

Overview of legislative developments in the field of sustainability due diligence

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Summary

According to the [UN Guiding Principles on Business and Human Rights \(2011\)](#), companies should carry out due diligence in order to identify, prevent, and mitigate risks for human rights. This requirement is not limited to a company's own activities, but extends to its value chains. The concept of due diligence was further refined by the OECD, in its [Due Diligence Guidance](#). Due diligence requirements are increasingly incorporated into national and European legislation, which increasingly refers not just to human rights-, but also to environmental due diligence. To help companies and other stakeholders keep track of this rapidly changing legal context, we provide a summary overview of key legislative developments at both the national and at EU level.

Overview of national legislation

In the table below, we provide an overview of due diligence legislation at the national level. While the French law on 'devoir de vigilance' is widely seen as the first true piece of due diligence legislation, there are earlier laws that contain explicit or implicit due diligence requirements. Prime examples include the California Transparency in Supply Chains Act, but also the UK Modern Slavery Act, which requires many companies that are active on the UK market to report about risks for modern slavery in their supply chains, and about the actions they take to address these risks. While most of this legislation excludes SMEs, it is clear that SMEs will be impacted indirectly, through new due diligence requirements from the market and/or the financial sector.

(Proposed) Law	Status	Scope	Obligations
Loi relative au devoir de vigilance (France)	Entered into force 2017	Large companies (>5000 employees).	Extensive human rights and environmental due diligence obligations, including development of due diligence plan (<i>plan de vigilance</i>)
More information : http://corporatejustice.org/wp-content/uploads/2021/04/french-corporate-duty-of-vigilance-law-faq-1.pdf			
Lieferkettengesetz (Germany)	Entry into force 2023	Large companies (>3000 employees in 2023, >1000 employees in 2024)	Extensive human rights and environmental due diligence obligations,
More information : https://lieferkettengesetz.de/wp-content/uploads/2021/11/Initiative-Lieferkettengesetz_FAQ-English.pdf			
Duty of care child labour (Netherlands)	Adopted 2019, entry into force repeatedly postponed	All companies active on Dutch market	<i>Due diligence obligations to identify and act upon risks for child labour in supply chain</i>
Final text: https://zoek.officielebekendmakingen.nl/stb-2019-401.html			
Transparency act (Norway)	Entered into force 2022	Mid-sized and large companies based in Norway or paying taxes in Norway	Extensive human rights due diligence obligations + obligation to respond to requests for information
More information: https://haavind.no/en/the-new-norwegian-transparency-act-enters-into-force-on-1-july-2022/			
Proposal 'Duty of vigilance' (Belgium)	Billed in parliament (2021), discussions in parliamentary commission	All Belgian companies and companies active on Belgian market	General human rights and environmental due diligence duty for all companies; more extensive obligations for large companies and SMEs from high-risk sectors
Link to proposal: https://www.dekamer.be/FLWB/PDF/55/1903/55K1903001.pdf			

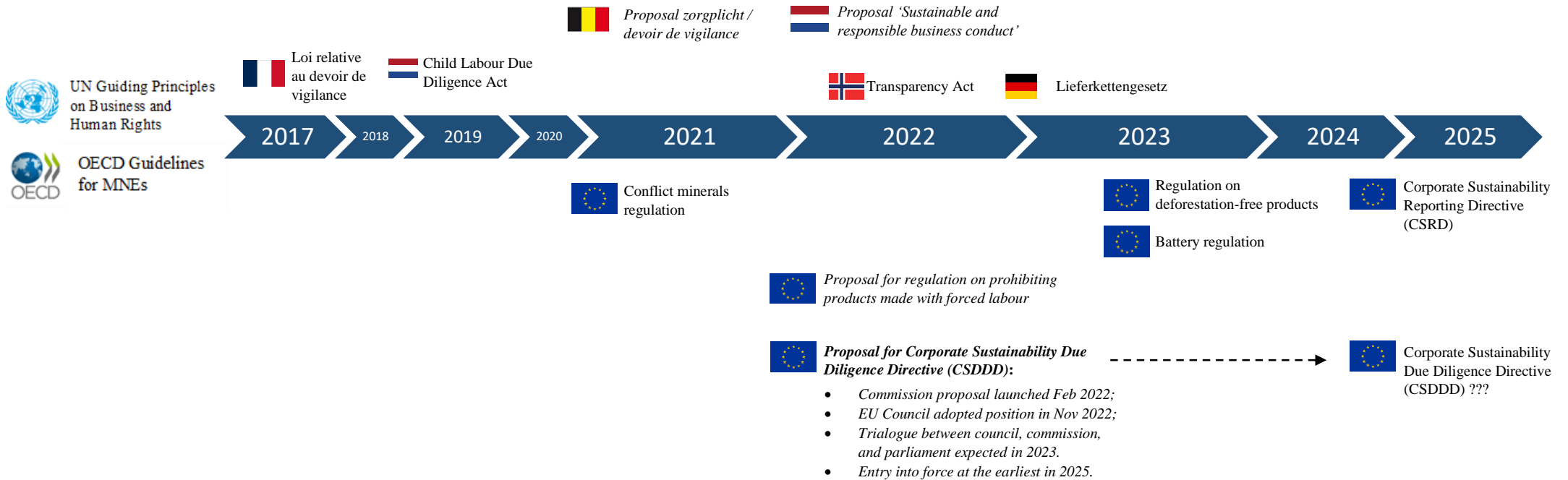
Proposal ‘Sustainable and responsible business conduct’ (Netherlands)	<i>Billed in parliament (2022), government proposal expected in 2023</i>	<i>All Dutch companies and companies active on Dutch market</i>	<i>Extensive human rights and environmental due diligence obligations</i>
Link to proposal: https://www.christenunie.nl/wvdio			

