CSDDD Guide

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Abstract

In today's global context, **sustainability is becoming an increasingly central topic** in the corporate world. Within this framework, the European Union's 2024 **“Due Diligence Directive”** represents a significant step towards **integrating human rights and environmental protection into business practices.** Recently published in the Official Journal of the European Union, the directive is now formally in force. However, like all directives, it requires implementation by individual Member States through their national legislative processes.

This new regulation aims to establish a **common legal framework** for businesses to **identify, prevent, and manage social and environmental risks** arising from their activities, with a particular focus on global supply chains. While the directive builds on prior experiences from certain EU Member States, it stands out for the **ambitious scope of its application,** which seeks to indirectly involve small and medium-sized enterprises as well.

Today, we will delve into how the Due Diligence Directive came to be, the European framework supporting it, and its key impacts.

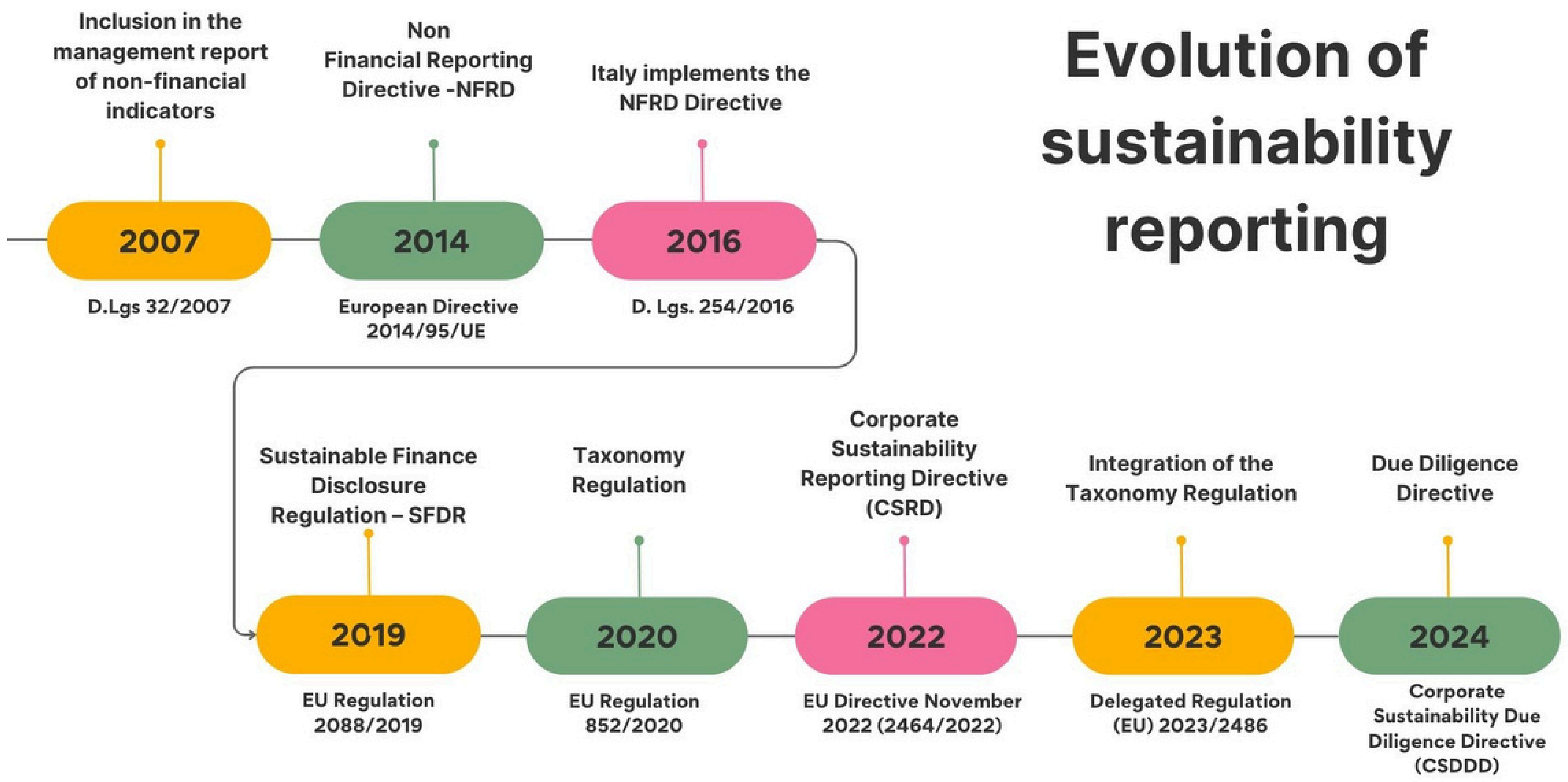
The context

The European Union's 2024 Due Diligence Directive is not intended to be a final goal but rather a **fundamental tool within a broader framework** outlined by the European Commission, which has been promoting sustainability and corporate responsibility policies for years.

