BUSINESS AND HUMAN RIGHTS

A system on the move towards the EU Directive

The 2nd Report by the Italian Observatory on Business and Human Rights: progress in the policies and practices of large and medium-sized Italian companies, both listed and unlisted.

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OIIDU — 2nd Report: Business and Human Rights

A system in motion towards the EU Directive

PREFACE

There are some signs of change. Perhaps because approval of the due diligence directive is imminent, perhaps because investors are asking increasingly pertinent questions, perhaps because, more broadly, the importance of sustainability issues is increasingly recognised among companies — the system is starting to move. The Observatory's annual survey records developments that are still modest, but encouraging. The majority of the indicators we monitor show a positive trend, both in quantitative and in qualitative terms.

Can we therefore say that the topic of human rights has fully entered the conversation of the business community? Probably not yet. It remains a subject that is still not well understood in its complexity. Above all, the bias persists that this is a 'problem' concerning only large multinational companies with long and articulated value chains. Many companies — particularly those operating mainly on the domestic market — feel exempt from any responsibility to consider it a matter that concerns them directly.

Nevertheless, there is a sense that this inertia is about to be overcome. The European legislator, albeit with some hesitation, has sent out very clear signals. Despite criticism from civil society organisations, the draft directive contains provisions destined to profoundly change the rules of the game. Companies — as usual, first the large ones and then, progressively, others too — will have to assess the risk of human rights violations. Note: not the (economic) consequences of the violation, which is what might interest an investor, for example, but the risk of the violation itself, regardless of the (economic) damage that may result from it. Above all, it will no longer be acceptable to hide behind contractual clauses. It will not be enough to pass problems on to suppliers; companies will have to take responsibility, together with them, for the solution. And, even more importantly, the directive does not look only at operations in Europe, but focuses on the goods or services that 'enter' Europe, even if produced outside Europe by non-European actors. It is somewhat as if to say: 'if you want to sell something in Europe, you must ensure that the product or service does not carry a risk of human rights violations.' A very strong statement, one that will have a significant impact across all supply chains.

It is therefore no surprise that the most forward-looking companies are already preparing themselves.

Besides the research work presented in this report, OIIDU also carries out capacity-building activities: a training and mutual-learning path that, in this first cycle, involves a dozen Italian companies. This is a highly interesting experimental laboratory, in which problems and solutions are shared and addressed in a spirit of collaboration. An innovative format, which we believe has met a widespread need and on which an open platform can be built for all other companies wishing to begin reflecting and acting on this front.

Davide Dal Maso,

Avanzi – Sostenibilità per Azioni

01.INTRODUCTION

by Cristiana Carletti, Roma Tre University

The introduction of the business-human rights nexus into international debate, articulated through a broad, flexible and voluntary formulation designed to secure multi-stakeholder support within the United Nations framework, represented a fundamental step in the ongoing process of balancing complementary interests of a political, economic and social nature.

From this perspective, moreover, more than a decade after the adoption of the Guiding Principles on Business and Human Rights, the primarily legal — albeit soft — rationale that characterised that step today lends itself to an extensive interpretative reading, instrumental to the further incorporation and improved implementation of the Principles by public and private actors operating at local, national, regional and global level.

Government actors, called upon to act in line with the guidance and indications set out in the first pillar of the Guiding Principles, have introduced the core concepts of the nexus into their respective legislative and policy frameworks: the direct or shared responsibility of state-owned enterprises reflects the need to promote fair and sustainable economic, social and environmental growth while at the same time ensuring the protection of human rights, irrespective of where production is located or how the supply chain is created and operated. State commitment has been secured gradually, and national governance bodies have equipped themselves with programmatic and operational tools aimed at balancing the needs of economic development and growth with the protection of human rights — both individual and collective — adopting a comprehensive approach with respect to stakeholders, priority sectors, and the procedures used to regulate business conduct, through constant dialogue and increasingly structured collaboration with non-institutional actors at global level.

At the same time, it is precisely these non-institutional actors — by virtue of their non-governmental nature — who are called upon to act under the second and third pillars of the Guiding Principles. In particular, two distinct categories of actors can be identified as having, over the past decade, promoted an interesting, rapid and innovative reading of the business-human rights nexus. On the one hand, civil society organisations and the academic, analytical and research community have made important contributions to shaping a multi-stakeholder system and, within it, to asserting human rights whenever they have taken an active stance — often in country situations where the erosion of such rights has been evident and excessive. On the other hand, companies have rethought their role in conducting productive activities at both domestic and international level, so that the parameter of sustainability — in line with paragraph 67 of the UN 2030 Agenda, which calls on the business world ‘to solving sustainable development challenges’, together with due diligence in defining a company’s strategic priorities — could become central and enable the business sector as a whole to anticipate the negative consequences of a production approach that is not inclusive and is effectively unsustainable.

If it is true that the reshaping of these public-private categorical roles facilitated a renewed reading of the Guiding Principles, it was the constructive dialogue between these actors that brought attention to new key sectors, refocused global challenges, and offered a fresh reading of

the monitoring and verification of soft compliance with respect to the three pillars around which the Guiding Principles are structured.

Among the issues of greatest interest for government and business commitment are, by way of example, the planning and implementation of climate-change mitigation and adaptation measures, as well as the shaping and use of new technologies within an open digital space. The interplay between environmental and technological dynamics and the potential erosion of human rights is, today, a central topic in international debate: the emergence of complex legal situations carrying a risk of violation has called for scientific and political treatment aimed at better management of environmental matters, through a strengthened preventive and precautionary approach on the part of public governance systems and of business actors that produce mainly through delocalised operations; access to digital tools to facilitate daily activities has brought to light their potential risks, limiting human agency in favour of artificial agency, excessively encroaching on personal space and individual privacy, and making it difficult for public regulators to determine operational boundaries while balancing the production needs of companies operating in the digital sector.

At the same time, the reasoning put forward at European level for an updated, broad reading of the Guiding Principles could not fail to follow this thematic reshaping, and this process began relatively recently with the definition of the primary role of companies. Directive 2022/2464 on corporate sustainability reporting, to be transposed at national level within 18 months of its adoption, imposes an obligation to report factually on risk along the entire value chain with respect to environmental, social and corporate governance factors, for multiple categories of companies — from large non-listed companies to listed companies with more than 250 employees, from listed small and medium-sized enterprises to non-European companies with a turnover exceeding EUR 150 million within the territory of the Union. In the current negotiating process leading to the adoption of the Directive on corporate due diligence, mandatory obligations will apply both to companies with between 250 and 500 employees and a worldwide net turnover of between EUR 40 and 150 million operating in sectors considered ‘high-risk’, and to large companies with more than 500 employees and a worldwide net turnover exceeding EUR 150 million; this will translate into a guarantee of specific rights and freedoms — starting with those most affected by climate change — entailing effective responsibility on the part of companies along the production and supply chain and in relation to their respective business partners, enforceable through the attribution of civil liability. From what has been set out above, the dynamic dimension of the business-human rights nexus clearly emerges, and beneficial outcomes for public and private actors can only be achieved through a synergistic, consolidated and innovative relationship between States, businesses and civil society.

In Italy, this relationship has been fostered since the earliest introductory phase of the issue, through the drafting of the National Action Plan on Business and Human Rights 2016-2021; an open and constructive approach underpinned an overall assessment of the results achieved, carried out through an open consultation that encouraged numerous stakeholders to submit their contributions: by way of example only, growing awareness was recorded both among the public and among companies of a complex issue that requires a long time to bring about significant changes in behaviour and operations; particular attention was devoted to the role of business, with reference to the responsibility to ensure full respect for human rights — inherent

in the concept of due diligence — to be guaranteed along the entire value chain; furthermore, the importance was highlighted of supporting companies in their growth path on issues of social value and sustainability, broadening the number of companies voluntarily publishing non-financial information in their financial statements and encouraging them to adopt new communication approaches regarding the environmental footprint of their products and production processes.

The same open and dialogue-based approach made it possible to draft the second National Action Plan on Business and Human Rights 2021-2026, featuring two important innovations: the first, of broad scope, concerns the multi-sectoral nature of its content, precisely in order to respond to the many challenges the issue poses; the second is methodological in nature, represented by the introduction of monitoring indicators, subject to constant exchange of updated information by institutional governance bodies regarding the voluntary commitments made under the Plan, aimed at better translating the Guiding Principles into the daily practice of state and business activities. Within this system, confirming the importance of public-private collaboration, the multi-stakeholder structure persists, having a dual operational nature: strictly inter-institutional — represented by the GLIDU Working Group within the Inter-Ministerial Committee for Human Rights at the Ministry of Foreign Affairs and International Cooperation — and one of dialogue and exchange with representatives of civil society and business on the occasion of periodic meetings and dedicated events.

This value-added of multi-stakeholder dialogue — as this important annual editorial event demonstrates — is essential to increasing national attention on this issue. Only by bringing together demands that are clearly divergent, yet not conflicting, in a joint reflection is it possible not only to jointly define new operational priorities, but also to facilitate dialogue for a more satisfactory and even more multi-sectoral application of the Guiding Principles. Today, it is no longer possible to speak of corporate strategy without including the promotion and protection of human rights within this global vision.

02.FROM WELFARE TO WELLBEING: THE ROLE OF BUSINESSES

by Eva Sacchi, Ipsos (Research Director, Ipsos Public Affairs)

02.1 MENTAL HEALTH: AN ASSET TO PROTECT

Although still fundamental, corporate welfare today can no longer be limited to monetary incentives and benefits alone. The pandemic accelerated an already ongoing process which brought businesses to the centre stage, conferring on them the responsibility of meeting the **wellbeing needs of the entire ecosystem** in which they operate, including those of their own employees.

Welfare and ***wellbeing*** can therefore no longer be conceived as separate concepts, and the wellbeing of the worker can no longer be viewed solely from a financial standpoint: it is essential to add the psychophysical perspective, which is arguably even more important.

The Ipsos ***Global Health Monitor*** survey, conducted among over 23,000 adults in 21 countries worldwide between July and August 2023, clearly shows that **mental health** is the most serious health issue to be addressed today, ahead even of cancer, with 44% of mentions – 8 percentage points more than in 2022 and 17 more than in the pre-pandemic period. Reasonably enough, concern for **Covid-19** has fallen sharply, from 47% in 2022 to 15% in 2023.

Chart 1 – Concern about mental health: a global perspective

La preoccupazione per la salute mentale: uno sguardo globale

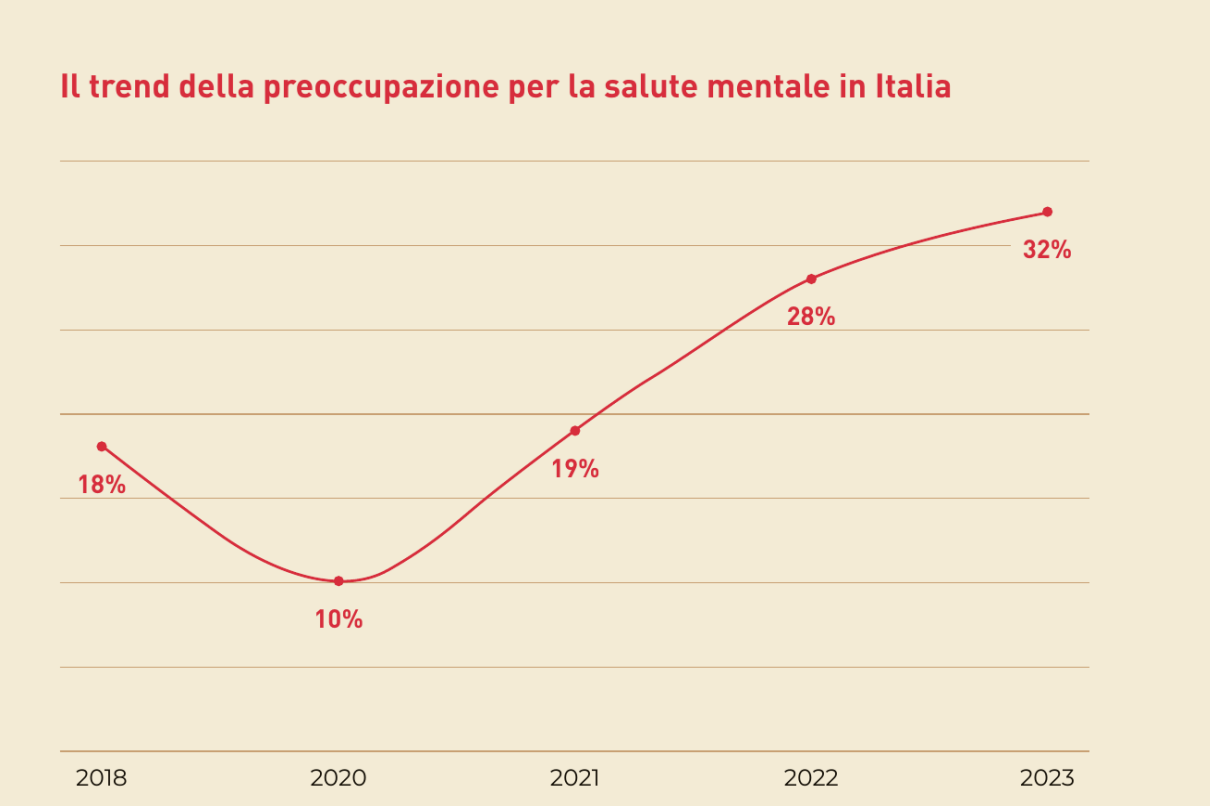
		2022	2021	2020	2018
Salute mentale	44%	36%	31%	26%	27%
Cancro	40%	34%	34%	37%	52%
Stress	30%	26%	22%	21%	25%
Obesità	25%	22%	19%	18%	33%
Abuso di droghe	22%	16%	13%	12%	23%
Diabete	18%	16%	13%	13%	22%
Abuso di alcool	17%	13%	11%	10%	18%
Cardiopatia	15%	13%	11%	12%	17%
Covid19	15%	47%	70%	72%	N/A
Fumo	12%	11%	9%	8%	15%
Demenza	8%	5%	4%	4%	7%
Malattie sessualmente trasmissibili	4%	3%	2%	3%	7%
Potenti batteri ospedalieri	3%	3%	2%	3%	3%
Altro	2%	2%	1%	1%	1%

[Chart image from the original Italian PDF. English data table below.]

Health issue	2023	2022	2021	2020	2018
Mental health	44%	36%	31%	26%	27%
Cancer	40%	34%	34%	37%	52%
Stress	30%	26%	22%	21%	25%
Obesity	25%	22%	19%	18%	33%
Drug abuse	22%	16%	13%	12%	23%
Diabetes	18%	16%	13%	13%	22%
Alcohol abuse	17%	13%	11%	10%	18%
Heart disease	15%	13%	11%	12%	17%
Covid-19	15%	47%	70%	72%	N/A
Smoking	12%	11%	9%	8%	15%
Dementia	8%	5%	4%	4%	7%
Sexually transmitted diseases	4%	3%	2%	3%	7%
Hospital superbugs	3%	3%	2%	3%	3%
Other	2%	2%	1%	1%	1%

But what is happening in **Italy**? Are we different from other countries? The answer is no. In our own country too, concern for our mental health has grown by 14 percentage points from 2018 to today (it was 18% five years ago, today it stands at 32%).

Chart 2 – The trend of concern for mental health in Italy



[Chart image from the original Italian PDF. English data table below.]

Year	2018	2020	2021	2022	2023
Concern for mental health (Italy)	18%	10%	19%	28%	32%

02.2 THE FACTORS THAT IMPACT HAPPINESS: THE ROLE OF WORK

The Ipsos ***Global Happiness Index 2023*** provides a map for decoding the factors that affect individuals' happiness[1]. In the top-right quadrant lie the strong *drivers*, those that impact our happiness most intensely: standing alone at the top is **feeling loved**. Remaining in the upper band but moving to the left, we find the other interpersonal relationships – with friends, colleagues, children, partner and other family members. Also strong is the need to manage one's

[1]The survey was conducted among a sample of 22,508 adults up to age 75 in 32 countries, from 22 December 2022 to 6 January 2023.

own time freely and safely, in order to spend time in nature, gather information or seek entertainment so as to enrich one's experiential and educational baggage.

Table 3 – Impact on happiness (% satisfaction)

Impatto sulla felicità (% soddisfazione)

	Alta (75%)	Media (60-74%)	Bassa (<60%)
Driver minori	- I figli - Relazione con il/la partner - Contatto con la natura - Livello di istruzione - Relazione con genitori, fratelli, etc. - Accesso a notizie e informazioni	- Vita spirituale - Quantità di tempo libero	- Situazione economica del paese - Situazione sociale e politica del paese
Driver medi	- Amici - Colleghi - Libertà di fare e dire ciò che si vuole - Sicurezza personale - Accesso ad attività di intrattenimento	- LAVORO - Aspetto fisico - Salute e benessere fisico - Attività fisica - Vita sentimentale e sessuale	
Driver forti	- Sentirsi amati	- Condizioni di vita - Sentirsi in controllo nella propria vita - Sentire che la propria vita ha un significato - Salute e benessere mentale - Beni materiali posseduti - Vita sociale - Sentirsi apprezzati - Stato sociale	- Propria situazione finanziaria

[Original Italian table shown above. English version follows.]

	High (75%)	**Medium (60–74%)**	**Low (<60%)**
Minor drivers	– Children – Relationship with partner – Contact with nature – Level of education – Relationship with parents, siblings, etc. – Access to news and information	– Spiritual life – Amount of free time	– The country's economic situation – The country's social and political situation
Medium drivers	– Friends – Colleagues – Freedom to do and say what one wishes – Personal safety	– WORK – Physical appearance – Physical health and wellbeing – Physical activity	

	– Access to entertainment activities	– Emotional and sexual life	
Strong drivers	– Feeling loved	– Life conditions – Feeling in control of one's own life – Feeling that one's life has meaning – Mental health and wellbeing – Material possessions – Social life – Feeling appreciated – Social status	– One's own financial situation

In the middle range – the factors that impact our happiness moderately – we find specific psychophysical life conditions, and it is here that the **work sphere** comes in. What contributes, on the other hand, to making us profoundly unhappy is the **economic–financial situation**, first and foremost the personal one, but also on a national and global scale, where it fails to meet the standards required for us to feel satisfied.

02.3 THE ROLE AND MEANING OF WORK: A GENERATIONAL READING

The Ipsos survey *"Gli italiani e la relazione con lavoro e sindacato" (Italians and their relationship with work and trade unions)*[2] reveals an **image of work** that is on the one hand certainly **pragmatic and outward-looking**, but at the same time completely **self-referential**: **work** is perceived primarily as a **source of income** (by 64% of respondents), then as **the place to fulfil oneself and grow personally** (40%), and thirdly as **the way to find one's place in society** (36%). Only 8% of respondents perceive it as a source of **social prestige**.

