



BUSINESS & HUMAN RIGHTS.

Global Regulatory Landscape in Transition



TozziniFreire.
ADVOGADOS

2023

Business & Human Rights

The last few years have evidenced an intense process of transformation in the global normative scenario regarding the responsibility of companies to respect human rights. In 2011, the United Nations Guiding Principles on Business and Human Rights (“Guiding Principles”) were approved, a milestone for a progressive advance of the agenda among states, global civil society, companies, and investors. In 2017, the first national regulations imposing due diligence duties on companies appeared.

The current scenario is marked by a consistent advance in the so-called “**ESG**” agenda, an acronym referring to environmental, social and governance issues. It highlights multiple national and international normative processes, of a voluntary and binding nature, running concurrently and in a complementary manner to compose a “smart mix” of guidelines and normative regimes for respecting human rights in corporate action.

On one hand, we have a wide range of voluntary guidelines for implementing the Guiding Principles, such as the National Action Plans on Business and Human Rights under development in several countries around the world, the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, and other corporate standards and performance standards.

On the other hand, national, regional, and international regulations have advanced in imposing legal obligations on companies. As an example, an international treaty to regulate the activities of corporations regarding human rights is currently being negotiated, and due diligence legislation is gaining strength in Europe, which is gradually reaching Latin American countries through bills.

This work seeks to present the Business & Human Rights landscape developments. Thus, we will not present the norms and regulations of topics related to the ESG agenda as a whole (such as environmental, climate, labor, and financial market disclosure issues, among others) but rather the advancement of norms and parameters focused on the so-called duty of due diligence until 2022.



Guidelines and Normative Timeline

United Nations (UN)

1972-1992

Code of Conduct on Transnational Corporations

Unapproved

1999

Global Compact



2000

2015 Agenda - Millennium Development Goals

1997-2003

Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights

Unapproved

2011

Guiding Principles on Business and Human Rights

UN Human Rights Council Resolution 17/4 - Creation of the UN Working Group on Business and Human Rights

2014

UN Human Rights Council Resolution 26/9 - Creation of the Open-ended Intergovernmental Working Group on Transnational Corporations and Other Businesses with Respect for Human Rights

2015

2030 Agenda - Sustainable Development Goals

2021

Seventh session of the open-ended intergovernmental working group

Third revised draft

Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises

2022

Eighth session of the open-ended intergovernmental working group
Letter of the Chair-Rapporteur of October 2022 regarding suggested proposals for select articles of the LBI

2018

Fourth session of the open-ended intergovernmental working group

Zero draft

Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises

2017

Third session of the open-ended intergovernmental working group - Elements for a draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights

2019

CERALC Project - Responsible Business Conduct in Latin America and the Caribbean (joint initiative between ACNUDH, ILO, OECD, and European Union)

Fifth session of the open-ended intergovernmental working group

Revised draft

Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises

2020

Sixth session of the open-ended intergovernmental working group

Revised draft

Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises



Guidelines and Normative Timeline

Other International Standards



Brazilian Guidelines, Norms, and Standards



National Action Plans on Business and Human Rights

2013

United Kingdom (second draft - 2016)
Netherlands

2014

Finland
Denmark

2015

Sweden
Norway
Lithuania
Colombia (second draft - 2020)

2016

Switzerland (second draft - 2020)
Germany
Italy (review - 2018)
United States

2017

Spain
Belgium
France
Ireland
Poland
Czech Republic
Chile (second draft - 2022)

