

## Beyond tick-box compliance: The procedural-substantive gap in human rights due diligence

**Izabela Jędrzejowska-Schiffauer \***

*Faculty of Law and Administration, Adam Mickiewicz University,  
Poznań, Poland*

*izabela.schiffauer@amu.edu.pl*

*ORCID 0000-0002-2189-5144*

*\* Corresponding author*

**Jarl K. Kampen**

*Biometris, Wageningen University and Research Centre,  
The Netherlands*

*jarl.kampen@wur.nl*

*ORCID 0000-0002-2213-4777*

**Łukasz Szoszkiewicz**

*Faculty of Law and Administration, Adam Mickiewicz University,  
Poznań, Poland*

*l.szoszkiewicz@amu.edu.pl*

*ORCID 0000-0001-6671-2893*

**Abstract.** This paper examines the implementation of human rights due diligence (HRDD) by business enterprises, drawing on unique survey data from 120 companies operating in Poland. Applying empirical and normative lenses, we test institutional theory assumptions underlying the UN Guiding Principles on Business and Human Rights (UNGPs). Our findings reveal a troubling disconnect between business performance on procedural and substantive HRDD. While institutional factors such as size, listing status, and UN Global Compact membership predict endorsement of procedural HRDD measures, the latter fail to ensure proportionate responses to human rights and environmental impacts. Moreover, companies in high-risk sectors do not show proportionately higher diligence, suggesting a fundamental misalignment between UNGPs framework and organizational practice. By integrating procedural and substantive dimensions of HRDD, we challenge the dominant managerial approaches to HRDD and expose how they create a false sense of compliance, while failing to address the underlying social and governance problems.

**Received:**

August, 2025

**1st Revision:**

April, 2026

**Accepted:**

June, 2026

DOI:

10.14254/2071-  
8330.2026/19-2/1

**Keywords:** human rights due diligence, Poland, UN Guiding Principles on Business and Human Rights, proportionality, corporate governance

**JEL Classification:** D01, D22, K31, K32, K38

## 1. INTRODUCTION

The growing uptake of the concept of Human Rights Due Diligence (HRDD) in regulatory policies at national, EU (most notably the Corporate Sustainability Due Diligence Directive, CSDDD 2024, 2026) and international levels has sparked an increasing number of empirical studies aimed at investigating and measuring its various aspects. These studies are most often based on the procedure-oriented framework established by the UN Guiding Principles on Business and Human Rights (UNGPs 2011), which provides certain comparability across the studies (OHCHR/Working Group on Business and Human Rights, 2024). Some elements relevant to the HRDD perspective are also covered by empirical studies of corporate social responsibility (CSR), a predecessor of HRDD (Jędrzejowska-Schiffauer et al. 2023), criticized for its failures (Wettstein, 2020: 23-24; Ramasastry, 2015) to foster sustainable development (Lindsay et al., 2013; Barbier & Burgess 2017; Jimenez, Franco & Smith, 2021) and finance (Streimikiene et al. 2024; Carè & Weber 2023). For this reason, the results of studies conducted by representatives of disciplines such as public policy, management, economy, or sustainable development remain an important and often the only point of reference for research aimed at empirically evaluating the conduct of HRDD or, at a minimum, corporate preparedness for its conduct, in a given jurisdiction or sector. Our survey-based approach complements the growing body of empirical research in this field, integrating empirical and normative perspectives to investigate HRDD based on a representative sample of 120 businesses of various sizes, which are operating in Poland. More specifically, we test whether HRDD practices by business enterprises reflect institutional theory assumptions underlying the UN Guiding Principles on Business and Human Rights (UNGPs) as the key business and human rights framework. To that end, we consider the interplay between procedure and substance in HRDD, an aspect that has to date gained only limited attention in the business and human rights scholarship (Schilling-Vacaflor & Gustafsson, 2024; Bilchitz, 2022; McCorquodale and Nolan, 2021). While prior research has focused on procedural compliance with HRDD, our study examines the disconnect between procedural and substantive implementation, revealing inherent weaknesses of the UNGPs framework.

Surveying businesses for their HRDD practice offers several benefits as well as limitations. The primary advantage, which motivated the authors of this study, was to collect structured and representative data for selected sectors and, thus, to generate evidence-based insights into the broader landscape of HRDD adherence. As demonstrated by the practice of conducting surveys on global enterprises (McCorquodale et al., 2017), businesses operating in the EU (Smit et al., 2020), and Japan (Ministry of Economy, Trade and Industry, 2021), the results can be considered representative either in relation to the largest companies or to selected sectors (World Banking Alliance, 2023). The underrepresentation of small and medium-sized enterprises (SMEs) results in significantly weaker evidence regarding this group, although their population is prevalent, be it in the domestic or global economy. Similarly, certain sectors are overrepresented in studies (e.g., manufacturing, IT and technology, extractives) either due to convenience sampling (McCorquodale et al., 2017), the assumption of higher risk of violations in these sectors, or in relation to the introduction of sector-specific regulations (Kolev-Schaefer & Neligan, 2020). This study aims to address these gaps and deliver findings which are representative for six selected sectors of the Polish economy (assessed either as high or medium risk sectors based on the available data). Additionally, we analyze differences in the declared

HRDD performance by businesses of various sizes and examine the extent to which enterprises of high-risk sectors show proportionately higher vigilance, as expected under the UNGPs framework.

While we strived to empirically evaluate HRDD performance, it is crucial to acknowledge the limitations of surveying businesses for HRDD conduct and/or preparedness. First and foremost, surveys primarily rely on self-reported data from businesses, which may not always reflect the actual practices on the ground (Smit et al., 2020). Companies may have an incentive to present themselves in a favorable light, potentially leading to social desirability bias. Moreover, surveys may not capture the nuances of HRDD implementation, as they typically rely on standardized questions and response options, potentially missing context-specific details. One of such salient details that is central to our study is the question of whether, and if yes, to what extent the procedural steps under HRDD have the potential to foster the substantive standard of harm prevention and mitigation.

When seeking to address the limitations of the adopted approach, it is beneficial to examine how survey findings align with results obtained through alternative research methods. Researchers utilize the whole spectrum of methods, in particular content analysis of publicly available information (e.g., annual/sustainability reports; Al-Shaer et al., 2025; Cahaya and Hervina, 2019; Hamann et al., 2009; Issarawornrawanich and Wuttichindanon, 2018; Plečaš et al., 2025), qualitative interviews with representatives of companies (Shabrokh and Rodriguez, 2023) and other stakeholders (e.g., NGOs), as well as surveys conducted among representatives of groups exposed to violations of the law (Kwakyewah, 2019; Mishchuk et al., 2021). Frequently, studies combine various methods to produce more nuanced findings.

In this study, our aim was to provide a representative sample that encompasses businesses of various sizes and to facilitate comparison between large corporations and SMEs. Additionally, we sought to examine selected sectors that we identified as high-risk and medium-risk in terms of actual or potential human rights and environmental harm. We were aware that by employing a survey questionnaire as our primary research tool, we would elicit a perspective which, in some instances, may paint a more favorable picture for businesses. The complementary qualitative lens we adopted to spot inconsistencies in single response records has not ruled out such possible bias. Despite its inherent shortcomings, the adopted approach allows us to establish a baseline for further studies, track progress over time, and identify areas where HRDD mainstreaming should be prioritized. In this context, it should be perceived as a step towards developing “measurable and transparent indicators to assess their (UNGPs) effective implementation,” which was recommended by the UN Working Group on the issue of human rights and transnational corporations and other business enterprises (UN General Assembly, 2012). In our study, such HRDD indicators integrate due diligence not only as an obligation of means (process-oriented), but also as a substantive obligation of result, which, although not absolute, involves duties of harm prevention and mitigation. This approach is dictated by the need to ensure the proportionality of regulatory policy. The latter notably requires that procedural HRDD obligations (which limit economic actors’ freedom of activity) be imposed on companies only when they serve the promotion of substantive human rights, labour and environmental standards.

This study makes three key theoretical and methodological contributions to the business and human rights literature. First, it provides empirical evidence of a systematic procedure-substance gap in HRDD implementation, revealing that institutional pressures drive procedural adoption without ensuring substantive outcomes. Second, it challenges the foundational assumptions of the UNGPs framework by demonstrating that proportionality principles are not reflected in actual corporate practice. Third, it offers a novel measurement approach that integrates normative and empirical perspectives, providing policymakers with tools to distinguish between merely formal compliance and genuine harm prevention and mitigation. These contributions advance both organizational theory and practical understanding of the UNGPs effectiveness in corporate governance.