The **generational reading** is of particular interest: while across all ages the shared perception is that work is principally a source of earnings, **Gen Z** particularly emphasise the view of work as a source of economic success, a place of personal commitment, a source of fatigue and stress and also of social prestige. **Millennials** emphasise economic success as well as fatigue and

[2]The survey was conducted among a sample of 2,200 Italians aged 18 and over between 19 September and 2 October 2023. The research was carried out by Ipsos on behalf of CISL (Confederazione Italiana Sindacati Lavoratori – Italian Confederation of Workers' Trade Unions) and was presented during the CISL National Organisational Assembly "Guidiamo il cambiamento" ("Leading the change"), held in Rome on 5 and 6 December 2023.

stress, while **Boomers** and the **Silent** generation highlight personal fulfilment as well as work as the way of finding one's role in society.

Beyond the social meaning of work, what do people pay most attention to when **evaluating a job**? First and foremost, to **stability** and guaranteed security (39%); second, to **the reconciliation of work and private life** (37%); and only in third place to **earnings and benefits** (36%). Young people of **Gen Z** look above all to job stability, career prospects, coherence with their own field of study and the possibility of travel. **Millennials** emphasise earnings, career prospects, the possibility of remote work and the presence of corporate welfare services. **Gen X** are more attentive to work–life reconciliation and flexible hours. **Boomers** focus on job stability and security, as do the **Silent** generation, who also emphasise the possibility of continuing training and corporate prestige.

Chart 4 – Characterisation of work

[Chart image from the original Italian PDF. English data table below.]

Perception of work	%
A source of income for one's own subsistence	64%
A place of personal fulfilment and growth	40%
The way to find one's role in society	35%
A tool for defining one's personal identity	21%

A place of personal commitment	21%
A source of economic success	15%
A source of fatigue and stress	14%
A source of social prestige	8%
Other	3%

02.4 THE ACTIVE ROLE OF BUSINESSES IN SOCIAL PROGRESS

Unfortunately, the workers' point of view – and therefore the needs they express – is not always welcomed by employers, thus creating a **potential ground for conflict** and mutual dissatisfaction. This is what emerges from an Ipsos survey carried out between March and April 2023 among a sample of 1,800 individuals aged 18 to 59, either in work or having actively looked for work in the 12 months preceding the survey. What emerges in particular is that today workers primarily ask for **better planning of the work to be done and greater flexibility** (84%) – aspects that, in the workers' eyes, are the most difficult to obtain from employers (79%).

Chart 5 – Characterisation of work: what workers ask employers for today, more than in the past

[Chart image from the original Italian PDF. English data table below.]

Workers' requests (top 3)	%
Working-time planning / flexibility	**84%**
Pay / welfare	52%
Training / career	49%

Chart 6 – Which requests are employers struggling most to meet?

[Chart image from the original Italian PDF. English data table below.]

Requests employers struggle most to meet	%
Working-time planning / flexibility	**79%**
Training / career	53%
Pay / welfare	49%

In second place come the **monetisable aspects** tied to pay and welfare (52%), which employers grant more readily than flexibility (49%) or the services linked to the employee's continuing **training**, including with a view to **career** development (53%), which workers instead rank in third place (49%).

It is fundamental today for businesses to become aware of the fact that **there can be no economic advancement without social progress**, for which they must actively assume responsibility. The 6th Censis–Eudaimon Report on Corporate Welfare underlines the

complementary nature of two welfare models: “on the one hand, corporate welfare as a composite set of income-integration instruments, and on the other as a tool that both motivates and improves the quality of life. However, a form of corporate welfare aligned with the subjectivity of individuals requires the **transition from a vertical model** – in which the company detects and interprets the workers' needs, deciding what the corporate welfare offer should consist of – **to a more horizontal model**, based on listening to needs as the basis for shaping an ever-wider range of opportunities for workers”.

02.5 THE 5 AREAS OF INTERVENTION

In conclusion, 5 areas of intervention can be identified on which corporate welfare must focus in order to contribute to the social progress of the context in which the company operates:

1. Time management

This is the sphere of **work–life balance**, i.e. the search for equilibrium between private and working life, which is undoubtedly one of the key elements in defining people's wellbeing in the workplace, also affecting their individual and team productivity.

Belonging to this sphere are **agile work** or ***smart working***, as well as flexible working hours.

2. Monetisable elements

This area includes all those ***benefits*** with reduced taxation that increase the spending power of the workers who receive them.

These include, for example:

– Meal vouchers
– Fuel vouchers
– Shopping vouchers
– Support for healthcare services
– Insurance
– Discount arrangements

3. Training / career

The **continuous valuing** of one's own employees is an important lever for retaining talent and recruiting new talent. In an era when it is difficult to focus on pay rises alone, the ongoing

empowerment and development of one's workforce helps to generate **loyalty** as well as a **positive return** in terms of production quality and efficiency.

On the one hand, **training courses** that are consistent and coherent with career paths, and on the other, attention to the **technological evolution** present within the company, are the main aspects that characterise this area.

4. Diversity, Equity and Inclusion

The **Diversity, Equity and Inclusion** area covers all those policies aimed at **protecting** everyone in the company by giving them the support to operate at their maximum capacity in the workplace. From this perspective, the corporate path to be taken is the following:

– Recognise diversities (race, ethnicity, gender, gender identity, sexual orientation, age, disability and socio-economic class)
– Understand their value
– Protect their presence
– Raise awareness and educate employees
– Provide concrete and consistent responses

5. Family care

This sphere includes specific support for **employees who are caregivers**. Some examples:

– Company nurseries
– Support with school fees
– Support for people with disabilities
– Support for elderly persons
– Psychological support
– Personalised advice, administrative-support services, care guidance

03. HUMAN RIGHTS VIOLATIONS IN ITALIAN AGRI-FOOD SUPPLY CHAINS

by Margherita Romanelli, WeWorld

03.1 INTRODUCTION

The agri-food sector is of primary importance for guaranteeing fundamental human rights, including access to sufficient, high-quality and safe food and water for a growing population which, according to United Nations estimates, may approach 10 billion people by 2050. Globally, agriculture in 2021 employed 26.42% of the labour force (World Bank) and represents the main economic driver for low-income and lower-middle-income countries.

However, the agricultural sector is also internationally recognised as one of the high-risk sectors for human rights and environmental violations along the entire value chain, from production to sale, consumption and waste management. It is no coincidence that all versions of the various European legislative proposals on corporate due diligence with regard to human rights and the environment (Corporate Sustainability Due Diligence Directive – CSDDD) explicitly list the agri-food sector among the principal sectors of application. The agri-food sector has also been the subject of specific sector-based interventions, such as the OECD-FAO Guidance for Responsible Agricultural Supply Chains (OECD-FAO, 2016)[3].

The current agri-food model is characterised by long and often opaque value chains, highly competitive in nature. They are embedded in a complex international supply system that contributes to grey areas: mechanisms of social dumping among agricultural workers, unsustainable use of natural resources and land grabbing, a serious imbalance in the distribution of value among the various actors of the chain, and significant market-power concentration in the hands of a few global players.

Worldwide, 70% of child labour (ILO, Unicef, 2021)[4] is in agriculture, and among adults, 13% of forced labour is found there – over 2 million people (ILO, Walk Free, IOM, 2022)[5], in particular migrants. The sector is among the most hazardous in terms of health and safety at work, and ranks first for the percentage of informal workers (93.6% globally according to ILO, 2018)[6], which exposes them more than others to lower compliance with international labour standards:

[3]Guidance for Responsible Agricultural Supply Chains, OECD, FAO, 2016.

[4]Child Labour: Global Estimates 2020, Trends and the Road Forward, ILO, Unicef, 2021.

[5]Global Estimates of Modern Slavery, Forced Labour and Forced Marriage, ILO, Walk Free, IOM, 2022.

[6]Women and men in the informal economy: A statistical picture, 3rd edition, ILO, 2018.
https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf

underpaid work, excessive working hours, denial of rest periods and so on, in addition to the phenomenon of in-work poverty (OECD, ILO, 2019)[7].

From an environmental standpoint, the agri-food sector contributes between 21% and 37% of climate-changing gas emissions (IPCC, 2019)[8]; agricultural crops and livestock farms consume roughly 70% of the world's available freshwater; monoculture practices, pesticide use, deforestation and clearing carried out to increase the availability of cultivable land produce degrading effects on soil and biodiversity, with a worsening of productive and economic capacity in the medium to long term.

Owing to the nature of its present structure, agri-food systems are significantly affected by global crises which cause two macro-impacts within the sector: an exacerbation of inequalities among the actors along the value chain (internal system dimension) and increased food insecurity for the most vulnerable, as demonstrated by the Covid-19 pandemic and the recent crisis linked to the war in Ukraine (external dimension).

Within the framework outlined above, this article offers the opportunity to share reflections on the possibility of identifying evident human rights violations also within the Italian agri-food sector, starting from the production segment and from the analysis of certain specific features: actors, modalities, intensity, causes. The focus also addresses a gender reading – often neglected but significant in a climate where the social and cultural dimensions of our country retain elements of patriarchal power, influencing organisational and economic systems.

These insights may contribute to the debate that will need to engage our country more intensively if the CSDDD is approved this coming spring. A phase of transposition and reception of the standard into our country will then be launched – an occasion to strengthen the set of regulatory and policy instruments useful in shaping a modern agricultural industry. An agriculture better suited to the demands of social and economic fairness, more sustainable so as to preserve natural resources for the benefit of future generations as well, for an Italian model geared to the wellbeing of all actors, attentive, credible, desirable and recognised at international level as it is capable of positioning our country as a benchmark of excellence in responding to the principal global challenges (environmental and equity-related).

[7]Tackling Vulnerability in the Informal Economy, Development Centre Studies, OECD/ILO, OECD Publishing, Paris, 2019. https://doi.org/10.1787/939b7bcd-en

[8]Special Report: Climate Change and Land, IPCC, 2019. https://www.ipcc.ch/srccl/

03.2 THE SYSTEM OF HUMAN RIGHTS VIOLATIONS IN AGRICULTURAL PRODUCTION IN ITALY

Between September and October 2021 Italy was the subject of a visit – the first to a Western European country – by the United Nations Working Group on Business and Human Rights[9]. In its final report, the Working Group recognised, on the one hand, a legislative framework that is "generally strong in protecting workers' rights across the various sectors, and a strong and active trade-union movement"[10] (from Legislative Decree 231/2001 on the liability of legal persons for a range of offences, to Legislative Decree 81/2008 on health and safety at work, to the Piano d'Azione Nazionale su Impresa e Diritti Umani – PAN (National Action Plan on Business and Human Rights)). On the other hand, it identified five critical points concerning the agri-food sector on which it urged the Government to adopt urgent measures and to plan strategies to address systemic problems:

– the lack, for a portion of workers in the agricultural sector, of adequate safety equipment in the handling of pesticides and chemical products, thus exposing them to harmful effects;

– the treatment, below the required international standards, of immigrant workers performing various tasks in agriculture. Although they play an essential role in the growth and prosperity of the Italian economy, they are "forced to leave in inhuman conditions; such workers have short employment contracts and excessively long working hours without weekly rest, and suffer racial discrimination without any prospect of integration into Italian society";

– the criminal *caporalato* system in agriculture (the illegal gangmaster labour-intermediation system), which unlawfully employs between 400,000 and 430,000 workers in vulnerable conditions through mechanisms of "employment blackmail" linked to the lack of a regular residence permit (the estimated number of migrants without any legal status as of 1 January 2020 was 517,000);

– sexual harassment, gender-based violence and other forms of discrimination against women workers in the agricultural sector (as also in construction and logistics) are not sufficiently combated, nor addressed as a matter of occupational health and safety through a zero-tolerance approach;

– the competitive practices adopted by large-scale retail distribution (GDO – Grande Distribuzione Organizzata, i.e. supermarket chains), such as "double-downward auctions" to impose artificially low prices on producers, which translate into further exploitation of workers already inadequately paid.

[9] https://www.ohchr.org/en/documents/country-reports/ahrc5040add2-visit-italy-report-working-group-issue-human-rights-and

[10] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/383/95/PDF/G2238395.pdf?OpenElement

The results emerging from a series of studies which WeWorld[11][12][13][14][15] has carried out together with research groups and experts on the subject of female exploitation in agriculture in Italy highlight and deepen the aspects noted by the UN Working Group. The focus on migrant women workers in agriculture also gains significance in the light of a growing use of such labour, which increased by 200% between 2008 and 2017 (Osservatorio Placido Rizzotto, 2020)[16].

Overall, the analyses conducted have not only been based on the aggregate data available – which do not yet offer a sufficiently articulated picture of the dimension of labour exploitation, especially female, in the Italian countryside – but have also gathered the voices of 18 women farm labourers of foreign origin and 45 local actors: individual entrepreneurs and companies, trade associations, third-sector associations and bodies, trade-union associations, local administrators and policy-makers, law-enforcement officers, educational agencies and local media in three regions – the Agro Pontino in Lazio, the Piana del Sele in Campania, and the countryside of the Maremma, the Val di Cornia and Arezzo in Tuscany. These are diverse but strongly agricultural areas, characterised by typical local excellence products, fourth-range products such as pre-packaged rocket salad in Campania, and productions of vegetables and fruit which supply the national and European agricultural system through major fruit-and-vegetable markets such as the Fondi market in the province of Latina.

Some common features recur, albeit with local specificities, useful in highlighting a systemic approach to violations and of interest in defining priorities and intervention strategies which a compulsory due-diligence law in our country would need to take into account in order to be effective in preventing and combating exploitation in agriculture. It should be stressed that the circumstances highlighted below do not represent the whole of the Italian agricultural

[11]Lo sfruttamento lavorativo delle donne migranti nella filiera agro-alimentare: il caso dell'Agro Pontino (The labour exploitation of migrant women in the agri-food supply chain: the case of the Agro Pontino), M. Omizzolo and M. Romanelli, WeWorld, 2021. ISBN 9788831154108. https://www.weworld.it/cosa-facciamo/pubblicazioni/our-food-our-future_we-are-hungry-for-justice

[12]Il ruolo della futura normativa UE sulla due diligence obbligatoria in materia di diritti umani e ambiente nella filiera agro-alimentare (The role of the forthcoming EU legislation on mandatory human rights and environmental due diligence in the agri-food supply chain), M. Fasciglione, M. Rubino de Ritis, F. Cucchiara, B. Pesce, M.P. Sacco, M. Bordignon, G. Cremonesi; contributions and coordination by M. Romanelli and B. Mizzi, WeWorld, CNR, HRI, 2022. ISBN 9788832154139. https://www.weworld.it/cosa-facciamo/pubblicazioni/il-ruolo-della-futura-normativa-ue-sulla-due-diligence-obbligatoria-in-materia-di-diritti-umani-e-ambiente-nella-filiera-agro-alimentare

[13]Lavoro e sfruttamento nella Piana del Sele (Work and exploitation in the Piana del Sele), G. Grimaldi, WeWorld, 2022. ISBN 9788831154108. https://www.weworld.it/cosa-facciamo/pubblicazioni/ricerca-piana-del-sele

[14]Lo sfruttamento lavorativo nelle campagne toscane: una prospettiva intersezionale di genere (Labour exploitation in the Tuscan countryside: an intersectional gender perspective), F. Oliveri; contributions and coordination by M. Omizzolo and M. Romanelli, WeWorld and Tempi Moderni, 2023. ISBN 9788832154177. https://www.weworld.it/cosa-facciamo/pubblicazioni/lo-sfruttamento-lavorativo-nelle-campagne-toscane

[15]Ortaggi e rucola nella Piana del Sele. Una riflessione critica sulle relazioni di filiera e sullo sfruttamento lavorativo (Vegetables and rocket in the Piana del Sele. A critical reflection on supply-chain relationships and labour exploitation), M. Zortea, E. E. Palumbieri and A. Brugnara; contributions and coordination by M. Romanelli, WeWorld, 2023.

[16]VI Rapporto Agromafie e Caporalato (6th Report on Agri-mafias and Caporalato), Osservatorio Placido Rizzotto, FLAI-CGIL, 2020.

production sector, which is populated by many virtuous enterprises constantly striving for excellence and sustainability. These same enterprises suffer unfair competition from those who choose incorrect and unlawful practices, resulting from individual choices in an extractivist logic or in order to cope with the (undoubtedly existing) supply-chain difficulties.

03.3 THE CHARACTERISTICS OF EXPLOITATION

The exploitation identified in the studies conducted is based on a relationship of domination aimed at reducing labour costs to extract profit through violations against the weakest workers, as emerges from the testimonies of the women interviewed and confirmed by the stakeholders. It develops through four interconnected and mutually reinforcing spheres.

Economic sphere

The primary element of exploitation is linked to the inequitable pay in relation to the type, duty and quantity of hours worked well beyond the prescribed limits, and to weekly rest and holidays.

The wage for a female farm labourer of foreign origin averages between EUR 3 and EUR 5.5 per hour worked – well below the minimum wage of each province, which ranges from EUR 6.5 to EUR 10. Women earn on average 20-30% less than men for the same classification. The working day is 10 hours (average data), never falling below 8 (as against the 6.5 hours provided for by the National Collective Bargaining Agreement). In the majority of cases people work 7 days a week.

	Observed (average)	**Required by current legislation (average)**
Average hourly pay of a farm labourer	EUR 3–5.5 Gender pay gap 20–30%	EUR 6.5–10.73
Average hours worked per day	10 on average (range 8–14)	6.5
Number of working days per week	6.5–7	6

Contractual arrangements. None of the women interviewed had a contractual situation in order with respect to the work actually performed. There are undeclared women workers with no contract at all. In most cases, however, a “grey” economy model prevails: a contract exists that reports a number of daily hours and monthly working days far below reality. Payment for the hours declared in the payslip complies with the minimum wage (the remainder, where paid, is paid off the books), but in substance – considering the off-the-books hours – the actual pay is

below the standard (as per the table above). This system ensures that companies face a low risk of being caught in possible inspections, also facilitated by the fact that, under the current system, the days of agricultural day-labouring drawn on by the company during the month are to be declared retrospectively. The use of this method leaves ample scope for discrimination and forms of control and blackmail:

– the hourly wage, for the same duty, varies by gender but also by ethnic group according to the worker's degree of vulnerability and the “sympathies” or cultural affinity of the employer and/or gangmaster;

– the number of days entered on the payslip translates into a form of control/reward on the woman worker's ability to obtain unemployment benefit (accessible if a minimum number of days per year is worked);

– payment is not made in a systematic manner (in particular the off-the-books amounts) but often with significant delays, in order to induce the labourer into a state of uncertainty and fear and reinforce her state of need and vulnerability. It is not uncommon for this to be a means of demanding sexual services;

– further reducing the scarce economic resources are fines imposed as punishment for discretionary rules laid down (e.g. breach of the prohibition on speaking during working hours), the demand that the worker contribute towards the transport to reach the fields and towards personal protective equipment (which by law is the company's responsibility).

Organisational sphere

Exploitation takes place mainly through the network of illegal intermediation.

