DUE DILIGENCE AND HUMAN RIGHTS

IN SUSTAINABLE FINANCE

SPAINSIF
THEMATIC
STUDY

MINISTERIO
DE ASUNTOS EXTERIORES, UNIÓN EUROPEA
Y COOPERACIÓN

SECRETARÍA DE ESTADO
DE ASUNTOS EXTERIORES
Y GLOBALES

DIRECCIÓN GENERAL DE NACIONES
UNIDAS, ORGANISMOS INTERNACIONALES
Y DERECHOS HUMANOS

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Title
Spainsif Thematic Study Collection
Due Diligence and Human Rights in sustainable finances.RIGHTS IN SUSTAINABLE FINANCE

Published by
Spainsif - Foro español de inversión socialmente responsable
C/ Velázquez, 157 – Planta 1ª. 28002 Madrid
www.spainsif.es

Online edition ISSN: 3020-7398
Madrid, 2024

Study elaborated with the financial support of

MINISTERIO DE ASUNTOS EXTERIORES, UNIÓN EUROPEA Y COOPERACIÓN
SECRETARÍA DE ESTADO DE ASUNTOS EXTERIORES Y GLOBALES
DIRECCIÓN GENERAL DE NACIONES UNIDAS, ORGANISMOS INTERNACIONALES Y DERECHOS HUMANOS

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EXECUTIVE SUMMARY

In recent years, we have witnessed an increase in regulatory initiatives in the field of sustainable finance, especially in the climate field, with the development of the European Union's Environmental Taxonomy. However, also the social sphere, and in particular Human Rights, have been the subject of legislative developments at European level, mainly the Corporate Sustainability Due Diligence Directive. The need to carry out this study is reflected in this regulatory context where, for the first time at the European Union level, due diligence processes are legislated. The study covers several key aspects, which are structured as follows:

The introduction contextualises the relevance of integrating Human Rights into sustainable investment, highlighting the need to address emerging social challenges. The second section summarises the main regulations of voluntary application (soft law), while the subsequent section focuses on the binding norms (hard law) under development within the European Union, with an exhaustive analysis of two specific aspects: the negotiation process of the Due Diligence Directive, especially during the trilogues that took place under the Spanish presidency of the Council of the European Union and the final text approved on 24 April 2024 by the European Parliament; and the reporting regulations that affect companies and financial market participants in terms of social indicators, especially those related to Human Rights and the due diligence process: the Sustainable Finance Disclosure Regulation and the Corporate Sustainability Reporting Directive.

Section four of this study analyses how Human Rights are integrated into the sustainable investment process and the strategies adopted by asset owners and managers, based on the responses to the Spainsif survey. Finally, the main ideas and conclusions of the study are summarised, highlighting the transition towards binding legal standards in the field of Human Rights and due diligence and the importance of considering social criteria in investment strategies.

INTRODUCTION

The social dimension of Sustainable and Responsible Investment (hereinafter SRI), as well as the integration of social and Human Rights (hereinafter HR) issues in the field of corporate responsibility and due diligence, have taken on even greater relevance and strength in recent years. Policy and regulatory initiatives have emerged, not only in the area of information reporting but also in the area of responsibility and due diligence.

This is probably due to a greater urgency in the face of the growing social challenges that are becoming increasingly visible as a result of the latest international crises (2008, COVID-19, energy and supply crisis...) and the conflicts that we are currently experiencing and that we will undoubtedly have to manage and confront in the coming years. These conflicts will be related to the energy transition and the transition towards a more sustainable and inclusive economy. A complex transition, which will be far from easy, and which must be both global and fair. All this implies facing social challenges to avoid exclusions and asymmetries in the transition towards a more sustainable development. To achieve this just transition it is relevant to integrate social and HR issues into an adequate framework of policies, principles, transparency and commitments by business and governments.

In this context, the identification, prevention, mitigation and accountability of companies for their adverse human rights impacts is essential in investment processes. The integration of social and human rights issues, and not only the environmental dimension, is indispensable in the context of a just ecological transition and the fulfilment of the 2030 Agenda.

At the beginning, initiatives linked to the protection and respect of HR were in the sphere of States and not of business, within the framework of the Universal Declaration of Human Rights. But it was in 2011, with the approval of the HR Council in its resolution 17/4 "Guiding Principles on Business and Human Rights", when roles and responsibilities were assigned to the two main actors: States and business. These principles are based on three pillars: protect, respect and remedy.

According to Guiding Principle 15, to comply with their responsibility to respect HR and to 'know and show' that they respect them, companies should have the following:

- A political commitment to respect human rights;
- A due diligence process; and
- Processes that allow for reparations for the adverse impacts on HR that they have caused or contributed to through their operations.

An important number of transnational corporations then opted for the formula of self-regulation, through the so-called voluntary Codes of Ethics or Conduct. New soft law initiatives were revised or emerged that included the due diligence process and the protection of HR in the business context. Examples include the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, which include the International Bill of Human Rights and the ILO's Fundamental Principles and Rights at Work. Also of note are the OECD Due Diligence Guidance for Responsible Business Conduct and the various OECD recommendations for responsible business conduct for the financial sector.

However, it was in July 2020 that the European Commission launched an initiative to improve the European regulatory framework for corporate governance. Its aim was to establish, for the first time, comprehensive corporate due diligence obligations at the European level. In February 2022 the European Commission publishes the proposed Corporate Sustainability Due Diligence Directive (CSDDD), which was finally approved on 24 April 2024 by the European Parliament after intense negotiations. Furthermore, this proposed Directive is complemented by other sustainable finance legislation, such as the Environmental Taxonomy, where minimum social safeguards apply to all eligible investments under it; the Corporate Sustainability Reporting Directive (CSRD), which replaces the Non-Financial Disclosure Directive (NFRD), broadening the range of companies covered; or the Corporate Sustainability Disclosure Regulation (CSRD), which replaces the NFRD, widening the range of companies covered; or the Sustainable Finance Disclosure Regulation (SFDR), under which companies would be obliged to publish, inter alia, a statement on their due diligence policies in relation to the main adverse impacts of their investment decisions on sustainability factors

At the national level, there are countries that have already adopted legislation on due diligence or that have made progress in this regard, such as France, with a law passed in 2017, Germany, with the Law on Due Diligence in Supply Chains of 2021, or the Netherlands, when in March 2017 the Dutch Parliament passed a law on Due Diligence in relation to Child Labour. In the case of Spain, it is worth highlighting Law 11/2018 on non-financial information and diversity, which establishes obligations for companies to report on social and environmental aspects linked to their business activity, as well as the draft bill on the protection of human rights, sustainability and due diligence in transnational business activities.

It is in this regulatory and market evolution context of sustainable investment that the study takes place, thus highlighting the relevance of the topic today and the need to analyse how entities carry out due diligence processes and integrate HR into their investment strategies, which is considered key to outline clear guidance and leadership needed to achieve the EU Environmental and Social Goals as well as the UN Sustainable Development Goals (SDGs), both for large companies and SMEs, especially when these measures are required by investors within their analysis on sustainable investment and are in line or aligned with their Corporate Social Responsibility policies.

To this end, the study is structured as follows: the first introductory point has set out the subject matter to be addressed and the purpose of the study, establishing its relevance in the current context; the second point details the main existing guidelines and directives and defines the fundamental concepts that clarify the conceptual framework in which the report is framed; the third point is dedicated to regulations, with special emphasis on the development of the CSDDD, as well as the rest of the sustainable finance regulations related to HR and due diligence reporting; the fourth point refers expressly to the financial sector and it includes a brief analysis of the inclusion of HR aspects in the different sustainable investment strategies that investors and asset managers are currently adopting, and that Spainsif collects in its annual survey to asset managers and owners; finally, point five includes the main conclusions and ideas based on the analysis carried out.

2

HUMAN RIGHTS DUE DILIGENCE: A THEORETICAL APPROACH

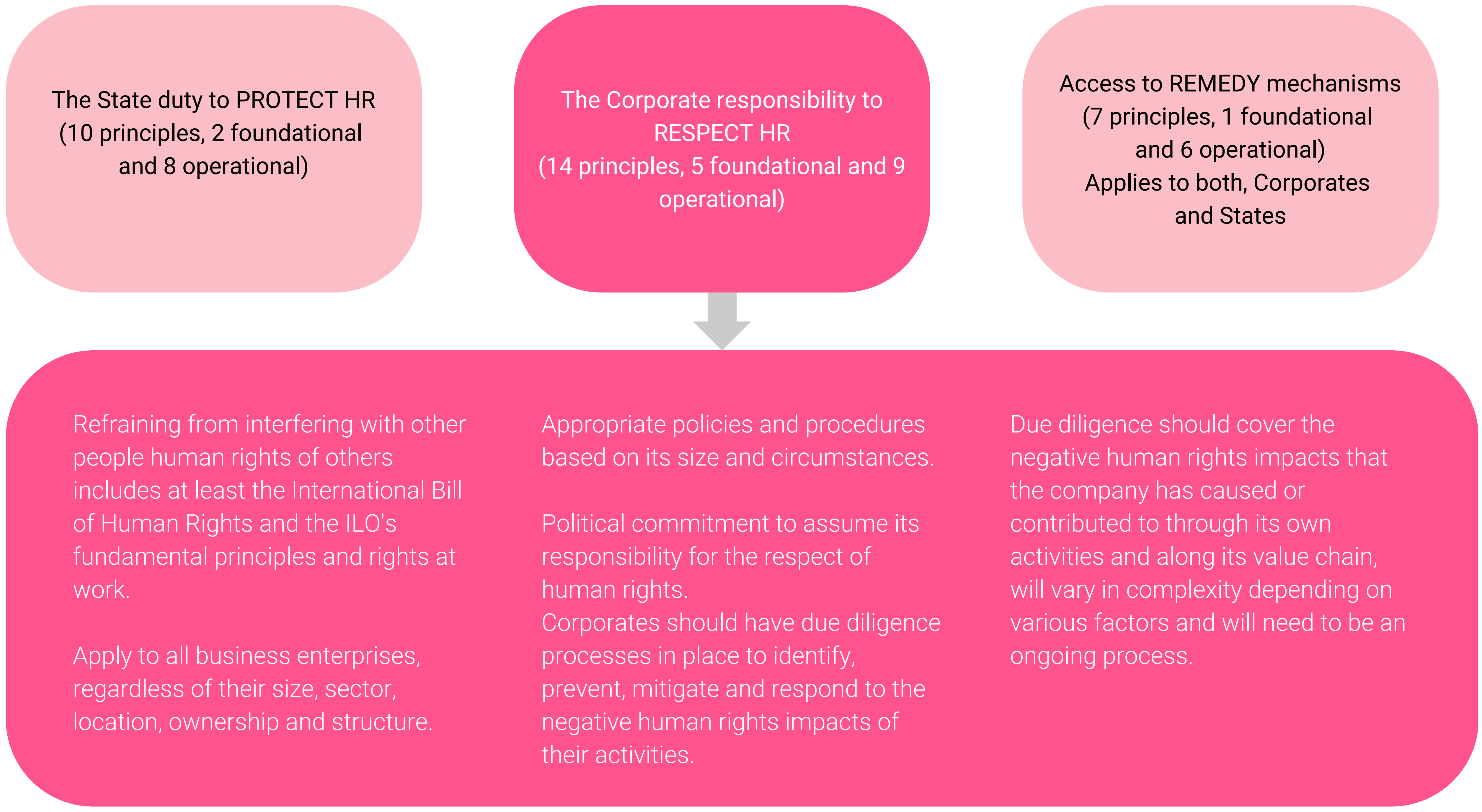
It is essential to begin by defining what human rights are, since on many occasions they are mentioned in a generic way without being clear about what is being referred to. Specifically, human rights are 30 principles included in the Universal Declaration of Human Rights of 1948 (UDHR), which are inherent to people regardless of nationality, sex, religion, age or any other condition (CSR Observatory, 2022). These rights cover, among other areas, aspects such as life, freedom of expression, equality before the law, education or workers' rights; grouped together they are what are generally known as human rights.

On the other hand, due diligence, in the business context, refers to the responsibility of companies to identify, prevent, mitigate and account for possible adverse impacts on HR and the environment arising from their operations and activities (UN, 2011). It is an ongoing, dynamic and cross-cutting process that a company must carry out according to its specific circumstances to ensure that it respects HR and the environment in all its activities. The goal at the end of this process is to identify, prevent, mitigate and respond to risks and adverse effects on HR and the environment, thus ensuring a management and governance system consistent with these principles.

The main guides and guidelines that regulate the protection of HR and the due diligence process are developed below. It is very important to emphasise that these guidelines are voluntary orientations and can in no way be considered binding regulations, as are those regulations that will be dealt with in the third section of this study.

The main reference guide on HR is the United Nations Guiding Principles on Business and Human Rights (hereinafter Guiding Principles, GPHR). These principles establish responsibilities for both States and companies and are based on three pillars: the duty of the State to protect HR, the responsibility of companies to respect HR, and access to remedy.

Figure 1. The three pillars of the UN Guiding Principles and development of the second pillar: Corporate Responsibility to Respect Human Rights



Source: own elaboration based on UN, 2011.

As can be seen in Figure 1, the HRs considered as minimum according to the PPRR are the International Bill of Human Rights and the ILO's Fundamental Principles and Rights at Work.

The International Bill of Human Rights is composed of three texts: the UDHR mentioned above; the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the International Covenant on Civil and Political Rights (ICCPR).

For its part, the ILO, in the 2022 amended version of the 1998 Declaration on Fundamental Principles and Rights at Work, includes eleven fundamental instruments.[1]

These conventions address five rights: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation; and a safe and healthy working environment.

Did you know?
Sustainable Development Goals (SDGs), which underscores the importance of their inclusion and protection in global development efforts. This recognition is significant within the frameworks of due diligence and human rights, as it ensures that business and governmental policies and practices consider their specific needs.

[1] Compared to eight in 1998 (the new ones are the 2014 Protocol to Convention No. 29 and Conventions Nos. 155 and 187).

The eleven core instruments are as follows:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No. 29) and its Protocol of 2014
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

However, in addition to the International Bill of HR and the ILO's Fundamental Principles and Rights at Work, there are other relevant aspects that go beyond those mentioned above, such as the rights of indigenous peoples, women, children or persons with disabilities, among others. All these aspects have also been developed by the UN or dealt with in ILO conventions and must be taken into account, depending on the circumstances. Examples of such developments are, among others: the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities[2]; the UN Declaration on the Rights of Indigenous Peoples; ILO Convention 169 on Indigenous and Tribal Peoples; or the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is also relevant in the framework of the ILO. This declaration arose in 1977[3] with the purpose of regulating the actions of multinational companies, particularly in developing countries. The Tripartite Declaration makes express reference to the International Bill of Human Rights, the PPRR and the ILO's fundamental principles and rights at work, in addition to other international labour conventions and recommendations that go beyond the eleven fundamental instruments, such as non-discrimination, equal treatment, working conditions, job security, social protection, or indigenous and tribal peoples, among others.

On the other hand, the Ten Principles of the UN Global Compact also stand out, which derive, among others, from the UDHR and the ILO's fundamental principles and rights. The first two principles are those related to human rights[4] and the following four to labour standards[5], while there are three other principles related to the environment and a last principle regarding corruption.

[2] In relation to disability, it is not only part of the body of HR through this Convention, but it is also present in the Global Compact guidelines, as well as in the OECD Guidelines. It is also part of the CSRD and the ESRS, as can be seen in section 3.2 and Annex 7.1 of this study. In this regard, Fundación ONCE and GRI published in June 2023 an update of their guide "Disability in sustainability reporting", this new version reflects important changes in the Standards and is aligned with the EU CSRD. The use of this guide can be an opportunity to develop more inclusive organisations and have a positive impact on the rights of persons with disabilities, at a time of increasing importance of HR throughout the value chain.

[3] It has been modified over time, with the most recent being the sixth edition in 2022.

[4] Principle 1. Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence; Principle 2. Businesses should make sure that they are not complicit in human rights abuses.

[5] Principle 3. Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; Principle 4. Businesses should support the elimination of all forms of forced and compulsory labour; Principle 5. Businesses should support the elimination of child labour; Principle 6. Businesses should support the abolition of discrimination in respect of employment and occupation.

