

Evidence for mandatory Human Rights and Environmental Due Diligence legislation

In the past years, several European countries, as well as the EU, have adopted or started to consider legislation that embeds elements of Human Rights and Environmental Due Diligence (“HREDD”) into law. Other European institutions, United Nations bodies and other international organisations have also acknowledged the need for binding regulation to promote the implementation of HREDD and to improve access to justice for victims of corporate-related human rights abuses. This type of regulation is also gaining broader support from the business community, which considers it a means to help them implement their responsibility to respect human rights.

This document collects an updated list of key policy and legislative developments in the field of mandatory HREDD (“mHREDD”) and corporate liability that shows the emergent trend towards binding legislation.

For a collection of worldwide developments, news, academic articles and other resources, visit the collective website [BHRinlaw.org](https://www.bhrinlaw.org).

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A) LEGISLATIVE AND POLITICAL DEVELOPMENTS AT COUNTRY LEVEL

AUSTRIA

In **July 2018**, the Social Democratic Party (SPÖ) [introduced](#) a [draft](#) for a **Social Responsibility Law** in the garment sector.

- The aim of the bill was to prevent the sale of clothing and footwear produced with forced and child labour by establishing new due diligence requirements for companies.
- It provided for the possibility of class actions for injunctive relief and limited profit deductions up to five years after the placing on the market or the distribution of a product that would have flown into a Corporate Social Responsibility Fund.
- It would have applied to all importers and distributors with registered office, head office, main office or branch in Austria, meeting certain economic and size criteria.

In **April 2019**, the draft was set back when the government resigned.

In **May 2020**, five SPÖ MPs introduced a [new draft](#) for a **Social Responsibility Law** that would ban child and forced labour in garment and footwear products offered in the Austrian market. The new draft is identical to the one introduced in 2018, but now it also covers online commerce of garment and footwear. It awaits discussion in the parliamentary committee of social affairs.

BELGIUM

In **December 2019**, Belgium's Deputy Prime Minister and Minister of Finance and Development Cooperation [said](#) he would support an mHREDD law at EU-level.

In **May 2020**, different Green and Socialist members of the federal Belgian parliament asked some questions regarding HREDD during commission sessions to the ministers of Foreign Affairs and Economy. They asked Belgium to play an important role at EU level regarding the UN Treaty negotiations and to consider the drafting of a Belgian mHREDD law.

DENMARK

In **January 2019**, three political parties [put forward](#) a parliamentary motion requesting the Danish government to develop a legislative proposal on mHREDD and corporate liability, with the support of over 100 civil society organisations, the trade union confederation, the Danish Consumer Council and some businesses. The bill was meant to stimulate the public debate in the run-up to the general elections in May 2019.

FINLAND

In **June 2019**, the Finnish government [committed](#) to mHREDD legislation at national and EU levels. This was an outcome of the [#ykkösketjuun campaign](#), supported by over 140 Finnish civil society organisations, trade unions and companies, organised in the run-up to the general elections held in April 2019.

In **June 2020**, the Ministry of Economic Affairs and Employment published a [study](#) on the options for a national mHREDD law. The study shows that adopting an mHREDD law at national level is possible within the Finnish legal framework.

Following the publication of the study, a three-month consultation period took place until the end of **September 2020**. The Ministry now has to decide whether to present a legislative proposal or not.

FRANCE

In **February 2017**, the **Duty of Vigilance Law** was [adopted](#).

- The [Law requires](#) large French companies to elaborate, disclose and effectively implement a vigilance plan with measures to adequately identify risks and prevent serious harms to human rights, human health and safety, and to the environment linked to their own activities and to the activities carried out by subsidiaries, subcontractors and suppliers.

- The law establishes civil liability for harms resulting from a company's failure to observe its duty of vigilance.
- Since 2018, companies covered by the law are required to publish their vigilance plans as part of their annual reports.
- Since 2019, individuals affected by the companies' failure to observe its duty of vigilance may file a civil claim before the French courts.

In **November 2018**, in its [national strategy on deforestation](#), the government committed to support a legislative proposal establishing an EU-wide duty of vigilance.

In **February 2020**, the French General Council of the Economy published an [assessment report](#) of the Duty of Vigilance law. According to the report,

- the scope of the law, which currently only covers some very large companies, needs to be extended and cover other types of legal entities;
- the thresholds need to be harmonised; and
- the French law needs to be scaled up at EU level.

GERMANY

In **2016**, the Green Party presented a parliamentary motion on mHREDD.

In **July 2017**, the Social Democratic Party (SPD), member of the current government coalition, vowed to address mHREDD in their programme for the 2017 federal parliamentary elections (see [SPD election programme](#), p. 113).

In **2018**, based on the [National Action Plan](#) (NAP) to implement the UNGPs (2016), the government's [coalition agreement](#) (chapter XII.6) stated that the government would consider introducing legislation if, by 2020, less than half of German companies with over 500 employees had HREDD processes in place.

