



After a two-year journey since the EU Commission's initial proposal in February 2022, the groundbreaking EU Directive on Corporate Sustainability Due Diligence has officially been greenlighted. Agreed upon by the EU Council on 24 May 2024, this landmark directive was finally published in the Official Journal of the European Union on 5 July 2024. With the clock now ticking, Member States have just two years to embed these new rules into their national laws.



Scope

The Directive is a watered-down version of the proposal, in fact. It is the outcome from the compromise reached by the EU Parliament and the EU Council. The Directive has a phased-in application and will apply to the following types of companies (or their ultimate parent company on a consolidated basis) as from 26 July 2027:

- (i) EU Companies with at least 5,000 employees and a worldwide turnover of more than EUR 1,500 million; and
- (ii) Non EU-Companies with more than EUR 1,500 million turnover within the EU.

By 26 July 2029, the Directive will also apply to:

- (i) EU Companies with at least 1,000 employees and a worldwide turnover of more than EUR 450 million;
- (ii) Non EU-Companies with more than EUR 450 million turnover within the EU;
- (iii) EU companies that franchise their business in the EU or that generate income through licensing agreements in the EU, whose amount of their royalties make up at least EUR 22.5 million of their worldwide turnover, and that have a total worldwide turnover of more than EUR 80 million; and
- (iv) Non-EU companies that franchise their business in the EU or that generate income through licensing agreements in the EU, whose amount of their royalties make up at least EUR 22.5 million of their turnover in the EU, and that have a total turnover of more than EUR 80 million in the EU.



Main Obligations

Companies that fall within the scope of the Directive's application will have to "identify and address adverse human rights and environmental impacts of their actions inside and outside Europe," according to the Commission's own words. That is, they must identify, assess, and prevent potential adverse impacts of their actions and remedy any actual adverse effects, in addition to reporting on their due diligence policy, measures, and effectiveness. And they must do this regarding every part of their entire value chain.



Big Stakes, Big fines

To enforce compliance, every Member State will have to create or appoint a supervisory authority that will be responsible for investigating violations and for imposing financial penalties that can be up to 5% of the violating company's worldwide turnover. Moreover, companies that fail to comply with the Directive's obligations can be held liable by natural or legal persons if intention or negligence on their part is proved and if such noncompliance caused harm or loss to any such person.



How to Comply

Even though the Directive will apply in phases, in-scope companies should not hold off on preparing themselves for compliance with the Directive. Furthermore, despite that the Directive applies to certain large corporations, smaller companies should not turn a blind eye because in-scope companies will require their business partners (in their value chain) to have policies in place that help them identify and prevent adverse human rights and environmental impacts. Smaller companies should also start to identify which business partners' actions pose risks to human rights and the environment and make sure that those partners are compliant, as in-scope companies will have to report on their business partners as well.



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