The joint ILO/UN Global Compact publicatio "Guide for business on the rights of persons with disabilities", which provides concrete actions to promote the inclusion of persons with disabilities in the workplace and ensure equal opportunities, is relevant in this regard. The guide details measures such as adapting human resources policies, removing physical and communication barriers, promoting awareness and training of staff, as well as establishing partnerships with relevant organisations. This comprehensive approach aims not only to comply with legal requirements, but also to create truly inclusive and diverse work environments.[6]

Finally, in addition to the PPRR, the other major reference document on due diligence and HR are the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (hereafter Guidelines), as well as the OECD Due Diligence Guidance for Responsible Business Conduct, which are recommendations jointly addressed by governments to multinational enterprises to promote the contributions that business can make to sustainable development and address the negative impacts associated with business activities on people, planet and society.

The Guidelines were first introduced in 1976 and have been updated over time so as not to lose relevance, with the sixth revision being carried out and published in 2023. These recommendations for multinational enterprises apply regardless of whether they operate only in OECD member countries or in third countries, as long as their headquarters are located in an OECD country.

The different aspects addressed in the Guidelines include issues such as human rights, employment, the environment, corruption, consumers, science, competition and taxation, as well as the dissemination of information and the procedures for implementing the Guidelines through the National Contact Points (NCPs), which are mediation and complaint resolution bodies that each signatory country of the Guidelines must have.

Chapter IV of the Guidelines, relating to HR, was included in the 2011 revision of the Guidelines, based on the PPRR explained above. Likewise, a new and exhaustive approach was also incorporated in relation to the due diligence process and responsible management of the value chain.

Finally, the 2023 update includes, among other aspects, recommendations for companies on climate change and biodiversity, as well as extensions in different areas of due diligence (recommendations on impacts and business relationships related to the use of their products and services, recommendations on corruption...).

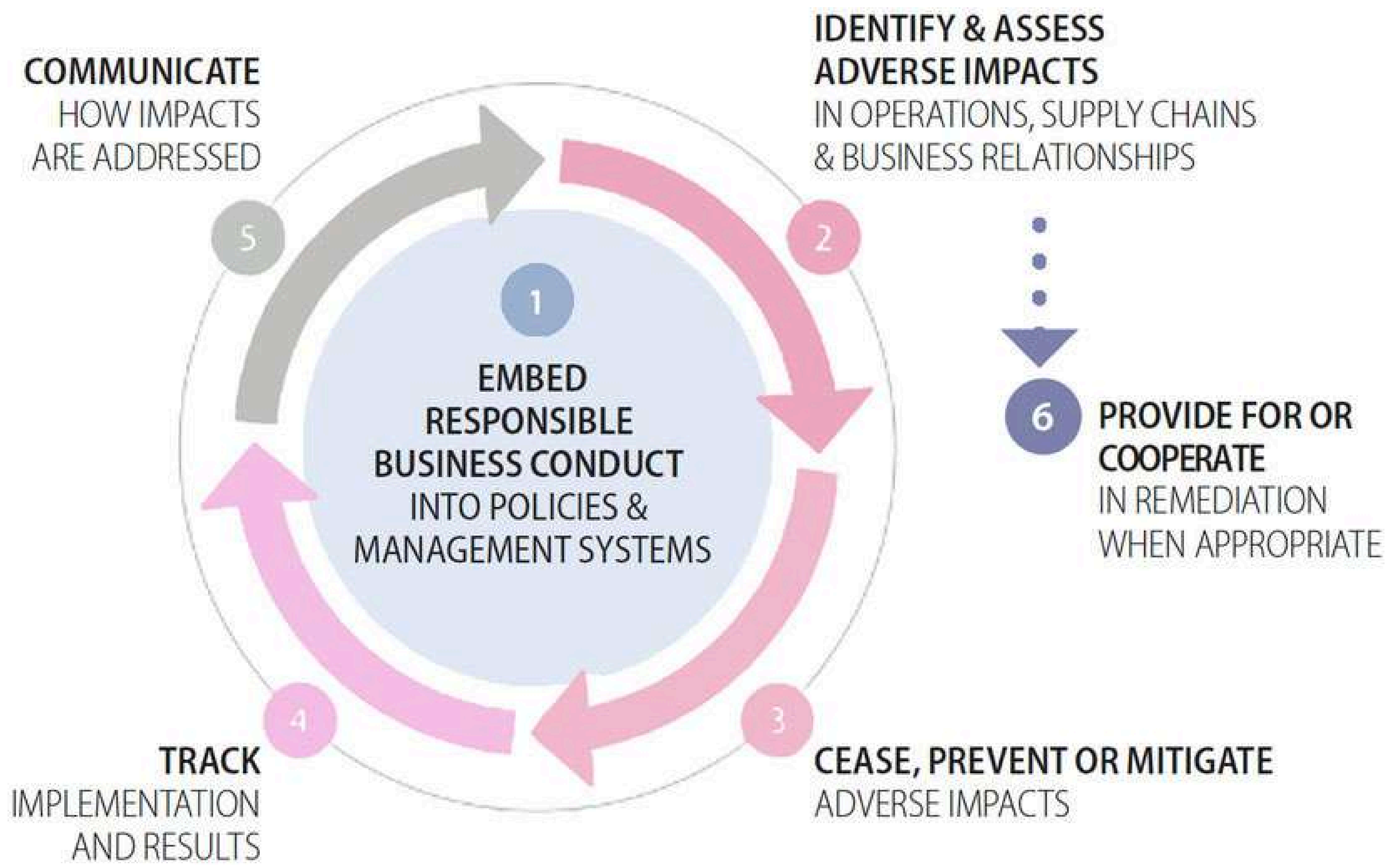
On due diligence, the Guidelines refer to the above-mentioned "OECD Due Diligence Guidance for Responsible Business Conduct", which aims to provide practical support to companies in implementing the Guidelines. It also seeks to build consensus on the due diligence process and to help companies implement the due diligence recommendations of the standards explained above. It is a complex system of management: identification, analysis, risk prevention and mitigation, remediation, governance, stakeholder relations and management improvement. It should be seen as a strategic, integrated, dynamic and cross-cutting system.

[6] As complementary material to this point, we recommend reading the trilogy on the future of work, developed by the ONCE Foundation and the ILO, through its Global Business and Disability Network: Making the future of work inclusive of persons with disabilities (2019); An inclusive digital economy for people with disabilities (2021); Making the green transition inclusive for persons with disabilities (2023).

According to the OECD Due Diligence Guidelines[7] the phases are as follows:

1. Embed responsible business conduct into management policies and systems
2. Identify and assess the actual and potential adverse impacts associated with the company's activities, products or services.
3. Cease, prevent and mitigate adverse impacts.
4. Track implementation and results.
5. Communicate how impacts are addressed.
6. Provide for or cooperate in the remediation when appropriate.

Figure 2. Phases of the due diligence process



Source: OECD 2018

[7] It should be noted that this guide is focused on due diligence in general (HR, employment and labour relations, environment, anti-corruption, bribery demands and other forms of extortion, consumer interests and disclosure of information), not only on HR. There are specific guidelines for the financial sector that will be addressed in point 4 of this Study.

3 REGULATION

The previous section mentions different international soft law instruments or initiatives that constitute the framework for the voluntary application of HR due diligence, although, as mentioned above, these do not imply regulations that oblige companies to apply such due diligence processes or to respect HR.

This section, however, will deal with the non-sectoral legislative actions within the EU that are dealing with this issue, such as the proposed Directive on Due Diligence in Corporate Sustainability that is currently under negotiation, as well as the other legislation on sustainable finance that complements this regulation. However, it should be mentioned that it is not the purpose of this study to elaborate on the different sectorial European regulations where they establish due diligence obligations, such as:

- Regulation (EU) No 995/2010 on combating illegal logging[8], laying down the obligations of operators who place timber and timber products on the market, which requires operators to carry out due diligence processes to determine the origin of timber and timber products and their legality;

- Regulation (EU) 2017/821 on responsible trade in conflict and high-risk minerals[9], which establishes supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores and gold originating from conflict-affected and high-risk areas. It obliges these companies to carry out a due diligence process along their value chain in order to ensure that these minerals are obtained from responsible and conflict-free sources. This regulation, however, leaves out most European companies trading in minerals. In addition, those companies that have adhered to recognised frameworks are automatically presumed to be in compliance with the regulation and are considered "low risk";

- Regulation, newly adopted in 2023, on deforestation-free supply chains[10].

[8] Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.

[9] Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations as regards importers into the Union of tin, tantalum and tungsten, their ores and gold originating in conflict-affected or high-risk areas.

[10] Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 concerning the placing on the Union market and the export from the Union of certain raw materials and products associated with deforestation and forest degradation, and repealing Regulation (EU) No 995/2010.

Before starting with the development of such non-sectorial European regulations, it is convenient to highlight that there are already countries that have developed regulations that oblige companies to identify HR abuses and/or act accordingly, highlighting the following cases: United Kingdom, which in 2015 passed its Modern Slavery Act[11], requiring companies to publish the measures taken to prevent practices related to slavery or human trafficking along their value chain[12]; France, which in 2017 adopted the law on the duty of vigilance of parent companies and contractor companies[13], which affects a specific group of companies (those with more than five thousand employees in the case of a head office in France or ten thousand employees in the case of companies with a head office abroad but operating in France); the Netherlands, which in 2019 adopted a more specific law on child labour: the Act on Due Diligence on Forced Child Labour[14]; Germany, which in 2021 passed the Act on Corporate Due Diligence in Supply Chains[15], which obliges to prevent, mitigate or terminate possible violations of HR or environmental standards and which came into force in 2023 for companies with more than three thousand workers and in 2024 for companies with more than one thousand workers; Norway, with the approval also in 2021 of the Act on Corporate Transparency and Work with Basic Human Rights and Decent Working Conditions[16].

Likewise, there are other European countries in which there are standards under development or that have made regulatory proposals that establish obligations to disseminate information on the due diligence policies adopted to address risks related, among others, to impacts on HR. In the case of Spain, the transposition of the NFRD through Law 11/2018 on non-financial information and diversity is relevant[17], which establishes obligations for companies to publicly report on social and environmental aspects linked to their business activity, including issues related to respect for HR. Although it does not establish corporate due diligence obligations, it does establish general disclosure requirements for large and listed companies that include the duty to report annually on their main risks related to, among others, impacts on HR and the environment, as well as on the due diligence policies implemented to address these risks and their results.

In addition to the aforementioned law that transposed the NFRD into Spanish law, the public consultation carried out by the Ministry of Social Rights and Agenda 2030 in 2022 on the draft bill on the protection of human rights, sustainability and due diligence in transnational business activities[18] stands out.

3.1.Corporate Sustainability Due Diligence Directive

On 23 February 2022, the European Commission published the proposed Corporate Sustainability Due Diligence Directive (CSDDD) whose main objective is to promote sustainability and corporate responsibility in the company value chain (European Commission, 2022).

The proposal for a Directive established rules on the obligations incumbent on companies in relation to the adverse effects on HR and the environment of their own operations, of the operations of their subsidiaries

[11] Available at: https://www.legislation.gov.uk/ukpga/2015/30/contents
[12] Note that this is not a due diligence law, but a law that obliges to report certain HR aspects related to different forms of forced labour.
[13] Available at: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626
[14] Available at: https://zoek.officielebekendmakingen.nl/stb-2019-401.html
[15] Available at: https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/supply-chain-act.html
[16] Available at: https://lovdata.no/dokument/NL/lov/2021-06-18-99
[17] Law 11/2018, of 28 December, which amends the Code of Commerce, the revised text of the Capital Companies Act approved by Royal Legislative Decree 1/2010, of 2 July, and Law 22/2015, of 20 July, on Auditing of Accounts, with regard to non-financial information and diversity.
[18] Available at: https://www.mdsocialesa2030.gob.es/agenda2030/documentos/220208-consulta-publica-definitiva.pdf

and of the operations of the value chain of entities with which these companies have an established business relationship.

The main implications of the proposed Directive could be summarised in the need to incorporate due diligence concepts in the company's internal policies (identification, prevention, mitigation and accountability of negative impacts on human rights or the environment), identify ESG risks throughout the supply chain and adopt measures to prevent and mitigate risks and negative impacts on human rights and the environment, including the consideration of terminating risky contracts under certain conditions. It also established rules on liability in case of non-compliance with these obligations.

Following the publication of the proposed Directive, a series of amendments and proposals were made within the European Union and its institutions, the Council, Parliament and the European Commission. Talks and negotiations between these institutions were intense during the Spanish Presidency of the Council in the second half of 2023, reaching a provisional position between the Parliament and the Council announced on 14 December 2023. However, this provisional agreement failed to receive a qualified majority vote in the Council's Permanent Representatives Committee (COREPER) on 28 February 2024 due to blocking by several EU member states and influential business lobbies from Germany, Italy and France. Members of Parliament put pressure on the Council to overcome the blockage and finally on 15 March COREPER voted in favour of a text that reduced the universe of companies affected by the Directive. This new text was also endorsed by the European Parliament's Legal Affairs Committee (JURI), and was finally voted and approved by the European Parliament on 24 April.

The position of 30 November 2022 of the Council of the European Union (Council of the European Union, 2022), the position of 1 June 2023 of the European Parliament (European Parliament, 2023) and the final text approved by COREPER and JURI in March 2024 and voted by the Parliament on 24 April 2024 (European Parliament, 2024) should therefore be highlighted. In general terms, it can be argued that the Council of the European Union presented a "general approach" with modifications that lowered the ambition of the Commission's initial proposal for the Directive, while the Parliament broadened the ambition of the Commission's proposal on some issues. Finally, the text adopted on 24 April (European Parliament, 2024) reflects the intense technical and political negotiations between the Commission, the Parliament and the Council on the most controversial aspects of the Directive and includes the amendments to the Commission's initial proposal that were finally agreed by the Parliament and the Council. The main differences and points of controversy between the four texts are discussed below and summarised in Table 2.

Scope and inclusion of the financial sector

The Council maintained a similar position to the Commission's proposal, but added that the application thresholds had to be met for two consecutive years: for EU companies, a requirement of a global net turnover of more than EUR 150 million and more than 500 employees on average, and for those in high-risk sectors (including textiles, agriculture, food, metals and mineral extraction), an overall turnover of EUR 40 million, provided that at least EUR 20 million of this net turnover was generated in a high-risk sector, and with more than 250 employees on average. However, the Council proposed that it should be left to Member States at national level to decide whether regulated financial firms were included in the scope of the Directive, while the Commission proposed their inclusion.

With regard to non-EU firms, they would be covered if they had a turnover of more than EUR 150 million in the European Union, or a turnover of more than EUR 40 million but less than EUR 150 million in the European Union, provided that at least EUR 20 million had been generated in a high-risk sector.

The Parliament, for its part, proposed broadening the scope to include all large EU companies (more than 250 employees and a worldwide net turnover of more than EUR 40 million) and adding the financial sector, but removing pension institutions, alternative investment funds (AIFs) and undertakings for collective investment in transferable securities (UCITS) and adding definitions of investee company, institutional investor and asset manager. Non-EU companies would have been affected where their worldwide turnover was EUR 150 million, provided that more than EUR 40 million was generated in the EU. The financial sector would have been covered by the due diligence framework when providing financial services linked to a contract in the value chain, but with a simplified treatment, limiting the scope of their actions to the activities of customers directly receiving financial services and those of their subsidiaries when directly linked to such contracts. The financial sector was also required to identify and assess adverse effects before, during (if risks are reported) and after the provision of such services. To this end, they should use information in addition to that collected from sustainability agencies and benchmarks.

The Parliament and the Council reached a provisional agreement in December 2023 that opted to set the scope of application at large companies with more than 500 employees and a worldwide net turnover of more than EUR 150 million; and for non-EU companies, at a net turnover in the EU of more than EUR 150 million, with the Commission to publish the list of non-EU companies affected by the Directive. The financial sector was temporarily and partially excluded from the application of the Directive, although it had to adopt a transition plan to ensure that its business model was aligned with the 1.5°C target.

However, the final text of the Directive adopted by the Parliament and the Council opts to reduce the scope of the Directive with regard to the number of undertakings concerned, finally establishing the thresholds of application to large undertakings with more than 1000 employees and a worldwide net turnover of more than EUR 450 million and to the ultimate parent undertakings of a corporate group where the group as a whole has reached these thresholds. With regard to franchising, the Directive will apply to the ultimate parent undertakings of a group which has franchising or licensing agreements in the Union in return for royalties with third undertakings, where the aggregate royalties exceed EUR 22.5 million and provided that the parent undertaking or its group has generated a worldwide net turnover exceeding EUR 80 million.

