Corporate due diligence and corporate accountability

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The European Parliament adopted 504 votes to 79, with 112 abstentions, a resolution with recommendations to the Commission on corporate due diligence and corporate accountability.

According to a Commission study, only 37% of business respondents currently conduct environmental and human rights due diligence. The adoption of due diligence frameworks and standards within the United Nations, the Council of Europe, the OECD and the ILO are voluntary and consequently their uptake has been limited. EU legislation should progressively and constructively build on these frameworks and standards.

Binding measures at EU level

Members considered that the EU should urgently adopt binding requirements for undertakings to identify, assess, prevent, cease, mitigate, monitor, report, address and remedy potential and/or actual adverse impacts on human rights, the environment and good governance in their value chain.

Parliament called on the Commission to present a proposal for a directive on supply chain due diligence without delay. The resolution contains recommendations on the key elements of the proposed legislative initiative:

Scope

The scope of the future mandatory European due diligence framework should cover large undertakings governed by the law of a Member State or established on the territory of the Union and should also apply to all listed small and medium-sized enterprises, as well as to high-risk small and medium-sized enterprises.

Due diligence strategy

Under the proposed Directive, undertakings should:

- lay down rules to ensure that undertakings carry out effective due diligence with respect to potential or actual adverse impacts on human rights, the environment and good governance in their operations and business relationships;

- engage with stakeholders in good faith, in an effective, constructive and informed manner, when establishing and implementing their due diligence strategy;

- publish, in compliance with commercial confidentiality, the updated version of their compliance strategy or risk assessment statement and make it available to the public free of charge, in particular on their website;

- communicate their compliance strategy to workers' representatives and trade unions, as well as to the company's business relations and, on request, to one of the competent national authorities;

- evaluate the effectiveness and appropriateness of their due diligence strategy and its implementation at least once a year, and revise it whenever a revision is deemed necessary as a result of the evaluation;

- establish a complaints mechanism, both as an early warning of risks and as a mediation system, allowing any stakeholder to raise reasonable concerns about the existence of a potential or actual negative impact on human rights, the environment or good governance;

- provide or cooperate in a remediation process where they find that they have caused or contributed to an adverse impact.

Monitoring

Each Member State should designate one or more national competent authorities to monitor the application of the Directive and to disseminate best practice on due diligence. The designated national competent authorities should be independent and have the necessary human, technical and financial resources, premises and infrastructure, and expertise to carry out their duties effectively.

Member States' competent authorities could conduct investigations to ensure that undertakings comply with the obligations. This could include an examination of the undertaking's due diligence strategy, the functioning of the complaints mechanism, as well as on-site checks.

Guidelines

The Commission, in consultation with the Member States and the OECD, and with the assistance of the European Union Agency for Fundamental Rights, the European Environment Agency and the SME Executive Agency, should publish general non-binding guidelines for undertakings on how best to comply with due diligence obligations.

A specific portal for SMEs should be made available in the Member States to enable them to seek support and information on how best to comply with their obligations.