Greek National Commission for Human Rights - GNCHR

Reference Report

Human Rights Due Diligence
State commitment and corporate compliance
Under Directive (EU) 2024/1760

January 2025

The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection and the National Human Rights Institution (NHRI). It was established in accordance with the UN Paris Principles and is governed by Law 4780/2021. Its members are persons appointed by twenty institutions (independent Authorities, third level trade unions, NGOs, universities and research institutions)

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PRELIMINARY OBSERVATIONS

i) The role and mission of the GNCHR

The Greek National Commission for Human Rights (GNCHR), the **independent advisory body to the Greek State** on matters pertaining to the protection of human rights, and the **National Human Rights Institution** (NHRI) in Greece, was established by Law 2667/1998, in accordance with the Paris Principles adopted by the UN General Assembly Resolution no. 48/134 "National Institutions for the Promotion and Protection of Human Rights" (NHRIs) of 20 December 1993. After a passage of more than 20 years, the founding Law of the GNCHR was amended by Law 4780/2021, the provisions of which currently govern the operation of the National Commission.

Under the provisions of Law 4780/2021the GNCHR has acquired legal personality, operational and financial independence and administrative autonomy. Since 2001, the GNCHR has been accredited with A status (full compliance with Paris Principles), by the competent GANHRI Sub – Committee on Accreditation (SCA), an indicative fact of its independence and efficient fulfilment of its role.

According to its founding law, the main mission of the National Commission consists of:

- the constant monitoring of developments regarding human rights protection, as well as the continuous updating and promotion of the relevant research
- providing advice to the Government, Parliament and other public authorities on legislative, policy and administrative measures affecting human rights

* This text was adopted by the Plenary Assembly of the GNCHR on 17.02.2025. Rapporteurs:. Professor Maria Gavouneli, President of the GNCHR and Ellie Rapporteurs: Second Vice President of the GNCHR.
Author and researcher of the Report: Dr Taygeti Michalakea, Public International Law and Human Rights Law.

- exchanging experience at international and European level with competent international organisations, such as the UN, the Council of Europe, the European Union, the OSCE as well as with counterpart Institutions of other States and with Civil Society Organisations, and
- formulating policy proposals on matters related to its scope of work and
- fostering a culture of respect for human rights through educational activities and awareness-raising and information campaigns.

More specifically, in the context of its mission, the GNCHR bears the responsibility for constantly highlighting to all State institutions the need for the effective safeguarding of human rights, informing public opinion about the risks associated with their violation and, above all, providing advice to the Greek State for the formulation of a proper central policy on issues pertaining to human rights.

An additional guarantee of the **Commission's** independence is its **pluralistic and polyphonic composition**, enabling it to foster a unique dialogue between the various actors of civil society and the State. Moreover, the GNCHR contributes with its **Observations** to the Reports submitted by Greece in the context of the periodic review of the implementation by the State of its international obligations arising from the accession to international human rights instruments, while also submitting its own **independent Reports**.

In fact, the GNCHR, as the guardian of human rights at international, regional and national level, acts as a **Bridge builder** between the State and Civil Society, and between the country's international commitments to the implementation of human rights and the effective enjoyment of human rights in practice.

The **GNCHR,** in the context of its dual role as the independent advisory body to the Greek State and the National Human Rights Institution, has been closely monitoring **business and human rights issues** since its establishment, attaching the utmost importance to protecting the rights of workers and all individuals potentially affected by business activities.

Beyond monitoring the overall framework of corporate responsibility and sustainability, the GNCHR has placed particular emphasis on **the protection of labour rights and working conditions, on the fair and equal treatment of workers, as well as on the prevention of abusive business practices.** The National Commission monitors labour-related matters concerning **vulnerable categories of workers,** including but not limited to migrants and refugees, persons with disabilities, women, Roma, LGBTQI+ people, and persons engaged in informal or non-standard forms of employment.

At the same time, the GNCHR supports the formulation of policies that ensure **equal treatment at work, the fight against discrimination, the protection against employers' arbitrariness, and the integration of human rights due diligence into business practices.**

A tangible demonstration of its role and contribution to the promotion of **responsible business conduct, the protection of human rights in the world of work, and the safeguarding of labour rights** is reflected in the very pluralistic composition of the **National Committee on Human Rights (GNCHR)**. The National Commission incorporates into its work the perspectives of actors engaged in the **protection of workers' rights, equality at work, employment conditions, and fair remuneration**, thereby contributing to institutional dialogue on **socially responsible entrepreneurship and the formulation of policies that guarantee respect for labour rights.**

It should be noted that organisations actively involved in the promotion and **protection of labour rights and fair employment** are also entitled to nominate members to the GNCHR Plenary**.** Within the same framework, the Commission pursues the systematic **monitoring of the impacts of business activities on the full spectrum of human rights, including labour rights, gender equality, and climate change**. It also promotes the adoption of **sustainable and equitable practices within the labour market**, which ensure non-discrimination, equal treatment, and decent work.

A key tool for highlighting the state of **labour rights** and the **role of businesses in safeguarding workers' rights includes public dialogues, specialised seminars and workshops** addressed to employers, professionals, trade union organisations, corporations, academic institutions, and, more broadly, civil society. **In the context of its institutional role, the GNCHR engages in dialogue with institutional stakeholders, business associations, workers' unions, and social partners,** with the aim of addressing critical issues **such as the protection of labour rights, corporate due diligence, the elimination of workplace discrimination, equality at work, fair remuneration, and workplace safety.**

In addition, the GNCHR draws on **hearings of persons and stakeholders, bilateral contacts, cooperation with academic institutions and on site investigations,** focusing on specific issues **such as the protection of vulnerable workers, the fight against forced labour, as well as promoting a sustainable and fair working environment** for all.

ii) Contribution of the GNCHR to Human Rights Due Diligence and Responsible Business Conduct

The GNCHR closely monitors recent developments in the field of **Business and Human Rights (BHR) at international, European and national level.** Particularly significant are the new Regulation 2024/3015 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937 as well as Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. Both of these legislative initiatives are pivotal for the protection of the rights of vulnerable groups.

In particular, **Regulation (EU) 2024/3015** establishes the necessary framework upon which judicial proceedings, concerning products manufactured through forced labour within the internal market of the European Union, may be initiated. The Commission shall establish a database identifying regions or products associated with a risk of forced labour, with the aim of supporting the work of competent authorities in assessing possible violations of the said Regulation. Based on a risk assessment, investigations may be initiated by both the Commission - in cases involving the use of forced labour outside the Union - and the competent authorities of the Member States - in cases involving the use of forced labour within their respective territories. Member State authorities should exchange information with other Member States, where there is a suspicion of violations of the Regulation occurring in other parts of the Union, or with the Commission where there is a suspicion of the use of forced labour in a third country. The final decision - on prohibition, withdrawal and rejection of forced labour products - will be taken by the authority that led the investigation. Any decision taken by a national authority shall apply to all other Member States on the basis of the Principle of mutual recognition.

On the other hand, **Directive (EU) 2024/1760** - which will be presented in detail below - aims to ensure that companies operating within the internal market contribute to sustainable development and to the transition of economies and societies towards sustainability, by identifying and, where necessary, prioritising, preventing and mitigating, bringing to an end, minimising, and remedying actual or potential adverse human rights and environmental impacts that are linked to the operations of the companies themselves, their subsidiaries, and business partners throughout their value chains, and by ensuring that persons affected by a breach of this duty have access to justice and to legal remedies. This Directive **shall not affect the responsibility of Member States to respect and protect human rights and the environment under international law. Furthermore, the Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive**

2013/34/EU, as regards corporate sustainability reporting (Text with EEA relevance) with a view to improving the quality of sustainability reporting at the lowest possible cost, enhancing data comparison and standard harmonisation, ensuring data reliability and prevent green washing, along with **Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance),** with a view to setting out the criteria according to which an economic activity qualifies as environmentally sustainable or not, in order to subsequently determine the degree to which an investment is environmentally sustainable, together with the broader regulatory framework on business and human rights, seek to establish a system of guidance shaping the field of corporate sustainability and responsible business conduct.

In the context of these developments, the GNCHR organised **a two-day conference** in November 2024 entitled: **"Business and Human Rights under Directive (EU) 2024/1760 on Corporate Sustainability Due Diligence"**, with the participation of **36 speakers** representing the **Hellenic State, the European Union, the corporate sector, civil society, employers' organisations, transnational institutes, as well as European and international organisations with relevant expertise, such as the Danish Institute for Human Rights (DIHR) and the United Nations Global Compact Network Greece**.

The two-day conference, together with **the present Report,** is part **of the project implemented by the GNCHR in collaboration with the Danish Institute for Human Rights, entitled: "Strengthening Corporate Responsibility and Human Rights Compliance under the CSDDD in Greece".** The aim of the two-day conference was to present the Directive, highlight the importance of initiating an early dialogue among all relevant stakeholders for its optimal transposition, and examine the challenges encountered during its implementation, with a particular focus on the supervision of companies falling within its scope.

During the two-day conference a critical dimension for the transposition of the Directive was highlighted, namely the pivotal importance of timely and consistent institutional cooperation between the State and the GNCHR, the national human rights institution, with a view to ensuring the State's compliance with its international and European obligations, promoting due diligence in terms of sustainability, and effectively safeguarding human rights in Greece.

The contributions and discussion that followed **highlighted further critical issues** from the perspective of the balance between the protection of human rights and the promotion of entrepreneurship:

- The Directive is expected to act as a catalyst for business-related action and an international benchmark on human rights issues.
- Effective compliance with the Directive constitutes a strategic imperative for entrepreneurship within an international environment with increasing competitive demands, while simultaneously promoting the principle of a level playing field in the protection of human rights
- Public administration readjustment is critical for ensuring the dissemination of information, the provision of support, and the facilitation of business compliance with the Directive within the framework of the new regulatory environment.
- The effective exercise of the powers provided for the supervisory Authorities requires a clear enabling legal framework, adequate resources and modern tools for monitoring, assessing and imposing penalties.
- Equality, diversity and inclusion are key elements for the implementation of the Directive, with civil society playing a pivotal role in promoting social dialogue as a prerequisite for the identification and assessment of violations, with a view to the appropriate safeguarding of human rights.

In November 2024, the **GNCHR participated in the Annual UN Forum on Business and Human Rights** in Geneva, where it stressed the importance of **timely and ongoing institutional cooperation between the State and the National Human Rights Institutions (NHRIs), like the GNCHR**, both in terms of the effective fulfilment of the country's international and European obligations and the effective protection of human rights in Greece. It also highlighted the key conclusions of the two-day conference, while referring to the special report, then under preparation by the GNCHR, as well as to its cooperation with the UN Global Compact Network Greece. Moreover, the GNCHR actively participates in the European Network of National Human Rights institutions (ENNHRI), **in the Business and Human Rights Working Group**, contributing to the exchange of best practices and the promotion of human rights integration policies in the business environment.

At the end of February 2025, the **European Commission** is expected to present the "**Omnibus**" proposal, which will review certain aspects of the **new EU regulations on responsible business conduct and sustainable development**. According to the **President of the European Commission, Ursula von der Leyen**, the aim of the new proposal is **to reduce the administrative burden by removing unnecessary or overlapping reporting requirements**. The "**Omnibus**" proposal will focus **on the Corporate Sustainability Reporting Directive (CSRD), the EU Taxonomy Regulation and the Corporate Sustainability Due Diligence Directive (CSDDD)**.

In an open letter **to the European Commission**, the **GNCHR**, together with **nine other European National Human Rights Institutions (NHRIs)**, acknowledged the need to

strengthen cohesion, consistency and clarity of legal requirements related to corporate sustainability. However, they stressed that **the communication of the "Omnibus" proposal has generated uncertainty among a wide range of stakeholders**, thereby necessitating further institutional dialogue to ensure the protection of human rights in the business enterprise sector.

At the same time, **the GNCHR participates in the educational programme of the UN Global Compact Network Greece (UNGCNG) "Business and Human Rights Accelerator"**, seeking to formulate and strengthen capabilities in businesses to integrate human rights into corporate practices.

iii) The objective of the Report on human rights due diligence

The present Report seeks to highlight the implementation of human rights protection standards within the context of business activities in Greece, in light of the new EU Directive on Corporate Sustainability Due Diligence (CSDDD). It aims to record the existing regulatory framework, analyse current challenges, and assess the national compliance framework vis-à-vis the country's international and European obligations. At the same time, the Report seeks to provide factual information to the State, the business community, and civil society regarding the emerging regulatory requirements related to human rights and corporate responsibility.

In particular, the Report aims to examine the State's obligations to establish a comprehensive and effective mechanism for monitoring corporate compliance with human rights protection standards within the country, as well as the practical implementation of such a mechanism. At the same time, the Report's objective is to enhance knowledge and awareness concerning international instruments, such as the United Nations Guiding Principles on Business and Human Rights (UNGPs), Directive (EU) 2024/1760 of the European Parliament and of the Council on Corporate Sustainability Due Diligence (CSDDD), and relevant international best practices.

The Report aspires to contribute to the formulation of a coherent and effective framework of corporate responsibility in Greece, one that incorporates the principles of sustainable development and human rights due diligence.

iv) Structure, Methodology and priorities of the Report on Human Rights due diligence

This Report aims primarily to provide an overview of the current situation regarding the implementation of human and labour rights within the context of business activity in Greece, in the light of the new EU Corporate Sustainability Due Diligence Directive (CSDDD). The report focuses on assessing the national framework for compliance with the country's international and European commitments, while also offering guidance and information to state actors, business enterprises, and civil society.

The Report is **structured into distinct chapters** covering the following:

- The European and international regulatory framework for businesses and human rights.
- Greek legislation and institutional interventions related to corporate due diligence and sustainable development.
- The compliance practices of businesses and the challenges they face.
- The legal remedies available to victims of business abuses.
- Policy recommendations for strengthening corporate responsibility in Greece.

This report was prepared with the use of every tool available to the GNCHR, such as its opinions, recommendations, proposals, reports, and positions on issues related to the protection of labour and environmental rights and vulnerable groups, including those related to gender equality. Moreover, the conclusions and findings arising from the communication and cooperation with relevant EU bodies, regional and international organisations and, of course, the **Danish Institute for Human Rights (DIHR)** were taken into account.

Furthermore, the methodology of the Report is based on literature search, comprising the analysis of legal and policy texts, as well as interviews conducted during the drafting period of the Report, particularly throughout the last quarter of 2024, with representatives of civil society and trade union organisations, as well as business enterprises. In addition, **the two-day conference organised by the GNCHR**, as previously mentioned, provided valuable findings and conclusions regarding the transposition and implementation of the **Corporate Sustainability Due Diligence Directive (CSDDD).** The discussion held during the course of the conference highlighted the key challenges, the needs of relevant stakeholders, as well as the priorities to be set for the effective integration of the Directive into the Greek legislative reality.

Guided by the principles of sustainable development and due diligence, the Report places particular emphasis on the following:

1. **Strengthening corporate accountability and transparency** regarding their impacts on human rights and labour.
2. **Ensuring decent working conditions** and empowering workers through the adoption of responsible business practices.

3. **Improving mechanisms of access to justice** for victims of rights violations arising from business activities.
4. **Contributing to the implementation of the new CSDDD Directive** through policy proposals for its national transposition.
5. **Formulating a coherent framework of cooperation between the State, business entities, and civil society** for the promotion of sustainable and responsible business practices.

1. Introduction

This Report examines the practical implementation and protection of human rights in the context of business operations in Greece, with the aim to provide a comprehensive overview of this specific field and highlight the current developments and particular challenges in its implementation. The methodology followed for the preparation of the Report is based on literature search and analysis of international and domestic legal instruments, reports of international and non-governmental organisations, as well as scientific articles and books. Furthermore, for the purposes of this Report, interviews were conducted during November and December 2024 with representatives of civil society, in particular organisations active in the fields of human rights, environmental protection, and labour issues, as well as with representatives of companies based in Greece, whether or not they fall within the scope of the CSDDD. Given that the issue of business and human rights remains at a nascent stage of development, it was not possible to retrieve consolidated data, either from public authorities or from civil society actors. This Report constitutes the first attempt to examine the framework of the State's obligations with regard to the establishment of an appropriate and coherent set of rules for monitoring business compliance with human rights protection standards in the country, as well as the implementation thereof. Furthermore, it seeks to promote awareness and dissemination of information concerning international instruments, such as the United Nations Guiding Principles on Business and Human Rights (UNGPs), as well as Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence (CSDDD), and relevant international practices.

Greece is a Member State of the European Union, with a population of approximately 10.4 million inhabitants. In the country, small and medium-sized enterprises (SMEs) constitute the main pillar of the national economy. The national maritime sector is one of the largest in the world, while tourism is one of the main areas of economic activity. Other important sectors of the Greek economy include agriculture, the food and beverage industry, as well as energy.[1] Being pivotal to the national economy, these

[1] OECD (2024), OECD Economic Surveys: Greece 2024, OECD Publishing, Paris.

business sectors raise significant concerns regarding the management of human rights by the companies operating in them, particularly with regard to labour exploitation or environmental impact resulting from corporate activities. Such challenges are exacerbated in cases involving a migrant or refugee workforce, due to the limited practical enforcement of protective provisions applicable to these populations. Accordingly, the dissemination of knowledge and good practices relating to the defence of human rights in the course of business activities by all social partners, is considered to be of utmost importance.

A significant factor in understanding the Greek context, as mentioned above, lies in the fact that the overwhelming majority of enterprises in Greece are SMEs. This creates specific challenges in implementing and monitoring human rights principles in the business sector. Small and medium-sized enterprises often lack the human and financial resources, as well as the infrastructure to implement properly adapted and integrated standards of management of and accountability for the protection of human rights, thereby hindering compliance with international standards. This situation creates additional difficulties in promoting and encouraging responsible business conduct and corporate social responsibility, while small and medium-sized enterprises are called upon to reconcile economic viability with safeguarding workers' and society's rights in general.

A particularly significant factor is also the prolonged economic crisis experienced by the country, which had substantial effects on employment, labour relations, and social rights. The economic crisis has left its mark in many areas of everyday life, with evident repercussions on human rights, such as unemployment, job insecurity, the intensification of inequalities, accidents at work, and limited access to social services. This juncture has affected both residents of the country and the business sector, as business enterprises were compelled to adapt to adverse conditions, often at the expense of the protection of workers and the implementation of responsible business practices. Moreover, in public dialogue, the imperative to attract investment frequently outweighed the obligation to comply with the protective framework governing civil and social human rights[2].

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[2] See, indicatively, the GNCHR texts on the cost of living crisis within the context of the European Social Charter (ESC), in which the GNCHR has repeatedly emphasized the significance of **Human Rights Impact Assessment (HRIA)** as a key tool for understanding, assessing, and addressing the impact of governmental measures and economic policies on human rights. The GNCHR considers that HRIA is of vital importance for ensuring Greece's compliance with the **European Social Charter (ESC)**, in particular with regard to social and labour rights. Despite the GNCHR repeated recommendation for the integration of HRIA methodologies into policymaking, the cumulative impact of economic measures on society has not been adequately assessed. The GNCHR calls for the **systematic integration of HRIA** into the decision-making process in order to ensure that human rights are effectively protected. It considers it

The following chapters will provide an overview of the protective provisions covering some key rights issues (Chapter 2), existing national remedies available in various areas of law (Chapter 3), the UN Guiding Principles on Business and Human Rights (Chapter 4), the recent Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate due diligence on sustainability (Chapter 5). The report will conclude with recommendations to relevant state and non-state actors.

2. Protection of basic rights in the Greek legal order[3]

Different Levels of Legislative Protection of Human Rights in Greece

Human rights in Greece are protected at different levels. At the first level, the Constitution of Greece contains provisions safeguarding human rights. These rights also permeate the respective areas of labour law, criminal law and civil law, through implementing provisions, as will be analysed in further detail below. At the level of national policy, Greece has not adopted a comprehensive National Action Plan on Human Rights. However, it has adopted several thematic National Action Plans addressing specific areas of human rights protection, including: the National Action Plan against Trafficking in Human Beings (2021–2025), the Action Plan for the Management of Environmental Risks Affecting Public Health (2008–2012), the National Action Plan on the Rights of Persons with Disabilities (2021–2027), the National Action Plan on Social Inclusion and Poverty Reduction (2021–2027), the National Action Plan on the Rights of the Child, the National Strategy for the Social Inclusion of the Roma (2021–2030), the National Action Plan on Gender Equality (2021–2025), the National Action Plan for the Rights of LGBTI+ Persons (2020–2025), the National Action Plan against Racism and Intolerance, [4] and the 2022 National Strategy for Social Inclusion.

Unfortunately, in broader policy areas related to business operations, such as policy on employment and social protection, no National Action Plans have been developed, even though central collective bodies have been set up to this end. Taking into account the existing situation, combined also with the ongoing changes or the fragmentation of State competence in critical portfolios, such as those pertaining to human rights, gender

necessary to develop specific **indicators**, which shall include corporate accountability for their impact on human rights and labour, the protection of workers' rights, in particular those of vulnerable groups, the improvement of redress mechanisms for victims of business abuse, the effective implementation of the new Corporate Sustainability Due Diligence Directive (CSDDD), and the establishment of a permanent institutional dialogue between the State, business enterprises, and civil society.

[3] With regard to civil and social rights in Greece see Chrysogonos, K., Civil and Social Rights, 5th edition, 2023, Sakkoulas Publications.

[4] See Hellenic Republic, Ministry of Foreign Affairs, Human Rights, International Framework on the Protection of Human Rights

equality, and social inclusion, the country is faced with the challenge of responding effectively to international developments with regard to the formulation of a National Action Plan on Business and Human Rights, in line with the calls to that effect by the United Nations Human Rights Council, the institutions of the European Union (EU), and the Council of Europe. The coordination of the respective national competences as regards the obligations of business enterprises concerning the protection of human rights, with a view to initially elaborating a Roadmap and subsequently formulating a National Action Plan, constitutes a crucial step toward compliance with international and European guidelines and regulations.[5]

With regard to the obligation for compliance with the relevant EU framework, Greece is committed to and must comply with the rights and freedoms enshrined in the Charter of Fundamental Rights of the European Union, as well as to effectively implement the Directives containing provisions on the protection of human rights. In the field of corporate due diligence for the protection of human rights, Greece significantly delayed the transposition of Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 on corporate sustainability reporting (hereinafter "CSRD")[6], resulting in the European Commission initiating infringement proceedings against Greece. Finally, in November 2024, the bill of the subsequent Law 5164/2024 (Official Government Gazette A' 202/21.12.2024) was submitted, containing provisions for compliance with this Directive, which include further enabling provisions for the adoption of the necessary implementing measures. Pursuant to this Directive, for financial years starting on or after 1 January 2024, large companies are required to prepare sustainability statements in accordance with the European Sustainability Reporting Standards (ESRS).[7] At the regional level, Greece has initially ratified the European Social Charter and subsequently the Revised European Social Charter and has authorized the European Commission on Social Rights to rule on collective complaints brought against it.

Moreover, as a Member State of the Council of Europe, Greece has ratified the European Convention on Human Rights (ECHR) and several of its Protocols, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic

[5] For more information on the National Action plans for Business and Human Rights, see UN, National action plans on business and human rights Working Group on Business and Human Rights, and National Action Plans on Business and Human Rights.

[6] For more information see EU Commission, Infringement decisions, Commission takes action to ensure complete and timely transposition of EU directives, 26 September 2024.