As regards non-EU companies, it shall apply if their net turnover within the EU exceeds EUR 450 million, not including a threshold for the number of employees, if they are the ultimate parent undertaking of a corporate group where the group as a whole has reached that threshold, or if they are an ultimate parent undertaking of a group that has franchise or licensing agreements in the Union in exchange for royalties with third companies, applying the thresholds defined for European companies, provided that these thresholds (royalties and net turnover) are produced within the EU.

These thresholds for EU and non-EU companies apply when they are met in the last two consecutive financial years.

Regulated financial institutions (credit institutions, insurance, reinsurance, investment services, management companies and institutions for occupational retirement provision) fall within the scope of the Directive. However, alternative investment funds (AIFs), undertakings for collective investment in transferable securities (UCITS) and pension institutions operating social security schemes under Union law fall outside the scope of the Directive.

As far as regulated financial firms are concerned, as will be seen in the next point on the scope of the chain of activities, this Directive only applies to upstream, not downstream, so the regulated financial sector would not be obliged to perform due diligence on the activities of customers receiving their products and services, but would be obliged to have a climate transition plan.

The implementation of these regulations will be gradual, according to the following scheme:

Table 1. Gradual Implementation of the Due Diligence Directive

	EU COMPANIES	Non-EU COMPANIES
3 YEARS AFTER ENTRY INTO FORCE	+5000 employees and worldwide net turnover +1500 million €.	Net turnover +1500 million € within the EU
4 YEARS AFTER ENTRY INTO FORCE	+3000 employees and worldwide net turnover +900 million €.	Net turnover + €900m within the EU
5 YEARS AFTER ENTRY INTO FORCE	Other companies affected by the Directive: +1000 employees and worldwide net turnover +450 million €.	All other companies affected by the Directive: net turnover +450 million € within the EU

Source: own elaboration based on European Parliament (2024).

Material scope of application within value chain activities

In particular, the Commission's proposal covered "established business relationships" along the entire value chain: including not only the activities of the company but also the upstream and downstream activities of its value chain.

The Council text amended the scope of the Directive, replacing the term "value chain" by "activity chain", reducing the scope of downstream activities, i.e. excluding the use of products or services by consumers. The Council's general approach was intended to limit the Commission's full life-cycle "value chain" approach to a more "supply chain" approach. It included, however, activities related to product distribution, transport, storage and disposal, including dismantling, recycling, composting or landfilling, but expressly excluded product disposal and waste management by individual consumers. It also removed the limitation referring to "established business relationships" to apply to direct and indirect "business partners", i.e. companies having a commercial arrangement or carrying out commercial operations for or on behalf of the entities to which the Directive would apply. It included the possibility for companies not to terminate the business relationship if there was a reasonable expectation that this would result in an adverse impact greater than the potential adverse impact that could not be prevented or mitigated by the company adequately.

Business relationships could also be maintained if there was no available alternative to a business relationship that provided a raw material, product or service essential to the company's production of goods or provision of services and the termination would cause substantial harm to the company.

The Parliament's proposal also removed the limitation to "established business relationships" and applied to "commercial relationships", i.e. a direct or indirect relationship of the company in its value chain with which the company has a commercial agreement or to which the company provides financial services, and which carries out commercial transactions related to the company's products or services. It applied to the value chain of the covered entities, i.e. to the activities of an enterprise's business relationships upstream and downstream in the value chain. It included in the downstream activities those related to sales, distribution, transport, product storage and waste management, excluding the waste management of private consumers. It limited the scope of the value chain in the financial sector to the activities of customers directly receiving financial services and those of their subsidiaries when directly related to such contracts.

The provisional consensus proposal of the Parliament and Council established obligations for large companies in relation to actual and potential adverse impacts of their activity and supply chain upstream of the company and partly of the downstream chain of activities, such as distribution or recycling. As a last resort, companies that detected adverse environmental or human rights impacts caused by one of their business partners would have to terminate such business relationships when such impacts could not be prevented or could not be terminated.

For its part, the final proposal establishes that adverse effects on HR and the environment may occur in the company's own operations, in the operations of its subsidiaries and in those of its business partners in the companies' activity chains. In this regard, it establishes that the chain of activities should also include the activities of a company's business partners upstream or upstream of the chain as a whole, including the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of products, and product or service development.

However, it is in the downstream or downstream activities where the inclusion of activities is not complete, namely activities related to the distribution, transport and storage[19] of the product are included where business partners carry out such activities for or on behalf of the company, but the use and disposal of the product is not included, nor are the activities of a company's business partners downstream related to the company's services.

The latter de facto implies that although the financial sector is included in the scope of the Directive, the vast majority of its activities are not covered by the Directive. In fact, the Directive explicitly states for regulated financial firms that the chain of activities should not include the activities of the business partners (including customers) that receive their services and products.

However, as mentioned in the text, although financial institutions are only subject to apply due diligence obligations on upstream activities, it specifies that they are expected to consider and be aware of the

[19] Excluding items subject to export control under Regulation (EU) 2021/821 of the European Parliament and of the Council or to export control on arms, munitions or war material, once the export of the item has been authorised.

OECD Guidelines which provide indications on the types of appropriate and effective measures financial institutions should take in due diligence processes, highlighting the use of their power of influence on companies, which they can do through the exercise of shareholder rights. It also provides for the Commission to submit to the European Parliament and the Council a report on the need for additional sustainability due diligence requirements tailored to regulated financial firms.

Due diligence, obligations and duties of directors and officers

The Commission proposed a duty of diligence for directors to take account of sustainability issues, and an obligation to implement and monitor due diligence actions and policy and adapt strategies to take account of adverse impacts. It also included the obligation to link directors' variable remuneration to the company's business, strategy and long-term interests and sustainability with a view to combating climate change. Finally, it provided for sanctions for non-compliance and non-compliance with the Directive.

The Council eliminated the provisions on the duty of care and directors' remuneration, added the prioritisation of the adverse effects detected according to severity and probability, incorporated the principle of adequacy of measures to prevent, mitigate or end real adverse impacts, and eliminated several aspects related to HR and fundamental freedoms, leaving only the International Covenants included within the International Bill of HR (ICESCR and ICCPR) and the ILO core and fundamental conventions (not including conventions 155 and 187).

The Parliament introduced mandatory transition plans, which included climate targets for companies within the scope of the Directive, aligned with the Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS). The plan was also to be aligned not only with international targets to achieve net zero emissions by 2050, but also with the EU Climate Target Plan to reduce greenhouse gas emissions by at least 55% by 2030. The Parliament's Legal Affairs Committee incorporated breaches of international and EU climate change obligations into the duty of due diligence. The proposal proposed a duty of care for managers to take account of sustainability issues. However, it removed the duties of directors to initiate and monitor due diligence measures but included a duty to monitor the development and implementation of the transition plan to combat climate change. It also required companies with more than 1,000 employees to have a policy to ensure that a portion of directors' variable remuneration is linked to the company's transition plan. It also provided for penalties for non-compliance with the legislation.

Due diligence would include the verification, monitoring and evaluation of measures for the identification, prevention, mitigation, elimination, remediation and minimisation, and where appropriate, prioritisation, of potential or actual adverse effects on HR and the environment, including if necessary aspects related to corruption and bribery, related to the companies' own operations, those of their subsidiaries and their direct and indirect business relationships in their value chains, in a manner proportionate to the severity and probability of the adverse effects, and in accordance with the size, resources and capacities of the companies. Companies should identify adverse impacts that they have "caused" or "contributed to", as well as those to which they are "directly linked".

The proposal referred to the UN Guiding Principles on Business and Human Rights. It also included other areas of responsible business conduct on HR and environmental issues in accordance with the OECD in accordance with the OECD Guidelines for Multinational Enterprises and several UN and ILO international conventions (including conventions 169, 155 and 187), among others.

The Parliament's proposal also required Member States to impose additional obligations on companies operating in specific contexts with higher risks associated with adverse environmental and human rights impacts.

Finally, it also proposed tailored measures for institutional investors and asset managers to induce investee companies to put an end to the negative impacts of their activities, cooperating where appropriate by exercising voting rights in line with the aim of inducing the management body of an investee company to eliminate the actual adverse effect or minimise its extent in a proportionate manner and taking into account the degree of control they have over the investee company. Member States were required to introduce legislation to oblige institutional investors and asset managers to take appropriate measures to ensure that investee companies put an end to adverse effects.

The provisional Parliament-Council consensus proposal confirmed the provisions related to the obligation to adopt and implement a transition plan for climate change mitigation, and took into account the company's turnover in order to impose financial penalties. Finally, as regards adverse effects, the provisional agreement between Council and Parliament added to the annex new instruments in relation to human rights, UN conventions and, in the case of the ILO core conventions, established that they may be added to the list in delegated acts when they have been ratified by all Member States.

As regards the final proposal, it is more closely aligned with the OECD Guidelines, thus moving closer to the Parliament's position than the Commission's initial position. Companies should integrate due diligence into risk management policies and systems; identify, assess and, where appropriate, prioritise, prevent, mitigate, cease or minimise actual and potential adverse impacts; establish and maintain a reporting mechanism and complaints procedure; monitor and evaluate the effectiveness of measures; communicate publicly; and provide remedy to victims. It also requires meaningful engagement and consultation with stakeholders.

The proposal calls for a risk-based approach, which entails prioritising action on the most likely and most serious risks, regardless of proximity or remoteness along the value chain.

Provisions on boosting the linkage of directors' variable remuneration to climate change objectives are also removed. Provisions on the implementation and supervision obligations of directors' due diligence are also removed. Finally, several aspects relating to HR and fundamental freedoms are deleted, leaving only the International Covenants included in the International Bill of HR (ICESCR and ICCPR), the Convention on the Rights of the Child and the ILO core and fundamental conventions (not including conventions 155 and 187, although adding that they may be added to the Bill when these have been ratified by all Member States).

Fighting climate change

The Commission's proposal stated that Member States should ensure that companies affected by the Directive adopt a plan for their business model and strategy to be compatible with the transition to a sustainable economy and with limiting global warming to 1.5°C in line with the Paris Agreement, including emission reduction targets in case climate change is or should be considered a major risk for the company.

The Council maintained the Commission's proposal and in addition to mentioning the objectives of the Paris Agreement included the objective of achieving climate neutrality by 2050 in line with Regulation 2021/1119. The Plan should also contain implementation actions and financial and investment plans.

The Parliament, for its part, specified that Member States should ensure that companies affected by the Directive draw up and implement a transition plan in line with the CSRD to ensure that their business model and strategy is compatible with the transition to a sustainable economy and with limiting global warming to 1.5°C in line with the Paris Agreement and the objectives of achieving climate neutrality by 2050 and the 2030 climate target, in line with Regulation (EU) 2021/1119. It also included a detailed description of what the transition plan should contain, including, inter alia, a description of the role of the administrative, management and supervisory bodies with regard to climate issues. Member States would ensure that trustees are responsible for monitoring this.

Finally, the adopted text is in line with Parliament's position, where Member States should ensure that subject undertakings, including the regulated financial institutions concerned, develop and implement a climate change mitigation transition plan in line with the Paris Agreement and climate neutrality as set out in Regulation (EU) 2021/1119. This plan must include climate targets every five years from 2030 to 2050 based on scientific evidence, key actions to decarbonise and adopt new technologies, as well as a description of investments and roles of management bodies and scope 1, 2 and 3 emission reduction targets. Companies reporting on a transition plan under the relevant regulation will be considered compliant. In addition, Member States are required to ensure that such plans are updated every 12 months and detail progress towards the climate targets set. Finally, Member States will require supervisory authorities to monitor the adoption and design of the transition plan for climate change mitigation.

Civil Liability

Under the Commission's proposal, Member States were to establish civil liability for failure to comply with obligations to identify, prevent, mitigate and eliminate the adverse effects produced and where the adverse impact resulted in damage. But there was no liability for damage caused by adverse effects resulting from the activity of an indirect partner with whom there was an established business relationship if reasonable due diligence measures were taken.

According to the Council text, Member States were to establish civil liability for breach of due diligence obligations, subject to four conditions: (i) breach of an obligation intended to protect natural or legal persons; (ii) damage; (iii) causation; and (iv) fault (intent or negligence). It therefore introduces the prerequisite of fault (intent or negligence). In addition, there would be an exemption from liability if the damage was caused solely by the company's business partners in its chain of activities. Where the damage was caused jointly by the company and its subsidiary, and/or by the direct or indirect business partner, all of them would be jointly and severally liable. Full compensation should not lead to overcompensation through punitive damages. The civil liability of the Directive would not exempt from compliance with other national or European rules on civil liability covering aspects not covered by this Directive or providing for stricter sanctions.

The Commission and the Council proposed that Member States should regulate targeted sanctions by requiring that sanctions be "effective, dissuasive and proportionate".

Parliament took the position that Member States should establish civil liability for breaches of due diligence obligations, if this had caused or contributed to an actual adverse impact and resulted in damage. They should provide for additional procedural rules in line with the Directive concerning limitation periods, injunctions, standing requirements, evidence and publicity. It therefore extended the scope of potential civil liability to include liability for adverse impacts arising because of a company's failure to comply with due diligence obligations. It also included the possibility for companies to be liable even where they had participated in sectoral or multilateral initiatives or had included contractual or third-party verification clauses underpinning compliance with due diligence obligations. In the event that a responsible subsidiary was dissolved, liability could fall on the parent company. Compliance with the Directive did not limit companies' liability under other EU or national legislation.

The Parliament's proposal also provided for an obligation to ensure that those affected by breaches of this duty have access to justice and out-of-court redress, reducing barriers to access to justice for injured parties, providing legal and financial assistance to victims and extending limitation periods, although the burden of proof on claimants was not reversed. However, it proposed that Member States should have the option of reversing the burden of proof in relation to alleged infringements to which sanctions could be applied.

Finally, it proposed that penalties should be based on the net turnover of the undertaking, with a ceiling of at least 5 % of the net turnover of the undertaking.

The consensus proposal strengthened and favoured access to justice for affected persons, established a five-year time limit for filing complaints (including trade unions or civil society organisations) and set limitations on the production of evidence and costs for plaintiffs. In addition, it took into account the company's turnover in imposing financial penalties. For companies that did not pay the fines, the interim agreement included a number of injunctions. It also provided that compliance with the Directive could qualify as a criterion for the award of public contracts and concessions. Measures to cease the infringing conduct were also included. Where financial penalties are imposed, they should be capped at a maximum of at least 5% of the undertaking's net turnover. The agreement also emphasised cooperation with stakeholders as part of the due diligence process.

The text finally adopted on 24 April provides that Member States must ensure that companies are liable for damage caused to natural or legal persons if the company intentionally or negligently failed to comply with the obligations established to protect these persons. Companies are not liable if the damage was caused solely by their business partners in their chain of activities. Affected persons are entitled to full compensation under national law, not including overcompensation for punitive or multiple damages. Member States must also ensure that limitation periods for damage claims are not restrictive, that court costs are not prohibitive and that claimants can seek injunctive relief. Limitation periods for civil liabilities shall be at least 5 years, and never shorter than those set out in national laws. In addition, civil society organisations, such as trade unions or non-governmental organisations, can act on behalf of affected parties, and courts can order companies to disclose evidence relevant to claims for damages, protecting confidential information as necessary.

Where financial penalties are imposed, they must be capped at a maximum of at least 5% of the undertaking's net turnover, i.e. administrative penalties may be imposed, which, for very serious infringements, must be at least 5% of the undertaking's annual turnover, but each Member State may set a higher limit.

Therefore, following the development of the positions of the three EU institutions (Commission, Council and Parliament) on the CSDDD, a final agreement was finally reached, with some reductions in terms of the scope of the chain of activities, the liability of administrators and the thresholds of the companies affected, which was approved by COREPER in March 2024 and by the European Parliament in April 2024. The table below summarises the four positions mentioned above, the three positions of the various EU institutions and the final text voted in the European Parliament on 24 April 2024.