## 2. PRIOR HRDD RESEARCH

### 2.1. Empirical HRDD research

Several survey-based attempts have been made to investigate Human Rights Due Diligence (HRDD) across various sectors, aiming to sketch the picture of the entire economy at the national or international levels (see *Table 1*). Methodological, sectoral, and geographic differences necessitate careful comparison. Nevertheless, due to their being based primarily on the UNGPs' framework and the quantity of responses gathered, they serve as the most relevant reference point for interpreting our research findings. In the United Kingdom and Germany, survey-based studies were conducted to measure the awareness and attitude of businesses toward national regulations implementing elements of HRDD, namely the UK Bribery Act (Prietropaoli et al., 2020) and Germany's Supply Chain Act (Kolev-Schaefer and Neligan, 2020). Some surveys targeted selected sectors, such as oil and gas (Lindsay et al., 2013), food and agriculture, ICT manufacturing, and automotive manufacturing (World Benchmarking Alliance, 2022). Other relevant sources include reports from the World Benchmarking Alliance (WBA) and selected national studies (e.g., Ireland (Hogan, 2019), Germany (Winistörfer, 2019), Finland (Tran-Nguyen et al., 2021), Denmark (Danish Institute for Human Rights, 2020)), which are based primarily on the content analysis of annual reports. Five iterations of the WBA studies have provided longitudinal data for the period of 2017-2022 with regard to the selected sectors (World Benchmarking Alliance, 2022).

Table 1

Major studies aiming at investigating HRDD performance through survey questionnaires circulated among the representatives of businesses

| Name                   | Year | Target group                                                                                          | n   | Top 3 sectors                                                                                             | Size                                                                                    |
|------------------------|------|-------------------------------------------------------------------------------------------------------|-----|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <b>UK study</b>        | 2015 | Businesses in the database of the BIICL and present in the Norton Rose Fulbright's worldwide contacts | 152 | Extractives (32.2%)<br>Financial services (28.3%);<br>Technology (5.9%)                                   | Multinational (64%)<br>Large national (13.6%)<br>Medium (12.2%)<br>Small (10%)          |
| <b>Economist study</b> | 2015 | Senior corporate executives (global online survey)                                                    | 853 | Financial services (10%)<br>Manufacturing (10%)<br>Professional services (10%)<br>IT and technology (10%) | > US\$5 bn revenue (23%)<br>< US\$500 m revenue (51%)                                   |
| <b>EU study</b>        | 2020 | Businesses operating in the EU                                                                        | 334 | Manufacturing (20.7%)<br>Automotive (12.3%)<br>IT and technology (10.48%)                                 | Multinational (65.9%)<br>Large (13.8%)<br>Medium (9.6%)<br>Small (3.1%)<br>Micro (7.7%) |
| <b>Japanese study</b>  | 2021 | Businesses listed in the I and II Sections of the Tokyo Stock Exchange                                | 760 | Manufacturing (57.4%)<br>Commerce (12.9%)<br>Finance/insurance (11.8%)                                    | Unknown                                                                                 |

Source: own evaluation

Despite this diversity, the insights derived from the above-mentioned studies allow us to outline prevailing trends in implementing HRDD, particularly within multinational corporations. In the following paragraphs, we summarize the key findings relevant for our study, namely: 1) the prevalence of HRDD and the factors influencing its better implementation; 2) the most important legal instruments that companies refer to in their policies; 3) the most commonly taken measures in the field of HRDD; as well as 4) barriers to the implementation of HRDD.

The picture is as scattered as it is disappointing. In the Japanese and UK studies, about half of the companies admitted to either never conducting HRDD or currently not engaging in HRDD (Prietrooli et al., 2020; Ministry of Economy, Trade and Industry, 2021). In the case of the EU-wide survey, this percentage was lower (around 29%), although half of the companies limit HRDD only to specific areas (e.g., labor rights) (Smit et al., 2020). As the survey data are self-reported, they depict an overly positive picture. In the WBA study conducted in 2022, which relied on multiple types of evidence, 36% of companies scored zero on HRDD, and “almost half of all companies assessed still do not meet the requirements for the initial steps of the process” (World Benchmarking Alliance, 2022). In a study using the same methodology but conducted on 22 Irish companies, the average HRDD performance score was 4%, leading the author to conclude that “HRDD is either not occurring, or at least is not being disclosed, within Irish companies included in the sample” (Hogan, 2019).

Despite these findings, a silver lining emerges from the WBA study in 2022: about 60% of companies have improved their HRDD performance in the last five years (World Benchmarking Alliance, 2022). In 2023, 70% of extractive and 69% of apparel companies have improved their score on key human rights indicators (World Benchmarking Alliance, 2023). The data indicate that HRDD processes are better established within large businesses (Smit et al., 2020; Hogan, 2019) with significant discrepancies between sectors (World Benchmarking Alliance, 2022). The authors of the UK study on global enterprises also highlighted that a significant share of companies (72.3%) which do not conduct HRDD, consider human rights as an integral part of other due diligence processes (McCorquodale et al., 2017). Concomitantly, the research findings suggest that without explicitly adopting an HRDD approach a company has a significantly reduced likelihood of detecting adverse human rights impacts compared to when it does (McCorquodale et al., 2017). Similarly, a higher level of HRDD performance is observed in companies that have adopted human rights policies, rather than, for example, CSR policies (Lindsay et al., 2013).

In their internal documents and human rights policies, companies tend to rely on the UNGPs (Lindsay et al., 2013; Smit et al., 2020; Prietrooli et al., 2020; The Economist, 2015) and on the standards set out by the International Labour Organization (ILO 1977, 2000, 2006). Sometimes, companies use language consistent with the UNGPs; however, they do not explicitly reference its conceptual framework (Lindsay et al., 2013). Within both the UK and Japanese studies, businesses often also refer to the Universal Declaration of Human Rights and core UN international human rights treaties. The Economist study highlighted, on the other hand, the leading role of the national action plans on business and human rights (The Economist, 2015). The greatest variation was observed concerning the Guidelines for Multinational Enterprises, which were frequently mentioned by respondents in the EU-wide survey, whereas in the Japanese study, they were one of the least referenced documents by businesses (Smit et al., 2020; Ministry of Economy, Trade and Industry, 2021).

Two HRDD actions most commonly undertaken by companies across various studies include training on human rights and/or environmental impacts, as well as audits. Apart from these two measures, respondents indicate a wide variety of options, including contractual clauses, codes of conduct, desktop research (e.g., sanctions lists), investigations, establishment of sustainable procurement standards, and others (Smit et al., 2020; Prietrooli et al., 2020; Ministry of Economy, Trade and Industry, 2021). The popularity of measures taken does not necessarily correlate with the conviction that they are effective. For

instance, an EU study reported that “a number of interviewees (...) point out the limitations of audits,” such as a lack of interest in methodology or the quality of the process (Smit et al., 2020). It was also noted that “buying practices often sit at odds with these initiatives (codes of conduct)” (Smit et al., 2020). Existing evidence suggests that a better HRDD performance is correlated with the elevation of human rights responsibilities to the senior management and board (World Benchmarking Alliance, 2022). Among the companies with the highest commitment to human rights, CEOs (and not CSR officers) appear to be top drivers (The Economist, 2015).

Among the major barriers in conducting HRDD, the companies report the lack of awareness and understanding about human rights responsibilities. UK study suggested also that the companies often “believe their human rights risks are adequately covered by other processes,” in particular related to workplace health and safety, labour rights, or equality and non-discrimination (McCorquodale et al., 2017). Other major barriers include legal uncertainty (Prietropaoli et al., 2020), as well as the lack of resources (funding and/or staff) (The Economist, 2015). The latter is particularly challenging for SMEs (Belás et al., 2024; Pinto, 2020; Shabrokh and Rodriguez, 2023, Juracka & Valaskova, 2025). According to German entrepreneurs, the introduction of the Supply Chain Act is more likely to lead to an increase in costs (approx. 40% of respondents) than to a more positive perception among customers (approx. 20%) (Kolev-Schaefer and Neligan, 2020). Approximately half of the entrepreneurs point out that customers are reluctant or unwilling to bear the additional costs associated with the implementation of new regulations (Kolev-Schaefer and Neligan, 2020). Among the large companies, the dilemma of reduced profit is significantly less prevalent (e.g., 15% of respondents in the Economist study). Interestingly, the authors of a study conducted on Czech companies pointed out that incorporating human rights into the company's CSR strategy can translate into an increase in revenues because, unlike environmental issues, it is less prevalent in the awareness of consumers (Fuchsová, 2022).

