

## SUSTAINABILITY: PROPOSAL FOR A EUROPEAN DIRECTIVE ON CORPORATE DUE DILIGENCE WHAT PROSPECTS FOR SOUTH MEDITERRANEAN SMEs?

On February 23, 2022, the European Commission published a proposal for a directive on Corporate Sustainability Due Diligence. Focusing mainly on large companies, the directive will affect in the future South Mediterranean SMEs which are stakeholders in the value chains of large European companies. Threat or window of opportunity for these SMEs? How, in any case, should they prepare now for a seemingly inevitable alignment? What regional approach could be advocated? Crucial questions involving reflection, awareness and dialogue. This is what the MED MSMEs Programme proposes to do on October 13, 2022 as part of its TABADOOOL initiative.

### The proposal in brief

#### *Purpose and scope*

The purpose of the proposed directive is to lay down rules concerning the obligations of companies regarding the actual and potential adverse impacts<sup>1</sup> on human rights and the environment of their own activities, the activities of their subsidiaries and value chain operations. Its scope extends to three categories of companies:

1-EU companies with more than 500 employees and a worldwide net turnover exceeding EUR 150 million.

2-EU companies with more than 250 employees and a worldwide net turnover exceeding EUR 40 million, provided that at least 50% of this net turnover is generated in one or more high-impact sectors<sup>2</sup>.

3-Companies from third countries generating in the EU a net turnover of more than EUR 150 million or a net turnover of more than EUR 40 million, provided, in the latter case, that at least 50% of the worldwide turnover is generated in one or more high-impact sectors.

#### *Due diligence Implications*

Compliance by companies with the due diligence implies that they integrate it into their internal policies to identify, prevent, eliminate or minimise the negative impacts on human rights and the environment. They must also establish a complaints procedure, monitor the effectiveness of

the taken measures and communicate publicly on their due diligence.

A European Network of Supervisory Authorities, composed by the representatives of the national public supervisory authorities, designated by the Member States, will be set up to ensure compliance by companies with their due diligence obligations. These supervisory authorities will be able, in the event of infringements, to impose effective, dissuasive and proportionate sanctions, determined by the Member States.

#### *Small and Medium Enterprises in the EU*

The proposed directive excludes SMEs from the due diligence duty. The administrative and financial burden of carrying out due diligence would impact them disproportionately. However, they will be indirectly affected by the provisions of the proposed directive due to their presence in companies' value chains, as suppliers or subcontractors.

Accompanying measures will therefore be necessary from:

- Member States: financial support to help SMEs build capacity and the set-up of dedicated platforms.
- The European Commission: implementation of complementary measures including an observatory for value chains transparency.

<sup>1</sup> Violation of the rights and prohibitions as enshrined in the international conventions listed [here](#).

<sup>2</sup> Listed [here](#) (p. 33-34).



-Companies having established business relationships with SMEs: support in complying with due diligence measures in case such requirements would jeopardize the viability of these SMEs.

### *The adoption process*

The proposed directive will be subject to the approval of the European Parliament and the Council. At this stage, it is expected that once adopted, Member States will have two years to transpose the directive. Its provisions will be applied on a deferred basis depending on the category of company concerned.

## **An opportunity for the South-Med**

If the date of application of the future directive is still uncertain and distant, the proposal in its current phase deserves particular attention from the countries of the EU's Southern Neighbourhood.

### *Major issues*

The proposal is indeed part of a strong tendency from which sooner or later it will be difficult to escape, with implications in terms of longevity for SMEs from third countries present in the value chains of European companies, and therefore in terms of economic growth and jobs. The alignment of company development policies, regulations and supporting instruments on the requirements of the directive seems inevitable in the long term to maintain and consolidate the EuroMed region economic integration.

### *A necessary proactive approach*

In this context, proposing a proactive and preventive approach has a double advantage: on the one hand, it would avoid the risk of being out of step with the directive if it were to come into force and affect the southern Mediterranean SMEs that are present in the value chains. On the other hand, such an approach would offer the region the opportunity to position itself as a "first mover" and a credible and privileged partner of the European economy.

In this regard, mention should be made of the [dialogue](#) organized last June in Tunisia by the EU Delegation where communication around the proposed directive and raising awareness among stakeholders were on the agenda.

### *A favourable ground*

It is therefore necessary to be proactive, particularly in terms of policies and regulations. Moreover, the ground is favourable: the Commission's proposal

insists on the "accompanying measures" to be provided "to actors along global value chains that are indirectly impacted by the obligations of the Directive".

If the perspective is stimulating, it calls for anticipation and preparation thanks to:

-A reinforced dialogue between the EU and the Southern Mediterranean countries about the implications of the directive on the value chains.

-A Reinforced dialogue at the national level with the private sector and civil society.

-The identification of a "regional upgrading plan" aimed at supporting operators in their transformation.

Finally, taking the lead means being as familiar as possible with the tools and practices of Corporate Social Responsibility. It is useful to refer, for example, to the recommendations of France Stratégie's [CSR platform](#) on reporting, extra-financial information, ESG criteria (Environment, Social, Governance), standards dedicated to SMEs...

## **Useful resources**

[Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence \(2022\).](#)

[Annex to Proposal for a Directive on CSDD.](#)

[The Ten Principles of the United Nations Global Compact \(2000\).](#)

[OECD Guidelines for Multinational Enterprises \(2011\).](#)

[OECD Due Diligence Guidance for Responsible Business Conduct \(2018\).](#)

[France Stratégie, CSR Platform, Contribution to the work of the French Presidency of the Council of the European Union \(October 2021\).](#)