[7]For further information regarding this Directive and its relationship with other relevant legislative instruments, see: Danish Institute for Human Rights, How Do The Pieces Fit In The Puzzle? Making sense of EU regulatory initiatives related to business and human rights, April 2024.

Violence, the Council of Europe Convention on Action against Trafficking in Human Beings, as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The country's human rights policies and practices are monitored by the Council of Europe Commissioner for Human Rights, while individuals may also lodge an application before the European Court of Human Rights against the Hellenic State for alleged violations of the ECHR.

At the level of the United Nations (UN), Greece has ratified the following international conventions:

- the International Covenant on Civil and Political Rights (ICCPR) (1997)[8]
- the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1985)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1988)
- The International Convention for the Protection of All Persons from Enforced Disappearance (CED) (2015)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1983)
- The Convention on the Rights of Persons with Disabilities (CRPD) (2012)
- The Convention on the Rights of the Child (CRC) (1993)
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1970)

Greece has a duty to submit national implementation reports to the competent United Nations treaty bodies established under these Conventions, in order to outline the measures adopted to implement the provisions contained therein. Furthermore, Greece has ratified optional protocols and has made appropriate declarations permitting individuals to lodge complaints against the State concerning alleged violations of the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention on the Elimination of All Forms of Racial Discrimination.

At the level of the International Labour Organization (ILO), Greece has ratified 73 International Labour Conventions (ILCs) and one Protocol, including 9 out of the 10 fundamental I[9]LCs, namely:

[8]The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, has also been ratified.
[9] ILO Country Profile, Greece
https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102658

ILC No. 29, Forced or Compulsory Labour Convention (1930)

ILC No. 87, Freedom of Association and Protection of the Right to Organise Convention (1948)

ILC No. 98, Right to Organise and Collective Bargaining Convention (1949)th Convention (2021)

ILC No. 100, Equal Remuneration Convention (1951)

ILC No. 105, Abolition of Forced Labour Convention (1957)

ILC No. 111, Discrimination (Employment and Occupation) Convention (1958)

ILC No. 138, Minimum Age Convention (1973)

ILC No. 182, Worst Forms of Child Labour Convention (1999)

ILC No. 187, Promotional Framework for Occupational Safety and Heal

It is noteworthy that, in June 2024, Greece officially declared its accession to the Global Coalition for Social Justice (GCSJ). The aim of the Coalition is to strengthen multilateral cooperation and synergies with a view to promoting social justice and decent work for all and everywhere, thereby accelerating progress toward the Sustainable Development Goals.(SDGs). Its ultimate objective is to achieve a greater balance among the economic, social, and environmental dimensions of sustainable development. In this direction, the Coalition shall seek, *inter alia*, to play a key role in promoting the recognition of social justice within the multilateral agenda, particularly in the context of the upcoming United Nations Summit of the Future (2024) and the World Social Summit (2025).

Greece is under an obligation to submit national implementation reports within the ILO supervisory cycle for each ratified ILC; however, compliance with the fundamental ILCs is subject to annual review.

1. Gender Equality

Pursuant to Article 4(2) of the Constitution of Greece: “Greek men and women have equal rights and equal obligations.” “Adoption of positive measures for promoting equality between men and women does not constitute discrimination on grounds of sex. The State shall take measures for the elimination of inequalities actually existing, in particular to the detriment of women.” (Article 116 (2) of the Constitution of Greece). Furthermore, gender equality is protected and promoted at the level of national legislation, without any restriction related to Greek citizenship, by Law 4604/2019

(Official Government Gazette A’ 50/26.3.2019) on Substantive Gender Equality, Preventing and Combating Gender-Based Violence, and Law 4443/2016 on prohibiting discrimination on the grounds of race, colour, national or ethnic origin, genealogical descent, religion or other belief, disability or chronic condition, age, social status, sexual orientation, gender identity or gender characteristics in the field of work and employment. Various others legislative instruments set quotas for women's participation in the composition of public bodies,[10] establish similar protective provisions for women engaged in self-employed,[11] enshrines the right to parental leave,[12] and protect maternity and parenthood, as well as women from termination of their employment contract during pregnancy and for eighteen months thereafter.[13]

As regards business enterprises, of particular importance is Law 3488/2006 (Official Government Gazette A’ 191/11-09-2006), which establishes equal treatment of men and women in access to employment and employment relations, and sets out measures to combat sexual harassment in the workplace. On the other hand, equally important is Law 3896/2010 which establishes equal pay between women and men, equal treatment in occupational social security schemes, and equal treatment in terms of access to employment in professional development and training and working conditions.[14]

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[10] Pursuant to Article 6(1) of Law 2839/2000 (Government Gazette A’ 196/2000), entitled “Regulations on matters falling within the competence of the Ministry of the Interior, Public Administration and Decentralisation and other provisions”, a mandatory minimum quota of one third (1/3) participation of each gender was established with respect to membership in public service councils and collective bodies of the State, public institutions and local administration authorities.

[11] Law 4097/2012 (Government Gazette A’ 235/03-12-2012), entitled “Implementation of the Principle of equal treatment between men and women engaged in an activity in a self-employed capacity – Harmonisation of legislation with Directive 2010/41/EU of the European Parliament”, ensures the application of the Principle of equal treatment for men and women engaged in a self-employed professional activity or contribute to their exercise.

[12]In accordance with Law 4075/2012 (Government Gazette A’ 89/11-04-2012) “Matters concerning the Social Security Regulation of IKA–ETAM, Social Insurance Bodies, adaptation of legislation to Directive 2010/18/EU and other provisions”, Chapter VI (Articles 48–54) enshrines the right to parental leave, defines the scope of application and the relevant conditions for its recognition, with the aim of reconciling family and professional responsibilities.

[13] Article 36, as currently in force, of Law 3996/2011 (Government Gazette A’ 170/05-08-2011) “Reform of the Labour Inspectorate, provisions on Social Insurance and other provisions” establishes the prohibition and absolute nullity of the termination of an employment contract during pregnancy and for a period of eighteen (18) months following childbirth, or during an extended absence due to illness attributable to pregnancy or childbirth, except for reasons of significant justification (See also Article 281 of the Labour Code – Presidential Decree 80/2022).

[14]Law 3896/2010 (Government Gazette A’ 207/08.12.2010) on the “Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation – Harmonisation with Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 and other related provisions”.

At the corporate governance level, Law 4706/2020 currently in force, provides for a minimum representation of women amounting to twenty-five percent (25%) in the boards of directors of all listed companies on a regulated market in Greece. Furthermore, in order to transpose into the Greek legal order Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures, a law providing for a minimum representation of women amounting to thirty-three percent (33%) of all board members, was adopted, including the binding requirement that at least one (1) executive member belong to the under-represented gender.

Finally, Law 4604/2019 provides for the award of the Gender Equality Label to public and private sector enterprises which are distinguished for their implementation of gender equality policies, based on specific criteria concerning equal treatment, equality in decision-making, reconciliation of professional and private life for both men and women, and broader business-related policy.[15]

The GNCHR attaches particular importance to promoting and protecting gender equality, particularly in the field of labour and women's participation in economic and public life. Since its establishment, the National Commission has repeatedly highlighted, in its reports, statements, and recommendations, the risks to the equal treatment of women and has submitted policy proposals for the effective implementation of equality principles in Greece.[16] The GNCHR has documented the disproportionate impact of austerity measures and emergency policies in times of crisis – economic and health – on women's rights, especially in the field of labour. In its thematic reports and statements, it has highlighted the **long-standing regression** in the protection of women's labour rights due to restrictive measures, lack of support mechanisms and inability to access effective social protection measures.

2. Environment

According to Article 24(1) of the Constitution, "The protection of the natural and cultural environment constitutes a duty of the State and a right of every person".[17]

[15] For more information on the current legislative framework, visit the website of the General Secretariat for Equality of the Ministry of Social Cohesion and Family.

[16] See below the full overview of the GNCHR positions on gender equality: GNCHR - National Commission for Human Rights - GENDER EQUALITY, and the GNCHR Report on the Status of Women in Greece.

[17] As regards the legal framework for the protection of the environment in Greece, See Sioutis G., Handbook on environmental law, 4th Edition, 2022, Sakkoulas Publications; Giotopoulou-Maragopoulou Al., Bredimas A., Sicilianos Linos-Al. (Ed.), Environmental Protection in Law and in Practice, Nomiki Bibliothiki, 2008; Haydarlis M., Environmental legislation, Nomiki Bibliothiki, 2014; Bourmas G., Criminal Protection of the environment: Interpretative approaches and specific dogmatic considerations, Nomiki Bibliothiki, 2020.

Consequently, the protection of the environment is constitutionally enshrined and has been elevated to the status of an individual right. A broad corpus of legislative instruments provides for the [18] protection of the environment and establishes various stages of environmental permitting,[19] with the most important stage being the Approval of Environmental Terms.[20]

Of particular importance for the field of Business and Human Rights, as well as for consultation with stakeholders, as provided for by the UNGPs and the CSDDD EU Directive, are the ministerial decisions that determine and specify the framework on how the public and stakeholders are to be informed during the environmental permitting process of significant projects and activities. [21] Equally critical are the establishment of an electronic environmental registry [22] as well as the integration of the relevant guidelines concerning the establishment of a framework of rules, measures, and procedures for the integrated prevention and control of environmental pollution from industrial activities.[23]

More specifically, pursuant to Law 4685/2020, the Natural Environment and Climate Change Agency was established, whereas the electronic platform for the submission of Carbon Footprint Reports was set up under the National Climate Law 4936/2022. However, according to environmental organisations, this platform operates in a manner not favourable to promoting transparency or enabling effective oversight by Civil Society, as the specific data submitted to the registry by business enterprises remain undisclosed, thereby hindering the possibility of further scrutiny.

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[18] See, for example, Ministry of Environment and Energy, Environmental Project Licensing.

[19] See also Law 4685/2020 on the modernisation of environmental legislation.

[20] See Law 4014/2011 (Government Gazette A' 209/21.09.2011) on the Environmental Licensing for Projects and Activities and the Relevant Ministerial Decisions.

[21] Ministerial Decision No.oik. 1649/45/2014 (Government Gazette B' 45/14.01.2014) on the specification of the procedures for issuing opinions and informing the public and involving the public concerned in public consultation during the environmental permits of Category A projects and activities.

[22]Ministerial Decision No. ΥΠΕΝ/ΔΙΠΑ/84932/5821/2022 (Government Gazette B' 4418/19.08.2022) on the specification of the technical requirements, the method of provision and maintenance, the procedures and permits for electronic access and data input, and all necessary details for the organisation, implementation and operation of the Electronic Environmental Registry (EER), in accordance with Article 18 (5) of Law 4014/2011 (A' 209))

[23]Joint Ministerial Decision No. 36060/1155/E.103/2013 (Government Gazette B' 1450/14.06.2013) on the establishment of a framework of rules, measures and procedures for the integrated prevention and control of environmental pollution from industrial activities, in compliance with Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) of the European Parliament and of the Council of 24 November 2010.

Access to environmental information at the national level is governed by a set of legislative instruments.[24] In particular, Presidential Decree 28/2015 defines the concept of "environmental information" and provides that any natural or legal person shall have the right, upon written request to the public authorities, to access information relating to the environment and/or request the provision of such information, without being requested to show that there is a legitimate interest in bringing an action. The competent authorities are obliged to respond within a specified time limit.

It should be noted that Law 4042/2012 (Official Government Gazette A' 24/13.02.2012), on the protection of the environment under criminal law and the harmonisation with Directive 2008/99/EC, provides for the liability of natural persons holding managerial positions within legal entities, in respect of environmental offences connected to the activities of such entities. Pursuant to the aforementioned Law, natural persons in managerial positions - namely, presidents, CEOs, managers - are obligated to supervise and monitor the compliance of their subordinates with environmental protection regulations. In the event of environmental damage occurring due to their omission of supervision or control, they shall be criminally punished, irrespective of whether they acted with intent or negligence. Meanwhile, if the offence was committed for the benefit of the legal person, additional penalties shall be imposed on the legal person itself, including but not limited to:

- Administrative fine (up to three times the value of the benefit).
- Temporary or permanent prohibition of operation.
- Exclusion from entitlement to public aid.
- Mandatory publication of the conviction.

The GNCHR acknowledges the fundamental importance of the **right to a healthy environment**, which is a constitutionally guaranteed obligation of the state (Article 24 of the Constitution) and works systematically to ensure Greece's compliance with its international and European commitments.[25]. The National Commission points out the necessity of strictly implementing the UNGPs and the regulatory framework for environmental protection and highlights the need to assess the environmental impact of industrial activities, with the GNCHR underlining that pollution prevention and control rules should be strictly followed. At the same time, it closely monitors the case law of the European Court of Human Rights (ECtHR), analysing the decisions linking environmental issues to the protection of human rights.

[24] See, in particular, Articles 5A and 10(3) of the Constitution, Article 5 of the Code of Administrative Procedure, Articles 1, 3, 44 and 48 of Presidential Decree No. 28/2015 (Government Gazette A' 34), Article 4 of Law 4727/2020 (Government Gazette A' 184), and Articles 4 and 5 of Law 3422/2005 (Government Gazette A' 303) ratifying the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.
[25] For more details see GNCHR - National Commission for Human Rights - ENVIRONMENT.

3. Labour Rights General Issues

At the international level, as noted above, Greece has ratified the core International Labour Organization (ILO) Conventions, as well as specific Conventions safeguarding particular labour rights, such as maternity protection (ILO Conventions Nos. 3 and 103), parenthood and family responsibilities (ILO Convention No. 156), working time (ILO Conventions Nos. 1, 6, 14, 90, and 106), remuneration (ILO Convention No. 95), annual paid leave (ILO Convention No. 52), minimum standards of social security (ILO Convention No. 102), compensation for employment-related accidents (ILO Conventions Nos. 17 and 19), and the right to work in an environment free from violence and harassment (ILO Convention No. 190).

At the national level,[26] the general principles governing the provision of employment are enshrined in the Civil Code (Articles 648–680), while a number of instruments and provisions regulate the rights and obligations arising from the provision of work, the types of employment contracts, the concept of minimum rates of pay and work, the way in which the minimum wage is set up, the termination of employment contracts, the amount of severance pay due, and the limits established for the protection of specific categories of workers, the legislative framework regulating matters of workers absence due to annual holiday leave, sick leave and other types of leave, (post)education leave, working time, the provision of additional work - e.g. overtime, work on holidays or rest days - and the compulsory rest periods of employees, protection of maternity, paternity and family responsibilities, equal treatment of workers performing the same or equivalent work, as well as occupational health and safety during the performance of work.[27] During the financial crisis and the implementation of the terms of Greece's international borrowing agreements, a significant number of legislative provisions were adopted - mostly dispersed across various legal instruments - aimed at enhancing flexibility in the provision of labour and diminishing the protective character of labour law.

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[26] The Greek legal framework governing labour is extensively analysed by Koukiadis I.,Individual and Collective Labour Law, Sakkoulas Publications, 8th edition 2021 and Papadimitriou K., Individual Labour Law, Nomiki Bibliothiki Publications, 2nd Edition, 2022.

[27] Key legislative acts in the field include the following laws: Law 3863/2010 (Official Government Gazette A΄115/15.7.2010) New Social Security System and related provisions – Regulations on Labour Relations, Law 3899/2010 (Official Government Gazette 212/17.12.2010), Urgent measures for the implementation of the support programme for the Greek economy, Law 4808/2021, codified by Law 5149/2024, on the Protection of Labour, Law 3302/2004 on the Regulation of Annual Leave for Workers and other benefits, Presidential Decree 80/2022, codified by Law 5089/2024 "Code of Individual Labour Law", Law 3850/2010 on the Ratification of the Code of Laws on Health and Safety at Work, Law 4093/2012 (Official Government Gazette A΄222/12.12.2012) Approval of the Mid-Term Fiscal Strategy Framework 2013–2016 – Urgent Measures for the Implementation of Law 4046/2012 and the Mid-Term Fiscal Strategy Framework 2013–2016.

It is of particular importance that Law 4443/2016 - as amended and currently in force, following the codification of individual labour law by Presidential Decree 80/2022 -[28] establishes the principle of equal treatment and the fight against discrimination in the field of employment and occupation, both in the public and the private sector. This law - as amended by Law 5089/2024 - prohibits discrimination on the grounds of race, colour, national or ethnic origin, genealogical descent, religion or other belief, disability or chronic condition, age, social status, sexual orientation, gender identity or gender characteristics in the field of work and employment. Direct discrimination is defined as the less favourable treatment of a person, on the basis of one or more of the above-mentioned grounds, compared to another person in a comparable situation. Indirect discrimination is defined as a situation where an apparently neutral provision, criterion or practice would put persons possessing any of the above characteristics at a particular disadvantaged position, compared to other persons. The law prohibits any unwanted conduct related to one of the above-mentioned grounds, with the purpose of violating the dignity of a person and of creating an intimidating, hostile, humiliating, degrading, or offensive environment.

Of equal importance is the fact that under the provisions of Law 4808/2021, which ratified the International Labour Organisation's Convention No 190 on the Elimination of violence and harassment in the World of work, private companies employing more than 20 employees are expected to adopt preventive policies to combat violence and harassment, including sexual harassment, and to establish internal mechanisms for effectively managing relevant complaints. It should be noted that, pursuant to the provisions of Article 9 of Law 4990/2022, companies employing fifty (50) or more employees at the same time, are under an obligation to appoint a Reporting and Monitoring Officer for reports concerning infringements of Union law.

According to Article 22 of the Greek Constitution, "General working conditions shall be determined by law, supplemented by collective labour agreements concluded through free collective bargaining and, in case of the failure of such, by rules determined by arbitration. Constitutional Law 1876/1990 (A' 27), as amended and in force, sets out the basic framework for regulating the collective bargaining process, the types of collective labour agreements (SSE) and the fields regulated by them; the capacity and competence to conclude them and the procedure to resolve collective disputes through reconciliation, mediation and arbitration procedures (see below). In Greece, for many decades the minimum rates of pay and working conditions - working time, employee leave, health and safety, etc. - were regulated under a central type of collective labour

[28] See Observations of the GNCHR on the Draft Law of the Ministry of Justice, Transparency and Human Rights entitled: "Implementation of the Principle of equal treatment irrespective of race, colour, national or ethnic origin, descent, religious or other beliefs."

agreement, the National General Collective Labour Agreement (EGSSE) universally applicable to all employees in the Greek territory[29].

It is worth noting that, in the relevant fields of human rights protection at work, both at the EU and international level, the process of enhancing the level of protection provided, is encouraged through the dissemination of information and the consultation with workers' representatives and/or through the adoption of Work Regulations and the conclusion of Collective Labour Agreements.

The Greek National Commission for Human Rights (GNCHR) has consistently recognised the fundamental importance of labour rights as an integral part of the protection of human rights and has underlined the need to assess the cumulative impact of restrictive measures on working conditions. In this context, the GNCHR points out that Directive (EU) 2022/2041 on adequate minimum wages provides an opportunity to safeguard fundamental rights at work and to establish a fair and decent remuneration framework.

The GNCHR has repeatedly emphasised the deregulation in the field of collective labour rights, particularly during the period of financial crisis and the implementation of restrictive measures. It has underlined that a significant number of legislative interventions in the labour market do not comply with the Constitution and binding international rules for the protection of workers, while at the same time it has called for the restoration of measures to protect individual and collective rights. Furthermore, the

[29] The National General Collective Labour Agreement was a key tool for promoting human rights through regulations in terms of equality, even before the State itself began to legislate on these issues. These regulations remain in force to this day (National General Collective Labour Agreement (EGSSE) 2024–2025, Article 1). Please read here some of the most important of them:
- The implementation of the Principle of equal pay for male and female workers (EGSE 1975).
- The reduction of the statutory duration of the weekly working time, initially to 45 hours (EGSSE 1975), subsequently to 41 hours (EGSSE 1982) and ultimately to 40 hours (EGSSE 1984).
- The enhancement of conditions for the extension of the annual paid leave of workers. - Improvement of educational resources for lifelong learning (EGSEE 1998-99 and beyond).
- Pioneering regulations for the promotion of gender equality, reconciliation of professional and family life, and the fight against discrimination at work, at an institutional level. The EGSSE has served as a model (pilot model) for other types of collective labour agreements, particularly in the areas of parental leave, leave for foster parents and single parents, reduced working hours for parents of young children and maternity leave provisions and in the case of surrogacy, working conditions for persons with disabilities, part-time employment, leave for workers living with HIV-AIDS, and protections against sexual and moral harassment in the workplace, as well as racism and intolerance (EGSSE 1993 and subsequent versions).
- The integration into the national legal order of the European framework agreements, concluded at a high-level social dialogue between European employers' and workers' organisations, and being part of the EU-wide legislation process (e.g. on part-time work, parental leave, fixed-term contracts, telework, harassment and violence in the workplace, preventing and combating labour market exclusion).
- The development of policies and actions to address the impact of climate change on the country, particularly with regard to the process of just transition of enterprises and workers towards a low greenhouse gas emission economy.

GNCHR has highlighted the need to establish a Human Rights Impact Assessment (HRIA) mechanism in order to evaluate the effects of the successive crises on the labour market, with particular emphasis on workers engaged in informal or precarious forms of employment (platform work, zero-hour contracts, etc.).[30]

4. Child labour

According to Article 21 of the Greek Constitution, childhood is under the protection of the state, while Law 2918/2001 ratifies the International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Minors are defined as persons who have not reached the age of 18. In Greece, the work of minors is subject to restrictions aimed at prohibiting their employment in dangerous, heavy or unhealthy works, as well as in any work that is harmful to their mental health and generally hinders the free development of their personality. In particular, minors under the age of 15 are prohibited from being employed in any work.[31] The employment of minors in cultural and related activities is exempt under certain conditions.[32]

Under the current legislative framework,[33] minors are not allowed to work in dangerous, heavy or unhealthy works, as well as in any work that is harmful to their mental health and generally hinders the free development of their personality. These forms of work are determined by decision of the Minister of Labour and Social Security. Furthermore, the working hours of minors and their remuneration are specified, while in order for an employment record book to be issued, it is necessary to provide medical certification that the employment chosen by the minors does not pose a risk to their health or physical or mental development. In addition, the employer is under an

[30] See GNCHR, Decisions-Positions, Thematic Area of " Financial crisis", "Right to work", "Refugees/Migrants", and Statement on the impact of the continuing austerity measures on human rights, in particular, An urgent GNCHR statement on labour and social security rights in Greece, GNCHR factsheet on the Impact of Economic Reform Policies and Austerity Measures on Human Rights(2024) GNCHR Additional Information - Observations to the European Committee of Social Rights of the Council of Europe on the ad hoc National Report on the cost-of-living crisis in the context of the European Social Charter. GNCHR Factsheet on the Impact of Economic Reform Policies and Austerity Measures on Human Rights (2020),Proposals of the National Commission for Human Rights on the social inclusion of beneficiaries of international protection (2022),Extraordinary times call for extraordinary responses: Summary of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights (2021).

[31] See Article 51(1) of Law 3850/2010.

[32] See Article 52 of Law 3850/2010.