The proposed directive, rooted in 2022, requires companies to **identify and manage risks related to human rights and the environment**. Its objective is to prevent, halt, and mitigate the negative impacts that may arise from their activities, with a particular focus on labor protection, climate change, pollution, and biodiversity loss.

While the directive may appear innovative, it builds on **prior experiences from some Member States** that had already introduced similar regulations. For instance, Germany's 2021 law and France's 2017 law had already established Due Diligence obligations for businesses, primarily medium and large-sized enterprises. The European Directive, therefore, fits into a process of harmonizing and expanding these practices at the EU level.

The text of the proposal is based on principles of **international law,** often considered "soft law" instruments—non-binding yet influential in shaping legislation. Among these are the **United Nations Guiding Principles on Business and Human Rights,** updated in 2011 through a series of resolutions. While these principles do not have binding force, they are essential for steering European policies towards appropriate regulation on corporate sustainability.



Scope of application

The scope of application of the Due Diligence Directive was one of the most debated aspects during the legislative process.

In the **initial proposal**, the directive aimed to cover both European Union companies and those from third countries, with a focus on **medium to large enterprises.** Specifically, it was intended to apply to companies with over 500 employees and a turnover exceeding €150 million, as well as to other companies operating in high social and environmental impact sectors, albeit with less stringent size requirements.

In the **final version,** the scope of application was revised and narrowed primarily to **large enterprises.** The directive now applies to European companies with over **1,000 employees** and a **global turnover exceeding €450 million**. While the application criteria may seem restrictive, the directive still extends its provisions to small and medium-sized enterprises operating in specific high-impact sectors, for which concrete measures are outlined, such as the adoption of due diligence policies. These sectors are considered crucial for the environment and human rights and include agriculture, forestry, fishing, the production and trade of mineral resources, and the processing of chemical and textile products.

The narrowing of the scope compared to the initial proposal was primarily driven by concerns from certain Member States about the **practical and financial impacts the directive's implementation** would have on a large number of companies, particularly small and medium-sized enterprises.

The implementation of the directive is scheduled for **July 2026,** with a phased timeline allowing for a progressive adjustment period for businesses.

This means that, although already in force, the directive provides companies with the necessary time to fully comply with its provisions. Starting in **2027**, businesses will be required to effectively apply Due Diligence principles, including continuous risk monitoring and the adoption of corrective actions.

To which companies does the directive apply?

- over **1,000** employees
- global turnover exceeding **€450 million**

Another crucial aspect of the directive concerns its **impact on business relationships.** Unlike the Sustainability Reporting Directive, which focuses on transparency and information disclosure, the Due Diligence Directive aims to **concretely influence corporate practices.** Companies will be required to adopt effective measures to prevent and mitigate risks related to human rights and the environment, not only within their own operations but also in their relationships with **suppliers and business partners**.

This means that companies will not only need to monitor their supply chains but also ensure that their partners, including small and medium-sized enterprises, comply with the same due diligence standards.

In practice, the directive will have a significant impact on **negotiation dynamics** and commercial practices, creating an incentive to improve sustainability and responsibility throughout the value chain.

Furthermore, the Due Diligence Directive fits within a **broader regulatory framework,** which includes European regulations such as the **Nature Restoration Law** and the **Anti-Deforestation Regulation.** These tools share the goal of protecting the environment and human rights, requiring companies to monitor and reduce the impacts of their activities. The overlap between these measures highlights the cross-cutting impact of the directive and its close connection to other European environmental protection policies.

