



Review of the effects of the Norwegian Transparency Act

The Royal Norwegian Ministry
of Children and Families

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Preface

Commissioned by the The Royal Norwegian Ministry of Children and Families, KPMG presents the final report for *Review of the effects of the Norwegian Transparency Act*. The review team includes Geir Sundet (Project Manager), Eivind Pytte Ødegård, Henriette Lingelem, Sabine Hammerstad, Beate Hvam-Laheld (General Partner) from KPMG and Line Tjelflaat from the University of Bergen. Rebecca Eikeri from KPMG assisted with the design.

We would like to extend our gratitude to everyone who contributed information for this evaluation. The team is responsible for all assessments made and any errors that may be found in the report.

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Executive Summary

Norwegian enterprises support the intentions of the Transparency Act and believe the established requirements are clear and appropriate. Most of the enterprises believe they have the capacity and competence to comply with the requirements of the Act. Despite its relatively recent enactment, the Transparency Act has contributed to several tangible improvements, both within enterprises and across supply chains.

However, the enterprises surveyed highlight several challenges related to the Transparency Act and the way due diligence requirements are operationalised. To an extent, the Transparency Act has contributed to the bureaucratisation of due diligence and enterprises' work on human rights and decent working conditions, due to increased paperwork and reporting duties. The larger enterprises are particularly concerned with how the implementation of new European directives will affect reporting requirements and workloads.

As a direct result of the Transparency Act, the prioritisation of business sector human rights obligations has been significantly and systematically elevated for many Norwegian enterprises. The Act has led to a greater emphasis and more systematic work on due diligence. Most of the enterprises perceive the Transparency Act as both intelligible and workable. The vast majority of respondents support the purpose of the Act and believe that it is appropriately designed. However, the obligations of the Act are subject to differing interpretations, and practical compliance with the statutory requirements varies.

The enterprises experience different challenges relating to the Act:

- Some enterprises question the **role of the Norwegian Consumer Authority**. They believe the body lacks a proper understanding of the prevailing conditions in the business sector and the challenges that may arise related to complex supply chains. Some also view the lack of a clearer distinction between the roles of offering guidance and that of a supervisory body as problematic.
- Several enterprises feel that parts of the **Act are ambiguous and that clearer guidance is needed**. This applies especially to assessments of proportionality, prioritisation, what is to be considered 'sufficient' due diligence and the extent to which the enterprises are required to assess supply chains.
- Since the Transparency Act entered into force, many have experienced a **bureaucratisation of the business sector's due diligence obligations**.

The enterprises receive a substantial number of questionnaires as part of the due diligence of customers and business connections.

- Some enterprises view **challenges related to privacy and security** as consequences of transparency requirements. This is particularly due to the duty to provide information which grants stakeholders a right to access. Furthermore, the Freedom of Information Act applies when the enterprises communicate with the Norwegian Consumer Authority in connection with guidance and supervision.

In addition, this review has revealed several instances where the requirements of the Transparency Act may be counterproductive:

- **Some enterprises report poorer outcomes in public tenders when exercising transparency regarding supply chain challenges.** Dutiful enterprises that offer solutions where due diligence is accounted for and priced in may risk losing tenders to less reputable competitors who have not necessarily conducted as thorough due diligence or implemented the measures outlined in their proposals.
- **The Transparency Act may have been counterproductive in countries or areas with a high degree of inherent risk.** Enterprises may choose to withdraw, refrain from investments, or opt not to use suppliers from high-risk areas, instead of implementing mitigating measures.

- **The unintended consequence of due diligence may be that smaller suppliers are turned down** because they are unable to fulfil extensive documentation requirements, irrespective of the risk of human rights violations.

Regarding the structuring of due diligence efforts, most enterprises have organised such work under procurement or sustainability/ environmental, social and governance (ESG), followed by human resources (HR)/health, safety, and environment (HSE) or legal/compliance. Many enterprises have allocated considerable time and resources to adapt to the new requirements. For most, the majority of this time has been devoted to embedding the requirements and identifying risks, with less time dedicated to concrete measures “in the field” and remediation.

Many small enterprises that are not covered by the Act are still indirectly covered through contractual requirements from larger enterprises subject to the Act. Most of the small enterprises that have contributed to this review are in favour of the Act and believe it is appropriately structured. This is also confirmed by organisations that have such enterprises among their Group. At the same time, many of the smallest enterprises find it challenging to fulfil the extensive documentation requirements imposed by customers and business connections that are subject to the Transparency Act. In this context, a lack of clarity regarding proportionality is also perceived as a challenge.

The review has revealed that the Transparency Act has already contributed to several concrete improvements for workers and vulnerable groups. First and foremost, the Transparency Act has contributed to a heightened focus on the importance of sound due diligence, which, in turn, has triggered a systematic strengthening of competence and procedures in most enterprises. Furthermore, the enterprises report concrete measures that have led to improvements within their own organisation (13%) and across the supply chain (28%). This includes:

- **Internal measures** to establish strengthened procedures for risk assessments, responsible recruitment practices, calculation of living

wages and instructions and training for employees with close proximity to risk areas.

- **Measures in the supply chain** with more stringent requirements for suppliers, revitalisation of labour and supervision controls for pay and working conditions, and investigations related to whistleblowing, mediation with indigenous peoples on rights, discontinuation of projects involving adverse impacts, including one case involving land restitution to the affected party.

At the same time, this review shows that much of the work in the first two years has been devoted to written activities such as the preparation of policies, systems for identifying and managing risks and the drafting of due diligence accounts. The review shows that less effort has been directed at the implementation of specific measures and remediation.

The path ahead

The larger enterprises are especially concerned with how the implementation of new European directives on sustainability and compliance will affect reporting requirements. They highlight harmonisation of the Transparency Act with other sets of rules as an important topic related to the Government’s further work. As part of this work, many are also seeking clarification on varying terminology and uncertainty regarding which obligations apply. Many believe that the Act is primarily a due diligence law, and several point out that the title *Transparency Act* has led to misaligned expectations of the enterprises. At the same time, there is a risk of losing the momentum achieved in the initial years of the Transparency Act if some of the special features of the Transparency Act are diluted, such as the duty to account for due diligence, the duty to provide information and the principle of a living wage.

This review emphasises the critical need to focus on constructive and positive improvements moving forward, with dialogue among enterprises, civil society, authorities, and other stakeholders. The Act’s purpose of promoting enterprises’ respect for fundamental human rights and decent working conditions should be at the core of these efforts.

1. Introduction

“The Transparency Act is a Norwegian law that promotes enterprises’ respect for fundamental human rights and decent working conditions in connection with the production of goods and the delivery of services. The Act also aims to ensure the general public’s access to information on how the enterprises address adverse impacts in these areas.

Over time, both domestically and internationally, a growing awareness has developed regarding responsible business conduct, including respect for human rights. The Transparency Act is part of such a development and entails Norwegian statutory regulation of international guiding principles on the human rights responsibilities of businesses.”¹

The Ministry of Children and Families has commenced a previously announced evaluation of the Transparency Act. As part of the evaluation, there is a need to obtain knowledge about how the Transparency Act has worked since it entered into force on 1 July 2022.

In the preparatory works of the Transparency Act, the Ministry announced plans for an evaluation to take place after some time. The evaluation would assess the impacts of the Act, consider subjecting small enterprises to the Act, and explore the possibility of expanding the scope to cover environmental impact and potentially other areas, in line with the OECD Guidelines for Multinational Enterprises.

In the introductory chapter, we present KPMG’s review mandate and limitations for assignment. In Chapter Two, we outline the international and domestic background of the Transparency Act, its requirements for enterprises, the status after the first two years, and expected developments in the future.

Chapter Three presents findings on the enterprises’ experiences with the Act, including challenges related to compliance. Chapter Four describes how the enterprises have solved the organisational aspect of due diligence work, including financial and administrative consequences. Chapter Five presents findings on how enterprises below the scope threshold have been affected by the Act. Chapter Six discusses the Act’s impact on responsible business conduct within enterprises and supply chains.

Chapter Seven looks to the future, highlighting factors that should be considered in further evaluation of the Transparency Act and when implementing new international directives.

Review mandate and limitations

In 2024, the Ministry of Children and Families initiated two reviews to be conducted by KPMG and the Norwegian National Institute for Consumer Research (SIFO).² A meeting for input was also held with stakeholders from the business sector, civil society, the Norwegian Consumer Authority and the Norwegian National Contact Point for Responsible Business Conduct (Norwegian NCP for RBC), and an inter-ministerial working group was appointed to evaluate the Transparency Act and the implementation of the Corporate Sustainability Due Diligence Directive (CSDDD). SIFO’s mandate is to provide insight into the effects and usefulness of the right to information and duty to account for due diligence in relation to civil society, the media, and consumers.

The main question for this review is whether the Transparency Act has contributed to strengthening the enterprises’ work on human rights and working conditions within their own operations, across supply chains and among business partners.

¹ <https://lovdata.no/dokument/NL/lov/2021-06-18-99>

² <https://www.regjeringen.no/no/tema/forbruker/apenhetsloven/evaluering-av-apenhetsloven-og-gjennomforing-av-aktsomhetsdirektivet-corporate-sustainability-due-diligence-directive-csddd-i-norsk-rett/id3041086/>

As part of the assignment, we have sought to answer the following questions:

1. What challenges and opportunities do the enterprises see in complying with the Transparency Act?
2. What financial and administrative consequences has the Transparency Act entailed for the enterprises? And what are the causes and/or drivers of costs?
3. How have small enterprises that are not subject to the Transparency Act been affected by the Act's requirements?
4. To what extent has the Transparency Act contributed to strengthening enterprises' work on due diligence?
5. How have the enterprises chosen to structure their work internally to meet the statutory requirements? To what extent have the enterprises utilised external services?
6. To what extent do the enterprises experience practical challenges due to the overlap of the Transparency Act's reporting requirements and other reporting requirements?
7. To what extent do the enterprises carry out due diligence in other areas that are not covered by the Transparency Act, such as environmental impact or anti-corruption?

KPMG's review is limited to the effects of the Act on those covered by it, as well as on small enterprises that are not subject to the Act. This scope therefore excludes effects such as:

- public administration costs;
- information for the media and consumers;
- supervision and complaints; and
- private law sanctions.

Data collection methods

The evaluation is based on data from a document review, analysis of due diligence accounts under the Transparency Act, a survey, several dialogue meetings and group interviews with stakeholders, as well as a virtual workshop with key stakeholders.

- **The document review** included domestic and international legislation and regulations, relevant studies and investigations, and media articles. See Appendix 1 for a complete list of documents reviewed and sources used for this review.
- **Written input** from seven organisations and enterprises (see, Appendix 2).
- **A review of due diligence accounts** published by a sample of 150 enterprises in the first two years the Transparency Act has been in effect. See Appendix 3 for a description of the criteria used for this analysis and the data collected.
- **A survey** was sent to 600 selected enterprises. The table below shows the distribution of the sample across different enterprise sizes, along with the number of responses and the response rate from each group.

	Criteria	Sample	Response	Response rate
Large enterprises	Employees: ≥ 1,000	63	56	89%
Medium-sized enterprises	Turnover: ≥ EUR 450 million (approx. NOK 5.3 billion)	167	81	49%
Small enterprises	Employees: ≥ 250	305	119	39%
Enterprises not covered by the Act	Turnover: ≥ NOK 580 million	65	17	26%
Total		600	273	45%

The survey's overall response rate is 45 per cent. For a survey based on a random sample of a large group of respondents, this provides a sufficient basis for our analysis. In 2016, Ottar Hellevik, one of Norway's leading experts on statistical analysis in the social sciences, observed that an increase in the frequency of requests to respond to surveys has led to fewer responses.³ Hellevik referred to studies on surveys from the United States and Norway that suggest there is no simple correlation between response rate and bias in the results. A more important consideration is a possible bias related to who has responded. This concerns the composition of respondents versus non-respondents.

A possible bias in our survey is whether a larger proportion of those who are familiar with the Transparency Act have responded, compared with those who are less familiar with the Act. One way of checking this is to examine the data for who has responded to the survey. The response rate for our survey is highest among the larger enterprises, and gradually decreases for each size category.

From our conversations with the enterprises, both in this review and in other assignments we have carried out, we are aware that larger enterprises typically have greater resources and more extensive experience with due diligence.

Differences in response rates between larger and smaller enterprises may therefore indicate that those with more knowledge of the Transparency Act have a higher response rate than those with less knowledge of the Transparency Act. At the same time, the varying response rates may also reflect that enterprises requiring more comprehensive measures to ensure statutory compliance are also the most interested in the Act and, consequently, may have been more inclined to participate in the survey.