[33] The Greek legal framework governing the field of labour is extensively analysed by Koukiadis I.,Individual and Collective Labour Law, Sakkoulas Publications, 8th edition 2021 and Papadimitriou K., Individual Labour Law, Nomiki Bibliothiki Publications, 2nd Edition, 2022.

obligation to take additional protective measures to ensure the safety and well-being of minors in their working environment. Finally, a registry of minors who have been provided with an employment record book shall be kept in each Labour Inspectorate.[34]

The GNCHR underlines the need for protection of minors from all forms of exploitation, in accordance with Article 21 of the Constitution and Convention No. 182 of the International Labour Organization, ratified by Greece. Although child labour is strictly prohibited, gaps in the implementation of the legislation, still persist, particularly as regards forms of illegal employment of minors and the operation of control mechanisms. The GNCHR has highlighted the need for stricter monitoring of the labour market, the imposition of effective penalties on employers who violate the law, and the reinforcement of social services to protect vulnerable children. At the same time, it highlights the importance of education as a means of preventing child labour and ensuring equal opportunities for all children. In the context of international cooperation, the GNCHR follows the guidance of the International Labour Organization (ILO), the recommendations of the United Nations Committee on the Rights of the Child, and cooperates with the European Network of Ombudspersons for Children (ENOC). [35]

5. Forced labour

According to the provisions of Law 3064/2002 and Presidential Decree 233/2003, transnational trafficking in human beings and forced labour are prohibited. Penalties for violations include sentences of up to 10 years' imprisonment or fines ranging from approximately €14,000 to €70,000. The legal framework does not establish any restrictions on workers wishing to change or resign from their employment.

The GNCHR has repeatedly pointed out the need for stricter protection against trafficking and forced labour[36], underlining Greece's obligations under Law 3064/2002

[34] The relevant protective provisions include Law 1837/1989, Presidential Decree 62/1998 (Official Government Gazette A' 67/26.3.1998) on measures for the protection of young people at work, in compliance with Directive 94/33/EC, Law 3850/2010, Law 3144/2003, and Ministerial Decision Οικ. 130621/2003 (Official Government Gazette B' 875/2.7.2003), defining the works, tasks and activities in which the employment of minors is prohibited. For a more comprehensive presentation of the protective legal provisions concerning minor workers, see also the Labour Inspectorate List of Legislative Acts on the Protection of Minors.

[35] See Recommendations for the Protection of Children: Health and Welfare (2014).

[36] See indicatively: GNCHR - Greek National Commission for Human Rights - Communication on the assessment of the level of compliance of the Greek State with GNCHR recommendations on ECtHR judgement Chowdury and Others v. Greece (Manolada-case) COMMUNICATION UNDER RULE 9(2)ON THE EXECUTION OF THE JUDGMENT IN CHOWDHURY v. GREECE (21884/15) TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE, Chowdury and others v. Greece - Summary of recommendations for the effective compliance of the Greek State, GNCHR – Greek National Commission

and Presidential Decree No. 233/2003. Although the legislative framework prohibits transnational trafficking and provides for prison sentences of up to 10 years, the mechanisms for identifying and prosecuting such violations remain inadequate, while migrant workers are often exposed to precarious working conditions without effective protection.

The GNCHR has stressed the significance of the case Chowdury and Others v. Greece (ECtHR, 2017), also known as the "Manolada case", which revealed grave violations of human rights and the exploitation of migrant workers under forced labour conditions in the agricultural sector. The Commission has issued recommendations to the State, calling for the establishment of effective control mechanisms, the enhancement of victims' access to justice, and the strengthening of the legal framework to safeguard workers against forced labour.

At the same time, the GNCHR monitors the implementation of Greece's international commitments within the framework of the International Labour Organization (ILO) and the Council of Europe, stressing the need to impose more stringent penalties on employers exploiting workers under forced conditions. A constant recommendation of the GNCHR in this context, with a view to preventing trafficking in human beings for the purpose of labour exploitation and forced labour, is the reinforcement of the legal framework through the ratification of the Protocol to ILO Convention No. 29 on the Abolition of Forced Labour. The National Commission also calls for the implementation of restorative and social inclusion measures for victims of labour exploitation, as well as for enhanced surveillance of high-risk sectors, guarantees that victims have access to justice, and substantive compliance with the judgement of the European Court of Human Rights in the Chowdury case, by promoting an effective system for preventing and combating forced labour.

6. Trade Union Freedom

Trade union freedom is enshrined in the Constitution of Greece.[37] Furthermore, pursuant to Law 1264/1982, workers have the right to establish and join trade unions

for Human Rights – Recommendations on the Issue of Trafficking in Human Beings and the Situation in Greece, , GNCHR, Chowdury and Others v. Greece.

[37] Article 23 of the Constitution stipulates that: "1. The State shall adopt due measures safeguarding the freedom to unionise and the unhindered exercise of related rights against any infringement thereon within the limits of the law. 2. Strike constitutes a right to be exercised by lawfully established trade unions in order to protect and promote the financial and the general labour interests of working people. Strikes of any nature whatsoever are prohibited in the case of judicial functionaries and those serving in the security corps. The right to strike shall be subject to the specific limitations of the law regulating this right in the case of public servants and employees of local government agencies and of public law legal persons as well as in the case of the employees of all types of enterprises of a public nature or of public

of their choice, which can freely form their Statutes, organise their activities in accordance with the rules established in their Statutes, and freely elect their representative bodies. Neither the State nor the employer may prevent workers from exercising their right to form or join trade unions. An important guarantee for the trade unions' freedom of activity is their financial autonomy. Therefore, the law describes in detail the resources of trade unions and prohibits subsidies from employers, political parties, or other political organisations. The property of a trade union cannot be confiscated. The conditions for exercising the right to strike are also defined in the same law.

Law 4808/2021 provides, *inter alia*, for the establishment of the General Register of Workers' Trade Unions, which is kept in the form of an electronic database in the "ERGANI" information system of the Ministry of Labour and Social Affairs. The provisions governing this system impose a mandatory registration requirement on trade unions and confer legal personality and the right to exercise their constitutionally guaranteed rights exclusively to the organisations that are duly registered therein. These provisions were deemed incompatible with the Constitution, as well as with the Union and international legal frameworks for the protection of the corresponding fundamental rights, a circumstance which could potentially impede the operation of trade union organisations.[38]

Trade union organisations are classified according to their level of representation into primary, secondary, and tertiary organisations. Workers' trade union organisations, provided they meet the requirements laid down by law, are entitled to conclude Collective Labour Agreements (CLAs) for the purpose of regulating remuneration and working conditions, as well as the reciprocal obligations of the contracting parties.[39] The types of CLAs correspond to the type of trade union organisations (company-level, sectoral, or professional unions). The terms of individual employment contracts, deviating from the regulatory terms of collective labour agreements, shall prevail, since they provide greater protection to workers.

In principle, the law prohibits discrimination on the grounds of trade union activity, without however providing adequate means of protection against such discrimination.

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benefit, the operation of which is of vital importance in serving the basic needs of the society as a whole. These limitations may not be carried to the point of abolishing the right to strike or hindering the lawful exercise thereof."

[38] Council of State, Judgement No. 2175/2022, Fourth Chamber.

[39] The conditions and procedure for the conclusion of Collective Labour Agreements are governed by Law 1876/1990, as amended by Laws 3899/2010, 4024/2011, 4046/2012, 4093/2012, 4475/2017, and 4635/2019.

The right to strike is constitutionally guaranteed but subject to significant restrictions for both private sector workers and civil servants.[40] Moreover, the list of "essential services" in respect of which the right to strike is prohibited or severely restricted, is extremely long[41] and the formality requirements for calling a strike are overly complex or lengthy [42] which in practice hinders the exercise of the right to strike, when carried out lawfully. It should be noted that extensive restrictions on the right to strike and the civil and criminal liability of workers' representatives and strikers were introduced in 2021 and 2023.

The terms and procedure governing the conclusion of collective labour agreements are regulated by the core Law 1876/1990, as extensively amended by measures restricting collective rights during the financial crisis in Greece and implementing the borrowing terms and conditions of the country, as internationally agreed,but also following the country's exit therefrom. One of the key interventions in the system of collective labour agreements (CLAs) was the assumption by the State of the of the minimum wage regulation. This development occurred through the abolition, in 2012, of the setting of the minimum wage through collective bargaining of the type of CLA that for decades had introduced minimum remuneration and working conditions with universal normative effect - namely, the National General Collective Labour Agreement - and the beginning, from 2019 onwards, of the implementation of the new statutory procedure. Interventions made during the period 2010-2019 in key principles of the CLAs system, such as the favourable treatment principle, in conjunction with the prolonged suspension of the possibility of wage increases through CLAs, aimed at reducing wage costs and decentralising collective regulations at company level[43].

Changes were introduced to the framework governing both individual and collective redundancies, working time was rendered more flexible and working schedules were liberalised, with negative consequences for workers. Collective labour agreements at

[40] Law 1264/ 1982.

[41] Law 1264/ 1982.

[42] Law 4808/ 2021.

[43] See GNCHR - Greek National Commission for Human Rights - Additional Information by the GNCHR to the European Committee of Social Rights on the ad hoc report on the cost-of-living crisis(2024),GNCHR - Greek National Commission for Human Rights -GNCHR Factsheet on the Impact of Economic Reform Policies and Austerity Measures on Human Rights (2019).
Karageorgou, A. and Gousis K., The great labour deregulation: Discussions with G. Kouzis about the 30+ years towards a flexible model, eteron.org, 17 May 2024.

business enterprises level[44] allowed deviations from sectoral collective agreements, thereby giving both domestic and foreign companies operating within the country, the opportunity to reduce employment protection and establish more favourable terms for themselves with regard to the work provided.

The GNCHR has expressed serious concerns regarding State interventions in trade union freedom and the autonomy of free collective bargaining in Greece.[45] Although the Constitution and Law 1264/1982 guarantee the freedom to establish and join trade union organisations, recent legislative initiatives - such as the mandatory registration of trade unions in the General Register of Trade Union Organisations (GEMISOE), as introduced by Law 4808/2021- have brought serious restrictions on the exercise of trade union rights. The GNCHR highlights that State intervention in the functioning of trade union organisations, along with the diminished normative effect of collective labour agreements, has led to a widening of the gender pay gap and a degradation of labour rights, particularly affecting women and other vulnerable groups of workers. Furthermore, the imposition of strict restrictions on the right to strike - intensified through legislative reforms in 2021 and 2023 - has significantly hindered the effective functioning of trade union action. At international level, the GNCHR underlines that these interventions have already prompted repeated recommendations by the European Committee of Social Rights and the Council of Europe, as well as expressions of concern by the International Labour Organization (ILO). The Commission has called upon the State to ensure the independence of trade unions, to restore the freedom of collective bargaining, and to align the institutional framework with European and international standards for the protection of trade union rights.

7. Health and safety at work

The Code of Laws on the Health and Safety of Workers (Law 3850/2010, Official Government Gazette A' 84) has managed in a significant way to consolidate a wide

[44]N.3899/2010 (Government Gazette A' 212/17.12.2010) "Urgent Measures for the Implementation of the Support Programme for the Greek Economy."

[45] Submission by the Greek National Commission for Human Rights (GNCHR) to the UN Human Rights Council's Universal Periodic Review of Greece, September 2015, Observations of the Greek National Commission for Human Rights (GNCHR) on the bill of the Ministry of Labour and Social Affairs "*On the Protection of Employment - Establishment of the Independent Authority "Labour Inspectorate" - Ratification of the ILO Convention No. 190 on violence and harassment in the world of work Ratification of the ILO Convention No. 187 on the Promotional Framework for Occupational Safety and Health at Work - Incorporation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers*", June 14, 2021.

range of legislative instruments containing provisions on health and safety at work.[46] A fundamental principle governing the relevant legislative framework is that employers bear full responsibility for ensuring the protection of workers' health, safety, and welfare in the workplace. Among other obligations, employers are required to:

1. Regularly assess risks and manage matters pertaining to safety.
2. Take appropriate measures to eliminate or, where this is not feasible, to minimise risks to workers' health and safety.
3. Provide training and information to workers, applying appropriate methods and language that they can understand.
4. Engage in dialogue with workers on relevant matters.
5. Draw up emergency plans.
6. Keep a record of accidents occurring in the workplace.

It is noteworthy that, in Greece, the main body for the collection and dissemination of knowledge on Occupational Health and Safety (YAE), providing scientific and technical support for developing policies aimed at improving working conditions in the country, is the Hellenic Institute for Occupational Health and Safety (ELINYAE), which has been established at the initiative of the national social partners, who manage it[47]. Through its actions and initiatives in research, as well as in dissemination of information, counselling, and training provision, the Institute supports workers and businesses in their efforts to foster a safe and healthy working environment.

The GNCHR has repeatedly pointed out[48] the fundamental importance of ensuring health and safety at work as a prerequisite for the protection of labour rights and human dignity. The GNCHR draws attention to the fact that the financial crisis and the following imposition of austerity measures have weakened control mechanisms that

[46] See Law 1568/1985, Presidential Decree 16/1996 (on minimum safety and health standards in the workplace) and Presidential Decree 17/1996 (on measures to improve the health and safety of workers at work.)

[47] See Hellenic Institute for Occupational Health and Safety (ELINYAE), https://www.elinyae.gr/poioi-eimaste, https://www.elinyae.gr/istoriki-anadromi

[48] See GNCHR - Greek National Commission for Human Rights - HEALTH AND SOCIAL SECURITY, especially Observations by the GNCHR on the 5th National Report on the implementation of the Revised European Social Charter(Reference Period 01/01/2017 - 31/12/20 (2022), GNCHR - Greek National Commission for Human Rights- Extraordinary times call for extraordinary responses: Summary of Recommendations to the State regarding the impact of the pandemic and the measures taken to address it on human rights (2021).

ensure the application of protective rules at work, while the COVID-19 pandemic has introduced new challenges, including inadequate protection for teleworkers and increased precariousness. At the same time, the Commission expresses concerns regarding the inadequate implementation of safety rules for workers engaged in dangerous or unhealthy types of work, as well as the insufficient protection of workers belonging to vulnerable groups, such as migrants and seasonal workers. In its observations, the GNCHR calls on the State to strengthen the implementation of health and safety rules at work, ensure effective controls and harmonise the national framework with international and European standards. Moreover, the GNCHR highlights the need to educate and inform workers about their rights and to provide institutional support to the Hellenic Institute for Occupational Health and Safety. At international level, the GNCHR cooperates with the Council of Europe and the International Labour Organisation (ILO) on the protection of workers' rights in health and safety matters. It points out that Greece must comply with the observations of the European Committee of Social Rights, which has repeatedly called for the improvement of working conditions, the protection of workers in hazardous tasks and the restoration of rights undermined during the period of financial crisis.

8. Threats Against Human Rights Defenders

In Greece, there are no specific legislative provisions aimed at the protection of human rights defenders; however, such individuals and their rights are protected under the general legal framework applicable to all citizens. With regard to journalists, freedom of the press is safeguarded by international treaties ratified by the country, European Union law, and the Constitution of Greece, notably Article 14 of the Constitution. Nevertheless, the World Press Freedom Index, published annually by Reporters Without Borders, ranked Greece 107th in 2023, compared to, for instance, the 70th position it held in 2021. [49] Concerns were also raised in the European Parliament Resolution of 7 February 2024 on the rule of law and media freedom in Greece.[50]

Reporters are increasingly subjected to attacks, ranging from assassinations that remain uninvestigated,[51] to Strategic Lawsuits Against Public Participation (SLAPPs). Such lawsuits primarily target media outlets and investigative journalists reporting on cases

[49] For the 2023 ranking, See: Reporters without Borders, Press Freedom Index.

[50] European Parliament, Resolution of 7 February 2024 on the rule of law and media freedom in Greece (2024/2502(RSP).

[51] European Centre for Press and Media, Giorgos Karaivaz: One year later, targeted killing remains unresolved, 7 April 2022.

of corruption, [52] as well as reporters and civil society organisations scrutinising the alignment of corporate practices with human rights imperatives and environmental protection[53]. It is noteworthy that in 2022, a wiretapping scandal shook the political and legal landscape in Greece, following revelations concerning the surveillance of journalists investigating corruption and migration issues, as well as of politicians, through the use of the spyware software Predator.[54]

To date, no legislative initiative has been undertaken for the transposition of Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on the protection of human rights defenders and journalists, against strategic lawsuits aimed at discouraging public participation (Strategic Lawsuits Against Public Participation – SLAPPs).

Of major importance, although no relevant measures have been adopted at national level, is also the European Union Regulation, applicable as of August 2025, providing for the prohibition of the use of spyware against journalists, the obligation for all media service providers to disclose information regarding their situation of ownership, and the establishment of a mechanism aimed at preventing very large online platforms from restricting freedom of the press.[55]

In response to international institutions, the Commission has pointed out the absence of a specialised legislative framework for the protection of human rights defenders in Greece, despite the country's international commitments. The Commission has already approved the adoption of a bill on the recognition and protection of human rights defenders, with the aim of ensuring that activists, journalists, and civil society organisations operate in a safe and supportive environment, free from attacks and arbitrary restrictions. At the same time, the GNCHR has warned that the criminalisation of humanitarian sea rescue operations, as provided for in Law 4825/2021, is

[52] European Commission, Commission Staff Working Document, 2022 Rule of Law Report, Country Chapter on the rule of law situation in Greece, SWD (2022) 508 final.

[53] See the SLAPP lawsuit filed against journalist Stavroula Poulimeni in relation to her report concerning the conviction of two executives of Hellas Gold for water pollution. European Centre for Press and Media Freedom, Press freedom on trial in Greece: support Alterthess' appeal, 19 September 2024, see also the SLAPP lawsuit filed against the Syros Environmental Observatory in connection with its investigation into the contamination of the aquifer caused by the operation of the shipyard. Short chronicle of lawsuits against EQOS, 8 November 2022.

[54] Stamouli, N., Enemy of the state: The investigator tackling Greece's spy scandal, 28 February 2023; Cossé, E. Greece's Surveillance Scandal Puts Rights At Risk Public Inquiry Needed to Tackle Chilling Effect on Media Freedom, 7 November 2022.

[55] Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU ("European Media Freedom Act").

incompatible with international law of the sea. Through the Racist Violence Recording Network (RVRN),**,** the Commission documents, on an annual basis, incidents of attacks against human rights defenders, and has recorded an increase in violent assaults against individuals engaged in the support of refugees, migrants, and vulnerable groups in general. In the context of international cooperation, the GNCHR monitors the implementation of **Directive (EU) 2024/1069** on the protection of journalists from SLAPPs and calls upon the State to proceed with its prompt transposition into national law. Moreover, it underlines the importance of the new **EU Regulation (2025)** on the protection of journalists against spyware and urges Greece to ensure full compliance with the newly established obligations. In addition, the Commission calls on the State to promptly establish a clear legal framework for the protection of human rights defenders,**to strengthen mechanisms safeguarding freedom of the press, and to guarantee** safe environment for civil society action.[56]

9. Protection of Witnesses and Public Interest Whistleblowers

Law 4990/2022 (Government Gazette A' 210/11.11.2022) provides for the protection of public interest whistleblowers, namely individuals who, being directly related to a company or organisation, in the context of their employment relationship and, more broadly, in the course of their professional activity, become aware of facts that may result in serious harm to the public interest and social welfare, and proceed to disclose such facts. Most recently, in 2024, this protection was effectively circumvented in the high-profile Novartis case, where the identities of the protected witnesses were disclosed.[57]

Regarding witness protection, a protected witness status was first introduced into Greek law to protect witnesses in cases related to acts of establishment or participation in a criminal organisation. [58]It was subsequently extended to criminal acts of trafficking in human beings[59] , smuggling of migrants,[60] as well as the offence of bribery involving public officials, civil servants, and members of the judiciary.[61] Recently, Law 5090/2024 introduced a provision for the ongoing assessment of the adequacy and necessity of witness protection measures, as well as the possibility of their revocation or modification. This development raises concerns regarding the proper and impartial implementation of witness protection.

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[56] See GNCHR reply to the call for inputs of the UN Special Rapporteur on the situation of human rights defenders (2022), Presentation of the RVRN at the new ENNHRI resource for Defending Human Rights Defenders (2022).

[57] Organized Crime and Corruption Reporting Project, Greece Drops Anonymity for Novartis Case Whistleblowers, 25 October 2024.

[58] Article 9 of Law 2928/ 2001.

[59] Law 3875/ 2010.

[60] Article 87(5, 6) and Article 88 of Law 3386/ 2005.

[61] Law 4254/ 2014.

3. Legal Remedies and Avenues of Redress Available to Victims of Violations

Instances of corporate involvement in human rights violations are numerous, including issues such as worker exploitation, labour rights infringements, trade unionists' persecution, discrimination against women and LGBTI persons, environmental regulations infringements with detrimental consequences for health, and, in certain cases, acts amounting to torture committed by private security personnel. For example, many companies impose excessively long working hours and hazardous working conditions. And in some cases, employees have been dismissed or subjected to persecution for claiming their rights or participating in trade unions. Moreover, private security companies contracted by multinational corporations have been accused of using violence and committing acts of torture against workers or activists who oppose their practices. A significant number of business enterprises contribute to environmental damage, polluting water and air resources or irreversibly destroying natural resources without being held accountable, while gender inequality remains a serious concern, with women receiving lower remuneration or being deprived of opportunities for advancement. In the next few chapters, we'll try to outline the principal legislative instruments and judicial remedies which, under Greek law and provided that the necessary conditions are met, may be invoked for the redress of human rights violations or breaches of environmental legislation on the part of corporate entities.

1. Public Law and Horizontal Effect (Drittwirkung)

As a general rule, civil rights apply to the relationship between the State and the individual, to safeguard civil liberties against State authority. However, as also acknowledged within the Greek legal order, fundamental civil liberties may extend their protective effect to legal relationships between private parties. This phenomenon is commonly referred to as the horizontal effect of constitutionally enshrined fundamental rights, or, as "Drittwirkung". The Greek Constitution provides in Article 25(1) (1 to 3), that: *"The rights of the human being as an individual and as a member of the society and the principle of the welfare state rule of law is guaranteed by the State. All agents of the State shall be obliged to ensure the unhindered and effective exercise thereof. These rights also apply to the relations between individuals to which they are appropriate."* The potential application of such rights in the context of private law disputes or relationships is therefore positively recognised. This horizontal effect of fundamental rights is distinguished into "direct" and "indirect" third-party effect (Drittwirkung). The former pertains to cases where such rights are directly applicable between private individuals. The latter concerns cases in which fundamental rights serve as interpretative tools used by the judiciary or other law enforcement authorities, particularly in order to clarify indeterminate legal terms.[62]

The theory of horizontal effect, initially intended to address inequalities, in the context of employment relationships, has since acquired broader significance in the global environment, where private actors are becoming increasingly powerful.[63] In particular, horizontal effect entails that certain provisions - especially certain constitutional rights - may apply directly between individuals, to the extent that they are relevant to the nature of their relationship. See, for instance, Article 25(1)(2) of the Constitution. A characteristic example is the right to equal pay for work of equal value, as established in Article 22(1)(b) of the Constitution. Moreover, the theory of horizontal effect is closely linked to the theory of positive obligations of the State (especially as laid down by the European Convention on Human Rights (ECHR)), under which States are obliged to safeguard the unhindered enjoyment of Convention rights and freedoms, not only from interferences by State actors, but also from violations committed by private individuals. To that end, States must adopt positive measures regulating the relationships between individuals.[64]

2. *Claim for damages based on the protection of the Right to Personality under Article 57 of the Civil Code* [65]

In the Greek legal order, anyone whose rights have been infringed by a company may bring an action before the civil courts seeking compensation for infringement of their personality rights. The legally protected interests encompassed by the right to personality include, *inter alia*: tangible property, such as life, physical integrity, and health; intangible property, such as mental health, freedom, understood as the

[62] Tsiliotis, Ch. The Resolution of Conflicts Between Fundamental Rights Through the State's Duty of Protection, in: Human Rights 2016, p. 69-70.