In **February 2019**, a preliminary [draft law](#) on mHREDD by the Ministry of Development and Cooperation [was leaked](#). The bill would require companies to conduct HREDD. Non-compliance could lead to fines of up to €5 million, imprisonment and exclusion from public procurement procedures in Germany.

In **December 2019**, the Christian Democratic Union (CDU), the major partner in the government coalition, [called](#) on the federal government to "develop legal regulations for the value chain".

In **December 2019**, the Ministers for Labour and Development jointly committed to developing a supply chain due diligence law, after verifying that, according to the results of the 1st round of the NAP monitoring, not even 20% of companies surveyed by the German government so far were undertaking HREDD measures.

In **June 2020**, the key points for a [German Supply Chain Law](#) by these two Ministries, which they were originally expected to present at a press conference in March 2020, [were leaked](#). The draft law's limited scope of application, the lack of environmental due diligence and the relief of liability for companies engaged in state-approved business initiatives raise concerns among civil society.

In **July 2020**, the results of the [2nd round](#) showed that only 22% of companies comply with HREDD requirements. After this, the Ministers for Labour and Development referred to the coalition agreement and announced their intention to put forward an mHREDD law in early 2021.

ITALY

In **2001**, the [Legislative Decree on Administrative Liability of Legal Entities](#) (a summary is available [here](#)) [introduced](#) corporate criminal liability for crimes committed in the interest or advantage of the company, including human rights violations. Corporate liability may also accrue for human rights abuses committed by Italian enterprises operating abroad, especially if part of violations occurred in Italy. In order to avoid liability, companies shall demonstrate that they implemented compliance programs. This provision has raised awareness among companies about the idea of preventing human rights offenses, in accordance with HREDD procedures.

In **2016**, the Italian [National Action Plan](#) (2016-2021) set the government's commitment to assess the integration of more human rights offences into Law 231/2001 regarding administrative liability of legal entities, as well as to assess and evaluate legislative reforms requiring corporate respect of human rights, including corporate due diligence.

LUXEMBOURG

In **2018**, the government's coalition agreement included a [commitment](#) to explore the possibility of mHREDD legislation in Luxembourg and to support binding and effective EU legislation.

In **December 2019**, Luxembourg adopted its second National Action Plan, which contained some actions regarding HREDD at national and EU level.

In **2020**, the government commissioned a study to the University of Luxembourg on the possibility to legislate on mHREDD at national level.

NETHERLANDS

In **May 2019**, the Senate [adopted](#) the [Child Labour Due Diligence Law](#).

- The law will create HREDD requirements for those companies, wherever incorporated, that deliver products and services to the Dutch market two or more times a year.
- Companies will have to submit a statement to the regulatory authority declaring that they have carried out due diligence to identify risks related to child labour throughout their full supply chain. In case child labour is presumed to take place, the company will have to draw up an action plan.

In **March 2020**, the Christian Union (CU), one of the four government parties, [published](#) an outline for a broad due diligence law.

- The primary enforcement mechanism would be through administrative liability, via a regulator, rather than through civil liability, via civil courts.
- However, civil liability would also be part of the law as it is included in all Dutch laws. Victims and any interested party would be able to claim for civil liability for failure to conduct due diligence.
- Board members of repeat offender companies could be held criminally liable for an "economic crime" under punishment of financial penalties and jail time.

In **June 2020**, four political parties (CU, SP, PvdA and GroenLinks) [submitted](#) an "initiative notice" for mHREDD legislation in the Dutch parliament, prior to the submission of a legislative proposal. The proposal is identical to the Christian Union's paper presented in March 2020

In **September 2020**, the Social and Economic Council (SER), the Dutch government's main advisory body for social and economic policy, issued the statement '[Together towards sustainable chain impact](#)', calling for broad cross-cutting mHREDD legislation, in response to a request from the Minister for Foreign Trade and Development Cooperation.

In **October 2020**, the Dutch government [launched](#) its [new policy](#) on corporate accountability, the centrepiece of which is a proposal for broad mandatory due diligence. The new policy largely follows the advice of the SER.

- It proposes creating an obligation for companies to carry out due diligence as specified in the OECD Guidelines and guidance, covering all impacts listed in the OECD Guidelines and including a remediation obligation if prevention fails.
- It proposes that this law repeal and replace the Child Labour Due Diligence Law. Nevertheless, it will proceed to develop the implementation orders for the Child Labour Due Diligence Law until a new law is passed.

The government will evaluate the progress of the EU legislative process and make a new decision as to whether proceed or not with a new law in the Netherlands in **June 2021**.

NORWAY

In **August 2018**, the Norwegian government, based on two parliamentary resolutions, mandated an [Ethics Information Committee](#) to explore responsible business and supply chain regulation.

In **November 2019**, the Ethics Information Committee published a [draft act relating to transparency regarding supply chains, the duty to know and due diligence](#).