## 2.2. Institutional theory and procedure-substance

The UNGPs have established a standard of conduct under which business enterprises should undertake diligent measures to prevent and, as the case may be, cease or mitigate actual or potential adverse human rights impacts. In accordance with the UNGPs, such measures should involve identifying and assessing impacts, integrating findings from impact assessments across relevant company processes, monitoring the effectiveness of undertaken measures, and communicating on how impacts are addressed (UNGP, 2011, Guiding Principle 17). The established process-oriented framework for HRDD is based on the principle of proportionality, meaning that the complexity of HRDD processes should be commensurate with the business' size, sector, risk profile, and its operational context (UNGP, 2011, Guiding Principle 17). Proportionality principle is also reflected in extant due diligence laws, such as Section 4D of the Norwegian Transparency Act 2021, which states that due diligence should be carried out regularly and in proportion to the size of the enterprise and the severity of potential impacts (Norwegian Transparency Act, 2021). Similarly, §3(1) of the German Supply Chain Law 2021 requires companies to adequately observe human rights and environmental due diligence obligations in their supply chains (German Supply Chain Law, 2021).

The courts frequently apply a related concept to proportionality, i.e. reasonableness, for instance in cases where (EU) law requires diligent measures from business actors. The Court of Justice of the European Union (CJEU) interprets such obligations as what may reasonably be asked of a prudent and alert economic operator (CJEU, *Kittel and Recolta Recycling*, 2006; CJEU, *Europäisch-Iranische Handelsbank AG v. Council of the EU*, 2015; for discussion, see Jedrzejowska-Schiffauer (2021)). Article L. 225-102-4, I, paragraph 3 of the

French Duty of Vigilance Law 2017 is in line with that practice insofar as it requires companies to develop a vigilance plan that includes *reasonable* vigilance measures (French Duty of Vigilance Law, 2017).

As a legal standard of care, HRDD is thus primarily an obligation of means, but it is not reduced to it. The procedural steps under HRDD are aimed at meeting substantive standards of preventing, mitigating, and accounting for adverse human rights impacts (UNGPs, 2011, Guiding Principle 17). Through that lens, HRDD should be interpreted concomitantly as an obligation of result (albeit not an absolute one), aligned with the function that due diligence plays in other contexts (Brunnée, 2021). Or, in other words, whether HRDD processes are reasonable (i.e. proportionate to a company's operational risks and capacities) can only be assessed with reference to whether such due diligence processes have a real prospect to prevent or mitigate relevant human rights and environmental risks (cf. European Court of Human Rights, *KlimaSeniorinnen*, 2024; Schmid et al., 2025, forthcoming).

The distinction between procedure and substance is common under public and private, national and international law. In some legal contexts, the distinction between these two categories is less self-evident as it may seem. This is because, as aptly observed by Brunnée, in many respects they are “in a symbiotic relationship with one another” (Brunnée, 2021, p. 92). Procedural obligations are both independent and an element of the substantive harm prevention rule. Procedural rules can therefore “operate to constrain, or channel, the practical impact of substantive rules” (Brunnée, 2021, pp. 99-101). While Brunnée describes the connection between procedure and substance in relation to State due diligence under international environmental law (Brunnée, 2016), it can be applied per analogy (Larenz 1975; Schiffauer 1979) to corporate HRDD obligations.

The above considerations are crucial when evaluating the potential effectiveness of measures (procedural steps) undertaken by enterprises under HRDD (see Section 4). For such an evaluation, it may be necessary to disaggregate particular steps or measures, e.g., consultation with stakeholders, into particular levels of such consultation, i.e., employees, customers, suppliers, local community, etc. The more “distant” the stakeholder from the business actor, the more proactive effort is needed to conduct such consultations, which is also costly (Billiet et al. 2025). While consultation with employees or customers is fairly easy to organize and generally practiced by companies e.g. for marketing purposes, identifying potential or actual adverse impacts requires engaging in an ongoing dialogue with all stakeholders, notably rights-holders, as well as establishing a well-functioning grievance mechanism. Likewise, preventing human rights and environmental harm is easier to implement in a company's own activity and that of its controlled entities, and less so regarding its business relations, notably indirect ones n-tier upstream and downstream its value chain.

### **2.3. Context-specific considerations**

Context-specific information plays an important role in assessing business HRDD performance. It determines the choice of most relevant human rights and environmental issues and their corollary procedural indicators. While compliance with human rights and environmental standards may be measured by specific substance-oriented indicators (e.g., incidence of accidents at work, prevalence of women in managerial positions, etc.), procedural indicators verify whether enterprises, at a minimum, undertake measures to address certain risks or impacts (e.g., existence of a method or process whereby work-related accidents are prevented, notified, and handled; existence of a policy to promote gender equality at work, etc.) (cf. OHCHR, 2012).

For the Polish context, apart from taking account of the most serious abuses such as child and forced labour, we decided to focus on labour rights. We took into account earlier studies which confirm that labour rights remain the most commonly recognized human rights by entrepreneurs (Ruggie, 2007a, 2007b). The

foregoing appears to be linked to the fact that these rights are well represented in national legislation (Hamann et al., 2009; Mishchuk et al., 2019), which is also the case for the Polish jurisdiction. Still, the endorsement of employers' obligations with respect to labour rights leaves much to be desired in Poland. According to the latest report by the State Labour Inspection (Państwowa Inspekcja Pracy), approximately one-third of 24,416 allegations raised by complainants before the Inspection authority are confirmed, which proves the scale of non-compliance with labor law provisions (State Labour Inspection, 2023). The number of inspections carried out following complaints prevails in the following sectors: Wholesale and retail trade, repair of motor vehicles and motorcycles (5,074), Manufacturing (3,819), Construction (2,931), Transportation and storage (2,904), with this trend being observable also in 2020-2021. Since the sectors in question are also characterized by high levels of reported accidents at work as well as environmental impact, we classified them as high-risk sectors. The remaining two sectors (Financial and insurance activities and Administrative and support service activities) were designated as predominantly medium-risk sectors.

### 3. RESEARCH HYPOTHESES

Our choice of independent variables was guided by the institutional theory of organizations (Zucker, 1987; Raynard et al., 2016), notably contributions by John Ruggie in his capacity as the UN Special Representative of the Secretary-General (SRSG) on human rights and transnational corporations and other business enterprises. In simplified terms, the institutional theory construes business entities (organizations) as set within a social web of norms and expectations that constrain business autonomy to pursue the maximization of profit at the expense of other social actors and the environment. Norms to be respected by organizations are prescribed by state authorities, international bodies, professional associations, media, civil society organizations, etc. (Raynard et al., 2016), thus influencing corporate conduct (Björkman et al., 2007). In the same vein, Ruggie has emphasized that companies require a "social license" to operate, and that legal compliance alone could not suffice (Ruggie & Sherman, 2017; Human Rights Council, 2009).

For the purposes of our study, the existing quantitative studies on HRDD performance offer but limited comparative framework; see Section 2. Most of such studies focus on large companies without addressing explicitly the role of company size on its due diligence performance (Ruggie, 2007b). This may be attributed to the widely shared view that large companies dispose of better structural and financial resources to devote attention to human rights and environmental concerns, e.g., in the context of non-financial reporting. It is also claimed that the bigger the company, the greater the stakeholder pressure that it is exposed to (Hamann et al., 2009). Most importantly, the UNGPs require that HRDD processes be commensurate with (proportionate to) company size (UNGPs, 2011, Guiding Principle 14). Therefore, we consider company size as an independent variable worthy of analysis and propose the following hypothesis:

H1: Big companies should show greater human rights and environmental due diligence than small companies.

Greater exposure to stakeholder (notably shareholder) pressure may also be assumed regarding companies listed on the stock exchange. Furthermore, listed companies are normally subject to evaluation according to dedicated stock exchange sustainability indexes, such as the Warsaw Stock Exchange (GPW) social responsibility (RESPECT) Index and the Johannesburg Stock Exchange FTSE/JSE Socially Responsible Investment Index. This creates additional pressure, but also incentives for companies to take a more proactive approach to socio-economic impacts of their activity. The need to report non-financial information based on the Global Reporting Initiative Standards (which by and large correspond to the

UNGPs and the UN Sustainable Development Goals) should at a minimum raise awareness about relevant human rights and environmental issues. The above induces us to suggest:

H2: Listed companies should show greater human rights and environmental due diligence than non-listed companies.

