Moalem Weitemeyer
Advokatpartnerselskab
Amaliegade 3
DK-1256 Copenhagen

Tel. +45 7070 1505
moalemweitemeyer.com

CVR 3162 7885

The EU Commission adopts a Proposal for a Directive on Corporate Sustainability due dilligence

2022-03-02

Proposal for EU directive on corporate sustainability due diligence

The EU Commission has adopted a proposal for a directive on corporate sustainability due diligence. Companies comprised by the directive will be required to identify and, where necessary, prevent, end or mitigate adverse impacts of their activities on human rights (such as child labour and exploitation of workers) and the environment (such as pollution and biodiversity loss).

Companies comprised by the Directive

The directive will initially apply to all EU limited liability companies with more than 500 and more than EUR 150 million in net turnover worldwide. 2 years later the directive will also apply to other limited liability companies operating in defined high impact sectors (such as textiles, agriculture, and extraction of minerals), which have more than 250 employees and a net turnover of more than EUR 40 million worldwide.

In addition, the directive will apply to non-EU companies with the above turnovers generated in the EU.

The companies initially comprised by the directive must further ensure that their business model and strategy are compatible with the transition to a sustainable economy and limiting global warming to 1.5 °C in line with the Paris Agreement.

Areas comprised by the Directive

The directive applies to the companies' operations, subsidiaries, and value chains. Companies comprised by the directive must:

- integrate due diligence into policies,
- identify actual or potential adverse human rights and environmental impacts,
- prevent or mitigate potential impacts,
- bring to an end or minimise actual impacts,
- establish and maintain a complaints procedure,
- monitor the effectiveness of the due diligence policy and measures, and
- publicly communicate on due diligence.

Duties of Directors

The directive imposes a general obligation for directors to consider the consequences for the environment, climate, and human rights.
Directors must set up and oversee the implementation of due diligence and integrate it into the companies' corporate strategy in question.
In addition, when fulfilling their duty to act in the company's best interest, directors must take into account the human rights, climate change, and environmental consequences of their decisions.
Variable remuneration of directors must provide an incentive to contribute to combating climate change by reference to the corporate plan.

Sanctions

Each member state must appoint a national administrative authority, which will be responsible for supervising the new rules. The authority must be permitted to impose fines in case of non-compliance.
Further, victims of such non-compliance must be granted the right to take legal action for damages that could have been avoided with appropriate due diligence measures.

Our comments

By comprising the entire value chain and imposing civil liability, the directive proposal is likely to have far-reaching effects on the management of affected companies. However, the extent remains to be seen if the proposal is actually adopted.

If you have any questions or require further information regarding any of the above, please do not hesitate to contact us:

Henning Hedegaard Thomsen
Partner
Henning.thomsen@moalemweitemeyer.com

The above does not constitute legal counselling and Moalem Weitemeyer does not warrant the accuracy of the information. With the above text, Moalem Weitemeyer has not assumed responsibility of any kind as a consequence of any reader's use of the above as a basis for decisions or considerations.

This news piece has been produced in the English language only. Are you a client or a prospective client, and should you require a Danish version, please email us at news@moalemweitemeyer.com with a link to the article that you would like to request to receive in Danish, and we will attend to your request without undue delay.