Thus, there is a possibility that the sample may be biased, with an overrepresentation of enterprises that have greater knowledge of the Transparency Act. This means that the findings may depict the enterprises as having a higher level of knowledge about the Act than is actually the case.

Also, this assignment was to investigate the impact of the Transparency Act on the enterprises. If there is a bias in that the enterprises that responded to the survey are more actively engaged in work related to the Act than non-respondents, this does not necessarily indicate a weakness in our data.

Rather, it provides a strong indication of how the Act is perceived by those who are engaging with it.

In our analyses, we have triangulated findings from the survey with findings from our review of due diligence accounts, interviews and other sources.

We conducted 10 individual interviews and group interviews, with a total of 35 respondents from enterprises of varying sizes, employer associations, civil society organisations and government agencies. The interviews contained general questions, such as requests for input on what the participants believed was important and problematic about the Transparency Act, their input on what the review should highlight, as well as specific issues such as the structuring of work related to the Act and the impact on the small enterprises.

Thematic surveys

This report contains thematic surveys concerning:

- **The duty to provide information**, where we have reviewed the types of enquiries the enterprises receive with reference to the Transparency Act.
- **The duty to take action**, where we examined how the enterprises follow up potential and actual adverse impacts.

Virtual workshop

KPMG conducted a virtual workshop in the final phase of the project, where preliminary findings and recommendations were presented to a selection of representatives from enterprises, employer associations, civil society organisations and government agencies. The purpose of the workshop was to receive input on the preliminary findings and recommendations presented. The workshop is an important component of the data collection in the project with a view to validating and correcting findings and recommendations. A draft of the report was also shared with contracting authorities for corrections and comments, which have been addressed in this final report.

By basing our analyses on comprehensive data, we have been able to triangulate data through comparisons between reviews of due diligence accounts and the survey. Furthermore, we have tested our early analyses from this data in interviews and group interviews, as well as the final virtual workshop.

³ Hellevik, Ottar (2016). "[Kronikk. Lave svarprosenter fører ikke nødvendigvis til skjeve resultater](#)" [Op-ed. Low response rates do not necessarily lead to biased results], forskning.no.

2. The Transparency Act: Background, legal developments and status

Over time, awareness regarding responsible business conduct has developed, both domestically and internationally. The Transparency Act is part of this development and entails Norwegian statutory regulation of international guiding principles on the human rights responsibilities of businesses. Several major industrial accidents have highlighted the challenges associated with regulating the activities of global enterprises, while advances in knowledge have revealed the inadequacies of a voluntary framework. This has led to a transition to more binding regulation the responsibility of enterprises to respect human rights and decent working conditions.

Considering the clear international trend towards increased regulation and statutory reporting, the drafting of the Transparency Act emphasised the importance of harmonising domestic and international legislation, legislative developments in the EU, and corresponding requirements in other jurisdictions.

International development trends

Business and human rights in an international context

In their production of goods and delivery of services, enterprises can have both a positive and negative impact on people. Negative impacts resulting from the activities of Norwegian enterprises can occur in Norway, as well as beyond our national borders. This can involve employees and workers who may be subjected to practices such as forced labour, social dumping, and denial of the right to organise and engage in collective bargaining. Local populations can be affected by the activities of enterprises, including through the destruction or disruption of indigenous territories.

The ILO has estimated that close to 50 million people are living in conditions of forced labour and modern slavery, and that this number is growing.⁴ Many of those at risk of poor working conditions are often located in the Global South, working in global value chains with a parent company or a chain leader based in the Global North.⁵ The skewed distribution of risk is exacerbated by the fact that

global corporate structures are organised such that various economic activities are placed in locations that maximise profitability.

In many cases, enterprises can satisfy national requirements where the activity is carried out which fall well below both Norwegian standards and the fundamental human rights principles underpinning the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines).

Several major industrial accidents have highlighted the challenges of regulating the activities of global enterprises. The 1984 Bhopal disaster, where over 3,000 people died instantly from gas poisoning, the 2013 collapse of the Rana Plaza textile factory in Bangladesh, resulting in over 1,100 deaths, and the destruction and human rights violations related to oil exploration and production in the Niger Delta, have all been pivotal in discussions related to regulating extraterritorial corporate liability.

International initiatives and frameworks

International initiatives and frameworks have played a key role in promoting the importance

⁴ ILO: "Global estimates of Modern Slavery. Forced Labour and Forced Marriage" dated 12 September 2022. Available at <https://www.ilo.org/publications/major-publications/global->

[estimates-modern-slavery-forced-labour-and-forced-marriage](#), last accessed 25 April 2024.

⁵ Ruggie 2013 p. 1-36.

of enterprises working for human rights and decent working conditions.

Some of these initiatives have also been instrumental in guiding enterprises to incorporate due diligence through the establishment of clear standards. Some of the key initiatives and frameworks include:

- *The UN Sustainable Development Goals:* which sets out a working plan to eradicate poverty, reduce inequality and combat climate change by 2030.
- *The UN international human rights conventions and the ILO's core conventions:* which establish common rules for the protection of human rights and decent working conditions and form the basis for the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.
- *The UN Guiding Principles on Business and Human Rights (UNGPs):* which clarify the various roles and responsibilities of states and enterprises in relation to human rights in accordance with international obligations. The UNGPs require businesses to undertake due diligence to identify, prevent and mitigate adverse impacts on human rights.
- *The OECD Guidelines for Multinational Enterprises:* which aim to strengthen trust, improve the investment climate and promote the sustainable contributions of multinational enterprises as part of responsible business conduct by emphasising due diligence and providing recommendations to multinational enterprises.

The UNGPs and OECD MNE Guidelines form the basis for the regulation of due diligence in the Transparency Act. An updated version of the OECD MNE Guidelines was launched in the summer of 2023. The updates included clarifications regarding due diligence, as well as significant updates in the areas of climate change and environment and science and technology. The updated guidelines refer directly to the six stages of the due diligence process and provide more detailed guidance on due diligence.

The updates of particular relevance for the Transparency Act⁶ include:

- Greater alignment between the OECD MNE Guidelines and the OECD Due Diligence Guidance for Responsible Business Conduct;
- Clarification of the principle of risk-based due diligence;
- Emphasis on meaningful stakeholder engagement;
- Specifications of how enterprises are expected to carry out due diligence related to the *use of* their products and services;
- Clarification of the importance of disclosing information on responsible business conduct;
- Specifications for better protection for at-risk persons and groups, including those who raise concerns regarding the conduct of businesses.
- Clarification of expectations related to workers' rights and decent work;
- Increased focus on enhanced due diligence in high-risk situations;
- Emphasis on the link between adverse environmental impacts and adverse impacts to people.

There have also been developments in specific thematic areas. One example of this was in March 2024, when the ILO launched a definition of a living wage in an effort to influence the standard of living in global supply chains: "*the wage level that is necessary to afford a decent standard of living for workers and their families, taking into account the country circumstances and calculated for the work performed during the normal hours of work.*"⁷ This may be relevant to the interpretation of the definition of decent working conditions, cf. section 3 (c) of the Transparency Act, which defines decent working conditions as "work that safeguards fundamental human rights [...] and health, safety and environment in the workplace, *and that provides a living wage*".

⁶ [Oppdatering av OECDs retningslinjer – hvilken betydning har det for åpenhetsloven? \[Update of the OECD Guidelines – what does it mean for the Transparency Act?\] – The Norwegian Consumer Authority](#)

⁷ <https://etiskhandel.no/aktuelle-saker/hvor-mye-er-en-lonn-a-leve-av/>

Examples of business and human rights legislation

Like Norway, several other countries have enacted legislation aimed at turning initiatives for international human rights and decent working conditions into legally binding obligations for larger enterprises. Among those to have introduced similar legislation is the State of California of the United States (2012), the United Kingdom (2015), France (2017), Australia (2019), the Netherlands (2019) and Germany (2021). Several of these national legal frameworks and their effects were also reviewed in the preparatory works of the Transparency Act. An important consideration was that the Norwegian act should not conflict with such legislation, and therefore, create complications for multinational enterprises that are subject to multiple legal frameworks.

Legal developments in the EU

The EU has introduced several initiatives related to responsible business conduct, a cornerstone being the European Green Deal. This strategic framework aims to ensure a more sustainable and competitive Europe and forms the basis for several legislative proposals intended to implement the UN's 2030 Agenda for Sustainable Development, achieve the UN Sustainable Development Goals, and realise climate neutrality in the EU by 2050. One of the instruments of the European Green Deal is to promote investment in sustainable business practices. To achieve this, the EU has adopted regulations such as the EU Taxonomy, the Corporate Sustainability Reporting Directive (CSRD), and the Sustainable Finance Disclosure Regulation (SFDR).

There are already specific requirements in the EU directed at certain industries and high-risk products. Examples include the Conflict Minerals Regulation (2017), the Regulation on Deforestation-Free Products (2023), and the Batteries Regulation (2023). These vary in terms of the level of detail, including direct or indirect requirements for due diligence, and varying references to the UNGP and OECD MNE Guidelines. More recent EU legislation, particularly the CSRD and the CSDDD, have placed a greater emphasis on developing general and cross-sectoral obligations.

The assessments of this review are made in light of relevant EU legislation adopted since the entry into force of the Transparency Act. Legislation of relevance includes:

- **The Corporate Sustainability Reporting Directive (CSRD):** The CSRD entered into force in the EU on 5 January 2023, and introduces requirements for enterprises' sustainability reporting on environmental, social and governance issues. This includes issues related to workers, respect for human rights, as well as measures related to anti-corruption and bribery matters. The Directive mandates companies to report on their due diligence activities; however, it does not outline the specific requirements for carrying out due diligence (the requirements for carrying out due diligence are included in the Corporate Sustainability Due Diligence Directive (CSDDD)). The CSRD refers to international frameworks such as the UNGP and the OECD MNE Guidelines. The Directive clarifies which enterprises are covered by the reporting requirements and when they are to report. The European Single Reporting System (ESRS) establishes detailed reporting requirements. The Government proposed incorporating these rules into Norwegian law through new national rules in March 2024. The rules were adopted by the Storting in June 2024 and entered into force on 1 November 2024. The new rules took effect for Norwegian enterprises from the 2024 financial year, with the first reporting deadline in 2025.
- **The Corporate Sustainability Due Diligence Directive (CSDDD):** The CSDDD entered into force in the EU on 25 July 2024. The purpose of the Directive is to establish a common framework for fostering sustainable and responsible corporate behaviour in enterprises' operations. The Directive requires large enterprises to carry out human rights and environmental due diligence in their chain of activities and to prepare a transition plan for climate change mitigation. The Directive builds on the same international frameworks as the Transparency Act, including the UNGP and the OECD MNE Guidelines. The deadline for incorporating the Directive into national law is 26 July 2026. In July 2027, the obligations will begin to apply to the applicable enterprises, with a gradual phase-in from three to five years after entry into force. The Directive has been marked as EEA-relevant but has not yet been incorporated into the EEA Agreement.

- **The Forced Labour Regulation:** The EU Regulation prohibiting products made with forced labour was adopted by the Council on 19 November 2024 and will enter into force in the EU upon formal signing and publication. The Regulation is intended to complement the CSDDD and contains rules which prohibit placing products made with forced labour into EU's internal market, as well as their export from the market. A risk-based enforcement approach is envisaged, directed at specific products or product sectors, or products originating from high-risk geographical regions. The Regulation entails that investigations are to be carried out if it is suspected that products or goods have been made using forced labour. Products and goods risk being banned or withdrawn from the market. The European Commission will draft and publish guidance on due diligence and risk factors. The Regulation will apply to all enterprises, regardless of size, and it is expected that the European Commission will also issue guidance for small and medium-sized enterprises that have limited resources. The obligations of the Regulation will take effect 36 months after its entry into force. The Forced Labour Regulation has been marked as EEA-relevant but has not yet been incorporated into the EEA Agreement.

Developments in Norway

Business and human rights in the Norwegian context

Norway has extensive human rights obligations enshrined in the Constitution of Norway, the Human Rights Act, other national legislation and international conventions that Norway has ratified. This includes 112 ILO conventions and three protocols, positioning Norway among the countries with the most extensive treaty commitments worldwide.

Working conditions are also regulated by the Working Environment Act and the General Application Act, which contribute to ensuring responsible labour practices.