A related issue is that of the effectiveness of business self-regulation through voluntary initiatives such as the UN Global Compact (UNGC). The SRSG John Ruggie considered UNGC not as a regulatory instrument, but a “collaborative effort” involving the UN, corporations, international labour, and civil society organizations as core participants in a joint effort “to identify, disseminate and promote good practices based on universal principles” (Ruggie, 2000). This is in line with the UNGC “Integrity Measures,” which stipulate that, as a voluntary initiative, the UNGC “is not designed, nor does it have the mandate or resources, to monitor or measure participants’ performance” (UNGC, 2024). Nevertheless, with mechanisms to address credible allegations of systemic or flagrant abuses of its principles and a delisting threat, the UNGC goes far beyond a mere voluntary initiative (Deva, 2014). Proponents of multinational enterprises (MNEs) being governed by soft law or hybrid (smart-mix) initiatives raise territorial constraints and inadequacies of domestic law vis-à-vis globally operating production and supply chains (Backer, 2015). Critics point to limited effectiveness of purely voluntary and soft law initiatives in promoting responsible corporate governance and culture (Deva, 2014; Oshionebo, 2007). While one study conducted in 2009 suggests unexpectedly insignificant influence of company participation in the UNGC on its HRDD performance (Hamann et al., 2009), there are no recent studies analyzing UNGC participants’ HRDD performance, nor comparing such performance with that of non-participating companies. In order to verify the SRSG presumption of the UNGC participation leading to an organizational learning process, we suggest:

H3: UN Global Compact Poland members should show greater human rights and environmental due diligence than non-listed companies.

The UNGPs require that the complexity of HRDD processes be commensurate not only with the business size but also with its sector, risk profile, and operational context (UNGPs, Guiding Principle 14). The constraints of the survey method did not allow us to collect information on the risk profile and operational context of single entities (qualitative information). We decided to verify whether there is a positive relationship between a company operating in a high-risk sector and its declared due diligence performance. To that end, we suggest:

H4: Companies operating in high-risk sectors should show greater human rights and environmental due diligence than companies operating in medium-risk sectors.

The materials and methods applied to test these hypotheses are discussed in the next section, to be followed by an account of the main results and a discussion of these results. Some concluding remarks are provided in the final section.

## **4. METHODS AND MATERIALS**

The research adopted a mixed methods approach combining a desk-based review of traditional sources in legal scholarship, policy and non-financial reports, as well as scholarly and other contributions on business practices, with a survey-based quantitative research into corporate practice. The data for quantitative

research was collected through telephone interviews (CATI) in April 2023 by one of the leading market research agencies in the country. The interviewers contacted 2,213 business entities based in Poland, and 120 responses, equally divided between six sectors (response rate 5%), were collected.

Prior to the data collection, a pilot study on a group of nine companies was carried out to verify the appropriateness and comprehensibility of the questionnaire. The pilot study involved telephone, videoconferencing platforms, and face-to-face interviewing. Respondents were either owners, members of the Board, or top-level managers, just like in the survey proper. The selection of six sectors for the survey was guided by two factors: (i) the intention to include at least some of the systemically relevant sectors, such as manufacturing, financial, or transportation activities; (ii) the population of enterprises operating in particular sectors in view of the intended minimum response rate. These constraints did not apply to the pilot study, which intended to verify the appropriateness of the questionnaire for any sector of business activity. Nine out of 23 approached enterprises that participated in the pilot study represented six sectors: (i) electricity, gas, and water supply, (ii) financial and insurance activities, (iii) hotel and restaurants, (iv) manufacturing, (v) community service activities, and (vi) wholesale and retail trade.

The questionnaire inquired into four aspects relevant for company *identifying and assessing* actual or potential impacts and four aspects relevant for *addressing* such impacts (see Table 2 below). We limited ourselves to these two central aspects in recognition that many of the surveyed enterprises may be, if at all, in their initial stages of implementation of HRDD. This transpired from a preparatory desk-based study of company non-financial reports and relevant literature. The preparatory desk-based study involved the analysis of non-financial reports of 43 companies, considered among the most profitable (based on net profit) business entities operating in the Polish market. Most of these companies are either participants of the UNGC (15 out of 43) or subsidiaries of companies that are UNGC participants (19 out of 43). Yet, a large proportion of those companies (10 out of 43) do not report any activity that is relevant for HRDD.

Moreover, in view of the equal representation of SMEs in the study, amongst which we expected even a lower level of awareness and endorsement of the HRDD concept and processes, we refrained from direct reference to it. To compensate for that, the survey devoted significant attention to enterprises' compliance with labour rights. The assumption was that any enterprise, irrespective of its size, must have measures in place to fulfill its obligations as an employer in respect of labour rights. Strong focus on labour rights was also justified in view of the specificity of the Polish context, including for the purpose of specifying high-risk sectors (see Section 2.3 above).

All surveyed HRDD aspects (both substantive and procedural) were annotated as low, medium, or high due diligence so as to reflect their varying importance for the effectiveness of HRDD. These included company awareness of most salient labour and environmental risks, procedural steps (measures) used to identify and assess such risks, as well as measures used to address identified impacts (Table 2). Higher awareness of specific risks by company respondents was allocated correspondingly higher scores (2-3 points). The classification of, and the respective point allocation (1-3 points) to concrete procedural steps was based on the assessment of the level of proactive action required from enterprises to implement particular measures as well as their prospective effectiveness in terms of harm prevention and mitigation. Measures limited to compliance with the law in force were annotated as low HRDD. The assessment of effectiveness of the surveyed measures was based on the expert lawyers' observations of corporate HRDD practice. Where information gaps hindered clear qualitative annotation of selected procedural steps, they were designated as potentially medium or high diligence (between 2-3 points). Where the questionnaire inquired into steps an enterprise must take to become aware of risks or impacts, they were designated as "preconditions" for or initial steps of HRDD process and allocated 1 point. Three independent lawyers possessing expertise in human rights and HRDD were involved in the annotation process. Each of the expert lawyers had a background in a different area of law, namely: International law (Switzerland),

European Union law (Germany) and constitutional law (Poland), thus ensuring partly different, but complementary and reinforcing perspectives. Each expert first performed individual annotation, followed by consultation and approximation of diverging annotations so as to optimize the reliability of the process.

In order to facilitate meaningful comparisons, where possible, we standardized the indices between the value 0 and 1, which allows for the interpretation of the results as a proportion of the maximal score.

Table 2

Analysed aspects of HRDD

|                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Identify and assess impacts on people and the environment</b> | 1. <b>Identifying geographical origin of used (pre-)products - an initial step to monitoring sourcing</b>                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                  | 2. Awareness/ recognition of work-related human rights risks relevant for the sector:<br>- Monitoring of workplace or correspondence<br>- Working hours too long<br>- Lack of mechanisms to resolve internal conflicts<br>- Unjustified use of civil law contracts<br>- Undeclared workers<br>- Unequal pay migrant workers<br>- Unequal pay for women<br>- Harassment or bullying<br>- Repression for trade union activities<br>- Discrimination on the basis of age, health, sexual orientation |
|                                                                  | 3. Awareness/ recognition of relevant environmental risks in company operation and its supply chains:<br>- Environmental pollution by hazardous substances<br>- High greenhouse gas emissions<br>- Suppliers linked to areas with armed conflict<br>- High consumption of water resources<br>- Negative impact on biodiversity<br>- Irregularities in land acquisition<br>- Illegal logging and deforestation                                                                                     |
|                                                                  | 4. Measures in place to identify and assess impacts on people and the environment:<br>- consultation with stakeholders (three levels: employees/customers/other stakeholders)<br>- using human rights as benchmarks<br>- monitoring the activity of the suppliers<br>- considering external grievances, including anonymous ones<br>- other                                                                                                                                                       |
| <b>Address impacts on people and the environment</b>             | 1. Existence of established practices in relevant areas:<br>- human rights<br>- supply chain<br>- sustainability<br>- gender equality<br>- diversity and inclusion                                                                                                                                                                                                                                                                                                                                |
|                                                                  | 2. Measures in place to comply with law<br>- measures in place to ensure data protection<br>- implemented anti-corruption procedures<br>- providing a secure and anonymous whistleblowing option<br>- apply the principles of ethics                                                                                                                                                                                                                                                              |

|  |                                                                                                                                                                                                                                                                                                                                                                                               |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | - select suppliers in accordance with these principles                                                                                                                                                                                                                                                                                                                                        |
|  | 3. Measures in place to address impacts: <ul style="list-style-type: none"> <li>- arbitration</li> <li>- communication with interested parties (transparency)</li> <li>- leverage on business partners</li> <li>- remedy for damage (own or by subsidiary)</li> <li>- cooperating in repairing damage caused by business partners</li> <li>- other</li> </ul>                                 |
|  | 4. Measures in place to avoid most serious impacts (three levels for each: within company/involving direct suppliers/throughout supply chain) <ul style="list-style-type: none"> <li>- economically profiting from forced labour and/or child labour</li> <li>- safety and health risks at work</li> <li>- wages below the cost of living</li> <li>- negative environmental impact</li> </ul> |

## 5. RESULTS

### 5.1. Sample description

The sample consists of 60 companies with at most 249 employees, and 60 companies with at least 250 employees, evenly distributed over six domains of activity: C (Industrial processing), F (Construction), G (Wholesale and retail trade; repair of motor vehicles and motorbikes), H (Transport and storage), K (Financial and insurance activities), and N (Administrative and support service activities). Of the smaller companies, 4 (7%) were listed on the stock market and 1 had a listed parent company; 35 (58%) of the large companies were listed on the stock market and 2 had a listed parent company. Roughly half of the smaller companies focus exclusively on local and/or Polish markets, while 23 (38%) target EU markets and 3 target all markets (local, Polish, EU, and other). Only 12 of the smaller companies focus exclusively on the local markets, whereas the others include at least Poland. A similar pattern emerges for the larger companies, although predictably a smaller number focuses exclusively on the local market and a larger amount targets all markets. Most companies work with materials and/or products from regions other than Poland or the EU. Even when interpreting “difficult to say” as a “no,” 44 out of 60 small, and 43 out of 60 large companies deal with at least one other region (often in Europe or North America). When focusing on the Global South (Africa, Asia, South America), we find that 16 out of 60 small, and 25 out of 60 large companies deal with at least one Southern region.