Table 2. Comparison of the positions of the Commission, Council and Parliament with the final text of the Due Diligence Directive

Aspects		Commission (23/02/2022)	Council (30/11/2022)	Parliament (01/06/2023)	COREPER and Parliament (15/03/2024 y 24/04/2024)
Scope of application		It includes a distinction between sectors based on whether they are high impact sectors (with lower thresholds for application): textiles, agriculture, forestry, food, metals and mineral extraction.	It maintains the distinction of high impact sectors, adds the corresponding NACE codes and excludes the financial sector.	There is no distinction between high and low impact sectors. Priority sectors are mentioned, including the financial, energy, construction and IT sectors.	There is no distinction between high and low impact sectors.
Companies affected (application thresholds)	EU companies	Average + 500 employees and worldwide net turnover + 150 million €. o Average of + 250 employees and worldwide net turnover + 40 million € provided that at least 50% of the turnover is generated in high impact sectors.	Same thresholds as the Commission's position and in addition they must be met for two consecutive financial years.	Average + 250 employees and worldwide net turnover + 40 million €. **o** Being the ultimate parent company of a group that had 1) 500 employees and 2) +150 million €.	Average + 1000 employees and worldwide net turnover + 450 million €. **o** To be the ultimate parent company of a group that reaches the thresholds **+** Franchises (royalties above €22.5 million and worldwide net turnover above €80 million). The thresholds must be met for the last two consecutive financial years.
	Non-EU companies	Net turnover +150 million € within the EU o 40 < Net turnover > €150m within the EU, where at least 50% of turnover is generated in high impact sectors.	Same thresholds as the Commission's position and in addition they must be met for two consecutive financial years.	Worldwide net turnover +150 million €, provided that at least 40 million € are within the EU. **o** Be the ultimate parent company of a group that had 1) 500 employees and 2) worldwide net turnover +150 million €, provided that at least 40 are within the EU.	Net turnover +450 million € within the EU **o** To be the ultimate parent company of a group that, on a consolidated basis, reaches the thresholds of **+** Franchises (royalties above €22.5 million and worldwide net turnover above €80 million in the EU). The thresholds must be met for the last two consecutive financial years.
Value chain		"Established business relationships" along the entire value chain, including *upstream* and *downstream*.	It removes the term "established" and applies to direct and indirect trading partners. Replace the term "value chain" with "activity chain". It reduces the scope for *downstream* activities, excluding use, disposal and waste management by private consumers.	It eliminates the term "established" and applies to direct and indirect business relationships in its value chain. It includes the value chain, *upstream* and *downstream*. Within the *downstream*, it includes sales, distribution, transport, storage and waste management, excluding waste management by private consumers.	Eliminates the term "established". Includes the chain of activities, *upstream* and *downstream*. Includes the entire *upstream* and, in the case of *downstream*, includes distribution, transport and storage, but does not include product disposal. *Downstream* activities of trading partners receiving services are not included.

Financial sector	Inclusion of the financial sector, but without being part of the high impact sectors. It includes the activities of customers receiving loans, credits and other services and those of their subsidiaries when directly related to such contracts. For the financial sector, the detection of adverse effects will only be carried out prior to the provision of financial services.	Member States may decide to apply the Directive to regulated financial firms and eliminate pension institutions, AIFs and UCITS. For the financial sector, the detection of adverse effects will only be carried out prior to the provision of financial services.	It includes the financial sector but deletes pension institutions, AIFs and UCITS and adds definitions of investee, institutional investor and asset manager. It limits the scope of the value chain to the activities of customers directly receiving financial services and those of their subsidiaries when directly related to such contracts. Financial firms are presumed to be directly linked to an adverse effect in their value chain without causing or contributing to it, therefore the financial sector should detect and assess adverse effects before, during (if risks are reported) and after the provision of financial services. Regulated financial firms, as well as other firms, should use information in addition to that obtained from credit rating agencies, sustainability rating agencies or benchmark administrators.	Includes the financial sector but eliminating pension institutions operating social security schemes in accordance with applicable Union legislation, AIFs and UCITS. Only the upstream but not the downstream part of the chain of activities of customers contracting financial products and services is covered. Therefore, although it falls under the scope of the Directive, many of its activities do not. The obligation of the financial sector to detect adverse effects (neither before, during, nor after the provision of financial services) is removed. Regulated financial institutions are required to have a climate transition plan.
Stages of Due Diligence	Companies should **integrate** due diligence into their corporate policies; **identify, prevent, mitigate, eliminate** or **minimise** potential and actual adverse impacts; establish and maintain a **complaints procedure**; **monitor** the effectiveness of the measures taken; and **publicly report** on their due diligence.	Companies should **integrate** due diligence into their corporate policies; **identify, where appropriate, prioritise, prevent, mitigate, remedy and eliminate** potential and actual adverse impacts, or **minimise** their extent; establish and maintain a **complaints procedure**; **monitor** the effectiveness of the measures taken; and **publicly report** on their due diligence.	Companies should **integrate** due diligence into their corporate policies; **identify**, **assess, where appropriate, prioritise, prevent, mitigate, remedy and eliminate** potential and actual adverse impacts, or **minimise** their extent; **establish or participate in an out-of-court reporting and grievance mechanism**; **monitor and verify** the effectiveness of actions taken, **publicly report** on their due diligence and **consult with affected stakeholders** throughout this process.	Companies should **integrate** due diligence into risk management policies and systems; **identify**, **assess** and, **where appropriate, prioritise, prevent and mitigate, cease or minimise** actual and potential adverse impacts; meaningful engagement with stakeholders, establish and maintain a **reporting mechanism and grievance procedure**; **monitor** and **evaluate** the effectiveness of measures; **communicate** publicly; **provide** remedy
Transition plans	Companies should adopt, independently of the duty of due diligence, a plan to align with the Paris Agreement, including emission reductions in case climate change is a major risk for the company. Includes the linking of variable remuneration.	It maintains the Commission's proposal and also mentions the objective of achieving climate neutrality by 2050. It removes the provisions on variable remuneration.	Companies should develop and implement a transition plan in line with the requirements of the CSRD, the Paris Agreement and the EU's 2030 and 2050 climate targets. It includes details of the content of the transition plan, including, inter alia, a description of the role of the administrative, management and supervisory bodies with regard to climate issues. Includes the linking of variable remuneration.	Companies should develop and implement a transition plan in line with the Paris Agreement and the EU's 2030 and 2050 climate targets. It includes a detailed description of the content of the transition plan. It removes the provisions on variable remuneration.

Liability	Civil liability exists if damage is caused by failure to prevent, mitigate and eliminate adverse effects. There is no civil liability for indirect business relationships established if reasonable due diligence measures were taken.	Civil liability exists if four conditions are met: 1) breach of the obligation; 2) damage caused to a natural or legal person; 3) causality between damage and breach; 4) fault (intent or negligence). There is no civil liability if the damage was caused solely by its business partners. If in addition to the company there is another shareholder or subsidiary causing the damage, the liability is joint and several. Overcompensation for punitive damages should be avoided.	Civil liability exists if damage is caused as a result of non-compliance with the Directive. It deletes the Commission's paragraph exempting companies when, having adopted due diligence policies, the damage was not directly caused by the company. Member States will have to lay down rules to ensure that the provisions of the Directive are complied with as regards prescription, protective measures, standing, burden of proof, etc. Companies may be liable even when they have participated in sectoral or multilateral initiatives. It provides for financial penalties for very serious infringements of at least 5 % of worldwide net turnover.	Civil liability exists if damage is caused as a result of intentional or negligent breach of the Directive. It provides for financial penalties for very serious infringements of at least 5 % of worldwide net turnover.
Obligations of the administrators	It holds managers responsible for the establishment and supervision of due diligence requirements. It introduces a duty of care for directors to take sustainability issues into account when making decisions. It requires them to adapt the strategy to take into account adverse impacts.	Elimination of the provisions relating to the duties of directors.	It retains the Commission's text as regards the duty of care of directors, deletes the provisions for launching and monitoring due diligence measures but introduces the responsibility to monitor the preparation and implementation of the transition plan.	Elimination of the provisions relating to the duties of directors.
Adverse effects on Human Rights	It includes 21 human rights violations and 15 conventions on human rights and fundamental freedoms.	It removes several human rights violations from the Commission's position and includes only the following instruments: ICESCR, ICCPR and the ILO core and fundamental conventions (excluding conventions 155 and 187).	The Commission's position includes several UN and ILO international conventions (conventions 169, 155 and 187), among others.	It removes several human rights violations from the Commission's position and includes only the following instruments: ICESCR, ICCPR, Convention on the Rights of the Child and the ILO core and fundamental conventions (excluding conventions 155 and 187).

Source: own elaboration based on European Commission (2022), Council of the European Union (2022), European Parliament (2023), Council of the European Union (2024), Márquez Carrasco (2023a, 2023b) and Observatorio de RSC (2024).

3.2. The regulation of sustainability reporting on human rights issues

At EU level, the NFRD already included mandatory reporting on due diligence and environmental, social and human rights policies for just over 11,000 companies. This regulation has been modified and extended by the CSRD, which will reach almost 50,000 companies. Companies subject to the CSRD will have to report according to the European Sustainability Reporting Standards (ESRS), which are being developed by EFRAG (European Financial Reporting Advisory Group) and consist of a set of standards that define the topics and metrics that companies must include in their sustainability reports.

The companies subject to this regulation and the implementation schedule will be as follows, with the reporting requirements being implemented gradually over time for the different types of companies:

- 2025 over the financial year 2024: large companies already subject to the old NFRD with more than 500 employees.
- 2026 about the financial year 2025[20]: large companies not currently subject to the NFRD that meet two of the following three criteria: 250 employees, EUR 40 million net turnover, EUR 20 million on the balance sheet.
- 2027 over the financial year 2026: listed small and medium-sized enterprises (SMEs) that meet two of the following criteria: between 10 and 250 employees, between EUR 700 thousand and EUR 40 million net turnover, between EUR 350 thousand and EUR 20 million on the balance sheet.
- 2029 over the financial year 2028: non-EU companies with a net turnover of EUR 150 million and at least one subsidiary or branch in the EU above certain business thresholds[21].

The CSRD introduces a dual materiality approach to sustainability reporting. Dual materiality implies that companies will have to present information on how their business model impacts on the environment, HR and society (impact materiality); and also, on how the company's activity and results are affected by sustainability factors and environmental, social and governance (ESG) risks (financial materiality).

The delegated act containing the first set of ESRS developed by EFRAG and published by the end of 2022 was adopted on 31 July 2023. The ESRS in this first set are cross-sectoral, meaning that they apply to all companies within the scope of the CSRD, regardless of the sector(s) in which they operate. They consist of general principles and reporting standards (ESRS 1 and ESRS 2) and 10 thematic standards relating to specific environmental, social and governance issues (5 environmental, 4 social and 1 governance). In addition, the CSRD has mandated that sector-specific standards, proportionate standards for listed and unlisted SMEs (in the latter case, voluntary) and standards for third country companies should be adopted. EFRAG is still in the consultation and development phase of these sectoral and SME standards.

The ESRS distinguishes between indicators that would be reported based on a company's materiality analysis and indicators that are reported independently of the outcome of the materiality analysis. In general terms, it can be stated that EFRAG has finally adopted a disclosure approach through the assessment of materiality by companies, such a companies should report on those sustainability issues

[20] With an additional opt-out possibility until 2028.

[21] Subsidiaries of non-EU global companies are only exempted from reporting obligations when their non-financial information is included in the consolidated management report of the parent company.

and disclosure requirements that they consider material, including additional disclosures to those foreseen in the ESRS when deemed necessary.

However, there is a minimum set of indicators that should be reported regardless of the outcome of the materiality analysis:

- ·ESRS 2, General information (i.e. all disclosure requirements and data points specified in ESRS 2) and the disclosure requirements (including their data points) set out in the thematic ESRSs related to the IRO-1 disclosure requirement. Description of the processes for determining the assessment of material occurrences, risks and opportunities as set out in Appendix C of ESRS 2 of Delegated Regulation (EU) 2023/2772. Regardless of the outcome of its materiality assessment, the company shall always disclose the information required by ESRS 2, which sets out disclosure requirements for the information that the company must provide at a general level on all material sustainability issues in relation to the areas of governance reporting, strategy, incident management, risks and opportunities, and benchmarks and targets.

All other ESRS disclosure and application requirements are subject to materiality analysis. If the sustainability issue is material, it must be reported. In case it is not material there is no obligation to report, subject to the following considerations:

- If an ESRS E1 sustainability issue, climate change is not material, the company should disclose a detailed explanation of why the climate change is not material.
- If the company concludes that an issue other than climate change is not material, it may voluntarily briefly explain the conclusions of its materiality analysis with respect to that issue.
- If any of the indicators derived from the SFDR, or other EU legislation[22], are omitted from disclosure, the company will have to explicitly state that they are "not material" rather than simply not reporting information. In addition, companies should provide a table with all such data points, indicating where they are located in their sustainability statement or indicating "not material" as appropriate.
- If a sustainability issue or topic is material, but not all disclosure requirements can be reported because the company has not yet adopted policies, actions or targets, it should indicate that this is the case and may communicate a timeframe by which it intends to implement them.
- If a sustainability issue or topic is material, the company may omit the information prescribed by a data point from a disclosure requirement if it considers it to be materially immaterial.

This final EFRAG approach has almost halved the disclosure requirements of the first draft ESRS submitted for consultation in June 2021. Some requirements will be phased in on a deferred schedule (the list of requirements and their deferred schedule can be found in Appendix C of ESRS 1), others have been deleted or reconsidered for future sectoral standards for which the deadline for final development has been postponed by two years to June 2026.

[22]Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Capital Requirements Regulation, "CRR"); Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014; Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ("European Climate Legislation").

With this, and with rare exception, companies will not have to report all disclosure requirements, but will report, in addition to the mandatory disclosures for all, those thematic disclosure requirements that they consider material to them without having to report why some issues are not relevant, except in the case where the indicator refers to the ESRS E1 on climate change.

The approach of assessing materiality by reporting companies therefore replaces the "rebuttable presumption" approach. This is intended to balance the regulatory disclosure burden for companies.

In an effort to improve alignment and convergence with other guidelines and benchmarks, the ESRS have incorporated to the greatest extent possible the content and key concepts of the GRI Universal Standards, the UN Guiding Principles on Human Rights and the OECD Guidelines for Multinational Enterprises, as required by the CSRD, without prejudice to ongoing EU legislative processes in relation to sustainability due diligence. It also reflects an alignment with the minimum safeguards outlined in the Taxonomy Regulation.

Interoperability of ESRS social and due diligence indicators with SFDR and other European regulation

EFRAG has also pursued interoperability of the ESRS with the requirements of the CSRD, the SFRD, other pieces of EU legislation, the Task Force on Climate-related Financial Disclosures (TCFD), and the International Sustainability Standards Board (ISSB) of the International Financial Reporting Standards Foundation (IFRS).

The following table shows those indicators related to HR and the due diligence process, as well as other related social indicators, that coincide between the SFDR and CSRD standards, with the aim of shedding light on the interoperability of the different indicators between both standards[23]

Did you know?

The Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS) address people with disabilities in various social standards. Concurrently, there is increasing evidence of the effects of various environmental phenomena that have a direct impact on social issues. A recent example is the investigation by Human Rights Watch in southern Spain on the consequences of heatwaves in Spain, exacerbated by climate change, causing serious difficulties for people with disabilities who faced greater risks due to the lack of adequate measures and resources to address their specific needs.

The CSRD and the Corporate Sustainability Due Diligence Directive take into account the definition of disability from the UN Convention on the Rights of Persons with Disabilities. However, each member state has its own definitions and databases on disability, and companies must report according to local definitions. The assessment of double materiality in the ESRS, which includes impact and financial materiality, determines whether companies should report on specific disability-related information.

Furthermore, the final text of the CSDDD in its recital 33 states that "Depending on the circumstances, companies may need to consider additional standards. For example, taking into account specific contexts or intersectional factors such as, among others, gender, age, race, ethnicity, social class, caste, educational level, migration status, disability, as well as social and economic status, as part of a gender- and culture-sensitive due diligence approach, companies should pay special attention to any particular adverse effects on individuals who may be at greater risk due to marginalization, vulnerability, or other circumstances, individually or as members of certain groups or communities, including indigenous peoples, protected under the United Nations Declaration on the Rights of Indigenous Peoples, also in relation to free, prior, and informed consent (FPIC). In doing so, companies may need to consider, where appropriate, international instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities."

[23] Note that the indicators related to the CSRD are very numerous and overlap with other standards. For reasons of space and subject matter, only the social ESRS or those related to the due diligence process that coincide with the social indicators of the SFDR standard are presented in the table.