[63] Ibid.

[64] Additionally, indeterminate legal terms found in Civil and Labour Law, such as"good morals", must be interpreted in conformity with the relevant constitutional provisions. Thus, fundamental rights acquire normative force within private law relations and disputes. Indicative provisions reflecting this interpretative alignment include: Article 652 of the Civil Code (employer's managerial prerogative), Article 672 of the Civil Code (termination of employment for good reason), Article 7(a) of Law 2112/1920 (prohibition of unilateral detrimental modification of terms of employment), Article 281 of the Civil Code (prohibition of abuse of rights), and Article 288 of the Civil Code (duty to perform obligations, in this case the work, in good faith and in accordance with fair and honest transactional practices). Tsiliotis, Ch. The mandatory nature of vaccination in private, particularly employment, relationships and the revival of the theory of the "horizontal effect" of fundamental rights, Syntagma Watch, 3 November 2021.

[65] See About Civil Law in general, Alafrangis, E., Introduction to Civil Law, 2nd ed., 2018, Sakkoulas Publications.

unhindered development of every human activity or endeavour, including freedom of movement and professional freedom; the private sphere, encompassing all facts relating to the individual that are not generally known and which the individual wishes to remain confidential; the inviolability of the home; a person's image; the natural environment, insofar as environmental protection provisions also aim to promote individual development; the protection of employees and the corresponding obligation of the employer to refrain from actions that infringe the employee's personality; as well as personal data.[66]

The prerequisites for the protection of personality - whose unlawful and at the same time culpable infringement constitutes a more specific form of tort - are, in accordance with Articles 57, 59, 299, 914, 919, 920, and 932 of the Civil Code:

a) the existence of an infringement of the right to personality through an act or omission which disrupts one or more expressions of the physical, psychological, intellectual, moral or social individuality of the person harmed at the time of the infringement

(b) the unlawful nature of the infringement

(c) the contributory fault of the offender, when it comes to awarding damages or payment of compensation for moral injury, and lastly,

(d) the occurrence of moral injury to the person offended, causally linked to the unlawful and culpable infringement.[67]

The claim for damages under the aforementioned provisions of the Civil Code provides an important legal remedy for victims of corporate human rights abuses. For instance, a claim may be made by a victim of forced labour or trafficking in human beings against a company that contributed to such violation. Nevertheless, as in most other jurisdictions, legal recourse to the civil courts is time-consuming and costly. This acts as a deterrent both for individual victims of corporate misconduct and for civil society organisations, which often operate with limited financial and human resources to pursue such legal proceedings.

[66] See Triantos, N., Civil Law, Abridged Edition, Nomiki Bibliothiki, 2013.

[67] Benaki, V.-A., Infringement of the Right to Personality (Article 57 Civil Code) – Concept and Prerequisites for Protection – Analogous Application of Article 367 of the Penal Code in the Domain of Private Law,, 15 June 2019.

3. Labour Disputes[68]

Legal remedies of particular importance, in cases of violations of labour rights by corporate entities, are provided for in the provisions of labour law. In the event of a labour dispute, [69] - namely, any disagreement arising between an employer and an employee out of their employment relationship within the meaning of the provisions of labour law- the employee may have recourse to the competent first instance courts under the special procedure governing labour disputes, seeking, *inter alia*, compensation. Furthermore, there exists a non-binding Conciliation procedure before the Organisation for Mediation and Arbitration (OMED).[70] A labour dispute takes typically one year to be heard, while the delivery of the judgement entails an additional delay of approximately ten months.

At the same time, there exists an independent public authority, the Hellenic Labour Inspectorate,[71]organised into various regional offices, whose purpose is to ensure the implementation of labour legislation in the private sector. Specifically, it is entrusted with ensuring employers' compliance with labour law provisions and the lawfulness of the employment relationship, as well as regulating and resolving labour disputes. Employees, trade union organisations - as well as employers - may have a resource to the Labour Inspectorate for the resolution of labour disputes. The Labour Inspectorate then convenes on a specified date a tripartite meeting - with the employee, the employer, and the labour inspector - to discuss the dispute and the means of its resolution.

Where violations of labour law are identified, Labour Inspectors are empowered to impose administrative sanctions, including imposition of fines, the suspension of business operations for up to six (6) days, the obligation on the offending employer to adopt specific safety measures, and the revocation of the operating licence of non-compliant enterprises. Where violations of labour law constitute criminal offences, the Inspector shall file a complaint or report with the competent Public Prosecutor.[72]

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[68] About employment, relationships, see Zerdelis, D., Manual of Labour Law – Individual Employment Relations, Sakkoulas Publications, 8th ed., 2023. About Collective Labour Law: Zerdelis, D., Collective Labour Law, 6th ed., 2023, Sakkoulas Publications.

[69] See '"Labour Dispute," , Labour Inspectorate.

[70] For more on the Conciliation procedure, see https://www.omed.gr/el/%CF%83%CF%85%CE%BC%CF%86%CE%B9%CE%BB%CE%AF%CF%89%CF%83%CE%B7.

[71] For more information about the Hellenic Labour Inspectorate, see Law 4808/ 2021.

[72] Guide for the Resolution of Labour Disputes (Law 3996/2011, as amended by Law 4808/2021), September 2023.

Furthermore, Law 4808/2021 provides for the right of employees to file complaints concerning harassment or violence before the Labour Inspectorate and the Greek Ombudsman, in its capacity as the body promoting and monitoring the implementation of the Principle of equal treatment. The law also establishes the possibility of internal corporate complaints, as well as the right of legal persons and associations of persons to initiate actions on the same grounds.

4. *Criminal Law Provisions*[73]

In Greece, corporate entities do not bear criminal liability for human rights violations that constitute criminal offences. Nevertheless, various legal instruments provide for criminal liability of senior managers and administrative liability of legal persons themselves in the event of violations, namely laws concerning environmental protection, tax offences, money laundering operations, etc.[74] Administrative sanctions include the imposition of fines, the temporary suspension or revocation of the operating licence of the business, the publication in the press of the sanctions imposed and exclusion from receiving public benefits and aid or participating in public tenders. Law 5090/2024, a highly innovative piece of legislation in Greece, provides for sanctions against legal persons for offences of bribery, which are imposed by a criminal court.[75]

5. *Administrative Law Provisions* [76]

- Legal Remedies available to individuals subject to administrative authority

Anyone with a legitimate interest may request from the administration, by means of an administrative appeal or an application for annulment, the revocation, amendment or annulment of an administrative act, or of any act related to a business activity, which proves harmful to human rights. The relevant provisions of administrative law are of particular importance in cases where a business activity has been authorised or approved by the administration, yet results in adverse impacts on human rights. For example, such a case arises where a business, having been granted an environmental

[73] For more information about the Greek criminal law see Kaiafa-Gbandi, M., Symeonidou-Kastanidou, E., General Criminal Law, Nomiki Vivliothiki, 2022; and Mylonopoulos, C., Special Criminal Law, Nomiki Bibliothiki, 2021.

[74]Paraskevopoulou-Kollia, M., Criminal liability of legal persons, November 2019, Study, The Art of Crime.

[75] Stigas, D. N., The liability of legal persons for bribery offences as a means of combating corruption in the public sector Characteristics and objectives, National School of Judicial Officers. See also Papaioannou, M., The problem of corporate criminal liability: Dogmatic analysis in search of an alternative model of liability, 2012, doctoral thesis available at the National Archive of PhD Theses.

[76] On all matters pertaining to legal remedies and means of redress in administrative procedural law, see: Raikos, D., Administrative Procedural Law, 2024, Sakkoulas Publications.

licensing, nonetheless pollutes the environment, with harmful consequences for the health of individuals residing near its facilities. In instances of business-related abuse, where a prior act of the administration exists, a person with a legitimate interest -such as an affected individual, consumer, or organisation- may request the administration to revoke or amend the relevant administrative act if such act directly contributes to, or enables, the abuse. In this way, they could be assisted in addressing the situation by ensuring corporate accountability and facilitating the ending or regulation of abusive practices.

More specifically, the administered individual may, through an administrative appeal, request the revocation, amendment, or annulment of an individual administrative act, harmful to his material or moral interests. Administrative appeals are classified into ordinary, special, and internal appeals. Ordinary administrative appeals, whether lodged before the authority that issued the act or before a hierarchically superior authority, may be directed only against individual administrative acts, i.e., acts of the administration, regulating a single, specific case (as opposed to regulatory acts applying to a multitude of cases). [77] The special administrative appeal—also referred to as an appeal in legality, whereby a review of legality rather than substance is sought, must be provided for by a specific legislative provision and may also be brought against a regulatory act of the administration. Finally, by means of an internal appeal, the individual may further request that the administration examine both the legality and the substance of a case.[78]

- Application for annulment

A further legal remedy is available through the application for annulment, which is brought before the Council of State - or, in certain cases, before the ordinary administrative courts. Through this remedy, the applicant may request the annulment, namely the legal nullification, of an administrative act, on grounds of legality rather than substance. The application for annulment may be lodged by any natural or legal person, whether domestic or foreign, provided that they possess legal capacity and capacity to[79] bring legal proceedings.[80] In addition to meeting the formal requirements - namely,

[77] Article 24(1) of Law 2690/1999, "Code of Administrative Procedure"

[78] See Article 25 of the Administrative Procedure Code (KDD)
[79] All natural and legal persons and associations of persons of any kind, regardless of nationality, as well as unborn children, have legal capacity.

[80] All natural persons with legal capacity and legal persons, who are represented by their legal representatives, have the capacity for judicial representation.

respecting the applicable time limits and bringing any internal appeal provided for - the applicant must also establish a legitimate interest.[81]

- Appeal on the merits

An appeal on the merits is provided for certain categories of administrative remedies under the administrative procedural law, and is distinguished from an application for annulment in that the court is not confined to annulling the contested act, but has also the power to amend it.

- Who has a legal interest in exercising an administrative remedy?

In all of the above administrative procedures, the concept of legal interest is of pivotal importance. The legal framework stipulates that in order for an administrative remedy to be admissible, there must exist a specific legal relationship between the applicant and the contested administrative act. Consequently, the Greek legislature excludes the so-called *actio popularis* and it is not enough for the citizen to pursue legality in order to establish a legal interest. However, according to the jurisprudence of the Council of State, when Associations or non-governmental organisations (NGOs) invoke a legal interest in challenging an administrative act of which they are not the addressees, their statutory objectives and activities and their relevance to the content of the contested act are assessed on a case-by-case basis.[82] For instance, both environmental organisations and trade unions may resource to the administrative courts to seek the annulment of an administrative act that is contrary to their statutory objectives. Thus, although administrative remedies concern the relationship between the State and the individual, a natural or legal person (such as an NGO), where such a specific connection (legal interest) with the subject matter of the administrative act is recognised, may lodge an application for annulment before the Council of State, either because they are the addressees of such an act, or because an administrative act benefits a third party, for instance a company, while adversely affecting the applicant's own human rights. For example, an environmental licensing granted to a company for a polluting activity may affect the health of a person residing within a relatively short distance from it, thus affecting their right to health and physical integrity, or their right to the free development of their personality, indirectly affecting their right to a clean environment. In such a case, the individual, although not a direct addressee of the administrative act, is entitled to challenge the State action that favoured the company, insofar as it authorised an activity that interferes with or even violates their HR.

[81]Koimtzoglou, I., Summary of Administrative Law, Nomiki Bibliothiki, 2017,103.

[82]Council of State (Plenary) Decisions No. 2913/2017, No. 1704/2017, No. 3352/2013

By the same token, an environmental organisation, provided it has a legal interest, may lodge a hierarchical appeal before the hierarchically superior administrative authority to the one that issued the contested decision, e.g. before the Minister for the Environment and Energy, against a decision of the Director-General for Environmental Policy of the Ministry for the Environment and Energy, such as the approval of environmental terms for an economic activity that is in principle harmful to the environment, requesting the annulment of said decision.

- Claim for damages before the competent Court, pursuant to the provisions on civil liability (Articles 105 and 106 of the Introductory Law to the Civil Code – EisNAK).

A natural or legal person who has suffered damage due to an act or omission or a physical operation - namely an act lacking legal arrangements but affecting third parties - on the part of the administration (e.g. central government, local authorities, etc.) may claim compensation by bringing a corresponding action. The liability of the State and the principle of legality are pillars of the system guaranteeing the human rights of individuals subject to administrative authority. Any person suffering damage as a result from the aforementioned acts or omissions of the administration, shall be entitled to claim compensation pursuant to Articles 105 and 106 of the EisNAK by bringing an action for damages before the administrative courts. These provisions may prove useful in cases of corporate human rights violations where the State has failed to take the necessary measures to prevent violations committed by a company. For instance, provided that the other requisite conditions are met, the civil liability of the State may be established for environmental harm caused by a company, where the State fail to perform its supervisory duties with regard to polluting activities, properly.[83]

6. Means of protection relating to the environment

- **Environmental pollution**

In cases of environmental pollution, the remedies available to citizens remain rather limited. In particular, any person may lodge a complaint with the Directorate of Environment of the competent Regional Authority, with a view to initiate an inspection by the competent Environmental Quality Control Units (KEPPEs). These units conduct inspections either on a regular basis or following a notification concerning a specific incident. They are empowered to impose penalties, which are subsequently published on the online platform “Diavgeia” (Transparency Portal). Overall, the effectiveness of KEPPEs is deemed sufficient; however, it is depends significantly by the political will of the competent supervising authority. Furthermore, citizens are not adequately

[83] See Oikonomou A., Oikonomou A., Civil Liability and Reparation for Environmental Damage, p. 2, with further references.

informed about their right to seek redress through the EQCUs, while the procedures for filing complaints are informal and lack a clearly defined procedural framework.

An alternative recourse is to address the Environmental Inspectors of the Ministry of Environment and Energy (YPEN). However, this procedure is likewise based on sending an e-mail message, without an official and clearly defined system for receiving complaints. According to environmental organisations, the Environmental Inspectors of the YPEN do not publish annual reports, thereby undermining the transparency of their operation. At the same time, there is room for improvement both in the sanctioning procedure and in the disclosure of the outcomes of their inspections.

- **Environmental Assessments**

For each project, a Decision Approving Environmental Conditions (AEPO) is issued following the preparation of an Environmental Impact Assessment (MPE), or the project is subject to Standard Environmental Commitments (PPD), with which the project operator is required to comply. The Environmental Impact Assessment includes potential environmental impacts, proposed alternative solutions, and mitigation measures. According to Article 1 of Law 4014/2011, the Environmental Impact Assessment is mandatory for projects classified under Category A, namely when such projects are likely to have significant impacts on the environment, whereas for other projects, Standard Environmental Commitments suffice.

Pursuant to Ministerial Decision 9269/2007 (Official Government Gazette B 286/2007), any interested party whose legitimate interests have been morally or materially affected is entitled to challenge acts or omissions of the Administration related to matters of information and participation during the process of approval of the environmental terms of projects and activities. More specifically, an individual may lodge an objection with the Ministry of Environment and Energy, seeking the revocation or amendment of an administrative act concerning the approval of environmental conditions. Furthermore, a special administrative appeal may be lodged before the competent Minister for the purpose of annulling or amending an act issued by the Secretary-General of the competent Region.

With regard to the critically important procedure of public consultation, it should be noted that, under Law 4014/2011, such consultation is provided exclusively for large-scale projects through the Digital Environmental Register, which is particularly hard to access for people with no prior experience dealing with these issues, while there is no relevant provision in cases of smaller-scale projects. Failure to conduct a public consultation may constitute grounds for an appeal against the decision of Environmental Conditions Approval.

7. Ombudsman (The Greek Ombudsman)

The Greek Ombudsman is responsible for the examination of cases concerning the operation of the following public sector services:

- public administration services, such as ministries, tax offices, customs authorities, urban planning departments, police stations, detention facilities, public schools, Greek embassies, and similar entities
- local government authorities and their affiliated enterprises
- other legal entities governed by public law (NPDDs), such as social insurance funds, public hospitals, universities, and similar institutions
- public utility companies (e.g. Athens Water Supply and Sewerage Company (EYDAP), Public Power Corporation (PPC), Hellenic Post – (ELTA)) and similar entities
- public entities governed by private law (NPIDs), public companies and companies whose management is directly or indirectly appointed by the State, either through an administrative act or by virtue of shareholding

Exceptionally, the Greek Ombudsman may also investigate the conduct of private individuals in the following circumstances:

- when a child's right is infringed
- when there is unequal treatment between men and women in labour matters

8. OECD National Contact Point

The Member States of the Organisation for Economic Co-operation and Development (OECD), including the Hellenic Republic, have adopted the OECD Guidelines for Multinational Enterprises, which govern the activities - both domestic and abroad - of companies headquartered in Member States. These Guidelines include recommendations on human rights, labour rights, and environmental considerations.

Governments of both Member and non-Member States adhering to the OECD Declaration on International Investment and Multinational Enterprises are required to establish a National Contact Point (NCP), in order to promote the Guidelines, respond to enquiries, and facilitate the resolution of issues arising from companies' failure to comply with the Guidelines. The NCP is responsible for receiving complaints and providing a mediation process, with a view to reach a compromise between the complainants - often civil society organisations or trade unions - and the multinational enterprise concerned. In Greece, such a National Contact Point competent to receive and resolve complaints in accordance with the OECD Guidelines for Multinational Enterprises has regrettably not been established.

9. Supranational mechanisms

Victims of human rights violations, by corporate entities, have the opportunity to use supranational means to report these violations. If a company violates an individual's rights, the State may be held accountable due to its failure to provide the necessary protection against such corporate conduct. In such cases, a complaint may be lodged with the competent treaty bodies entrusted with the monitoring of implementation of international conventions, such as the UN Human Rights Committee, which supervises compliance with the International Covenant on Civil and Political Rights (ICCPR). These committees are responsible for ensuring that States fulfil their obligations under international human rights law.

Similarly, in cases where the State fails to protect HR or to provide an effective remedy, an application may be lodged with the European Court of Human Rights (ECtHR), which adjudicates violations of the European Convention on Human Rights, including cases where the State fails to provide protection from business-related human rights infringements.[84]

An application may be brought before the Court only after the domestic remedies have been exhausted. This implies that the individual alleging a violation of their rights must first have brought the case before the domestic courts, of his or her country to the highest degree of jurisdiction. Hence, the State is afforded the opportunity to redress the alleged violation at the national level Applicants must invoke one or more rights enshrined in the Convention. The Court cannot hear complaints concerning violations of rights other than those guaranteed by the Convention. The application must be lodged with the Court within a period of six months from the date on which the final domestic decision was rendered. The applicant must be personally and directly a victim of the alleged violation and must have suffered significant harm. The application must be directed against a State Party to the Convention, and not against a third State or a private individual.[85]

Special procedures of the UN Human Rights Council

In cases of human rights abuses committed by business enterprises, victims may submit complaints to the Special Procedures of the UN Human Rights Council. These procedures comprise “Independent Experts” (also referred to as “Rapporteurs”) and “Working Groups”, mandated to report and advise on human rights issues. These experts are not vested with the authority to impose their views or recommendations,

[84] Of great importance is also the Collective Complaints Procedure provided under the European Convention on Human Rights for Civil and Political Rights.
[85] Sicilianos, L.A. [Directorate of publication], European Convention of Human Rights. Interpretation under article, Nomiki Bibliothiki, 2017.

nor to award any form of compensation. Nevertheless, they issue communications to States and may put pressure towards a sustainable resolution. The most relevant Special Procedures include:

- the Working Group on human rights and multinational enterprises -commonly referred to as the UN Working Group on Business and Human Rights
- the Special Rapporteur on the promotion and protection of human rights in the context of climate change, and
- the Special Rapporteur on the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

It is noteworthy that, in June 2022, the first Special Rapporteur on Environmental Defenders was elected under the auspices of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). The mandate of this newly established Special Rapporteur is to "take measures to protect any person experiencing or at imminent risk of being penalised, persecuted or harassed in exercising their rights under the Aarhus Convention."

International Labour Organisation

Concerning labour rights, where a right protected under an International Labour Organization (ILO) Convention is violated by a private company and the State fails to provide adequate protection, there is a possibility of recourse to the mechanisms of the International Labour Organization, through the relevant workers' organisation. Such recourse, however, is directed against the State and pertains to its failure to comply with its obligations under the international treaties and conventions it has signed.

European Investment Bank and European Bank for Reconstruction and Development

In the event of a violation of social or environmental rights by a business enterprise financed by the European Investment Bank, any individual or organisation, even if not directly affected, may lodge a complaint with the Bank's Complaints Mechanism. The Complaints Mechanism investigates the merits of complaints and proposes remedial measures to the respective funded enterprise.

A similar mechanism - the "Independent Project Accountability Mechanism" - is also provided by the European Bank for Reconstruction and Development in cases where companies carry out projects supported by the Bank but fail to respect the Bank's commitments to environmental and social responsibility. The mechanism issues recommendations on the projects and follows up on their implementation.

4. United Nations Guiding Principles on Business and Human Rights (UNGPs)

a. Introductory framework

On 16 June 2011, the United Nations Human Rights Council unanimously adopted Resolution 17/4 on human rights and transnational corporations and other business enterprises, by which it endorsed the "Guiding Principles on Business and Human Rights" (hereinafter referred to as the "Guiding Principles").[86] The Guiding Principles were developed following extensive consultations of the Special Representative of the Secretary-General of the United Nations, John Ruggie, with various stakeholder groups, including States, business enterprises, and NGOs and should not be confused with the term Corporate Social Responsibility (CSR).[87]

The Principles constitute a soft law instrument, which should be observed by States and private business enterprises. Their aim is to protect and promote internationally recognised human rights and to enhance access to effective remedy in cases of violations. The scope of the Guiding Principles, namely the substantive human rights law they protect and promote, encompasses all internationally recognised human rights, as enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Labour Organization Declaration on Fundamental Principles and Rights at Work. Although, in accordance with the Principles, the duty to protect human rights traditionally lies with States, business enterprises are expected to respect human rights and refrain from conduct which may result in adverse human rights impacts. It is important that the Guiding Principles apply to all States and all business enterprises, whether transnational corporations or otherwise, irrespective of their size, headquarters, scope of operation, legal form, structure, or ownership.

The Guiding Principles are structured around the following three pillars:

1. The State duty to protect human rights
2. The corporate responsibility to respect human rights
3. Access to remedy for individuals affected by human rights abuses

[86] Human Rights Council, Resolution, Human rights and transnational corporations and other business enterprise: A/HRC/RES/17/4, 06 July 2011.

[87] Sherman J., Beyond CSR: The Story of the UN Guiding Principles on Business and Human Rights, Corporate Responsibility Initiative, Harvard Kennedy School March 2020, Working Paper No. 71.

b. First pillar: The State duty to protect human rights

The first ten Guiding Principles pertain to the State duty to Protect human rights. Guiding Principle 1 clarifies the obligation of States to protect against human rights abuse by ensuring that their actions do not result in adverse impacts on human rights, both within their territory and within their jurisdiction. However, the duty to protect also extends to human rights abuse committed by third parties, including private actors, such as private business enterprises.