### 5.2. Company size

For each of the HRDD relevant aspects under categories: (i) identify and assess impacts, and (ii) address impacts, we compared the mean scores of big and small companies. The results suggest that big companies score significantly higher on five out of eight HRDD aspects, namely regarding company awareness on labour rights and environmental issues as well as the declared measures in place to identify, avoid potential, and address actual adverse impacts (Table 3). Better performance of big companies is most notable with regard to the reported measures to avoid potential ( $p < 0.001$ ) and address actual ( $p < 0.002$ ) adverse

impacts. For example, to avoid adverse impacts related to health and safety at work, 17 big companies (28%) report having measures including their direct business partners, compared to 6 (10%) SMEs. Furthermore, 8 (13%) big companies declare implementing measures to prevent forced and child labor as well as negative environmental impact throughout the entire supply chain, a threshold four times higher than by SMEs. Regarding measures to address actual impacts, 7 (11.7%) small and 19 (31.7%) big companies declare offering remedy for damage the company or their subsidiary caused.

Perhaps counterintuitively, for all survey items concerning compliance with the law, there is no statistically significant difference in the self-declared performance by SMEs and big companies. Two aspects seem worthy of attention. Firstly, two-thirds of small companies ( $n = 41$ ) and slightly over half of large companies ( $n = 36$ ) declare that they offer a secure and anonymous whistleblowing option as a measure to ensure compliance with the law. Importantly, at the time of conducting the survey, entrepreneurs were not obliged to provide whistleblowing option under Polish law as Poland, together with seven other Member States, were delayed in the implementation of Directive (EU) 2019/1937 (European Commission, 2023). Moreover, no less than 88% ( $n = 53$ ) of small companies report applying ethical principles against 77% ( $n = 46$ ) of large companies. This seems to align with other study results suggesting that HRDD performance is positively related to the elevation of human rights responsibilities to the company executive management (World Benchmarking Alliance, 2022; The Economist, 2015), which arguably may be easier to implement by SMEs rather than big companies (Hamann et al., 2009).

Table 3

Means (standard deviation) and Oneway ANOVA's of DDP indicators by company size

|               | Source    | Labour    | Env.         | Identify  | Practice  | Comply    | Avoid     | Addr.     |
|---------------|-----------|-----------|--------------|-----------|-----------|-----------|-----------|-----------|
| Less than 250 | .73 (.46) | .10 (.15) | .06<br>(.17) | .34 (.26) | .63 (.31) | .72 (.28) | .15 (.21) | .13 (.24) |
| More than 250 | .72 (.45) | .18 (.18) | .16<br>(.22) | .48 (.31) | .69 (.37) | .68 (.32) | .32 (.30) | .29 (.32) |
| Total         | .73 (.45) | .14 (.17) | .11<br>(.20) | .41 (.29) | .66 (.34) | .70 (.30) | .24 (.27) | .21 (.29) |
| F(3, 116)     | .041      | 6.540     | 7.158        | 3.953     | 1.131     | .451      | 14.149    | 9.738     |
| p             | n.s.      | .012      | .009         | .008      | n.s.      | n.s.      | <.001     | .002      |

Source: own evaluation

On balance, hypothesis 1 is sufficiently supported, including when the threshold for “big” companies is set at  $\geq 500$  employees. The analysis of the data shows that these companies score significantly higher than SMEs with respect to measures in place to identify, avoid potential, and address actual adverse impacts. This finding is in line with the UNGPs framework, which expects the complexity of HRDD processes to be commensurate with company size (UNGP, GP 17(b)).

### 5.3. Listed companies

Listing on the stock exchange should be positively related to the HRDD performance by companies. Our hypothesis is based on the assumption that listing creates shareholder and institutional pressures on companies to give higher consideration to social and environmental aspects of their activity. At first glance, this hypothesis seems to be supported for five out of eight analyzed HRDD aspects (Table 4), namely for company awareness on labour rights and environmental issues as well as for the declared measures in place to identify, avoid potential, and address actual adverse impacts grosso modo the results conforming to that

for big companies. The results are even more coherent upon verification that amongst 39 listed companies (of which 3 have listed parent companies), only 5 are SMEs. Thus, a question arises whether better performance of our group of listed companies is indeed attributable to listing, or it is perhaps related exclusively to company size. Listed companies with more than 500 employees did not show much greater human rights and environmental due diligence than listed companies with fewer than 500 employees. The differences in means for HRDD aspects between listed and non-listed companies in respective size groups (less than and more than 500 employees, respectively) do not allow us to conclusively affirm that listing as such is positively related to HRDD performance. Therefore, this hypothesis is not supported by our data analysis.

Table 4

Means (standard deviation) and Oneway ANOVA's of DDP indicators by type of company

|                           | Source    | Labour    | Env.      | Identify  | Practice  | Comply    | Avoid     | Addr.     |
|---------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Less than 500, not listed | .70 (.46) | .11 (.15) | .07 (.16) | .35 (.26) | .63 (.33) | .72 (.29) | .15 (.21) | .14 (.24) |
| More than 500, not listed | .75 (.46) | .20 (.20) | .05 (.11) | .67 (.34) | .79 (.36) | .67 (.39) | .29 (.31) | .41 (.40) |
| Less than 500, listed     | .67 (.49) | .22 (.22) | .21 (.27) | .45 (.27) | .67 (.35) | .66 (.31) | .36 (.22) | .26 (.28) |
| More than 500, listed     | .86 (.36) | .16 (.16) | .17 (.26) | .49 (.34) | .71 (.39) | .68 (.31) | .41 (.35) | .32 (.35) |
| Total                     | .73 (.45) | .14 (.17) | .11 (.20) | .41 (.29) | .66 (.34) | .70 (.30) | .24 (.27) | .21 (.29) |
| F(3, 116)                 | .789      | 2.942     | 3.269     | 3.953     | .815      | .246      | 7.992     | 4.252     |
| p                         | n.s       | .036      | .024      | .010      | n.s.      | n.s.      | <.001     | .007      |

Source: own evaluation

#### 5.4. UN global compact

Company commitment to UN Global Compact principles (assumed based on company UNGC membership) should be positively related to its HRDD performance, which is, in our study, supported for four out of eight analyzed due diligence aspects (Table 5). UNGC signatories score significantly better than non-members regarding the awareness of labour rights risks ( $p = 0.014$ ) and environmental risks ( $p < 0.001$ ). In comparison to other companies, the UNGC members also show significantly higher performance regarding the existence of established practices relevant for HRDD and the implementation of measures to avoid adverse impacts ( $p < 0.001$  for both indicated HRDD aspects). A closer look at the analyzed sample of 17 UNGC signatories reveals that 14 out of 17 UNGC signatories are big companies ( $\geq 250$  employees, of which 9 have  $\geq 500$  employees).

On some aspects of HRDD, little or no difference can be noted regarding the performance of UNGC signatories and non-participants. For example, two-thirds of both big companies and UNGC members report having anti-corruption measures, and about 60% of both big companies and UNGC members declare providing a safe and anonymous whistleblowing option. A comparison of the performance of big companies and that of UNGC signatories shows that UNGC signatories score on average higher than big companies on the above-mentioned four HRDD aspects. UNGC signatories score significantly higher regarding the awareness of environmental risks, having in place established practices pertinent for HRDD, and the

implementation of measures to avoid impacts. Therefore, our study only partly confirms the hypothesis. The UNGC membership appears to be positively related to some, but not all HRDD aspects. In that regard, our findings partly concur with one earlier study which undermined Ruggie's assumption that participation in the UNGC will lead to organizational learning and hence improved HRDD (Hamann et al., 2009). Unfortunately, there are no more recent studies which would allow contradicting a possible "greenwash" argument should the UNGC participation offer little to no added value by itself to company performance on human rights and environmental issues.

