

The background of the poster is a vibrant, abstract collage of various colored geometric shapes, including triangles, squares, and circles in shades of blue, green, yellow, pink, and orange. Overlaid on this collage are the dark silhouettes of several people in motion, appearing to be dancing or celebrating. The overall mood is dynamic and positive.

WHY SHOULD WE CARE ABOUT DUE DILIGENCE?

EFN DUE DILIGENCE ACTION GROUP

On the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (the 'Directive')

Why should we care about due diligence?

What is due diligence?

Due diligence is first and foremost, a moral obligation on businesses, especially with global activities, to check their supply chains in order to prevent voluntary or involuntary adverse effects on human, social and environmental rights. In some European countries, this obligation has become binding and obliges businesses to do everything possible to ensure that there is no violation of rights within their production process of goods or services. As soon as 2017, due diligence was legislated in France to implement a legal responsibility between parent companies and subsidiaries abroad, that engages the contractual liability of head office in case of rights violations. In 2019, the Netherlands followed up with legislation to particularly prevent children's work in supply chains. As of January 1st 2023 in Germany, a similar law on due diligence is applied to companies registered in this country with financial sanctions up to 2% of global turnover in case of failures.

Why is it important?

There are over 50 million people in modern slavery today. It is estimated that 21 million people are caught in situations of forced labour or exploitation. Forced labour and human rights abuses of workers are endemic across several sectors of the global economy, like textile, industry, new technologies, construction work, minerals extraction, etc. We have known about those situations through several scandals that have emerged in the last decade, notably the collapse of the Rana Plaza building in 2013 and many others. Poor workers are exploited across the world to produce consumption goods for Western societies, ordered and sold by multinational companies with few responsibilities regarding their subcontractors' behaviours.

Therefore, the likelihood that some form of slave or exploitative labour has been involved at some stage in the production process of a given good is high, especially when the work was abroad. We think that the proposed European Union Directive on due diligence is a unique opportunity to significantly reduce situations of modern slavery and work exploitation.

Why do we consider that the proposed Directive should be stronger?

We acknowledge, of course, that the Directive on due diligence is a positive initiative to reduce situations of exploitation across the world. It will hold accountable multinational companies that benefit from a lack of transparency and from tax and social dumping in

developing countries so that they make profits to the detriment of human rights. However, it is obviously not enough to abolish modern slavery and human rights abuses that are mainly caused by international socio-economic inequalities. In order to find the necessary balance between businesses' activities and respect for human rights, as well as effectiveness for due diligence application, the content of the Directive should aim for the highest common denominator among the EU Member States where legislation is in place, in particular on two points.

1. Extend the application of the Directive to indirect and one-off commercial partners

The proposed Directive restricts the due diligence obligations to entities with whom a company has an 'established business relationship', together with the company's own operations and subsidiaries. We are of the opinion that it is entities in more remote parts of the value chain and with whom companies have less well-established business relationships that are often most likely to be associated with adverse human rights, including the worst forms of child labour and forced exploitation. Therefore, the text of the Directive should include indirect commercial partners and all entities that intervene in the supply chain. And short-term entities should be included, so that businesses don't run avoid their obligations by working only with one-off partners.

For an even more ambitious Directive, the legislation needs to encourage the establishment of closer and more long-term relationships between companies and their suppliers, including the provision of investment and capacity-building, but it will not do this if part of the supply chain is excluded from the obligations.

2. Include a common pecuniary sanction within the text of the Directive

We also consider that administrative fines for non-compliance imposed by the Directive should be significantly higher. As an example, the German Corporate Due Diligence in Supply Chains Act (the 'German Act') foresees an administrative fine up to EUR 8,000,000 or 2% of annual turnover (only to the companies with more than 400 million euros annual turnover), in addition to exclusion from public contracts for up to 3 years. We would like to point out that the EU's General Data Protection Regulation created a precedent regarding common pecuniary sanction by including within the text a maximum fine up to 4% of global turnover for non-compliant companies. It is completely logical under EU law that the Due Diligence Directive specifies the amount of the fine imposed.

Unfortunately, the proposed Directive does not propose any common pecuniary sanction for

on-compliant businesses, nor public or reputation consequences in case of a company infringement of its due diligence obligations. Although, the risks of a material fine and reputation should act as a deterrent for companies, the Directive's lack of ambition could undermine the effectiveness of due diligence and the protection of human rights across the world. Therefore, we strongly recommend that the Directive is aligned with the proposed punitive consequences as foreseen in the German Act.

What can we do?

There is something we all can do to prevent and make a difference when it comes to human trafficking!

- When we search for information about human trafficking and exploitation situations within the supply chains, we can shine a light on poor and ignored workers and share knowledge around us.
- When we do our due diligence of finding out where, how and by whom the products we purchase are made, we can choose to support ethical and just businesses.
- When we contact the companies and brands selling our products, we can demand for transparency and respect for human rights.
- When we contact our decision-makers, we show that we care about exploitation and we want better and more ambitious policies in place.