



**ksapa**

**Advise**

**Invest**

**Advocate**



**ksapa**

WEBINAR

What to Expect from the EU Mandating  
Human Rights Due Diligence by 2021?

30 JUNE 2020

# Online Meeting Instructions

Please note the following

- You can change your name, but it's better for everyone to know who you are!
- You are in **mute** mode – use the chat function and main presenter may invite to speak and share a question
- Your **camera is off** – so you keep the bandwidth and minimize your carbon footprint attending this event
- You are welcome to **invite other participants**
- You are welcome to use social media including **@Ksapaorg** so everyone can track the discussions
- Participant list is accessible through LinkedIn
- A short **poll** will be activated. Please contribute so we can improve and connect as necessary!



Mute



Start Video



Invite



Participants



Share Screen



Chat



Record

## Introducing Ksapa

- Our team and extended global network of experts
- Our 3 core services lines

*Ksapa (Sioux language): Discernment, Wisdom, Soundness, Reasonableness*

Our purpose is to participate in shifting the economic world towards operating and investment models performing economically, socially and environmentally.

Ksapa draws on sustainability and finance expertise and combines **ESG & Interdisciplinary Sustainability consulting** and **Innovative Impact Investment services** to design and implement scalable solutions to build more resilient, inclusive and competitive operating models.



### We Advise

Ksapa provides strategic advice helping companies and investors to generate competitiveness with resilience and inclusiveness

- ESG / SDG Materiality
- Sustainability & Business Strategy
- ESG Risks assessment & Due Diligence



### We Invest

Ksapa provides scalable innovative financing solutions and impact investing programs generating return and accelerating impact on Global Goals

- Impact Investing Fund
- Sustainability-themed Investment Program
- Active Ownership



### We Advocate

Ksapa is a social purpose corporation sharing insights to show businesses and investors why and how to embed resilience and inclusiveness across investment and business decisions

- Media
- Social Media
- Blog
- Reports & Briefing Papers
- Webinars

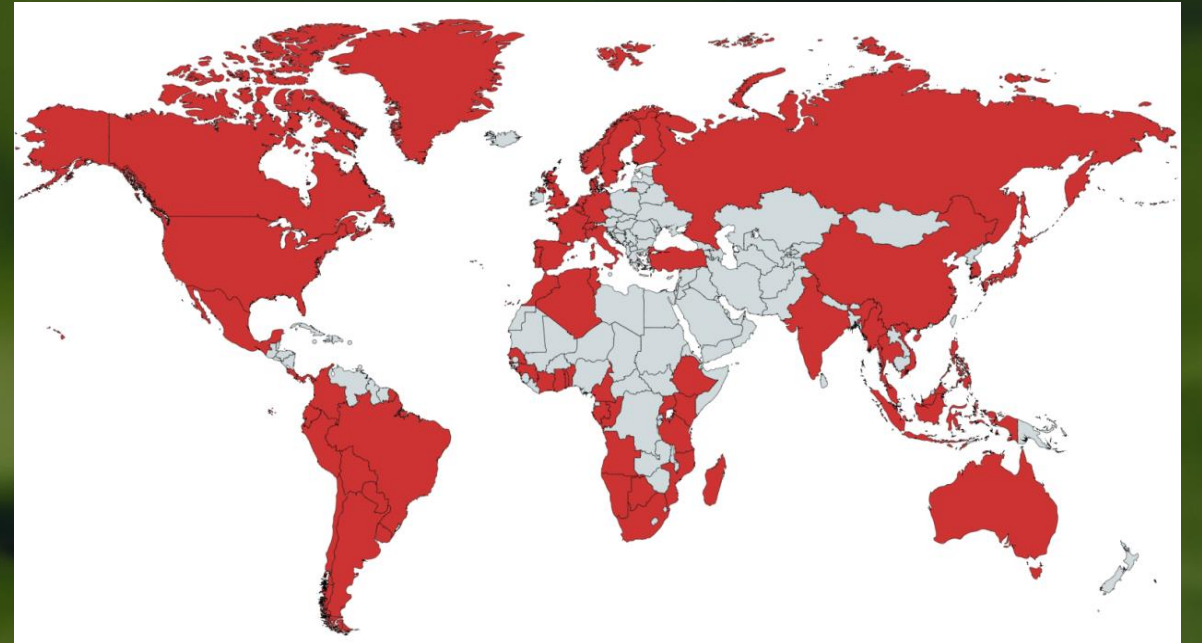
Headquartered in Paris

A core team of 10 complementary experts

A network of 150+ partnering experts worldwide across G20, Pacific Asia and Africa markets (agronomy, poverty, legal issues, contextual facilitation...)