Since the introduction of the penal provision on human trafficking in 2003, there has been three convictions in Norway related to forced labour in seasonal work, paving and grocery trade, according to an overview by the Norwegian Police's Coordination Unit against Human Trafficking (KOM).⁸

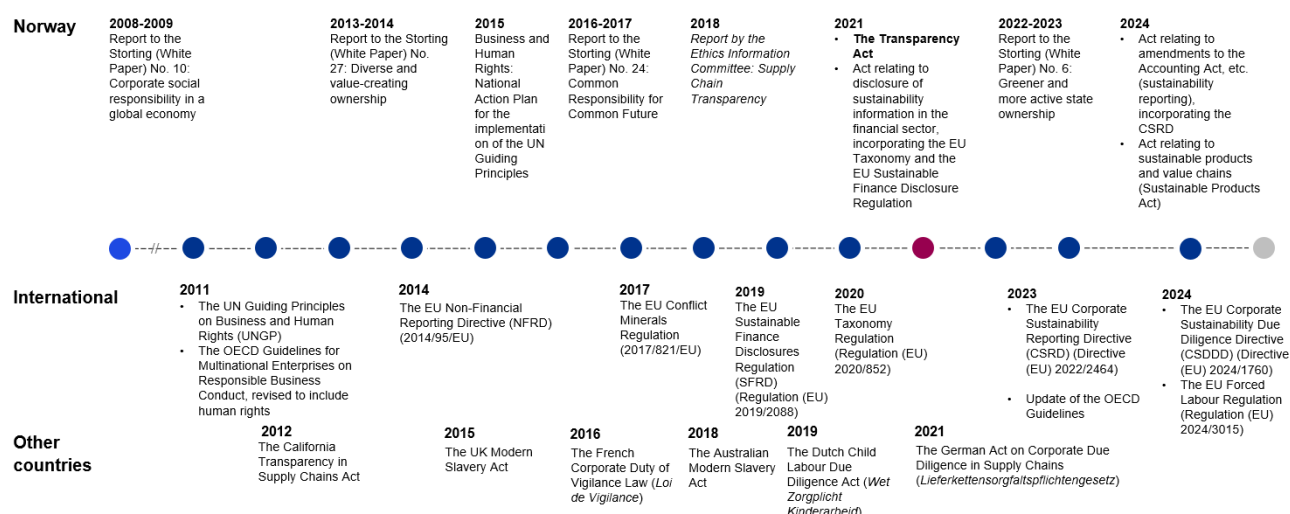
Despite a significant legal framework, combating work-related crime has proved challenging. The Norwegian Labour Inspection Authority, the Norwegian Labour and Welfare Administration, the Norwegian Police and the Norwegian Tax Administration prepare joint annual reports on inter-agency efforts to combat work-related crime, and have reported that, overall, there are indications that the extent of work-related crime in Norway constitutes a serious societal problem.⁹ According to reports from the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) and the National Inter-Agency Centre for Analysis and Intelligence (NTAES), work-related crime is particularly prevalent in parts of the labour market with a high proportion of unskilled labour. According to the agencies, the highest risks are found in the building and construction industry, food service and accommodation, transport and the auto detailing and car wash sector. Another commonality for these sectors is that they have a high proportion of foreign labour.

Expectations regarding responsible business conduct have been expressed by the Norwegian authorities over time (see, Figure 1) but have not yielded satisfactory results. Several enterprises, particularly large multinationals, have been working according to voluntary guidelines and frameworks for several years. Nevertheless, it has become clearer over time that voluntary compliance with norms and frameworks for responsible business conduct has not been sufficient to mitigate enterprises' adverse impacts on human rights and decent work.

⁸ HR-2017-1124-A, 2017-06-07- Judgement: (*Gartnerisaken* [Plant nursery case]), LB-2018-102939-2, 2021-09-10- Judgement: (*Lime-saken* [Lime grocery chain case]) and Jæren District Court - Judgement: TJARE-2008-69332, 2008-07-04 (*Steinleggersaken* [Paver case]).

⁹ [Felles årsrapport for etatenes innsats mot arbeidslivskriminalitet 2021 \[Joint annual report on the agencies' efforts to combat work-related crime 2021\] \(Norwegian Labour Inspection Authority, Norwegian Labour and Welfare Administration, Norwegian Police and Norwegian Tax Administration\)](#)

Figur 1 – Non-exhaustive timeline of national and international guidelines and legislation on business and human rights (source: KPMG)



Surveys mentioned in the preparatory works of the Transparency Act showed that international initiatives such as the UN Guiding Principles and the OECD MNE Guidelines were not well known among Norwegian enterprises, and that only half of the enterprises in the survey carried out any form of due diligence.¹⁰

Legal developments in Norway

In June 2018, the Norwegian Government appointed the Ethics Information Committee to consider whether enterprises should be subject to a duty to provide information relating to responsible business conduct and supply chain management. In the Committee's mandate, the Government referred to the fact that many consumer goods are produced in countries where worker protection is weaker than in Norway, and that living wages, the use of child labour, excessive working hours and the absence of freedom of association are among the challenges in global trade.

The Committee was mandated to consider whether enterprises should be subject to a "[...] duty to provide information relating to responsible business conduct and supply chain management." On 28 November 2019, the Committee submitted its report: *Supply Chain Transparency – Proposal for an Act regulating Enterprises' transparency about supply chains, duty to know and due diligence*.¹¹

The preparatory works emphasised that the Act should be integrated as part of a coherent national regulatory framework, and that it should, to the greatest extent possible, be harmonised and viewed in the context of existing Norwegian law. This was to avoid unnecessary reporting requirements or redundant reporting for the enterprises.

In connection with the preparatory works of the Transparency Act, a review was conducted of existing laws, regulations and frameworks in Norway that addressed issues related to responsible business conduct, working environment, HSE (health, safety and environment), equal treatment of foreign workers, the duty to provide information, and other relevant areas. Already existing relevant statutory provisions in Norwegian law which influenced businesses to safeguard human rights were reviewed in the preparatory works.¹²

The national laws and regulations that regulate enterprises' human rights obligations can roughly be divided into six categories:

- Public law regulations that set requirements for safeguarding HSE. E.g., the Working Environment Act, the duty to provide information and the concept of "duty of care"

¹⁰ The Norwegian NCP for RBC's survey on responsible business conduct 2020 and Amnesty Business Rating 2019

¹¹ Ethics Information Committee (2019), [Proposal for an Act regulating Enterprises' transparency about supply chains, duty to know and due diligence](#).

¹² Prop. 150 (Bill) (2020-2021).

(*påseplikten*), as well as the Internal Control Regulations.

- Reporting requirements and other information requirements that regulate the information enterprises are obliged to provide to contracting parties, or others, e.g., the Accounting Act and the Environmental Information Act.
- System requirements for enterprises' internal processes, including in the form of due diligence and other forms of self-regulation, e.g., the Partnership Act, Internal Control Regulations, and the Norwegian Corporate Governance Board.
- Market regulation aimed at influencing markets towards a particular direction, and that can be designed as requirements for gaining access to specific markets, or requirements and incentives to influence market development, e.g., the Public Procurement Act.
- Regulation of rights and obligations between private parties, e.g., the Contracts Act, law of obligations, company law and tort law.
- Criminal law, which contains several rules that are relevant to enterprises' activities in Norway. Some of these rules also apply to activities carried out in other countries. e.g., the prohibitions against slavery, forced labour and human trafficking.

The Ethics Information Committee's emphasis on transparency follows a long-standing development in Norwegian administrative law. The Freedom of Information Act established the fundamental principle of the right of access to public documents from authorities when it was introduced in 1970. Transparency has become a key value in Norwegian society. Transparency helps shed light on power structures and preserves trust in society. In the Transparency Act, the principle of public access has been extended from a duty for the public authorities to a duty of transparency for certain private actors. The Transparency Act requires enterprises to account for and provide information about their due diligence and measures to safeguard human rights and decent working conditions. Transparency and accountability are key principles in this regard.

- **Stakeholders have the right to receive information:** The Transparency Act requires enterprises to disclose information about their

work on human rights and working conditions, which can enhance the ability of consumers and other stakeholders to make informed decisions and contribute positively to an informed public discourse on the human rights responsibilities of enterprises.

- **Holding the private sector accountable:** With increased insight into enterprises' work on human rights and decent work, enterprises can, to a greater extent, be held accountable for inadequate due diligence and adverse impacts in their own operations and supply chain.

The Ethics Information Committee's 2019 report highlighted experiences with the Environmental Information Act. The Environmental Information Act includes a similar provision that grants anyone the right to request information about the adverse environmental impacts of Norwegian enterprises.¹³ The Storting requested an overall assessment of the Environmental Information Act after the Appeals Board for Environmental Information had been operational for two years. In the assessment, public and private enterprises expressed that the Act had contributed to increased competence about their own environmental impact and enhanced their preparedness for the handling of environmental information. Experiences from the industry and complaints heard by the Appeals Board for Environmental Information also showed that the questions received can be difficult and resource-intensive to answer due to the wide range of information requested.

When the Transparency Act was drafted, emphasis was placed on the fact that the three main obligations in the Act, together, are appropriate. If the duty to provide information was removed, this would adversely impact the overall effect of the Act. The duty to carry out due diligence mirrors requirements in the legislation of many other countries introduced in recent years. However, the Transparency Act's duties to disclose information are unique in a global context.

During the launch of the bill, Ola Mestad, Chair of the Ethics Information Committee, stated as follows:

*"One rarely has a right to access information from the private sector. I view this as an extension of the Freedom of Information Act, but that it also applies to the private sector."*¹⁴

¹³ [apenhet-om-leverandorkjeder---endelig-rapport-fra-etikkinformsjonsutvalget-pdf.pdf](https://www.apenhet.no/leverandorkjeder---endelig-rapport-fra-etikkinformsjonsutvalget-pdf.pdf)

¹⁴ <https://www.journalisten.no/forbrukertilsynet-ina-lindahl-hyrud-kortnytt/slik-kan-journalister-bruke-den-nye-apenhetsloven/477675>

Overall, the combination of the three main obligations means that the Transparency Act perpetuates the uniquely Norwegian features of the Freedom of Information Act and reflects the transparency valued in Norwegian society. This is believed to have a stronger result from enterprises than an act that only imposes a duty to carry out due diligence.

The Transparency Act carries key principles from the tripartite cooperation

The tripartite cooperation between employee associations (trade unions), employer associations and the government is quite unique in an international context. Norwegian enterprises have experience with tripartite cooperation at the local level, including social dialogue with trade unions, and the Transparency Act carries an expectation that enterprises extend these principles to the global level as part of their monitoring of decent work and human rights. This partly addresses the obligation to conduct stakeholder engagement:

“Stakeholder engagement is an important principle in due diligence under the Transparency Act and the OECD MNE Guidelines. The preparatory works of the Transparency Act emphasise that due diligence is strengthened through stakeholder engagement and that meaningful stakeholder engagement is necessary to ensure sound priorities in the work on due diligence.”¹⁵

Stakeholder engagement is a broad concept, and it is for individual enterprises to identify their most important stakeholders. Examples of stakeholders that have influence or are impacted by enterprises may include workers, workers’ representatives, trade unions, representatives from local communities, indigenous peoples/minorities, civil society organisations, investors and professional industry and trade associations. Stakeholder engagement can provide enterprises with competence on potential and actual adverse impacts and contribute to risk and fact-based prioritisation of due diligence efforts.

The Transparency Act’s requirements for enterprises

The *Transparency Act*, or *Act relating to enterprises’ transparency and work on fundamental human rights and decent working conditions*, in its

unabbreviated form, entered into force on 1 July 2022 and aims to promote enterprises’ respect for fundamental human rights and decent working conditions. In addition, it aims to ensure that the general public has access to information on how enterprises address adverse impacts in these areas.

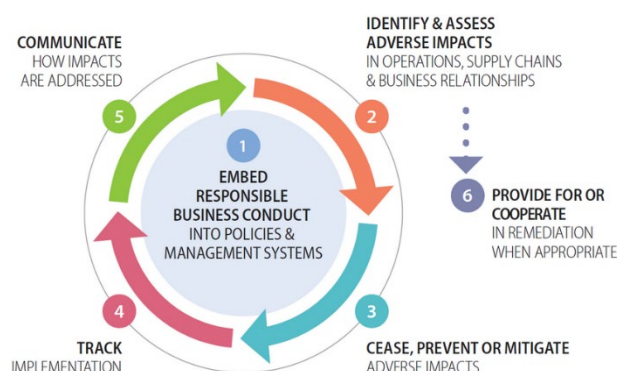
The Transparency Act applies to enterprises that meet at least two of the following criteria:

- Sales revenue: NOK 70 million
- Balance sheet total: NOK 35 million
- Average number of employees in the financial year: 50 full-time equivalents

The Transparency Act sets out three main duties:

- The duty to carry out due diligence
- The duty to account for due diligence
- The duty to provide information upon written request (the duty to provide information).