Table 3. Interoperability of social and due diligence indicators applicable to investments in SFDR and CSRD ESRS companies

SFDR			CSRD	
Adverse impact on sustainability	Adverse impact on sustainability factors (qualitative or quantitative)	Parameter /metric	Relevant ESRS data points	Compulsory / Voluntary
SFDR: Mandatory Indicators on Social and Labour Issues (Delegated Regulation (EU) 2022/1288, Annex 1, Table 1)	**Indicator 10**: Violations of Global Compact principles and Guidelines	Proportion of investments in companies that have been linked to breaches of Global Compact principles and Guidelines	**ESRS S1-17, paragraph 104, point a**: Number of serious HR cases involving the company's personnel in the reporting period, including an indication of how many of these constitute cases of non-compliance with the PPRR, ILO fundamental principles and rights and the Guidelines. If there have been no such cases, the company will declare this.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S2-1, paragraph 19: The extent to which cases of non-compliance with the PPRRs, ILO fundamental principles and rights or the Guidelines involving workers in the value chain have been reported upstream and downstream in your value chain and, if applicable, an indication of the nature of such cases.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S3-1, paragraph 17: The extent to which cases of non-compliance with the PPRRs, ILO fundamental principles and rights or the Guidelines involving affected groups in the value chain have been reported in the operations themselves or upstream and downstream in the value chain and, where applicable, an indication of the nature of such cases.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S4-1, paragraph 17: The extent to which cases of non-compliance with the PPRRs, ILO fundamental principles and rights or the Guidelines involving consumers or end-users have been reported downstream in the value chain and, where appropriate, an indication of the nature of such cases.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 11: Lack of processes and compliance mechanisms to monitor compliance with Global Compact principles and Guidelines	Proportion of investments in companies without policies to monitor compliance with Global Compact principles or Guidelines or without complaint or grievance handling mechanisms to address breaches of Global Compact principles or Guidelines.	**ESRS S1-1, paragraph 20**: HR policy commitments relevant to its own staff, including processes and mechanisms for monitoring compliance with the PPRR, ILO fundamental principles and rights and the Guidelines.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S2-1, paragraph 17: HR policy commitments relevant to workers in the value chain, including processes and mechanisms for monitoring compliance with the PPRR, ILO fundamental principles and rights and the Guidelines.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S3-1, paragraph 16: Human rights policy commitments relevant to affected groups, including processes and mechanisms for monitoring compliance with PPRRs, ILO fundamental principles and rights, and the Guidelines (in particular for indigenous peoples).	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S4-1, paragraph 16: HR policy commitments that are relevant to consumers or end-users, including processes and mechanisms for monitoring compliance with the PPRRs, ILO fundamental principles and rights or the Guidelines	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 12: Gender pay gap, unadjusted	Unadjusted average gender pay gap of investees	**ESRS S1-16, paragraph 97(a)**: Gender pay gap, defined as the difference between the average pay levels of male and female employees, expressed as a % of the average pay level of male employees.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.

	Indicator 13: Gender diversity of the board of directors	Ratio between the number of women on the board of directors and the total number of board members (men and women) of investee companies	**ESRS 2 GOV-1, paragraph 21(d)**: Gender and other diversity-related aspects taken into account by the company. The gender diversity of the board of directors shall be calculated as an average proportion of the number of women on the board compared to the number of men.	Mandatory disclosure
	Indicator 14: Exposure to controversial weapons (anti-personnel mines, cluster munitions, chemical and biological weapons)	Share of investments in companies involved in the manufacture or sale of controversial arms	**ESRS 2 SBM-1, paragraph 40(d)(iii)**: The company shall disclose, where appropriate, a statement that it is engaged in activities related to controversial weapons (anti-personnel landmines, cluster munitions, chemical weapons and biological weapons), together with the related revenues.	Mandatory disclosure
SFDR: Additional indicators on social and labour issues **(Delegated Regulation (EU) 2022/1288, Annex 1, Table 3)**	**Indicator 1**: Investments in companies with no workplace accident prevention policies	Proportion of investments in companies without workplace accident prevention policies	**ESRS S1-1, paragraph 23**: Whether you have a workplace accident prevention policy or management system in place.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 2: Accident rate	Accident rate in investee companies (weighted average)	**ESRS S1-14, paragraph 88(b) and (c)**: The number of deaths resulting from work-related injuries and health problems and the number and rate of recordable occupational accidents.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 3: Number of days lost due to injury, accident, death or disease	Number of working days lost due to injury, accident, death or illness of investees (weighted average)	**ESRS S1-14, paragraph 88, letter e**: The number of days lost due to work-related injuries and deaths resulting from occupational accidents, work-related health problems and deaths due to illness.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 4: Absence of supplier code of conduct	Proportion of investments in companies without a supplier code of conduct (against unsafe working conditions, precarious work, child labour, forced labour)	**ESRS S2-1, paragraph 18**: Whether its policies regarding workers in the value chain explicitly address human trafficking and forced, compulsory and child labour. Also indicate whether the company has a supplier code of conduct.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 5: Absence of mechanism for handling complaints or grievances related to labour issues	Proportion of investments in companies without a mechanism for handling labour-related complaints or grievances	**ESRS S1-3, paragraph 32(c)**: Whether or not the company has a mechanism for handling complaints or grievances related to labour issues.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 6: Inadequate whistleblower protection	Proportion of investments in entities without whistleblower protection policies	**ESRS G1-1, paragraph 10, point d**: If the company does not have whistleblower protection policies in place, it should indicate this and whether it plans to implement them, as well as the timetable for their implementation.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 7: Incidents of discrimination	1. Number of reported incidents of discrimination in investee companies (weighted average) 2. Number of incidents of discrimination leading to sanctions in investee companies (weighted average)	**ESRS S1-17, paragraph 103(a)**: Total number of reported cases of discrimination, including harassment, in the reference period	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.

	Indicator 8: Excessive pay gap between the executive director and workers	Average ratio, in investee enterprises, between the total annual pay of the highest paid person and the median annual pay of all employees (excluding the highest paid person).	**ESRS S1-16 paragraph 97(b)**: Ratio of the total annual remuneration of the highest paid person to the average total annual remuneration of all employees (excluding the highest paid person).	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
SFDR: Additional indicators on the respect for human rights **(Delegated Regulation (EU) 2022/1288, Annex 1, Table 3)**	**Indicator 9**: Absence of HR policy	Proportion of investments in entities without a HR policy	**ESRS S1-1, paragraph 20**: Commitments on human rights policies that are relevant to their own personnel	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S2-1, paragraph 17: Commitments on HR policies that are relevant to workers in the value chain	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S3-1, paragraph 16: Human rights policy commitments relevant to affected groups	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S4-1, paragraph 16: Human rights policy commitments relevant to consumers or end-users	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 10: Lack of due diligence	Proportion of investments in entities without a due diligence process to identify, prevent, mitigate and address adverse human rights impacts	**ESRS 2 GOV-4, paragraph 30**: The company shall disclose a mapping of the information provided in its sustainability statement on the due diligence process.	Mandatory disclosure
	Indicator 11: Absence of processes and measures to prevent trafficking in human beings	Percentage of investments in companies invested in without anti-trafficking policies	**ESRS S1-1, paragraph 22**: Whether your own personnel policies explicitly address trafficking in human beings.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S2-1, paragraph 18: Whether your policies regarding workers in the value chain explicitly address trafficking in human beings.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 12: Operations and suppliers with significant risk of incidents of child labour	Proportion of investments in enterprises exposed to operations and suppliers with a significant risk of incidents of child labour in terms of geographical areas or types of operation.	**ESRS 2 - SBM 3 - S1, paragraph 14, letter g**: Operations with significant risk of child labour cases	Mandatory disclosure
			ESRS 2 - SBM 3 - S2, paragraph 11, point b: Any geographical area (at country or other levels) or commodity in relation to which there is a significant risk of child, forced or compulsory labour among workers in the company's value chain.	Mandatory disclosure
	Indicator 13: Operations and suppliers with significant risk of incidents of forced or compulsory labour	Proportion of investments in enterprises exposed to operations and suppliers with significant risk of incidents of forced or compulsory labour in terms of geographic areas or types of operation	**ESRS 2 - SBM 3 - S1, paragraph 14, subparagraph f**: Operations with significant risk of forced or compulsory labour cases	Mandatory disclosure
			ESRS 2 - SBM 3 - S2, paragraph 11, point b: Any geographical area (at country or other levels) or commodity in relation to which there is a significant risk of child, forced or compulsory labour among workers in the company's value chain.	Mandatory disclosure

			ESRS S1-17, paragraph 104, point a: Number of serious HR cases involving the company's personnel in the reporting period, including an indication of how many of these constitute cases of non-compliance with the PPRR, ILO fundamental principles and rights and the Guidelines. If there have been no such cases, the company will declare this.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
	Indicator 14: Number of detected cases of serious HR problems and incidents	Number of cases of serious HR problems and incidents linked to companies invested in on a weighted average basis	**ESRS S2-4, paragraph 36**: Whether serious HR issues and cases have been reported upstream and downstream in their value chain.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S3-4, paragraph 36: Whether serious HR issues and cases related to affected groups have been reported	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.
			ESRS S4-4, paragraph 35: Whether serious HR issues and cases related to their consumers or end-users have been reported.	Subject to materiality analysis. Mandatory if material. If not material, obligation to explicitly mention that the indicator is not relevant.

Source: own elaboration based on Regulation (EU) 2019/2088, Delegated Regulation (EU) 2022/1288 and Delegated Regulation (EU) 2023/277

In addition to the indicators in Table 2 derived from the SFDR, the following indicators, being derived from other EU legislation, namely the Benchmarks Regulation[24], if not disclosed as they are considered non-material, should also be explicitly made clear that they are not material:

- ESRS S1-1, paragraph 21: Due diligence policies with respect to issues covered by ILO core conventions 1 to 8. The company shall disclose whether and how its policies regarding its own personnel comply with relevant internationally recognised instruments, including the UN Guiding Principles on Business and Human Rights.
- ESRS S2-1, paragraph 19: Due diligence policies with respect to issues covered by ILO core Conventions 1 to 8. The company shall disclose whether and how its policies regarding workers in the value chain are in compliance with internationally recognised instruments relevant to workers in the supply chain, including the UN Guiding Principles on Business and Human Rights.

The full list of interoperability of ESRS with other pieces of EU legislation can be found in Appendix B of ESRS2 - List of data points included in cross-cutting standards and thematic standards derived from other EU legislation.

In addition, the SFDR also has social indicators applicable to investments in sovereign and supranational entities (which do not fall within the scope of the CSRD), which are set out in the table below.

Table 4. Social indicators applicable to investments in sovereign and supranational entities in SFDR regulations

Adverse impact on sustainability	Adverse impact on sustainability factors (qualitative or quantitative)	Parameter/metric
SFDR: Socially Mandatory Indicator (Delegated Regulation (EU) 2022/1288, Annex 1, Table 1)	**Indicator 16**: Recipient countries of investments subject to social violations	Number of host countries of the investments subject to social breaches (absolute number and relative number, divided by all host countries of the investment) covered by international treaties and conventions, United Nations principles and, where applicable, domestic laws
SFDR: Additional social indicators	**Indicator 18**: Average income inequality rating	The distribution of income and economic inequality among participants in a given economy, including a quantitative indicator explained in the explanation column.
(Delegated Regulation (EU) 2022/1288, Annex 1, Table 3)	**Indicator 19**: Average Freedom of Expression Rating	Measure of the degree to which political and civil society organisations can operate freely, including a quantitative indicator explained in the explanation column.
SFDR: Additional Indicator on Human Rights (Delegated Regulation (EU) 2022/1288, Annex 1, Table 3)	**Indicator 20**: Average Human Rights Performance	Measure of the average human rights performance of host countries using a quantitative indicator explained in the explanation column.

Source: own elaboration based on Regulation (EU) 2022/1288.

24 Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014.

Relevant aspects of social ESRS and their relationship with ESRS 2 of General Information

There are disclosure requirements set out in the thematic ESRSs that are applicable in conjunction with ESRS 2, which are set out in Appendix C of the ESRS 2 section of Delegated Regulation (EU) 2023/2772. The following table summarises these requirements, highlighting those that apply to social indicators.

Table 5. Disclosure/enforcement requirements set out in the thematic ESRS that are applicable in conjunction with ESRS 2. General information

ESRS 2. Disclosure requirements	Related ESRS section
GOV-1 The role of administrative, managerial and supervisory bodies	ESRS G1. Business conduct (paragraph 5)
GOV-3: Integrating sustainability-related performance into incentive systems	ESRS E1. Climate change (paragraph 13)
SBM -2: Stakeholder interests and opinions	ESRS S1. Own staff (paragraph 12)
	ESRS S2. Value chain workers (paragraph 9)
	ESRS S3. Affected groups (paragraph 7)
	ESRS S4. Consumers and end-users (paragraph 8)
SBM -3: Significant issues, risks and opportunities and their interaction with the strategy and the business model	ESRS E1. Climate change (paragraphs 18 and 19)
	ESRS E4. Biodiversity and ecosystems (paragraph 16)
	ESRS S1. Own staff (paragraphs 13 to 16)
	ESRS S2. Workers in the value chain (paragraphs 10 to 13)
	ESRS S3. Affected groups (paragraphs 8 to 11)
	ESRS S4. Consumers and end-users (paragraphs 9 to 12)
IRO-1: Description of the processes for identifying and assessing material impacts, risks and opportunities	ESRS E1. Climate change (paragraphs 20 and 21)
	ESRS E2. Pollution (paragraph 11)
	ESRS E3 Water and marine resources (paragraph 8)
	ESRS E4. Biodiversity and ecosystems (paragraphs 17 and 19)
	ESRS E5. Resource use and circular economy (paragraph 11)
	ESRS G1. Business conduct (paragraph 6)

Source: Delegated Regulation (EU) 2023/2772.

With regard to the rest of the social ESRS indicators, given the extent of the indicators and the fact that it is not the purpose of this Study to carry out an exhaustive analysis of each indicator[25], all the indicators relating to the social ESRS can be found in the Annex, as well as the disclosure indicators relating to general requirements (ESRS 2) and the indicators relating to business conduct, due to the relationship of corporate governance with the due diligence process (ESRS G1).

In the case of due diligence, the reporting requirements are to: 1) integrate due diligence into the governance, strategy and business model[26]; 2) cooperate with affected stakeholders[27]; 3) identify and assess negative impacts on people and the environment[28]; 4) take measures to address negative impacts on people and the environment[29]; and 5) monitor the effectiveness of these efforts[30].

The social disclosure requirements of the ESRS focus on the stakeholders affected by the company's activities: the company's own employees, workers in its value chain, affected communities and its consumers and end-users.

In this regard, the ESRS S1 on own workforce seeks that companies disclose detailed information on how their actions affect their own workforce, salaried and non-salaried, addressing both positive and negative, actual and potential impacts. In addition, they are expected to provide details on measures taken to prevent, mitigate or remedy negative impacts, as well as the management of risks and opportunities related to their workforce. The standard also requires an explanation of the general approach the entity takes to identify and manage material impacts on its workforce, considering social factors, including human rights. The social factors included by this draft relate to working conditions, equal treatment and opportunities and other work-related rights.

The other three standards (ESRS S2. Value Chain Workers, ESRS S3. Affected communities and ESRS S4. Consumers and end users) take into account the material impacts (on workers in the value chain, on affected communities[31] and on consumers and/or end users, respectively) caused or contributed to by the entity, as well as the material impacts that are directly linked to the entity's own operations, products or services through its business relationships, together with the related material risks and opportunities.

For ESRS S2, S3 and S4, if the company is unable to disclose the required information because it has not adopted the processes, policies, mechanisms and measurement, it should disclose that this is the case. It may also disclose the timeframe within which it intends to implement such actions.

The sustainability issues included in the CSRD as a guideline for a materiality analysis are summarised in the following table:

[25] It should be noted that the remaining social indicators not included in Table 3 are subject to materiality. If they are not material, there would be no need to explain why they are not reported or to explicitly state that the data is not relevant. The company may briefly explain the conclusions of its materiality analysis with respect to this issue.
[26] ESRS 2 GOV-2, GOV-3, SBM-3.
[27] ESRS 2 GOV-2, SBM-2, IRO-1, MDR-P.
[28] ESRS 2 IRO-1, SBM-3.
[29] ESRS 2 MDR-A.
[30] ESRS 2 MDR-M, MDR-T.
[31] The factors included are economic, social and cultural rights and the civil and political rights of communities and the particular rights of indigenous communities.

