

From Audits to Due Diligence: What is the Difference?

Will the auditing regime die a slow death with the implementation of the forthcoming EU mandatory due diligence? Probably. Because audits deliver so little and demand so much – and everybody is tired of them.

This article has been translated into English and edited by GLOBAL CSR that credit CSR.dk for their kind approval of allowing the publication of the English version. Read the original Danish version [here](#).

The transition from auditing to due diligence means that two systems and positions will come closer together. In 2021 the United Nations Guidelines for Business and Human Rights (UNGP) celebrated its 10th anniversary. The UNGPs require that businesses take responsibility for practicing due diligence on human rights. In Denmark, one of the ways the anniversary was celebrated was with the publication of the UNGPs in Danish. Concurrently, a new EU regulation is on its way, where there is a strong possibility that the UNGPs will be the starting point for the demands made on companies.

Today most companies work with human rights in the supply chain through a system composed of a Code of Conduct and regular audits of suppliers. The question is whether an actual obligation to conduct due diligence can be achieved under this regime?

CSR.dk spoke to Sune Skadegaard Thorsen, owner and CEO of GLOBAL CSR, which advises and educates companies on human rights due diligence - the issue at hand. His position is that if the forthcoming EU regulation will be based on the UNGPs, the way most CoC/auditing systems operate today will neither be sufficient nor necessary. In fact, it is also possible that the entire system counteracts the intention of the UNGPs, namely that businesses' respect for human rights should be scaled up internationally. Most existing systems require suppliers to establish responsible business conduct activities, that do not meet the minimum standard, i.e. the UNGPs.

Insufficient

“If we first look at insufficiency, there are three things to be aware of: The first is that the CoC/audit system is not designed for companies to monitor their own risks of adverse impacts, but rather only focus on what the supplier is doing wrong or right in relation to the demands made by the company. However, due diligence means that companies must document that they have addressed the areas where they are at risk of causing or contributing to adverse impacts on human rights. The minimum standard is very clear: regardless of where in the world the company operates, there is a risk of causing or contributing to adverse impacts on human rights.” explains Sune Skadegaard Thorsen.

“Secondly, the UNGPs—and thus also, one would expect, the EU regulation—state clearly that companies should, as a minimum, apply consideration of all 48 human rights from the International Bill of Human Rights in their due diligence process. Most supply chain management systems were established prior to the advent of the UNGPs and make demands on seven or eight of the 48 human rights and only in relation to employees. In GLOBAL CSR's work with different companies, we are yet to come across a company that has risks of adverse impacts on any fewer than 15 of the 48 human rights; and risks include adverse impacts on customers, local communities or even the wider public. The narrow focus means that an audit does not give any clarity about the extent to which a supplier respects human rights.” he continues.

“Thirdly, the focus on the supply chain only is too narrow. The UNGPs state clearly that this is about the entire value chain. Professor John Ruggie, the author of the UNGPs, kindly read and commented on some work GLOBAL CSR completed for the Danish Business Authority and the Danish Shipping Association, in which it was

confirmed that in order for companies to respect human rights, they must as a minimum demand the same of all of their business relationships.”

Unnecessary

As mentioned previously, the established CoC/audit systems are not only insufficient, they are also for the most part unnecessary, if you ask Sune Skadegaard Thorsen:

“The UNGPs simply require that companies take action on severe adverse human rights impacts in the full value chain. It does not demand that the company audits all the companies in its entire value chain. This is a demand that well-meaning and overly optimistic NGOs and politicians have come up with. Living up to the UNGPs does not mean carrying out impact assessments FOR suppliers, which is what happens with audits, and only in relation to seven or eight pre-defined rights and accommodating predefined indicators.”

“What companies should do, is to require that suppliers, and other business relationships, inform them, how the business relationships are handling severe impacts, and the companies should keep an eye on the developments. The strong proposal of a globally agreed minimum standard for responsible business conduct is that the requirement of due diligence is passed on along the value chain; so, we would expect that all the companies in the value chain establish their own due diligence processes. All companies have to live up to the transparency requirement in the UNGPs, which means that all companies in value chains are able to communicate the result of their due diligence—i.e., regular operational-level impact assessments—to impacted stakeholders and to their business relationships,” Sune Skadegaard Thorsen concludes.

“The consequence is that the audit systems, as we know them, become redundant. With the new regulation, all companies MUST address their own adverse impacts. Companies have been yearning for this for years. There is not a company in the world that do not suffer from audit-fatigue - a result of the massive audit expectations developed over the past 20 years. Distributors are tired of it because it unnecessarily raises the price of their products but does not result in sustainable changes on the ground. Suppliers are even more tired of having to take time away from their management duties and spend it on living up to the ‘arbitrary’ demands that characterize most of the actions in this area, whether they are multi-stakeholder initiatives (SEDEX SMETA / BSCI / FLA / ETI / SA8000 / World Favour / Eco Vadis etc.), or individual audit demands.” he says.