Figure 2 – Due diligence process & supporting measures



(Source: OECD)

The duty to carry out due diligence

Due diligence shall be risk-based and proportionate and is the key instrument for fulfilling the purpose of the Act, being to promote enterprises’ respect for fundamental human rights and decent working conditions. Due diligence shall be carried out in line with the OECD MNE Guidelines, which entails a systematic six-stage process (illustrated in Figure 2) with the following duties:

- embed responsible business conduct into policies and management systems;
- identify and assess adverse impacts in operations, supply chains and business relationships;

¹⁵ <https://www.forbrukertilsynet.no/oppdatering-av-oecd-retningslinjer-hvilken-betydning-har-det-for-apenhetsloven>

- cease, prevent or mitigate adverse impacts;
- track implementation and results;
- communicate how impacts are addressed;
- provide for or cooperate in remediation when appropriate.

In its guidance, the Norwegian Consumer Authority writes as follows:

“It is worth noting that Stage 5 of the OECD’s due diligence wheel encompasses broader external communication than that required by the Transparency Act. The OECD’s Stage 5 covers both communication with the general public and affected parties. Section 4 of the Transparency Act only requires communication with affected stakeholders and rights holders. Section 5 of the Transparency Act stipulates specific minimum requirements for the type of information to be disclosed to the general public in the form of an annual report.”¹⁶

The duty to provide information in section 6 of the Transparency Act is partially overlapping, but goes further, albeit with certain reservations, grants “any person” the right to receive information from enterprises “regarding how the enterprise addresses actual and potential adverse impacts.”

The enterprises are to ensure the general public access to information

The purpose of the Act – to ensure the general public access to information regarding how enterprises address adverse impacts on fundamental human rights and decent working conditions – is implemented via the duty to account for due diligence and the duty to provide information.

The duty to account for due diligence

The duty to account for due diligence requires the enterprises to publish a due diligence account annually.

The due diligence account must contain:

- a general description of the enterprise
- information regarding identified adverse impacts
- information regarding measures and results

The duty to provide information

The duty to provide information requires enterprises to respond to enquiries from any person seeking information about how the enterprise manages actual and potential adverse impacts.

The enterprises must respond to such requests for information in writing, within a reasonable time and no later than three weeks after the request was received.

Other duties and impacts

The enterprises also have a duty to provide information to the Norwegian Consumer Authority in accordance with section 10 of the Act. In the event of a breach, the Norwegian Consumer Authority and the Norwegian Market Council may intervene by issuing a decision regarding:

- prohibitions or orders
- enforcement penalties
- infringement penalties

These interventions were not used in the first year following the enactment of the Act to allow the enterprises time to adapt to its provisions.

Brief status after two years of the Transparency Act

The Ethics Information Committee’s legislative proposals in the report *Supply Chain Transparency* were mainly followed in the Transparency Act,¹⁷ apart from, among other things, the proposal to require the enterprises covered by the Act to disclose production sites used in manufacturing.

Guidance and supervision in the Transparency Act

The Norwegian Consumer Authority has been assigned responsibility for monitoring compliance with the Transparency Act and providing guidance to the enterprises. On its website, the Norwegian Consumer Authority states that guidance and dialogue are important instruments, which involve publishing continuously updated information on its website, as well as responding to specific questions about the Act.

¹⁶ <https://www.forbrukertilsynet.no/vi-jobber-med/apenhetsloven/aktsomhetsvurderinger/trinn-5-kommuniser-med-interessenter>

¹⁷ <https://www.regjeringen.no/no/dokumenter/prop.-150-l-20202021/id2843171/>

Furthermore, the body follows up on tips that are considered of principal importance or that contain information with a potentially high degree of severity. Moreover, the body initiates its own controls, where it inspects whether enterprises are carrying out due diligence, whether they publish an account of their work and whether they respond to requests for information.

The Norwegian Consumer Authority can issue prohibitions or orders to ensure enterprises comply with the Act and can impose fines in case of non-compliance with its decisions. The authority may impose infringement penalties in the event of repeated breaches of the duty to provide information through a due diligence account and requests for information.

Infringement penalties may also be imposed for repeated breaches of the deadlines for responding to requests for information.

The Norwegian Consumer Authority was clear from the time the Act entered into force that it would focus on guidance and allow the enterprises a grace period to adapt their work on due diligence in line with the duties in the Transparency Act. During this initial period, the Norwegian Consumer Authority also developed a separate department of professionals dedicated to monitoring the Transparency Act. As part of this process, the body has recruited specialists and liaised with other expert bodies in Norway and abroad to exchange experiences with due diligence, including with the Norwegian NCP for RBC.

The Norwegian Consumer Authority's decisions

As of 20 December 2024, the Norwegian Consumer Authority has issued the following decisions:

- **Breaches of the Transparency Act's rules on the processing of requests for information:** A group of pupils at a school submitted a complaint jointly with a civil society organisation to the Norwegian Consumer Authority due to a lack of response from an enterprise to a request for information. On 25 September 2024, the Norwegian Consumer Authority concluded that the enterprise had breached the Transparency Act's requirement

to respond to requests for information on two occasions (section 7, cf. section 6). The enterprise received an infringement fee of NOK 450,000 for the breaches. The enterprise appealed the decision to the Norwegian Market Council, where it was pending as of 20 December 2024.¹⁸

- **Complaint from a journalist against an enterprise concerning a request for information:** The journalist submitted a complaint regarding the response to a request for information that had been submitted to the enterprise. The Norwegian Consumer Authority concluded that the enterprise had not breached the Transparency Act, as it was not required to publish lists of suppliers under sections 6 and 7 of the Act.
- **Complaints from journalists and civil society organisations against two different enterprises:** In two different cases, the enterprises were brought before the Norwegian Consumer Authority for their responses to requests for information. The journalists requested access to supplier information, among other things to be able to verify information about how the enterprises were monitoring their suppliers. In both cases, the Norwegian Consumer Authority concluded that the enterprises had not breached the Transparency Act.

The Norwegian Market Council's decisions

The Norwegian Market Council is an administrative body that hears appeals against decisions made by the Norwegian Consumer Authority.¹⁹ As of 20 December 2024, the following decisions have been made by Norwegian Market Council related to the Transparency Act:

In June 2023, a journalist sent a request for information to Nordea Bank, requesting a complete list of the enterprise's subcontractors for banking services. Nordea did not want to name their subcontractors, in part because of the security risk it could entail regarding hacking. The Norwegian Consumer Authority chose not to prioritise follow-up of the complaint, partly due to resource constraints. The complainant appealed the decision and requested that the Norwegian Market Council consider the Consumer Authority's de-prioritisation

¹⁸ KPMG AS is the auditor for this enterprise. The project team for this investigation at KPMG AS is not involved in the audit assignment, but has nevertheless, following an overall assessment, chosen not to describe or assess this case further in this report and investigation.

¹⁹ <https://www.klagenemndssekretariatet.no/markedsradet/om-oss>

of the case. The Market Council did not uphold the complaint.

New legislation has brought increased focus on due diligence

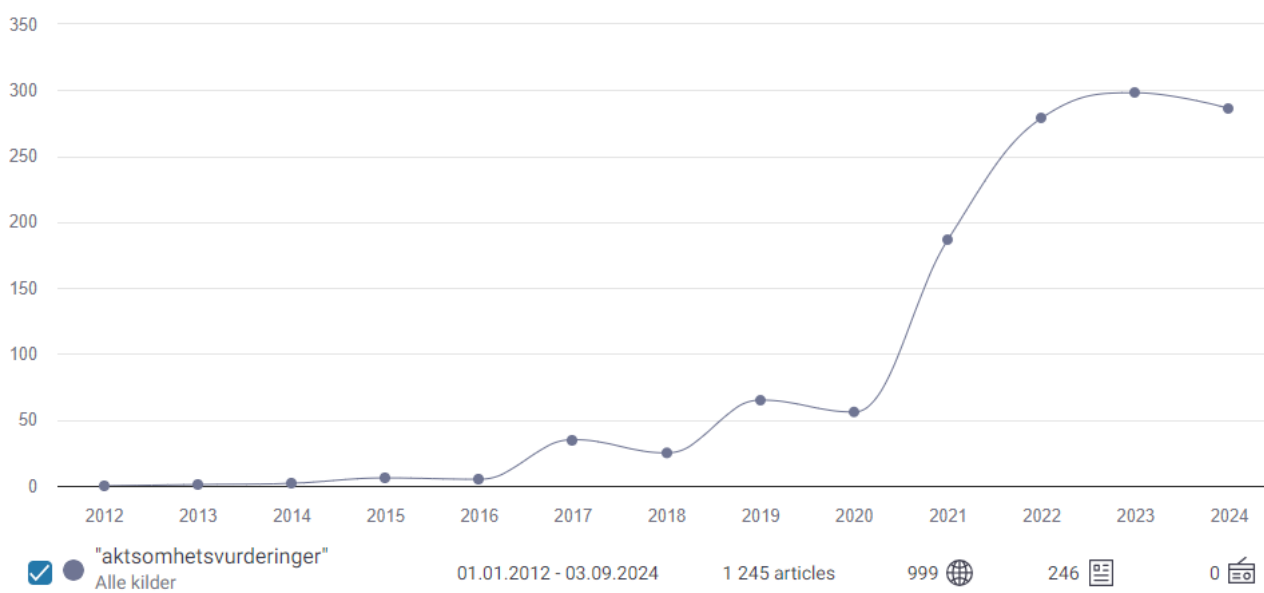
Attention to the concept of due diligence has grown in recent years. Figure 3 shows data from media archives regarding the use of the Norwegian term for due diligence, “aktsomhetsvurderinger.” The overview shows that there was an increase of its use in connection with the work of the Ethics Information Committee (2018-2019) followed by a sharp increase in the use of the term in the period before, during and after the launch of the Transparency Act in 2022.

Query statistics from Google show the same trend

globally, where, e.g., searches for the term ‘Human Rights Due Diligence’ have increased significantly in recent years, coinciding with the launch of new due diligence legislation in various countries (see Figure 4). The search term was most used in March 2024, which coincides with agreement on the EU proposal for the text of the CSDDD on 15 March 2024.

Although the principles were introduced in the UN Guiding Principles and the OECD’s methodology in 2011, it is evident that the Transparency Act and similar legislation in other countries have heightened awareness of due diligence and that the introduction of these laws has introduced the concept to a broader audience.

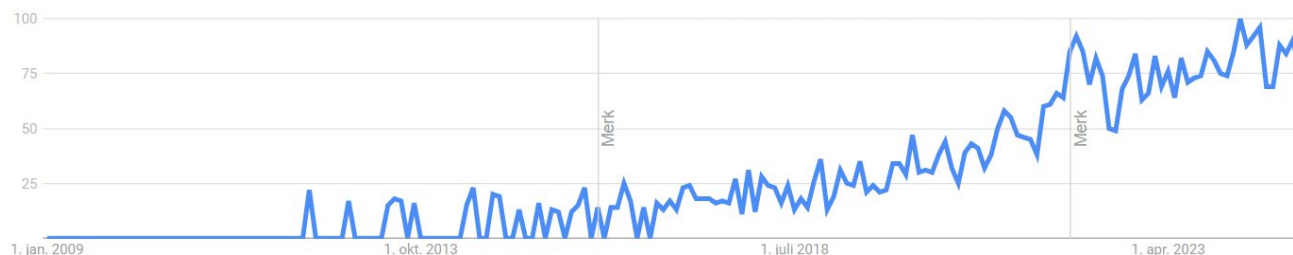
Figure 3 – Number of Norwegian media articles in which the Norwegian term “aktsomhetsvurderinger” (meaning ‘due diligence’) was used in the period 2009-2024.



Source: Retriever.

Figure 4 - Interest over time, search term:

Human Rights Due Diligence Google Trends presented on a scale from 0-100, where 100 represents peak interest and 0 indicates least interest.²⁰



Media discourse and the role of consumers

The SIFO report *Åpenhetslovens mediediskurser* [Media discourse on the Transparency Act] analyses media coverage of the Transparency Act, focusing on how the Act is discussed, who discusses it and how the coverage has changed over time.²¹ The study shows that articles on compliance with the Transparency Act have become more prominent since the Act entered into force. The focus of media coverage has mainly been on the topic of business and human rights, but also the negative financial consequences the Act has had on enterprises. In addition to this, some articles focus on the role of consumers. Consumers have also been emphasised in the design of the Act, through the duty to provide information. However, previous research indicates that consumers often prioritise price and availability over ethical considerations. The report calls for further research into consumers' awareness and use of the Transparency Act.