In accordance with Guiding Principle 1:

> ***1. States have a duty to protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires the adoption of appropriate measures to prevent, investigate, punish, and redress such abuse through effective policies, legislation, regulations, and adjudication of relevant cases.***

In accordance with Guiding Principle 1, the State is not, *per se*, responsible for the acts or omissions of private actors that result in human rights violations. However, it may incur responsibility where it fails to take appropriate steps to prevent, investigate, punish, and redress harm caused by private actors. States retain discretion as to the specific means by which they meet their duty to protect. However, they should consider the full range of available measures, including policy, legislative, regulatory, and judicial mechanisms. A core aspect of this duty is the promotion of the rule of law.

Under Guiding Principle 2, "*States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.*"

Guiding Principles 3 through 10 establish an operational framework to provide clarification and a roadmap for States to fulfil their obligations under international law. States should implement, assess the adequacy of, and address any gaps in laws requiring business enterprises to respect human rights (Guiding Principle 3(a)). Secondly, States should ensure that their laws, including corporate law, enable business enterprises to respect human rights (Guiding Principle 3(b)). Lastly, they should provide effective guidance to business enterprises on how to comply with their human rights responsibilities, and encourage, or where appropriate require, them to communicate how they address their human rights impacts (Guiding Principle 3(c) and (d)).

National legislation aimed at the protection of human rights may vary significantly in scope and may include, *inter alia*, labour and environmental laws as well as laws concerning privacy and anti-bribery.[88] In line with the Guiding Principles, States should review the implementation of such legislation across its full scope, taking into account potential shortcomings and identifying measures to address them. States must also assess whether the existing institutional framework and policies are conducive to human rights.

Guidance to business enterprises on respecting human rights should indicate expected outcomes and help share best practices. It should advise on appropriate methods, including human rights due diligence, and how to consider effectively issues of gender, vulnerability and/or marginalization, recognizing the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families.[89]

Guiding Principle 4 requires States to take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State or that receive substantial support from the State, such as through export credit agencies and official investment insurance or guarantee agencies. Where a business enterprise is controlled by the State or where its acts can be attributed otherwise to the State, an abuse of human rights by the business enterprise may entail a violation of the State's own international law obligations.[90]

Guiding Principle 5 establishes the duty of the State to exercise adequate oversight in order to meet its international human rights obligations when it contracts with business enterprises to provide services that may impact the enjoyment of human rights. The aim of this provision is to ensure that, when services are provided through private business actors, States do not relinquish their international human rights law obligations [91]

Guiding Principle 6 takes a step further in terms of the State conduct. According to this Principle, States should promote respect for human rights by business enterprises with which they conduct commercial transactions. As noted in the report of the Special

[88] UN General Assembly, Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie, Guiding Principles on Business and Human Rights : Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/17/31, 21 March 2011 [SRSG report], p.5.
[89] SRSG report, p. 5-6.

[90] SRSG report, p. 7.

[91] SRSG report, p.8.

Representative of the United Nations Secretary-General, the State may use the contracts it concludes with corporate entities, as well as procurement procedures, as "unique opportunities" to promote awareness of and respect for human rights. [92]

Guiding Principle 8 functions as a general "clause" with regard to human rights-related policies, aiming to ensure coordination among all relevant State agencies and authorities. Guiding Principle 9 provides that States must ensure that their laws, policies, regulations, and enforcement measures governing business conduct are consistent with and supportive of their human rights obligations. Finally, Guiding Principle 10 extends the above-mentioned duties of States to their engagement at the international or multilateral level.

c. Second Pillar: The corporate responsibility to respect human rights

Guiding Principles 11–24 pertain to the corporate responsibility to respect human rights.

Guiding Principle 11, for the first time at the international level, stipulates that:

"Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved."

Beyond the aforementioned duties of the States, as well as the obligations of private business enterprises deriving from national legal frameworks, this Principle establishes the corporate responsibility to respect human rights as a global standard of expected conduct for all business enterprises, regardless of where they operate.[93] In contrast to the use of the term "duty" in Pillar I, which relates to the responsibility of States, Pillar II - relating to business enterprises - uses the term "responsibility". This terminological choice underscores that the corporate responsibility to respect human rights, while not in itself legally binding under international law, should not undermine the applicability of protective provisions under domestic legislation.[94]

Guiding Principle No. 12 provides that:

[92] Guiding Principle 7 pertains to conflict-affected areas.

[93] SRSG Report p. 13.

[94] Sherman J., Beyond CSR: The Story of the UN Guiding Principles on Business and Human Rights, Corporate Responsibility Initiative, Harvard Kennedy School March 2020, Working Paper No. 71, p. 9.

"The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work."

The responsibility to respect human rights applies to all business enterprises, regardless of their size, sector, operational framework, ownership or structure. However, the means for achieving this goal vary depending on the size of the company.[95] In simple terms, the larger the company, the more complex and extensive the measures to undertake in order to identify and address its likely effects on human rights. The proportionality criterion also applies in relation to the severity of the impact on human rights, whereby severity shall be assessed in terms of scale, scope and irremediable character.[96] Finally, companies are generally expected to devote greater resources for this purpose than individually owned business entities.[97]

Guiding Principle No. 13 stipulates that business enterprises should avoid causing or contributing to adverse human rights impacts through their own activities and should address such impacts when they occur. However, they have a wider responsibility beyond their direct involvement. Pursuant to subparagraph (b) of Principle 13, business enterprises are required to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts. While the term "own activities", which encompasses both acts and omissions, is relatively unambiguous, the term "business relationships" includes relationships with business partners, entities in their value chain, and any other non-State or State entity that is directly linked to their business operations, products or services.[98]

Principle 15 clarifies the means through which a business enterprise may show its respect for human rights, namely:

(a) through a policy commitment to respect human rights

(b) through a human rights due diligence process and

[95] Guiding Principle 14.

[96] SRSG Report, p. 13.

[97] SRSG report, p. 13.
[98] SRSG Report, p. 15.

(c) through processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

With regard to the policy commitment to respect human rights, business enterprises should adopt a policy statement that: (a) Is approved at the most senior level of the business enterprise; (b) Is informed by relevant internal and/or external expertise; (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services; (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties; (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.(as provided in Guiding Principle 16).

As regards the human rights due diligence process, this is essential for business enterprises in order to identify the information needed to understand the specific human rights risks at any given time and within any given business context, and subsequently to take decisions on the actions to be taken in order to prevent and mitigate such risks.[99]

Guiding Principle No. 17 provides that:

"In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:
(a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;
(b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;
c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve."

[99]See in general CR Interpretive Guide.

The term "human rights risks" shall be understood as referring to risks that have a negative impact on human rights, as opposed to the risks to the business enterprise itself.[100]

Four core elements are indispensable in any due diligence process, namely: the assessment of risks, the integration of appropriate measures, the monitoring of the effectiveness of such measures, and the communication of the manner in which adverse impacts are addressed.[101] (Guidelines Principles 18-21)

According to Principle No. 18, in order to assess human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. The proper conduct of such assessment—and the due diligence process as a whole—requires cooperation by companies with independent external human rights experts, as well as the substantive consultation with affected groups and other relevant stakeholders, depending on the enterprise's size, nature, and operational context.

The assessment process should map the risk of human rights impacts based on their severity and likelihood, in order to prioritise actions to be taken by the company.[102] Severity is the most critical factor and can be disaggregated into three elements: (a) the scale of the impact (severity); (b) its scope (the number of people affected); (c) the irremediable or remediable character of the harm.[103] Persons belonging to groups that may be considered vulnerable should be given special attention, and different risks faced by women and men should also be taken into account.[104] It should be noted that identification and assessment procedures should be carried out at regular intervals so that the dynamic nature of the human rights situations faced by companies is adequately taken into consideration.[105]

Pursuant to the Principles, the term "business relationships" encompasses relationships between an enterprise and its business partners, entities in its value chain, and any

[100] Corporate Responsibility to Respect Human Rights, An Interpretive Guide, UN Human Rights Office of the High Commissioner, New York and Geneva 2012, p. 31.

[101] Ibid., p. 32.

[102] Sherman J., Beyond CSR, p. 12.

[103] Sherman, 'Beyond CSR,' ibid., p. 12, Regarding the criterion of the severity of the impact, see also Guiding Principle 24.

[104] SRSG Report, p. 20.

[105] Ibid.

other non-State or State entities directly linked to its business activities, products or services, and whose own activities may cause or contribute to adverse human rights impacts.[106]

When communicating with potentially affected groups and stakeholders, particular attention should be paid to any barriers - linguistic, cultural, gender or other - that stakeholders may face in speaking openly to the enterprise's representatives.[107] Under the Principles, companies should pay special attention to groups that might be at risk of being excluded of the process.

After identifying and assessing the potential impact on human rights, the company must integrate its findings into its policies and activities. More specifically Guideline No.19 provides that:

> "In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes and take appropriate action.
>
> a) Effective integration requires that:
>
> (i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;
>
> (ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.
>
> (b) Appropriate action will vary according to:
>
> (i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;
>
> (ii) The extent of its leverage in addressing the adverse impact."

The effective integration of respect for human rights across all business operations is of paramount importance and includes assigning responsibilities to address impacts at the

[106] Corporate Responsibility to Respect Human Rights, An Interpretive Guide, UN Human Rights Office of the High Commissioner, New York and Geneva 2012, p. 32.

[107] Ibid., p. 44.

appropriate level and function within the business, as well as developing an oversight process.[108]

While potential adverse human rights impacts should be prevented or mitigated through the horizontal integration of findings across the business enterprise, actual impacts are subject to remediation.[109] The choice of a suitable response depends on the type of responsibility and the link between the business activity and the specific adverse human rights impact. More specifically, the Guiding Principles distinguish between situations where the business activity "causes" the adverse human rights impact, "contributes" to it, or is "directly linked" to the impact through its business relationships.

When business involvement entails causing or contributing to adverse human rights impacts, compliance with the Guiding Principles requires the termination, prevention, and abstention from relevant actions. Where involvement pertains to business activities, products or services that are directly linked to human rights impacts through a business relationship, the appropriate response shall be determined by multiple factors, including the enterprise's leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the abuse and whether terminating the relationship with the entity itself would have adverse consequences for human rights.[110] "Leverage" refers to the ability of the the company to influence the behaviour of the other entity in a particular direction.[111]

The subsequent steps if the due diligence process are monitoring and communication. In accordance with Guiding Principle No. 20, monitoring refers to the assessment of the effectiveness of the company's efforts to address the identified adverse human rights impacts, on the basis of both qualitative and quantitative indicators.[112]

As regards communication, under Guiding Principle No. 21, enterprises should be prepared to communicate externally on how they address human rights impacts, as this is essential for ensuring transparency and enhanced corporate accountability. Such communication should be appropriate and accessible - meaning that the form and frequency of communication should reflect the nature and severity of the enterprise's

[108] UN Global Compact, The Ten Principles of the UN Global Compact, Principle One: Human Rights.

[109] SRSG Report, p. 21.

[110] SRSG Report p. 21-22 on the definition of the term "crucial product or service".

[111] SRSG Report, p. 22.

[112] Sherman, 'Beyond CSR,' p. 14.

impact on human rights and be accessible to their intended audience. Furthermore, communication and dissemination of information should be sufficient enough to enable stakeholders to evaluate whether the enterprise's response to a given human rights impact is adequate. Finally, communication shall not expose stakeholders or personnel to additional risks, nor shall it undermine legitimate requirements of commercial confidentiality.

A core issue concerning the duty to communicate is the extent of information that an enterprise is required to communicate externally. Principle 21 does not require a business enterprise to publicly disclose all matters identified through its ongoing human rights impact assessment, nor does it imply the disclosure of lawfully confidential commercial information, legally protected data, or information the disclosure of which could place stakeholders at risk. However, the enterprise should be able to communicate its general approaches to addressing human rights-related risks and, depending on the circumstances, may include a specific response to a particular human rights issue it is facing.[113] In all cases, the communication by the enterprise should be proportionate to the severity and extent of the adverse human rights impact, fit for purpose, and tailored to meet the needs of its audience.

Where a business enterprise has caused or contributed to an unforeseen or irreversible adverse human rights impact, despite having implemented best practices and policies, it shall, pursuant to Principle 22, provide for or cooperate in the remediation of such impact through legitimate processes. Remediation may be undertaken directly by the enterprise or in cooperation with other actors, and its nature depends on the type of responsibility and the linkage between the business activity and the respective human rights impact. In other words, the form of remediation varies depending on whether the enterprise caused, contributed to, or was directly linked to the adverse human rights impact.

Finally, pursuant to Principle 23, business enterprises are expected to comply with all applicable laws and respect internationally recognized human rights wherever they operate, even in cases where the legal framework of the host State affords lesser protection.

The same Principle stipulates that serious human rights violations shall be treated by business enterprises as a legal compliance issue. Certain operating environments, such as conflict-affected areas, may heighten the risk of business involvement in gross human rights violations committed by other actors, such as security forces. Business enterprises should treat this risk as a legal compliance issue, given the expanding web

[113] Corporate Responsibility to Respect Human Rights, An Interpretive Guide, p. 22.

of potential corporate legal liability arising from extraterritorial civil claims, and from the incorporation of the provisions of the Rome Statute of the International Criminal Court in jurisdictions that provide for corporate criminal responsibility. In addition, corporate directors, officers and employees may be subject to individual liability for acts that amount to gross human rights abuses. In complex contexts such as these, business enterprises should ensure that they do not exacerbate the situation.

Finally, Guiding Principle No. 24 acknowledges that a business enterprise will often be unable to address all adverse impacts simultaneously and stipulates that they should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.

d. Third Pillar: Access to Justice and Remedy

The third pillar of the Guiding Principles acknowledges the importance of access to justice for the assertion and realisation of rights and elaborates on both State and corporate responsibilities in this regard. It provides for access to effective remedies for human rights violations, both through State-based judicial and non-judicial mechanisms, as well as through corporate, business-related and multilateral grievance mechanisms.

Guiding Principle 25 stipulates that:

> ***"As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy."***

Pursuant to the aforementioned Principle, the remedies of adverse human rights impacts may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome.

At the procedural level, both State-based and non-State-based, judicial or non-judicial mechanisms may be employed, through which complaints regarding business-related human rights abuses can be submitted and remedies can be sought. Examples of State-based mechanisms include the courts (for both criminal and civil actions), labour tribunals, national human rights institutions, National Contact Points under the

Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development, many ombudsperson offices, and Government-run complaints offices. In relation to these mechanisms, States should take appropriate measures to ensure their effectiveness, namely impartiality, integrity, and the ability to accord due process, as well as to reduce legal, practical or other relevant barriers that could result in a denial of access to remedy.[114]

Legal barriers include the legal approach to attributing corporate liability or the insufficient protection of vulnerable groups, such as migrants or indigenous peoples. Practical and procedural barriers include high costs of filing lawsuits, inadequate legal aid, lack of sufficient resources and expertise among relevant judicial personnel, among others.

Therefore, ensuring the effectiveness of judicial mechanisms may entail policies that promote and safeguard the independence of the judiciary, ensure adequate funding of courts, and provide appropriate arrangements enabling law enforcement authorities, judges, and other relevant judicial actors to seek assistance in cross-border cases. It may also involve investing in the continuous professional development of lawyers and judges to raise awareness of international, regional and domestic standards on business and human rights, and of opportunities to enhance corporate accountability and access to remedy for affected parties. [115]

Pursuant to Guiding Principle No. 27, States should also provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse. Given that recourse to judicial proceedings may not always constitute the most favoured route for individuals or may prove to be excessively time-consuming, [116]it is crucial that States provide non-judicial mechanisms that can work as a complement to judicial mechanisms to ensure that affected stakeholders have such choices.

Such non-judicial mechanisms include, *inter alia*, the Labour Inspectorate, the Environmental Agency, the Consumer's Ombudsman, National Human Rights

[114] Guiding Principle No. 26.

[115] Office of the United Nations High Commissioner for Human Right, Access to Remedy in Cases of Human rights Abuse, An interpretive Guide, 2024, p. 28; For detailed information on the criteria set for an effective judicial mechanism, see also UN General Assembly, Improving accountability and access to remedy for victims of business-related human rights abuse, Report of the United Nations High Commissioner for Human Rights, A/HRC/32/19, 10 May 2016.

[116] Office of the United Nations High Commissioner for Human Right, Access to Remedy in Cases of Human rights Abuse, An interpretive Guide, 2024, p.51.

Institutions, and Ombudspersons' Offices - as for instance the Equality Ombudsman in Sweden.

Furthermore, according to Guiding Principle No. 28, States should consider ways to facilitate access to effective non-State based grievance mechanisms dealing with business-related human rights harms. One category of non-State-based grievance mechanisms encompasses those administered by a business enterprise alone or with stakeholders, by an industry association or a multi-stakeholder group.

Operational-level grievance mechanisms, which are established and administered by business enterprises, must be accessible directly to individuals and communities that may be adversely affected by a business enterprise, irrespective of whether they have first used other State-based mechanisms. Multi-stakeholder and collaborative mechanisms are typically established by businesses operating in the same sector, in cooperation with other relevant stakeholders, and are based on codes of conduct, performance standards, or global framework agreements.

Such collaborative initiatives should ensure the availability of effective mechanisms through which affected parties or their legitimate representatives can raise concerns when they believe the commitments in question have not been met. The legitimacy of such initiatives may be put at risk if they do not provide for such mechanisms. These mechanisms should provide for accountability and help enable the remediation of adverse human rights impacts.

States are encouraged, in accordance with the UN Guiding Principles, to facilitate access to such mechanisms - for example, by establishing an enabling legal environment and by formulating corresponding favourable public policies. They should ensure that rights holders are able to access grievance mechanisms without fear of retaliation, help stakeholders identify and use non-State-based grievance mechanisms, and take action to ensure that non-State-based grievance mechanisms provide appropriate and effective remedies.[117]

Pursuant to Guiding Principle No. 31 In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- (a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face barriers to access;

[117] Ibid., p. 65.

- (c) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

5. Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859

a. Introduction

The Corporate Sustainability Due Diligence Directive[118] (hereinafter CSDDD or simply "the Directive") entered into force on 25 July 2024. The objective of the Directive is to promote sustainable and responsible business conduct in companies' operations and throughout their global value chains. The new rules shall ensure that companies falling within its scope identify and address adverse human rights and environmental impacts, both within and outside the European Union.[119]

In order to achieve these objectives, the Directive establishes a general framework for sustainability due diligence applicable to very large companies, whether established within the Union or in third countries, whose net turnover generated within the Union exceeds a certain threshold.[120] Member States of the European Union are required, under the Directive, to ensure that companies exceeding a specified number of

[118] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.
[119] European Commission, Corporate sustainability due diligence.

[120]Sectorial Union laws legislation pursuing the same objectives but laying down broader or more specific obligations shall prevail over the general requirements of the Directive in the event of conflict (Article 1 (3) of the Directive).

employees as well as a defined turnover threshold, and operating within the Union, are subject to risk-based due diligence obligations in relation to human rights and the environment.[121] This process is largely aligned with the due diligence procedure as set out in the United Nations Guiding Principles on Business and Human Rights, to which the Directive makes explicit reference.[122] The Directive is part of the EU Action Plan on Human Rights and Democracy 2020-2024, the priority of which is to strengthen the Union's commitment to the effective implementation of the United Nations Guiding Principles on Business and Human Rights.[123]

- **Level of Harmonisation**

This Directive should complement any existing national provisions on due diligence, and States remain free to introduce stricter or more specific provisions with the aim of ensuring a more comprehensive protection of human rights.

b. Personal Scope of Application

In conformity with the final text of the Directive, as adopted in April 2024, its provisions apply to very large companies. Thus, the Directive applies where the company concerned, having its registered office in a Member State of the European Union, has more than 1,000 employees and has a net worldwide turnover exceeding EUR 450,000,000 (Article 2(1)(a)). It further includes companies having their registered office in a third country, which have a net turnover of at least EUR 450,000,000 within the Union (Article 2(2)(a)).[124] As of the time of drafting the present Report, the number of Greek companies falling within the scope of the Directive amounts to thirty. However, as described on the following page, the scope of application of the Directive is gradually expanding and will eventually encompass a considerably higher number of companies.

Furthermore, pursuant to Article 2(1)(b) and Article (2)(b), this Directive shall apply even where the company does not meet the thresholds referred to above (Article

[121] Article 5 1) of the Directive.

[122] Recital 5 of the Directive.

[123] Furthermore, the Directive makes reference to existing legislation on specific issues. For instance, with regard to public communication concerning due diligence, the Directive relies on the reporting duties under the CSRD Directive, thereby avoiding duplication between the scopes of application of the two sets of rules. EU Commission, Directive on Corporate Sustainability Due Diligence Frequently asked questions, p. 6.

[124] In accordance with Article 36(2)(b), the Report of the European Commission on the objectives of the Directive - which is to be submitted by 26 July 2030 - shall assess, inter alia, whether the thresholds for the number of employees and net turnover as defined in Article 2 need to be revised, and whether a specific sectoral approach should be adopted in high-risk sectors.

2(1)(a) and Article 2(1)(b)), provided that it is the ultimate parent company of a group which does so. Finally, the same rules shall apply to companies that have entered into, or that are ultimate parent companies of groups that have entered into, franchise or licensing agreements within the Union, in return for royalties, with independent third-party companies, where the royalties amounted to more than EUR 22,500,000, provided that the company had, or is the ultimate parent company of a group that had, a net worldwide turnover of more than EUR 80,000,000 in the last financial year (Article 2(1)(c) and Article 2(2)(c)).

For the purposes of paragraph 1, the number of part-time employees shall be calculated on a full-time equivalent basis (Article 2(4)). Moreover, pursuant to the same Article, paragraph 2, other workers in non-standard forms of employment should also be included in the calculation of the number of employees insofar as they meet the criteria for determining the status of worker established by the Court of Justice of the European Union (CJEU).[125]

The deadline for the transposition of the Directive into national law is 26 July 2026. The provisions shall apply gradually to an increasing number of companies, reaching those with the above-mentioned employee thresholds and net worldwide turnover over a five-year period, as follows:

- Within 3 years, the national laws transposing the Directive shall apply to companies with 5,000 employees and a net turnover of EUR 1.5 billion.

- Within 4 years, to companies with 3,000 employees and a net turnover of EUR 900 million.

- Within 5 years, to companies with more than 1,000 employees and a net turnover of EUR 450 million.[126]

It is important to highlight the potential impacts of the Directive for **Small and Medium-sized Enterprises (SMEs).** Although SMEs do not fall directly within its regulatory scope and are therefore not subject to obligations under this Directive, they may nonetheless be affected as direct or indirect business partners within the value chains of larger companies falling within the scope of the Directive. For instance, SMEs may be requested, in their capacity as business partners, to collect and provide

[125] It is noted that parent companies falling within the scope of this Directive may fulfil the obligations laid down in Articles 7 to 11 and Article 22 on behalf of companies which are their subsidiaries and also fall within the scope of this Directive, provided that this ensures effective compliance.