The *caporali* (gangmasters) perform various functions: from recruitment to contractual negotiation and payment, transportation, imposition of the pace of work, imposition of punishments, organisation and provision of accommodation and food, payment of wages and control over most aspects of the victim's life – including the handling of bureaucratic aspects linked to the residence permit for female migrants. They monopolise the relationship with the employer, acting as a screen against the requests of the women workers, whom they treat in a discriminatory manner.

The *caporali*, whether individuals or as an organised network, are often foreigners themselves, able to control the labour-supply mechanism from the country of origin onwards, and they have penetration into the migrant communities where they exercise additional control.

Since this is precarious and often daily labour, the engagement of men and women takes place in squares, at road junctions, at roundabouts, at transit points, or via SMS and WhatsApp groups; women are treated as a kind of reserve pool.

A more refined form of intermediation, strongly on the rise, is that of **"contractor" or "landless agricultural" companies**, often in cooperative form (though also as sole traders and in other forms), which supply mainly foreign-origin labour under regular contracts, but at very low cost, translating into exploitation. This model, together with payslips recording a minimum number of working days, makes it possible to create an exploitation mechanism that better shields the agricultural business from the risks of labour-market violations. It is more widespread in areas where there is culturally less acceptance of undeclared work, as in Tuscany. It should be stressed that these more sophisticated forms of exploitation are aided by certain professionals: lawyers, chartered accountants, labour consultants, and so on.

Relational sphere

Underlying the exploitation mechanism is a progressive reduction of the person's capacity for choice, reinforced by verbal, psychological, physical and sexual violence and by forms of isolation, control and blackmail.

The aim of exerting control and maintaining a form of subjection – which accompanies the acceptance of unlawful pace of work and wages – is pursued in various forms:

– rebukes, insults and openly racist labels such as "animals", "slaves" or of a sexual nature;

– pressure and outright threats (sometimes with a weapon in hand) that the contract will not be renewed, that they will not be paid for the work done in the previous month, that they will be required to keep an even more pressing pace, forgoing breaks – at times even the possibility of drinking, eating and going to the toilet;

– forms of isolation with bans on speaking with other workers, the requirement to speak only in Italian (and thus, in many cases, not being able to speak at all), the ban on answering telephone calls or even carrying a mobile phone. Some interviewees reported being monitored also in their life outside the workplace, for example through social media;

– gender-based violence. Sexual attention on the part of gangmasters and employers takes various forms aimed at objectifying the woman worker: from heavy comments made to her during work, to groping and actual rape. It occurs in a context of blackmail regarding the renewal of the contract (on which the renewal of the residence permit depends), the promise of improved substandard pay and working conditions, and the threat of defamation with the community and family (husband, children) against the woman who refuses sexual services.

On some occasions the women exploited in the fields are also exploited as prostitutes in the countryside and in the ghettos.

Confirming this picture are not only the voices of the women but also those of the stakeholders. For example, in the Piana del Sele, 10 out of 13 representatives from business, civil society, trade unions, institutions and professionals agreed that elements of violence characterise the working reality of women in the vegetable and rocket-salad supply chains.

Contextual sphere

The social and working environment in which exploitation practices develop increases the conditions of hardship and degradation and the dependency on the exploiting system.

In continuity with the numerous complaints that have affected the various Italian territories investigated, certain environmental features are recurrent and trace the contours of the abuse. In detail:

– overcrowded and unsafe vans for transport; women often remain standing (men are seated first) in more precarious and dangerous conditions;

– very physically demanding working conditions with exhausting rhythms interspersed with extremely short breaks. The work is often carried out in the winter cold and in extremely hot environments in summer, especially under greenhouses; in water for washing vegetables; in a stooped position for harvesting or at height; in contact with dangerous substances, pesticides and herbicides, including illegal ones hazardous to health;

– shortcomings in sanitary facilities (separate toilets and showers for women) and in the availability of personal protective equipment (PPE): gloves, boots, protective masks against toxic substances – and, during Covid, face masks were also lacking (so workers had to bring them from home) or their cost was deducted from wages;

– a high number of accidents indicative of a lack of workplace safety. Workers are discouraged from resorting to healthcare facilities and, if they do, they are instructed not to declare that the accident occurred at the workplace;

– use of opiate-based painkillers, antispasmodics and methamphetamines to endure working rhythms that are too demanding.

Box – Forced Labour and Exploited Labour

International Labour Organization (ILO) Convention No. 29 (1930) defines forced or compulsory labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”

(Article 2, paragraph 1). All those conditions that endanger life, health, freedom, human dignity and safety at work – denying persons the effective exercise of the fundamental labour rights defined by more than 400 ILO labour standards – may be regarded as labour exploitation.

03.4 THE VULNERABILITY OF FOREIGN WOMEN FARM LABOURERS

In the territories under investigation there is a framework of labour exploitation of women, principally immigrant women, embedded within what has been termed the *"Prism of female discrimination"*, in which several variables act in an intersectional manner to increase the vulnerability of the labourer and open the way to specific and more significant forms of exploitation than those practised on male labourers. These are women with residence permits or without them, sometimes hosted at reception centres, in some cases victims of trafficking and therefore victimised.

Alongside the elements of **personal vulnerability** linked to the individual characteristics of the worker – such as age, state of health, sexual or religious orientation, level of education and knowledge of the language – the **ethnic variable** makes the worker attackable as an immigrant, in particular if she lacks citizenship or a regular residence permit. The cultural distance of the country of origin, especially if poor, socially normalises the non-entitlement of foreign women workers to the same rights as their Italian colleagues. From the interviews conducted, a real ethnic hierarchy emerges in which, for example, women labourers from Eastern Europe are treated better than those from Asia or sub-Saharan Africa, but worse than Italian women, for the same type of work.

Even more so, **being a woman** presupposes an element of inferiority according to patriarchal stereotypes that place her in a lower dimension in terms of employment, wage, consideration and respect compared with male workers, even those of the same ethnic group. When the worker is also a **mother**, vulnerabilities are reinforced, increasing subordination by leveraging the greater economic responsibility for children to be provided for. From the standpoint of **socio-economic aspects**, performing the work of agricultural day-labouring places the woman in a low social class and therefore in a subordinate or subordinable position – reinforced by the widespread conditions of economic poverty that marginalise women, making them fragile and thus violable.

The deployment of aggressive and violent employment relations targeting these vulnerabilities, in their various dimensions, is aimed at producing a climate of silence and subjugation in order to avoid any possible rebellion.

03.5 THE CAUSES OF EXPLOITATION

Human rights violations in the sphere of agricultural production occur where the vulnerabilities inherent in people's characteristics and stories intersect with the reasons behind a demand for exploitable labour. The analysis of the results obtained in the various surveys carried out, as well as further research and available literature, highlights three main aspects on which reflection is offered: intertwined in this context are the characteristics of the agricultural value chains analysed; the legal-institutional framework; and certain socio-cultural elements that we can identify as contributory causes of labour and human exploitation, and on which action to combat these phenomena must continue to be taken.

The agri-food value chains

The fruit-and-vegetable supply chain in many territories, such as those analysed, is characterised by a multiplicity of small and medium-sized enterprises, products with low added value and highly available, which need to be sold in very short timeframes. Added to this are limited technological innovation and reduced investment, the low level of professional training of the workers, poor aggregation capacity and fragile supply-chain relationships, and slim contractual power. Global phenomena starting from climate change, epidemics, and rising raw-material supply costs also impact productivity, making the conditions of production and sale more precarious.

Moreover, a pivotal role is played by large-scale retail distribution (GDO), which absorbs and intermediates huge quantities of agricultural products, offering attractive outlets for agricultural SMEs. However, the GDO establishes a strongly unbalanced relationship, imposing on agricultural businesses quantitative-qualitative standards, timing and extremely low prices in order to offer consumers a competitive product and gain increasing market share. The use of double-downward auctions (a negotiation articulated in two phases of competitive bidding during which the price is lowered twice to secure the supply), recently prohibited, and other strongly competitive practices of many supermarket chains, result in the agricultural product being purchased at rock-bottom values. According to ISMEA data for 2019, the farmer is remunerated with only 5% of the sale price for fresh products, and 2% for processed products.

The effects of the structural factors substantially spill over into two dimensions that render production unsustainable: worsening working conditions (greater quantities produced at lower cost) and the use of poor-quality raw materials, massive use of harmful and polluting fertilisers, pesticides and phytopharmaceuticals.

In the Piana del Sele, 15 stakeholders in the rocket-salad and fruit-and-vegetable supply chains recognised that this phenomenon – linked, moreover, to a near-non-existent culture of labour and labour rights – particularly affects the opportunities and working conditions of young people, women and migrants.

Such circumstances also coincide with the presence of infiltration by the *agromafie* (agri-food mafias), which intersect with the sector's weaknesses, taking criminal advantage of them for a turnover of EUR 24.5 billion, equivalent to 10% of national GDP (Eurispes, 2016).

The legal-institutional framework

The sectoral labour market is dominated by marked precariousness of the workforce, a prevalence of renewable fixed-term contract types, the constant weakening of collective bargaining agreements, difficulty in accessing unemployment benefits (conditional on the need to have accrued a minimum number of working days), limited income-support welfare measures (also linked to the abolition of the *Reddito di Cittadinanza* (Citizenship Income, the Italian basic-income scheme)), and shortages of social-health services and public residential housing.

While the framework for combating labour exploitation has gradually been enriched by the important Law No. 199/2016 against caporalato and by Articles 600, 601 and 603-bis of the Criminal Code against work in conditions of slavery, trafficking in human beings and exploitation, and by Decree-Law No. 91/2014 supporting quality agricultural work, prevention and inspection and enforcement capacity remain inadequate to the needs.

A key factor fuelling the vulnerability of the exploited labour supply lies in the body of laws stemming from the system in place created by the Bossi-Fini Act (Law 189/2002, which amended the consolidated immigration act, Legislative Decree 286/1998), which has effectively blocked the entry of immigrants through regular channels and made it harder in practice to source regular immigrant labour (only for the authorities then to act in an emergency-response logic, with retrospective regularisations or special measures for the availability of workers in agriculture, as happened during the Covid-19 pandemic). This takes place in a sector that is unattractive to Italian workers, especially in areas such as those referred to here, characterised by small-scale enterprises that require manual harvesting (fruit crops including vines, vegetables, olives).

Caporalato and the new forms of intermediation such as *landless cooperatives* are favoured in agriculture by the need to have available, rapidly and non-continuously (linked to the seasonality), organised work squads ready to work at intense rhythms. Faced with a migrant population potentially willing to perform the required tasks, the impossibility of entering our country without a visa that already certifies employment, the inability to obtain regular residence permits quickly, and the absence of an effective public placement system leave the field open to such forms of unlawful recruitment and management of the workforce, or to arrangements that create opacity in corporate responsibility for the respect of human and labour rights. Such a context hands the employer wide blackmailing power, because the migrant's regular status – and hence his or her interest in preserving it – depends on the signing or renewal of an employment contract. A reception mechanism that does not facilitate the building of a future or gradual social integration incentivises asylum-seekers to seek a solution "at all costs".

ISTAT estimates indicate that 90% of those employed in agriculture have a fixed-term contract but work on a daily basis; 32% of employees are irregular. According to the "Agromafie e caporalato" dossier by the Osservatorio Placido Rizzotto (2020), there are between 400,000 and 450,000 women and men workers who are potential victims of unlawful intermediation and labour exploitation. Of these, in 2020, 180,000 – 80% of them migrants – were forced to live and work in conditions of severe social and labour vulnerability, more than 28% up compared with 2018.

The persistence of a patriarchal culture

Exploitation, in particular of immigrant women, finds support in a culture in which elements of racism are grafted onto patriarchal stereotypes. Overbearing behaviour, abuse and violence are perpetrated by certain employers and gangmasters to display an explicit dominion, employer power and machismo that are not to be called into question. The body of immigrant women farm workers is regarded as fully at their disposal, a right for those who take advantage of it. The latent social acceptance of patriarchal dominance that persists in the territories where such violations occur often couples with that of the communities of origin of the foreign women farm labourers. Their work is considered ancillary by the male members of their family or community, who directly negotiate the conditions of women's work and accept lower levels of pay and conditions than those they would negotiate for themselves for the same duty. The woman suffers a double exploitation: from the community of origin and from the host community.

Case: The agricultural exploitation of migrant women in Thailand's poultry industry

In the course of 2023, WeWorld carried out a field study to investigate the presence of forms of exploitation in the Thai poultry supply chain. The Asian country represents the third-largest exporter of chicken meat to Europe, and if the CSDDD is approved, this supply chain will be called upon to apply corporate due diligence on human rights.

It is worth sharing certain considerations. The industry is dominated by a massive presence of foreign labour (with a significant female component) coming from neighbouring countries with weaker economies (Myanmar, Cambodia and Laos): the search for greater economic opportunities motivates the overwhelming majority of the migratory flows absorbed by the agricultural sector, because it is a sector requiring a low level of training and where the heaviness of the tasks performed, the working conditions and the lifestyle make it poorly attractive to national workers. The nature of the human rights violations of Cambodian migrant women is similar to that identified in Italy:

– systematic working hours of 10 or more, a lack of limits on overtime and of adequate pay for it, of paid holidays and of recognition of the risk associated with the work performed. All these factors, even where the basic pay formally falls within the wage limits, in fact bring about a significant economic appropriation by the company;

– the exercise of forms of control ranging from the absence of a fixed weekly day of rest (the employer communicates it each time depending on need), to a non-negligible percentage of cases where employers retain workers' documents on the pretext of arranging periodic renewals of residence permits, to the prohibition on having mobile phones at the workplace;

– very precarious living conditions: the majority of migrant women workers live in company dormitories (given the difficulty in accessing private housing solutions), where there is promiscuity and lack of privacy, poor security and hygiene, restrictions on the possibility of leading a family life or raising children (who are left with the families of origin in the workers' countries of origin), a lack of transport, and an inability to access healthcare services autonomously;

– the interviewees do not report the occurrence of physical violence, although widespread sexual attention (in particular verbal, and groping) on the part of supervisors is apparent;

– poor knowledge of their own human and labour rights on the part of the workers. The contract does not in fact represent a protection tool: where one exists, the workers do not appear even to be aware of it;

– the presence of a recruitment mechanism organised from the villages of origin, dominated by inefficient agencies or intermediaries (*brokers*) who can be likened to forms of caporalato.

The migrant pays the broker for the obtaining of documents (amounts far higher than those provided for by law), to undertake the journey even in an irregular status, and to obtain the workplace, entering into an ongoing indebtedness system with the company. There is also an increasing use of employment agencies which, like the *landless cooperatives*, hold the employment contract with the woman worker, who is then "hired out" to the agricultural or processing enterprise. This system ensures a certain legality in the professional classification, but acts as a shield with respect to the responsibilities of the company where the violation is actually carried out. Moreover, this arrangement effectively prevents workers from participating in trade-union representation bodies, since these – by law – are tied to workplaces: the female agricultural workers cannot access the trade-union services of the company where they provide the service (because they do not formally belong to it) nor of the agency with which they have the contract (because they do not frequent it);

– if the working conditions in the large poultry production and processing enterprises are comparable to the European exploitation context, in the small agricultural enterprises the women workers live in worse situations: they have no residence permit, piecework wage arrangements are widespread, they work well over 12 hours without weekly rest, and children – including minors – are employed in work activities and do not attend school. Such labourers live in a state of total isolation which produces full dependency on their employers on every aspect of life, effectively translating into mechanisms of veritable segregation and *invisibilisation*;

– working and living conditions systematically below legal standards are accepted by the migrant women workers because the income offered is nevertheless higher than what would be possible in their places of origin. The majority of these women find themselves in a condition of poverty and indebtedness (including *debt bondage* linked to the costs of migration) and do not have a level of education/soft skills to enable them to benefit from better professional opportunities in their country. As in Italy, for these immigrant workers the lack of knowledge of the language and the laws of the host country increases their condition of vulnerability.

The Thai case demonstrates that at different latitudes the mechanisms of global exploitation in the agri-food sphere are entrenched and follow similar logics. A due diligence law (European but also international in nature, such as a UN Treaty) that intervenes on value chains at international level could find an application that effectively targets the main forms of violations arising from irresponsible corporate practices, in order to offer some of the urgent and necessary system-level responses.

03.6 IN CONCLUSION: SOME REFLECTIONS

In Italy there are agricultural productions of excellence, both in terms of the quality of the product and the process, and in terms of respect for rights and current standards. However, the sector displays widespread pockets of unsustainable behaviour, harmful to human rights starting with those of workers (and their families), especially the most vulnerable. The problem, not new in some regions of southern Italy, is present also in the regions of the centre-north. The characteristics and reasons for exploitation are similar and intertwined with large-scale marketing systems. These are therefore not isolated or marginal phenomena, but the co-product of a series of structural causes and choices by individual enterprises that respond to a specific economic model centred on maximum profit at the expense of the rights of workers, communities, consumers and the planet. The comparison between the results emerging in the Italian territories observed and the case of Cambodian women workers in the poultry industry in Thailand shows a superimposable pattern of exploitation. This is perfectly consistent with the existence of a global market that imposes rhythms, costs and conditions that are no longer sustainable and which therefore need to be rethought.

The recognition of the model, of its actors, processes and impacts is necessary in order to shape a regulatory, policy and incentive framework capable of eradicating the violations described.

In this regard – without any claim to exhaustiveness, and referring to the wider considerations set out in the reports produced by WeWorld – it is worth considering the following points:

– The Directive on Corporate Sustainability Due Diligence (CSDDD) may provide a valid instrument for prevention and offers further mechanisms for compensating victims. However, the current exclusion of SMEs from the scope of the rule renders it, to date, effective only indirectly in the cases highlighted. It would be necessary and desirable to progressively include smaller enterprises, calibrating the due-diligence requirements to the characteristics of such productive realities, which must be accompanied by technical support and incentives. In parallel, if the proposed directive is adopted, in the framework of its transposition Italy should work effectively to ensure that GDO actors practise substantive *due diligence* along the entire value chain, involving agricultural suppliers precisely so as to dismantle the mechanisms that today concur in shaping harmful behaviours, starting with the violations highlighted here. From this perspective, GDO actors should become leaders and act as a driving force for their SME partners towards a responsible business culture. The applicability of the directive to financial actors for the application of due diligence in investment and financing processes – currently excluded from the design of the CSDDD – is, however, essential for the leverage effect in incentivising virtuous behaviour and isolating irresponsible business behaviour. It should be applied immediately.

– For SMEs, rewarding and incentivising elements can be adopted immediately, together with accompanying support to raise awareness of the respect for rights and the capacity to read responsible behaviour as an opportunity for competitiveness through ethical supply-chain relationships, supported by the institutional and professional actors of the territory aligned with the values of sustainability. Employer trade associations and unions are crucial in this endeavour.

– The participation of victims or potential victims in the due diligence process must be real and meaningful, as provided for by the UN Guiding Principles on Business and Human Rights, facilitated and accompanied by civil society and trade unions, especially those of migrants.

– In the Italian legislation transposing the directive, issues of gender and those connected with migratory status must find specific recognition and stronger responses than those indicated in the CSDDD.