The views of civil society

A number of civil society organisations were active drivers for the statutory regulation of businesses' human rights obligations in the years before the Transparency Act was passed. This included the Coalition for Responsible Business (KAN), a coalition of businesses, trade unions, civil society organisations and other movements established on the initiative of the Rainforest Foundation Norway, Future in Our Hands, the Norwegian Forum for Development and Environment (ForUM), the Rafto

Foundation for Human Rights, the Norwegian Council for Africa, and Amnesty International:

"Today, there are many responsible companies that do what they can to safeguard people and the environment, both in their own companies and among their subcontractors. Unfortunately, human rights violations are occurring in connection with business activities. By creating a common set of rules for everyone, we even out the differences and create a level playing field. In recent years, several countries have used the UN Guiding Principles on Business and Human Rights (UNGPs) as a starting point for establishing human rights laws for the business sector. We believe Norway should do the same."²²

Many enterprises were prepared to receive requests for information from stakeholders and civil society organisations when the Transparency Act entered into force in July 2022. However, according to several enterprises, such requests were largely delayed. According to the enterprises, the volume of requests from civil society organisations has been lower than expected prior to the introduction of the Act.

In a forthcoming report from the Norwegian Confederation of Trade Unions (LO), Future in our Hands and Amnesty International Norway, prepared by Lysverket, due diligence accounts from 10 enterprises in textiles, shipping, oil and gas and energy that operate in high-risk countries have been analysed. The launch of this report is planned for later in 2025, but KPMG has been given access to the executive summary and a review of the report's main findings in connection with this review. The report describes that the enterprises

²⁰ <https://trends.google.com/trends/explore?date=2009-01-01%202024-12-02&q=human%20rights%20due%20diligence&hl=no>

²¹ <https://oda.oslomet.no/oda-xmlui/bitstream/handle/11250/3165104/SIFO-rapport%208-2024%20%C3%85penhetslovens%20mediediskurser.pdf?sequence=3&isAllowed=y>

²² <https://koalisjonenkan.no/om-kan>

included descriptions of their business model, operations and risk assessments, but notes that there were significant variations in the level of detail in the due diligence accounts. The report calls for enterprises to include more detailed information regarding identified risks, specific measures for follow-up and support for suppliers in high-risk countries, with more detailed information about concrete measures. The report proposes that the Transparency Act be amended to promote greater transparency about supply chains and production sites. It is also recommended that enterprises facilitate better support for suppliers through capacity building and cost allocation of improvement activities, ensure effective complaint mechanisms, contribute to remediation, and report on these measures.²³

Several civil society organisations have remarked in this review that they believe the Transparency Act must be retained in its current form and not be diluted by, e.g., downgrading or removing the duties related to information. The organisations have also pointed out that it is important that stakeholders, in particular representatives of vulnerable groups, be involved in the enterprises' due diligence.

Expected further legal developments

Ongoing regulatory developments in the EU, especially the CSDDD, will be important for any further development of the Transparency Act. The CSDDD has been marked as EEA-relevant and will likely be incorporated into Norwegian law. The implementation of the Directive in Norwegian law will require legislative amendments and will affect the Transparency Act.

The Transparency Act and the CSDDD require large enterprises to carry out due diligence in line with the OECD MNE Guidelines. However, the CSDDD goes further than the Transparency Act in several areas. Among other things, the Directive contains more detailed expectations on how each stage of the due diligence process should be carried out and establishes clearer liability. The Directive also has a broader scope of application than the

Transparency Act, in that it includes obligations related to climate and environmental impact.

A distinctive feature of the Transparency Act is its emphasis on *transparency* and the purpose of ensuring the *general public's* right to receive information, and the associated obligations in the duty to account for due diligence and the duty to provide information. The CSDDD does not contain a general duty to provide information like what is found in the Transparency Act, i.e., the duty to provide information about the enterprise's due diligence to any person who requests it. In the Transparency Act, the term *account* has also been chosen in favour of *report*, precisely to temper the focus on reporting. Reporting is also not a prominent element in the CSDDD, as this has largely been established in EU legislation under the CSRD.

Both the CSDDD and the CSRD set higher thresholds for defining which enterprises are covered compared to the Transparency Act. These aspects will also be assessed in the ongoing evaluation of the Transparency Act.

There is a high probability that the Transparency Act will need to be amended for the implementation of the CSDDD, as well as the ongoing evaluation of the Act and the findings of this review. The Ministry of Children and Families has the main responsibility for assessing the implementation of the CSDDD in Norway.

In response to a written question to the Minister of Children and Families, the Minister informed Kjersti Toppe that the Ministry is working to ensure that the Government will be able to present proposals for the implementation of the Directive and any other well-founded proposals for amendments to the Transparency Act before the summer of 2026.²⁴

Issues and concerns that have characterised the negotiations on the CSDDD in the EU bodies will also be relevant in the further legal developments in the EU. These include the increasing administrative burden on European enterprises and their competitiveness in an international context, the scope of the obligations for the financial sector, and the indirect impact of the Directive on small and medium-sized enterprises. The final adopted text of the Directive was adjusted and narrowed based on several of these concerns. Among other things, the Directive provides for further guidance on how small and medium-sized enterprises

²³ Andersen, R. (2024) Study on the Implementation of the Norwegian Transparency Act. Amnesty International Norway, Future in our hands and LO

²⁴ [Written question – stortinget.no](#)

that may be indirectly affected shall be considered. In addition, it is stated that the obligations for financial institutions, which in the current version only cover upstream activities and not client and investment activities, shall be revisited to consider a possible expansion. The planned evaluations of the Directive may also affect the further development of the scope of the Transparency Act.

The report *Future of European Competitiveness* published in September 2024 (often referred to as the *Draghi Report*) put forward a recommendation to reduce the reporting burden on European enterprises by 25 per cent to improve their competitiveness.²⁵

This recommendation was followed up by the European Council in November 2024, which proposed an omnibus regulation aimed at harmonising the CSRD, the CSDDD and the EU Taxonomy for sustainable activities. The President of the European Commission, Ursula von der Leyen,

has stated that this initiative is not intended to go beyond the content of the regulations, but rather to assess and potentially reduce the overall reporting burden for European enterprises. It is not entirely clear how this is to be carried out. Proposals must adhere to the EU's Better Regulation Practices,²⁶ which require proposals to be based on, among other things, evidence and experience.²⁷

However, there are no studies or systematic assessments of experiences regarding the implementation of the CSRD, and such studies or assessments are not currently possible for the CSDDD. The Omnibus simplification package is a proposed agenda item on 26 February 2025 for the College of Commissioners of the European Commission, which develops policy guidelines and adopts proposals before they are considered by the EU's legislative bodies.²⁸

²⁵ [EU competitiveness: Looking ahead – European Commission](#)

²⁶ [European Commission, Better Regulation Guidelines, November 2021](#)

²⁷ Andreas Rasche, [Activity | Andreas Rasche | LinkedIn](#)

²⁸ [Register of Commission Documents, OJ 2509 - List of items on the agenda of forthcoming Commission meetings](#)

3. The enterprises' experiences with the Act

The Transparency Act has heightened the business sector's focus on human rights and decent working conditions, and most of the enterprises consider the Act to be appropriately structured. The enterprises view the Act's close alignment with international standards as favourable, and experience that the requirements are clear and feasible. There is also broad support for the Act to apply to enterprises irrespective of industry. Several note that it is important that the Act is harmonised with EU legislation.

The enterprises also face various dilemmas and challenges. These relate to increased workloads, inadequate guidance, different interpretations of the legislation and applying proportionality, challenges related to the duty to provide information and the degree of transparency necessary, the competitive situation for Norwegian enterprises internationally, challenges related to access to information, and the opportunity to have a positive impact in complex supply chains. Some also believe that the Norwegian Consumer Authority's dual role as a guidance and supervisory body is problematic.

The Transparency Act is perceived as both intelligible and workable

The Act is appropriately designed

The enterprises find that the Transparency Act has heightened the business sector's focus on human rights and decent working conditions, and that the Act has led enterprises to initiate or improve their work on due diligence. The majority of the enterprises support the purpose of the Act and believe the wording of the Act is appropriate. This is supported by the results of the survey.

Enterprises note that it is positive that the Act is closely aligned with international standards. Furthermore, it is considered positive that the focus on human rights is comprehensive and that a risk-based approach is facilitated whereby the enterprises themselves define which human rights are relevant to their business activities and supply chain. There is broad agreement across all sizes of enterprises that the design of the Act is appropriate and contributes to respect for fundamental human rights and decent working conditions.

Figure 5 - Survey responses to the statement: *"The design and duties of the Transparency Act are appropriate to contribute to respect for fundamental human rights and decent work"*

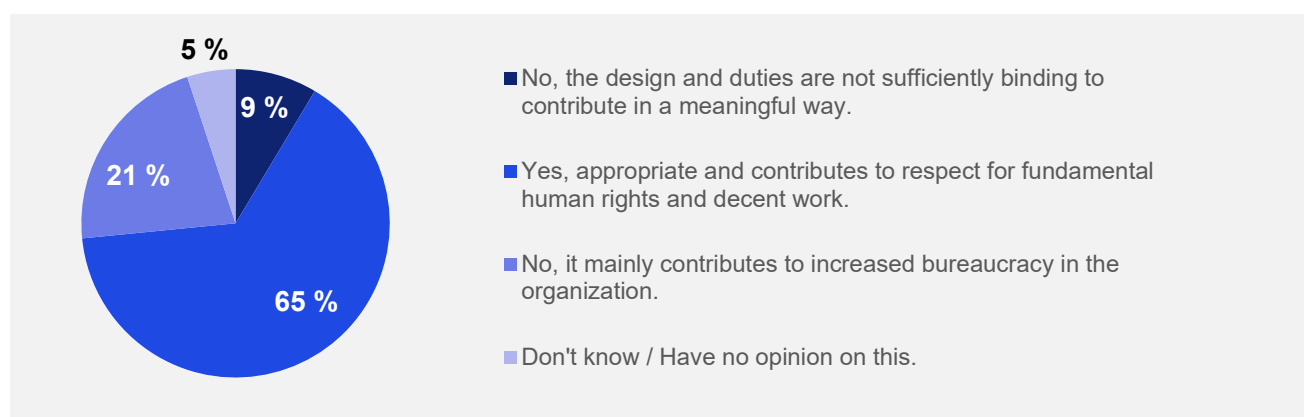
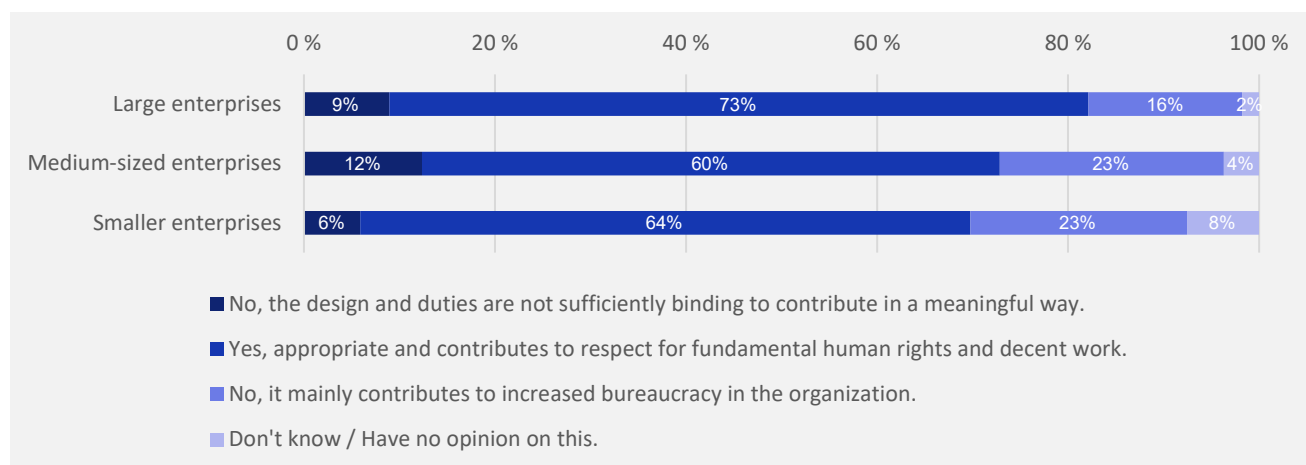


Figure 6 - Survey responses, grouped according to enterprise size, to the statement:

“The design and duties of the Transparency Act are appropriate to contribute to respect for fundamental human rights and decent work”



There are a small number of enterprises within each size category that believe the Act is not sufficiently binding to make a meaningful contribution. The largest proportion of these are among medium-sized enterprises. There is also a smaller proportion in each category that believe that the Act mostly contributes to increased bureaucracy. This belief is least prevalent among the largest enterprises. This may be related to their level of maturity and the fact that the enterprises in question have been working on due diligence for a longer period and were thereby better prepared when the Transparency Act entered into force. It may also be due to the fact that large enterprises in many cases have a greater inherent risk of adversely impacting their surroundings compared to many small enterprises. For larger enterprises, this may also be related to the fact that they usually have greater influence and opportunity to effect change.