Industry and professional shifts are required

It is difficult to envisage that all the actors in the CoC/audit business will simply close up shop when the EU regulations are brought in. According to Sune Skadegaard Thorsen, the arguments have already begun with the industry standing by audit industry claims that their existing practices already they live up to the UNGPs, or that their insertion of references to the UNGPs in the introduction of their codes are enough.

“I expect that the market will regulate the existing regimes. As soon as companies realize that the existing systems are neither sufficient nor necessary, they will demand that providers adjust their services to meet the new minimum standard, and if they do not, companies will take their business elsewhere.” says Sune Skadegaard Thorsen.

The CoC and audit systems is not just a service; it is also a profession and there are people on teams in companies who are working with responsible supply chains and purchasing. What will happen to them? Sune Skadegaard Thorsen has no doubts: “People will have to either re-educate themselves on the UNGPs or become redundant themselves. If these professionals can make this change, there should be plenty of work for both consultants and employees when the due diligence work gets going. We are already noticing a huge demand for people in command of the UNGPs.”

Due-Diligence Demands Change

No more arbitrary demands on suppliers. It is now about companies getting a handle on their own adverse impacts on human rights and doing something about them.

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The EU regulatory system will within the next few years require that companies carry out mandatory due diligence in their own operations and in their value chains. CSR.dk has asked Sune Skadegaard Thorsen from GLOBAL CSR, expert and advisor in this field, what this will mean for companies' work with suppliers and other business relationships.

Sune Skadegaard Thorsen is the owner and founder of GLOBAL CSR and expert on human rights and business. Sune explained in an article published previously what the difference is between the CoC/auditing systems that are currently in use and a due-diligence system based on the United Nations Guidelines for Business and Human Rights (UNGPs), which the forthcoming EU regulation will, in all likelihood, be based on.

In this article we continue the conversation with a focus on how companies can prepare themselves.

What should the companies do differently to what they are doing today?

The UNGPs should be considered a minimum standard to work against. This is what the companies should get to grips with and work with. This means that they approve a policy commitment which lives up to the requirements of the standard, establish due diligence management systems, whereby impact assessments on all parts of the business are carried out on a regular basis, and are able to communicate the results. In addition, they must establish or take part in grievance mechanisms in which individuals or groups are able to report and have addressed any experiences of adverse impacts.

Furthermore, companies must also, as a minimum, demand from their business relationships that they meet the standard and take action regarding any severe impacts that occur in their value chain; severe impacts that they are aware of regardless of who makes them aware of it. It is here that the concept of "leverage" becomes relevant.

How can one ensure that a supplier actually carried out due diligence on their suppliers?

Suppliers should carry out their own due diligence and be able to document it. They should NOT carry out due diligence ON their suppliers, but rather require of their suppliers and other business relationships that they also conduct due diligence and require the same of their business relationships.

How does one have control in a set-up where one does not go out and check, for instance, whether the suppliers are doing what they have been asked to do?

Control is an illusion. If we follow the logic of the old system, all companies should carry out audits on all of their business relationships in the value chain, who in turn should carry out audits on all of their business relationships, yourself included as a customer. For me, the only pragmatic solution is that we have more trust in our business relationships; and such trust will always be supported by access being given to every company unit's impact assessment as required by the standard. The greatest challenge at present will be to agree on the quality and amount of information that company unit's should disclose in their impact assessments; that is, the company unit's 'self-declaration' on responsible business conduct. But several companies are already quite advanced in this area.

How should one approach helping suppliers achieve this goal? How far should one go?

As the UNGPs require, the company can start by giving suppliers and other business relationships access to the company's policy commitment, impact assessments, and information about grievance mechanisms. Otherwise, one can expect that there will be plenty of guidance from overnments and business associations provided in the coming years.

What will happen to the present-day audit systems and ongoing partnerships?

The most common audit systems like SEDEX SMETA, BSCI, FLA, ETI, SA 8000, World Flavour, Eco Vadis etc. will help their members and customers follow the new requirements from the EU for instance, which in effect means that they will tell them to implement the UN Guiding Principles. If they can change their Code of Conduct and educate their staff on understanding and implementing the minimum standard instead of their own self-invented solutions, they have a good chance of survival, if one considers that it is initially only companies in the EU that must implement the standard. However, this demands that they make changes and do not stubbornly hold on to the all-too-expensive and inefficient existing solutions. In this regard, one should bear in mind that the business-model for the initiatives depend on the income from auditing.

Could the due-diligence requirement in fact work to their advantage, and can change come about to the benefit of us all?

Yes, I believe that the UNGPs will work to all businesses' advantage. In the 20 years up to 2011, companies yearned for something that could help them shape their work with human rights, that include labour rights. However, the bar has been set relatively high, and that can give ground for resistance confirming classic misconceptions surrounding responsible business conduct in relation to human rights, for instance, that it is a utopian vision.

Little by little, as a number of companies "just do it" and show that the implementation creates value, security and reliability, the excuse for not getting going will become increasingly untenable.