[126] (Article 37) of the Directive.

information on actual or potential adverse impacts, and to address them in line with the obligations of the company subject to the Directive.[127] In order to minimise the consequences for SMEs, the Directive includes provisions aimed, on the one hand, at supporting SMEs and, on the other hand, at preventing the possible transfer of responsibilities by larger companies that are subject to the rules of the Directive. In addition, specific support shall be provided to SMEs to help them integrate sustainability perspectives into their business operations, such as through the dissemination of information and guidance on due diligence measures, the supply of relevant tools, and training on capacity building.[128]

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- **Financial institutions**

The financial sector is partially covered by the Directive, namely, financial institutions are required to conduct due diligence in relation to their own business operations and their own supply chain; however, they are not under an obligation to take into consideration the impacts arising from investments, loans, insurance, or other financial services they provide. This issue has given rise to debates and criticism, as it is precisely this second category of activities - namely, those financed by such institutions - that is linked to the greatest risk of adverse impacts on human rights. It is argued that this omission constitutes a significant weakness of the agreement and a missed opportunity to include such key actors in the transition towards a more sustainable global economy.[129]

According to recital 51: "Although regulated financial undertakings are only subject to due diligence obligations for the upstream part of their chains of activities, the specificities of financial services as well as the MNE Guidelines provide indications of the types of measures that are appropriate and effective for financial undertakings to take in due diligence processes. As it is highlighted also in the MNE Guidelines, the specificities of financial services need to be acknowledged. Regulated financial undertakings are expected to consider adverse impacts and to use their so-called 'leverage' to influence companies. The exercise of shareholders' rights can be a way to exercise leverage."

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[127] EU Commission, CSDDD, FAQ, p. 8.

[128] Ibid., p. 8.

[129] Ibid., p. 9.

c. Substantive Scope of Application

- **Which human rights are covered by the Directive?**

At first reading, the Directive encompasses and protects a very broad spectrum of human rights. However, a combined analysis of the relevant provisions demonstrates that the rights under protection are significantly fewer than those enshrined in the United Nations Guiding Principles on Business and Human Rights, which require businesses to assess their impacts across "all internationally recognized human rights."[130] This is due, firstly, to the fact that the human rights that business enterprises are required to consider are limited in scope and subject to complex conditions. The agreed text of the Directive adopts the approach that only instruments which have been ratified by all Member States fall within its scope. As a result, certain instruments are excluded, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention on the Elimination of All Forms of Racial Discrimination.[131]

Secondly, the Directive defines an adverse impact on human rights with reference to the concept of an "abuse" of a right. However, the United Nations Guiding Principles on Business and Human Rights do not use the term "abuse of rights", but rather characterize adverse impacts as any act or omission that removes or diminishes an individual's ability to enjoy his or her rights. The introduction of the concept of "abuse" implies a breach of the State's duty under international human rights law, and may inadvertently raise the threshold for determining when an impact falls within the scope of the Directive and should therefore be part of the business due diligence obligation.[132] Establishing abuse may further prove problematic in civil litigation proceedings, as the court would have to ascertain the existence of an abuse of rights prior to adjudicating on matters of civil liability.[133]

Furthermore, the Directive leaves complex issues of international law to be resolved by the companies themselves. For instance, the question of whether a human right can even be infringed by a company's conduct (thereby being attributed to the company) is

[130] Bueno N, Bernaz N, Holly G, Martin-Ortega O. The EU Directive on Corporate Sustainability Due Diligence (CSDDD): The Final Political Compromise 1 *Business and Human Rights Journal 7* (2024).

[131] Holy G. The EU Corporate Sustainability Due Diligence Directive: Maximizing Impact through Transposition and Implementation, The Danish Institute for Human Rights, 2024, p. 10.

[132] Ibid p. 11.

[133] Ibid p. 11.

a highly complex issue of international law and, by extension, whether the rules of the Directive would apply, will be challenging for a company to answer.[134]

- **Environmental Impacts with Consequences for Human Rights**

The Directive covers environmental issues, by addressing human rights violations which are linked to or arise from the environment (as set out below under I), or by independently defining issues of adverse environmental impacts (as set out below under II).

I. Environment and Human Rights

The Directive defines two types of situations in which human rights and adverse environmental impacts interact.

(a) Environmental Impacts with Consequences for Human Rights

Firstly, due diligence shall include adverse environmental impacts arising from the violation of point 15, section 1 of Part I.

"The prohibition of causing any measurable environmental degradation, such as harmful soil change, water or air pollution, harmful emissions, excessive water consumption, degradation of land, or other impact on natural resources, such as deforestation, that:

(a) substantially impairs the natural bases for the preservation and production of food

(b) denies a person access to safe and clean drinking water

(c) makes it difficult for a person to access sanitary facilities or destroys them

(d) harms a person's health, safety, normal use of land or lawfully acquired possessions

(e) substantially adversely affects ecosystem services through which an ecosystem contributes directly or indirectly to human wellbeing interpreted in line with Article 6(1) of the International Covenant on Civil and Political Rights and Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights"

- Background to the provision

Various United Nations texts are particularly important for the interpretation of the above directive and its transposition into national law. The General Assembly of the United Nations, by its resolution of 28 July 2022, recognized the right to a clean, healthy

[134] Holy, 'The EU Corporate Sustainability Due Diligence Directive', p. 11.

and sustainable environment as a human right.[135] In the same resolution, it was acknowledged that sustainable development, in its three dimensions (social, economic and environmental), as well as the protection of the environment, including ecosystems, contributes to and promotes human well-being and the full enjoyment of all human rights by present and future generations. Recognizing also that, conversely, the impact of climate change, the unsustainable management and use of natural resources, the pollution of air, land and water, the unsound management of chemicals and waste, the resulting loss of biodiversity and the decline in services provided by ecosystems interfere with the enjoyment of a clean, healthy and sustainable environment and that environmental damage has negative implications, both direct and indirect, for the effective enjoyment of all human rights.

United Nations Human Rights Committee states: "Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life… The implementation of the obligation of States to respect and to ensure the right to life, and in particular the right to a life with dignity, depends, inter alia, on the measures taken by Member States to preserve the environment and to protect it from harm, pollution and climate change caused by public and private actors."[136] Furthermore, the Committee on Economic, Social and Cultural Rights has extensively addressed and recognized the linkage between environmental degradation caused by climate change and violations of rights enshrined in the International Covenant on Economic, Social and Cultural Rights.[137]

Since all Member States voted in favour of the aforementioned Resolution and are committed to act in accordance with the interpretations of the United Nations treaty bodies on human rights under international law, when transposing the Directive into national law, Member States shall draw upon the jurisprudence of the United Nations treaty bodies established under the human rights treaties and shall make explicit reference to the said Resolution of the General Assembly concerning the right to a clean, healthy and sustainable environment.[138]

[135] UN General Assembly, Resolution, A/RES/76/300, 1 August 2022.

[136] Human Rights Committee General Comment No. 36, CCPR/C/GC/36, 3 September 2019.

[137] Committee on Economic, Social and Cultural Rights, Climate change and the International Covenant on Economic, Social and Cultural Rights, 8 October 2018.

[138] Van Den Berghe A. et al, Corporate Environmental Due Diligence and Reporting in the EU Legal analysis of the EU Directive on Corporate Sustainability Due Diligence and policy recommendations for transposition into national law, Client Earth and Frank Bold, September 2024, p. 32.

(b) Right of individuals, groups and communities to land and natural resources, and the right not to be deprived of their means of subsistence (Part I, Section 1, Point 16 of the Annex).

Secondly, due diligence shall further encompass adverse environmental impacts arising from violations of Part I, Section 1, Point 16 of the Annex, which provides as follows:

The right of individuals, groupings and communities to lands and resources and the right not to be deprived of means of subsistence, which entails the prohibition to unlawfully evict or take land, forests and waters when acquiring, developing or otherwise using land, forests and waters, including by deforestation, the use of which secures the livelihood of a person, interpreted in line with Article 1 and 27 of the International Covenant on Civil and Political Rights and Article 1, 2 and 11 of the International Covenant on Economic, Social and Cultural Rights.

II. "Adverse effects on the environment"

Apart from the effects on the environment linked to the adverse impacts on human rights, environmental effects also include those arising from the infringement of sixteen specific environmental obligations and prohibitions established under international environmental conventions listed in Annex Part II.

In summary, these relate to:[139]

1. The obligation to avoid or minimize adverse impacts on biological diversity, interpreted in accordance with Article 10(b) of the 1992 Convention on Biological Diversity and the applicable legislation in the competent jurisdiction, including obligations under the Cartagena Protocol on the development, handling, transport, use, transfer and release of living modified organisms, and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity of 12 October 2014.
2. The prohibition of the import, export, re-export or introduction from the sea of any specimen included in Appendices I to III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of 3 March 1973 without a permit, interpreted in accordance with Articles III, IV and V of the Convention.
3. The prohibition of the manufacture, import and export of products containing mercury listed in Annex A Part I of the Minamata Convention on Mercury of 10

[139] Ibid., p. 53.

October 2013 (Minamata Convention), interpreted in line with Article 4(1) of the Convention.

4. The prohibition of the use of mercury or mercury compounds in manufacturing processes listed in Annex B Part I of the Minamata Convention after the designated phase-out date for the respective processes, interpreted in accordance with Article 5(2) of the Convention.
5. The prohibition of the illegal treatment of mercury waste, interpreted in accordance with Article 11(3) of the Minamata Convention and Article 13 of Regulation (EU) 2017/852 of the European Parliament and of the Council.
6. The prohibition of the production and use of chemical substances listed in Annex A to the Stockholm Convention of 22 May 2001 on Persistent Organic Pollutants (POPs Convention), interpreted in accordance with Article 3(1)(a), point (i) of the Convention and Regulation (EU) 2019/1021 of the European Parliament and of the Council.
7. The prohibition of the unlawful handling, collection, storage and disposal of waste, interpreted in line with Article 6(1), point (d), points (i) and (ii) of the POPs Convention and Article 7 of Regulation (EU) 2019/1021.
8. The prohibition of the import or export of a chemical listed in Annex III to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) of 10 September 1998, interpreted in line with Article 10(1), Article 11(1), point (b) and Article 11(2) of the Convention and indication by the importing or exporting Party to the Convention in line with the Prior Informed Consent (PIC) Procedure.
9. The prohibition of the unlawful production, consumption, import and export of controlled substances in Annexes A, B, C and E to the Montreal Protocol on substances that deplete the Ozone Layer to the Vienna Convention for the protection of the Ozone Layer, interpreted in line with Article 4B of the Montreal Protocol and licensing provisions under applicable law in relevant jurisdiction.
10. The prohibition of the export of hazardous or other waste, interpreted in line with Article 1(1) and (2) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (Basel Convention) and Regulation (EC) No 1013/2006 of the European Parliament and of the Council.
11. The prohibition of the export of hazardous wastes from countries listed in Annex VII to the Basel Convention to countries not listed in Annex VII for operations listed in Annex IV to the Basel Convention, interpreted in line with Article 4A of the Basel Convention and Article 34 and 36 of Regulation (EC) No 1013/2006.
12. The prohibition of the import of hazardous wastes and other wastes from a non-party that has not ratified the Basel Convention, interpreted in line with Article 4(5) of the Basel Convention.

13. The obligation to avoid or minimise adverse impacts on the properties delineated as natural heritage as defined in Article 2 of the Convention Concerning the Protection of the World Cultural and Natural Heritage of 16 November 1972 (the World Heritage Convention), interpreted in line with Article 5, point (d) of the World Heritage Convention and applicable law in the relevant jurisdiction.
14. The obligation to avoid or minimise adverse impacts on wetlands as defined in Article 1 of the Convention on Wetlands of International Importance especially as Waterfowl Habitat of 2 February 1971 (Ramsar Convention), interpreted in line with Article 4(1) of the Ramsar Convention and applicable law in the relevant jurisdiction.
15. The obligation to prevent the pollution from ships, interpreted in line with the International Convention for the Prevention of Pollution from Ships of 2 November 1973, as amended by the Protocol of 1978 (MARPOL 73/78).
16. The obligation to prevent, reduce and control pollution of the marine environment by dumping, interpreted in line with Article 210 of the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS) and applicable law in the relevant jurisdiction.

d. Necessary Steps for Due Diligence

- **Concept of Risk-Based Due Diligence under the Directive**

Pursuant to the Directive, companies are required to carry out risk-based due diligence in relation to human rights and the environment (Article 5(1)). The concept of risk shall be interpreted in accordance with the instruments to which the Directive explicitly refers, namely the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises. In line with the risk-based due diligence approach, it must be ensured that: (a) enterprises prioritise their most significant adverse impacts on the basis of severity and likelihood of harm and, on that basis, focus their attention and resources on their higher-risk operations and business relationships; and (b) enterprises' due diligence measures are sufficiently tailored to the nature, severity and likelihood of the specific risks and adverse impacts they identify.[140]

More specifically, a company shall take measures that are commensurate with the severity and likelihood of the adverse impact. Where the likelihood and severity of an adverse impact are high, due diligence shall be more extensive. Due diligence shall also

[140] OECD, Translating a risk-based due diligence approach into law: Background note on Regulatory Developments concerning Due Diligence for Responsible Business Conduct, 2022, p. 5.

be tailored to the nature of the adverse impact (depending on whether it concerns human rights, the environment, or other), which means that the approaches to be developed shall be risk-specific and take into account how these risks affect different groups. Furthermore, where it is not feasible to address all identified impacts together, the company shall prioritise the order in which it takes action, based on the severity and likelihood of the adverse impact.[141]

It is important to emphasise that companies are expected to focus their attention and resources on where they are most urgently needed - not on the basis of other factors, such as where risks and impacts sit in the value chain, the degree of influence or leverage an enterprise has over a particular business partner, or the extent to which the impacts at issue are deemed to be financially material[142]

- **Steps of the Due Diligence Process under the Directive**

Pursuant to Articles 7 to 16 of the Directive, companies shall undertake the following steps in order to conduct due diligence:

1. Integrate due diligence into their relevant policies and risk management systems
2. Identify and assess actual and potential adverse impacts arising from their own operations or those of their subsidiaries and, where related to their chains of activities, those of their business partners
3. Take appropriate measures to prevent and mitigate potential adverse impacts, to bring actual adverse impacts to an end and minimize their extent, and to provide remediation for actual adverse impacts
4. Where necessary, companies shall prioritize measures based on the severity (scale, scope, irremediability) and likelihood of the impacts
5. Establish and maintain a notification mechanism and a complaints procedure
6. Monitor the effectiveness of the policies and due diligence measures implemented
7. Publicly communicate on due diligence
8. Carry out meaningful engagement with stakeholders

It should be noted that companies may prioritise and consequently not address all impacts where multiple risks arise, based on the severity and likelihood of occurrence of such impacts (Article 9 of the Directive). This provision differs in that respect from the UN Guiding Principles, which only sets severity as a criterion, without reference to the likelihood of occurrence of harm.

[141] See OECD Due Diligence Guidance for RBC (2018), Overview and Annex, Q3 to Q5, and OECD (2011), Commentary on General Policies, par. 16.

[142] OECD, "Translating a risk-based due diligence approach into law", p. 5-6.

Step 1: Integrating due diligence into company policies and risk management systems (Article 7)

The due diligence policy referred to in paragraph 1 shall be developed in prior consultation with the company's employees and their representatives, and contain all of the following:

(a) a description of the company's approach, including in the long term, to due diligence

(b) a code of conduct describing rules and principles to be followed throughout the company and its subsidiaries, and the company's direct or indirect business partners in accordance with Article 10(2), point (b), Article 10(4), Article 11(3), point (c), or Article 11(5) and

(c) a description of the processes put in place to integrate due diligence into the company's relevant policies and to implement due diligence, including the measures taken to verify compliance with the code of conduct referred to in point (b) and to extend that code's application to business partners.

Companies are further required to update their due diligence policies without undue delay following any significant change, as well as to review and, where necessary, update them at least every 24 months.

Step 2: Identifying and assessing actual and potential adverse impacts Article 8 of the Directive

As mentioned above companies shall take appropriate measures to identify and assess actual and potential adverse impacts arising from their own operations or those of their subsidiaries and, where related to their chain of activities, the operations of their business partners (Article 8(1)).

The concept of "appropriate measures" is explicitly defined in accordance with Article 3(1)(o) of the Directive, namely as: "[…] 'appropriate measures' means measures that are capable of achieving the objectives of due diligence by effectively addressing adverse impacts in a manner commensurate to the degree of severity and the likelihood of the adverse impact, and reasonably available to the company, taking into account the circumstances of the specific case, including the nature and extent of the adverse impact and relevant risk factors."

The obligation to take appropriate measures for the identification and assessment of the aforementioned impacts includes: (a) the mapping of the their own operations, those of their subsidiaries and, where related to their chains of activities, those of their business partners, in order to identify general areas where adverse impacts are most likely to occur and to be most severe; and (b) an in-depth assessment based on such mapping (Article 8(2)).[143] Furthermore, companies are entitled to make use of appropriate resources, including independent reports and information collected through the notification mechanism and the complaints procedure provided for in Article 14.[144]

Step 3: Identification of appropriate measures for preventing and mitigating potential adverse impacts, and bringing actual adverse impacts to an end and minimising their extent (Articles 10 et seq.)

Companies are furthermore required to prevent, mitigate or bring to an end actual adverse impacts (Articles 10 et seq.) by adopting appropriate measures. When designing such measures, companies shall duly take into account the following: whether the potential adverse impact may be caused only by the company; whether it may be caused jointly by the company and a subsidiary or business partner, through acts or omissions; or whether it may be caused only by a company's business partner in the chain of activities (Article 10(1) (a) and Article 11(1 (a)of the Directive). Additionally, companies undertakings shall consider whether potential adverse impacts may arise from the activities of a subsidiary, a direct business partner or an indirect business partner (Article 10 and Article 11(1)(b) respectively), as well as the ability of the company to influence the business partner which may individually or jointly cause potential adverse impacts (point (c)).

Despite the fact that the above statements may deviate to some extent from the exact wording of the UN Guiding Principles on Business and Human Rights (cause, contribute, direct linkage), the recitals (specifically Recital 53) refer to the UN Guiding Principles and clarify how these concepts are used in the Directive and how they relate to the due diligence obligations framework.[145] Furthermore, according to the said recital, the Directive does not intend to reduce the scope of application in relation to the UN Guiding Principles but aims at legal clarity and legal certainty, which may be achieved by rendering more specific the companies' obligations under the Directive.

With regard to the measures to be taken by companies in order to address adverse human rights impacts on a case-by-case basis, the Directive differentiates between measures that a company is obliged to take (Article 10(2) and Article 11(3) of the

[143] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 69.

[144]See Article 8 (3) of the Directive.

[145] Holy, 'The EU Corporate Sustainability Due Diligence Directive', p. 12.

Directive), and measures that a company may (optionally) take (Article 10(3) and Article 11(4) of the Directive).

The measures that a company is required to adopt in order to prevent and mitigate adverse impacts vary depending on the circumstances faced, and may include:

- the development and implementation of a preventive or corrective action plan
- obtaining contractual assurances from its direct business partner that it will comply with the company's code of conduct, and that it will seek corresponding contractual assurances from its own partners to the extent that their activities form part of the company's chain of activities
- making the necessary financial or non-financial investments, adjustments or upgrades, for example in facilities, production or other operational processes and infrastructures
- adopting the necessary modifications or improvements to the company's business plan, overall strategies, and its own activities, including purchasing practices, design and distribution practices
- providing targeted and proportionate support to an SME which is a business partner of the company, where necessary in light of the resources, knowledge and constraints of the SME, including by providing or enabling access to capacity-building, training or upgrading management systems, and, where compliance with the code of conduct or the prevention action plan would jeopardise the viability of the SME, by providing targeted and proportionate financial support, such as direct financing, low-interest loans, guarantees of continued sourcing, or assistance in securing financing
- in compliance with Union law, including competition law, collaborating with other entities, including, where relevant, in order to increase the company's ability to prevent or mitigate the adverse impact, in particular where no other measure is suitable or effective

With regard to bringing the actual adverse effects to an end, companies are, where relevant, required to take the following measures:

- neutralise the adverse impact or minimise its extent; such measures shall be proportionate to the severity of the adverse impact and to the company's implication in the adverse impact
- where necessary due to the fact that the adverse impact cannot be immediately brought to an end, without undue delay develop and implement a corrective action plan with reasonable and clearly defined timelines for the implementation of appropriate measures and qualitative and quantitative indicators for measuring improvement; companies may develop their action plans in cooperation with

industry or multi-stakeholder initiatives; the corrective action plan shall be adapted to companies' operations and chains of activities

- seek contractual assurances from a direct business partner that it will ensure compliance with the company's code of conduct and, as necessary, a corrective action plan, including by establishing corresponding contractual assurances from its partners to the extent that their activities are part of the company's chain of activities
- make necessary financial or non-financial investments in, adjustments or upgrades of, for example, facilities, production or other operational processes and infrastructures
- make necessary modifications of, or improvements to, the company's own business plan, overall strategies and operations, including purchasing practices, design and distribution practices
- provide targeted and proportionate support to an SME which is a business partner of the company, where necessary in light of the resources, knowledge and constraints of the SME, including by providing or enabling access to capacity-building, training or upgrading management systems, and, where compliance with the code of conduct or the corrective action plan would jeopardise the viability of the SME, by providing targeted and proportionate financial support, such as direct financing, low-interest loans, guarantees of continued sourcing, or assistance in securing financing
- in compliance with Union law, including competition law, collaborate with other entities, including, where relevant, in order to increase the company's ability to bring the adverse impact to an end or minimise the extent of such impact, in particular where no other measure is suitable or effective
- provide remediation in accordance with Article 12.

Step 4: Prioritisation and clarification of the framework within which companies are required to take measures in accordance with the Directive

When assessing the appropriate measures to prevent or adequately mitigate adverse impacts, due account should be taken of the so-called 'level of involvement of the company in an adverse impact' in line with the international frameworks and the company's ability to influence the business partner causing or jointly causing the adverse impact.[146] The levels at which a company is involved in adverse impacts according to the international frameworks of the UN and the OECD are, under the classification used in the directive, as follows:

[146] Recital 45.

- Causation: The company's acts or omissions are sufficient in themselves to result in adverse impacts.
- Joint Causation (Contribution): the joint causation of adverse impacts, together with their subsidiaries or business partners (the so-called 'contribution' to adverse impacts, as referred to in the international framework)." Jointly causing the adverse impact is not limited to equal implication of the company and its subsidiary or business partner in the adverse impact, but should cover all cases of the company's acts or omissions, causing the adverse impact in combination with the acts or omissions of subsidiaries or business partners, including where the company substantially facilitates or incentivises a business partner to cause an adverse impact, that is, excluding minor or trivial contributions.[147]
- Sole causation by a business partner operating within the company's chain of activities: he so-called "direct linkage" with adverse impacts, as referred to in the international framework.

The level of involvement in the impact determines what the company is required to do, namely which outcomes it should seek to achieve. The relationship between the company and its partner and the characteristics of it - such as the proximity of the business partner to the company or the influence exercised over a business partner - are factors determining "how" the impact should be addressed, that is, which measures the company is expected to take towards the desired outcome.[148]

Step 5: Notification mechanism and complaints procedure (Article 14)

In accordance with Article 14(1) of the Directive Member States shall ensure that companies enable persons and entities listed in paragraph 2 to submit complaints to them where those persons or entities have legitimate concerns regarding actual or potential adverse impacts with respect to the companies' own operations, the operations of their subsidiaries or the operations of their business partners in the chains of activities of the companies.

