

Civil society statement on the adoption of European Parliament Due Diligence & Corporate Accountability Legislative Report

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Yesterday, the European Parliament adopted with a large majority, 504 in favour, 79 against and 112 abstentions, the Parliament's Legal Affairs Committee (JURI) legislative own-initiative report by MEP Lara Wolters on corporate due diligence and corporate accountability with recommendations for the European Commission on necessary next steps to be taken.

With this report, the European Parliament has shown its strong support for the ongoing legislative initiative on sustainable corporate governance launched in 2020 by the European Commission. This proposal, which is expected to be tabled in June 2021, aims to require businesses to conduct due diligence in order to prevent and address human rights and environmental risks and impacts within their own operations and value chains; as well as provide access to judicial remedy when harm occurs.

Strong signal from European Parliament

This report sends a strong signal to the European Commission on what key elements the European Parliament expects in the upcoming legislation. It calls for the introduction of a mandatory corporate due diligence obligation to prevent and address adverse impacts on human rights, the environment (including on climate change), and good governance in businesses' operations and value chains.

It states that business should ensure that their purchasing policies do not cause or contribute to potential or adverse impacts. The report highlights the role of value chain mapping and disclosure in order for companies to better identify their business relationships; and recommends disclosure requirements regarding the company's due diligence strategy.

The report also foresees competent authorities to undertake investigations of their own initiative, or as the result of complaints; and to issue fines and other administrative sanctions.

It also calls on Member States to ensure that they have a civil liability regime in place to ensure companies are held liable and which provides remediation for harm to people and the planet.

Commission must build on this Report

However, there is still room for the Commission to build on this report in the upcoming legislation. Civil society organisations are asking for the legislation to mandatorily apply to all businesses; as well as a stronger and harmonized due diligence obligation covering the entire value chain. The due diligence definition should build on the internationally recognised instruments, namely the UN Guiding Principles & Business & Human Rights and OECD Guidelines.

The definition given to human rights, environment and good governance must be clarified to cover the widest range of impacts across the entire value chain and match the objectives enshrined in the EU Treaties with respect to those matters.

While the report recognises the need for engagement with a wide range of stakeholders in order to establish and implement a company's due diligence strategy, the upcoming legislation should ensure that consultation is meaningful and effective.

Furthermore, enforcement mechanisms (through both public/administrative and private/civil enforcement mechanisms) in case of non-compliance with the due diligence obligations or for harm caused must provide an effective deterrent. In this regard, we expect the Commission to consider criminal liability or equivalent instruments.

Finally, as outlined in the report, access to justice and remedy for affected individuals and communities when harm has occurred is essential for the success of the upcoming legislation. For the latter, we call on the Commission to establish a civil liability regime with notably strong provisions to facilitate access to justice for victims of corporate abuses at home and abroad. These must include liability for the failure to prevent harm throughout the value chain; a fairer distribution of the burden of proof for all evidentiary elements; and reasonable time limitations for transnational claims.

The undersigned organisations will continue to campaign to ensure the legislation is as ambitious as possible to protect people and the planet.

SIGNATORY ORGANISATIONS