– The CSDDD must be accompanied by significant work on the application of ILO Convention 190 against violence in the world of work and by the social conditionality provided for by the CAP, while awaiting the anticipated European regulation against forced labour. The instruments must integrate and reinforce one another to create a complete framework, with dedicated and independent control bodies with a full mandate, and with prepared and sufficient staff to perform the role.

– It is necessary to support supply-chain actions that safeguard fair prices paid to producers and dignified wages for workers.

– It is essential to invest in the dimension of transparency and communication of data and practices by companies in order to encourage real participation, and to build shared knowledge of the dynamics of violation or good conduct of enterprises/supply chains. Control bodies must have access to cross-cutting information (databases, etc.) held by different institutions. There is also the opportunity for a common observatory where information from different sources may converge and be socialised, and where tools and pathways for good due diligence can also be accessed.

– It is a priority to strengthen the stable coordination between stakeholders (institutions, civil society and trade unions, research, representations of vulnerable groups, employers and professionals) for the planning of strategies to counter exploitation and the monitoring of their implementation.

– Without a cultural change, no regulatory framework can be effective. Public campaigns and continuous training must be promoted and financed in order to:

– Disseminate a culture of corporate due diligence on human and environmental rights and on the opportunities for active engagement that it offers. The various actors must be involved from the design stage of the transposition law in Italy. Civil society – such as *Impresa2030* –

the trade-union world and experts have followed the subject of due diligence for years and can offer significant contributions to ensure that Italy equips itself with effective legislation on the matter.

– Raise the level of awareness of rights on the part of workers, Italian and foreign, of employers and of young people.

– Counter and stigmatise patriarchy, racism and disregard for human rights, and spread ethical and dignified working and social opportunities.

04.COMPLAINT MECHANISMS AND WHISTLEBLOWING REGULATIONS: SIMILARITIES AND POINTS OF CONTACT

by Emiliano Giovine and Letizia Catalano, RPLT – RP Legalitax

04.1 INTRODUCTION

The evolution of the regulatory framework at EU level on human rights and the environment is prompting important reflection on the concrete operational, managerial, and also strategic and market implications that will follow for all European companies, or companies operating on a stable basis in the European market.

Within this context, a further element of complexity and interpretative reflection arises from the layering and possible interaction between obligations introduced under the European Green Deal and rules of a different nature. This is certainly the case for certain specific due diligence requirements for sustainability purposes, introduced by the proposed Corporate Sustainability Due Diligence Directive ("CSDDD"), as compared with the requirements set out in EU Directive 2019/1937 (the so-called "Whistleblowing Directive") concerning the protection of persons who report breaches of Union law, recently transposed by Italy.

In particular, the question arises as to the possible or actual complementarity and overlap between the operational-level grievance mechanisms introduced by the CSDDD, in line with those already provided for under the United Nations Guiding Principles on Business and Human Rights (UNGPs), and the reporting mechanisms provided for under whistleblowing rules.

Indeed, while on the one hand there appear to be points of contact and interaction with respect to creating a tool enabling the 'protected' reporting of actual or potential violations, on the other hand appropriate distinctions must be drawn, both as regards who is entitled to report and as regards the nature of the violations reported.

04.2 THE PROPOSED DIRECTIVE ON CORPORATE SUSTAINABILITY DUE DILIGENCE AND THE COMPLAINT PROCEDURE

The Corporate Sustainability Due Diligence Directive ("CSDDD") is expected to enter into force during 2024. On 14 December 2023, after lengthy negotiations, the European Parliament and the Council reached a provisional agreement[17] on the proposed directive presented by the European Commission on 23 February 2022. The CSDDD will introduce a horizontal obligation for large companies[18] to carry out due diligence on potential and actual risks to human rights and the environment 'with regard to their own operations, the operations of their subsidiaries, and the

[17]https://www.consilium.europa.eu/it/press/press-releases/2023/12/14/corporate-sustainability-due-diligence-council-and-parliament-strike-deal-to-protect-environment-and-human-rights/

[18]Under the provisional agreement reached, the companies required to adopt the measures necessary to carry out due diligence activities in relation to their value chains will be companies established in the European Union which, in the last reporting year, employed more than 500 employees and generated a worldwide net turnover of more than EUR 150,000,000. From the third year after the CSDDD enters into force, companies established in non-EU countries which, in the year preceding the last one, generated a net turnover of more than EUR 150,000,000 within the European Union will also be required to comply. The Commission is expected to periodically publish a list of companies established in third countries subject to the obligations under the Directive. Companies operating in the financial sector remain temporarily excluded from the CSDDD.

operations carried out within their value chain by entities with which the company has an established business relationship'[19].

In this regard, the recent agreement confirmed that due diligence obligations must be carried out along the entire value chain, i.e. with reference to both business flows of the obliged companies: customers and suppliers. The CSDDD requires Member States to ensure, through national transposing legislation to be enacted by each State within eighteen months of the directive's entry into force, that each company fulfils its human rights and environmental due diligence duty by complying with a series of specific requirements set out in Articles 5 to 11. Following the identification of the (actual and potential) negative impacts of its business activities on human rights and the environment (cf. Art. 6), a company must adopt corporate strategies aimed at preventing, eliminating or mitigating such impacts (cf. Art. 7), minimise or, where possible, cease business activities that have a negative impact (cf. Art. 8), establish a non-judicial notification and complaints mechanism (cf. Art. 9), monitor and verify the effectiveness of the actions taken in compliance with the obligations set out in the directive (cf. Art. 10), and publicly communicate information regarding the due diligence activities it carries out and consult affected stakeholders throughout the entire process (cf. Art. 11).

With regard to the obligation under Art. 9, companies will have to set up internal procedures to respond to complaints concerning actual or potential adverse impacts on human rights and the environment, submitted by the following parties:

- Persons affected by adverse impacts, or who may reasonably believe they are affected;
- Trade unions and other workers' representatives active in the value chains concerned;
- Civil society organisations active in the sectors affected by the specific value chain.

In line with the Guiding Principles, such procedures should also provide for transparent management of the relationship with stakeholders, with follow-up activities clarifying how such complaints have been handled. In particular, the proposed Directive provides that the complainant has the right to require that the company to which the complaint was submitted follow up appropriately, as well as to meet with representatives of that company regarding the negative impacts that are the subject of the report. The complaint procedure provided for by the CSDDD qualifies as an effective operational-level grievance mechanism and finds its legal basis in the third pillar of the Guiding Principles, from which it expressly draws inspiration, and in particular in the positive obligation of States to ensure access to justice through various grievance mechanisms (cf. Arts. 25–31 UNGPs):

- Judicial — instruments made available by the State's judicial system.
- Non-judicial — dispute-resolution instruments external to the judicial system. These include national human rights institutions, mediators and ombudsman systems.
- State-based — managed by State bodies or agencies, or by independent bodies recognised and legitimised at State level.

[19] Cf. Art. 1(a) of the proposed CSDDD.

- Non-State-based — of a purely private nature, established within business organisations themselves[20].

With specific reference to non-State-based grievance mechanisms, which Art. 9 of the CSDDD draws on, the Guiding Principle provides that 'to make it easier for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted'. Operational-level grievance mechanisms should therefore serve two key functions with regard to business enterprises' responsibility to respect human rights:

- Enabling the identification, analysis and prevention of adverse impacts on human rights;
- Ensuring a timely remedy and redress for adverse impacts.

States should also ensure the effectiveness of such remedial mechanisms, so that they are legitimate, predictable, accessible, equitable and transparent for those who use them, and so that they represent, on the one hand, a form of protection of internationally recognised human rights and, on the other, a form of continuous learning useful for preventing the recurrence of the situations giving rise to the complaint[21].

Pending the adoption of the final text and the actual entry into force of the CSDDD, and of the future national transposing law, it should be noted that, within the Trilogue between the Commission, the European Parliament and the Council, the institutions involved put forward various recommendations and proposed amendments to the initial version of Art. 9, in order to ensure — in addition to pursuing the functions set out in the Guiding Principle — compliance with the effectiveness requirements referred to above[22].

In the formulation contained in the provisional agreement of 14 December 2023, the complaint mechanism represents a compromise between the rather incisive recommendations of the Parliament and the more conservative positions of the Council and the Commission. In particular, among the most significant new features, it should be noted that:

- Reports may be submitted by both legal persons and natural persons, trade unions and any representation of workers employed in the value chain, as well as civil society organisations active and experienced in the areas concerned by the environmental impact that is the subject of the complaint;
- Companies must implement a fair, publicly available, accessible, predictable and transparent procedure for handling complaints, which also ensures the confidentiality or anonymity of the person who submitted the complaint, in accordance with national law;

[20]According to the Guiding Principle, non-State-based grievance mechanisms include those administered by a business enterprise alone or together with stakeholders, an industry association or a multi-stakeholder group.

[21]Cf. Guiding Principle 31. For further discussion of the Guiding Principles, see Guiding Principles on Business and Human Rights – Translation edited by, and with an essay by, Marco Fasciglione.

[22]See also Effective Grievance Mechanisms in the European Due Diligence Legislation – Recommendations for the design of the Corporate Sustainability Due Diligence Directive (CSDDD), in Briefing Series on Operational-Level Grievance Mechanisms – Part 1 (https://www.germanwatch.org/sites/default/files/effective_grievance_mechanisms_in_european_due_diligence_legislation_2023_2.pdf).

- Companies may fulfil the obligations under Art. 9 also by participating in collaborative complaint procedures and notification mechanisms, including those jointly established by companies through industry associations, multi-stakeholder initiatives or global framework agreements, provided that such collaborative procedures and mechanisms meet the requirements set out in the preceding point.

Already from reading the provisional wording of the complaint procedures under the CSDDD, it is possible to identify points of contact and synergy with whistleblowing reporting tools. However, the adoption of the final text and its transposition at national level will necessarily have to be awaited in order to fully grasp the areas of complementarity and divergence.

04.3 WHISTLEBLOWING COMPLAINT AND REPORTING SYSTEMS UNDER LEGISLATIVE DECREE 24/2023

As is well known, Legislative Decree No. 24 of 10 March 2023 (hereinafter also the "Decree"), published in the Official Gazette of 15 March 2023, transposed into Italian law EU Directive 2019/1937 concerning 'the protection of persons who report breaches of Union law'.

The European directive aimed to establish common minimum standards to ensure a high level of protection for persons who report breaches of Union law, by creating communication channels, both within and outside the organisation, capable of guaranteeing the confidentiality of the report.

It is therefore legislation designed to combat and prevent unlawful conduct within both public and private organisations, encouraging the disclosure of prejudicial conduct that the reporting person has become aware of in their working context, to the detriment of the organisation concerned and, consequently, in the collective public interest.

The provisions of the Decree have applied since 15 July 2023, except for private-sector entities which, over the preceding year, employed on average up to 249 employees, for which the obligation to establish an internal reporting channel applied from 17 December 2023.

Therefore, as of today, all obliged entities should have complied with the obligation to adapt, by implementing internal reporting channels, adopting internal procedures for handling reports, and entrusting the task of managing reports received through the channels implemented to an internal person within the entity — autonomous and trained — or to an equally autonomous and trained external consultant.

It should be noted that whistleblowing regulations have a clearly circumscribed scope of application, both with regard to the persons to whom the protections provided for by the Decree apply, and with regard to the violations and unlawful conduct that may be reported.

In this respect, it should be pointed out that reportable conduct must concern breaches of national or EU legislation, as specified in Art. 1(a) of the Decree — which harm the public interest or the integrity of the private entity — committed within the organisation of the entity. Reportable conduct varies depending on the sector to which the entity belongs (public or private) and, in the private sector, on the number of employees, whether or not a Model has been adopted under Legislative Decree 231/2001, and the sector in which the entity operates; by way of example, it

may concern predicate offences under Legislative Decree 231/2001, breaches of the Model 231, or unlawful conduct falling within the scope of EU acts in certain sectors, or acts or omissions harming the European Union's financial interests. In any case, it may also concern well-founded suspicions[23].

As for the category of persons who may submit reports, in addition to employees, this also includes certain external parties with qualified relationships, such as consultants, collaborators, self-employed professionals and freelance workers who have learned of information about violations always within their working context.

From this perspective, the complaint procedure under Art. 9 of the CSDDD — which appears to pursue different purposes from the Decree — appears, first of all, to require less stringent requirements, both in terms of who may make use of it and the subject matter of complaints, and, moreover, presents some points of divergence from corporate whistleblowing channels.

On the one hand, indeed, the complaint procedure could be used to transmit reports relating to situations that could negatively impact human rights and the environment, or situations that would not necessarily constitute unlawful conduct or breaches of law, as instead required under whistleblowing rules. On the other hand, as noted above, among the persons who may submit reports are people affected by the adverse impact, or who may reasonably believe they will be affected, trade unions and civil society organisations, which may not hold the qualified working relationships specified under whistleblowing legislation, and may learn of information to be reported even outside their own working context[24].

Therefore, while whistleblowing reports — at least those relating to environmental offences or offences against individual personality — could concern conduct with a negative impact on human rights or the environment, meaning that a person fearing retaliation could report those same situations through 'whistleblowing' channels, the reverse is not true.

Through complaint procedures, indeed, situations could be reported that have nothing to do with 'whistleblowing' violations and which, therefore, even if reported through whistleblowing channels, might not be addressed, or might not give rise to the application of the protections provided for under whistleblowing legislation.

From this perspective, companies concerned may therefore prefer to adopt clearly separate and distinct reporting channels and procedures.

It is nonetheless true that, with a view to making internal control systems more efficient, it may still be advisable for organisations subject to the obligations under both pieces of legislation referred to above to adopt the same tools (e.g. single IT platforms) and the same procedures, albeit to handle different types of reports, also in order to avoid creating confusion among eligible parties as to which channels may be used in individual cases. This choice, moreover, appears consistent with the provisional agreement between the European Parliament and the Council, which recommends adopting instruments designed to ensure the confidentiality of the

[23] *ANAC Guidelines approved on 12 July 2023, p. 24.*

[24] *Cf. M.P. Sacco, L. Catalano, 'Modelli 231 e proposta di direttiva sulla Corporate Sustainability Due Diligence: quali possibili interazioni?', in La responsabilità amministrativa delle società e degli enti, 3/22, pp. 307–315.*

complainant's identity, as well as measures to protect against any retaliatory acts. This is a provision that therefore introduces similarities between whistleblowing procedures and complaint procedures.

In this scenario, however, it would need to be clarified, within 'integrated' reporting procedures, in which cases the protections provided for under whistleblowing legislation will apply, and in which cases, instead, the protections that will be provided for complaint procedures will apply to reports.

Sharing the same channel could therefore certainly be useful in avoiding duplication and in enabling reports to be structured efficiently, without the reporting person having to distinguish between those falling within the scope of Legislative Decree 24/2023 and those instead falling outside that legislation.

04.4 CSDDD VIOLATIONS AND THE AMENDMENT TO THE EUROPEAN WHISTLEBLOWING DIRECTIVE

A point of contact between whistleblowing legislation and the due diligence directive can instead be found in Art. 23 of the CSDDD, which establishes that Directive (EU) 2019/1937 on whistleblowing applies to the reporting of any breach of the due diligence directive and to the protection of the person reporting the breach.

As a result, the following Art. 27 provides for an amendment to the annex of European Directive 2019/1937, in order to extend its scope of application also to breaches falling within the scope of the proposed European directive on due diligence.

Persons working for companies subject to due diligence obligations under the directive, or who are in contact with such companies in the course of their professional activities, could indeed play a fundamental role in exposing breaches of CSDDD rules, and could therefore help to prevent and discourage such breaches, thereby strengthening, in turn, compliance with the legislation.

Consequently, the amendments that will be made to Directive (EU) 2019/1937 of the European Parliament and of the Council will make it possible to report breaches of that legislation also through the whistleblowing channels adopted by companies and, consequently, will extend to such persons the protections provided for whistleblowers.

In any case, these are reports relating to breaches of the due diligence duty, and not complaints concerning situations with a negative impact.

04.5 CONCLUSIONS

Pending clarity on how the national legislator will transpose the provisions of the CSDDD, it can be said that the tools for transmitting whistleblowing reports could also be used as channels for transmitting the complaints provided for under Art. 9 of the CSDDD, taking care, however, to clarify to potential reporting persons the boundaries between the scope of whistleblowing legislation and that of due diligence legislation.

In this way, the requirements generated by the CSDDD will lead to greater integration between the field of sustainability and sustainability/human-rights complaint procedures on the one hand, and corporate compliance on the other, with a positive impact also on corporate procedures and organisational models.

05.ITALIAN COMPANIES AND HUMAN RIGHTS: RESULTS OF THE 2023 MONITORING

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05.1 INTRODUCTION AND METHODOLOGY

The monitoring of companies and human rights in Italy presented here is the second instalment of a story that began last year with the first OIIDU report[25]. The objective remains that of showing the extent to which, and how, the largest Italian companies pay attention to the subject, at a time when interest in human rights is growing, prompted also by the discussions at European level on the contents of the directive on *corporate sustainability due diligence*.

Compared with last year, the 2023 monitoring has broadened the scope of observation: the original perimeter of 28 non-financial companies, listed on the Milan Stock Exchange and included in the FTSE MIB index, has been extended to reach a total of 50 companies monitored (Table 1). The new entrants are other non-financial listed companies – the largest by capitalisation in the FTSE Mid Cap segment – and the largest non-financial companies – by turnover and number of employees – according to the Mediobanca survey[26]. Not included, even though meeting the above-mentioned size criteria, are financial investment companies that are parents of industrial subsidiaries, and Italian subsidiaries of foreign groups. The overall perimeter of the 2023 monitoring therefore includes 40 listed companies and 10 large unlisted companies, broken down as follows:

- **28** companies already analysed last year, of which 27 still in the FTSE MIB and one delisted[27]
- **13** new listed companies, 1 from the FTSE MIB and 12 Mid Cap[28]
- **9** new unlisted companies

The exclusion of financial companies (banks, investment firms and insurance companies) reflects both European guidance on the Corporate Sustainability Due Diligence Directive (CS3D) – under which, even in the latest versions circulated, these sectors would not fully fall within the scope of application – and sector-specific characteristics: the most significant commitment of financial companies in the field of human rights is directed towards the activities of their clients, rather than towards the supply chain; focusing on non-financial companies therefore gives greater homogeneity to the market segment observed.

The information used in the monitoring is that made publicly available by the companies: human rights policies, annual reports and reports – integrated, sustainability or NFS – and websites. In particular, we examined the reports published in 2023 relating to the 2022 reporting year and the information available on company websites in the period July–September 2023. All the companies included in the monitoring, with only one exception, publish non-financial statements (as stand-alone documents or as part of the Annual Financial Report), or voluntary sustainability reports, or at least integrate some sustainability information into the Annual Financial Report. It should be noted that the classification of the information thus obtained, carried out through a homogeneous analysis grid, reflects what the companies have deemed

[25]OIIDU, "Imprese e diritti umani. Una fotografia italiana", Avanzi, 2023.

[26]Mediobanca, "Le principali società italiane", 2022.