The scope of the Act is appropriate

The enterprises largely support the scope of the Act. The majority of survey respondents believe the thresholds are appropriate (Figure 7) and that it is appropriate that the Act covers enterprises irrespective of industry (Figure 8). The proportion of respondents that believe the thresholds are too low is highest among small enterprises, while the proportion that believe the thresholds are too high is highest among medium-sized enterprises (Figure 9). A small proportion of medium-sized and small enterprises, as well as enterprises not covered by the Act, believe that more enterprises should be covered by the Act.

Figure 7 - Survey responses to the statement: “The Transparency Act applies to all enterprises with at least 50 employees and/or a sales revenue of at least NOK 70 million and/or a balance sheet total of at least NOK 35 million. These thresholds are appropriate.”

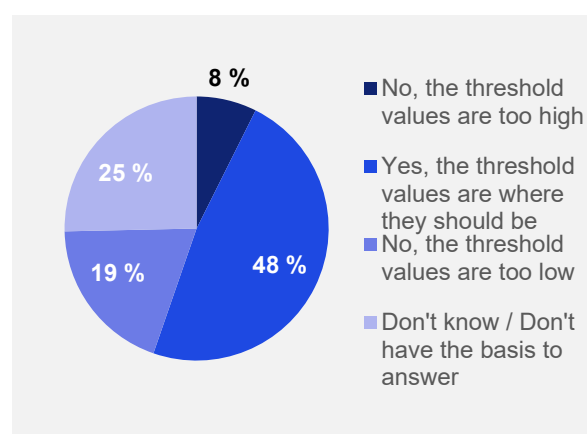
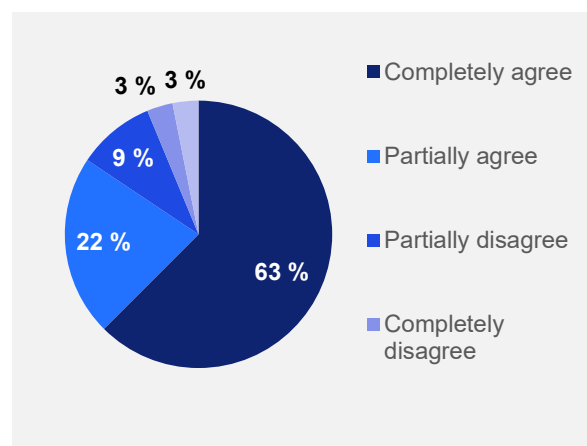


Figure 8 - Survey responses to the statement: “It is appropriate that the Transparency Act applies to all enterprises irrespective of industry”



Most enterprises believe the Transparency Act should apply irrespective of sector or industry. Although the majority of respondents within each size category take this view (Figure 10), there appears to be somewhat more uncertainty among

the medium-sized and small enterprises, where there is a larger proportion who “somewhat agree” with the statement, as well as some who “somewhat disagree”. Several enterprises also express support for the Act covering all sectors and a wide range of enterprises in terms of size.

Figure 9 - Survey responses, grouped according to enterprise size, to the statement: “The Transparency Act applies to all enterprises with at least 50 employees and/or sales revenue of at least NOK 70 million and/or a balance sheet total of at least NOK 35 million. These thresholds are appropriate.”

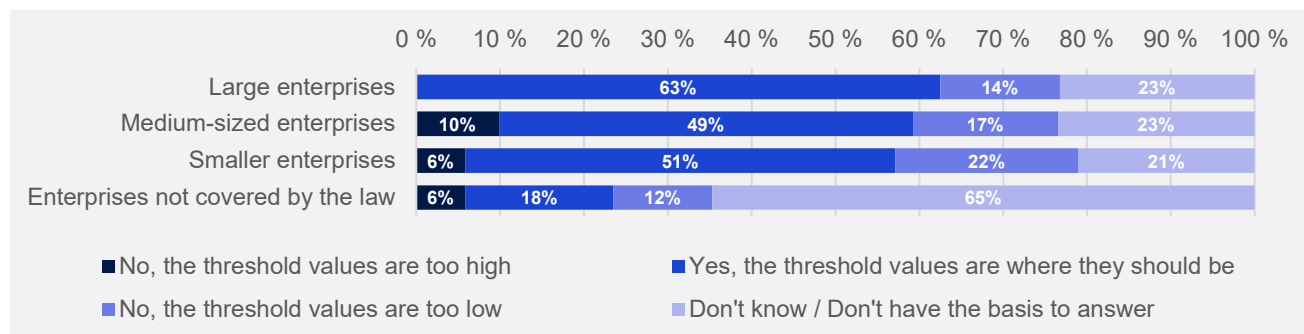
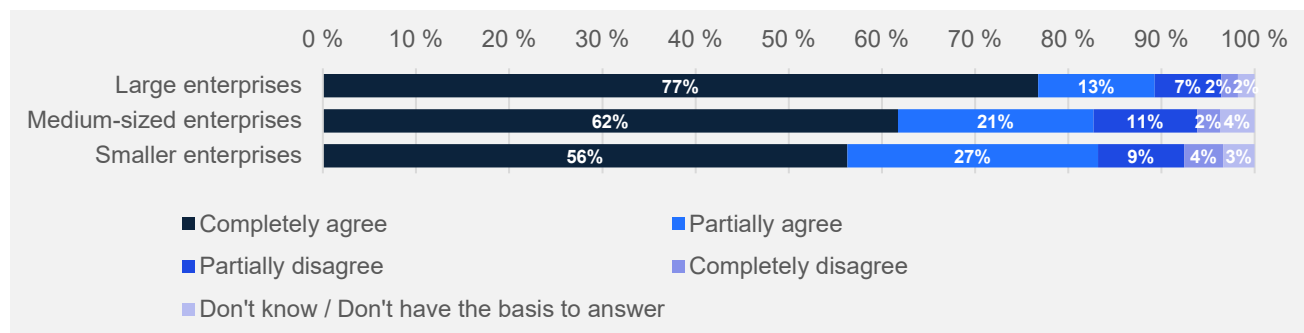


Figure 10 - Survey responses, grouped according to enterprise size, to the statement: “It is appropriate that the Transparency Act applies to all enterprises irrespective of industry”



The new European sustainability directives, especially the CSRD and the CSDDD, have higher applicability thresholds than the Transparency Act. Several enterprises believe it would be appropriate for the Transparency Act’s thresholds to align with these. It has also been highlighted as problematic that the Transparency Act has different thresholds compared to the Accounting Act. Some enterprises note that the Transparency Act has contributed to simplifying supplier follow-up. This was also pointed out in the preparatory works as an anticipated effect of the Act.²⁹ Some have also expressed that they see a difference in supplier follow-up in Norway, where more enterprises understand and have practices related to due diligence, compared

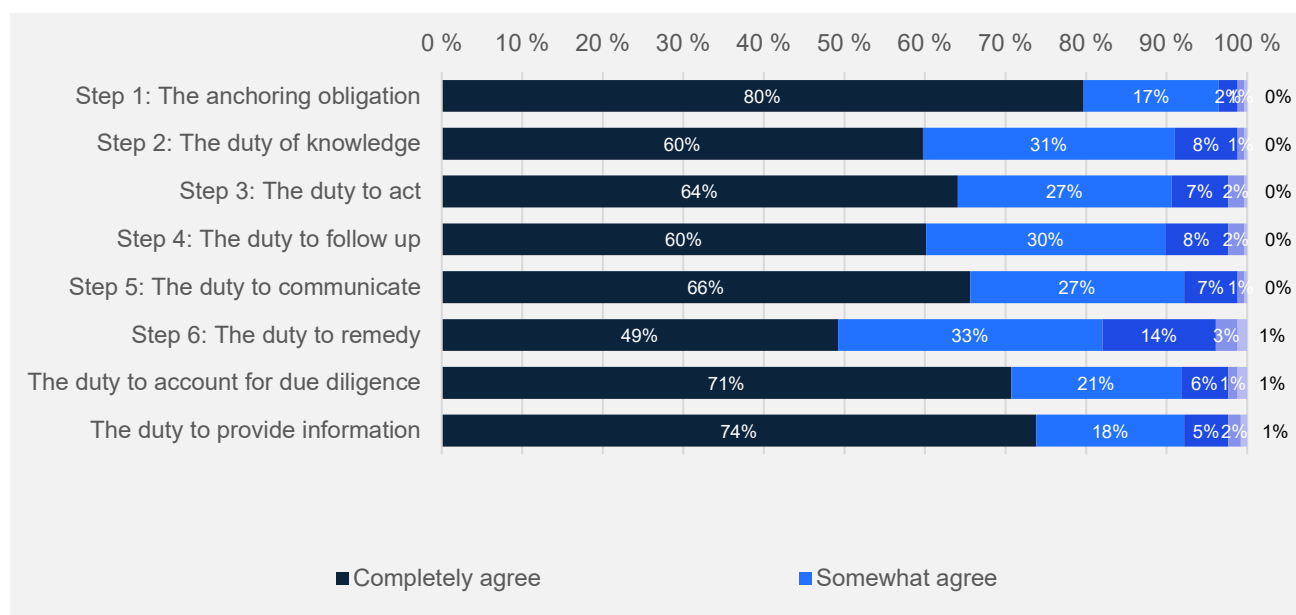
to, e.g., the supplier markets in Sweden and Denmark.

The legal requirements are clear

A significant majority of the survey respondents agree that all duties of the Transparency Act are perceived as clear (Figure 11). The results, grouped according to enterprise size, indicate a weak correlation between size and the perceived clarity of the Act’s duties, with large enterprises finding them the clearest. This may be related to the fact that many large enterprises have worked on due diligence for a longer period, and thereby, have more competence in this area than small enterprises.

²⁹ Prop. 150 (Bill) (2020–2021) Act relating to enterprises’ transparency and work on fundamental human rights and decent working conditions, p. 63.

Figure 11 - Survey responses to the statement:
"It is clear to us what requirements the Transparency Act places on us in terms of:"



The duty to remedy stands out as the duty perceived as least clear, across the size categories, although the majority of enterprises nevertheless somewhat to strongly agree that this duty is clear. The reason why the duty to remedy is perceived as less clear than the other duties may be related to the fact that few enterprises have practical experience with remediation. For example, we observe that few enterprises describe specific remediation cases in their due diligence accounts.

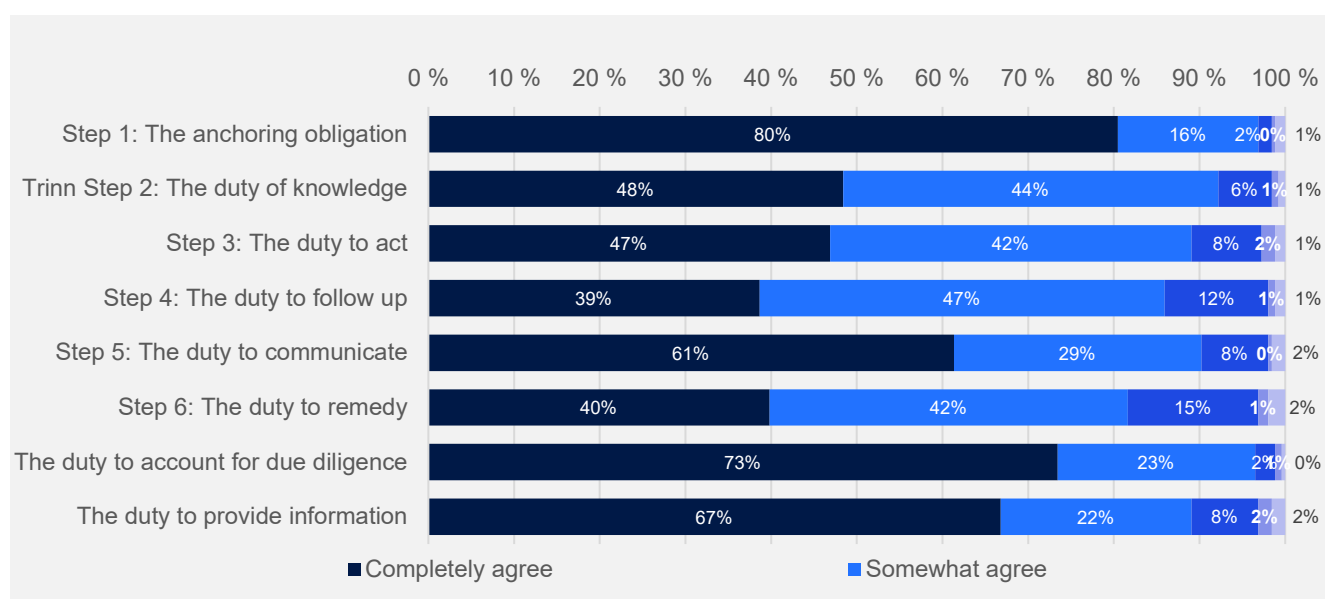
The Act's duties are feasible

The enterprises largely perceive the duties in the Transparency Act as feasible (Figure 12). Results from the survey show that the majority of respondents strongly or somewhat agree that all of the duties of the Transparency Act are feasible for them. Few respondents somewhat disagree that the duties are feasible, and very few strongly disagree.

