

Towards an EU law on mandatory Human Rights Due Diligence: indicative roadmap for ETUC actions in 2021-2022

As discussed and agreed at the ETUC Executive Committee of 8-9 December 2021

Summary of key messages

Based on the ETUC key demands as adopted by the Executive Committee in December 2019, in the ETUC Position calling for a [European Directive on mandatory Human Rights Due Diligence and responsible business conduct](#) (mHRDD/SCG)(see also below), the ETUC Executive Committee is asked to discuss and agree upon the set of actions identified in the indicative roadmap (see also below) in view of intensifying and diversifying the ETUC mobilisation towards different national and European institutions/stakeholders to ensure the EU launches as soon as possible its promised and long overdue EU legislative initiative on mandatory Human Rights Due Diligence and to ensure a full involvement of trade unions in all legislative and policy-design processes at all levels, including at the workplace level.

ETUC on the offensive to hold business accountable for Human Rights violations

Reports by international human rights monitoring bodies from ILO and Council of Europe as well as the recently launched [ITUC Global Rights Index](#) show that violations of trade union and workers' rights are (again) on the increase. Violations not only committed by governments but also by well-known multinational companies.

It is thus high time to ensure that trade unions, workers' representatives and workers are able to hold these companies accountable for human rights and environmental abuses in all their operations and throughout their whole supply chains.

The ETUC is more than ever on the offensive as it is unacceptable that as of today no legal initiative has been tabled and no information has been released on the timing or the content of the legal proposal. ETUC's recurrent demands for a meeting with Commissioners Reynders and Breton have been declined. Despite several attempts, the ETUC has been unable to obtain any confirmation on the main features of the proposal nor on the instrument that would be presented¹. More recently, from different sources, information was however received that this initiative would be delayed possibly until the end of the year 2021 or even beginning of 2022.

In contrast, the closely related revision of the legal framework for [corporate sustainability reporting](#) in the EU (CSRD, reviewing the 2014 [Non-Financial Reporting Directive-NFRD](#)), which has implications for public reporting on Human Rights and environmental due diligence by corporations is moving vast. Coherence and consistency between the initiatives are key, however the CSRD might pre-empt and set key features of the Human Rights Due Diligence

¹ See amongst others pre-recorded video message by Commissioner Reynders at the ETUC annual EWC Conference, Brussels (hybrid format), 11-12 October 2021.

initiative, without proper democratic debate and consultation, in particular given the role allocated to the EFRAG, an ad hoc [European Financial Reporting Advisory Group](#) established by the Commission, to develop and propose standards, to be adopted by delegated acts. Although the draft CSRD represents an improvement compared to the NFRD, the ETUC has identified several weaknesses, including the lack of involvement for trade unions in the reporting process.² It will certainly have to be avoided that any management tools and CSRD systems are established/used based on a logic of “ticking the boxes” rather than a logic that is focused on preventing and/or mitigating impacts on human, trade union and worker’s rights violations, and if necessary to remedy the damage.

Although initially envisaged, according to the Commission College agenda, for 27 October, the Commission College should discuss and present on 8 December 2021 an initiative on Sustainable Corporate Governance to be presented by Vice President Jourová and thus not by Commissioner Reynders, nor by Commissioner Breton who was allocated a co-leading role on the file in June.

Since June 2021, the due date of the legal proposal, no in-depth assessment has been issued on the outcome of the open public consultation that gathered nearly half a million replies. Only a summary report of 8 pages and 2 graphs are accessible on the website of the Commission³. The input of the (I)NGOs that the ETUC worked with, in a major [campaign](#) to keep pressure on the EU institutions, has not been taken on board. More than 150.000 replies are not factored into the Commission review, which has led the INGOs with the support of the ETUC to file a complaint to European Ombudsman.

The follow up by the Commission to the European Parliament Report by MEP Lara Wolters (NL, S&D) on [corporate due diligence and corporate accountability](#) (adopted in March 2021) has been so far non transparent and it is currently not possible to know what its impact on the legal proposal will be.

