

Towards New Human Rights and Environment Due Diligence Laws: Reflections on Changes in Corporate Practice

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HREDD laws - i.e. laws that require companies to carry out a HREDD process - are already in place or in development across a growing number of countries, particularly in Europe. Alongside CSOs, increasingly, businesses are calling for 'effective' [HREDD legislation](#). In 2017, France adopted the [duty of vigilance law \(DVL\)](#), the first HREDD law, and in 2023 the German Supply Chain Due Diligence Act (LkSG) came into force. In June 2024, after more than two years of legislative journey, the EU adopted the [Corporate Sustainability Due Diligence Directive \(CSDDD\)](#), which will introduce HREDD requirements for large companies operating in the EU. Hundreds of businesses [have supported](#) the adoption of the CSDDD. As HREDD is moving from voluntary expectation of business responsibility to mandatory requirement, businesses have continued advancing their HREDD process and related corporate practice. Companies and their legal advisers are already taking steps towards implementation of upcoming requirements under the CSDDD. Our study, published in October 2024, provides reflections on changes in corporate practice resulting from the implementation of HREDD laws, namely the French DVL and German LkSG, and a comparative analysis of these legal models.

In our study, based on interviews and roundtables with experts advising multinational companies and literature review, we offer comparative analysis and reflections on some reported changes in corporate practice associated with the French and German HREDD laws and anticipated action due to the CSDDD. We cover several aspects related to: the harmonisation of different regulation and alignment with the UNGPs; evidence of progress over time towards more 'mature' risk-based HREDD process; engagement with suppliers and shared responsibility approach; responsible disengagement; balance between flexibility in the 'voluntary' implementation of HREDD processes and legal specificity; changes in internal corporate HREDD governance; stakeholder engagement; grievance mechanisms; and public communication.

Based on these findings, we provide recommendations for policy makers for the design of upcoming legislation, or amendment of existing ones, resulting from the CSDDD transposition.

Policy makers should:

- See the UNGPs as the standard reference at the hearth of HREDD regulation to ensure policy coherence, avoid fragmentation and design an effective 'smart mix' of policy and regulation.
- Consider broadening the personal - by lowering the thresholds and including all corporate forms - and material scope of HREDD laws - by including all human and environmental rights - and include downstream value chain in the definition of 'chain of activities'.
- Clarify the definition of 'appropriate measures' and the concept of 'effectiveness', which should be always part of business measures to address actual and potential impacts, and require an expansive holistic, risk-based approach to HREDD in line with the expectations of the UNGPs.
- Clarify that minimum 'tick-box' compliance is not embedded in HREDD laws - while companies are required to comply with appropriate measures, they should be encouraged to develop transformative internal and commercial business strategies following a risk-based and shared responsibility approach.
- Develop national accompanying measures and other guidance in consultation with CSOs, trade unions and national human rights institutions.
- Require companies to approach the use of contractual leverage as a shared responsibility practice providing support and capacity-building?measures to suppliers, and to conduct thorough analyses of their purchasing practices, to identify areas for improvement and gather feedback from suppliers.
- Reflect the responsible disengagement requirements of the CSDDD and the expectations of the UNGPs by ensuring that disengaging is an option of last resort.
- Require companies to consult with stakeholders, invest in time-bound responsible exit strategy, consider in their assessment that disengagement can lead to a worse situation for rightsholders and the environment, while also recognizing when there are no reasonable prospects that their use of leverage can be effective, and finally adopt remediation measures.
- Require companies to put in place adequate governance structures and assign directors' and board's responsibility for

oversight of HREDD requirements.

- Encourage companies to approach HREDD requirements holistically and drive internal capability.
- Require meaningful stakeholder engagement throughout the entire HREDD process and clarify that multi-stakeholder or industry initiatives are not a substitute for such engagement.
- Require companies to engage stakeholders in setting up grievance mechanisms - such as notification mechanisms and? complaints procedures - that accessible, effective, and trusted by the communities they impact.
- Include a monitoring and disclosure requirement regarding their impact and effectiveness based on the UNGPs criteria.
- Clarify that companies are required to report based on a thorough understanding of their risks and the actions they are taking to address them.

This blog is part of a series of reflections based on our study, published on 15th October 2024 during a [launch event](#) at BIICL.

You can read the full report [here](#).

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