There is a weak correlation between enterprise size and the extent to which enterprises perceive the duties as feasible, with agreement on their feasibility generally increasing as the size of the enterprise grows.

None of the respondents strongly disagree that the requirements regarding embedding or communication are feasible. The duty to remedy and the duty to monitor appear to be viewed by some as challenging. The duty to communicate appears to be the duty where opinions diverge the most. This may be related to the understanding of the duty, where stage 5 of the due diligence duties in the OECD methodology (communication with *the general public* and *affected parties*) partly overlaps with section 5 of the Transparency Act on communication with *affected stakeholders* and *rights holders*.

Figure 12 - Survey responses to the statement: “The duties in the Transparency Act are feasible for us in terms of:” Stages 1-6 describe the stages in the duty to carry out due diligence, and correspond with section 4 (a)-(f) of the Transparency Act.



The enterprises' challenges with statutory compliance

Although the enterprises generally find the Transparency Act's design, scope, extent and duties to be feasible, they are faced with various dilemmas and challenges.

Increased bureaucratisation of businesses' human rights obligations

Increased workload (in terms of time, resources and costs) has been a recurring theme in survey responses, in interviews with the enterprises and in written comments about what they find challenging. What has been particularly emphasised is the workload resulting from increased internal bureaucracy and responding to questionnaires/self-reporting forms.

In this context, *questionnaires* refer to enquiries or forms from contractual partners, concerning responsible business practices and due diligence. The questionnaires are typically sent from customers covered by the Transparency Act to their suppliers and business connections as part of their risk identification (stage 2 of the due diligence methodology).

The utilisation of questionnaires is one of the factors that have left enterprises finding the work with the Transparency Act burdensome and at times less meaningful. This is particularly true in cases where an enterprise receives many questionnaires requiring customised responses and where references to the due diligence account are not possible. The enterprises have described that the questionnaires often cover generic information, which the enterprise has already publicly disclosed on their website or in their due diligence account. Some enterprises have also expressed that this generates frustration around the work on the due diligence account, which is perceived as less meaningful as this information is apparently not used in such contexts. The enterprises responding to the questionnaires perceive them as rarely being used to gather additional information about identified risks. Instead, they are often seen as a performative exercise, seldom followed up by those requesting the information.

“The majority of enquiries we receive are questions about general ESG information. In particular, we see that small and medium-sized enterprises send out general ESG forms to their suppliers. [...] We have received several hundred such enquiries. The forms can be long, from 20-100 questions, and they are often prepared by a consultant or an accounting firm. The information they request is not based on a risk identification and [...] is available on our website. We think it is regrettable that SME customers have to spend resources on sending out such forms. It is time-consuming and costs money, without actually generating any significant information for the enterprise. It is also clear that the enterprises have not conducted any prior risk identification. [...] Many enterprises have limited sustainability resources, and this process often consumes substantial resources that primarily result in paperwork, without reducing the risk of human rights and labour rights violations.”

“We have prioritised large international suppliers due to risk assessments and the scope of information gathering. [...] It is difficult to get suppliers to fill out such forms. Too many choose to refer to their own policies and documents. We are calling for regulatory requirements on how and what information is to be retrieved. [...] We see for ourselves how big a difference there is in what our customers ask for, and the most complex enquiries involve many departments and information being requested in different ways. Chasing suppliers for info and even reading through various documents + replies to customers are the most time-consuming administrative tasks.”

Several enterprises view this burden as a result of the duty to provide information and the duty to process requests for information, seeing these duties as the basis for, e.g., business customers' requests for responses to questionnaires.

Several enterprises believe that this type of questionnaire does not fall under the duty to provide information. Some enterprises have therefore chosen not to respond to generic questionnaires. Instead, the enterprises refer to information published in their due diligence accounts to answer the questions asked. However, it has been pointed out that it can be difficult to take such a position in relation to business customers, and that questioning the customer's interpretation of the duty to provide information, or opting not to respond to the questionnaire, can involve risk in a commercial situation. The practice of questionnaires is also perceived as challenging for those who send out questionnaires and may not receive a response.

Several enterprises have expressed concern that a misinterpretation and precedent is being established around the practice of questionnaires. Therefore, they point to a need for clarification of the legal requirements, or a clarification of the authorities' position on this issue. Representatives from the Norwegian Consumer Authority have highlighted at several conferences that sending out questionnaires is not in line with good practice and that this should be avoided. However, this message is not as clearly communicated in the body's guidance on its website.

In order to reduce the administrative burden on enterprises, some enterprises and interest groups have expressed a desire for a common public portal for efficient information sharing. Some have argued that, e.g., the Brønnøysund registers could be used to archive due diligence accounts and any other information related to the Transparency Act. For example, this has been introduced in Germany under the German Act on Corporate Due Diligence Obligations in Supply Chains (*Gesetz über die unternehmerischen Sorgfaltspflichten in Lieferketten* or (LkSG)), where the information subject to reporting obligations has been transferred to a structured form on a web portal. Enterprises are required to report to the Federal Office for Economic Affairs and Export Control (BAFA) via a form, and receive a copy of the completed form to be published on the enterprise's website. This is also intended to simplify control by the supervisory authority, which has announced that it will eventually utilise artificial intelligence to streamline its supervisory activities. This solution, however, has also faced criticism. Among other things, the 15-page form still represents an administrative burden³⁰ and the questions go somewhat further than the formal reporting requirements stipulated in the law. Unlike the Transparency Act, LkSG is not based on a risk-based approach. It can be difficult to incorporate risk-based assessments into standardised forms.

The challenge of bureaucracy and questionnaires shows that there are different interpretations of the Act, especially regarding what is perceived as proper due diligence. Flexibility in the design of the due diligence accounts can also pose a challenge, as many enterprises have expressed a desire for more standardised information formats for use in their risk assessments.

³⁰ [Reporting Obligation LkSG simplified but still complex: update](#)

Those who express this opinion highlight that the need to respond to questionnaires would be reduced or eliminated altogether if the information were publicly available. However, this view is not entirely in line with the desire for a flexible duty to account for due diligence, which many enterprises support.

Different interpretations of the legislation and inadequate guidance result in different due diligence practices

Frustration related to uncertainty and different interpretations of what proper due diligence entails has been a recurring theme in interviews, written comments and responses to open-ended questions in the survey. In the survey, this was one of the most recurring topics in the responses to questions about challenges in complying with the Act.

Several enterprises that have worked on due diligence for a long time are concerned that many enterprises appear to take too casual of an approach to due diligence requirements, as well as to how long it takes to bring about positive changes. In this context, reference is made to activities by immature enterprises that fail to contribute meaningfully to the protection of human rights and decent work (e.g., internal discussions, incomplete risk assessments, distribution of questionnaires to suppliers without further follow-up and other “desk activities”). One enterprise highlighted that a simplified approach to due diligence could, in the worst case, lead to the Transparency Act having “perverse consequences,” i.e., that the effect of the Transparency Act differs from the purpose of the Act; being, to promote enterprises’ respect for fundamental human rights and decent working conditions, as well as addressing adverse impacts. Among other things, that enterprise highlighted the risk of avoiding or withdrawing from potential risk situations, or withdrawing from work with smaller suppliers.

Several enterprises have called for a forum for exchanging experiences. They believe it is appropriate to have a forum for enterprises that facilitates open discussion of dilemmas and good practices, which they claim would make a positive contribution towards a more unified understanding of the Act’s obligations.

The authorities’ dual role and inadequate competence in complex due diligence

Some enterprises view the Norwegian Consumer Authority’s dual role as a guidance and supervisory body as problematic. They do not believe it is appropriate for the Norwegian Consumer Authority to

have such a dual role, and that this was particularly regrettable at the time the Act was introduced, when there was a considerable need for information among enterprises. It is argued that the dual role can stand in the way of open dialogue on compliance and clarification of legal requirements.

Some enterprises and interest groups have also expressed a lack of confidence in the Norwegian Consumer Authority as a guidance body due to what they perceive as a lack of experience and competence in the practical implementation of due diligence, particularly in relation to complex issues. This is especially true for enterprises with internal subject matter experts and a high level of internal competence on due diligence. However, the critics do not provide where the guidance and supervisory authority should alternatively be administered. Others believe that the Norwegian Consumer Authority is well suited as both a guidance and supervisory body, based on its good insight and experience in administering similar legislation and supervising the business sector.

Some enterprises and interest groups have questioned the fact that the Act falls under the purview of the Ministry of Children and Families. Several express that the authority should be transferred to the Ministry of Trade, Industry and Fisheries. This is because the Transparency Act affects the business sector broadly, and not just consumer interests, and that the Ministry of Trade, Industry and Fisheries has more experience and competence on the relevant subject matter.

Transparency is complex in practice

In interviews, some enterprises have questioned the title *Transparency Act*. Some enterprises believe the Act would have been more suitably titled the *Due Diligence Act*, similar to, e.g., the EU CSDDD.

These enterprises highlight that the reference to ‘transparency’ has led to expectations that exceed the scope of the Act. For example, one enterprise stated that they received a number of requests for information related to specific suppliers that is not covered by the duty to provide information.

That enterprise believes that ambiguity in the law can lead to different interpretations and expectations, which in turn can lead to more work for the companies that have to spend time processing requests for information that go beyond the scope of the law. Denying a request for information can also be time-consuming and knowledge-intensive for enterprises, as denials must be justified and clarified.

Several enterprises have also noted that they categorise and respond to enquiries in the same manner as requests for information, even though they are not considered requests for information under the Transparency Act. This applies, e.g., to several banks that categorise and account for enquiries about investments, even though this type of downstream activity is neither covered by the duty to carry out due diligence nor the duty to provide information.

Challenges related to transparency have also been highlighted when collaborating on improvements with suppliers. One enterprise gave an example of how disclosure of production sites, and/or information about potential or actual adverse impacts associated with suppliers, can be counterproductive for due diligence work, as disclosure of information can lead to mistrust and weaken the improvement dialogue with the supplier in question. Several enterprises have also raised challenges related to the delimitation of other legal requirements, particularly related to the duty to provide information. Problematised grey areas include:

The duty to provide information and the Security Act

Some enterprises have pointed out that the Transparency Act may conflict with the Security Act. Enterprises can be subject to the Security Act through decisions or as suppliers of goods or services in connection with classified procurements. Enterprises covered by the Security Act are not permitted to practice transparency regarding critical infrastructure. It has been pointed out that conflicts can arise between the Security Act and the Transparency Act's duty to provide information. An example of this could be if an enterprise is required to disclose information regarding critical infrastructure due to potential or actual adverse impacts on human rights and decent working conditions associated with the site. Section 6 of the Transparency Act specifies that the right to access information does not include information that is classified under the Security Act. The enterprises have stated that in such cases, even general information about the sites could be problematic, and this is therefore a challenge even with the current wording of the duty to provide information. A potential extension of the duty to provide information to public supplier lists could lead to further challenges.

The duty to provide information and the security and privacy of staff members

Some industrial enterprises have also problematised transparency related to the security of their own employees and those involved in the supply chain, particularly in connection to production sites. Sharing information about production sites and responding to information queries related to specific sites can lead to challenging situations in terms of the security of staff members and, in some cases, the safety of local communities. For example, sharing information about mineral extraction sites in conflict areas entails a risk of escalating local conflicts between competing groups. This concern is especially highlighted in relation to the potential expansion of the duty to provide information, as enterprises are not currently required to disclose specific information about production sites under the Transparency Act.

Another concern raised is that the duty to provide information allows for the sharing of data that may facilitate the identification of individuals, which may conflict with rules governing privacy and may pose a security risk to the persons affected.

