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Mandatory Human Rights Due Diligence (HRDD) binding legislation for national and transnational corporations, where European Union countries stand right now.

Up to now, at the international level there is no binding legal agreement that establishes the liability of transnational corporations with regard to human rights, nor is there a guaranteed access to justice and remedies for people whose rights were or might be affected by the activities of such companies. A tragic example confirming this happened in Bangladesh where according to the [International Labour Organization \(ILO\)](#) at least 1,132 people died and more the 2,500 were injured after the Rana Plaza building [collapsed](#). ILO stresses out that despite the magnitude of the losses suffered by the victims, no compensation was paid in application of the labour code provisions on employer liability. Some payments were made to the victims and their families by NGOs, Bangladesh government and a few global brands on a voluntary basis shortly after the disaster.

National and international actors have been seeking ways to protect people's rights over economic interests through various initiatives

- The development in a United Nations context of an internationally binding agreement on business and human rights. Read more information about the Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business [here](#).
- Social movements and campaigns such as [“Rights for people, Rules for Corporations –Stop ISDS”](#) in an attempt to persuade European Union institutions to take action.

“The reliance on a voluntary framework to promote business respect for human rights has furthermore proven insufficient and ineffective for workers, society and businesses. National action plans on business and human rights for responsible business conduct which implement OECD guidelines on multinationals and OECD guidance for business conducts reveal the limits of the voluntary approach”
[ETUC opinion](#)
expressed in December 2019.

After a year from the presentation of the Zero draft version in 2018, the United Nations Business and Human Rights Treaty is still highly disputed within the business and human rights field and has not yet been concluded due to lack of support from private sector and some governments. However, thanks to the constant pressure coming from the national and international civil

society the adoption of the treaty is becoming more likely to happen. The urge to promote and adopt a UN binding treaty is spreading fast across the Europe and is not likely to backdown.

The protesters within [“Rights for people, Rules for Corporations –Stop ISDS”](#) campaign got very creative by launching [Golden Toilet Brush Awards](#) to companies with unethical behavior history to intrigue and catch publics’ as well as governments’ attention towards the problem. Amongst the finalists for the worst company award are [Novartis](#), [Shell](#), [Total](#), [Bayer-Monsanto](#), [BBVA](#) and the energy company [Vattenfall](#). The winners were designated Shell- voted worst for ISDS and Monsanto- voted for worst corporate impunity.

Alongside a UN binding treaty, the campaign also asks for more EU-level and national legislation to keep corporations accountable bringing as an example to follow the [French Duty of Vigilance](#) legislation which is already put into use.



The first [legal action](#) under the Duty of Vigilance law was filed in October 2019. Six NGOs have sued the energy company Total over an oil project in Uganda and Tanzania after the company failed to revise its vigilance plan for the Tilenga Project which was demanded in June 2019 by the same NGOs.



Shell petrol station in the Hague

Increasingly, lawmakers and civil society are acknowledging that companies need to take human rights seriously.

The Netherlands

In May 2019, the Dutch Senate voted to adopt the [Child Labour Due Diligence Law](#) according to which companies will have to submit once to the regulatory authority a statement showing that they have carried out due diligence with regard to child labour throughout their entire supply chain. Subjects to the law are all companies that deliver their products or services to the Dutch market twice or more a year. For failing to submit the statement, companies will pay €4,100 in fines, and if a company is fined twice within five years a third violation can lead to fines of €750,000 or 10% of the company’s annual turnover and imprisonment of the responsible director. The ultimate goal of the law is to combat child labour as well as to prevent goods and services produced with child labour from being delivered to the Netherlands.

Italy

One of the first European countries that introduced corporate responsibility for crimes perpetrated in the interest or to the advantage of a legal entity thru the [Legislative Decree No. 231/2001](#). The Decree identifies the criteria to be met in order to hold corporations liable, defines applicable sanctions such as pecuniary fines, disqualification sanctions or seizure of crime profits as well as lists the crimes that can give rise to enterprise liability under the art. 24. Today, amongst others it covers crimes such as slavery, forced labour, human trafficking, workplace health and safety violations as well as environmental crimes. The Decree applies to all kind of companies from state-owned companies, private legal persons, foundations to economic public authorities and associations with or without legal personality.