- The draft act is, however, focused on consumers' rights: it only provides for sanctions for non-disclosure of certain information; only allows consumers to file a complaint; and includes no elements concerning access to remedy.
- The draft act covers all companies with products or activities in Norway, but not Norwegian companies that do not place products or services in the Norwegian market;

In parallel, the government is [examining](#) a possible law against modern slavery similar to the UK Modern Slavery Act.

SPAIN

In **2019**, both government's coalition members committed to a national mHREDD law in their electoral programs (page 276 of the [programme of the Socialist Party](#) (PSOE) and commitment 254 of the [programme of Podemos](#)).

SWEDEN

In **March 2018**, in the outcome of a [study](#) commissioned by the Minister of Trade, the Swedish Agency for Public Management recommended that the government look into binding HREDD requirements for Swedish companies, and address barriers to remedy faced by victims of corporate abuse.

SWITZERLAND

In **2015**, the [Federal Act on Private Security Services Provided Abroad](#) (PSSA) entered into force, establishing the prohibition of direct and indirect participation in hostilities. Private security companies abroad are required to disclose the nature and place of the activity, the provider, the recipient and the personnel employed.

In **October 2016**, a coalition of over 80 civil society organisations filed the [Responsible Business Initiative](#) (RBI), a federal popular initiative [to introduce mHREDD obligations and civil liability](#) into the Swiss Constitution, backed by 120.000 valid signatures of Swiss citizens.

- In **June 2018**, the National Council (lower house of parliament) approved a [legislative proposal](#) that would introduce mHREDD and civil liability. The National Council reaffirmed this counter-proposal in June 2019, [January 2020](#) and [March 2020](#). The bill was a counter-proposal to the citizen RBI.
- In **March 2019**, the Council of States (upper house of parliament) [rejected](#) the RBI as well as the counter-proposal and [voted](#) for a weaker bill in December 2019 and March 2020, which included non-financial reporting requirements and HREDD rules with respect to child labour and conflict minerals.
- In **June 2020**, both parliamentary chambers opted for the weaker bill proposed by the Council of States.
- As a consequence, the citizen RBI [was put to referendum](#) on **29 November 2020**. The RBI gained a majority of votes (50.7%), but because of a lack of double-majority (only 8.5 out of 12 necessary cantons supported the RBI), the initiative finally failed. Despite the strong opposition from most business organisations, the RBI gained unusual high support (from 1893-2020 Switzerland voted on 221 popular initiatives, of which only 25 got a majority of votes).

As the RBI was dismissed, the [weaker counter-proposal](#) is expected to enter into force during **2021**, introducing mandatory due diligence for conflict minerals, as adopted by the EU in 2017, and mandatory due diligence for child labour, modelled after the Dutch Child Labour Due Diligence Law.

During the RBI campaign, the Swiss government stressed its willingness to watch closely the developments for corporate due diligence and related liability legislation at EU level, and to swiftly follow such regulation in the future.

UNITED KINGDOM

In 2015, the **Modern Slavery Act** was adopted.

- It included a [Transparency in Supply Chains provision](#), which requires companies domiciled or conducting business in the UK to disclose the steps undertaken (including due diligence measures) to ensure that slavery or human trafficking is not taking place in their supply chains. The provision is, therefore, only a reporting requirement and only covers 'modern slavery'.
- In 2019, the UK government consulted on measures to strengthen the Act and produced [their response](#) in **September 2020**. The response includes no commitment to bring in meaningful enforcement and sanctions measures.

In **March 2017**, the Parliament's Joint Committee on Human Rights [recommended](#) legislation imposing a duty on all companies to prevent human rights abuses, which would require implementing HREDD and would enable civil remedies against the parent company when abuses occur.

In **January 2020**, the **Environment Bill**, aimed at setting out UK's environmental standards after Brexit, was reintroduced to Parliament.

- In **March 2020**, Labour MP Kerry McCarthy proposed an [amendment](#) (see page 33) to the Bill that would require the government to publish a separate draft bill on HREDD. This was voted down at committee stage, though it gained the support of Labour and other parties.
- In **March 2020**, the Environment Ministry published a [report](#) of the Global Resource Initiative Taskforce, which recommends that the government urgently introduces mHREDD obligations for companies that place commodities and derived products that contribute to deforestation on the UK market.

- In **November 2020**, the UK government [proposed](#) the introduction of a new law in the Environment Bill which will require corporate due diligence for forest-risk commodities, and make it illegal for UK businesses to use these commodities if they have not been produced in line with local laws protecting forests and other natural ecosystems. However, the proposal lacks human rights inclusion (in particular, protection for indigenous peoples and local communities defending forests). It has passed committee stage and will be discussed in Parliament in **2021**.

In **October 2020**, the Independent Anti-Slavery Commissioner [wrote](#) that calls for the introduction of mHREDD legislation are increasing and that "if companies or sectors show no willingness to reform, the argument for making organisations liable for their decisions becomes increasingly compelling."