Global strategic partnerships: Impact investors, digital solutions, data science

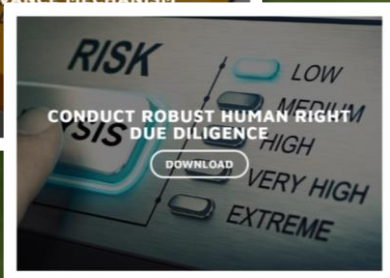
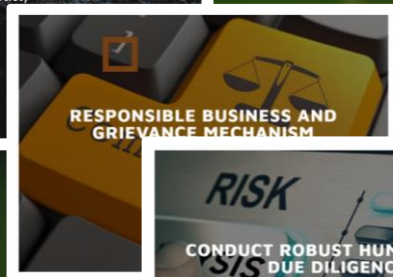
**Ksapa offers close contextual and operational support, delivering high-quality results to global players**



## REPORTS & BRIEFING PAPERS

## ILLUSTRATIVE LIST OF BLOG ARTICLES

## REGULAR WEBINARS



- [Climate Disobedience and Stakeholder Engagement](#)
- [Boards of Directors and Adaptation to Climate Transformations](#)
- [Legally Binding Instrument to Regulate Business & Human Rights on its Way. 6 Areas to Monitor](#)
- [Just Transition Offers the Opportunity to Take Responsibility on Climate](#)
- [How to Scale Up Tech Solutions and Amplify Their Sustainability Impacts](#)
- [Fighting Deforestation Across Agricultural Commodity Supply Chains is Calling for Social Performance](#)
- [What To Learn From France's and UK's Human Rights Due Diligence Laws?](#)
- [Elimination of Child Labor: 5 Concrete Approaches for Companies](#)
- [Human Rights, a Source of Legal Instability for Business? Not Really. What's at Stake is More Profound](#)

### HUMAN RIGHTS DUE DILIGENCE AND LOCAL STAKEHOLDER ENGAGEMENT WEBINAR

Session recorded on march 24th, 2020

Documents      Session recording

[DOWNLOAD PRESENTATION](#)

[DOWNLOAD AUDIO PODCAST](#)



### 5 USEFUL QUESTIONS TO AVOID DOING SDG WASHING WEBINAR

Session recorded on May 12th, 2020

Documents      Session recording

[DOWNLOAD PRESENTATION](#)

[DOWNLOAD AUDIO PODCAST](#)



## What to Expect from the EU Mandating Human Rights Due Diligence by 2021?

- A Call for Meaningful Enforcement Mechanisms
- What to Expect from the EU Mandating Human Rights Due Diligence by 2021
- Panel Discussion



## What to Expect from the EU Mandating Human Rights Due Diligence by 2021?

- A Call for Meaningful Enforcement Mechanisms
  1. Human Rights Due Diligence to Date
  2. Why is Mandatory Due Diligence Necessary?

# A Call for Meaningful Enforcement Mechanisms

Ksapa.org: Credentials with 80+ Fortune 500 firms and Investors around the Globe

## The UN Guiding Principles on Business and Human Rights outline a 4-step approach:

1. Identify scale, scope, remediability and likelihood of adverse impacts
2. Take steps to prevent and mitigate impacts
3. Track the effectiveness of such steps
4. Communicate externally, including to those impacted

## Milestone promise a positive step toward mandatory due diligence in supply chains

A recent announcement from the European Commission could spell the start of a new normal for corporate responsibility writes Claire Ivers, Senior EU Adviser at Anti-Slavery International.