Table 5

Means (standard deviation) and Oneway ANOVA's of DDP indicators by UN Global Compact signatories

|                     | Source    | Labour    | Env.      | Identify  | Practice  | Comply    | Avoid     | Addr.     |
|---------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Signatory companies | .82 (.39) | .23 (.21) | .30 (.36) | .50 (.28) | .92 (.16) | .60 (.29) | .50 (.29) | .33 (.35) |
| Other               | .71 (.46) | .12 (.16) | .08 (.15) | .40 (.29) | .62 (.35) | .71 (.30) | .32 (.30) | .19 (.24) |
| Total               | .73 (.45) | .14 (.17) | .11 (.20) | .41 (.29) | .66 (.34) | .70 (.30) | .24 (.27) | .21 (.29) |
| F(1, 116)           | .956      | 6.268     | 20.137    | 1.970     | 12.682    | 2.061     | 23.316    | 3.602     |
| p                   | n.s.      | .014      | <.001     | n.s.      | <.001     | n.s.      | <.001     | n.s.      |

Source: own evaluation

### 5.5. Sector risk

The hypothesis that the degree to which companies are exposed to human rights and environmental risks in their respective industry sectors should be positively related to the degree (level) of their due diligence performance is not sufficiently supported by the survey data. The mean scores for companies in high-risk sectors are significantly higher in only two out of eight analyzed HRDD aspects (one in the category identify and assess impacts and one in the category address impacts, Table 6). Firstly, companies in high-risk sectors score on average better (mean = 0.80) than companies operating in medium-risk sectors (mean = 0.60) when it comes to defining the origin of used (pre-)products and materials (initial stages of monitoring sourcing). Secondly, companies in high-risk sectors score on average higher regarding the reported measures to ensure compliance with the law (mean = 0.76) when compared to medium-risk sectors (mean = 0.58). This does not change the fact that a relatively high number of companies operating in high-risk sectors do not comply with the basic labour law obligation to ensure healthy and safe conditions of work within their own structures (no measures in that regard are reported by 9 (15%) companies in the manufacturing sector, 7 (11.7%) companies in construction sector, 6 (10%) companies in wholesale and retail trade sector, and 5 (8%) companies in transport sector).

Moreover, we looked at whether companies show awareness of labour rights risks relevant for their sector of activity, which have been identified for the specific Polish context. Interestingly, companies tend not to recognize those labour rights and environmental risks on which they may have the greatest impact. This observation aligns with the study results conducted by Ruggie (2007a). For example, 65% of the surveyed enterprises in transport and construction sectors report that the risk of precarious employment due to unjustified use of civil law contracts does not apply to their respective industry sectors. Data show that 70% of enterprises in construction and 90% of enterprises in manufacturing sectors report no risk of migrant pay gap, whereas 95% of enterprises in the wholesale and retail trade report no risk of gender pay gap for their own sector of activity, although this sector has a prevalence of female employees. Most

enterprises (65% in financial and administrative services sectors, 75% in construction and transport sectors, and 90% in manufacturing and wholesale and retail trade) do not report the risk of repression against workers for their trade union activities. When it comes to the recognition of environmental risks, 65% of enterprises in the construction sector are uncertain whether their activity may cause environmental pollution by hazardous substances, 55% of enterprises in the transport sector are uncertain whether their activity induces high greenhouse gas emissions, with other 25% in this sector reporting no such environmental impact. Most enterprises in the manufacturing sector can neither specify whether their activity has a negative impact on biodiversity (75%) nor is linked to a high consumption of water (85%).

Thus, we find that company operation in a high-risk sector is not positively related to HRDD performance, as it is not correlated to the awareness of risks nor a commitment to adequately assess and address them. Many companies operating in high-risk sectors have neither risk management systems nor any processes for human rights and environmental impact assessment. Concomitantly, such companies deny that their business activity is either linked to any human rights and/or environmental risks, or that any adverse impacts have ever occurred.

Table 6

Means (standard deviation) and Oneway ANOVA's of DDP indicators by sector-specific risk level

|                     | Source    | Labour    | Env.      | Identify  | Practice  | Comply    | Avoid     | Addr.     |
|---------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| High-risk sectors   | .79 (.41) | .11 (.15) | .11 (.21) | .44 (.30) | .70 (.32) | .76 (.28) | .22 (.27) | .20 (.30) |
| Medium-risk sectors | .60 (.50) | .20 (.20) | .11 (.19) | .35 (.26) | .58 (.38) | .58 (.31) | .27 (.26) | .22 (.28) |
| Total               | .73 (.45) | .14 (.17) | .11 (.20) | .41 (.29) | .66 (.34) | .70 (.30) | .24 (.27) | .21 (.29) |
| F(1, 116)           | 4.812     | 6.990     | .018      | 2.855     | 3.445     | 9.800     | 1.028     | .176      |
| p                   | .030      | .009      | n.s.      | n.s.      | n.s.      | .002      | n.s.      | n.s.      |

Source: own evaluation

## 5.6. Indicator relationships

Table 7 presents correlations between dependent variables in our study. There are significant correlations between some, but not all variables that are relevant for the HRDD performance. For example, companies that show higher awareness of labour rights risks also tend to be more aware of environmental risks ( $r = 0.381$ ;  $p < 0.001$ ) and to avoid adverse impacts ( $r = 0.380$ ,  $p < 0.001$ ). Surprisingly, though, higher awareness of risks does not translate into better performance on other salient HRDD aspects, such as identifying, assessing, and addressing adverse impacts. One possible explanation is that companies reporting labour risks in their industry sector and environmental risks in their own activity are reluctant to admit that such risks have actually materialized (no correlation is observed with the variable concerning measures applied to address actual impacts). There seems to be more coherence in how companies report on other HRDD aspects. Most notably, companies that report having in place measures to identify risks also tend to have the established practices relevant for HRDD ( $r = 0.348$ ;  $p < 0.001$ ), measures to comply with the law ( $r = 0.418$ ;  $p < 0.001$ ), as well as measures to address impacts ( $r = 0.424$ ;  $p < 0.001$ ). Arguably, companies that dispose of dedicated measures to identify, assess, and address adverse human rights and environmental impacts should concomitantly show greater ability to spot such risks; however, this is not confirmed in our data.

Table 7

Correlations of DDP indicators

|                            | Source | Labour  | Env.    | Identify | Practice | Comply | Avoid | Addr. |
|----------------------------|--------|---------|---------|----------|----------|--------|-------|-------|
| Awareness<br>Labour Rights | -0.058 | —       |         |          |          |        |       |       |
| Awareness<br>Environment   | 0.19   | 0.381*  | —       |          |          |        |       |       |
| Identify Risks             | 0.121  | -0.091  | -0.035  | —        |          |        |       |       |
| Established<br>Practices   | 0.108  | -0.131  | 0.142   | 0.348*   | —        |        |       |       |
| Compliance                 | -0.025 | -0.306* | -0.271* | 0.418*   | 0.342*   | —      |       |       |
| Avoid Impacts              | -0.103 | 0.380*  | 0.305*  | 0.041    | 0.172    | -0.08  | —     |       |
| Address<br>Impacts         | -0.031 | 0.129   | 0.006   | 0.424*   | 0.069    | 0.051  | 0.131 | —     |

Note. \*  $p < .001$

Source: own evaluation

## 6. CONCLUSIONS

As an emerging standard of care, HRDD requires business actors to undertake diligent measures to prevent and, as the case may be, to cease and/or mitigate adverse human rights and environmental impacts. In accordance with the UNGPs, such measures should involve at a minimum identifying, assessing and addressing adverse impacts. Since the established process-oriented framework for HRDD is based on the principle of proportionality, the complexity of HRDD processes should be commensurate with the company size, sector, risk profile and its operational context.

In the present study we have sought to test such institutional theory assumptions underlying the UNGPs as the key business and human rights framework, drawing on survey data from 120 companies operating in Poland. Given the limitations of a survey-based approach, we could not account for individual company risk profile and operational context. Instead, we tried to explore whether company size and sector-specific level of risk are positively related to the degree (level) of their due diligence performance. While the survey results allow for a tentative conclusion that company size may possibly be a statistically significant predictor of company undertaking more complex measures to *identify*, *prevent* (in our study designated as *avoid*) and *address* adverse impacts, no meaningful correlation has been detected between sector-specific risk level and HRDD performance. In our study we also explored whether listing on the stock exchange and company participation in the UNGC are positively related to HRDD performance. The data analysis supports to a limited extent the correlation between the UNGC participation and HRDD performance, but not for listing as such. Arguably, it is with respect to the company participation in the UNGC and its relation to corporate response to social and environmental risks that the research gap is most evident.