GREEN CARD PROCEDURE

In **2016**, members of parliaments in eight EU Member States [triggered a 'Green Card' procedure](#), requesting the European Commission to initiate a legislative procedure to ensure corporate accountability for human rights abuses.

The initiative, supported by members of parliaments in France, UK, Italy, Estonia, Lithuania, Slovakia, Portugal, and The Netherlands, called for an EU legislation that protects individuals and communities whose human rights and local environment are affected by the activities of EU-based companies.

B) LEGISLATIVE DEVELOPMENTS AT EU LEVEL

TIMBER REGULATION (2010)

The EU Timber Regulation requires companies or persons placing timber or timber products on the EU market to conduct due diligence in order to determine the source of the timber and its legality.

NON-FINANCIAL REPORTING DIRECTIVE (2014)

The EU Non-Financial Reporting Directive establishes general disclosure requirements for large and listed companies. Companies are required to report annually on their principal risks regarding, among others, environmental impacts and respect for human rights, as well as on the due diligence policies implemented to address these risks and their outcomes. The disclosure obligation covers information related to the company's own operations and to its supply chains and business relationships.

CONFLICT MINERALS REGULATION (2016)

The EU Conflict Minerals Regulation lays down supply chain due diligence obligations for EU importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas. The Regulation only came into full force on 1 January 2021.

DEFORESTATION AND FOREST DEGRADATION REGULATION (2021)

In **February 2020**, the EC launched an initiative to minimise the EU's contribution to deforestation and forest degradation worldwide and promote the consumption of products from deforestation-free supply chains in the EU. A wide variety of regulatory and non-regulatory policy options are being assessed against this objective, including corporate due diligence.

TRADE OF DUAL-USE ITEMS REGULATION (2021)

In **November 2020**, the Council and European Parliament representatives reached a [provisional political agreement](#) on a revised regulation setting out the EU regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items, which would establish the obligation for certain exporters to implement due diligence measures.

SUSTAINABLE CORPORATE GOVERNANCE DIRECTIVE (2021)

In **July 2020**, the EC launched an initiative to improve the EU regulatory framework on company law and corporate governance. It aims to regulate both corporate due diligence and directors' duties. According to the [inception impact assessment](#) of the initiative, the EC aims to introduce a corporate due diligence duty for companies to "take measures to address their adverse sustainability impacts, such as climate change, environmental, human rights harm in their own operations and in their value chain."

In **October 2020**, the EC opened a [public consultation](#) on the initiative. The EC is expected to present a legislative proposal in the **2nd quarter of 2021**.

BATTERIES AND WASTE BATTERIES REGULATION (2021)

In **December 2020**, the EC presented a [proposal for a regulation](#) that would provide for mandatory requirements for all batteries placed on the EU market, including the obligation for economic operators that place certain rechargeable industrial batteries and electric vehicle batteries on the market to establish supply chain due diligence policies.

C) POLITICAL DEVELOPMENTS AT EU AND EUROPEAN LEVEL

EUROPEAN COMMISSION (EC)

In **2018**, the [Action Plan on Financing Sustainable Growth](#) included, among other measures aimed at improving corporate governance, a commitment to assess by 2019 the possibility of introducing supply chains due diligence requirements for corporate boards. Such mandatory due diligence would not be limited to specific issues such as conflict minerals or timber.

In **February 2020**, as part of the Action Plan on Financing Sustainable Growth, the EC published a [study on due diligence requirements through the supply chain](#). The study shows that only one in three EU businesses are currently undertaking HREDD and examines options for regulating due diligence in companies' own operations and through their supply chains for adverse human rights and environmental impacts.

In **April 2020**, the Commissioner for Justice, Didier Reynders, [committed](#) to a legislative initiative on mHREDD during a webinar organised by the European Parliament's Responsible Business Conduct Working Group.

In **May 2020**, the Commissioner for Trade, Phil Hogan, [committed](#) to work on the initiative together with Commissioner Reynders during a webinar organised by the OECD.

In **May 2020**, the EC adopted the new [EU Biodiversity Strategy for 2030](#), which included an explicit reference to the above-mentioned legislative initiative on mHREDD as part of the key actions to be taken by the EC within the framework of the objective of "Enabling transformative change".

In **May 2020**, the EC presented its [Communication on the post-COVID recovery](#) (Europe's moment: Repair and Prepare for the Next Generation), which confirmed that "to ensure environmental and social interests are fully embedded into business strategies, the EC will put forward a new initiative in 2021 on sustainable corporate governance."

In **July 2020**, the EC published a [study on directors' duties and sustainable corporate governance](#). The study concluded that if no action is taken to put EU economy and society on a more sustainable path, including by intervening in the area of company law and corporate governance, the EU will not be able to meet its global sustainability commitments.

In **January 2021**, the EC launched the [EU strategy for sustainable textiles](#), an initiative to set in place a comprehensive framework to create conditions and incentives to boost the competitiveness, sustainability and resilience of the EU textile sector, after a long period of restructuring and delocalisation. The initiative will explore how to reinforce the protection of human rights, environmental duty of care and due diligence across value chains.

