for administrative oversight by public bodies, which includes powers to investigate and impose sanctions.
- It provides for civil remedies for victims.
- It sets out obligations for large companies with respect to combating climate change.
- It sets out provisions in relation to voluntary model contractual clauses, public support by Member States, and directors' duties.

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