2018

Luxembourg (update - 2020)
Slovenia (second draft - 2021)
Georgia
South Korea

2019

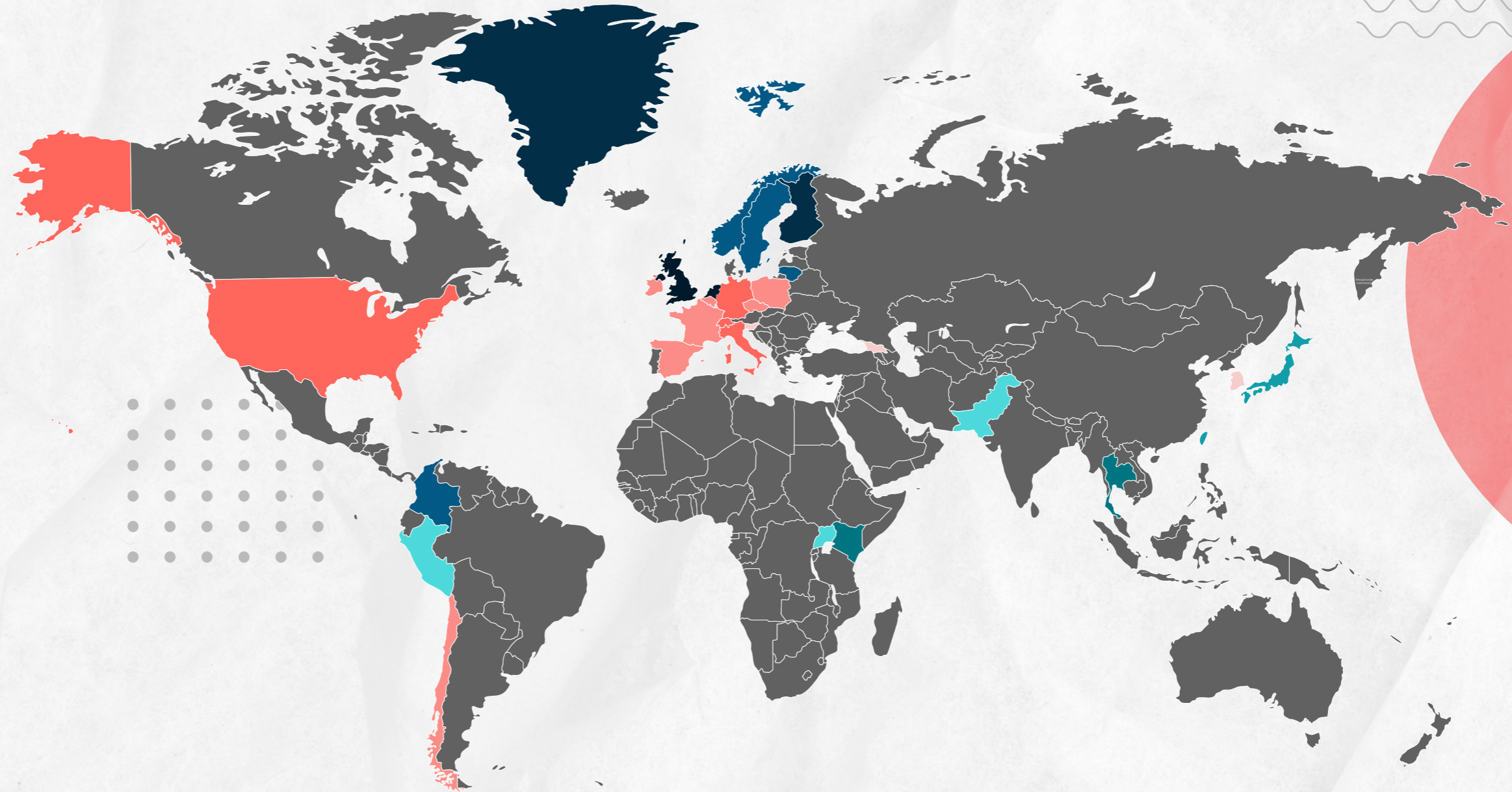
Kenya
Thailand

2020

Japan
Taiwan

2021

Pakistan
Peru
Uganda



Standards and Guidelines

2001

ITALY – Legislative Decree No. 231/2001 – administrative responsibility of legal entities for crimes committed in their interest or for their advantage

2010

USA/CALIFORNIA – California Transparency in Supply Chains Act

2012

USA – U.S. Dodd-Frank Act on Conflict Minerals

2014

EUROPEAN UNION – The Non-Financial Reporting Directive - Directive No. 2014/95/EU

2015

UNITED KINGDOM - UK Modern Slavery Act

SINGAPORE - Prevention of Human Trafficking Act

2016

USA - Revision of Section 307 of the Tariff Act of 1930 - prohibition of importation of goods produced with prison labor, slave labor, and child labor

2020

EUROPEAN UNION - Regulation No. 2020/852 - Taxonomy for Sustainable Finance

2019

EUROPEAN UNION - Regulation No. 2019/2088 on sustainability-related disclosures in the financial services sector

NETHERLANDS – Child Labor Due Diligence Law

2018

AUSTRALIA – Law No. 153/2018 – Modern Slavery Act

2017

FRANCE – Law 2017-399 – French Corporate Duty of Vigilance Law

EUROPEAN UNION – Regulation No. 2017/821 on Conflict Minerals

2021

GERMANY – Act on Corporate Due Diligence Obligations in Supply Chains

USA/CALIFORNIA – SB No. 62/2021 – holding companies in the apparel industry accountable for labor violations committed by their suppliers

NORWAY - LOV-2021-06-18-99 – Transparency Act

SWITZERLAND – Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour

USA – H.R.6210 – Uyghur Forced Labor Prevention Act

2022

CANADA – Bill S-211, Fighting Against Forced Labour and Child Labor in Supply Chains Act

EUROPEAN UNION – COM (2021) 189 - Directive on Corporate Sustainability Reporting (Revises Directive No. 2014/95/EU)

JAPAN – Guidelines on Respecting Human Rights in Responsible Supply Chains

Standards and Guidelines

Projects and Proposals

2018



AUSTRIA – Bill No. 324/A on Social Responsibility in the Garment Industry with Regard to Forced and Child Labor

2020



MEXICO – Bill of Law on General Corporate Responsibility and Due Diligence

2021

AUSTRIA – Bill on a Supply Chain Act

BELGIUM – Bill of Law on Duty of Vigilance

2022



EUROPEAN UNION – COM (2022) 71 – Proposal for a Directive on Corporate Sustainability Due Diligence

EUROPEAN UNION – European Parliament Resolution 2022/2611(RSP) on a new trade instrument to ban the import of products made by forced labor



BRAZIL – Bill of Law No. 572/2022 – National Human Rights and Business Framework Bill



SPAIN – Bill of Law on the protection of human rights, sustainability and due diligence in transnational business activities



NETHERLANDS – Bill on Responsible and Sustainable International Business Conduct Act

Production
TozziniFreire Advogados

Authors
Clara Pacce Pinto Serva
Luiz Carlos Silva Faria Jr.
Letícia Bezerra Duarte de Queiroz

Graphic Design
Samila Pacheco da Silva

Proofreading
Sandra Maria da Silva

São Paulo, 2023
Content updated in December 2022

Contact:



CLARA SERVA
Partner and Head of the Business and Human Rights Area

cpserva@tozzinifreire.com.br
55 11 97658-5143

**Tozzini
Freire.**
ADVOGADOS

www.tozzinifreire.com.br