In the face of such a sudden and persistent blockage, the ETUC has undertaken a range of actions, from the release of a [Joint Statement on Sustainable Corporate Governance](#), together with EFFAT, EPSU, IndustriAll Europe and UNI Europa up to the launch of a countdown on [“Time to act on Human Rights Due Diligence and responsible business conduct”](#) in view of the launch of a legislative proposal by the Commission College envisaged for 27 October; following the further delay to 8 December 2021 the countdown was reshaped and posted prominently on “In the Spotlight” section of the ETUC main webpage.

The ETUC, together with affiliates, has also engaged with (national and European) parliamentarians and in Council to push the member states to call for the EC legal proposal to be tabled, in particular in the view of the French Council presidency in the first half of 2022, including interventions at the French Assemblée Nationale.

Intensifying and diversifying ETUC mobilisation and advocacy

Despite mobilisation actions at both national and European level with and towards different EU and national institutional actors, ETUC, its affiliates and/or INGOs, there is a real need to maintain and even step up the ETUC mobilisation as every day without an EU law on

² See ETUI-ETUC webinar on the [Corporate Sustainability Reporting Directive](#), 24 November 2021.

³ [Sustainable corporate governance \(europa.eu\)](#).

mandatory Human Rights Due Diligence is a day lost for the protection of human rights, including trade union and workers' rights, in the EU and around the globe.

Building on the ETUC affiliates reiterated support to the ETUC expressed most recently at the ETUC Mid-Term Conference of November 2021, the ETUC team proposes to intensify and diversify its strategy in order to increase pressure on the European institutions including the Council and the European Commission to table a draft legal proposal.

The ETUC is developing a communication strategy using amongst other tools, the megaphone⁴ to better disseminate the ETUC's demands and amendments, when the proposal will be finally tabled. The ETUC would welcome an intensified cooperation with national affiliates and ETUFs to join forces and better guarantee a common assessment and use the different respective channels to disseminate the ETUC's demands throughout the institutional and political processes. For this purpose, the ETUC ad hoc Working Group on mandatory Human Rights Due Diligence and Sustainable Corporate Governance (mHRDD/SCG), already in place since June 2021, will be meeting at regular intervals. Likewise, regular updates will be provided to the ETUC Labour and Internal Market Legislation and the Workers Participation and Company Policy permanent committees.

Regular webinars will be organised to discuss and exchange on the different features at stake in the draft proposal, so as to disseminate and explain the ETUC's demands and further assessments. They will help to trigger exchange and to gather evidence to develop further sound and robust grounds to feed into the European Parliament, Council and Commission discussions to support the ETUC position. Depending on the institutional calendar, priority will hereby be given to contacts with the European Parliament /MEPs in the run up of the appointment of the (shadow) rapporteurs and/or to ensure the ETUC demands are known to those rapporteurs and will figure in the first drafts of their report.

In parallel, the ETUC is already liaising with the French Council presidency representatives to place the ETUC demands on the French presidency agenda. Similarly, the ETUC will liaise with the German Presidency G 7 in 2022, as mHRDD is amongst the issues to be discussed but not a top priority (yet).

In the same vein, the ETUC is working on a (re)new(ed) campaign with INGOs, ÖGB and AK Europe to extend its outreach and influence in the forthcoming debates and institutional positioning and negotiations. ETUC will also encourage national affiliates working with local NGOs on Human Rights due diligence to relay ETUC demands via NGO' channels and coordinate regularly with them.

Also in parallel, and concerning the CSRD review, the ETUC is much involved in the current work. The ETUC has nominated colleagues to both the Project Task Force, which is developing the standards for EFRAG, and an Expert Working Group, which will be consulted on the proposed standards. The ETUC is also actively involved in ensuring that the trade union demands are properly reflected in the work of the European Parliament [on the proposal for a](#)

⁴ At its meeting of 3-4 June, the ETUC Executive Committee agreed to set up A European trade union petition platform that would enable trade unions to create and run a petition online, but the platform will also be about digital campaigning to mobilise and organise petition supporters on the one hand and to increase activism and trade union membership. (ETUC Discussion Paper [on European trade union digital campaigning and enhancing communications capacity](#), discussed and agreed at the ETUC Executive Committee 4 June 2021.