Article 14(2) specifies the natural or legal persons who are entitled to submit a complaint. Thus, Member States shall ensure that complaints may be submitted by: (a) natural or legal persons who are affected or have reasonable grounds to believe that they might be affected by an adverse impact, and the legitimate representatives of such persons on behalf of them, such as civil society organisations and human rights defenders (b) trade unions and other workers' representatives representing natural

[147] See Recital 45.

[148] Van Den Berghe A. et al., 'Corporate Environmental Due Diligence' p. 72.

persons working in the chain of activities concerned and (c) civil society organisations that are active and experienced in related areas where an adverse environmental impact is the subject matter of the complaint.

Member States shall ensure that companies establish a fair, publicly available, accessible, predictable and transparent procedure [149] for dealing with the complaints referred to in paragraph 1, including a procedure where a company considers a complaint to be unfounded. They shall also be required to inform the relevant workers' representatives and trade unions about the said procedure. Companies shall take reasonably available measures to prevent any form of retaliation by ensuring that the identity of persons or entities that submit notifications remain confidential, in accordance with national law. Where information is to be disclosed, this should be done in a manner that does not endanger the safety of complainants, including by not disclosing their identity.

Member States shall ensure that complainants are entitled to:

(a) request appropriate follow-up on the complaint from the company with which they have filed a complaint pursuant to paragraph 1(b) meet with the company's representatives at an appropriate level to discuss actual or potential severe adverse impacts that are the subject matter of the complaint, and potential remediation in accordance with Article 12 (c) be provided by the company with the reasons a complaint has been considered founded or unfounded and, where considered founded, with information on the steps and actions taken or to be taken (Article 14(4)).

Companies should also establish an accessible mechanism for the submission of notifications by persons and entities where they have information or concerns regarding actual or potential adverse impacts with respect to their own operations, the operations of their subsidiaries and the operations of their business partners in the chains of activities of the companies In order to reduce the burden on companies, they should be able to participate in collaborative complaints procedures and notification mechanisms, such as those established jointly by companies, for example, by a group of companies, through industry associations, multi-stakeholder initiatives or global framework agreements. The submission of a notification or complaint should not be a prerequisite or preclude the person submitting them from having access to the substantiated concerns procedure or to judicial or other non-judicial mechanisms.[150]

[149]The terms "fair," "publicly available," "accessible," "predictable," and "transparent" shall be interpreted in accordance with Principle 31 of the United Nations Guiding Principles on Business and Human Rights.

[150] See Recital 59.

In order to reduce the burden on companies, they should be able to participate in collaborative complaints procedures and notification mechanisms, such as those established jointly by companies, for example, by a group of companies, through industry associations, multi-stakeholder initiatives or global framework agreements (paragraph 6) .

Finally, pursuant to Article 14(7), the submission of a notification or complaint under this Article shall not be a prerequisite for, or preclude the persons submitting them from, having access to the procedures under Article 26 and 29 or to other, non-judicial, mechanisms.

Step 6: Monitoring (Article 15)

Companies carry out periodic assessments of their own operations and measures, those of their subsidiaries and, where related to the chain of activities of the company, those of their business partners, to assess the implementation and to monitor the adequacy and effectiveness of the identification, prevention, mitigation, bringing to an end and minimisation of the extent of adverse impacts. Such assessments shall be based, where appropriate, on qualitative and quantitative indicators and be carried out without undue delay after a significant change occurs, but at least every 12 months and whenever there are reasonable grounds to believe that new risks of the occurrence of those adverse impacts may arise. Where appropriate, the due diligence policy, the adverse impacts identified and the appropriate measures that derived shall be updated in accordance with the outcome of such assessments and with due consideration of relevant information from stakeholders.

Step 7: Communicating (Article 16)

As in the case of the United Nations Guiding Principles on Business and Human Rights, external communication of relevant information concerning due diligence policies, procedures and activities carried out for the purpose of identifying and addressing actual or potential adverse impacts — including the outcomes and results of such activities — constitutes an integral element of due diligence itself.[151] Pursuant to Article 16 of the Directive Member States shall ensure that companies report on the matters covered by this Directive by publishing on their website an annual statement. [152] The

[151] Recital 62.

[152] Reference is made to Directive 2013/34/EU with regard to the determination of the relevant reporting obligations applicable to the companies falling within the scope of this Directive. See also Recital 62. The applicable standards are those established under the framework of the CSRD, namely the European Sustainability Reporting Standards (ESRS).

annual statement should be submitted to the designated collection body for the purpose of making it accessible on the European single access point (ESAP) as established by Regulation (EU) 2023/2859 of the European Parliament and of the Council.

Article 16(2) stipulates that "Paragraph 1 of this Article shall not apply to companies that are subject to sustainability reporting requirements in accordance with Article 19a, 29a or 40a of Directive 2013/34/EU, including those that are exempted in accordance with Article 19a(9) or Article 29a(8) of that Directive."[153] For companies that do not fall within the scope of the Corporate Sustainability Reporting Directive (CSRD), the present Directive provides that the Commission shall adopt a delegated act to specify the content and criteria for the submission of reports. Such delegated act shall include, in sufficiently detailed manner, the information to be disclosed concerning the description of due diligence, the actual and potential adverse impacts identified, and the appropriate measures taken in relation to such impacts.[154]

Step 8: Carrying out meaningful engagement with stakeholders

Central to the effective implementation of the provisions on human rights due diligence is the adoption of appropriate measures to ensure meaningful engagement and effective cooperation with stakeholders in the process of undertaking relevant actions.

'Stakeholders' means the company's employees, the employees of its subsidiaries, trade unions and workers' representatives, consumers and other individuals, groupings, communities or entities whose rights or interests are or could be affected by the products, services and operations of the company, its subsidiaries and its business partners, including the employees of the company's business partners and their trade unions and workers' representatives, national human rights and environmental institutions, civil society organisations whose purposes include the protection of the environment, and the legitimate representatives of those individuals, groupings, communities or entities (Article 3(1) (n) of the Directive).

Pursuant to Article 13(3) of the Directive, the consultation of stakeholders shall take place at the following stages of the due diligence process: (a) when gathering the necessary information on actual or potential adverse impacts, in order to identify, assess and prioritise adverse impacts pursuant to Articles 8 and 9, (b) when developing prevention and corrective action plans pursuant to Article 10(2) and Article 11(3), and

[153] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 74.

[154] Ibid.

developing enhanced prevention and corrective action plans pursuant to Article 10(6) and Article 11(7).

(c) when deciding to terminate or suspend a business relationship pursuant to Article 10(6) and Article 11(7) (d) when adopting appropriate measures to remediate adverse impacts pursuant to Article 12
(e) as appropriate, when developing qualitative and quantitative indicators for the monitoring required under Article 15.

At this point as well, the Directive differs in that respect from the UN Guiding Principles and the OECD Guidelines, as these provide for stakeholder engagement at every stage of the due diligence process.[155] However, Recital 65 of the Directive refers to information obligations towards consulted stakeholders, as well as to continuous stakeholder engagement, at the appropriate level and with appropriate regularity.

e. Due diligence and value chains

The Directive lays down due diligence procedures which encompass not only the operations of the company itself and those of its subsidiaries, but also the activities of its business partners throughout the so-called "value chains".

It is necessary to introduce the definition and subsequently clarify the content of the term "chain of activities", in light of the provisions of the Directive.

The Directive covers both upstream and downstream activities carried out by business partners.

Under Article 3(1)(g) of the Directive:

'chain of activities' means: (i) activities of a company's upstream business partners related to the production of goods or the provision of services by that company, including the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of products and the development of the product or the service and (ii) activities of a company's downstream business partners related to the distribution, transport and storage of a product of that company, where the business partners carry out those activities for the company or on behalf of the company, and excluding the distribution, transport and storage of a product that is subject to export controls under Regulation (EU) 2021/821 or to the export controls relating to weapons, munitions or war materials, once the export of the product is authorised.

[155] Holy, 'The EU Corporate Sustainability Due Diligence Directive', p. 14.

It should be noted that the scope of the Directive is not limited to a specific product or service, nor is it contingent upon the place of the company's operations or the registered office of its business partners.
This approach is consistent with the methodology adopted by official international instruments on due diligence, such as the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights.

The above highlights the necessity of defining the concept of "business partners". As outlined in the text of the Directive, business partners are divided into direct and indirect.

Thus, according to Article 3(1)(f) of the Directive, "business partner" means an entity:

(i) with which the company has a commercial agreement related to the operations, products or services of the company or to which the company provides services pursuant to point (g) ('direct business partner') or

(ii) which is not a direct business partner, but which performs business operations related to the operations, products or services of the company ('indirect business partner');

It therefore remains to be clarified which activities in relation to which of the above-mentioned business partners fall within the scope of the due diligence provisions.

Pursuant to Article 3 (1) (g), the activities of upstream business partners are related to the production of goods or the provision of services by the company, such as the design, extraction, sourcing, manufacturing, transport, storage and supply of raw materials, products or components, as well as the development of the product or service. **As regards upstream business activities, both direct and indirect business partners are covered.**[156]

The activities of **downstream** business partners for which companies are obliged to conduct due diligence are limited to those related to the distribution, transport, and storage of a product, in cases where such business partners perform these activities for the company or on its behalf, provided that the company falls within the scope of the Directive. **Therefore, both the direct and indirect business partners involved in distribution, transport and storage are covered.** However, the condition under which business partners must operate for the company or on its behalf introduces a

[156] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 22.

restriction as to the types of activities falling within the scope of this definition.[157] Activities concerning the disposal of the product on the market are excluded from the scope of the Directive (Recital 25). Furthermore, in conformity with Recital 26 of the Directive, the term chain of activities shall not encompass the activities of the company's downstream business partners that are related to the company's "services".

Contrary to this approach, the United Nations Guiding Principles and the OECD Guidelines for Multinational Enterprises expect due diligence processes to be carried out along the entire value chain, including downstream activities - for instance, what occurs after a product or service leaves the company. The fact that the Directive covers certain aspects of downstream activities, such as the distribution, transport, and storage of the product, without explicitly encompassing a series of other activities such as design, sale, marketing, composition, commercialisation, use, or disposal of products or services, is considered to restrict the scope of protection afforded by the Directive, compared to the provisions of these international standards.[158]

f. Supervisory Authorities

The Directive requires the designation of one or more Supervisory Authorities entrusted with monitoring compliance with the obligations set out in the national legal provisions adopted pursuant to Articles 7 to 16 and Article 22 of the Directive. By 26 July 2026, Member States shall notify the Commission of the names and contact details of the designated Supervisory Authorities, as well as their respective competences, in cases where more than one Supervisory Authority is appointed.

As regards a company referred to in Article 2(1) of the Directive, the competent supervisory authority shall be that of the Member State in which the company has its registered office (Article 24(2)). Pursuant to Article 24(3), as regards a company referred to in Article 2(2), the competent supervisory authority shall be that of the Member State in which the company has a branch. If the company does not have a branch in any Member State, or has branches located in different Member States, the competent supervisory authority shall be the supervisory authority of the Member State in which the company generated most of its net turnover in the Union in the financial year preceding the last financial year before the date indicated in Article 37 or the date on which the company first fulfils the criteria laid down in Article 2(2), whichever comes last.

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[157] Ibid.

[158] Holy, 'The EU Corporate Sustainability Due Diligence Directive', p. 13.

Furthermore, where a parent company fulfils the obligations resulting from this Directive on behalf of its subsidiaries in accordance with Article 6, the competent supervisory authority of the parent company shall cooperate with the competent supervisory authority of the subsidiary, which will remain competent to ensure that the subsidiary is subject to the exercise of powers in accordance with Article 25, (Article 24(4)).

In accordance with Article 24(9) of the Directive, Member States shall guarantee the independence of the supervisory authorities and ensure that they, and all persons working for or who have worked for them, and auditors, experts and any other persons acting on their behalf, exercise their powers impartially, transparently and with due respect for obligations of professional secrecy. In particular, Member States shall ensure that the supervisory authorities are legally and functionally independent, free from external influence, whether direct or indirect, including from the companies falling within the scope of this Directive or other market interests, that their staff and the persons responsible for the management are free from conflicts of interest, subject to confidentiality requirements, and refrain from any action incompatible with their duties.

Operational and legal independence of supervisory authorities

With regard to the functional and legal independence of supervisory authorities, Article 24(9) may be interpreted in light of Union law and the case-law of the Court of Justice of the European Union with regard to the supervisory or independent bodies.[159] According to the relevant legal framework and case-law, supervisory authorities must perform their regulatory functions free from any external influence or instruction, and must take autonomous decisions guided solely by the public interest (functional independence).[160]

Such authorities should also be legally independent, which implies, *inter alia*, that they constitute separate legal entities, devoid of institutional or organisational links with other bodies or authorities that could expose them to any direct or indirect influence over the performance of their regulatory duties.[161] The criterion of direct or indirect influence should therefore encompass both formally exercised influence (e.g. through legislative means) and any *de facto* forms of influence that are nonetheless prohibited. To that end, structural safeguards of independence must be put in place, ensuring that no government supervision on the competent authority - be it with respect to its

[159] For instance, Article 26(1) of the General Data Protection Regulation.

[160] CJEU, Case C-718/18, European Commission v. Federal Republic of Germany, paragraph 109.

[161] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 83.

decision-making procedures, budget, personnel, allocation of resources or administrative management - removes or diminishes its functional independence.[162]

Accountability and transparency of supervisory authorities

Under Article 25(7) of the Directive, Member States shall ensure that each natural or legal person has the right to an effective judicial remedy against a legally binding decision by a supervisory authority concerning them, in accordance with national law. Additionally, under Article 26(6) of the Directive, Member States shall ensure that persons submitting substantiated concerns in accordance with this Article and having, in accordance with national law, a legitimate interest in the matter, have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the supervisory authority.

Regarding transparency in the activities of supervisory authorities, the Directive stipulates that Member States shall ensure that supervisory authorities publish and make accessible online an annual report on their activities under this Directive (Article 24(10)). Moreover, in accordance with Article 25(8) of the Directive, Member States shall ensure that the supervisory authorities keep records of the investigations referred to in paragraph 1, indicating, in particular, their nature and result, as well as records of any enforcement action taken under paragraph 5. Furthermore, Member States shall ensure that any decision of the supervisory authorities concerning penalties related to the infringements of the provisions of national law adopted pursuant to this Directive is published, remains publicly available for at least five years and is sent to the European Network of Supervisory Authorities set up under Article 28. The published decision shall not contain any personal data within the meaning of Article 4(1) of Regulation (EU) 2016/679 (Article 27(5).

Sufficient human and financial resources

In accordance with recital 75 of the Directive, Member States should ensure that each supervisory authority is provided with the human and financial resources necessary for the effective performance of its tasks and the exercise of its powers. In order to define the concept of “sufficient resources” reference may be made to the case-law of the Court of Justice of the European Union (CJEU), and in particular to the judgment of the Court (Fourth Chamber) of 13 June 2018 in Case C-530/16, European Commission v Republic of Poland.[163] According to this judgement, the requirement of organisational

[162] Ibid.

[163] Ibid., p. 84.

independence of the supervisory body does not extend to the obligation of maintaining a separate budget from the competent ministry. However, access to such resources must be governed by clear and transparent rules, which cannot be amended by the Minister, and provided that independent access to the financial resources necessary for the effective performance of the body's mandate is duly ensured.[164]

Powers of supervisory authorities

Under the Directive, a supervisory authority may initiate an investigation on its own initiative or as a result of substantiated concerns communicated to it pursuant to Article 26, where it considers that it has sufficient information indicating a possible breach by a company of the obligations provided for in the provisions of national law adopted pursuant to this Directive.

In order to prevent arbitrary implementation of the Directive and to ensure a level playing field for all companies regarding its application, as well as conditions of fair competition across the European Union, national laws transposing the Directive should impose an obligation on supervisory authorities to initiate an investigation where the respective supervisory authority has sufficient information and indications of a possible infringement of the obligations laid down in the Directive by a company, rather than leaving such action to the discretion of the authority.[165]

Inspections shall be conducted in compliance with the national law of the Member State in which the inspection is carried out and after prior warning has been given to the company, except where prior warning would hinder the effectiveness of the inspection. Where, as part of its investigation, a supervisory authority wishes to carry out an inspection on the territory of a Member State other than its own, it shall seek assistance from the supervisory authority in that Member State pursuant to Article 28(3).[166]

When carrying out their tasks, supervisory authorities shall have at least the power to:

(a) order the company to:

(i) cease infringements of the provisions of national law adopted pursuant to this Directive by performing an action or ceasing conduct

(ii) refrain from any repetition of the relevant conduct and

[164] See paragraphs 99-100 of the CJEU judgement, case 718/18 European Commission v Federal Republic of Germany

[165] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 85.

[166]See Article 25 (3).

(iii) where appropriate, provide remediation proportionate to the infringement and necessary to bring it to an end

(b) impose penalties in accordance with Article 27 and

(c) adopt interim measures in the event of an imminent risk of severe and irreparable harm.

Penalties

In order to ensure effective enforcement of the provisions of national law transposing this Directive, Member States should provide for dissuasive, proportionate and effective penalties for infringements of those measures (Recital 76).

It shall be at the discretion of the Member States to lay down appropriate penalties in accordance with their national legal order. Such penalties shall be dissuasive, proportionate and effective.[167] Nonetheless, in accordance with Article 27(3) of the Directive, Member States shall provide for at least the following penalties: (a) pecuniary penalties, (b) if a company fails to comply with a decision imposing a pecuniary penalty within the applicable time limit, a public statement indicating the company responsible for the infringement and the nature of the infringement.

Pursuant to paragraph 3 of the aforementioned Article, in deciding whether to impose penalties and, if such penalties are imposed, in determining their nature and appropriate level, due account shall be taken of: (a) the nature, gravity and duration of the infringement, and the severity of the impacts resulting from that infringement, (b) any investments made and any targeted support provided pursuant to Articles 10 and 11, (c) any collaboration with other entities to address the impacts concerned, (d) where relevant, the extent to which prioritisation decisions were made in accordance with Article 9, (e) any relevant previous infringements by the company of the provisions of national law adopted pursuant to this Directive found by a final decision, (f) the extent to which the company carried out any remedial action with regard to the subject matter concerned, (g) the financial benefits gained or losses avoided by the company due to the infringement, (h) any other aggravating or mitigating factors applicable to the circumstances of the case concerned.

The provision on the minimum amount of any fine imposed under the Directive is important. When pecuniary penalties are imposed, they shall be based on the company's net worldwide turnover. The maximum limit of pecuniary penalties shall be not less

[167] Recital 76.

than 5 % of the net worldwide turnover of the company in the financial year preceding that of the decision to impose the fine.

Substantiated concerns

Member States shall ensure that natural and legal persons are entitled to submit substantiated concerns, through easily accessible channels, to any supervisory authority when they have reasons to believe, on the basis of objective circumstances, that a company is failing to comply with the provisions of national law adopted pursuant to this Directive (Article 26(1).

Furthermore, Member States shall ensure that supervisory authorities assess the substantiated concerns in an appropriate period of time and, where appropriate, exercise their powers as referred to in Article 25. The supervisory authority shall, as soon as possible and in accordance with the relevant provisions of national law and in compliance with Union law, inform persons referred to in paragraph 1 of the result of the assessment of their substantiated concerns and shall provide the reasoning for that result. The supervisory authority shall also inform persons submitting such substantiated concerns who have, in accordance with national law, a legitimate interest in the matter, of its decision to accept or refuse any request for action, as well as of a description of the further steps and measures, and practical information on access to administrative and judicial review procedures (Article 26(5)).

Finally, Member States shall ensure that persons submitting substantiated concerns in accordance with this Article and having, in accordance with national law, a legitimate interest in the matter, have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the supervisory authority (Article 26(6)).

g. Civil liability

The Directive introduces the concept of civil liability of companies, on the basis of fault, as a means of ensuring access to justice for victims of adverse impacts. Accordingly, parent companies may incur liability for human rights breaches committed by their subsidiaries operating in other jurisdictions.[168]

In the wording of the directive:

[168] Chan, T., Tuson, S., Parent companies can be held liable for human rights and environmental abuses carried out by their subsidiaries operating in other countries, Commentary, 31 July 2024.

"Member States shall ensure that a company can be held liable for damage caused to a natural or legal person, provided that: (a) the company intentionally or negligently failed to comply with the obligations laid down in Articles 10 and 11, when the right, prohibition or obligation listed in the Annex to this Directive is aimed at protecting the natural or legal person; (b) as a result of the failure referred to in point (a), damage to the natural or legal person's legal interests that are protected under national law was caused.

A company cannot be held liable if the damage was caused only by its business partners in its chain of activities."

Under the Directive, the conditions for the payment of compensation to the claimant are:

1. Failure of the company to comply with its obligations regarding due diligence under Articles 10 and 11, namely its failure to take appropriate measures to prevent (or, where prevention is not possible or not immediately possible, to mitigate the extent of) a potential adverse impact, or to bring to an end (or, where it is not immediately possible to bring it to an end, to minimise the extent of) an actual adverse impact, provided that such adverse impact had been or ought to have been identified and assessed pursuant to Article 8 and prioritised in accordance with Article 9.

   Non-compliance with due diligence obligations does not need to be intentional in order to give rise to the company's civil liability and may result from negligence.[169] It should be noted that due diligence obligations under the Directive are obligations concerning ways of conduct. [170] Consequently, companies may incur liability under the Directive only where they fail to take the "appropriate measures" provided for by the due diligence obligations. This means that civil liability does not necessarily arise in cases where the outcome envisaged by the due diligence provisions is not achieved, unless it can be demonstrated that such failure is attributable to the company's omission to take appropriate measures as required under Articles 8 to 11.[171]

2. Damage caused to the victim. The damage caused to the protected legitimate interests of a person shall be interpreted in accordance with national law, and may include, *inter alia*, death, physical or psychological injury, deprivation of personal liberty, loss of human dignity, or damage to personal property.[172]

[169] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 90.

[170] See Recital 19

[171] Van Den Berghe A. et al, 'Corporate Environmental Due Diligence', p. 90.

[172] Recital 79.

3. The indication of a causal link between the lack of compliance and the damage,[173] meaning that the damage must have resulted from the failure to comply with the provisions of the Directive.

Scope of compensation

Victims should have the right to full compensation for the harm caused under national law and in accordance with the Directive. Deterrence through damages (punitive damages) or any other form of overcompensation should be prohibited.[174] .

Procedural barriers

The main procedural obstacles resulting from the Directive concern the costs of judicial pursuit of rights in Europe, which is high, and the fact that proof of the company's non-compliance with the provisions of the due diligence Directive is extremely difficult.[175] The main procedural barriers arising from the Directive relate to the high cost of judicial enforcement of rights in Europe and to the fact that proving a company's non-compliance with the due diligence obligations established by the Directive is particularly burdensome. Regarding the cost of proceedings, the Directive provides that Member States shall ensure that the cost of proceedings is not prohibitively expensive for claimants to seek justice (Article 29(3)(b)). However, in practice, this provision is unlikely to modify the relevant provisions of the Code of Civil Procedure, nor will it change the structural imbalance of power between affected individuals and companies. Consequently, there is a significant risk that this provision will remain aspirational rather than effective.[176]

With respect to this challenge, the Directive requires Member States to establish reasonable conditions are provided for under which any alleged injured party may authorise a trade union, non-governmental human rights or environmental organisation or other non-governmental organisation, and, in accordance with national law, national human rights' institutions, based in a Member State to bring actions to enforce the rights of the alleged injured party, without prejudice to national rules of civil procedure (Article 29(3)(d).