[27]Although no longer listed, the former Atlantia (now Mundys) was also considered, for continuity with last year; the ERG group, which took Atlantia's place in the FTSE MIB index, was in turn included in the monitoring.

[28]The composition of the indices taken as reference is that of September 2023.

appropriate to disclose: some aspects investigated may be present but not reported; furthermore, the information published is not always immediately attributable to the grid, which sometimes leads to small margins of necessary discretion and possible imprecision.

The aspects considered in the monitoring reflect the international guidelines that indicate to companies the path to follow for effective respect for human rights within their sphere of action and influence, above all the Guiding Principles on Business and Human Rights published by the United Nations in 2011. The Guiding Principles have been taken up in other international documents considered, such as the OECD Guidelines for Multinational Enterprises, the GRI reporting standards and EFRAG's European Sustainability Reporting Standards, and have inspired the texts, circulated to date, of the Directive on Corporate Sustainability Due Diligence. They therefore represent a fundamental benchmark for assessing what has been done so far and for indicating desirable future developments.

The presentation follows, in its central part, the constituent elements of an approach to respect for human rights by companies in line with the UN Guiding Principles: the existence and contents of a human rights policy; the characteristics of the due diligence process, including grievance mechanisms and the application to the supply chain; and remediation activities. This central core of the monitoring report is preceded by a section that illustrates the relevance of the 'human rights' issue in the materiality analyses of the companies examined, and is followed by in-depth analyses of two particularly important management areas: training on human rights and human resources policies that govern aspects related to certain specific human rights, such as diversity, inclusion, equity and gender parity. A concluding section takes up the key points that emerged, also with a view to comparison with the 2022 monitoring. Compared with the latter, the sections on materiality and human resources policies – as well as other specific aspects highlighted in the other paragraphs – represent a novelty.

Table 1 – The 50 companies covered by the 2023 monitoring

Company	FTSE index Milan Stock Exchange (1)	Sector (2)	Included in 2022
A2A	MIB	Electricity	x
Amplifon	MIB	Medical equipment and services	x
Ariston	Mid Cap	Construction and materials	
Autogrill	Mid Cap	Travel and leisure	
Barilla		Food production	
Brembo	Mid Cap	Automobiles and components	
Brunello Cucinelli	Mid Cap	Personal goods	
Buzzi Unicem	Mid Cap	Construction and materials	
Campari	MIB	Beverages	x
Carel Industries	Mid Cap	Construction and materials	
CNH Industrial	MIB	Industrial engineering	x

Company	FTSE index Milan Stock Exchange (1)	Sector (2)	Included in 2022
Coop Alleanza 3.0		Food, personal care and pharmacy retailers	
De Longhi	Mid Cap	Household goods	
Diasorin	MIB	Medical equipment and services	x
Enel	MIB	Electricity	x
ENI	MIB	Oil, gas and coal	x
ERG	MIB	Electricity	
Esselunga		Food, personal care and pharmacy retailers	
Eurospin		Food, personal care and pharmacy retailers	
Ferrari	MIB	Automobiles and components	x
Ferrovie dello Stato		Industrial transportation	
Fincantieri		Industrial engineering	
Grimaldi Group		Industrial transportation	
HERA	MIB	Gas, water, multi-utility	x
Interpump Group	MIB	Industrial engineering	x
Inwit	MIB	Telecommunications services	x
Iren	Mid Cap	Gas, water, multi-utility	
Italgas	MIB	Gas, water, multi-utility	x
Iveco Group	MIB	Industrial transportation	x
Leonardo	MIB	Aerospace and defence	x
Menarini		Pharmaceuticals and biotechnology	
Moncler	MIB	Personal goods	x
Mundys – ex Atlantia (3)		Industrial transportation	x
Nexi	MIB	Industrial support services	x
Pirelli & C.	MIB	Automobiles and components	x
Poste Italiane	MIB	Life insurance	x
Prada		Personal goods	

Company	FTSE index Milan Stock Exchange (1)	Sector (2)	Included in 2022
Prysmian	MIB	Electronic and electrical equipment	x
Recordati	MIB	Pharmaceuticals and biotechnology	x
Reply	Mid Cap	Software and computer services	
Saipem	MIB	Oil, gas and coal	x
Salvatore Ferragamo	Mid Cap	Personal goods	
Snam	MIB	Oil, gas and coal	x
Stellantis	MIB	Automobiles and components	x
STMicroelectronics	MIB	Technology hardware and equipment	x
Technogym	Mid Cap	Leisure goods	
Telecom Italia	MIB	Telecommunications services	x
Tenaris	MIB	Oil, gas and coal	x
Terna	MIB	Electricity	x
Webuild	Mid Cap	Construction and materials	

(1) Index membership as of September 2023.

(2) Classification according to the Industry Classification Benchmark adopted by FTSE Russell for listed companies.

(3) Atlantia was delisted on 9 December 2022 and changed its name to "Mundys" on 15 March 2023.

05.2 MATERIALITY OF HUMAN RIGHTS

The presence of human rights among the aspects considered material by the companies monitored is – by definition – an indicator of the relevance they attribute to the topic. It therefore constitutes interesting information in its own right, but it is also an element that guides the assessment of whether materiality translates into actual consequences in terms of corporate policies, procedures and initiatives.

Considering only the citations of the topic in its general form (human rights), the field of observation is split in half (Chart 1): in 50% of the companies the topic is present among the material ones (in 14% of cases among the topics of greatest relevance), while for the others it is either explicitly not material (18%) or not mentioned[29] (32%). Looking at the subset made up of the companies belonging to the FTSE MIB, no significant differences emerge: the topic is material in 46% of cases, and among the most material in 18%.

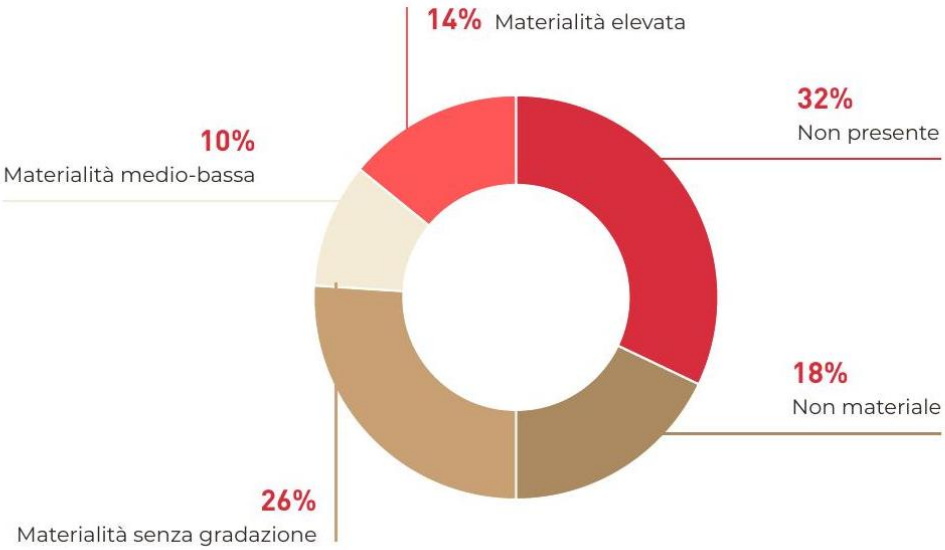
Chart 1 – Materiality of the human rights topic – Percentage present among material topics

% values; number of cases: 50

[29]For simplicity of exposition, cases in which there is no information on materiality are also included in this category.

Grafico 1 - Materialità del tema diritti umani - Percentuale di presenza tra i temi materiali

Valori %; numero casi: 50



[Chart image from the original Italian PDF. English data table below.]

Category	%
Not present	32%
Not material	18%
Materiality without gradation	26%
Medium-low materiality	10%
High materiality	14%

However, the absence of the topic may also derive from the choice of how to break down the aspects submitted for materiality assessment: human rights are a broad and cross-cutting theme, which could fall under other definitions, for example supply chain management on the one hand and specific areas of the relationship with employees on the other. A review of the presence of the latter shows that – net of occupational health and safety, which is almost always present – 72% of the companies monitored (86% of those in the FTSE MIB) mention among material aspects such items as 'diversity, equity, inclusion' (the most widespread topic, cited by 36% of companies), 'training and development of personnel' or 'employee well-being'.

Net of the overlap (38%) with those that identify human rights in general as material, the companies that consider only certain specific human rights linked to employees' work as material amount to 34%[30].

[30]Sometimes, these same companies also cite "human rights", but with a value complementary to the specific aspects noted, not as an umbrella topic encompassing them. More frequently, the reference to specific labour-related rights is the only mention of the human rights area, at least in relation to the company's own activities.

Considering both human rights as such and the specifications noted, 84% of companies show that they attribute relevance to the topic, in a broad or selective way. At the same time, for 84% of the companies, the supply chain – phrased as 'responsible supply chain management', 'sustainable supply chain' and the like – is a material aspect. By cross-referencing the two topics, it emerges that 74% of the companies examined consider both human rights and the supply chain material (42% if the reference to human rights is understood in the strict sense).

Consideration of human rights as a material topic has grown over the last three years: in their reports published in 2020, 32% of the (25) companies that today consider the topic material did not flag it as such. It is very likely that this growth in consideration has been influenced by expectations of greater relevance of human rights and the supply chain, also in terms of new obligations for companies, generated by the texts of the Corporate Sustainability Reporting Directive and of the proposed Directive on Corporate Sustainability Due Diligence.

05.3 HUMAN RIGHTS POLICIES

60% of the 50 companies examined have adopted a human rights policy. The designations vary, but in every case this is a high-level document that sets out principles to be observed and behaviours to be followed to ensure that the company's operations are conducted in respect of the human rights set out in the main international references on the subject; we shall therefore refer to these documents by the general term "human rights policies".

The adoption of a policy is not uniformly widespread among the monitored companies:

- within the field of observation there is (Chart 2) a marked difference between the companies listed on the FTSE MIB, which record the presence of the policy in 82% of cases, and the companies of the Mid Cap segment (33%) and the unlisted ones (30%);
- on a like-for-like basis with last year, there is an increase from 75% to 82% in the presence of human rights policies (from 21 to 23);
- considering the (25) companies that place "human rights" among the material aspects, 68% have adopted a policy on the subject.

Chart 2 – Presence of a human rights policy

% values; number of cases: 50

[Chart image from the original Italian PDF. English data table below.]

Group	%
Total monitoring	60%
FTSE MIB	82%
FTSE Mid Cap	33%
Unlisted companies	30%

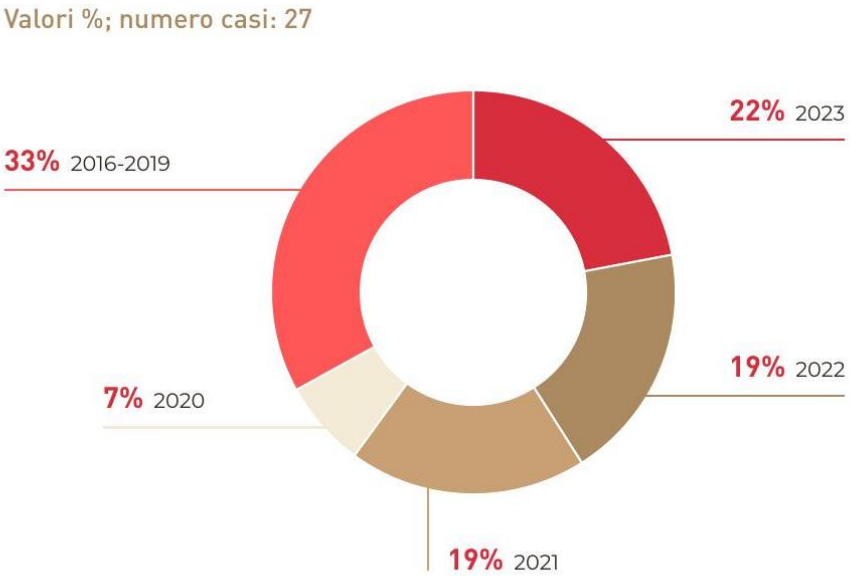
The absence of a dedicated policy is not synonymous with a lack of consideration of human rights in the conduct of business activities: all 20 companies that have not adopted a specific policy have in any case highlighted the need to respect human rights in other corporate documents, typically the Code of Ethics. However, some doubt remains about the completeness of the approach in those (few) cases in which the documents that serve as alternatives to a unified human rights policy cover only some topics (e.g. modern slavery, non-discrimination) or are addressed only to external stakeholders (e.g. Supplier Code of Conduct).

The examination of the policies highlights the following points of interest:

- the adoption of human rights policies has occurred mainly in recent years (Chart 3): considering also revisions of documents adopted earlier, two thirds of the policies have been approved or revised in the last 4 years (22% in 2023) and one third in the previous four years (2016–2019). In particular, review or confirmation of validity has affected 19% of the policies in the last three years;
- the approval of the human rights policy took place (Chart 4) mainly at Board of Directors (43%) or Chief Executive Officer (48%) level;
- application concerns the group perimeter (parent and subsidiaries) in all cases (25) in which the information is available;
- the policies are usually (29 documents out of 30, 97%) available to anyone interested, via the web.

Chart 3 – Year of adoption or last revision of human rights policies

% values; number of cases: 27



[Chart image from the original Italian PDF. English data table below.]

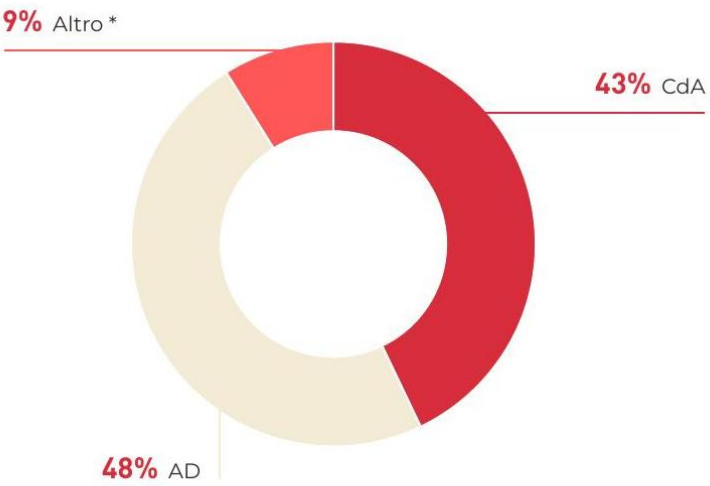
Year	%
2023	22%
2022	19%
2021	19%
2020	7%
2016–2019	33%

Chart 4 – Level of approval of human rights policies

% values; number of cases: 22

Grafico 4 - Livello di approvazione delle politiche sui diritti umani

Valori %; numero casi: 22



* *Management team*; comitato ESG

[Chart image from the original Italian PDF. English data table below.]

Approval level	**%**
Board of Directors	43%
CEO	48%
Other *	9%

* Management team; ESG committee

In expressing the commitment to respect human rights in their policies, the companies declare that they adhere to, apply or in any case take into account certain international reference documents. The most widespread (Table 2 A), in line with what emerged in the first monitoring, are:

- the UN Universal Declaration of Human Rights (1948), present in all policies, sometimes referred to as the "International Bill of Human Rights", a document composed of the Declaration itself and of two Covenants, subsequently signed (1966) also at the UN, which supplement it in the economic, social and cultural sphere and in the civil and political sphere respectively;
- the ILO Declaration on the Fundamental Principles and Rights at Work (1998), also present in all policies, sometimes through reference to the individual Conventions that make up its content.

These are the references that the UN Guiding Principles also indicate, seeking to configure the indispensable set of human rights that businesses should take into account.

Since these are policies on human rights, it is striking that in only half of the cases does the reference to the UN Guiding Principles appear – as noted, the most pertinent reference on the subject of business and human rights. On this point, there are no significant differences from

what was observed last year and in the comparison between the policies of FTSE MIB companies and those of other companies.

The other references cited, with less frequency, in the policies also confirm – on a broader perimeter of companies examined – the picture that emerged last year, with a slightly more marked presence of Legislative Decree 231/2001 and of the California Transparency in Supply Chains Act.

In addition to those cited most frequently, many companies report references to other specific documents, which recur a few times (Table 2 B) or even once only in the set of policies examined: these are often sectoral references or references to particular situations of potential impact on human rights, such as, for example, the use of armed personnel for the defence of plants. Compared to last year, there is a greater presence of references relating to children's rights (e.g. Children's Rights and Business Principles, drafted by UNICEF, the UN Global Compact and Save the Children) and scattered references to recent developments in European policies, such as the draft Social Taxonomy and the EU proposed Directive on Corporate Sustainability Due Diligence.

References to international documents on human rights also appear in Codes of Ethics, but always less frequently than in policies.

Table 2 A – Main international references cited in human rights policies

% of companies citing the reference; number of cases: 49

Reference	Companies with HR policy (29)	Companies with Code of Ethics (20)
UN Universal Declaration of Human Rights / International Bill of Human Rights	100	58
ILO Declaration on Fundamental Principles and Rights at Work / Main ILO Conventions	100	53
OECD Guidelines for Multinational Enterprises	69	32
UN Global Compact	66	37
UN Guiding Principles on Business and Human Rights (Protect, Respect, Remedy)	45	0
UK Modern Slavery Act	24	0
UN Convention on the Rights of the Child	24	0
European Convention on Human Rights	21	11
2030 Agenda – SDGs	17	5
SA 8000	14	11
ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy	10	0
California Transparency in Supply Chains Act	10	0
Legislative Decree 231/2001	10	0

Table 2 B – Other references cited more than once in the policies

UN documents
United Nations Convention against Corruption
United Nations Convention on the Elimination of All Forms of Discrimination against Women
Other international documents
Conflict minerals: OECD Due Diligence Guidance
UNICEF – UN Global Compact – Save the Children – Children's Rights and Business Principles
European documents
Charter of Fundamental Rights of the European Union
CSR Europe – Assessing the Effectiveness of Company Grievance Mechanisms
Documents from individual countries
US Human Trafficking Prevention Act

As mentioned, the human rights contained in the Universal Declaration, and the labour rights in the ILO Declaration, are the minimum perimeter of rights that companies should consider and respect. All companies in the sample present in their policy a list of the human rights that are their priority. Those most frequently cited (Table 3 A) – as was already the case in the smaller monitoring last year – are the rejection of forced and child labour and freedom of trade-union association and negotiation – present in all the policies – followed by non-discrimination, occupational health and safety, fair and equitable treatment at work (working hours, rest periods, remuneration) and – slightly declining in frequency compared to 2022 – the right not to suffer threats, harassment, bullying and any humiliating treatment or conduct that offends human dignity. Rights linked to employment relationships, in particular the most basic rights and those at risk especially outside the European context, are the areas where companies' commitment is most concentrated.

It is worth noting that certain rights nevertheless falling under the labour theme, such as those relating to diversity, equal opportunities and inclusion, which have been receiving growing attention in the European and Italian debate for some time, are less frequently cited (41% of policies, 20% of companies monitored), even less than in last year's perimeter (57%) and than those relating to privacy (72%); however, it is possible that, given the synthesis characteristic of company policy documents, they are absorbed into the broader category of non-discrimination. It should also be noted that companies frequently adopt dedicated policies on these human resources aspects (62% of the companies monitored, see the relevant section).