[directive regarding corporate sustainability reporting](#). The ETUC is regularly liaising with MEP rapporteur Pascal Durand, who was also the shadow rapporteur of the European Parliament report on on corporate due diligence and corporate accountability.

The ETUC mobilisation and advocacy work must remain flexible enough to adapt amongst other to the European institutional processes and calendar. Likewise, the ETUC will provide the necessary support to the affiliates, depending on their respective demands, in particular in Belgium given the tabled proposal for a [national law on Human rights due diligence](#) and in Germany given the implementation of the [German law on Human rights due diligence](#).

ETUC Demands in a nutshell

The ETUC demands, as adopted in December 2019 by the ETUC Executive Committee in its Position calling for a [European Directive on mandatory Human Rights Due Diligence and responsible business conduct, have been circulated/disseminated to a large range of stakeholders and institutions and relayed in different public debates and consultation mechanisms of the European Commission](#). To recall, our main trade union demands in regard to an EU law on mandatory Human Rights Due Diligence are as follows:

- We need a European directive on mandatory human rights due diligence and responsible business conduct because the existing international and European voluntary guidelines, codes and charters did not deliver,
- This mandatory and effective due diligence mechanisms should cover all companies' activities and their business relationships, including their supply and subcontracting chains,
- As trade union and worker's rights are human rights they should be equally protected by these mechanisms, as an important step forward to ensure the respect and enforcement of Human Rights. Human Rights should include trade unions' and workers' rights as main components and a particular attention should be thereby be given more the rights of more vulnerable groups of workers like women, migrants, young and older workers,
- The Directive should provide or effective remedies and access to justice for victims/workers, including trade unions,
- liability must be introduced for cases where companies fail to respect their due diligence obligations, without prejudice to joint and several liability frameworks.
- and last but not least, the Directive should ensure the full involvement of trade unions and workers' representatives, including EWCs throughout the whole due diligence process.

Most ETUC demands are reflected in the European Parliament report by MEP Lara Wolters (NL, S&D) on [corporate due diligence and corporate accountability](#) which was adopted in March 2021 and includes very important recommendations to the Commission. In the same vein, the ETUC as well as its affiliates contributed to an [open public consultation on Sustainable Corporate Governance](#) as well as a dedicated hearing with the (European) social partners organized by the European Commission in February 2020. In parallel the ETUC, as well as its national affiliates and the ETUFs, have actively been involved in the European Parliament report of MEP Pascale Durand (FR, Renew Europe) on [Sustainable Corporate Governance](#) (adopted December 2020).

Since June 2021, the ETUC has deployed further mobilization actions at both national and European level with and towards different EU and national institutional actors, ETUC affiliates

and/or INGOs. The clock is ticking! The EU draft law on Human Rights Due Diligence and responsible business conduct is long overdue. The patience of the European trade union movement has reached its limits. This is intolerable. It is now high time for the Commission to act. We cannot wait any longer. Human Rights, trade union rights, workers and environmental rights matter! This is in this spirit that the ETUC engages in the intensification and diversification of its actions to hold business accountable for the impacts on people and the planet.

Below affiliates can find an indicative roadmap of actions undertaken since June 2021 and/or proposed/envisaged for the remaining of Q4 of 2021 and Q1-Q4 of 2022. This roadmap will of course be liable to subsequent changes and additions in particular depending on when exactly the envisaged (legislative) initiatives will be discussed by the Commission College as this will influence the further (legislative) procedures and timings in the other institutions such as Parliament and Council.

ANNEX:

Indicative Roadmap for ETUC actions 2021-2022

1. June – December 2021

- 14 June: meeting ETUC-Shift Follow up on mHREDD,
- 22 September: hearing at Commission Economy, Belgian Federal Parliament on law proposal HRDD (written input provided in advance),
- 28 September: European Parliament Trade Union Intergroup on the upcoming Commission initiative on self-employed workers, collective bargaining and competition rules and Mandatory Human Rights Due Diligence,
- 29 September: French National Assembly meeting on Human Rights Due Diligence,
- 30 September: Meeting with European Commissioner Breton's cabinet on Sustainable Corporate Governance,
- 1 October: EFFAT, EPSU, IndustriAll Europe, UNI Europa, ETUC [Joint Statement on Sustainable Corporate Governance](#),
- 5 October: Launch of ETUC countdown on "Time to act on Human Rights Due Diligence and responsible business conduct" in view of Commission College envisaged for 27/10; following the delay to 8 December the countdown was reformatted/reshaped,
- 11-12 October: ETUC annual EWC Conference, Brussels, incl. session on mHRDD with pre-recorded message by Commissioner Reynders and a presentation of MEP Lara Wolters, Rapporteur of the 2021 European Parliament report on corporate due diligence and corporate accountability,
- 19 October: *Lieferkettengesetz /strategische autonomie für ein soziales Europa, intervention* by Isabelle Schömann,
- 20 October: Statement Luca Visentini on need for EU mHRDD law in framework of Tripartite Social Summit, Brussels,
- 22 October: Meeting of ETUC Ad hoc WG on mandatory Human Rights Due Diligence and Sustainable Corporate Governance (ETUC Ad hoc WG mHRDD/SCG),
- 22 October: Meeting of dedicated Working Group on "Values, Rights and Rule of Law" in the framework of the Conference on the Future of Europe (CoFoE); call for EU law on mHRDD by Laurent Berger (ETUC President, permanent TU member of the WG 'Values, Rights and RoL'),
- 27 October: Meeting ETUC Workers' Participation and Company Policy Committee, including session on mHRDD and non-financial reporting (CSRD),
- 28 October: International Expert Exchange "Human Rights and Environmental Due Diligence in Global Value Chains: Perspectives from the Global South, German Institute for International and Security Affairs – Stiftung Wissenschaft und Politik (SWP) and the Research Network Sustainable Global Supply Chains, online intervention Isabell Schömann,

- 3 November, Submission of a complaint to European Ombudsman together with INGOs relating to not taking into consideration the massive input by citizens/INGOs to the open public consultation,
- 4 November: French National Assembly hearing on mandatory Human Rights Due Diligence
- 9-10 Nov: ETUC mid-term Conference: Exercising Democracy at Work requires mHRDD with trade unions at his heart,
- 24 November: webinar on the [Corporate Sustainability Reporting Directive](#) in cooperation with the ETUI,
- 26 November: publication Joint Op-ed "[This 'Black Friday' is a turning point in corporate accountability](#)" in EU Observer by Isabelle Schömann (ETUC) and Claudia Saller (ECCJ) in framework of Black Friday (26 November) on need for EU mHRDD law,
- 2-3 December: ETUC 25th anniversary NETLEX Conference, Paris, session on EU law on mHRDD, with MEP Lara Wolters, Rapporteur of the 2021 EP report on corporate due diligence and corporate accountability, French Parliamentarian Dominique Potier, Clement Beaune, French Head of State on European and International Affairs,
- 2-3 December: ETUC 25th anniversary NETLEX Conference, Paris, session on EU law on mHRDD,
- 1 December – European Parliament report on the Corporate Sustainability Reporting Directive is presented to the Committee on Legal Affairs (JURI) (MEP Durand is the rapporteur),
- 8/15/22 December: Commission College discussion/presentation “Sustainable Corporate Governance” initiative (Commissioner Jourova), 8 December and/or initiatives Commissioners Reynders/Breton on mHRDD, 15 or 22 December (tbc),
- ETUC Megaphone: develop a communication strategy using also this megaphone to get our ETUC/TU demands/amendments in relation to the proposed initiative public and heard,
- After 8 or 15/22 December: online meeting ETUC Ad hoc WG mHRDD/SCG – for first analysis of the COM proposal(s) (tbc),
- Several meetings with INGOs, OGB and AK Europe regarding the launch of a (re)new(ed) campaign following the Commission presentation of the (legislative) initiative in December 2021 including a joint webinar in January 2022.