Germany

In December 2019, the German Federal Ministry for Economic Cooperation and Development (BMZ) and the Federal Minister for Labour and Social Affairs (BMAS) [announced](#) that they will draft a human rights due diligence proposal. This statement followed after a national survey revealed that only 20% of German companies meet the requirements of the National Action Plan for Business and Human Rights. Earlier, the German Government stated it will consider introducing mandatory HRDD legislation if by 2020 less than 50 % of German companies with over 500 employees have the relevant processes in place.

Belgium

A group of civil society organizations in an [open letter](#) from April 2019 ask the Belgian political representatives for appropriate measures to prevent, investigate, punish and remedy violations through policies, laws, regulations and effective judicial remedies. According to them, voluntary initiatives to conduct business in a responsible manner is simply not enough as companies that make a real effort in doing so face unfair competition while companies that do not respect the rules are not penalized. The signatories emphasize that in the absence of clear rules, disasters similarly to Rana Plaza or human rights violations such as child labour or freedom of association and collective bargaining are not to be excluded.



Denmark

In January 2019, the Danish Parliament [called](#) on the Government to create a bill on mandatory HRDD for large Danish companies as well as small and medium-sized companies that are in the high-risk category. The initiative is supported by more than 100 NGOs, FH Danish Trade Union Confederation and the Danish Consumer Council.

Finland

According to an [official programme](#) released in June 2019 by the Finnish Government, a study will be conducted with the goal of adopting a national mandatory HRDD law for companies that covers both their domestic and transnational activities. In addition, the Finnish government commits to promote due diligence legislation at the EU level.



Norway

A special committee appointed by the Norwegian Government in 2018, recently published a [report](#) according to which they recommend an Act regulating the right to know, requiring enterprises transparency about supply chains and due diligence with respect to human rights and decent work. The Committee reiterates that although many businesses have pursued the expectations to follow the UNGP and the OECD Guidelines, experience shows that voluntary compliance is not sufficient to raise corporate accountability to the required level therefore, mandatory legislation is necessary.



United Kingdom

Although United Kingdom is no longer a part of the European Union it is worth to mention that the transparency in supply chains clause was included in the [Modern Slavery Act](#) since 2015, at the time UK was a member. More recently, in April 2019 a group of civil society organizations started a campaign calling for an effective law, not limited in its scope to slavery that that will require companies and investors to take action to prevent human rights abuses, worker exploitation and environmental harm in their global operations, activities, products, services, investments and supply chains.

“Many companies are not doing anything to identify and address the impacts that they have on human rights and the environment, concentrating instead on improving the profits only. Mandatory human rights due diligence and environmental due diligence measure will change the way business operates around the world, will increase protection for individuals and communities as well as will enhance the UK’s reputation as a leader in promoting responsible business conduct” - civil society organizations’ official letter [read more here.](#)

Other European Union countries such as **Austria, Ireland, Sweden, Luxembourg** and **Switzerland** are also moving towards adopting mandatory HRDD for companies within their borders. More progressively updated information on their steps can be found [here](#).



The European institutions and organizations have also recognized the need for a binding law to bolster the implementation of mandatory HRDD by companies.

Mentions about binding and enforceable provisions on human, labour and environmental rights in EU trade agreements can be found in European Parliament's reports such as the [Report on Sustainable Finance](#), p.11 or the [Report on violation of the rights of indigenous peoples in the world](#), p.12. as well as in the European Commission's [Action Plan Financing Sustainable Growth](#), p.10 from 2018.

With so many initiatives from civil society and commitment from European Union governments to impose mandatory HRDD for corporations it appears that the era in which companies had the luxury to voluntarily adhere to human rights standards will fall short as new legislation will conquer more ground. Albeit there is still plenty of work to be done, countless debates between parties along with compromises to be made, the overall trend is looking strong and hopeful for the workers, including communities that are part of multinational corporate supply chains.

Having a European directive on mandatory HRDD would empower workers to fight against violations of human rights. It would furthermore ensure a clearer environment for all actors of society, based on common minimum requirements, legal certainty and fair competition.

Do you have questions?

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