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[173] See for the conditions for company liability documentation in accordance with the Directive: Bueno, N., Oehm, F., Conditions of Corporate Civil Liability in the Corporate Sustainability Due Diligence Directive: Restrictive, but clear? , VerfBlog, 28 May 2024.

[174] Recital 79.

[175] Zimmermann, A. Access to Supply Chain Justice? Some procedural spotlights on Art. 29 para. 3 CSDDD, VerfBlog, 27 May 2024.

[176] Zimmermann, A., Ibid.

As regards matters of evidence, pursuant to Recital 81 of the Directive, the liability regime does not regulate who should prove the fulfilment of the conditions for liability under the circumstances of the case, or upon which conditions civil proceedings can be initiated, therefore those questions are left to national law. Hence, the general rule of civil procedural law applies, according to which the claimant bears the burden of proof regarding the facts that substantiate the claim. However, given that very often the relevant evidence - such as documents - will be in the possession of the company, a practical procedural barrier arises, impeding the effective pursuit of such claims. It is precisely this disadvantage faced by claimants that Article 29(3)(e) of the Directive seeks to address. According the said provision, where a claim for damages is brought and the claimant provides a thorough justification supported by reasonably available facts and evidence sufficient to support an admissible claim for compensation, and states that additional evidence lies within the control of the company, the courts may order the company to disclose such evidence in accordance with national procedural law.

In addition to the above, further limitations have been recognised as possibly affecting the effectiveness of the civil liability provisions under the Directive, including the coverage of purely environmental damages, the liability of companies for the activities of their business partners, the access to justice for residents who are victims of infringements in third countries outside the EU, the types of remedies available, and the liability of companies established outside the Union.

h. Transition plans to mitigate climate change

Pursuant to Article 22(1) of the Directive, "Member States shall ensure that companies referred to in Article 2(1), points (a), (b) and (c), and Article 2(2), points (a), (b) and (c), adopt and put into effect a transition plan for climate change mitigation which aims to ensure, through best efforts, that the business model and strategy of the company are compatible with the transition to a sustainable economy and with the limiting of global warming to 1,5 oC in line with the Paris Agreement and the objective of achieving climate neutrality as established in Regulation (EU) 2021/1119, including its intermediate and 2050 climate neutrality targets, and where relevant, the exposure of the company to coal-, oil- and gas-related activities."

The development and implementation of a transition plan by companies, as outlined above, shall not be confused with the obligation to disclose such a plan, which is already mandated under the Corporate Sustainability Reporting Directive (CSRD).[177] It should also be noted that financial institutions also fall within the scope of this provision.

Concerning the general objective of the Directive, and in particular Article 22 thereof, it is worth citing the first sentence of Recital 73 of the preamble. According to this recital, this Directive is an important legislative tool to ensure corporate transition to a sustainable economy, including to reduce the existential harms and costs of climate change, to ensure alignment with 'global net zero' by 2050, to avoid any misleading claims regarding such alignment and to stop greenwashing, disinformation and fossil fuels expansion worldwide in order to achieve international and European climate objectives.

It is of particular importance that, according to the above-mentioned recital, these requirements shall be read as obligations to make efforts rather than obligations to achieve results. Accordingly, both the progress achieved by the company and the complexity and evolving nature of the climate transition shall be duly taken into account. Article 22 of the Directive thus lays down two core obligations for companies. First, the duty to adopt a transition plan, implying a formal intra-corporate approval of the plan by the company's administrative, management, or supervisory bodies. Second, the Directive requires the entry into force of such a plan, thereby establishing the duty to put it into effect.[178]

Implementing actions should be developed within the framework of the plan to achieve the company's climate objectives and projects should be based on solid scientific evidence; that is, data verified by independent scientific bodies that are consistent with limiting global warming to 1.5° **C**, as defined by the Intergovernmental Panel on Climate change (IPCC) and taking into account the recommendations of the European Scientific Advisory Board on Climate Change.[179] Companies should monitor the implementation of these plans and update them every 12 months.

The transition plan for climate change mitigation shall include:

(a) time-bound climate change targets for 2030 and at five-year intervals thereafter until 2050, on the basis of scientifically substantiated evidence and, where appropriate,

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[177] Chan and Tusson, 'How the EU Corporate Sustainability Due Diligence Directive can be harnessed to promote a just transition.'

[178] FIDH et al, Corporate Sustainability Due Diligence Directive, A guide to transposition and implementation for civil society organisations, p. 54.

[179] Recital 73.

absolute greenhouse gas emission reduction targets covering Scope 1, Scope 2, and Scope 3 emissions for each significant category[180]

(b) a description of identified decarbonisation levers and the key actions designed for the achievement of the targets referred to in point (a), including, where appropriate, changes in the company's product and service portfolio and the adoption of new technologies

(c) an explanation and quantification of investments and financial resources supporting the implementation of the transition plan for climate change mitigation and

d) a description of the role of administrative, management and supervisory bodies in relation to the climate change mitigation transition plan.

It should be noted that all four requirements are based on existing requirements under the CSRD Directive.[181]

i. Challenges in the Implementation of the Directive

The implementation of the Directive presents multiple and significant challenges both for Member States and for companies falling within its scope. With regard to the Member States, they should, during the transposition of the Directive, define precisely and in accordance with the requirements and provisions of the Directive, the concept of due diligence. It is of decisive importance, as noted in several recitals of the Directive,[182] that legal clarity and legal certainty be provided to companies. Although concerns are legitimate that a rigid legal due diligence framework may be created that could lead companies to just formally satisfy the requirements laid down by the Law, it must be borne in mind that, under the Directive, supervisory authorities may impose penalties for failures in the implementation of the obligations established therein, and that civil liability may also arise where corporate responsibility is substantiated. Therefore, it is essential that a clear and delimited legal framework be established. Likewise, companies are expected to face difficulties in conducting a continuous and risk-based dynamic due diligence process, as opposed to a formalistic and rigid one.

[180]Scope 1 emissions refer to direct greenhouse gas emissions from owned or controlled sources, Scope 2 emissions refer to indirect emissions from the production of purchased energy consumed by the company and Scope 3 emissions encompass all other indirect emissions occurring across the company's value chain.

[181] FIDH et al, Corporate Sustainability Due Diligence Directive, A guide to transposition and implementation for civil society organisations, p. 54.

[182] See for instance Recitals 31 and 45.

It is also important to highlight that both Member States and companies operating within their jurisdiction should realise in good time, that the requirements of this Directive go beyond those of the Corporate Sustainability Reporting Directive (CSRD), as has already been mentioned. While requirements are effort effort-based requirements, it does not suffice to merely communicate a transition plan, but also to implement at and monitor it. Specifically, as regards companies' transition plans, it is not mandatory that they include information relating to the so-called "just transition", such as the possible impact of the transition plan on existing jobs, etc.[183] It is worth noting that the Commission may make use of existing guidance frameworks for companies' transition plans, such as the Disclosure Framework developed by the UK Transition Plan Taskforce (TPT), as well as standards for responsible business conduct, such as the updated OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, which are inspired by the principles of a just transition. For instance, under the TPT Framework, companies are expected to disclose how they have identified, assessed and taken into account the adverse impact of their transition plans on stakeholders and society at large. Similarly, according to the OECD Guidelines for Multinational Enterprises, it is recommended that companies develop opportunities for social commitment, collective bargaining, or meaningful dialogue with stakeholders, in order to mitigate the negative social impacts of decarbonisation.[184] While the Directive undoubtedly incorporates many of these aspects, the creation of a coherent framework for states and businesses is perceived as a challenge.

With regard to national supervisory authorities entrusted with the supervision of companies, Member States should ensure their independence in accordance with the case law of the Court of Justice of the European Union on independent regulatory authorities, and equip them with the appropriate material resources and personnel. The organisation of such authorities falls within the so-called institutional autonomy of the Member States that may involve, the establishment of an ad hoc independent supervisory authority or -more likely- the fragmentation of powers among multiple regulatory authorities, each contributing specialised expertise and organisational capacity to achieve the objectives of the Directive. In the latter case, as pointed out in the interviews with various stakeholders, the involvement of a coordination mechanism among the different authorities will be of paramount importance.

[183] For urther information on this matter, see: Law No. 4872/2021, Government Gazette A 247/10.12.2021, "Just Development Transition, Regulation of Specific Issues related to Decarbonisation and other urgent provisions, and Law No. 4887/2022, Government Gazette A 16/04.02.2022, "Development Law – Greece Strong Growth".For the complete regulatory and institutional framework, see:https://eydam.gr/d-nsi-stratigikou-schediasmou-synto/armodiotites-epitelikis/.

[184] Chan and Tusson, 'How the EU Corporate Sustainability Due Diligence Directive can be harnessed to promote a just transition.'

Member States should also establish systems to collect and assess more comprehensive and higher-quality data on corporate performance along the global supply chain.[185] This will be particularly important for companies that are subject to mandatory due diligence obligations concerning adverse human rights and environmental impacts. Such companies will be required to identify and assess all actual and potential adverse impacts, in accordance with the Directive, along their chain of activities. Furthermore, beyond ensuring that they are well informed about both upstream and downstream activities within their value chain, companies should also assess the conduct of their indirect business partners. Both companies and Member States should develop their own methodologies for mapping their value chains and try to strike a balance between the amount and detail of information, [186] given that the Commission will issue guidelines - however, such guidelines will only become available six months after the rules laid down in the Directive enter into force.

A final, yet significant, challenge in the implementation of the Directive is the requirement for meaningful consultation with stakeholders. Not only have new categories of stakeholders emerged - such as whistle-blowers and non-Governmental organisations (NGOs) - but, as previously stated, the Directive sets out specific criteria and conditions for meaningful stakeholder consultation, taking into account other factors, including language and particular vulnerability of certain groups, with a specific emphasis on women.

Proposals

To the State

- General Recommendations
- The competent State authorities should launch a substantial institutional dialogue on the protection of human rights in the context of corporate due diligence engaging all (co-)competent bodies and relevant stakeholders who will be called upon to implement the pertinent European Directive.
- Institutional social dialogue is substantially needed and all constituents should have an active role: State, employers' and workers' organisations, Civil Society Organisations can work together in every step of the Directive's incorporation to the national framework. Social dialogue stable mechanisms can ensure the relevance and implementation of the outputs by all parties. Building of institutional trust

[185] Posner, M., Challenges Ahead: Implementing the EU Corporate Sustainability Due Diligence Directive, 28 May 2024.

[186] Deloitte, The EU Corporate Sustainability Due Diligence Directive is final. What now for your organisation?, 22 April 2024.

through social dialogue processes and achievement of consensus in important aspects of mutually agreed general interest is intrinsically related to the fulfillment of the Directive's principles and objectives.

- The national legislator may assign the conduct of the relevant dialogue - required for the transposition of international and Union law in the field of human rights protection and corporate due diligence - to the Greek National Commission for Human Rights which could respond to the breadth of the relevant regulatory framework due to its pluralistic composition and the expertise of its Members across the full spectrum of human rights. Furthermore, the GNCHR has been institutionally delegated with the power—pursuant to its founding legislation—of collecting and examining data in greater depth relevant information by conducting hearings with stakeholders and persons.

- **Personal scope of the Directive**

Regarding the personal scope of the Directive, it is recommended that the State:

- Include all types of corporate entities
- Lower the applicability threshold of the Directive so as to encompass companies with a smaller number of employees and/or lower size of net turnover. [187]

- Substantive Scope of the Directive

- It is recommended that the national legislator extend the substantive scope of the Directive as follows:
- Human Rights
    - The national legislator should incorporate the full spectrum of internationally recognised human rights, and not merely those enshrined in Part I, Sections 1 and 2 of the Annex to the Directive, subject to additional applicability conditions.
    - The additional conditions required in order for effective protection under Part I, Section 2 of the Annex to be activated, should be eliminated.

[187] Nevertheless, it should not escape the attention of the national legislator that, as previously outlined both in the recitals and in multiple provisions of the Directive, one of its objectives is the protection of micro, small, and medium-sized enterprises (SMEs) (Article 3(1)(h) of the Directive).

    - The scope should further include additional international human rights bodies even in conjunction with the preceding provision.[188]
- Environment
    - It is recommended that the protection of the environment be maximised. This may be achieved either by broadening the list of environmental impacts covered or by ensuring that the list of referenced environmental agreements is exhaustive.[189]

- **Corporate activities subject to due diligence obligations**

- When transposing the Directive into national law, it is recommended that all downstream activities within the company's chain of activities be included and to align them with the requirements applicable to upstream activities.
- Alternatively, it is recommended that the national legislator either expand the definition of downstream activities by removing the requirement set out in Article 3(1)(g)(ii) of the Directive - namely, that such activities must be carried out "for the company or on behalf of the company" - or by broadening the indicative list of downstream activities such as waste management, or the distribution, transport, and storage of products.
- As a third option, it is recommended that the national legislator clarify that companies should address downstream impacts of their own activities, since the exemption of services from the scope of downstream activities, as laid down in the Directive, applies only in relation to business partners, and not to the company itself or its subsidiaries.
- As already mentioned, downstream business activities of financial companies and entities under the Directive are not included in the activities of companies that are subject to due diligence obligations under the Directive. However, although not obliged to do so under the Directive, the national legislator is recommended to extend the application of due diligence obligations to such downstream activities with respect to the aforementioned entities.

[188] It should be recalled that one of the reasons the Directive initially did not include certain international human rights treaties and instruments was the absence of ratification by all Member States, so that, in the case of national legislation, these limitations do not apply.

[189] Van Den Berghe A. και άλλοι, 'Corporate Environmental Due Diligence', p. 8.

- **Integration of due diligence into companies' policies**

- The national legislator should ensure that the duty to exercise due diligence is supervised by the company's senior management, which should also be responsible for it.

- **Identification and Prioritisation of Risks**

- With regard to the prioritisation of risks, the national legislator should clarify the obligation of companies to address, within a reasonable timeframe, not only the most severe or likely risks, but also those risks to human rights and the environment which may be considered less severe or less likely. In other words, prioritisation of risks does not constitute a waiver of dealing with the least severe and less probable of them.

- **Preventing and ending adverse human rights and environmental impacts**

- Full compliance with the requirements laid down in Articles 10 and 11 of the Directive is necessary.
- National legislation must reflect the distinction between measures that companies should take and those they may take, pursuant to the Directive.
- The national legislator should clarify that the company's action plan for the prevention and response to adverse impacts must be developed on the basis of consultations with affected stakeholders, their representatives, and civil society groups, including non-governmental organisations (NGOs) and workers' and trade union organisations.
- Furthermore, the national legislator is called upon to clarify that bringing business relationships to an end, as referred to in Article 11(7) of the Directive, constitutes a measure of last resort and that all other feasible alternatives, as described in the text of the Directive, including the provision of contractual guarantees under Article 11(5) of the Directive, must first be exhausted.
- As regards remediation for human rights infringements and adverse environmental impacts, the national legislator should provide for a corresponding obligation of companies.

- **Meaningful Engagement with Stakeholders**

- The national legislator shall impose an obligation on companies covered by the Directive to comply with stakeholder consultation requirements, as laid down in the Directive.
- The national legislator shall provide for the participation of stakeholders throughout the entire corporate due diligence process, at all stages thereof. At a minimum, in all stages referred to in Article 13(3) of the Directive.
- The national legislator may broaden the range of natural persons and entities involved as stakeholders in the above consultations.
- The national legislator shall ensure that vulnerable stakeholder groups are in fact in a position to participate and to be meaningfully heard in the process, to take into account any barriers they may face to substantial participation - such as language or other constraints - ensure that they avoid negative consequences stemming from their participation, as well as to guarantee their access to critical information.

- **Complaints procedures and notification mechanisms**

- Member States should establish effective complaint procedures and require companies to engage in meaningful consultation with relevant stakeholders in the design and monitoring of such mechanisms.
- Accessibility of these procedures and mechanisms for stakeholders shall be ensured, taking into consideration barriers to access, including but not limited to gender or language-related obstacles.[190]

- **Transition plans**

- The full transposition of Article 22 of the Directive into national law with regard to transition plans is required.

[190] See Recital 33 for further criteria that may be taken into account.

- **Supervisory Authorities – Structure and Powers**

- The national legislator shall provide for the establishment of one or more national independent supervisory authorities entrusted with the task of monitoring compliance with Articles 7 to 16 and Article 22 of the Directive. Prominent role should be assigned to the National Human Rights Institution (NHRI), given its exclusive expertise in the field.
- Compliance with CJEU case law regarding the independence of supervisory authorities is required, following the model of independent authorities as provided for under Union law, and ensuring they are equipped with adequate resources.
- It is recommended that the national legislator stipulates that these authorities shall also have the competence to monitor compliance with other provisions of the Directive, beyond those explicitly mentioned above.
- It is further recommended that the national legislator optimises the procedures for the submission of substantiated concerns by natural or legal persons under Article 26 of the Directive, by setting a mandatory response deadline for supervisory authorities.
- Moreover, it is recommended that the national legislator ensures access to justice in cases of appeals against decisions of supervisory authorities, subject to the prerequisite of a legitimate interest, as provided in Article 26(6) of the Directive.
- Member States should ensure, in accordance with Article 25 of the Directive, that supervisory authorities are empowered to:
    - require companies to provide information and to carry out investigations related to compliance with the obligations set out in Articles 7 to 16
    - supervise the adoption and design of the transition plan for climate change mitigation
    - initiate investigations, on its own initiative or as a result of substantiated concerns communicated to it
    - conduct inspections in compliance with the national law of the Member State in which the inspection is carried out and after prior warning has been given to the company, except where prior warning would hinder the effectiveness of the inspection.
- Member States shall ensure that each natural or legal person has the right to an effective judicial remedy against a legally binding decision by a supervisory authority concerning them, in accordance with national law (Article 25(7)).
- Greek authorities should set up mechanisms for the systematic collection of aggregated data relating to human rights violations committed by companies, so that such data may serve as the basis for further regulatory or policy measures where necessary. With regard to environmental issues, Greek authorities should enhance

transparency in the collection, management, and access to data concerning polluting business activities.

- Supervisory authorities should implement training and education programmes of both government officials and corporate personnel on business and human rights issues.

- **Ensuring companies' ability to comply with the requirements of the Directive**

- Member States shall ensure that, for the purposes of due diligence, companies are entitled to share resources and information within their respective groups of companies and with other legal entities (Article 5(2)).
- Member States shall ensure that parent companies falling under the scope of this Directive are allowed to fulfil the obligations set out in Articles 7 to 11 and Article 22 on behalf of companies which are subsidiaries of those parent companies and fall under the scope of this Directive, if this ensures effective compliance. This is without prejudice to such subsidiaries being subject to the exercise of the supervisory authority's powers in accordance with Article 25 and to their civil liability in accordance with Article 29 (Article 6(1)).

- Civil liability

- It is recommended that the national legislator extends standing beyond the provisions of Article 29(3)(d) of the Directive, by recognising the right of legal entities, such as human rights organisations or environmental NGOs or trade unions, to bring actions for damages affecting their collective interests, the defence of which is defined by their statutory purpose, and not only when authorised or on behalf of victims (i.e. third-party litigation). It is noted that this perspective may pose challenges under Greek civil procedural law, although it is provided for by certain legal systems.
- Member States should clarify that when the damage was caused jointly by the company and its subsidiary, direct or indirect business partner, they shall be liable jointly and severally, without prejudice to the provisions of national law regulating the conditions of joint and several liability and the rights of recourse.
- National legislation may provide for a reversal of the burden of proof, which normally lies with the victim, in civil liability cases governed by the provisions of the Directive.

- Provisional measures, including interlocutory injunctions, should also be provided for.
- The limitation period for bringing of actions for damages under the Directive should be at least five years and, in any event, not shorter than the limitation period provided by the applicable national legal framework.
- National legislation should be introduced to confer jurisdiction on national courts pursuant to Article 5(1) of the Brussels I Regulation, giving national courts jurisdiction in civil liability cases against companies established outside the EU under the legal framework of the Directive. To this end, the criteria laid down in Article 2(7) of the Directive should be adopted, namely that the branch of the company is located in the EU or that the highest net turnover is generated in the EU, or that the harmful event occurred in the EU. (see also Article 7(2) of the Brussels I Regulation).

- **Public procurement**

- Member States shall ensure that compliance with the obligations resulting from the provisions of national law transposing this Directive, or their optional implementation, qualifies as an environmental or social aspect that contracting authorities may, in accordance with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU, take into account as part of the award criteria for public and concession contracts, and as an environmental or social condition that contracting authorities may, in accordance with those Directives, lay down in relation to the performance of public and concession contracts.[191]

To companies

- To integrate due diligence into their corporate policies and risk management systems in accordance with the provisions of the Directive set out above and the requirements imposed by the national legislator.
- To develop special budget planning for addressing adverse human rights and environmental impacts

[191] Article 31 of the Directive. It is noted that the Greek National Commission for Human Rights has, in a dedicated report, encouraged the ratification of International Labour Organization Convention No. 94 concerning the protection of workers' rights in the context of public procurement and public concessions. Proposals by the GNCHR.

- To identify, assess, and prioritise actual or potential adverse human rights and environmental impacts, and to prevent or, where prevention is not possible, mitigate such impacts. This entails the qualitative collection of data within the companies, their subsidiaries, and along their chain of activities, and involves cooperation with business partners.
- To adopt and implement preventive and corrective action plans to achieve the aforementioned objectives.
- To remediate adverse impacts that they have caused.
- To engage in meaningful consultation with stakeholders (including workers, trade unions, communities, and NGOs), ensuring that adequate and effective information is provided, and taking into account possible communication barriers such as language, gender, or other characteristics, as well as the specific vulnerabilities of certain groups. Regarding the subject matter of communication, the focus is on sustainability practices, the due diligence process and, of course, risks and existing adverse human rights and environmental impacts.
- To establish and maintain a notification mechanism and complaints procedure, and ensure that whistleblowers are protected, through safeguards such as anonymity and protection against retaliation.
- To continuously monitor the effectiveness of their due diligence policies, even in cases where no specific outcomes can be directly attributed to corporate action.
- To provide targeted and proportionate support to small and medium-sized enterprises (SMEs) that are business partners, where needed due to resource, knowledge, or capacity constraints. Where compliance with the company's Code of Conduct threatens the SME's viability, companies shall provide financial support, such as low-interest loans.[192]
- To publish an annual statement on the matters covered by the Directive on their website.[193] The annual statement shall be published: (a) in at least one of the official languages of the Union used in the Member State of the supervisory authority; (b) within a reasonable period of time, but no later than 12 months after the balance sheet date of the financial year for which the statement is drawn up, or, for companies voluntarily reporting in accordance with Directive 2013/34/EU, by the date of publication of the annual financial statements.
- To develop and implement a transition plan. However, companies that have drawn up such a plan under the framework of the CSRD Directive shall be deemed to have fulfilled this obligation.

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[192] See Article 10(2)(f) of the Directive.

[193] Article 16(1) shall apply, without prejudice to the exemption provided for in paragraph 2 of this Article.

- To designate as an authorised representative, i.e., a legal or natural person, established or domiciled in one of the Member States where the company operates. (see Article 23 of the Directive).

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