2. Q1 2022 (Jan-Mar)

- Following presentation of Commission initiative(s) in coordination/cooperation with affiliates with a focus on the assessment of the (hopefully) released draft proposal and development of argumentation lines to support ETUC demands
 - Liaising with EU French Presidency
 - Liaising with (M)EPs (in particular the eventual appointed (shadow) rapporteurs)
 - Liaising with MS governments

Priority will hereby be given to contacts with the European Parliament /MEPs in the run up of the appointment of the (shadow) rapporteurs and/or to ensure the ETUC demands are known to those rapporteurs and will figure in the first drafts of their report

- ETUC Megaphone: phase 1 - develop a communication strategy and dedicated ETUC website section on mHRDD/SCG to get the ETUC/TU demands/amendments in relation to the proposed initiative public and heard.
- Organise regular meetings with Cabinets Commissioners Reynders/Breton/Jourova as well as with related with DG officials,
- Meetings at regular interval (e.g. two-weeks) of ETUC Ad hoc WG on mHRDD/SCG (including feedback on developments relating to the CSRD(irective) proposal and the EFRAG proposals for European Corporate Sustainability Reporting Standards),
- Continue to push for EU law on mHRDD in framework of CoFoE (WG Values, Rights and Rule of Law),
- 19-21/28 January: Joint workshops on Strategy, Governance and Communication in framework of (re)new(ed) campaign with INGOs, OGB and AK Europe
- 19-21 January (tbc): joint OGB/AK Europe/ETUC/ webinar on the Commission proposal(s) launched in December 2021,
- 27-28 January, Final conference of Syndex project: “Company Due Diligence and non-financial information: threats or new leverages for workers representatives?”, intervention by Isabelle Schömann
- Liaising with German Presidency G 7 2022 – mHRDD is amongst the issues to be discussed but not top priority (yet)
- Votes in the European Parliament on the Corporate Sustainability Reporting Directive expected (Week 5 EMPL, Mid-March JURI, 22/23 March 2022 Plenary).

3. Q2 2022 (April-June)

- Following presentation of Commission initiative(s) in coordination/cooperation with affiliates with a focus on the further assessment of the draft proposal and communication activities to support ETUC demands towards:
 - EU French Presidency
 - (M)EPs (in particular the eventual appointed (shadow) rapporteurs, if not yet appointed); focus will very likely be on ensuring the subsequent drafts of the European Parliament report reflect the ETUC demands
 - MS governments
- ETUC Megaphone: phase 2 – testing and implementing the communication strategy on mHRDD and possibly a petition
- Organise regular meetings with Cabinets Commissioners Reynders/Breton/Jourova as well as with related with DG officials,

- Meetings at regular interval (e.g. two-weeks) of ETUC Ad hoc WG on mHRDD/SCG (including feedback on developments relating to the CSRD(irective) proposal and the EFRAG proposals for European Corporate Sustainability Reporting Standards),
 - Continue to push for EU law on mHRDD in framework of CoFoE (WG Values, Rights and Rule of Law)
 - Liaising with German Presidency G 7 2022
4. **Q3 2022 (July-Sept)** to be developed depending on legislative/political developments, with possible focus on and communication activities to support ETUC demands
- Following presentation of Commission initiative(s) in coordination/cooperation with affiliates
 - a. Liaising with EU French and Czech Presidency
 - b. Liaising with (M)EPs with a focus will very likely be on ensuring the subsequent drafts of the European Parliament report reflect the ETUC demands and its vote in committee and plenary, in the best-case scenario.
 - c. Liaising with MS governments
 - ETUC Megaphone: phase 3 – adaptation if need be of the communication strategy on mHRDD and possibly a petition
 - Organise regular meetings with Cabinets Commissioners Reynders/Breton/Jourova as well as with related with DG officials,
 - Meetings at regular interval (e.g. two-weeks) of ETUC Ad hoc WG on mHRDD/SCG (including feedback on developments relating to the CSRD(irective) proposal and the EFRAG proposals for European Corporate Sustainability Reporting Standards),
 - Continue to push for EU law on mHRDD in framework of CoFoE (WG Values, Rights and Rule of Law), if CoFoE is prolonged
 - Liaising with German Presidency G 7 2022
5. **Q4 2022 (Oct-Dec)** – to be developed depending on legislative/political developments with a focus on the preparation for a possible trilogue, in the best-case scenario.