COUNCIL OF THE EU

In **May 2016**, in the [Conclusions on Global Value Chains](#), the Council called on the EC and EU Member States to enhance the implementation of due diligence in order to achieve a global level playing field.

In **June 2016**, in the [Conclusions on Business and Human Rights](#), the Council called on the EC to launch an EU Action Plan on Responsible Business Conduct addressing due diligence and access to remedy, including at EU legislative level, as appropriate. The document endorsed the 2016 Council of Europe Recommendations on Human Rights and Business and called for their implementation.

In **February 2019**, in the [Conclusions on EU Priorities in UN Human Rights Fora](#), the Council reiterated the EU's commitment to implement the UNGPs including through initiatives on HREDD and access to remedy, and assessing a possible related EU Action Plan.

In **February 2020**, in the [Conclusions on EU Priorities in UN Human Rights Fora](#), the Council reiterated the EU's commitment to continue promoting the implementation of the UNGPs both in its external action and internal policies, including through initiatives on human rights due diligence, access to remedy for victims of corporate abuses, encouraging the adoption of National Action Plans and support to environmental and indigenous human rights defenders.

In December 2020, in the [Conclusions on Human Rights and Decent Work in Global Supply Chains](#), the Council called on the EC to launch an EU Action Plan by 2021 focusing on shaping global supply chains sustainably, promoting human rights, social and environmental due diligence standards and transparency; and to table a proposal for an EU legal framework on sustainable corporate governance, including cross-sector corporate due diligence obligations along global supply chains.

At least three national governments have expressed, beyond the Council Conclusions, their official support for the Commission's initiative on corporate due diligence:

- **France**, in [its response](#) to the consultation on a roadmap on sustainable corporate governance, fully supported EU-wide human rights, social and environmental due diligence legislation, "focused on the notion of materiality in order to prevent this new obligation from becoming an overly formal administrative exercise." However, it argued that the directive should only apply to the largest firms.
- **Denmark** (Ministry of Industry, Business and Financial Affairs), in [its response](#) to the consultation on a roadmap on sustainable corporate governance, strongly supported "the Commission's intentions to address how companies can be encouraged to carry out due diligence processes."
- **The Netherlands** (Ministry of Foreign Affairs), in [its response](#) to the consultation on a roadmap on sustainable corporate governance, referred to the Social and Economic Council of the Netherlands (SER) advice, which advocated for due diligence legislation; and, in [a non-paper](#) (January 2021), supported an EU legal framework for due diligence.

EUROPEAN PARLIAMENT (EP)

The EP has stressed the need for binding mHREDD regulation at EU level in several occasions:

- In **2016**, the [Report on corporate liability for serious human rights abuses in third countries](#) asked for urgent binding and enforceable rules in the field of corporate responsibility and due diligence, related sanctions and monitoring mechanisms.
- In **2017**, the [Report on EU Flagship Initiative for the garment sector](#) demanded the EC to propose binding supply chains due diligence legislation.
- In **2017**, the [Report on Global Value Chains](#) asked the EC to consider proposals for corporate due diligence, taking into account the French duty of vigilance law, and the Green Card initiative.
- In **2018**, the [Report on Sustainable Finance](#) called for an EU overarching mandatory due diligence framework including a duty of care based, among others, on the French duty of vigilance law.
- In **2018**, the [Report on indigenous peoples](#) stressed the need to hold European multinational corporations and business enterprises accountable for the human rights violations, including by means of human rights due diligence measures.
- In **February 2020**, the [Resolution on child labour in mines in Madagascar](#) called on the EC and the Member States for the harmonisation and strengthening of import and supply chain controls, including through working towards binding due diligence.
- In **February 2020**, the [Report on competition policy – annual report 2019](#) stressed the importance of increased transparency, sustainability and corporate accountability in global value chains, and called on the EU to consider establishing a legal framework for mandatory due diligence in global value chains as a necessary step for achieving this.
- In **April 2020**, the [Resolution on EU coordinated action to combat the COVID-19 pandemic and its consequences](#) stated that "corporate human rights and environmental due diligence are necessary conditions in order to prevent and mitigate future crises and ensure sustainable value chains".
- In **October 2020**, the [Resolution with recommendations to the Commission on an EU legal framework to halt and reverse EU-driven global deforestation](#) called on the EC to introduce mHREDD for forest- and ecosystem-risk commodities, and civil liability.
- In **November 2020**, the [Resolution on the EU Trade Policy Review](#) stated that legislation for mandatory due diligence throughout the supply chain for EU and foreign companies operating within

the single market “is necessary to achieve the SDGs, to promote good governance, to increase traceability and accountability in global supply chains, to strengthen Europe’s international competitiveness by creating a level playing field, and to mitigate unfair competitive advantages of third countries resulting from lower protection standards and social and environmental dumping in international trade.”