Overall, our findings do not support the foundational assumptions of the UNGPs on institutional pressures as sufficient drivers of effective HRDD. Conversely, our results empirically challenge not only the substantive effectiveness of private governance mechanisms, but also the dominant presumption that procedural compliance by business is sufficient to bring about a meaningful change. For the latter finding, our data show that higher awareness of human rights and environmental risks amongst companies, as well as the declared endorsement of procedural HRDD measures to identify and assess such risks, do not necessarily translate into more robust processes to address identified impacts. While this may seem a paradox at first glance, our results align with other studies pointing to the risks of managerial (tick-box)

approaches to HRDD whereby merely formal policies and institutional structures come to be associated with legal compliance, although they fall short of tackling the underlying social and governance problems (Edelman et al., 2001, 2011, Monciardini et al., 2019; Barraud de Lagerie, 2024).

Procedural HRDD obligations, current or prospective<sup>1</sup>, are both independent and an element of the substantive harm prevention and mitigation rule. Procedural steps (measures) can therefore operate to constrain or channel business ability to prevent and/ or mitigate adverse impacts. We tried to reflect this interdependence between substance and procedure in HRDD both in our choice of indicators for HRDD performance, as well as in the evaluation of their individual importance for effective prevention and mitigation of adverse impacts. Integrating the normative and empirical approaches was key to better understand the pitfalls of organizational HRDD practices, which would be impossible without an interdisciplinary research toolkit (Caruana et al., 2021; Kazmi et al., 2016; Tobi and Kampen 2018).

Of course our study cannot claim to be exhaustive in its approach, which is its important limitation. Some salient procedural aspects of HRDD could have been omitted for the sake of creating a questionnaire that will be intelligible for small enterprises and will enable to arrive at the expected response rate, thus providing statistically viable data.

That said, we hope to have set an impulse for a more reflected debate that shifts attention from HRDD as an instrument mandating merely procedural compliance and offers new insights on its prospects and modelling as concomitantly a substantive standard of harm prevention. From the perspective of rights-holders, this is where the stakes for HRDD actually are. In broader terms, well-performed HRDD contributes to better stakeholder engagement, organisational accountability, and more sustainable business practices.

## ACKNOWLEDGEMENT

The authors wish to thank Norbert Kusiak from the All-Poland Alliance of Trade Unions (OPZZ) for providing useful insights into specific challenges regarding the respect of labour rights by Poland-based companies, and Daria Nagańska for her assistance in preparatory desk-based study on company non-financial reports during her stay at Adam Mickiewicz University. This research was funded in whole by National Science Centre, Poland, ref. no. 2021/41/B/HS5/01557.

## REFERENCES

- Al-Shaer, H., Albitar, K., & Hussainey K. (2024). Corporate Accountability for Human Rights: Evidence From Conflict Mineral Ratings, *Business & Society*, 63(8), 1887–1936.
- Backer, L. C. (2015). Regulating multinational corporations: Trends, challenges, and opportunities. *The Brown Journal of World Affairs*, 22(1), 153-174.
- Barbier, E.B., & Burgess J.C. (2017). The Sustainability Development Goals and the systems approach to sustainability. *Economics*, 11, 1-22.
- Barraud de Lagerie, P. (2024). The dispute tree under the microscope. The making of the first court ruling on the Duty of Vigilance of multinational companies, *Politix* 37(148), p. I-XXVIII.
- Belás, J., Jr., Petráková, Z., Streimikis, J., & Kozová, K. (2024). Participative management style in SMEs: Influence of CSR factors. Empirical evidence from the Visegrad Group. *Journal of International Studies*, 17(3), 133-147. doi:10.14254/2071-8330.2024/17-3/

---

<sup>1</sup> Under national law, business actors already have particular duties of care with regard to i.a. labour rights and environmental issues. Introducing (under domestic or EU law) a general duty of care for business with regard to human rights and environmental issues, as laid down in the CSDDD, will significantly broaden the scope of such obligations.

- Bilchitz, D. (2022). *Fundamental rights and the legal obligations of business* (1st ed.). Cambridge University Press.
- Billiet, A., Bruneel, J., & Dufays, F. (2025). Exit, Voice, or Both: Why Organizations Engage With Stakeholders. *Business & Society*, 64(6) 1149–1184.
- Björkman, I., Fey, C. F., & Park, H. J. (2007). Institutional theory and MNC subsidiary HRM practices: Evidence from a three-country study. *Journal of International Business Studies*, 38(3), 430–431.
- Bordin, F. L. (2018). *The analogy between states and international organizations*. Cambridge University Press.
- Brunnée, J. (2016). Procedure and substance in international environmental law. *ESIL Reflections*, 5(6), 1–7.
- Brunnée, J. (2021). Procedure and substance in international environmental law. In *Collected Courses of the Hague Academy of International Law* (Vol. 405, pp. 92–101). Brill Online.
- Cahaya, F. R., & Hervina, R. (2019). Do human rights issues matter? An empirical analysis of Indonesian companies' reporting. *Social Responsibility Journal*, 15(2), 226–243.
- Carè, R., & Weber, O. (2023). Sustainable Finance: Banks, Sustainability, and Corporate Financial Performance. In M. Dion (Ed.), *Sustainable Finance and Financial Crime. Sustainable Finance* (1st ed., pp. 41–61). Springer, Cham.
- Caruana, R., Crane, A., Gold, S., & LeBaron, G. (2021). Modern Slavery in Business: The Sad and Sorry State of a Non-Field, *Business & Society*, 60(2) 251–287.
- Court of Justice of the European Union. (2006). *Kittel and Recolta Recycling* (Cases C439/04 and C440/04), EU:C:2006:446.
- Court of Justice of the European Union. (2015). *Europäisch-Iranische Handelsbank AG v. Council of the EU* (Case C585/13 P), ECLI:EU:C:2015:145.
- Deva, S. (2014). *Regulating corporate human rights violations: Humanizing business* (2nd ed.). Routledge.
- Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17–56.
- Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 OJ L, 2024/1760, 5.7.2024.
- Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements OJ L, 2026/470, 26.2.2026.
- District Court of The Hague. (2021). *Milieudefensie and others v. Royal Dutch Shell*, ECLI:NL:RBDHA:2021:5337.
- Edelman, L.B., Krieger, L.H., Eliason, S.R., Albiston, C.R., & Mellema, V. (2011). When Organizations Rule: Judicial Deference to Institutionalized Employment Structures, *American Journal of Sociology*, 117(3), 888–954.
- Edelman, L. B., Fuller, S. R., & Maradrita, I. (2001). Diversity rhetoric and the managerialization of law. *American Journal of Sociology*, 106(6), 1589–1641.
- European Commission. (2023). The European Commission decides to refer 8 Member States to the Court of Justice of the European Union over the protection of whistleblowers. *Press corner*. [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_703](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_703)
- European Court of Human Rights (2024). *Verein KlimaSeniorinnen and Others v Switzerland* [GC] 53600/20 (*KlimaSeniorinnen*).
- French Duty of Vigilance Law. (2017). Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, JORF n°0074 du 28 mars 2017.
- Fuchsová, E. (2022). Social responsibility in the strategy of business entities. *Ekonomie a Management*, 25(3), 35–47.
- German Supply Chain Law (Lieferkettensorgfaltspflichtengesetz). (2021). BGBl 2021/I, Nr 46, 22 July 2021, p. 2959.
- Hamann, R., et al. (2009). Business and human rights in South Africa: An analysis of antecedents of human rights due diligence. *Journal of Business Ethics*, 87, 453–468.
- Hogan, B. F. (2019). *Benchmarking business and human rights in Ireland* (Master's dissertation, Trinity College Dublin – University College Dublin). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4398462](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4398462)
- Human Rights Council. (2009, April 22). *Business and human rights: Towards operationalizing the “protect, respect and remedy” framework* (A/HRC/11/13), para 46.