Table 6. Sustainability issues covered by thematic ESRS

ESRS Thematic	Theme	Sub-theme	Sub-subject
ESRS S1	Own staff	Working conditions	Secure employment
			Working time
			Adequate wages
			Social dialogue
			Freedom of association, the existence of works councils and the rights of workers to information, consultation and participation.
			Collective bargaining, including the proportion of workers covered by collective agreements
			Reconciliation at work
			Health and safety
		Equal treatment and opportunities for all	Gender equality and equal pay for work of equal value
			Training and skills development
			Employment and inclusion of people with disabilities
			Measures against violence and harassment in the workplace
			Diversity
		Other labour rights	Child labour
			Forced labour
			Adequate housing
			Privacy
ESRS S2	Value chain workers	Working conditions	Secure employment
			Working time
			Adequate wages
			Social dialogue
			Freedom of association, including the existence of works councils
			Collective bargaining
			Work-life balance
			Health and safety
		Equal treatment and opportunities for all	Gender equality and equal pay for work of equal value
			Training and capacity building
			Employment and inclusion of people with disabilities
			Measures against violence and harassment in the workplace
			Diversity
		Other labour rights	Child labour
			Forced labour
			Adequate housing
			Water and sanitation
			Privacy
ESRS S3	Affected groups	Economic, social and cultural rights of the collectives	Adequate housing
			Adequate food
			Water and sanitation
			Land-related incidents
			Security-related incidents
		Collective civil and political rights	Freedom of expression
			Freedom of assembly
			Incidences on human rights defenders
		Indigenous peoples' rights	Free, prior and informed consent
			Self-determination
			Cultural rights
ESRS S4	Consumers and end-users	Incidents related to consumer or end-user information	Privacy
			Freedom of expression
			Access to (quality) information
		Personal safety of consumers or end-users	Health and safety
			Security of a person
			Child protection
		Social inclusion of consumers or end-users	Non-discrimination
			Access to products and services
			Responsible marketing practices
ESRS G1	Business conduct	Corporate culture	
		Whistleblower protection	
		Animal welfare	
		Political engagement and lobbying activities	
		Supplier relationship management, including payment practices	
		Corruption and bribery	Prevention and detection, including training
			Cases

Resource: Delegate Regulation (UE) 2023/2772

However, it should be clarified that companies that do not exceed an average of 750 employees at their balance sheet date during the financial year (consolidated balance sheet, if applicable) may omit reporting of all disclosure requirements of ESRS S1 for the first year of preparing their sustainability statement; and of ESRS S2, S3 and S4 for the first two years.

There are also some specific disclosure requirements that can be omitted by all companies for the first year of sustainability reporting. Table 7 summarises these indicators.

Table 7. ESRS S1 Disclosure requirements that may be omitted by companies in the first year of preparing their sustainability statement.

ESRS S1 disclosure requirement	Data points that can be omitted in the first year of sustainability reporting
S1-7. Characteristics of non-salaried workers in the firm's own workforce	The company may omit information on all data points in this disclosure requirement.
S1-8. Coverage of collective bargaining and social dialogue	The company may omit this disclosure requirement in respect of its own employees in countries outside the European Economic Area.
S1-11. Social protection	The undertaking may omit the information prescribed in ESRS S1-11.
S1-12. Percentage of employees with disabilities	The undertaking may omit the information prescribed in ESRS S1-12.
S1-13. Training and capacity building	The undertaking may omit the information prescribed in ESRS S1-13.
S1-14. Health and safety	The company may omit data points on cases of work-related health problems and on the number of days lost due to injuries, accidents, fatalities and work-related health problems. The undertaking may omit information on self-employed persons.
S1-15. Work-life balance	The undertaking may omit the information prescribed in ESRS S1-15.

Source: Delegated Regulation (EU) 2023/2772.

4

HUMAN RIGHTS IN SUSTAINABLE INVESTMENT

4.1.Human Rights in the investment process

In addition to the scope of HR corresponding to the operations of financial market participants in their upstream value chain, that is, those related to contracting with suppliers and employees, the supply and provision of financial products and services is also susceptible to expose financial institutions to negative HR consequences arising from the operations of their clients.

Among the various risks, the financial sector can be linked to forced labour or labour exploitation, through investments in companies involved in abusive labour practices, which may violate fundamental labour rights; adverse impacts on the environment, through investments in certain sectors that may contribute to environmental degradation; or forced displacement, through the financing of projects that may result in the forced displacement of local communities, violating the right to housing and an adequate standard of living.

The recommendations of the United Nations and the OECD for companies and the financial sector to adopt due diligence systems on environmental and human rights issues should also be taken into account.

In addition to the OECD Due Diligence Guidance explained in point 2 of this study, several OECD recommendations affecting the financial sector were also published between 2017 and 2022: Institutional Investors and Responsible Business Conduct. Key aspects for due diligence under the OECD Guidelines for Multinational Enterprises; Due diligence for corporate lending and responsible securities underwriting. Key issues for banks in implementing the OECD Guidelines for Multinational Enterprises; Responsible Business Conduct in the Financial Sector in Latin America and the Caribbean; and Responsible Business Conduct Due Diligence for Project and Asset Finance Transactions.

The United Nations Environment Programme Finance Initiative (UNEP FI) sets out guidelines and principles introducing the consideration of environmental and social factors of clients' operations when analysing financing and investment decisions, especially in the financing of large companies and major investment projects. In 2019 UNEP FI launched the "Principles for Responsible Banking". These Principles are designed to guide a bank to strategically align its business to development and sustainability objectives, incorporating not only environmental issues, but also the consideration and management of risk and human rights aspects.

The Principles for Responsible Investment (PRI), which are a set of voluntary principles drawn up by investors for investors that aim to incorporate environmental, social and good governance variables in their investment decisions, also emerged within the United Nations. They also arise in association with the UN Global Compact's Ten Principles initiative, whereby companies comply with their fundamental responsibilities in the areas of human rights, labour, the environment and anti-corruption. In this sense, PRI's 2020 guidance details the three main responsibilities of institutional investors to respect HR: political commitment, due diligence processes and access to redress (PRI, 2020).

In the case of due diligence processes, following OECD and UN standards, PRI (2020) details four phases: identification; prevention and mitigation; monitoring; and communication. These phases cover investment and post-investment decisions, active management (individually or in collaboration with other investors) and dialogue with public policy makers and key stakeholders. PRI also published in 2023 a guide specifically explaining the HR risk identification phase, detailing pre-investment and post-investment actions and how HR risks can be identified and prioritised, namely at the country, sector and company level (PRI, 2023).[32] The guides provided by the OECD[33] and by PRI[34] offer detailed guidelines on how to conduct due diligence for financial institutions. The successful implementation of such a human rights due diligence process by financial institutions, whether banks or institutional investors, requires detailed attention to several phases: identification, analysis, risk prevention and mitigation, remediation, good governance, stakeholder relations and management improvement with monitoring and evaluation of implementation and results. It should be seen as a strategic, integrated, dynamic and cross-cutting management system. It should also implement periodic accountability and communication on HR and environment aligned with relevant disclosure and verification standards (CSRD, ESRS), quantitative and qualitative indicators.

The CWC (Committee on workers' capital) (2022) stresses the need to integrate fundamental labour rights into investment policies and emphasises dialogue with investee companies to address labour risks and promote fair labour conditions.[35]

Due diligence should make every effort to identify risks related to human rights, labour, corruption and bribery. Reference frameworks include the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises (Human Rights Chapter) as well as the OECD Due Diligence Guidance and the ILO Declaration on Fundamental Principles and Rights at Work and its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

[32] Also relevant is the publication of PRI (2022), which details the data necessary to carry out the investment process in the different actions: Screening:; Valuation; Portfolio Construction; Engagement; Voting; Reporting.
[33] OECD (2017), OECD (2018), OECD (2019), OECD (2022a) and OECD (2022b)
[34] PRI (2020), PRI (2022) and PRI (2023)
[35] CWC (2022)

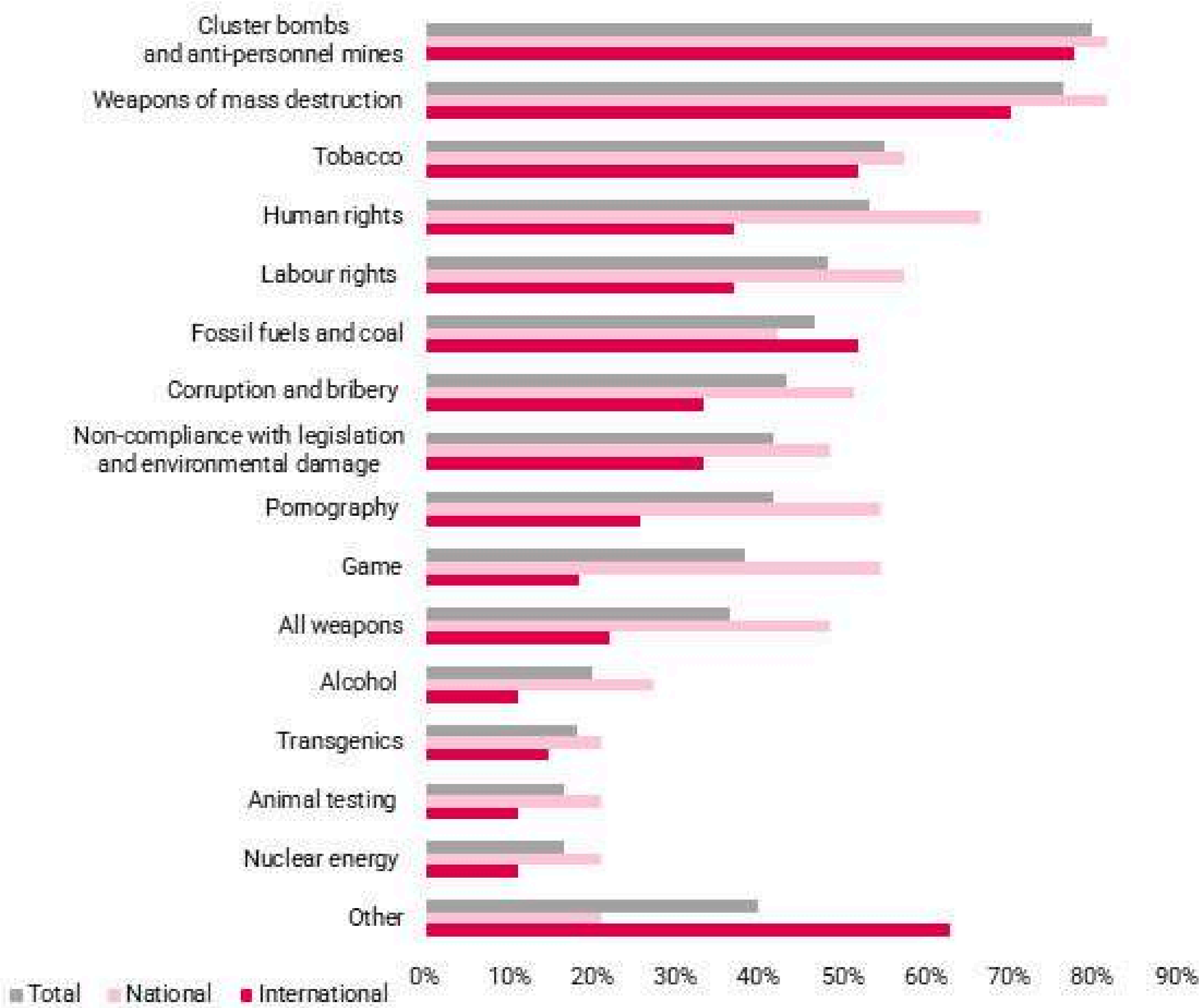
In short, the HR due diligence process for financial institutions requires a comprehensive approach from risk identification to the implementation of corrective measures and ongoing monitoring. The guidance provided by the OECD, PRI and the CWC offers a comprehensive framework to ensure that these institutions contribute positively to the respect for HR in their operations and financial decisions. Both banks and institutional investors should follow these principles, adapting them according to their respective operational and investment contexts.

4.2. Sustainable investment strategies and HRDs

This sub-section provides a detailed analysis of the different sustainable investment strategies in terms of HR and other related social criteria. The data provided have been collected from 60 responses from asset managers and owners to the questionnaire prepared by Spainsif, of which 33 correspond to national entities and 27 to international entities. The data shown were collected during the summer of 2023 but correspond to 31 December 2022, based on the Eurosif methodology.

Starting with those strategies that are less developed, negative screening is one of the most widespread, even though it does not represent a great weight in terms of volume, as it overlaps with more sophisticated strategies.[36] This strategy involves the exclusion of companies or states from investment because of their activity in high-impact or controversial sectors and/or non-compliance with international standards of broad consensus followed by investors when shaping their investment portfolios.

Graph 1. Themes of exclusions applied to companies, total and by origin of the entity (% of affirmative answers)



Source: Spainsif based on data received in surveys.

[36] See the Study "Sustainable and Responsible Investment in Spain 2023" for a better understanding of the evolution of the ESG investment market in Spain.

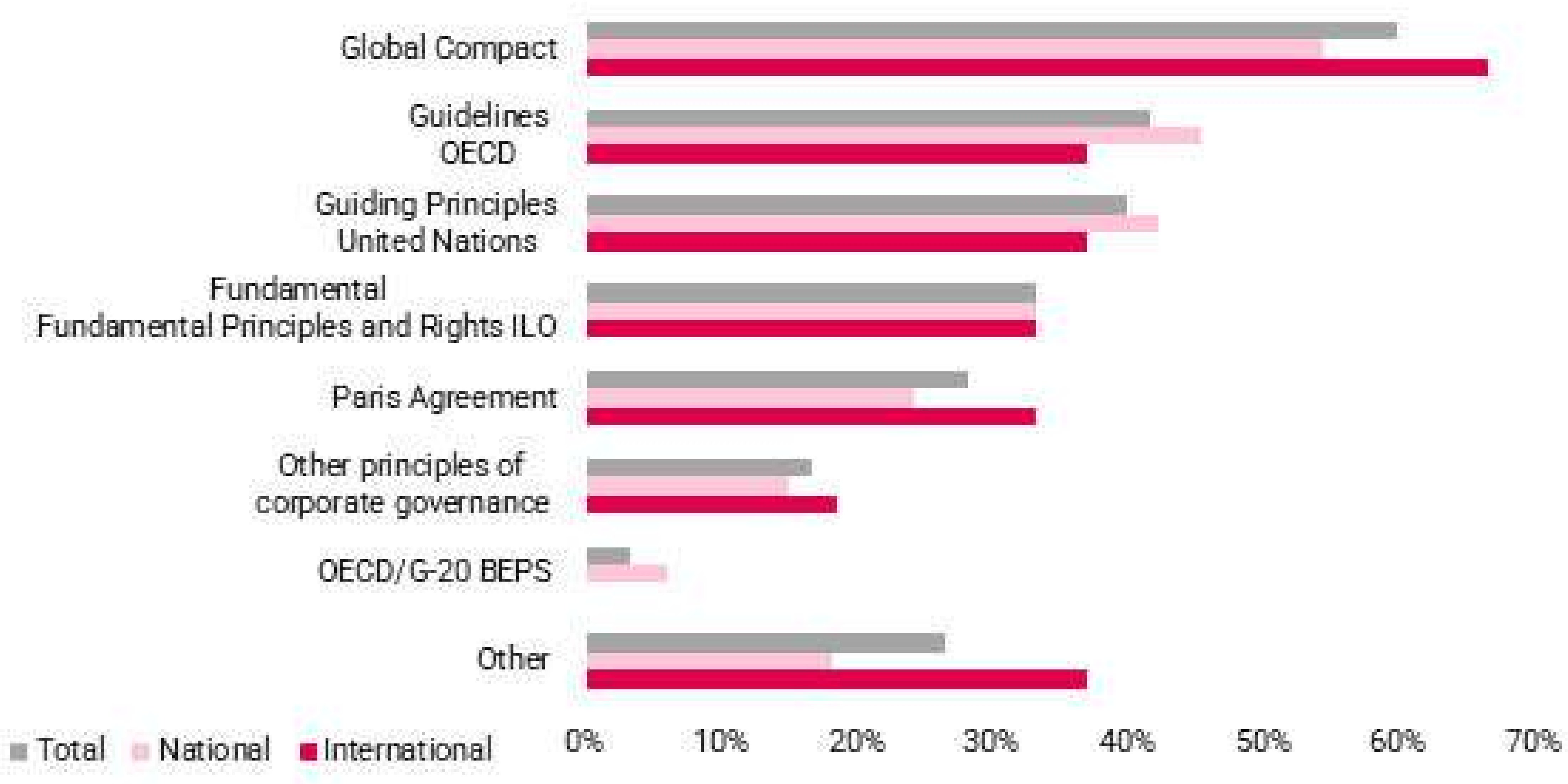
Graph 1 shows the exclusion of companies based on their activity. Focusing on those aspects related to the subject matter of this study, 53% of the entities declare to exclude companies that violate HR, although there are wide differences according to the origin of the entities: 67% in the case of national entities and 37% in the case of international entities. The exclusion of companies that fail to comply with labour rights is 48% for all entities. Again, national entities show higher values, with 58%, compared to 37% for international entities.