Compared to last year, references to the rights of indigenous/local communities are increasing (from 48% to 59%), probably due to the activities carried out by the companies added to the field of observation, as are those relating to the environment (from 29% to 41%), perhaps reflecting the recent recognition of the right to an environment conducive to human development as a genuine universal right. Some companies also include in their policies (17%) references to initiatives to promote the socio-economic development of communities, that positive complement to the commitment to avoid human rights violations.

Furthermore, as with reference documents, in the case of the rights cited in the policies many companies introduce some peculiar to their business context – 'material' in that context (Table 3

B) – which sometimes concern specific corporate activities – such as communications: responsible advertising and marketing, or an approach respectful of cultural differences – and at other times specify in greater detail those already indicated above. Among these sporadically cited rights are also civil and political rights and the repudiation of war, which typically exceed a company's control but which – if violated because of the conditions of the external context – should nevertheless constitute a point of attention.

Carrying out a similar search inside the Codes of Ethics of the companies that do not have a policy, one confirms the prevalence of labour-related rights and a citation frequency always lower than that of human rights policies, with the sole exception of environment and corruption, as is to be expected from documents that address a broader range of topics inherent to the responsible conduct of business activities.

Table 3 A – Main rights cited in human rights policies

% of companies citing the right, on the total number of Companies; number of cases: 49

Right	Companies with HR policy (29)	Companies with Code of Ethics (20)
Exclusion of forced, compulsory and child labour	100	85
Freedom of trade-union association and collective bargaining	100	55
Non-discrimination	93	80
Occupational health and safety	93	80
Fair and equitable working conditions (hours, pay)	90	60
Exclusion of psychological and physical violence at work (threats, pressure, harassment, bullying)	72	50
Privacy	72	55
Rights of indigenous / local communities	59	10
Diversity, equal opportunities, inclusion	41	20
Environment	41	45
Anti-corruption	34	50
Training, education, professional development	31	30
Security (use of weapons for surveillance)	21	0
Socio-economic promotion of communities (including digital inclusion)	17	20

Table 3 B – Other human rights sporadically cited in human rights policies

Specifications of labour-related rights
Social protection / welfare
Freedom of movement (company facilities and residences)
Rights linked to the characteristics and potential impacts of the business

Customer health and safety
Protection of children from adult content
Right of access to services and innovation
Rights of patients involved in clinical studies
Customers' right to responsible advertising
Community-related rights
Right to property and to the use of land
Right to water, natural resources and biodiversity protection
Right to communication respectful of different cultures
Other references
Right to intellectual property
Right to private property
Civil and political rights
Repudiation of war

According to the indications of the UN Guiding Principles, the responsibility of the enterprise concerns both its own operations – i.e. those carried out within the legal perimeter of the enterprise itself or of the Group – and those arising from the enterprise's relationships with other parties in the value chain, for example those that suppliers, joint-venture business partners, and product distributors carry out on the basis of their relationship with the enterprise. Again according to the Guiding Principles, the human rights policy should establish what the enterprise expects, in terms of conduct, internally and from the organisations with which it has business relationships. These are evidently two very different areas: within its own perimeter, and within the limits of the regulations to which it is subject, the enterprise can define the directions, the compliance obligations and the control systems that it considers most appropriate to pursue the objective of respect for human rights; with other parties, its power is conditioned by the influence it manages to exert, which is expressed both in terms of involvement, engagement and persuasion, and in terms of contractual clauses.

It was therefore considered appropriate this year to deepen the analysis of how companies address their responsibility for the two areas of potential attention – own operations and value chain – from the very formulation of the policy, from which governance systems and management practices for the respect of human rights derive. The 29 documents examined show the following findings:

- ▷ In 72% of the cases, the human rights policies contain an explicit reference to both own activities and the value chain as areas of attention and corporate commitment to respect for human rights.
- ▷ In particular, the citation of own activities as an area of attention and commitment is found in 79% of the policies, beyond the fact that these may also indicate employees, managers, directors or (certain) internal structures as recipients of the policy,

responsible for its concrete application; the supply – or value – chain is cited in 76% of the cases as an area of attention for the respect of human rights.

- ▷ More widely than through the explicit citation of the value chain as an area of commitment, the issue of consistency between the principles recognised and stated by the company and the actual conduct of suppliers and business partners is addressed by 90% of the policies, with varying formulations. The range of approaches – which is interpreted here only on the basis of the words and phrases used in the policies, referring to the following sections for an evaluation of the actual behaviours that follow – can be grouped (Chart 5) into five categories:

- ▷ a request to respect the policy, to observe its contents, adopting conduct in line with it. In this approach, which is largely prevalent (45% of the policies), the emphasis is on the standardisation of the rules: corporate responsibility extended to the value chain is addressed by broadening the scope of application of the corporate rules to external parties as well. Perhaps not by chance, in more than half (54%) of the cases in this group it is explicitly stated that the contents of the policy "apply" also to suppliers and other commercial partners, who therefore in fact fall among the recipients of the corporate rule, when they are not directly indicated as such. With a slight nuance, in some cases the request is not directly to respect the contents of the policy, but to accept it, thus clarifying the formal step needed for the internal rule to be applied also to third parties;

- ▷ a reference to managerial conduct and/or management systems aimed at achieving respect for human rights in the value chain (14% of policies). In these cases the policy addresses itself internally to the company or group, requesting that subsidiaries or the organisational units in charge take responsibility for achieving the objective of respect on an extended basis (i.e. of the standardisation of rules, as in the previous group), sometimes indicating only the need to achieve the objective, sometimes hinting at specific tools such as supplier selection and qualification;

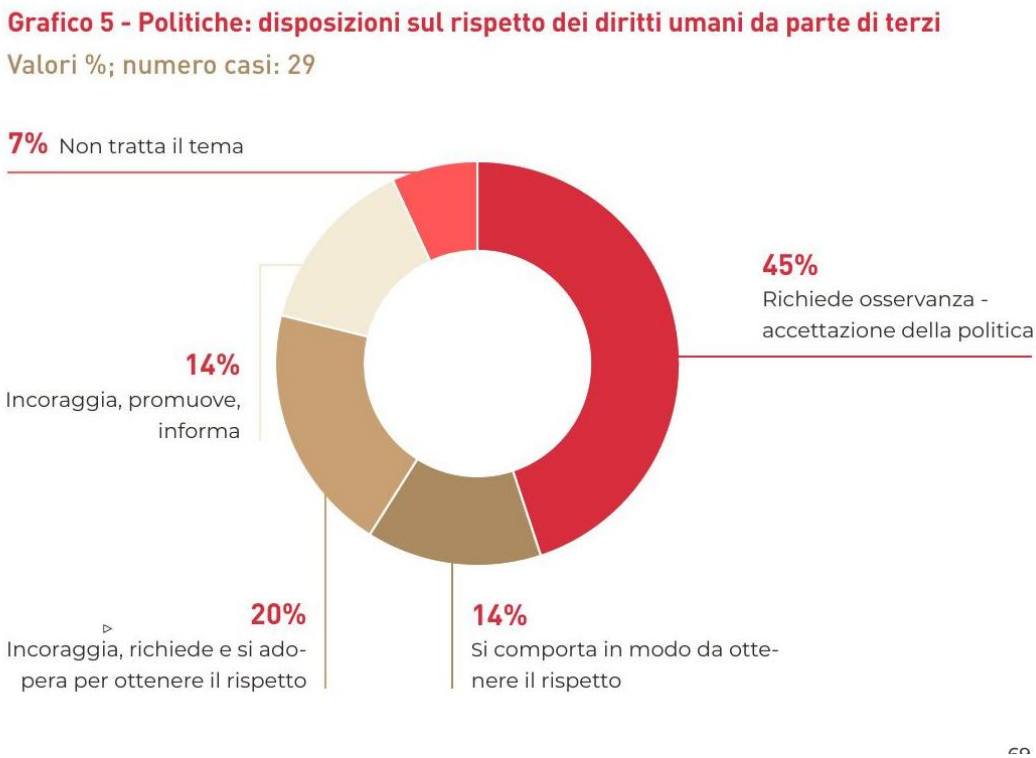
- ▷ a combination of engagement of suppliers and business partners with the request to respect the policy (20% of the cases). The company encourages and promotes respect for human rights and at the same time works to enforce its own policy, for example by "making every effort to insert contractual clauses" and by engaging stakeholders in order to prevent and mitigate the risk of violations. In this approach one can see the complexity of responsibly addressing respect for human rights outside the company walls, matched by an active behaviour of the enterprise, both in promoting and in demanding aligned conduct;

- ▷ at the opposite end from the first group, some policies (14%) frame exclusively the corporate task of informing, promoting and encouraging respect for human rights in the value chain, without raising – at least explicitly – the issue of the ways and tools with which to ensure respect for shared rules;

- ▷ no provision regarding the relationship with suppliers and business partners is set out by the remaining group of policies.

Chart 5 – Policies: provisions on respect for human rights by third parties

% values; number of cases: 29



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[Chart image from the original Italian PDF. English data table below.]

Category	%
Requires observance / acceptance of the policy	45%
Encourages, requires and works to obtain respect	20%
Acts in such a way as to obtain respect	14%
Encourages, promotes, informs	14%
Does not address the issue	7%

As mentioned above, beyond the statements of commitment contained in the policies, it is the practical implementation of the latter that can make the difference; in particular, the role of due diligence is central – and will be explored in the next section – but on which the policies too can provide indications: a reference to the due diligence process is in fact an indicator of an approach that is coherent, at least in its design, with the UN Guiding Principles. Of the 29 policies the text of which is publicly available, less than half (48%) contain a reference to due diligence – in some cases confined to the supply chain – while an even smaller share (24%) provides descriptive

detail on how the process should be structured and articulated. The results do not change significantly if referred to only the listed companies belonging to the FTSE MIB index.

As in the case of the lack of an explicit reference to the UN Guiding Principles, limited to 45% of the policies, here too a potential weak point emerges in the governance of respect for human rights on the part of a good half of the companies: the indication of rights to be respected, without the constraint of how to structure their management, leaves room for actual practices not necessarily consistent with the international indications. On the positive side, on the other hand, it should be noted that about a quarter of the companies have chosen to link the policy's principles to a precise management approach based on due diligence, thereby fully reflecting the design outlined by the Guiding Principles.

05.4 DUE DILIGENCE PROCESSES

The existence of a policy testifies to a company's intention to commit itself to respecting human rights, even independently of whether this commitment is explicitly reaffirmed within the policy itself; as we have seen in the previous section, 60% of the companies monitored (82% in the FTSE MIB) have adopted a policy, which almost always also addresses the topic of respect for human rights by suppliers and/or business partners. But the commitment must then be translated into concrete actions: adopting a due diligence process is, according to the UN Guiding Principles, the most coherent consequence of the premises set out in the policy.

The due diligence process according to the UN Guiding Principles

The process described in the Guiding Principles is a cycle that is repeated periodically, at intervals consistent with the fundamental objective of ensuring respect for human rights, and consists of the following phases:

– assessment, which aims to highlight the situations (production processes, stakeholder relationships) in which risks of potential human rights violations become apparent, in relation to which reports and, even more so, evidence of violations that have already occurred are among the indicators. The assessment is the basis for the definition of suitable mitigation measures, and should cover both the activities carried out by the enterprise itself and those carried out by business partners, that is – above all, but not only – in the supply chain. In this sense, it is a risk-assessment process – where the risk is that of violating human rights, not the corporate risk potentially connected with such violations, such as the reputational risk – which requires the definition of a scope, of criteria for identifying the risk and for assessing any gaps in the adequacy of the mitigation measures already in place;

– the definition of a plan to mitigate potential risks and to remove the causes of any actual violations. The identification, in the assessment phase, of the gap between the desired level of mitigation and the actual one is a fundamental reference for the definition of the corrective measures to be adopted and for their priority ranking;

– the effectiveness of the measures adopted must then be subject to monitoring, so as to intervene with any corrective actions;

– transparent communication of the entire process must then be given to all interested stakeholders, in the ways best suited to ensuring they can be informed.

The process requires significant stakeholder engagement in all the salient phases and is also facilitated by the existence of grievance mechanisms that enable those affected to report risks of violations and/or to seek remedies for cases of violations that have occurred.

However they are identified – through the due diligence process (e.g. through internal audits) or as a result of reports from the grievance mechanism – cases of actual violation or of interference by business activities with the rights of stakeholders must be addressed by removing the cause and providing proportionate remedial actions towards the rights holders.

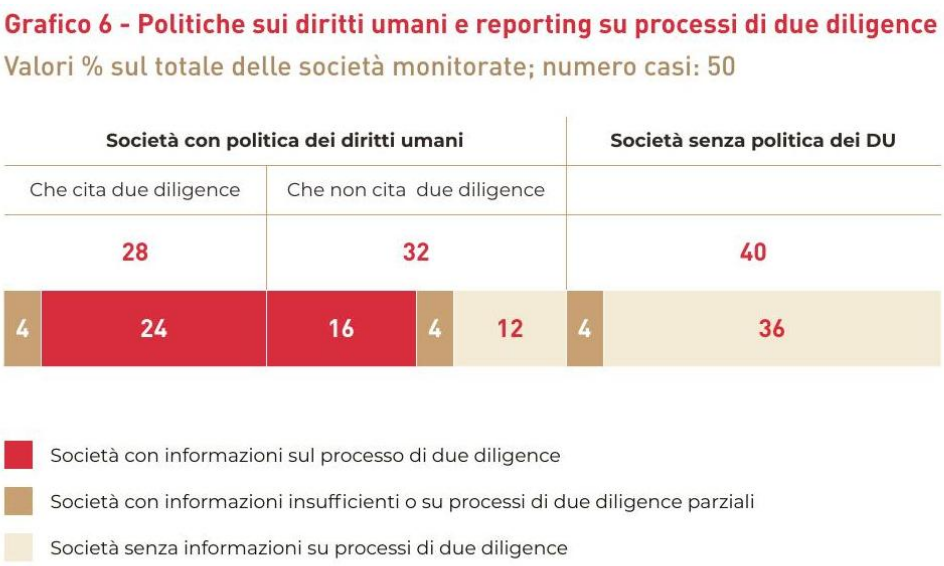
From this perspective, an initial notable result is that only in 40% (61% in the FTSE MIB[31]) of the cases (20 companies) is it possible to find, among the information made available by the companies, at least the assertion of the existence of procedures or systems designed to guarantee a systematic management of the human rights topic and to ensure that it is actually respected, in their own activities and/or in the value chain. This is a share not much lower than that of policies adopted.

Also interesting to note is that among the (25) companies that cite 'human rights' as a material topic, only 52% state that a due diligence process exists: a share lower than that of human rights policies among those same companies (68%).

The reduction in positive results in the shift from the existence of a policy to that of management systems deserves some consideration, aided by Chart 6. Reporting on due diligence processes is more frequent when the policies adopted mention the need to give effect to commitments through a structured process. The companies which, despite having formulated this type of policy, do not provide sufficient information in their reports about a general process – i.e. not confined only to very narrow areas – are a small minority and share the fact of having adopted their respective policies in the last two years: it is possible that the processes are still being set up.

Chart 6 – Human rights policies and reporting on due diligence processes

% values on the total number of companies monitored; number of cases: 50



[Chart image from the original Italian PDF. English data table below.]

Group	With info on DD process	Insufficient info / partial DD	No info on DD process
Companies with HR policy that cites due diligence (28%)	**24%**	0%	4%

[31] In last year's monitoring the share of companies reporting a due diligence process was 70%. This year a stricter criterion was adopted, which led to disregarding some cases in which the information provided is insufficient. On a like-for-like basis and with the same classification criteria, the situation is unchanged compared to 2022.

Group	With info on DD process	Insufficient info / partial DD	No info on DD process
Companies with HR policy not citing due diligence (32%)	**16%**	4%	12%
Companies without HR policy (40%)	**0%**	4%	36%

Conversely, only half of the companies that do not cite in their policies a necessary link with a due diligence process then give evidence of it in their reports. Unsurprisingly, in the absence of a human rights policy, still less is there any trace of reporting on due diligence processes, with the marginal exception of the 4% of companies that provide some partial information, insufficient however to confirm the existence of a systematic process.

Observation of the link between policies and due diligence highlights an approach to the topic of business and human rights characterised by different intensities: 40% of the companies do not consider the topic significant enough to formulate at least a formal commitment; 20% flag their attention by adopting a policy but not a structured management process; 40% have a policy and follow it up with a due diligence process. Only among the companies listed on the FTSE MIB is this last category in the majority. In general, the adoption of a human rights policy is a necessary but not sufficient condition for the definition of a management process.

Furthermore, only 26% of the companies monitored consider the topic material, have adopted a related policy and have set up some form of due diligence.

Turning to the substance of the existing due diligence processes, other relevant findings emerge (Table 4):

- among the 20 companies that state they have defined a due diligence process, the application to external areas essentially coincides with the supply chain: any citation of other parties, such as joint-venture partners, belongs to the text of the policies and is not typically reflected in the sustainability reporting;
- only in 26% of the companies monitored (39% among FTSE MIB companies, 65% of those reporting a due diligence process) does the process concern both own activities and the supply chain. Looking at the two areas separately, the percentage rises to 30% and 32% respectively (46% in both cases in the FTSE MIB). With regard to the supply chain, it should be noted that sometimes certain activities that have at least some features of the due diligence process are carried out relying on systems already developed for supplier management and are therefore described as complementary elements of the latter: for this reason the presentation of the due diligence processes relating to the supply chain is taken up and developed in the relevant section;
- stakeholder engagement is cited by 14% of the companies monitored (35% of those reporting a due diligence process);
- among the few companies (8) that report this information, the frequency of the due diligence cycle is typically annual or triennial, while in one case the cycles have been repeated at greater intervals.