Overview of European legislation

In the wake of legislative developments in several Member States, in February 2022 the EU Commission launched a proposal for a Corporate Sustainability Due Diligence Directive (CSDDD). In addition to this proposal for ‘horizontal’ legislation (legislation applying across sectors), the EU has also approved and proposed several pieces of vertical (sector- or issue-specific) regulation containing due diligence requirements. As is the case for national legislation, several of these regulatory initiatives (including the CSDDD) only apply to large companies. However, there must be no doubt that SMEs will be affected, as large companies will increase the pressure on their suppliers to carry out (aspects of) due diligence.

(Proposed) Law	Status	Scope	Obligations
EU Timber Regulation (EUTR)	Entered into force 2013, will be repealed by regulation on deforestation-free products	All companies importing timber and timber products	Due diligence obligations to minimize risks of placing illegally harvested timber on EU market
More information: https://environment.ec.europa.eu/topics/forests/deforestation/illegal-logging/timber-regulation_en			
EU Regulation on deforestation-free products	Adopted Dec 2022, entry into force 2023 for large companies, 2024-2025 for smaller companies	All companies trading in soy, beef, palm oil, cocoa, coffee, and wood	Due diligence statement/certificate providing full traceability and proof that products are ‘deforestation-free’
More information: https://environment.ec.europa.eu/topics/forests/deforestation/illegal-logging/timber-regulation_en			
EU Conflict Minerals Regulation	Entered into force 2021	All companies importing tin, tungsten, tantalum and/or gold. Thresholds effectively exempt most SMEs	Due diligence obligations to ensure that minerals are conflict-free
More information: https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation_en			
EU Battery regulation	Provisional agreement Dec 2022, expected entry into force 2023	Large companies placing batteries on EU market	Human rights and environmental due diligence obligations to address risks related to sourcing, processing and trading raw materials
More information: https://environment.ec.europa.eu/topics/waste-and-recycling/batteries_en			
EU Corporate sustainability reporting directive (CSRD)	Adopted Dec 2022, entry into force 2025	Large companies and publicly listed SMEs	Obligations to report on human rights and environmental due diligence processes to identify and address risks
Final text: https://data.consilium.europa.eu/doc/document/PE-35-2022-INIT/en/pdf (Draft) Sustainability reporting standards: https://www.efrag.org/Activities/2105191406363055/Sustainability-reporting-standards-interim-draft			
Proposed EU Forced Labour Product Ban	<i>Proposal by Commission (Sep 2022), expected entry into force 2023</i>	<i>All sectors, products and companies on EU market</i>	<i>Implicit due diligence obligations i.e. companies should be able to show that their products are free of forced labour</i>
More information: https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_5416			
Proposed Corporate Sustainability Due Diligence Directive (CSDDD)	<i>Commission proposal Feb 2022; EU Council position Nov 2022; interinstitutional dialogue expected in 2023. Entry into force at the earliest in 2025.</i>	<i>Large EU and non-EU companies; mid-sized EU and non-EU companies in high-risk sectors (textiles & footwear, wood, food, minerals & metals)</i>	<i>Extensive human rights and environmental due diligence obligations</i>
More information: https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en			

(Tentative) Timeline of supply chain due diligence legislation



About the author

Dr. Boris Verbrugge is a research expert business and human rights at HIVA-KU Leuven. His research focuses on the political economy of sustainable value chains. Specifically, he tries to understand how the push for sustainable global value chains is differentially affecting actors across these chains, ranging from European SMEs to small producers and workers in developing countries. Based on this understanding, he engages with policy-makers, civil society, and companies, to ensure that sustainability initiatives become more inclusive.

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