On the other hand, other areas of exclusions that may be linked to the violation of HR are the production and commercialisation of weapons. In this case, the exclusions of controversial weapons, such as cluster bombs, anti-personnel mines or weapons of mass destruction, stand out, with exclusions close to 80% (again, national entities show higher values). However, when considering weapons in general, entities reporting exclusions from their investment universe fall to 37% (48% in the case of national entities and 22% in the case of international entities).

In relation to the standards followed by the entities, Graph 2 shows how the Global Compact Principles, explained above, are the most applied, with 60% of entities stating that they follow these principles when investing in projects or companies.

In this case, international entities have a higher value (67%) compared to national entities (55%). The following three standards are all linked to HR or the due diligence process and have also been explained in section 2 of this study: the Guidelines are followed by 42% of entities (45% national and 37% international); the Guiding Principles by 40% (42% national and 37% international); and the ILO's Fundamental Principles and Rights by 33% (equally in both national and international entities).

Graph 2. Standards applied, total and by origin of the entity (% of affirmative answers)



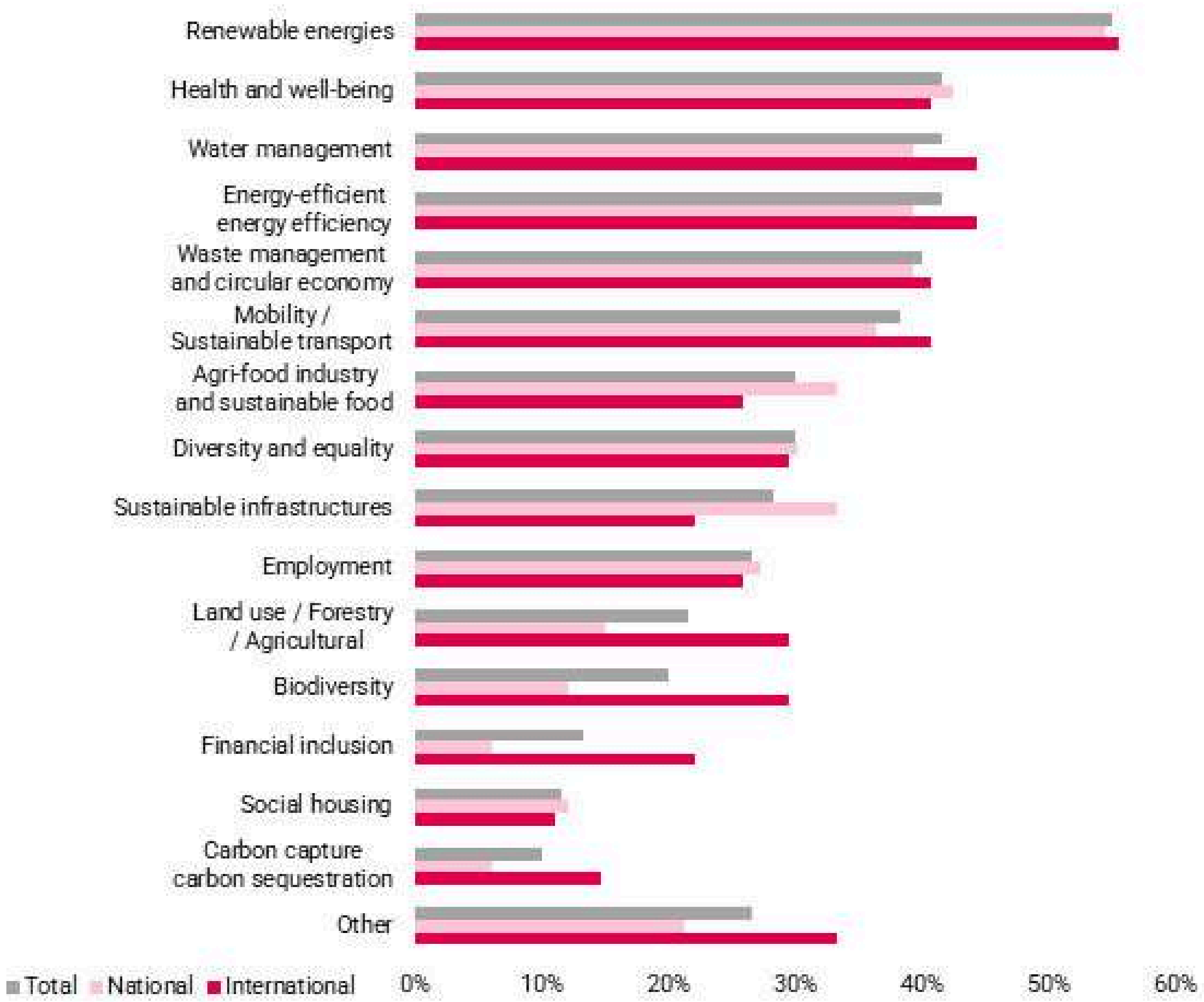
Source: Spainsif based on data received in surveys.

Following in increasing order of sophistication of strategies, positive screening consists of strategies dedicated to investing in stocks that stand out in terms of ESG characteristics and linked to specific sustainability themes. In the case of thematic investments, those linked to environmental aspects stand out, although some linked to social aspects also appear at the top of Graph 3, such as health and wellbeing (with around 40% of entities claiming to invest in this theme).

Graph 3 shows how those aspects closer to HR, such as equality, employment or access to housing, nevertheless show lower values: around 30% in the case of diversity and equality and employment, and just over 10% in the case of financial inclusion and social housing.

It is noteworthy at this point that there is a difference in the theme of financial inclusion depending on the origin of the institutions, as only 6% of national institutions highlight it as an investment theme, compared to 22% of international institutions that do the same.

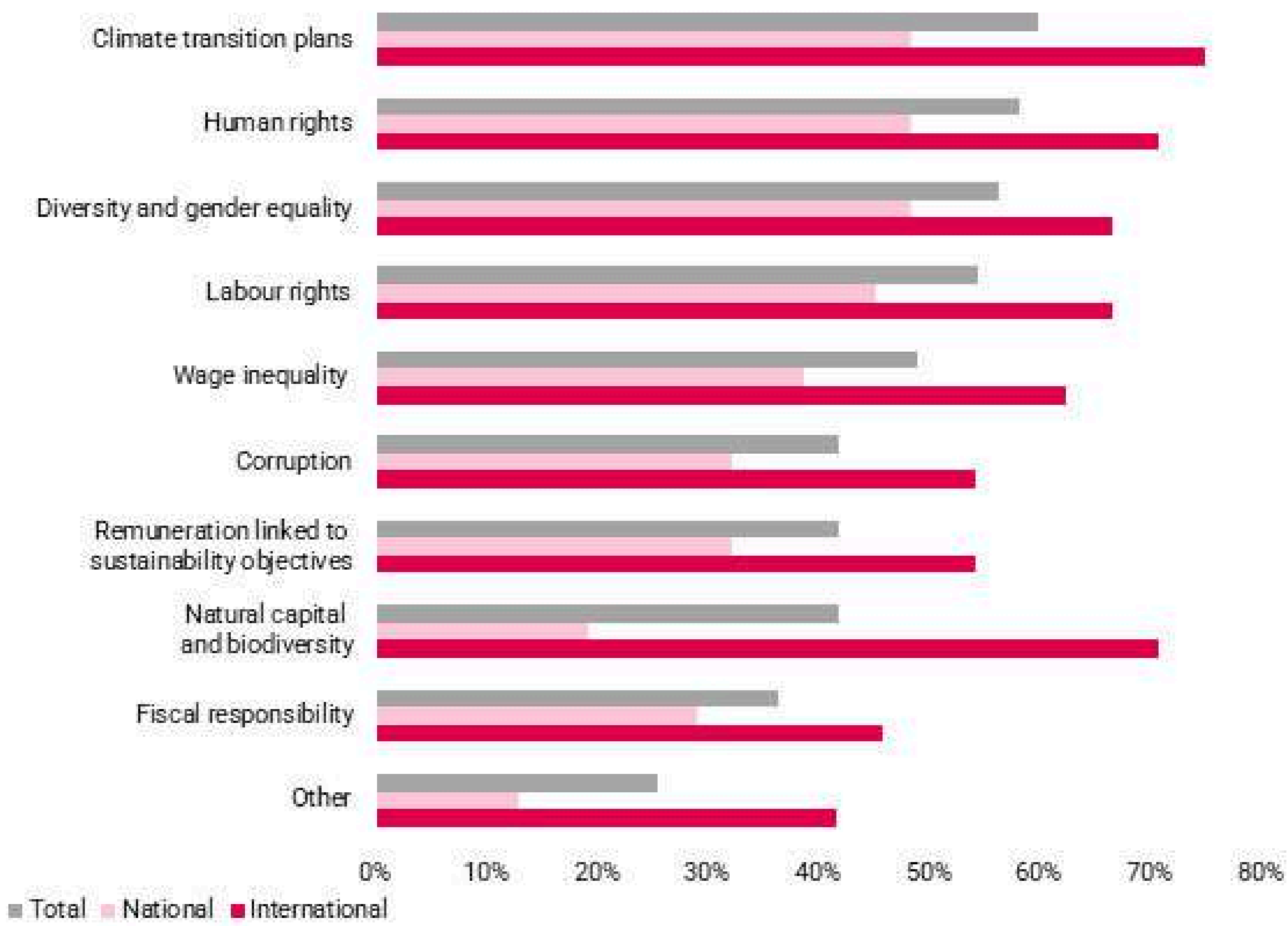
Graph 3. Investment themes applied, total and by origin of the entity (% of affirmative responses)



Source: Spainsif based on data received in surveys.

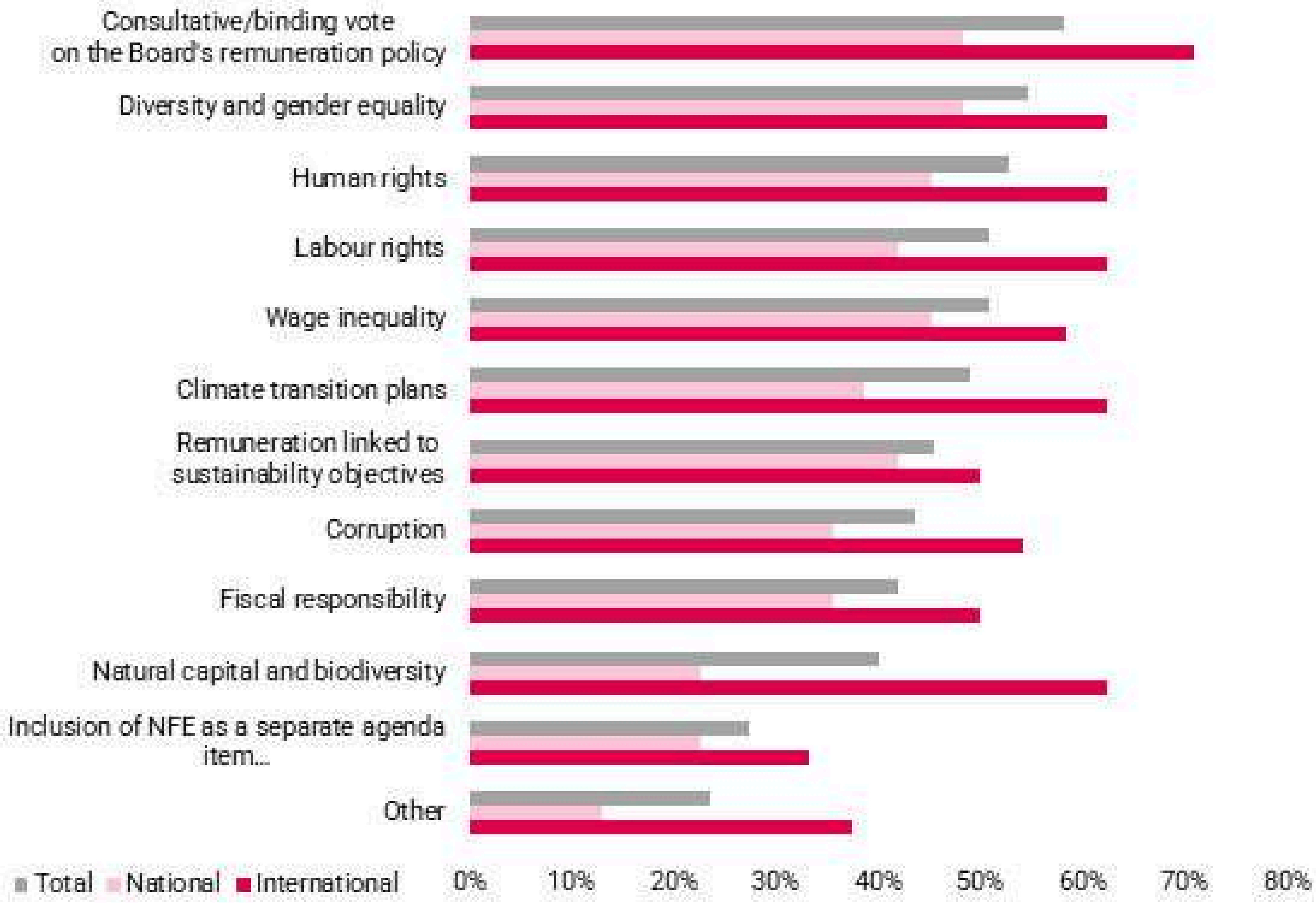
As far as the exercise of active ownership is concerned, the values of the themes included in the engagement and voting initiatives are very similar, both in the case of entities in general and in the differences according to the origin of the entities. These themes for both types of initiatives are shown in graphs 4 and 5.

Graph 4. Topics included in engagement practices, total and by origin of the entity (% of affirmative answers)



Source: Spainsif based on data received in surveys.

Graph5. Issues included in the ballot initiatives, total and by origin of the entity (% of affirmative answers)



Source: Spainsif based on data received in surveys

In the case of engagement initiatives, human rights are in second place, with 58% of the organisations answering in this sense (71% international organisations and 48% national organisations). Other aspects such as diversity and gender equality or labour rights are in third and fourth place, with 56% and 55%, respectively. In the case of the three topics mentioned, national entities do not reach 50 %, while international entities reach values of almost 70 %, i.e. there is a difference of around 20 percentage points in the three topics (although it is true that this divergence is generalised in all the topics included in the engagement practices).

As mentioned above, as far as voting initiatives are concerned, the values and the trend are very similar: the aspects mentioned above (HR, diversity and gender equality and labour rights) again occupy three of the top four positions, although not in the same order. In the case of international entities, they include these issues in their voting initiatives around 65% of them, while in the case of national entities these values are below 50%.

This year's survey also asked entities how their sustainable investments were aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. In this regard, 33 of the 60 entities responded to this qualitative question. Briefly, the following is a summary of the main ways in which these entities comply with the due diligence process and avoid harming HR, in line with the aforementioned guidelines:

- Regulatory screening and project exclusion.

Most entities apply exclusion of projects with verified non-compliance with international standards (based on the Global Compact Principles, the OECD Guidelines and the UN Guiding Principles) and exclude companies involved in severe disputes.

- ESG integration in the investment process.

Another of the most salient qualitative responses is that institutions look at potential ESG risks and, when doing their due diligence, note in their documentation all potential associated risks, linkages to bodies and the principles to which they adhere.

- Collaboration with external suppliers.

On the other hand, some entities rely on external sustainability benchmark providers to obtain the necessary information and adjust their sustainable investments.

- Active engagement and dialogue.