Table 4 – Policies, commitments, due diligence

% values, with the starting total equal to 100

	Total monitoring	FTSE MIB	Mid Cap and unlisted
Number of companies monitored	50	28	22
Starting total	100	100	100
Companies with human rights policy	60	82	32
Companies reporting due diligence processes in place	40	61	14
With information on process for own operations	30	46	9
With information on process for supply chain	32	46	14
With information on both areas	26	39	9
With stakeholder engagement	14	21	5

With the exception of a few companies, the information provided on the implementation details of the due diligence processes is rather scarce. The combination of the limited spread of due diligence processes and the modest informational scope on their details implies that the presentation of this key element of companies' commitment to respect for human rights can be given only indicative value, with recourse to statistical frequencies only in the presence of a fair number of cases. With this proviso, this section considers in particular the due diligence processes conducted on companies' own activities, deferring to the section on the supply chain for the processes relating to it. The main points that emerge are as follows:

- among the companies that have defined a due diligence process on their own activities, the recourse to a stand-alone process is largely prevalent (80%) compared to the use of an approach conforming to, or integrated with, the risk management process: the integration of ESG risks into ERM is indeed frequent, but in the majority of cases does not constitute the process to which due diligence is entrusted, but rather a mitigation tool considered within it (see below);
- some companies provide information on an initial delimitation of the field of assessment, consisting for example in limiting attention to production sites, or explain that they have identified priority focuses through benchmark analyses or the use of country risk assessments. As regards rights, the citations concern labour rights (in particular hours and overtime, fair remuneration, health and safety, forced and child labour, freedom of association) and the rights of local communities. In any event, these field delimitations are preparatory to conducting a cross-assessment leading to the identification of which rights, of which stakeholders, are at risk and in which areas;
- in this cross-assessment, the risk-mitigation tool already in place that is most frequently considered (87%) is the integration of human-rights risks – and of ESG in general – into the risk-management system, followed by training, monitoring and grievance mechanisms, policies and procedures;

- the assessment results are rarely communicated, if not as a further specification of the salient risk areas examined or as a segmentation of the operational areas (e.g. high-risk sites out of total sites);
- the mitigation measures defined as a consequence of the assessment phase include the introduction of policies, the strengthening of procedures or of organisational measures (e.g. introduction of new functions or skills), the reinforcement of audits of own sites, the intensification of stakeholder listening, agreements with external organisations and above all staff training.

A separate note is due on the topic of stakeholder engagement, important – according to the Guiding Principles – throughout the process, because it is able to give greater effectiveness and substance to the identification of risk situations and to the identification of corrective measures (and remedial ones, where applicable) and to directly feed monitoring[32]. As mentioned above, only 7 companies (14% of the overall monitoring) report information on the use of stakeholder engagement in the due diligence process, understood here as also including the supply chain; on a like-for-like basis, there are no substantial changes compared to last year's monitoring[33]. Among the companies that mentioned stakeholder engagement, the majority (71%) resort to it in the assessment phase, and only in two other cases also in the identification of risk areas preliminary to the assessment and in the definition of remedy plans.

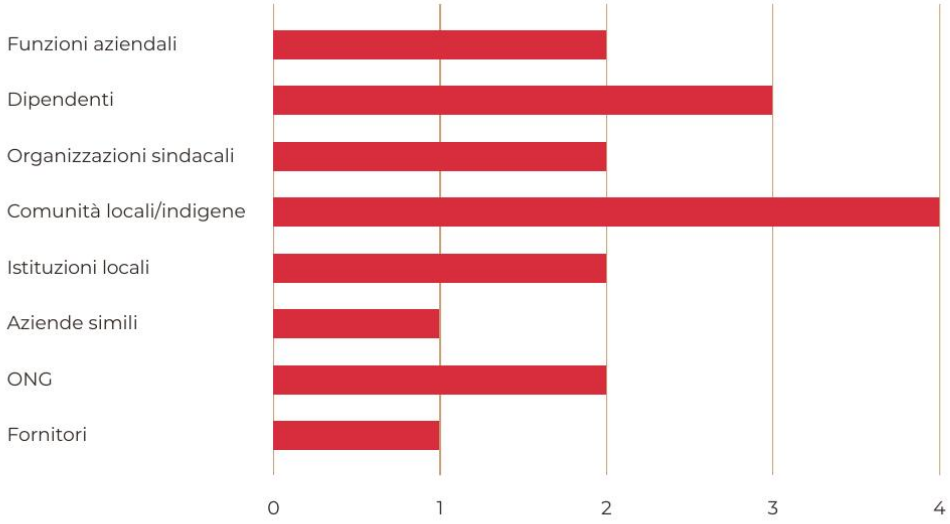
As for the categories of stakeholders involved, those relating to indigenous communities and to local communities and institutions stand out (Chart 7) – evidently connected to due-diligence exercises carried out locally, at individual production sites – followed by employees and trade unions and NGOs. The marginal citation of suppliers is probably attributable, as already argued in relation to other aspects of the supply-chain due diligence process, to the absorption of this theme into the ordinary management of suppliers and into the reporting relating to it.

[32]On the relevance of stakeholder engagement, see the contribution by Greta Barbone in last year's edition of the OIIDU report: G. Barbone, "Il coinvolgimento degli stakeholders: uno strumento fondamentale per attuare il dovere di diligenza delle imprese ai fini della sostenibilità", in OIIDU, "Imprese e diritti umani. Una fotografia italiana", Avanzi, 2023.

[33]Last year the monitoring identified 5 cases of detailed information on stakeholder engagement; on a like-for-like basis, this year the cases are 6.

Chart 7 – Stakeholders involved in the due diligence process

Number of citations; number of cases: 7



[Chart image from the original Italian PDF. English data table below.]

Stakeholder	Citations
Local/indigenous communities	4
Employees	3
NGOs	2
Local institutions	2
Trade unions	2
Corporate functions	2
Suppliers	1
Similar companies	1

05.5 SUPPLY CHAIN

96% of the companies monitored report at least some information on the supply chain, generally aimed as a matter of course at illustrating how supplier management is consistent with the company's operational and strategic objectives, for example through careful selection that often takes the form of qualification. Selection entails reference to screening criteria, which traditionally concern the suppliers' ability to respond to the customer's needs in terms of quality and timeliness of supplies, operational reliability and financial soundness. On this structure sustainability criteria have been grafted over time, more or less stringent, which concern the suppliers' attention to social (treatment of employees) and environmental aspects, also in terms of consistency with the policies adopted by the client company. On the social front, some criteria derive from regulations – for example compliance with contribution obligations – and are part of normal documentary-verification practice, others concern non-mandatory aspects, but still

verifiable from documents (e.g. possession of certifications), and still others – such as verifying the actual conduct of the supplier – require inspections at production sites or worksites.

Even though responsible supply-chain management is among the material topics for 84% of the companies, the depth of the information provided on the consideration of ESG factors in the management of suppliers and purchasing is highly variable: it is not always sufficient to understand how far management goes beyond the formal level (request for documents, inclusion of contractual clauses) and how far such factors are actually influential; this holds a fortiori with specific reference to human rights. To outline as complete a response as possible to the question on the consideration of human rights in the supply chain by the companies monitored, this section will therefore take account not only of cases of due diligence on human rights in the supply chain, but also of all the information relating to the presence of the 'S' factor in the management of suppliers.

Due diligence on the supply chain

The most directly relevant information is that on the due diligence conducted on suppliers. Only 32% of the companies mention the existence of a due diligence process – relating to human rights – applied to suppliers, which for 16% is a process integrated into ordinary supplier management, while for the other 16% it is a standalone process, sometimes to be integrated once an experimental and settling-in phase has been completed. It is possible that the integrated processes are not dissimilar to others implemented by companies that do not mention due diligence. However, explicitly referring to a due diligence process on human rights testifies to a greater degree of awareness. Furthermore, most of these companies (26% of the total companies monitored) also account for some details of the due diligence process: the selection of suppliers to be subject to assessment, the risk activities that have emerged, the corrective measures adopted.

The segmentation of the supplier base to identify which ones are to be subject to assessment is a first step in due diligence and is important because the companies monitored often have a large number of suppliers: 39% have more than 5,000 employees[34] (Table 5). In the successive drafts of the CS3D, due diligence has been characterised as a risk-based process, so that the determination of assessment priorities linked to risk factors is not only operationally necessary, but is also permitted and recognised. The most frequently mentioned supplier-selection criteria are, in order, the following:

- – Belonging to sectors that are critical from an ESG perspective;
- – Belonging to the segment of relevant/core/critical suppliers for the business;
- – ESG rating below a critical threshold;
- – Location in high-risk countries;
- – Application of conflict-minerals regulations;
- – Time elapsed since the last assessment.

The assessment phase enables the company to identify the areas most at risk of human rights violations, in which it is necessary to maintain a high level of attention, for example with monitoring activities or repeating the assessment, or to introduce mitigation measures. Companies report the assessment results in two ways: one quantitative – for example, the percentage of suppliers requiring an improvement plan – the other showing risk themes, such as

[34]The number of suppliers disclosed is sometimes lower than the total because it is limited to certain categories relevant for the company, for example the suppliers of certain raw materials, or those based in Italy, or the qualified ones.

conflict minerals, forced and child labour or freedom of association in specific areas, sub-supplies, and the determination of a living wage.

With regard to the risk areas, the corrective measures most frequently undertaken are:

- – Corrective plans for suppliers;
- – Intensification of audits and controls;
- – Definition of Supplier Codes of Conduct and contractual clauses;
- – Meetings with and training for suppliers;
- – Strengthening of buyers' skills.

Other information on the supply chain

In addition to the information provided by the companies that cite due diligence on suppliers, that – more numerous – included in the reports in relation to the supply chain also allows some light to be shed on how attention to human rights is translated into the relationship with suppliers. To this end, it is useful to distinguish, within supplier management, the aspects relating to selection and qualification, to the contractual phase and to the presence of penalties and incentives (Table 6).

92% of the companies monitored state that they consider social aspects in the selection and qualification phase of suppliers. The most frequently cited practice is the presence of social requirements for access to, or maintenance of, qualification or of the vendor list[35] (62%). While confirming what has already been said about the possibility that such requirements are sometimes limited, for example, to compliance with contribution obligations, other management practices come into play in support, in a more limited number of cases. To verify the possession of the requirements, or to assess the suppliers' attention to the topic, 50% of the companies use questionnaires, which are normally filled in voluntarily by the suppliers themselves – a practice much more widespread than the use of third-party rating agencies (12%) – as well as internal or third-party audit actions (42%). These in-depth actions may concern the entire supplier base, but often come into play only downstream of a risk-based segmentation of suppliers (38%), which is also practised by companies other than those already discussed in relation to due diligence. A supplier's rating below the average does not necessarily prevent access to qualification, as it may also constitute a mere stimulus for improvement; in some cases (4%) qualification is subject to a full improvement plan.

Finally, it should be noted that in several cases the qualification process that integrates social aspects – and ESG aspects in general – is still in the launch phase, applying gradually, for example starting with specific product categories, with the objective of covering the entire supplier base or its critical subsets within a few years.

94% of companies include in contractual documents with suppliers a clause requiring conduct in line with the company's Code of Ethics or Supplier Code of Conduct. This contractual provision, essentially universal, is – of all the management practices considered – by far the most widespread. It risks, however, having no great effect if not accompanied by checks and controls on actual conduct and by consequences in the event of non-compliance. In this regard, 54% of the companies provide for the use of audits during the contract, while the consequences of any non-compliance seem more oriented towards obtaining improvement (46%) than towards penalisation (impact on vendor rating 28%, contractual sanctions 18%), with suspension or

[35]The percentages that follow are calculated on the total number of companies monitored.

revocation of the qualification being provided for by 60% of the companies but explicitly reserved for particularly serious non-compliance.

On the other hand, the companies monitored do not seem inclined to incentivise their suppliers towards sustainability: only 20% introduce rewarding factors on ESG aspects in tenders, a figure that falls to 6% if the rewarding concerns social aspects. With the same frequency (6%) one finds the presence of facilitations for suppliers' participation in programmes to develop their skills in the ESG area.

Finally, 38% of the companies indicate their participation in multi-stakeholder initiatives relating to the supply chain. Among these, prevalent is membership in initiatives in which the companies share an interest in the supply of particular raw materials – such as the Responsible Minerals Initiative and others relating to aluminium, mica and rubber – or in the same sector (automotive, railway, construction). Other initiatives centred on individual topics (e.g. fair wage) or aimed at sharing supplier ratings or supply-chain audit actions follow.

Table 5 – Distribution of companies by number of suppliers

% values; number of cases: 28

Number of suppliers	%
From a few hundred to 1,000	21
Over 1,000 up to 5,000	40
Over 5,000 up to 10,000	18
Over 10,000	21

Table 6 – Human rights in the management of the supply chain

% of companies that declare they adopt the management practice; number of cases: 50

Practice	%
Selection, qualification and management of the supplier base	
Social requirements for access to and/or maintenance of qualification or vendor list	62
Use of (self) assessment questionnaires	50
Use of internal or third-party audits	42
Risk-based segmentation of suppliers	38
Use of third-party ratings	12
Definition of improvement plans/actions	4
Contractual aspects	
Clauses requiring respect for the Code of Ethics and/or other policies	94
Use of audits	54
Performance evaluation (vendor rating) on social aspects	28
Penalties for non-conformity and non-compliance	

Practice	%
Suspension/revocation of qualification; termination of commercial relations	60
Mandatory improvement actions	46
Contractual penalties	18
Incentives	
Rewards for ESG factors in tenders	20
– Of which for 'S' factors	6

05.6 GRIEVANCE MECHANISMS, CORRECTIVE MEASURES AND REMEDIES

The existence of a grievance mechanism – that is, one or more channels for reporting alleged or actual human rights violations – is considered by the Guiding Principles an essential element of access to remedy and of a company's responsibility for respect for human rights. As in the case of stakeholder engagement, this is primarily about ensuring that anyone who suffers an adverse impact can have their voice heard, so that the case is considered and a response can be obtained and – in the presence of actual violation or risk of violation – the enterprise starts corrective or remedy initiatives. From the enterprise's point of view, the reporting mechanism is an important source of direct information that makes it possible to anticipate or contain potential problems, also in terms of risks (e.g. reputational) for the enterprise itself.

In the Italian context, the reference to reporting channels almost automatically triggers a reference to whistleblowing, a system provided for by law, usually accessible both inside the enterprise and to external stakeholders, for reporting to the enterprise itself conduct – by its representatives – that violates legal rules or the Code of Ethics. The system essentially responds to general-interest purposes linked to the correctness of the enterprises' conduct and, in this sense, primarily constitutes a tool to safeguard corporate integrity.

All the companies monitored have a whistleblowing system, which – in the majority of cases (76%) – functions tout court also as a reporting channel for human rights: quite simply, the companies state that the channel also lends itself to receiving reports on human rights. A minority (9%) of the companies, on the other hand, state that they have adapted (modified, supplemented) their whistleblowing system to receive human rights reports as well.

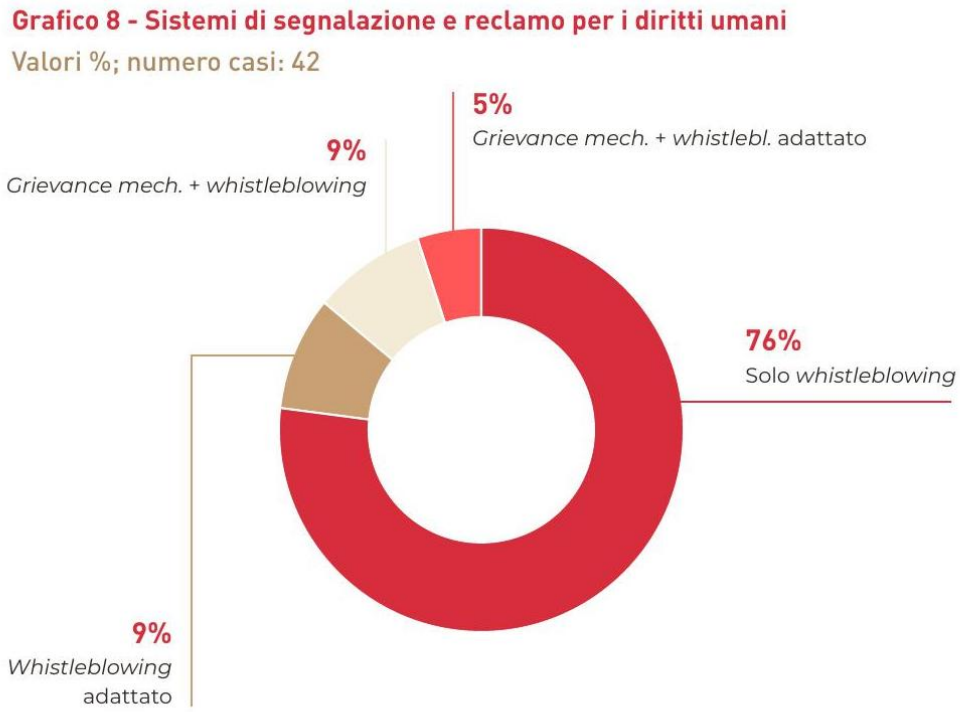
The presence of a proper dedicated grievance mechanism is found in only 14% of the companies monitored (Chart 8), including some that have also adapted their whistleblowing. Typically, in these cases the grievance mechanism has local features and is linked to a production site (operational-level grievance mechanism) located outside Italy. These are activities (worksites or large facilities) and a social context (indigenous populations, need for physical relocation, presence of migrant labour) that require a particular management of the risk of violation and care in ensuring an easy accessibility of the reporting mechanism, suited to the context: in fact, in these situations the grievance mechanism often acts as an activator of a dialogue for the concerted solution of problems that also concern a few people from the local community.

The use of whistleblowing as a grievance mechanism, currently the most widespread solution, raises some reservations, linked to the fact that the former is primarily characterised as a reporting system, in which the reporter does not necessarily have a direct personal interest in

defending one of his or her own rights, while the latter is above all a complaint system, activated to obtain the interruption of a violation affecting the reporter or compensation for a violation they believe they have suffered. The distinction is, however, not clear-cut and the two systems have significant traits in common, such as the protection of the reporter against possible retaliation, subject to the more local nature of operational-level grievance mechanisms.

Chart 8 – Reporting and grievance systems for human rights

% values; number of cases: 42



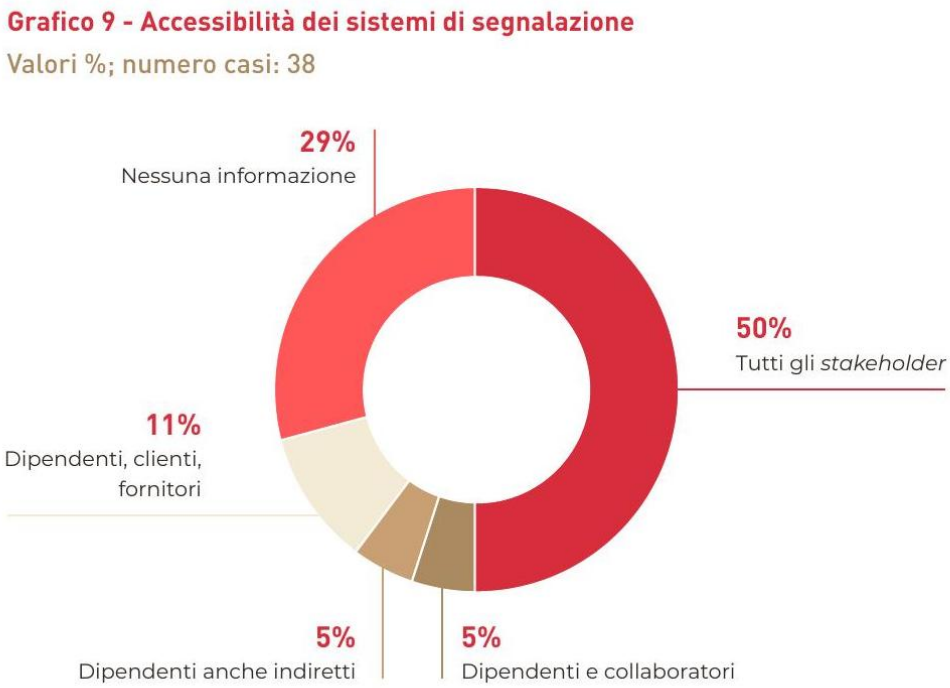
[Chart image from the original Italian PDF. English data table below.]