- In **December 2020**, the [Resolution on a strong social Europe for Just Transitions](#) called for a directive on binding human rights, due diligence and responsible business conduct, “establishing mandatory due diligence covering companies’ activities and their business relationships, including supply and subcontracting chains.”
- In **January 2021**, the [Resolution on human rights and democracy in the world and the EU’s policy on the matter - annual report 2019](#) called for the setting up of an EU mHREDD instrument providing victims with access to justice and remedy, welcomed the announcement that the Commission proposal would include a liability regime, and called on the Commission to consider exploring the possibility of incorporating further liabilities, including criminal liability, for the most severe violations.
- In **January 2021**, the Committee on Legal Affairs (JURI) adopted a [Report on corporate due diligence and corporate accountability](#), including a recommendation to the Commission on a proposal for a directive that would require business enterprises to address human rights, environmental and governance risks and impacts throughout their global value chains; recognise the need for penalties for non-compliance, including administrative sanctions; and create civil liability for harm caused or contributed to by controlled entities. The Report will be voted in plenary on 8 March 2021.
- The Committee on Legal Affairs (JURI) is currently working on a [Report on the liability of companies for environmental damage](#). The [draft report](#) calls on the Commission to assess the appropriateness of introducing parental and chain liability for damage caused to human health and the environment. The Report will be voted in the JURI committee on 22 February 2021.

The EP has likewise published a number of studies with respect to potential mHREDD and parent and supply chain liability legislation at EU level:

- In **February 2019**, an EP study requested by the Subcommittee of Human Rights on [Access to legal remedies for victims of corporate human rights abuses in third countries](#) analysed obstacles faced by victims of corporate human rights abuses in third countries to access justice. It made several recommendations, including the adoption of mHREDD at the EU level to contribute to address the governance gap and ensure better access to legal remedies for victims.
- In **June 2020**, two briefings requested by the Subcommittee of Human Rights on [Human Rights Due Diligence Legislation - Options for the EU](#) offered concrete recommendations for future EU corporate due diligence legislation. The first briefing addressed substantive elements, such as the type and scope of human rights violations to be covered, as well as the type of companies that could be subject to a future EU regulation. The second briefing discussed options for monitoring and enforcement of due diligence obligations, as well as different ways to ensure access to justice for victims of human rights abuses.
- In **October 2020**, a [European Added Value Assessment](#) by the European Parliament Research Service analysed the European added value of a potential measure requiring companies to carry out supply chain due diligence, why action should be taken at the EU level, and its potential impacts from the perspective of both EU companies and society at large.

In **2019**, a cross-party Working Group on Responsible Business Conduct adopted a [Shadow EU Action Plan on Business and Human Rights](#), which called, among other measures, for the adoption of mHREDD and corporate liability legislation.

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (EESC)

In **December 2019**, the EESC adopted an [own-initiative opinion on the Binding UN treaty on business and human rights](#), recommending that national action plans shall be drawn up to implement human rights due diligence, that there shall also be a European action plan, and that there must be clarification regarding the interplay between due diligence and liability, including clear and practical provisions to make sure

that due diligence incorporates ongoing monitoring in supply chains, along with respective liability, should that fail.

In **September 2020**, the EESC adopted an [opinion](#) on Sustainable supply chains and decent work in international trade, at the request of the German presidency, welcoming the EC's decision to propose due diligence legislation and calling for a binding cross-sectoral legislative initiative on human rights due diligence and responsible business conduct, in line with the commitment by Commissioner Reynders.

In **September 2020**, the EESC adopted an [opinion](#) on Mandatory Due Diligence, at the request of the EP Legal Affairs Committee, calling on the EC to propose cross-sectoral legislation on mandatory due diligence, including a specific liability framework resulting in effective remedies for people who are affected by misconduct, criminal liability, and dissuasive sanctions.

FUNDAMENTAL RIGHTS AGENCY (FRA)

In **April 2017**, the FRA published its [Opinion on improving access to remedy in the area of business and human rights](#). After revising the key obstacles faced by victims of corporate-related human rights abuses to obtain proper remedy, the document recommended the establishment of due diligence obligations, including for parent companies linked to human rights performance in subsidiaries or supply chains.

In **October 2020**, the FRA published a [report on Business and human rights – access to remedy](#). Among other things, the FRA recommends which recommends improving horizontal HREDD (Opinion 7), shifting the burden of proof of supply chain liability and causality in cases of corporate abuse (Opinion 1), improving availability of collective redress (Opinion 2), reviewing rules on legal aid to mitigate financial risk for victims (Opinion 5), or allowing choice of applicable law (Opinion 6).

COUNCIL OF EUROPE (COE)

In **2016**, the CoE's Committee of Ministers published a [Recommendation on Human Rights and Business](#), which included measures to secure victims of business-related human rights abuses access to court and proper remedies, wherever the defendant company is based. It recommended legal measures, including mHREDD, for certain circumstances.