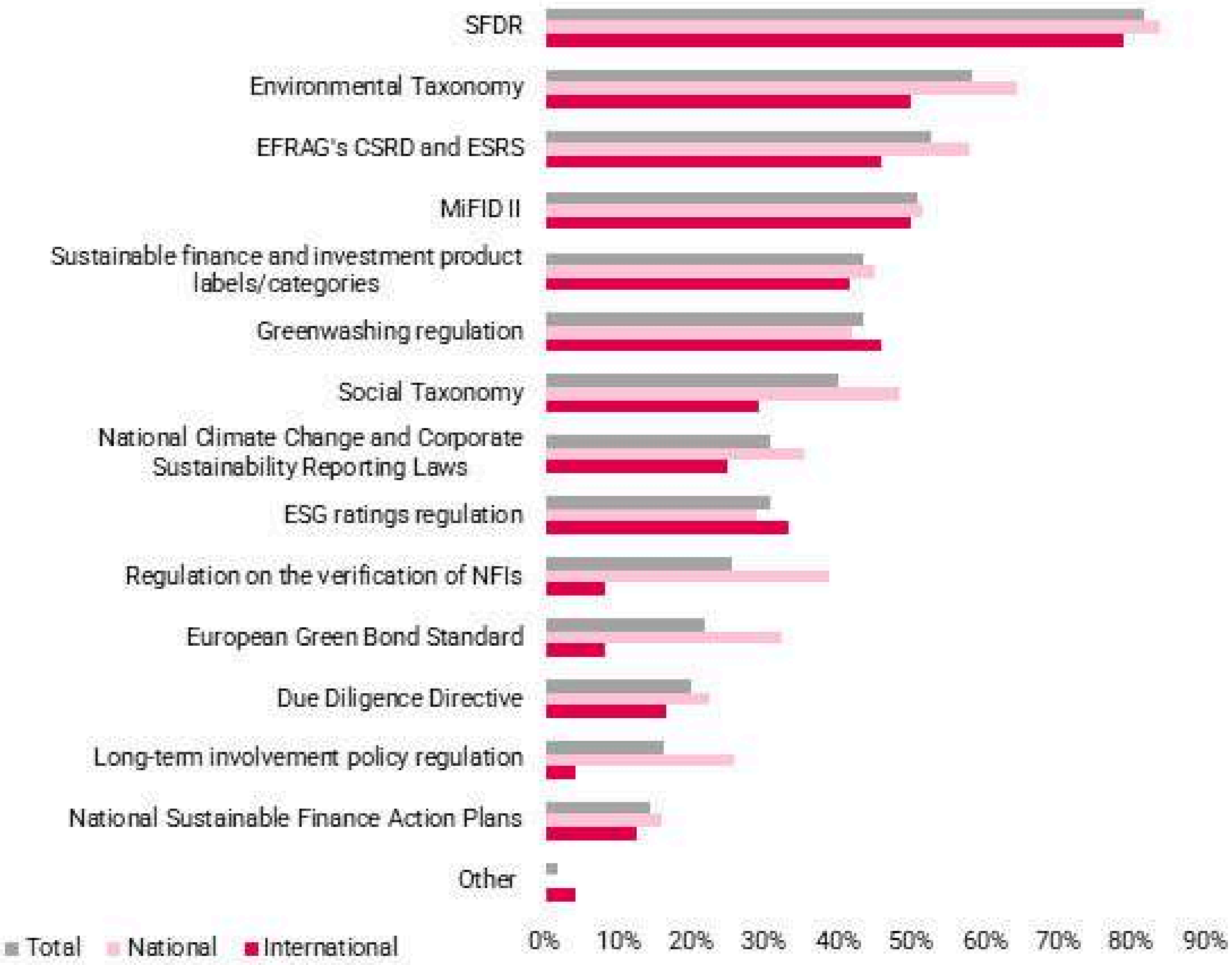
Finally, there are entities that state that, in case of detected breaches, they actively seek to remedy them through active dialogue, which may lead to partial or total divestments.

These strategies show a comprehensive approach that ranges from the exclusion of companies, through the integration of ESG criteria and active dialogue with entities, to a possible divestment in case respect for HR is not possible.

Finally, regarding the question of which regulations will be the most relevant in the next three years, the answers do not place the CSDDD in an important position with respect to the rest of the regulations related to sustainable finance (only 20% of entities consider it relevant). However, the responses highlight the SFDR, the Environmental Taxonomy and the CSRD as regulations that will be relevant in the future.

These regulations are related to the CSDDD by including minimum social safeguards linked to HR and disclosure obligations both in terms of due diligence processes and social indicators, so that, although the CSDDDD does not appear as a very relevant regulation for institutions in the short term, many of the aspects that this standard intends to regulatethis rule.

Figure 6. Perception of the sustainable finance regulations that will have the greatest impact in the next 3 years, total and by origin of the entity (% of affirmative responses)



Source: Spainsif based on data received in surveys.

In relation to other regulations, the position of the Social Taxonomy and the divergence of opinions between national and international entities regarding it is striking, with almost 50% of national entities stating that the Social Taxonomy will be a relevant part of sustainable finance regulations, compared to less than 30% of international entities stating the same. The development of a Social Taxonomy, which has not been addressed in this study, is currently on hold, with a greater focus on finalising some of the key pieces of the Sustainable Finance Action Plan. This currently has a second draft of February 2022, which sets out three social objectives (Decent Work; Adequate Living Conditions and Well-being for End-Consumers; Inclusive and Sustainable Communities) and makes a first approximation of sub-objectives.

5

CONCLUSIONS

The following is a summary of the main conclusions of the study, which include the importance of understanding HR, which areas are covered and which are the main reference frameworks; the relevance of knowing the different phases of the due diligence process, especially in the financial sector; the transition that is taking place from soft law standards to hard law standards; and, through Spainsif's survey, how investors take into account social and HR criteria in their investment strategies.

Human rights: what they are, what they cover and frames of reference

Human rights are fundamental principles inherent to all people, regardless of nationality, sex, religion or any other status. These rights cover aspects such as life, freedom of expression, equality before the law, education and labour rights.

The International Bill of Human Rights and the ILO's Fundamental Principles and Rights at Work are the minimum thresholds that must be met to respect HR. In this sense, within the framework of the United Nations, the PPRR are the main tool to be taken into account, establishing responsibilities for both States and companies, based on three pillars: the State's duty to protect HR, the responsibility of companies to respect HR, and access to redress mechanisms. Finally, there are other relevant aspects such as the rights of indigenous peoples, women, children or people with disabilities; all of them included in UN and ILO Conventions.

The due diligence process and the importance of the financial sector

For its part, the due diligence process, in the business context, refers to the responsibility of companies to identify, prevent, mitigate and account for possible adverse impacts on HR and the environment derived from their operations and activities. In this sense, the aforementioned OECD documents stand out, as they are the reference on how to address issues such as HR, employment, environment, corruption, consumers, among others. This process is considered strategic, integrated, dynamic and transversal, and is generally carried out through the following phases: 1) the incorporation of responsible business conduct into policies and management systems; 2) the identification and assessment of negative impacts; 3) the prevention and mitigation of these impacts; 4) the monitoring of implementation and results;

5) accountability on how impacts are addressed; and 6) impact remediation when appropriate. In short, due diligence is a key element to ensure that companies operate in a responsible and respectful manner with HR and the environment.

For the financial sector, due to its large impact on the economy, it is critical that they fully understand the risks associated with their investments and lending. In this regard, the OECD and PRI's sector-specific guidance for the financial sector provides standards and best practices for conducting effective due diligence to help promote responsible business practices that ultimately benefit society as a whole.

From soft law to hard law

One of the main conclusions that can be drawn from the study is the shift from soft law to hard law, i.e. from voluntary and flexible standards to legally binding and mandatory requirements, both national and international, which have been summarised throughout the study.

This process of change is relevant, as it can strengthen its application, especially in critical areas that require stricter and more binding regulation, as is the case of respect for HR. It is especially relevant, moreover, in international contexts, as hard law norms are particularly important to address problems that transcend national borders, as is the case of global value chains.

Human rights in sustainable investment strategies

The detailed analysis of sustainable investment strategies in terms of HR and social criteria in general reveals significant data obtained from the survey conducted by Spainsif.

Among the main strategies, negative screening stands out as a common practice, involving the exclusion of companies or states due to their activity in high-impact or controversial sectors, as well as non-compliance with international standards. In this regard, the difference between national and international entities stands out, with higher exclusion values for the former than for the latter.

On the other hand, positive screening and thematic investments stand out as more sophisticated strategies, although they are particularly focused on environmental as opposed to social aspects.
Finally, the exercise of active ownership through engagement and voting practices reflects a significant interest in issues related to human rights, gender diversity and labour rights. Some entities show active commitments to ensure respect for HR in the companies in which they invest, including active dialogue and divestment in cases of non-compliance.

6

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7

APPENDIX

7.1.Annex

ESRS 2. General information

- BP-1 General basis for the elaboration of the sustainability status
- BP-2 Information relating to specific circumstances
- GOV-1 The role of administrative, management and supervisory bodies
- GOV-2 Information provided to, and sustainability issues addressed by, the company's management, governing and supervisory bodies
- GOV-3 Integrating sustainability-related performance into incentive schemes
- GOV-4 Due diligence statement
- GOV-5 Risk management and internal controls on sustainability disclosure
- SBM-1 Strategy, business model and value chain
- SBM-2 Stakeholder Interests and Opinions
- SBM-3 Material issues, risks and opportunities and their interaction with the strategy and the business model
- IRO-1 Description of the processes for identifying and assessing material impacts, risks and opportunities
- IRO-2 Disclosure requirements set out in the NEIS covered by the company's sustainability statement·MDR-P Policies adopted to manage material sustainability issues
- MDR-A Actions and resources in relation to material sustainability issues
- MDR-M Parameters in relation to sustainability issues of material importance
- MDR-T Monitoring the effectiveness of policies and actions through targets

ESRS S1. Own workers

- S1-1 Policies related to own workers
- S1-2 Processes for interacting with workers and their representatives on impacts
- S1-3 Processes to remedy negative impacts and channels for workers to voice concerns

- S1-4 Adoption of measures on material impacts on workers, and approaches to mitigating material risks and pursuing material opportunities related to workers, and the effectiveness of those actions
- S1-5 Objectives related to the management of material negative impacts, the advancement of positive impacts and the management of material risks and opportunities
- S1-6 Characteristics of the salaried workforce
- S1-7 Characteristics of non-salaried workers
- S1-8 Collective bargaining and social dialogue
- S1-9 Diversity
- S1-10 Adequate wages
- S1-11 Social protection
- S1-12 Persons with disabilities
- S1-13 Skills development and training
- S1-14 Health and safety
- S1-15 Reconciliation of personal and professional life
- S1-16 Remuneration (pay gap and total compensation)
- S1-17 Incidents, grievances and severe human rights impacts

ESRS S2. Value chain workers

- S2-1 Policies related to value chain workers
- S2-2 Processes for interacting with value chain workers on impacts
- S2-3 Processes for remediating negative impacts and channels for value chain workers to voice their concerns
- S2-4 Adoption of measures on material impacts on workers in the value chain, and approaches to mitigate material risks and pursue material opportunities related to workers in the value chain, and the effectiveness of such actions
- S2-5 Objectives related to the management of material negative impacts, the advancement of positive impacts and the management of material risks and opportunities

ESRS S3. Affected communities

- S3-1 Policies related to affected communities
- S3-2 Processes for interacting with affected communities on impacts
- S3-3 Processes for remediating negative impacts and channels for affected communities to voice their concerns
- S3-4 Adoption of measures on material impacts on affected communities, and approaches to mitigating material risks and pursuing material opportunities related to affected communities, and the effectiveness of those actions
- S3-5 Objectives related to the management of material negative impacts, the advancement of positive impacts and the management of material risks and opportunities

ESRS S4. Consumers and end-users

- S4-1 Consumer and end-user policies
- S4-2 Processes for interacting with consumers and end-users on impacts
- S4-3 Processes to remedy negative impacts and channels for consumers and end-users to voice concerns
- S4-4 Adoption of measures on material impacts on consumers and end-users, and approaches to mitigating material risks and pursuing material opportunities related to consumers and end-users, and the effectiveness of those actions

- S4-5 Objectives related to the management of material negative impacts, the advancement of positive impacts and the management of material risks and opportunities

ESRS G1. Business conduct

- G1-1 Business conduct policies and corporate culture
- G1-2 Supplier relationship management
- G1-3 Preventing and Detecting Corruption and Bribery
- G1-4 Corruption or bribery cases
- G1-5 Political influence and lobbying activities
- G1-6 Payment practices

For more information on the different ESRS data points developed by EFRAG, please visit the following links:

- Detailed guidance for the implementation of ESRS data points: https://www.spainsif.es/wp-content/uploads/2024/04/Listado-de-puntos-de-datos-de-los-ESRS.xlsx
- ESRS Data Point Implementation Guide: https://www.spainsif.es/wp-content/uploads/2024/04/Guia-de-implementacion-puntos-de-datos-ESRS.pdf

7.2. Glossary of terms

ESG: Environmental, social and governance criteria
CNMV: Comisión Nacional del Mercado de Valores (Spanish Securities and Exchange Commission).
COREPER: Committee of Permanent Representatives to the Council
CSDDD: Corporate Sustainability Due Diligence Directive
CSRD: Corporate Sustainability Reporting Directive
CWC: Committee on Workers' Capital
Human Rights: Human Rights
UDHR: Universal Declaration of Human Rights
EFRAG: European Financial Reporting Advisory Group
ESRS: European Sustainability Reporting Standards
AIF: Alternative Investment Funds
ICCPR: International Covenant on Civil and Political Rights
ICESCR: International Covenant on Economic, Social and Cultural Rights
IFRS: International Financial Reporting Standards
SRI: Sustainable and Responsible Investment
ISSB: International Sustainability Standards Board
JURI: Committee on Legal Affairs of the European Parliament
NFRD: Non-Financial Reporting Directive
UN: United Nations
OECD: Organisation for Economic Co-operation and Development
SDGs: Sustainable Development Goals
UCITS: Undertakings for collective investment in transferable securities
ILO: International Labour Organisation
NCP: National Contact Point
PPRR: UN Guiding Principles on Business and Human Rights
PRI: Principles for Responsible Investment
SFDR: Sustainable Finance Disclosure Regulation
TCFD: Task Force on Climate-Related Financial Disclosures
UNEP FI: United Nations Environment Programme Finance Initiative
EU: European Union

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7.4 Credits

Spainsif is a non-profit association formed by entities interested in promoting Sustainable and Responsible Investment in Spain, creating a platform comprising financial institutions, management entities, SRI service providers, non-profit organisations linked to SRI and trade unions, currently made up of 115 members.

The association aims to be a meeting and reference platform to generate and disseminate knowledge on Sustainable and Responsible Investment (SRI) as well as to raise awareness and promote changes in investment processes in the investment community, public administrations, companies and the general public.

This study has been prepared by Spainsif. The Spainsif team would like to thank the respondents for their time and effort in answering the questions.

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SPAINSIF ASSOCIATE MEMBERS

Spainsif associate members

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- BBVA
- CaixaBank
- Caja de Ingenieros
- cecabank
- COFIDES
- fiare banca etica
- Grupo Cooperativo Cajamar
- ICO Instituto de Crédito Oficial
- ICREF
- MutualMédica
- Oiko Credit
- Seguros RGA
- Triodos Bank
- abrdn
- Allianz Global Investors
- Amundi Asset Management
- Andbank Private Bankers
- Aptimus
- AXA Investment Managers
- BlackRock
- BNP Paribas Asset Management
- Candriam
- caser Grupo Helvetia
- Columbia Threadneedle Investments
- DWS
- Edmond de Rothschild
- Erste Asset Management
- enerfip
- ética Patrimonios EAFI
- Eurocapital eaf
- Fidelity International
- fonditel Pensiones
- Franklin Templeton
- Gesiuris
- GSI Global Social Impact
- Goldman Sachs Asset Management
- Groupama Asset Management
- iberCaja Pensión
- J.P.Morgan Asset Management
- Lazard
- Lonvia Capital
- M&G Investments
- mirova Responsible Investing
- Mutuactivos Grupo Mutua Madrileña
- Nordea
- Ofi invest
- Pictet Asset Management
- Resilience Partners
- Robeco
- Santander Asset Management
- Schroders
- Bizkaia seed capital
- Sycomore am
- TR3A Asset Management
- tressis
- Vontobel
- Wealth Solutions
- Afi
- allfunds
- altermia
- auren
- BME X a SIX company
- Corporance
- CPPS Asesores
- Deusto Business School
- EY Building a better working world
- GA Gabeiras & Asociados
- EQA
- finReg360
- GAWA Capital
- GA_P Gómez-Acebo & Pombo
- ie
- IEF Instituto de Estudios Financieros
- ISS ESG
- LLYC
- UPF Barcelona School of Management
- Morningstar
- Schneider Electric
- serfieX
- UJI Universitat Jaume I
- Universitat Politècnica de València
- Quiero
- ecodes tiempo de actuar
- S&P Global Ratings
- SANFI Santander Financial Institute Fundación UCEIF
- sustentia innovación social
- UNED
- asufin
- Creas Invierte en valor social
- ASEAFI
- VDOS
- aeca
- aeri 1991 - 2023
- anesvad
- Fundación Afi
- Fundación Finsalud
- fundación másfamilia
- Economistas sin Fronteras
- FAIRR A Coller Initiative
- FETS
- Social Gob
- Fundación ONCE
- Green Finance Institute
- OXFAM Intermón
- CCOO
- UGT

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