Lastly, the directive includes a **sanctioning framework,** which individual Member States are tasked with defining. Sanctions must be proportionate to the company's turnover to ensure they are effective in promoting compliance. The idea is that the sanctioning system acts as a deterrent, encouraging companies to meet their Due Diligence obligations. The directive is set to come into force in July 2026, but Member States will need to begin implementing regulations starting in 2027, aiming to support a gradual and not abrupt adaptation.

Obligations

The European legislator mandates that **companies integrate Due Diligence into their corporate policy.**

Risk identification

This requires businesses to implement a series of **concrete measures to identify and manage risks** related to direct and indirect negative impacts on human rights, the environment, and ecosystems. These negative effects can either be already occurring, with tangible and verifiable harm, or potential, representing risks that could materialize in the future. In both cases, the goal is to ensure that companies are proactive in identifying these impacts, which are highly relevant to social and environmental sustainability.

Corrective measures

Once potential or actual negative impacts are identified, companies are obligated to **take preventive and corrective measures** to mitigate them. Specifically, they must adopt actions aimed at preventing future harm, as well as minimizing existing impacts and addressing those already underway. By doing so, companies commit not only to avoiding future harm but also to resolving or mitigating present issues, in full compliance with social and environmental responsibility standards.

Effective grievance procedures

The legislator also underscores the importance of **establishing and maintaining effective grievance procedures** for reporting negative effects, whether actual or potential. The creation of a grievance mechanism that allows employees, suppliers, and other stakeholders involved in the company's operations to report violations or emerging issues is a fundamental element to ensure transparency and accountability. These procedures not only help to surface potential problems but also provide a concrete tool to address them promptly.

Measures monitoring

In addition, **monitoring the measures implemented is essential.** Companies must ensure a continuous monitoring system to assess the effectiveness of their actions. This monitoring covers not only the correct implementation of policies but also the evaluation of the results achieved, enabling adjustments to be made as needed. The European legislator emphasizes that an active and ongoing approach to monitoring due diligence measures is critical to ensuring compliance with the commitments made.

Communication

Finally, **communication** plays a central role throughout the due diligence process. Internal communication is vital to raise awareness and engage company personnel, while external communication is equally important for publicly reporting the efforts and results achieved through Due Diligence.

Benefits and concerns

The directive offers undeniable **benefits**, particularly for the environment and the protection of human rights, but it also raises some **concerns**.

One of the main advantages is the **increased accountability of businesses,** particularly multinational corporations, regarding the social and environmental impacts of their activities. The directive promotes **greater attention to fundamental human rights**, encouraging companies to integrate sustainable practices and reduce the harm caused by their operations.

However, the directive also raises several **concerns**, primarily from **smaller enterprises**. These businesses, often involved as suppliers in global supply chains, face the burden of complying with new regulatory obligations, which could result in **operational challenges and additional costs**.

Moreover, the directive's impact is not confined to the European Union but **extends beyond its borders.** The effects of these new requirements could influence **international trade,** with significant economic and social repercussions. In particular, some non-European countries rich in natural resources and biodiversity may view the imposition of such regulations as Eurocentric, potentially perceiving them as neither universally applicable nor equitable.

One example of this tension concerns the regulation banning **deforestation**, which intersects with the provisions of due diligence. Countries outside Europe that rely on natural resources for their economic development may resist measures that impose restrictions on their exploitation, thereby complicating international trade relations.

The impact on the supply chain

Implementing the Due Diligence Directive requires companies to integrate compliance obligations into their governance strategies, resulting in **significant economic and operational impacts.**

Businesses will need to allocate resources to adapt to the European regulation, initiating a process that involves not only multinational corporations but also small and medium-sized enterprises (**SMEs**). While SMEs are not directly subject to the directive, their inclusion in supply chains means **they will need to adopt policies reflecting principles of sustainability and human rights protection**. The directive not only reinforces the accountability of large companies but also aims to build trust in the market, encouraging the adoption of best practices throughout the entire supply chain.

The inclusion of SMEs in the supply chain has a dual impact. On the one hand, these businesses may need to revise their ethical codes and corporate guidelines to align with the standards set by the directive. On the other hand, the transparency and reliability of corporate practices will become essential for maintaining trust among end consumers and business partners. This adaptation process requires SMEs to a**ctively address negative impacts** through measurable and verifiable actions, while avoiding unethical practices such as greenwashing or social washing, which could undermine their credibility.

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Join the **Telegram groupchat** of the Network dedicated to sustainability professionals to receive **news and updates** on the ESG world.