D) LEGISLATIVE AND POLITICAL DEVELOPMENTS AT UN AND INTERNATIONAL LEVEL

UN HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR)

In 2016, the OHCHR presented its [report on improving accountability and remedy for victims of business-related human rights abuses](#). It recommended legal reforms addressing the challenges of global supply chains. Among other measures, this included ensuring that the principles for assessing corporate liability under domestic law regimes are properly aligned with the companies' responsibility to exercise HREDD.

In 2018, the OHCHR presented a [report](#) where it recognized that mHREDD legislation can provide companies with legal certainty and a level playing field. It also stated that corporate liability can be an incentive to greater levels of HREDD.

In June 2020, the OHCHR published an "[Issues Paper](#)" on legislative proposals for mHREDD and some [Key Considerations](#) on mHREDD regimes, which stressed the potential of more harmonised approaches to mHREDD and provided an overview of the different design options available.

UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR)

In 2017, the CESCR's [General Comment No. 24](#) concerning states' obligations in the context of business activities affirmed that states have the duty to establish general human rights due diligence obligations for companies, and to remove barriers to access to remedies, including by establishing corporate liability regimes, among others.

UN COMMITTEE ON THE RIGHTS OF THE CHILD

In 2013, the body's [General Comment No. 16](#) concerning states' obligations regarding the impact of the business sector in children's rights affirmed that, in order to meet their obligation to ensure that business enterprises respect children's rights, states should require business to undertake due diligence.

UN WORKING GROUP ON BHR

In 2018, in its [Report to the UN General Assembly](#), the Working Group recommended States "*the use of legislation to create incentives to exercise due diligence, including through mandatory requirements*". The report welcomed the adoption of the French duty of vigilance law as "*a development that other Governments should learn from*".

In October 2020, the Working Group sent a [letter](#) to the European Commissioner for Justice, Didier Reynders, recommending that EU mHREDD legislation cover all internationally recognized human rights, all impacts across value chains, and all EU undertakings and non-EU companies selling goods or services in the EU. The OHCHR supported clear monitoring and enforcement procedures that facilitate access to justice and remedy, including civil liability for harms caused or contributed to by companies' own activities or by companies they control or have the ability to control.

UN OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP (OEIGWG) ON TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES WITH RESPECT TO HUMAN RIGHTS

In July 2018, the OEIGWG published the [Zero Draft for an International UN Legally Binding Treaty](#). The document establishes that states shall legislate on the field of mHREDD and ensure corporate liability for human rights violations.

In July 2019, the OEIGWG published a [revised draft of the proposed Binding Treaty](#), with [relevant changes and improvements](#). The revised draft covers not just transnational companies but all business enterprises, is better aligned on prevention and due diligence with the UNGPs, and proposes a comprehensive article on legal liability of business enterprises.

In August 2020, the OEIGWG released the [second revised draft of the proposed Binding Treaty](#) on business and human rights.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

In April 2016, its [report on the implementation of the Recommendation on Due Diligence Guidance for Responsible Supply Chains of Conflict Minerals](#) recognized that regulatory measures had provided the strongest impetus to promote responsible conduct from business.

In April 2020, the OECD published a [paper on COVID-19 and responsible business conduct](#), where it stressed the need for observing RBC standards and implementing due diligence as a way to identify the environmental, social and governance risks and vulnerabilities in supply chains, facilitate a faster and stronger recovery and make the economy more resilient to future crises.

E) POLITICAL SUPPORT FROM THE BUSINESS COMMUNITY

FINLAND

- Over 140 companies [joined the campaign](#) launched on 24 September 2018, together with civil society organisations and trade unions, calling for mHREDD legislation. Other 20 companies and NGOs have publicly supported the call.

GERMANY

- 65 companies from or with business in Germany, including Hapag-Lloyd, KiK, Nestlé, Primark or Symrise, and two investor groups [supported a supply chain due diligence law in Germany](#) that paves the way for ambitious regulation at the European level (December 2019).

NETHERLANDS

- Dutch companies (including multinationals like Nestlé, Heineken or G-Star) [signed an open letter](#) (extended Dutch version is available [here](#)) in support of the Dutch Child Due Diligence Bill (2017).
- The Dutch business network MVO Nederland, representing over 2,000 companies, [called upon the Dutch government](#) to implement mHREDD legislation (April 2020).
- 50 Dutch companies, including IKEA or Nestlé, [sent a joint letter](#) to the Minister for Foreign Trade and Development Cooperation calling for support for a legal framework for due diligence that moves from children's rights to human rights, that is tighter and properly enforced (June 2020).