- ILO, Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the International Labour Office at its 204th Session (Geneva, November 1977) as amended at its 279th (November 2000) and 295th Session (March 2006)
- Inter-American Court of Human Rights. (2021, August 31). *Caso de los Buzos Miskitos (Lemoth Morris et al) v. Honduras*, Series C No. 432, para 51.
- Issarawornrawanich, P., & Wuttichindanon, S. (2018). Corporate social responsibility practices and disclosures in Thailand. *Social Responsibility Journal*, 15(3), 318-332.
- Jędrzejowska-Schiffauer, I., Szoszkiewicz, Łukasz, Wilde-Ramsing, J., Booth, K., Barraud de Lagerie, P., & Faracik, B. (2023). Towards EU-wide Mandatory Human Rights and Environmental Due Diligence for Business: a Breakthrough in Europe and Beyond? *Polish Yearbook of International Law*, 42, 245–278.
- Jędrzejowska-Schiffauer, I. (2021). Business responsibility for human rights impact under the UN Guiding Principles: At odds with European Union law? *European Law Review*, 42, 481-505.
- Jimenez, D., Franco I.B., & Smith, T. (2021). A Review of Corporate Purpose: An Approach to Actioning the Sustainable Development Goals (SDGs). *Sustainability*, 13(7), 1-21.
- Juracka, A., & Valaskova, K. (2025). Progress towards sustainable activities: Principal component analysis (PCA) of SMEs in the European Union. *Journal of International Studies*, 18(2), 9-26.
- Kazmi, B. A., Leca, B., & Naccache, P. (2015). Is corporate social responsibility a new spirit of capitalism? *Organization*, 23(5), 742-762.
- Kolev-Schaefer, G., & Neligan, A. (2020). *Effects of a supply chain regulation: Survey-based results on the expected effects of the German Supply Chains Act (IW-Report No. 8)*. Institut der deutschen Wirtschaft.
- Kwakwewah, C. (2019). *Doing just business: An empirical analysis of mining multinationals, human rights and sustainable community development in western Ghana* (Master's thesis, York University). <https://yorkspace.library.yorku.ca/items/b00457c0-b0fc-4948-9143-eba69c13b590>
- Larenz, K. (1975). *Methodenlehre der Rechtswissenschaft*. Springer.
- Lindsay, R., et al. (2013). Human rights responsibilities in the oil and gas sector: Applying the UN Guiding Principles. *The Journal of World Energy Law & Business*, 6(1), 2-36.
- McCorquodale, R., et al. (2017). Human rights due diligence in law and practice: Good practices and challenges for business enterprises. *Business and Human Rights Journal*, 2(2), 195-224.
- McCorquodale R., Nolan J. (2021). The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses, *Netherlands International Law Review* 68, 455–478.
- Ministry of Economy, Trade and Industry (Japan). (2021, November 30). *Release on the results from the questionnaire survey on the status of efforts on human rights in the supply chains of Japanese companies*. [https://www.meti.go.jp/english/press/2021/1130\\_002.html](https://www.meti.go.jp/english/press/2021/1130_002.html)
- Mishchuk, H., Samoliuk, N., & Yurchyk, H. (2021). *Decent work: evaluation and ensuring in human capital management*: monograph: Szczecin: Centre of Sociological Research. 140 p. DOI: 10.14254/978-83-959336-5-3/2021 Retrieved from [https://csr-pub.eu/?49,en\\_decent-work-evaluation-and-ensuring-in-human-capital-management](https://csr-pub.eu/?49,en_decent-work-evaluation-and-ensuring-in-human-capital-management)
- Mishchuk, H., Samoliuk, N., & Bilan, Y. (2019). Measuring social justice in the light of effectiveness of public distributive policy. *Administration & Public Management Review*, (32). 63-76. DOI: 10.24818/amp/2019.32-05
- Monciardini, D., Bernaz N., & Andhov A. (2021). The Organizational Dynamics of Compliance With the UK Modern Slavery Act in the Food and Tobacco Sector, *Business & Society*, 60(2), 288–340.
- Norwegian Transparency Act. (2021). Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions. LOV-2021-06-18-99. <https://lovdata.no/dokument/NLE/lov/2021-06-18-99>
- OHCHR. (2012). *Human rights indicators: A guide to measurement and implementation* (HR/PUB/12/5). United Nations.
- OHCHR/Working Group on Business and Human Rights. (n.d.). *Corporate human rights due diligence – identifying and leveraging emerging practices*. Retrieved from <https://www.ohchr.org/en/special-procedures/wg-business/corporate-human-rights-due-diligence-identifying-and-leveraging-emerging-practices>
- Oshionebo, E. (2007). The U.N. Global Compact and accountability of transnational corporations: Separating myth from realities. *Florida Journal of International Law*, 19(1), 1-38.

- Pinto, L. (2020). Green supply chain practices and company performance in the Portuguese manufacturing sector. *Business Strategy and the Environment*, 29(5), 1832-1849.
- Plečaš, M., Soldo, S., & Tutek, N. (2025). The quick identification of the dissatisfied groups of employees. *Economics and Sociology*, 18(3), 43-63. doi:10.14254/2071-789X.2025/18-3/2
- Prietropaoli, I., et al. (2020). A UK failure to prevent mechanism for corporate human rights harms. BIICL.
- Raynard, M., Johnson, G., & Greenwood, R. (2016). Institutional theory and strategic management. In M. Jenkins, V. Ambrosini, & N. Mowbray (Eds.), *Advanced Strategic Management* (3rd ed., pp. 9-34). Palgrave Macmillan.
- Ramasastri, A. (2015). Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability, *Journal of Human Rights* 14(2), 237-259.
- Ruggie, J. G. (2000). Globalization, the Global Compact and corporate social responsibility. *Transnational Association*, 52(6), 291-294.
- Ruggie, J. G. (2007a). Addendum on business recognition of human rights: Global patterns, regional and sectoral variations. Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, U.N. Document A/HRC/4/35/Add.4.
- Ruggie, J. G. (2007b). Addendum on human rights policies and management practices: Results from questionnaire surveys of governments and the Fortune Global 500 firms. Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, U.N. Document A/HRC/4/35/Add.3.
- Ruggie, J. G., & Sherman III, J. (2017). The concept of “due diligence” in the UN Guiding Principles on Business and Human Rights: A reply to Jonathan Bonnitcha and Robert McCorquodale. *European Journal of International Law*, 28, 921-924.
- Schiffauer, P. (1979). *Wortbedeutung und Rechtserkenntnis. Entwickelt an Hand einer Studie zum Verhältnis von verfassungskonformer Auslegung und Analogie*. Duncker & Humblot.
- Schmid, E., Jędrzejowska-Schiffauer, I., & de Martel, C. (2025) Climate Litigation and Corporations: Any Implications from KlimaSeniorinnen v. Switzerland? *The European Convention on Human Rights Law Review* (forthcoming).
- Shabrokh, A., & Quintero Rodriguez, C. (2023). How Australian fashion brands implement human rights due diligence. *Australian Journal of Human Rights*, 29(2), 195-214.
- Smit, L., et al. (2020). *Study on due diligence requirements through the supply chain*. European Commission.
- Streimikiene, D., Mikalauskas, I., Lėckienė, V., Pisula, T., & Mikalauskiene, A. (2024). The role of sustainable finance in the context of the European green course. *Economics and Sociology*, 17(1), 54-79.
- SOMO. (2013, November). *Conflict due diligence by European companies* (SOMO Paper).
- State Labour Inspection. (2023, June 20). *Report on the activities of the State Labour Inspection in 2022* (Print no. 3435).
- Tobi, H., & Kampen, J.K. (2018). Research design: the methodology for interdisciplinary research framework, *Qual Quant* 52, 1209–1225.
- The Danish Institute for Human Rights. (2020, September). *Documenting business respect for human rights: A snapshot of large Danish companies*.
- Tran-Nguyen, E., et al. (2021, March 16). *Status of human rights performance of Finnish companies (SIHTI) Project: Report on the status of human rights performance in Finnish companies*. Ministry of Economic Affairs and Employment of Finland.
- UN General Assembly. (2012, August 10). *Human rights and transnational corporations and other business enterprises* (A/67/285).
- UN Global Compact. (2024). Integrity Measures. <https://unglobalcompact.org/about/integrity-measures>
- UN Guiding Principles on Business and Human Rights (2011). Human Rights Council resolution 17/4 of 16 June 2011.
- Schilling-Vacaflor, A., & Gustafsson, M. T. (2024). Towards more sustainable global supply chains? Company compliance with new human rights and environmental due diligence laws. *Environmental Politics*, 33(3), 422–443.
- Wettstein, F. (2020). The History of ‘Business and Human Rights’ and its Relationship with ‘Corporate Social Responsibility’. In S. Deva & D. Birchall (Eds.), *Research Handbook on Human Rights and Business* (pp. 23-45) Edward Elgar Publishing.
- Winistörfer, H. (2019, November). *Respect for human rights: A snapshot of the largest German companies*. Business & Human Rights Resource Centre.

- World Benchmarking Alliance. (2022, November). *Corporate human rights benchmark 2022: Insights report*. World Benchmarking Alliance.
- World Benchmarking Alliance. (2023, November). *Corporate human rights benchmark 2023: Insights report*. World Benchmarking Alliance.
- Zucker, L. G. (1987). Institutional theories of organizations. *Annual Review of Sociology*, 13, 443-464.