PRESENTATION AND DISCUSSION WITH  
COMMISSIONER FOR JUSTICE DIDIER REYNDERS  
ON DUE DILIGENCE STUDY

HOSTED BY RESPONSIBLE BUSINESS CONDUCT WORKING GROUP

#duediligence #bizhumanrights

Slating a mandatory Human Rights Due Diligence Directive in the EU Justice Commission's 2021 Workplan addresses a **major gap** in:

Enforcement  
Mechanisms

Civil Liability  
Provisions

# A Call for Meaningful Enforcement Mechanisms

Ksapa.org: Structuring Boardroom and Field Engagement with Investors, Civil Society and Corporations

3 Signs Human Rights Due Diligence is Gaining Momentum

1

Support from domestic legislations

- Allegations pertaining to Human Rights have led to high-profile transnational **lawsuits**
- **Boards of Directors and C-Suites** reacted by examining implications for their own business and operations

2

Growing alignment across **corporate** functions

- The Human Rights lens supports internal dialog around **Opex and Capex**
- Proactive Human Rights risk mitigation policies decrease unnecessary **costs** – if they do not in fact generate **savings**

3

Human Rights increasingly condition access to capital

- The Financial Crimes Enforcement Network released **guidance** for financial institutions to detect and report suspicious activity related to **human trafficking**
- Industry stepped up efforts after the Australian government charged Westpac bank with facilitating **transactions that fueled child exploitation**

## Why Should Due Diligence Be Mandatory

More Resources

1

Legally-binding instruments regulating business and Human Rights are gaining breadth and clarity

2

### Mandatory Human Rights Vigilance across Europe

- Some initiatives already in place in the UK, France and the Netherlands
- Proposals in Norway, Austria, Denmark and Switzerland
- Support in Belgium, Finland, Germany and Luxembourg

3

Corporations, business associations and investors increasingly support mandatory Human Rights due diligence laws



23 Oct  
**Legally Binding Instrument to Regulate Business & Human Rights on its Way. 6 Areas to Monitor**



15 Jun  
**What To Learn From France's and UK's Human Rights Due Diligence Laws?**

**Companies & investors in support of mandatory human rights due diligence**



*Large businesses & associations with public statements & endorsements in support of human rights due diligence regulation*  
Compiled by Business & Human Rights Resource Centre

## What to Expect from the EU Mandating Human Rights Due Diligence by 2021

- What to Expect from the EU Mandating Human Rights Due Diligence by 2021
  1. France's Duty of Vigilance as a starting point
  2. What it Will Take to Get it Right
  3. Addressing Potential Covid-19 Impacts

# What to Expect from the EU Mandating Human Rights Due Diligence by 2021

France's Duty of Vigilance is a sound starting point

- The EU published a study on regulatory options for EU due diligence legislation in February 2020
- Despite efforts to align due diligence across the value chain, the proposed legislation focuses on supply chains

Second half of 2020

Public Consultation

First Quarter of 2021

Expected Release

2<sup>nd</sup> Semester of 2020

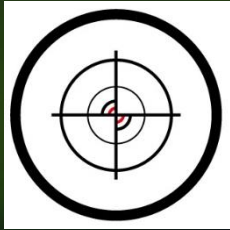
German Presidency of the Council of the EU

## Expected EU Directive Requirements

1. Demand companies take steps to **identify, prevent, mitigate and account for Human Rights risks** – including **environmental ramifications**
2. Cover corporate activities and their subsidiaries, but also extend to the **supply chain**
3. Include not only actual but also **potential negative Human Rights impacts**, to publicly report on results, mitigative **efforts** and **impact**
4. One step beyond France's Duty of Vigilance, include **enforcement mechanisms** and **access to remedy** for victims

# What to Expect from the EU Mandating Human Rights Due Diligence by 2021

## What it Will Take to Get it Right



Depending on how the EU Directive addresses the following issues, **integrated Human Rights approaches** may be designed to leverage efficiencies in risk areas