SWITZERLAND

- GEM (*Groupement des Entreprises Multinationales*), representing 90 large multi-national companies, [supported](#) a Swiss legislative proposal establishing mHREDD and corporate liability (2017-8). Additional business people joined forces with legal experts and former MPs in a [support committee for this legislative proposal](#). The committee's website also features a [supportive statement](#) by Prof. John Ruggie.
- A group of 27 global institutional investors [published a statement](#), urging the members of the upper house of the Swiss parliament to back the introduction of mHREDD by supporting the counter-proposal to the Responsible Business Initiative as approved by a large majority of the lower house in June 2019 (December 2019).
- CCIG (*Chambre de commerce, d'industrie et des services de Genève*), representing over 2,400 companies; FER (*Fédération des Entreprises Romandes Genève*); SWICO, representing 600 companies in the ICT sector; FIAL (*Fédération des Industries Alimentaires Suisses*), an umbrella association of 12 food industry associations; Handel Schweiz (Swiss Trade), an umbrella association of 33 trade associations with 4,000 member companies; IG Detailhandel Schweiz, including three major Swiss retailers (Coop, Migros, Denner); Swiss Retail federation, representing 38 retail companies; and Swiss Textiles, representing 200 textile companies; [expressed their support](#) for the National Council's counter-proposal (May 2020).

UNITED KINGDOM

- In a submission to the UK Government concerning the Modern Slavery Act, IKEA [declared](#) that it would support appropriate due diligence requirements as described in the UNGPs (2014).

AT EUROPEAN LEVEL

- **H&M Group** recognized, according to a [Shift report](#), the urgent need for alignment, at EU level, of the various mandatory measures that can help crystallize the expectations on human rights due diligence into laws (2019).
- **65 companies** from or with business in Germany, including Hapag-Lloyd, KiK, Nestlé, Primark or Symrise, and two investor groups [supported](#) a supply chain due diligence law in Germany that paves the way for ambitious regulation at the European level (December 2019, ongoing).

- **Barry Callebaut AG, Mars Wrigley and Mondelēz International**, three of the world's largest cocoa companies, [called on the EU](#), together with Fairtrade, Rainforest Alliance and VOICE, to strengthen human rights and environmental due diligence requirements of companies in global cocoa supply chain (December 2019).
- The **European Cocoa Association**, representing 27 companies in the cocoa sector, [supported](#) an EU Due Diligence Regulation for all companies placing cocoa and cocoa derived products on the EU market (December 2019).
- **Ferrero** [expressed](#) its belief that due diligence is key to ensuring the respect of human rights within their own operations and along the supply chain. In line with this belief, it has confirmed its support for an EU due diligence regulatory framework (January 2020).
- **Amfori**, a global business association representing over 2,400 importers, retailers and brand manufacturers from over 40 countries, [supported](#) an EU-wide robust, coherent and predictable framework requiring companies that operate in the EU to carry out mHREDD, and the establishment of a proper monitoring and enforcement mechanism (February 2020).
- **FoodDrinkEurope**, representing Europe's food and drink industry, in its [response](#) to the public consultation on the EC proposal for a regulation on deforestation and forest degradation, declared its support for establishment of a harmonised framework on due diligence at EU level (March 2020).
- **Nestlé**, in its [response](#) to the public consultation on the EC proposal for a regulation on deforestation and forest degradation, declared its support for EU-wide regulation on mHREDD in line with the UNGPs (March 2020).
- **Ericsson**, at a [hearing of the EP Subcommittee of Human Rights](#), expressed its support for mandatory due diligence legislation, which "should focus on ensuring transparent business practices through effective liability provisions", provisions that need to "both ensure effective deterrent for companies but also adequate remedy for impacted stakeholders" (September 2020).
- **26 companies, business associations and initiatives**, including Adidas, Aldi, Inditex, Mars or Unilever, [made a joint call](#) for EU cross-sectoral mandatory due diligence legislation, which should "clarify legal consequences for when responsibilities are not met" (September 2020, ongoing).
- **The European Brands Association (AIM)** [supported](#) an EU legislation on mHREDD that covers all businesses, including SMEs, with appropriate enforcement rules, including sanctions. AIM supported - if the legislation were to include liability for harm - civil liability for severe human rights harms caused by the company's own activities or activities of controlled companies (October 2020).
- **The Nordic Business Network for Human Rights** (Arla, BioMar, Danfoss, Inter IKEA Group, LEGO Group, Lundbeck, Neste, Norsk Hydro, Novo Nordisk, Statkraft, Vestas Wind Systems and Yara) [welcomed](#) EU efforts to establish mHREDD legislation "applicable to all business enterprises located in the EU or selling products or services in the EU", and supported accountability measures, including "a range of measures extending from liability through to positive incentives" (January 2021).

AT GLOBAL LEVEL

- **Senior corporate executives** [ranked](#) "make human rights due diligence a legal requirement" in the top 3 out of 10 measures to enable companies to fulfil their responsibility to respect human rights, in a global survey by the Economist (2015).
- A group of 105 international investors representing US\$5 trillion in assets under management, coordinated by the **Investor Alliance for Human Rights**, [published a statement](#) on 'The Investor Case for Mandatory Human Rights Due Diligence' (April 2020), calling on all governments to develop, implement, and enforce mHREDD requirements for companies or, where appropriate, to further strengthen these regulatory regimes where they already exist.