TDi Sustainability

Regulation Mapping

Belgian Duty of Vigilance Law

TDi

Belgian Duty of Vigilance Law

Applies to:

All companies, including small and medium enterprises (SMEs), that are active in Belgium, and throughout their entire value chains.

What it says:

Companies must establish a risk map of the entire value chain of the company, a description of the value chain, procedures for regular evaluation, and appropriate actions to mitigate the risks or prevent serious harm with respect to human rights, labour rights and the environment.

Penalty:

Companies found not in compliance may be subject to sanctions, fines from EUR 250,000 to EUR 1,000,000, and prison sentences ranging from one month to one year. Victims impacted by a company's malpractice may also be owed compensation

Proposed:

Proposed in 2021 - upcoming

Key Requirements:

GHG emission tracking

Supply Chain Mapping

Third party assurance

Adverse media reporting

Xinjiang/WRO mapping

External reporting

Supplier / risk monitoring

Supplier engagement

Supplier training

Remediation plan

Product mapping

ESG risk analysis

Supplier assessments

Supplier corrective action plan

Overview - Duty of Vigilance Law (Proposed) – Belgium

Law / Country	Duty of Vigilance Law (Doc 55 1903/001) (the "Act") (Belgium)
Goal	To require companies to monitor the corporate social responsibility of their value chains, and to provide additional legal claims for adverse impacts
Adoption / Status	The draft Act was approved by the Belgian Chamber of Representatives on April 22, 2021. The Act was sent to special commissions of the Belgian Parliament before being presented to the Parliament. On September 29, 2021, the Belgian Council of State, Belgium's administrative supreme court and an advisory institution, published an opinion on the draft Act, criticizing it for its vagueness, not imposing a duty of vigilance on small and medium-sized enterprises, and certain difficulties of enforcement. The draft Act may be reconsidered or amended to address such concerns. Under the draft Act's terms, it would enter into effect six months after its publication in the Moniteur Belge.
Issues Addressed	• Human rights • Labor rights • Environmental rights
Covered Entities	The Act would apply to all companies established or active in Belgium. However, large enterprises and those enterprises operating in a high-risk sector or region would have greater obligations under the Act, as further discussed below. "Large enterprises" would be defined as enterprises employing 250 or more persons and with annual turnover exceeding €50 million or an annual balance sheet total exceeding €43 million. The commentary to the draft Act indicates that high-risk sectors are those that may fuel, directly or indirectly, armed conflict, human rights violations or support corruption and money laundering, such as the trade in minerals and metals. The commentary indicates that high-risk regions are those characterized by political instability or repression, weak institutions, insecurity, the collapse of civilian infrastructure, widespread violence or systematic violations of human rights and violations of national and international law
Mandatory	Yes
Due Diligence	All companies established or active in Belgium would be required to respect human and labor rights and the environment and put in place mechanisms to continuously identify, prevent, stop, minimize and remedy potential or actual violations of human, labor and environmental rights in their value chain. The obligation also would extend to subsidiaries of the subject enterprise. The duty of vigilance would be proportional to the size of the subject enterprise and the means at its disposal to identify risks and take effective preventive measures

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Due Diligence (cont)	A subject enterprise's "value chain" would include all entities with whom the enterprise has a commercial relationship because the entities (1) provide goods or services, including financial services, that are involved in the development of the subject enterprise's products or business services or (2) receive products or services, including financial services, from the subject enterprise. "Human rights" would be those rights encompassed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. "Labor rights" would be the rights set out in the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization (which are further enumerated in the proposed Act to include those relating to freedom of association and collective bargaining, slavery and forced labor, child labor and non-discrimination).
Vigilance Plan	Each subject enterprise that is a large enterprise or operating in a high-risk sector or region would be required to establish a vigilance plan. At a minimum, the vigilance plan would be required to provide for the following: • a description of the value chain; • risk mapping for identifying, analysing and prioritizing risks; • procedures for regularly assessing identified risks at subsidiaries and entities in the value chain; • measures to mitigate risk and prevent serious injury; • a grievance mechanism that provides for whistle-blower protection; • an effective complaint and redress mechanism; and • a mechanism for monitoring the measures taken and evaluating their effectiveness. In establishing its vigilance plan, a subject enterprise would be required to take into account enumerated European and international standards, including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. The vigilance plan also would be required to be developed in good faith consultation with interested persons and groups, including workers' and trade union organizations and civil society. The subject enterprise would be required to seek consultation via its website and allow for at least a one-month consultation period.
Reporting	Subject enterprises that are required to prepare a vigilance plan would be required to make the vigilance plan public and report on its effectiveness at least annually. Reporting would be on the subject enterprise's website. For small and medium enterprises that are not active in high-risk sectors or regions, the King may establish reporting requirements
Enforcement	Upcoming