1. Clarify **required standard** of due diligence
2. Describe expected **enforcement mechanisms**
3. Explicit **jurisdictional reach**, to cover companies engaging in commercial activities in the EU but headquartered abroad
4. Specify impact on EU trade, members' bilateral investment treaties and access to investor-state dispute settlements (**ISDS**)
5. Demonstrate alignment with trade and bilateral relations, within the broader scope of **EU diplomacy**, as Human Rights violations are often contextually-dependent
6. Adopt broadest possible scope of Human Rights and **encompass environmental ramifications**

# What to Expect from the EU Mandating Human Rights Due Diligence by 2021

## Addressing Potential Covid-19 Impacts

- The world is entering a massive recession
- Policy-makers and business leaders may question Human Rights regulation as countries sacrifice labor laws to Covid-19
- Inequalities and anger are on the rise
- More, not less, like-minded efforts are needed, in the EU and beyond, to give societies a chance to recover

### Coronavirus: Black African deaths three times higher than white Britons - study

By Rianna Crawford  
Community affairs correspondent, BBC News

© 1 May 2020

Coronavirus pandemic



### India's workers face 'race to the bottom' of labour standards

*Some states look to extend working hours, suspend minimum pay legislation to help companies recover coronavirus losses.*

13 May 2020  



### COVID-19 heightens the risk of child labour. This is how we can tackle it






80% percent of cocoa is grown in countries where child labour is still widespread.

Image: REUTERS-Thierry Souffron



# Summary: What to Expect from the EU Directive

Focus	Illustrative Action Plans	Ksapa Solutions
<p><b>1</b></p> <p><b>Meaningful Enforcement Mechanisms</b></p> <hr/>	<ul style="list-style-type: none"> <li>• Include robust enforcement mechanisms in Corporate Duty of Vigilance Plans</li> <li>• Actively engage with stakeholders, not only to identify risks on the ground, but also to design effective mitigation measures and track progress</li> </ul>	 <p>Stakeholder Engagement Strategies Design &amp; Activation</p>
<p><b>2</b></p> <p><b>Expectations for the Breadth of the Directive</b></p> <hr/>	<ul style="list-style-type: none"> <li>• Identify Human Rights risks across the value chain</li> <li>• Comprehensively describe potential and actual risks, mitigative measures and progress</li> <li>• Communicate measures and progress externally, including sharing information on enforcement mechanisms and civil liability provisions with impacted right holder groups</li> </ul>	 <p>Human Rights risk-mapping across operations, supply chains, communities and customers</p>
<p><b>3</b></p> <p><b>Addressing Covid-19 Impacts</b></p>	<ul style="list-style-type: none"> <li>• Adapt remediation solutions to the global pandemic, including grievance mechanisms</li> <li>• Collaborate with industry and investors, to best adapt Covid-19 measures to local contexts</li> </ul>	 <ul style="list-style-type: none"> <li>• In-person &amp; digital training on Covid-19 for smallholders</li> <li>• Innovative schemes to collaboratively finance adaptive measures</li> </ul>

Facilitation: Farid Baddache, CEO, Ksapa

## What to Expect from the EU Mandating Human Rights Due Diligence by 2021

1

Meaningful Enforcement Mechanisms

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2

Expectations for the Breadth of the Directive

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3

Addressing Covid-19 Impacts



### Panelists



**VIRGINIE MAHIN**  
GLOBAL SOCIAL SUSTAINABILITY AND  
HUMAN RIGHTS LEAD

**PAUL**  
HASTINGS

**JONATHAN DRIMMER**  
PARTNER AT PAUL HASTINGS, LLP  
& NORTH AMERICAN ADVISOR AT GBI

# Stay Appraised of New Developments

## Upcoming Ksapa Webinars



**Stay tuned for a follow-up on Inclusive Growth**  
Leadership Lessons of the Great Recession  
Thursday 27 August, 11h NYC / 4pm London / 5pm Paris  
– with the Harvard Belfer Center



Jul  
21

WEBINAR: Stakeholder  
Engagement in a Contentious  
Digital Era



Sep  
08

WEBINAR: Human Rights Risk  
Remediation Across the Supply  
Chain



Sep  
29

WEBINAR: Walking the talk:  
Empowering Value Chains to  
Effect Climate Action



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# Questions & Answers

## Getting in touch

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