Type of system	%
Whistleblowing only	76%
Adapted whistleblowing	9%
Grievance mech. + whistleblowing	9%
Grievance mech. + adapted whistleblowing	5%

Some further doubts about the adequacy of whistleblowing arise from a consideration of who is entitled to submit reports (Chart 9): while in half of the companies the channel is accessible to all stakeholders, in 21% of cases its use is in some way limited – respectively: only to employees, also to employees of suppliers, or to the trio employees, customers and suppliers – and in 29% of cases no information is provided on the point. For a more in-depth examination of the use of whistleblowing in the function of grievance mechanism and of the compliance of this choice with international recommendations, please refer to the contribution by Emiliano Giovine and Letizia Catalano in this same Report.

Chart 9 – Accessibility of reporting systems

% values; number of cases: 38



[Chart image from the original Italian PDF. English data table below.]

Accessible to	**%**
All stakeholders	50%
Employees and collaborators	5%
Employees including indirect	5%
Employees, customers, suppliers	11%
No information	29%

The reports received through whistleblowing channels may concern different areas, many of which are not related to the human rights topic. Selecting, among the companies that have a whistleblowing system, those that provide useful information on the human rights topic (62%), we find that:

- 35% of these companies have not received any report (or none ascertained as significant) relating to human rights;
- the others have also received reports concerning human rights, with the following frequency (calculated on the total of the 17 companies that give evidence of them):
  - discrimination **71%**

- sexual harassment and inappropriate conduct **53%**
- health and safety **41%**
- workers' rights **24%**
- corruption **24%**
- community rights **12%**
- other (e.g. employee treatment) **35%**

The number of reports received – on all topics, also outside human rights – is highly variable: from no reports to more than a thousand during 2022. In the few cases for which the information is disclosed, the percentage of reports found to be substantiated after investigation varies from zero to 56%. Even in cases where information is disclosed on the outcomes of the investigations relating to the reports (whether substantiated and the corrective measures taken), no detail is generally available that would allow the confirmation rate of the reports in specific areas (e.g. discrimination) and the subsequent measures to be assessed. However, it emerges that – in the presence of ascertained violations – the measures adopted can also be severe and dismissal is not infrequent[36].

Reports thus confirm their status as an important source enabling the enterprise to identify critical situations and remedy them, both with measures aimed at the persons involved and with improvements in internal rules and procedures. However, in the framework of a properly structured due diligence, reports should be only one of the sources for the search for potential violations: in the same direction should also go the actions included in the *assessment* and *monitoring* phases, to be carried out, for example, through internal audit activities.

Eight companies – less than half of those that assert the existence of a *due diligence* process – have published information relating to cases of actual violation of internal rules connected with human rights, brought to light by corporate verification activities. However, such information is very brief and only in a few cases allows the area where problems were encountered to be identified (e.g. payment of overtime by suppliers, harassment and discrimination in specific production sites, hiring of a minor) and the type of corrective measure taken (reinforcement of procedures, monitoring, training); on this point, see also what has already been illustrated in the section on the *due diligence* process, as regards mitigation measures.

Only two companies illustrate in detail some cases in which, starting from complaints submitted through the *grievance mechanism*, remedy measures – also of a compensatory nature – were identified through dialogue with local *stakeholders*, relating to interference between company activities and local communities.

05.7 HUMAN RESOURCES AND HUMAN RIGHTS

In the opening section, we saw how many companies flag, among the topics considered material, certain specific aspects attributable to labour rights in the context of their human resources management. It is therefore interesting to verify whether, on these aspects, the definition of internal policies and of initiatives aimed at giving substance to their objectives is widespread.

Considering the wide range of aspects of employment-relationship management that human resources policies can address – including occupational health and safety, training and welfare – it was chosen to concentrate attention on those areas most frequently cited also in human

[36]Significant are the figures found in two of the reports examined: in the first, 329 reports, of which 168 substantiated, which resulted in 77 dismissals, 59 disciplinary actions and 28 training, coaching or policy-review actions; in the second, 81 reports, of which 27 substantiated with 5 dismissals and other disciplinary or training actions. It should be underlined that it is not possible to know which reports concerned human rights.

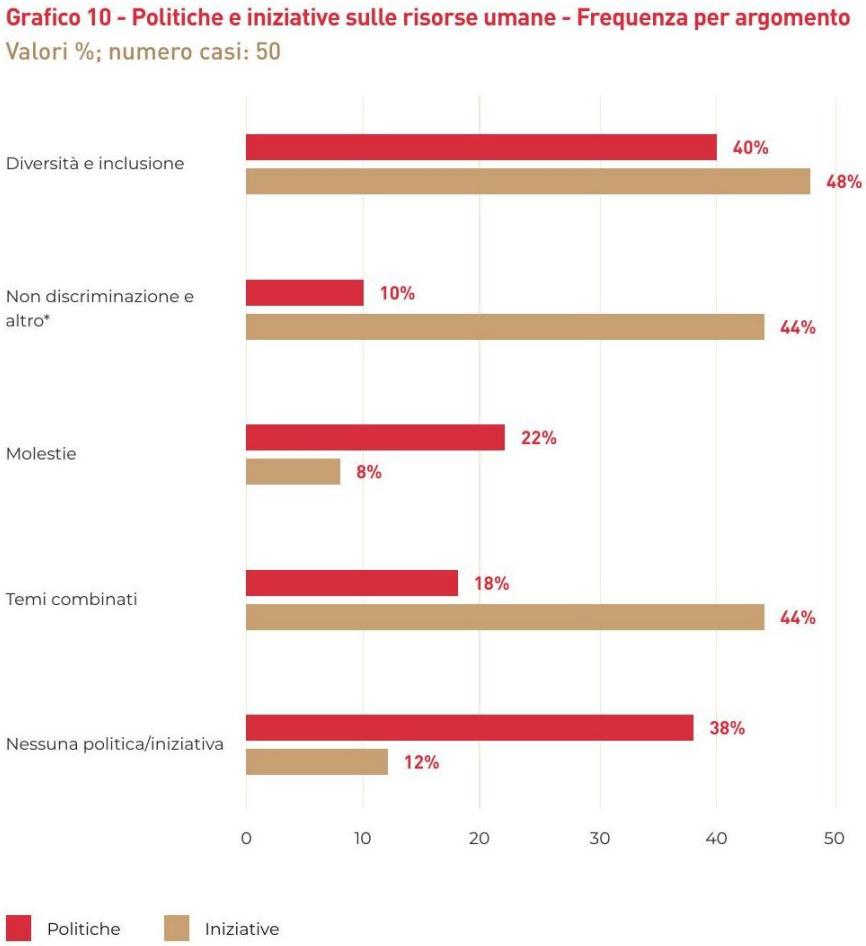
rights policies and Codes of Ethics, net of health and safety, an area that is heavily regulated and therefore characterised by compliance requirements: diversity and inclusion, non-discrimination and equal opportunities, equity and gender parity, and harassment and psychological/physical violence.

Apart from the last, which relates to human dignity, these are topics between which it is difficult to draw a precise boundary; nevertheless, without pretensions to strict definition, some demarcation lines and possible connections with certain initiatives can be indicated. Promoting diversity means respecting differences between people and valuing them, looking at the composition of the workforce and also at aspects of representation; inclusion is the active side of the same topic, which goes beyond respect and implies working so that people – including the weakest – feel at ease regardless of their characteristics. Making the reference to equal opportunities effective can be seen as a basic element of inclusion, but it is frequently associated with non-discrimination, with the implementation of a principle of equality that extends to the removal of the barriers and circumstances that create a disadvantage for certain categories. Equity means adopting treatments (for example salary and career treatments) based on homogeneous criteria, as specified in the case of the reference to gender parity (gender gap, gender pay gap).

Regardless of the interactions and the nuances of meaning adopted by individual companies, it is nevertheless possible to classify the policies on the basis of their designation. What emerges (Chart 10) is a picture in which diversity and inclusion policies are present in 40% of the companies, those on non-discrimination and equal opportunities in only one case, those on equity and gender parity in 8% of the cases and those on harassment in 22% of the cases. 18% of the companies have adopted policies that combine two or more of the topics mentioned. Of these results the datum on non-discrimination stands out: the scarcity of formalised commitments could be due to the absorption of the topic into other policies, or to the existence of well-established procedures. However, one should recall that episodes of discrimination constitute the case of highest frequency among those reported through whistleblowing channels.

Chart 10 – Human resources policies and initiatives – Frequency by topic

% values; number of cases: 50



[Chart image from the original Italian PDF. English data table below.]

Topic	Policies	Initiatives
Diversity and inclusion	40%	48%
Non-discrimination and other *	10%	44%
Harassment	22%	8%
Combined topics	18%	44%
No policy / initiative	38%	12%

* Other: equal opportunities, equity, gender parity

Overall, 62% of the companies monitored have adopted a policy on at least one of the areas considered. If the observation is restricted to the (36) companies that flag specific human rights linked to work in their materiality analyses, the presence of at least one policy characterises two thirds (67%) of the total (71% when the companies cite as material only these specific rights).

As for the initiatives launched by the companies in the selected areas, they turn out to be generally more frequent than policies: 88% of the companies monitored flag at least one. The most widespread (48%) are those relating to diversity and inclusion, among which we find for

example: the identification of a dedicated organisational unit or the assignment of a specific responsibility (D&I Officer), the establishment of an advisory council, membership of external initiatives or programmes to promote the female component of human resources, and obtaining ISO 30415 certification. On the topic of non-discrimination there are awareness-raising initiatives, for example on the presence of unconscious bias in conduct, or on the valorisation of SMEs in the procurement area. The objective of gender parity is pursued by developing gender pay-gap analyses and defining female targets in hiring, promotions and succession plans. On the topic of harassment, there are both training initiatives and access to support for victims of harassment.

05.8 TRAINING ON HUMAN RIGHTS

Training on human rights is an important form of dissemination of a management and working culture that is attentive to the topic in its reflections on the workplace, in relations with colleagues and in the relationship with stakeholders. It is no coincidence that both the mitigation plans following the assessment phase of due diligence and the measures taken in response to ascertained violations of internal rules (Code of Ethics, human rights policy, etc.) often take the form of training programmes. Furthermore, awareness-raising on certain topics such as diversity and gender parity constitutes a fundamental support for the modification of established conduct that conflicts with the corporate guidelines.

62% of the companies monitored have implemented training initiatives that address in various ways the issue of the relationship between business and human rights (Table 7). The most frequent (40%) concern the dissemination of the contents of the Code of Ethics, which are normally aimed at involving the entire corporate population through rotating programmes. However, the topic of human rights is only one of those addressed by Codes of Ethics, and not necessarily among the most relevant. It is therefore significant that only in 18% of the cases is the training on the Code of Ethics the only training programme that touches on the topic of human rights, and that instead in 44% of the companies monitored (57% in the FTSE MIB) there are training initiatives focused on human rights, sometimes still accompanied by the dissemination of the contents of the Code of Ethics.

The training initiatives dedicated to human rights are essentially of two types:

- programmes centred on human rights, or on some of them, with a broad-spectrum target although often more targeted than the training campaigns on the Code of Ethics: examples are awareness-raising programmes on human rights in general or specific programmes on diversity and inclusion – the single most widely addressed topic – which generally aim to create common ground among managers and/or among other employees on fundamental principles, or others dedicated instead to increasing employees' awareness of rights, also as a form of self-protection (in Table 7: general training on human rights);
- courses aimed at specific corporate segments directly invested with responsibilities that require the ability to correctly and effectively address respect for human rights in their respective areas of competence: this is the case, for example, of personnel in charge of security or purchasing, or present at a particular production site (in Table 7: specific training on human rights).

26% of the companies organise at least one initiative in one of the two areas, while 18% provide activities on both fronts (32% and 25% respectively in FTSE MIB companies; 18% and 9% in the others).

While it is not easy to assess the adequacy of the quantity, and even more so the effectiveness, of training on human rights, comparison on a like-for-like perimeter with the companies already monitored last year highlights a significant increase in training activities in all the areas mentioned. While the sharp increase in training on Code of Ethics topics could be influenced by the time profile of dissemination campaigns, which are not necessarily present every year, the increase from 29% to 54% of training initiatives specifically dedicated to human rights seems to signal a clear step-change in corporate interest.

Table 7 – Employee training on human rights

% values; number of cases: 50 (28 for comparison with 2022 monitoring)

	2023 monitoring	Like-for-like comparison	
		2022	2023
Code of Ethics only	18	4	25
Human rights	44	29	54
– General or specific	26		
– General and specific	18		
No initiative	38	67	21

05.9 CONCLUDING OBSERVATIONS

The synthesis of the monitoring condenses into two contrasting impressions: the first, relating to the underlying dynamics of corporate commitment to human rights, points to – albeit modest – progress; the second, on the other hand, depicts a situation that to date is still far from the indications of the UN Guiding Principles, the main international reference on the subject.

The attention of the companies monitored to human rights is developing positively. Over the last three years, a growing share of companies has picked up the topic of human rights among those considered material for reporting purposes: in the reports published in 2023, 25 companies (50% of the total) indicated human rights, in general, as a material aspect: they were 17 according to the reports of the same companies in 2020. The glass, today, is literally half full and half empty, but the dynamic comparison tells us that it is gradually filling up.

Beyond materiality, its translation into management measures also marks some progress: on a like-for-like basis of companies monitored, the comparison with last year highlights a greater diffusion of several qualifying features and practices. There is a greater presence of human rights policies (+7% in relation to the total sample of 28 companies present in both years), due diligence on own activities (+11%), training on human rights (+11%), various aspects of supply-chain management (risk-based supplier segmentation +7%, use of audits in the qualification phase +7%, recourse to improvement plans as a corrective measure in the event of non-conformity +29%), and transparency on reports received (+4%).

However, the state of the art as it emerges from the reports published in 2023 shows, despite the progress mentioned, significant gaps. Looking at the overall set of companies monitored, one observes that a solid majority (60%) has adopted a human rights policy, but that only about one third has developed due diligence – the core of a structured approach to human rights – on its own activities and the same number on the supply chain. Compared with this picture, the composition of the companies monitored has no particular influence: only in the adoption of human rights policies do FTSE MIB companies record a significantly greater diffusion (82%) than in the other companies (33% for other listed companies, 30% for unlisted ones).

If observation is restricted to the companies that consider human rights material (Table 8), the presence of policies and of due diligence increases in percentage terms somewhat (68% for policies and about 40% for due diligence), but not enough to be considered satisfactory, precisely because of the materiality of the topic which, moreover – if referred to the supply chain – concerns 84% of the companies. Cross-referencing the data, only 26% of the companies monitored consider the topic of human rights as material, have adopted a policy and have set up some form of due diligence.

The distance between the actual situation and the ideal approach set out by the UN Guiding Principles is even more marked when one considers that stakeholder engagement – which should accompany all the relevant phases of due diligence – is cited by only 14% of the companies monitored (a fraction of those that report some form of due diligence), and that in the majority of companies the whistleblowing system, without any adaptation, serves as a substitute for the grievance mechanism, sometimes with the exclusion of external stakeholders from the possibility of reporting and with a loss of informational reach for the companies themselves. Furthermore, only two companies illustrate in detail some remedy measures adopted following complaints, raising questions about companies' preparedness to define guidelines for remedy mechanisms.

With regard to suppliers, recalling that 84% of the companies consider responsible/sustainable supply-chain management material, one may ask whether the datum on the limited presence of due diligence should be integrated and partly corrected by considering the greater diffusion of certain purchasing-management practices which – although not presented as due diligence – approximate an assessment process that includes human rights (consideration of social aspects in the qualification process: 62%; use of self-assessment questionnaires: 50%) and introduce respect for human rights into the contractual relationship (contractual clauses requiring respect for the Supplier Code or similar: 90%). It cannot be ignored, however, that the most widespread measures may be of limited effectiveness, since they could translate into documentary checks with no particular effects. In particular, the introduction of contractual clauses may amount to an attempt to shield the company from a reputational risk, rather than shape a stimulus – still less a support – for the supplier towards respecting human rights.

Another consideration is that, in materiality assessments, 72% of the companies – a share significantly higher than those (50%) which indicate human rights in general as material – identify as material certain specific rights attributable to their employees (e.g. non-discrimination, respect for and valorisation of diversity). This confirms an interpretation, already hinted at last year, whereby Italian companies seem to segment the topic into two subsets: on the one hand, own activities carried out in Italy, where fundamental rights (rejection of forced and child labour, freedom of association, etc.) are considered guaranteed and the commitment should be oriented towards diversity and inclusion, training and well-being; on the other, suppliers, where instead – especially abroad – the risk of violation of even fundamental rights may nest.

In effect, one observes (Table 8) that, given the relevance attributed to these aspects, two thirds of the companies have adopted policies on diversity and inclusion, training, and employee well-being. This – however not universal – consistency of conduct remains, however, far from the

approach suggested by the UN Guiding Principles, since it is not supported – at least on the basis of what has been disclosed – by adequate processes of risk-of-violation assessment, stakeholder engagement, and definition of corrective mechanisms.

Finally, one cannot overlook the fact that the exemption of Italian activities from the risk of human rights violations, however justified by objective differences in the severity of the rules applicable compared to other countries and in the degree of control over their application, does not correspond to a precautionary principle that would require the actual mitigation of risks of violation to be assessed, if only to confirm the starting assumption; it should be underlined, in this sense, that an important part of the reports collected through the whistleblowing/grievance systems concern aspects of discrimination and sexual harassment, from which domestic operations are not immune. Similar considerations apply to the cases – numerically few but significant from the point of view of the cultural approach – of companies that do not consider it necessary to carry out a supply-chain assessment because they trust domestic suppliers with whom they have long-standing relationships.

It is very likely that the growth in materiality and the positive dynamics of certain management aspects, mentioned at the beginning of this section, have been influenced by the ignition of the debate on two European directives of particular impact, the Corporate Sustainability Reporting Directive and the (proposed) Corporate Sustainability Due Diligence Directive, which impose on companies – among other things – particular attention to impacts on human rights. It is therefore expected that, with the gradual implementation of the obligations arising from them, an ever-broader audience of companies will recognise their relevance, and today's still largely unstructured approaches will consolidate.

Table 8 – Materiality of human rights and related governance systems

% values, with 100 = the number of cases (50 companies monitored)

	Monitored	**Of which, with material topic**		
		HR in general	**HR of employees**	**Supply chain**
Companies	**100**	**50**	**72**	**84**
Of which:				
– with HR policies	60	34		
– with HR (human resources) policies	62		48	
– with due diligence on own operations	30	18		
– with due diligence on supply chain	32	22		32

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