

For several decades international and civil society organizations have been providing alarming figures on labour exploitation and human rights abuse, notably in private economy. Even in Global North economies modern slavery is on the rise and there is no indication that this trend will reverse in the near future. In Poland alone the number of victims is estimated in tens of thousands. New challenges arise from technological progress, digitalization and automation. Products or services based on forced labour in mining, textile, agriculture and other industries end up in seemingly legitimate commercial channels, to which we are all end-users. Legal loopholes allow multinational companies to avoid liability for human rights violations committed by their foreign suppliers.

To counteract such phenomena, the UN Human Rights Council has endorsed the Guiding Principles on Business and Human Rights. UN Guiding Principles require companies to conduct human rights due diligence. It remains unclear, however, what specific obligations may arise for businesses from this stipulation. Nevertheless, it is the responsibility of each state to establish a legal framework for the enforcement of the human rights due diligence. The process of creating new standards in this area is gaining momentum in Europe and the world. National action plans on business and human rights have been adopted in many countries; more and more states are resorting to legislative measures. Relevant regulatory measures are also elaborated at the European Union level.

Our project serves two main purposes. Firstly, on the basis of domestic and international law instruments, jurisprudence and related doctrine, we will be able to determine what legal obligations for enterprises result from the postulated normative content of human rights due diligence. Secondly, the analysis of the existing legal instruments and the identification of regulatory gaps will allow us to develop the modalities for implementing human rights due diligence in Poland. The resulting new responsibilities for business will additionally be informed by the study of a group of min. 100 enterprises representing various sectors of the economy. We will thus seek to find the right balance between constitutional values such as freedom of economic activity and protection of private property on the one hand, and human rights on the other. We are convinced that properly devised legal duty of human rights due diligence for business can be an effective tool to mitigate the currently observed tension between these values.

In this project, we also examine the preparation of enterprises operating in Poland for the introduction of new obligations. Preliminary results show that very few enterprises use any form of human rights due diligence, implementing (if at all) only individual elements rather than comprehensive processes for assessing the possible risks or actual impacts of their business activity on people or the environment. However, both at the EU and UN level efforts are put forth to make human rights due diligence mandatory. This will sooner or later force companies to adapt to the new regulatory measures implementing it. Moreover, according to the existing literature civil society is demanding new obligations for business with respect to human rights, whereas companies themselves perceive such prospective obligations as a source of greater legal certainty, a level playing field in competition and an increased leverage in their business relationships in the supply chain through a non-negotiable standard.

In our project, we undertake to elaborate model solutions for implementing corporate human rights due diligence under national law, based on the example of Poland. In doing so, we will contribute to the emerging literature on the new legal standard of care for business with respect to human rights.