Section 6 of the Transparency Act stipulates that requests for information may be denied if the request concerns data relating to an individual's personal affairs. The exceptions specified on the Norwegian Consumer Authority's website are perceived as being particularly problematic, as they state that the duty of confidentiality does not apply to data relating to national identity numbers, citizenship, place of residence, marital status, profession, employer or workplace. This type of information may enable the identification of individuals and pose a security risk. An example of this could be that the information enables retaliation against a person who has reported censurable conduct. The question of whether such source information could relate to an individual's personal affairs has been discussed by the Law Commission of the Public Administration Act in connection with the review related to a new Public Administration Act (which also forms the basis for the interpretation of personal affairs in the Transparency Act). The report states that "whether or not source information should be regarded as an individual's personal affairs shall hinge on an

individual assessment.”³¹ Commentary to the Transparency Act notes that “under the Transparency Act, such an individual assessment will often lead to the matter being perceived as relating to an individual's personal affairs, entailing that the person who has disclosed the censurable matter is protected against identification.”³² Enterprises have nevertheless raised this issue as a challenge and called for clarity in the Act.

The duty to provide information and consequences thereof from the perspective of global competition

The duty to provide information entails that Norwegian enterprises are required to operate with greater transparency than their counterparts in comparable countries that have not enacted comparable legislation. Enterprises with global operations have provided examples of the Transparency Act being used by civil society organisations in other countries to obtain information about activities in their home country. The same enterprises have pointed out that the Transparency Act's duty to provide information is more extensive than corresponding provisions in the CSDDD, which could result in Norwegian enterprises having to practice greater transparency than other European companies. This can adversely impact competitiveness and may result in enterprises taking less risk than European and other global competitors. This is not necessarily beneficial. Many highlight the positive contributions responsible companies can make in parts of the world with a high-risk of human rights violations. It is also a key principle of the UN Guiding Principles and the OECD methodology to seek to have a positive impact through business activity – rather than withdraw from areas with challenges.

Some enterprises have also raised potential challenges related to possible breaches of contract as a result of the duty to provide information. Potential conflicts between confidentiality obligations in contracts with third parties and the duty to provide information may result in breach of contract, and possible lawsuits or fines. This has not been raised as a particular problem with the current wording of the duty to provide information, but as a potential challenge that would result from any extension of the duty to impose transparency related to supplier lists.

“The Act came ‘out of the blue’ for everyone. Initially, there was little guidance available from the public administration, apart from [...] statements from [the Norwegian NCP for RBC] that we could just read a few hundred pages of OECD documents and everything would be clear. It wasn't. As a result, there was a major gap between professionals and advisors on how it should be approached and everyone tried and failed in their own way, while considerable resources were used to little avail. Subsequently, the Norwegian Consumer Authority became involved and the guidance it has offered has gradually become very good!”

Lack of agreed practice and clarity regarding proportionality

Although most of the enterprises in the survey state that the statutory duties are clear, several enterprises have stated in interviews that there is no agreed upon understanding of how extensive due diligence must be. Several enterprises believe this is due to a lack of guidance, although this is perceived as having improved over time.

The second paragraph of Section 4 of the Transparency Act states that due diligence shall be carried out:

- “in proportion to the size of the enterprise, the nature of the enterprise [and] the context of its operations” (proportionality)
- “in proportion to [...] the severity and probability of adverse impacts on fundamental human rights and decent working conditions” (risk-based)

On this basis, the enterprises are to prioritise what to focus on.

Several of the large enterprises perceive the lack of an agreed-upon view of what constitutes proper and risk-based due diligence to create challenges. These enterprises find that they spend considerable resources on due diligence and accounting for their efforts but nevertheless receive numerous questionnaires and enquiries. This generates unnecessary, additional work and takes up the time of internal resources that could be used for specific follow-up measures that can potentially better safeguard human rights.

³¹ Norwegian Official Report (NOU) 2019: 5, p. 286

³² O. Mestad, K. Tonstad, E. A. Methi, 2024, *Apenhetsloven - Lovkommentar* [The Transparency Act – Commentary]

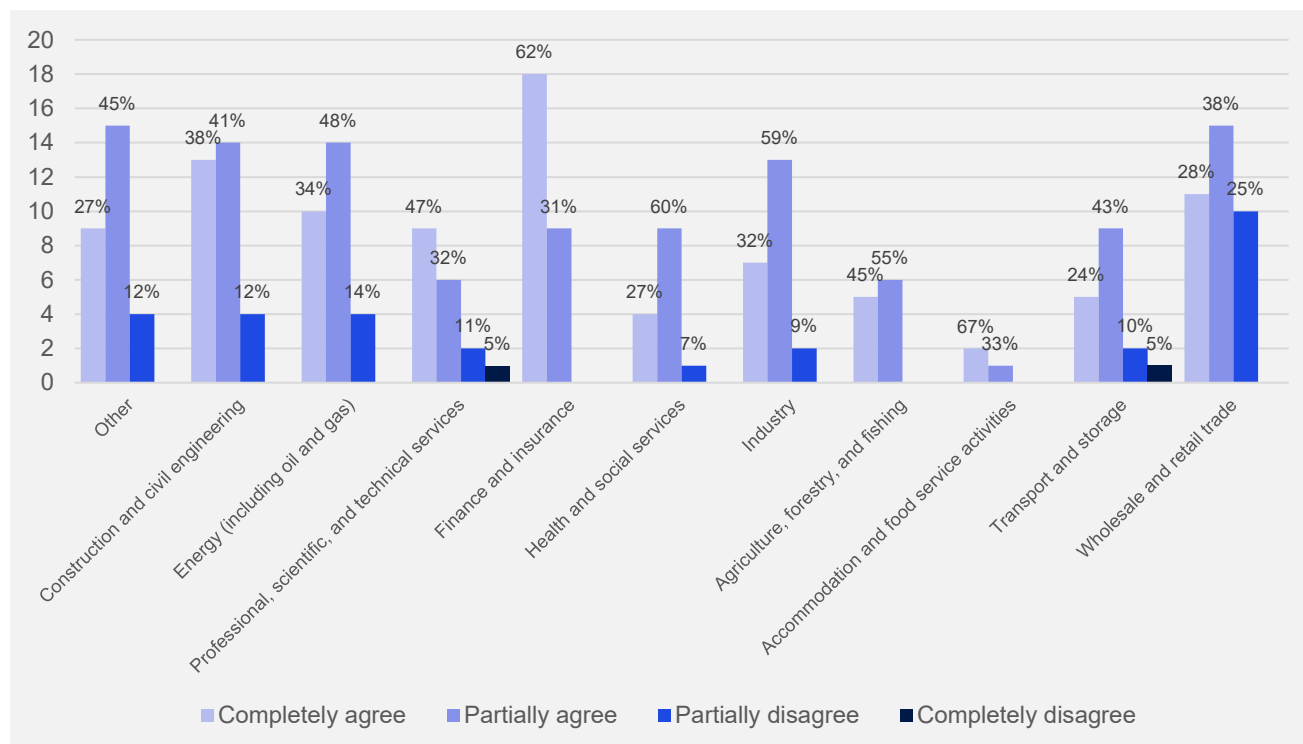
Several enterprises highlight the importance of competence on due diligence. The enterprises believe there is a considerable need for competence, within enterprises, in supervisory activities and in society in general. They express frustration with certain interest groups that promote expectations that are not in line with the scope of the Act, an example of this being specific information regarding production sites. In particular, the large enterprises, with in-house expertise on such matters, are critical of what they view as misinterpretations of the Act in the Norwegian Consumer Authority's guidance, as well as what they perceive as an overly simplified approach to what it means to conduct due diligence.

There is some variation between industries in terms of the perception of how enterprises interact with

the Transparency Act, which may be related to different risk factors and industry-specific conditions. In general, 80 per cent of survey respondents agree (strongly or somewhat) that the enterprises in their industry are actively working to fulfil the obligations under the Act (Figure 13). Risk-prone industries, such as transport and retail, stand out by having somewhat higher proportions that disagree with the statement compared with other industries. Differences may also be due to the fact that some industries already emphasised HSE and working conditions before the Transparency Act entered into force, which may have resulted in a different understanding of what measures are required.

"In our opinion, a weakness of the Act is that due diligence is not a precisely defined working method. This stands in contrast to most other acts and regulations that businesses and accountants are required to adhere to, which are accompanied by clear instructions, forms or templates. [...] Nonetheless, the legal requirements appear to many as vague and lacking specificity, rendering the process more burdensome than it needs to be."

Figure 13 - Survey responses, grouped according to industry, to the statement: *"In my opinion, most actors in my industry are actively working to fulfil their obligations under the Transparency Act"*



Some enterprises have expressed that varying interpretations of legal obligations and vague expectations, as well as a lack of clarification and control measures on the part of the authorities, can lead to different practices.

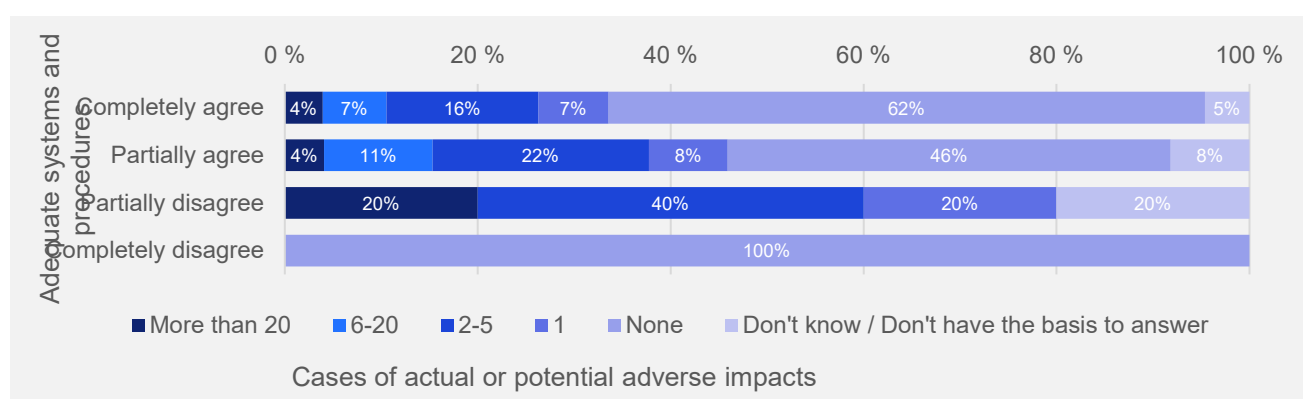
They point out that this can have an adverse impact on competition for those enterprises that have a thorough approach to due diligence.

The results of the survey partly support this assertion, as we observe a discrepancy between how satisfied enterprises are with their own systems and procedures for due diligence, compared with the enterprise's ability to identify actual and/or potential adverse impacts. There are different perceptions among the enterprises regarding what is expected to ensure statutory compliance. Normally, the expectation would be

that the better systems and procedures for due diligence an enterprise has, especially for risk assessment and supplier follow-up, the more cases of potential or actual adverse impacts can be identified.

However, among the enterprises that state they strongly or somewhat agree that they have adequate systems and procedures to comply with the Act, around half report that they have not identified any actual or potential adverse impacts (Figure 14). The enterprises that somewhat disagree with the statement that they have adequate systems and procedures to comply with the Transparency Act are also those that have identified cases of adverse impacts to the greatest extent. None of the enterprises in this group state that they have not uncovered any cases.

Figure 14 - Survey responses to the statements: *"Our enterprise has systems and procedures that are sufficient to comply with the Transparency Act."* and *"Cases of actual or potential adverse impacts"*



Responsible supply chain management is challenging

Several enterprises are experiencing challenges in implementing due diligence in practice and as part of the enterprise's operating model, especially in supply chain management. Several enterprises find it challenging to understand "what level" of due diligence is required and how thoroughly the supply chain is expected to be investigated.

"[One challenge is] the requirement to scrutinise every link in the supply chain, right down to the extraction of raw materials. This is currently not possible."

Examples of challenges highlighted by the enterprises include:

- inadequate transparency/supply chain knowledge (beyond the contract partner/first-tier supplier)
- follow-up of suppliers in countries that do not have legal requirements corresponding to the Transparency Act
- suppliers who lack competence in due diligence and human rights, and on how they should follow up on these issues further in the supply chain
- suppliers who do not wish to allow access, e.g., to protect their own competitiveness or to comply with other legislation, including privacy

- little influence on multinational companies that are part of the supply chain and thus prevent further follow-up in the supply chain
- limited resources to be able to visit suppliers and carry out controls and audits in the supply chain
- minimal opportunity to influence improvement measures and the remedying of conditions far down the supply chain

“For a small country/market, Norway sets very stringent requirements – while the rest of the world does not always have corresponding legislation. For many suppliers, it is therefore less costly to drop Norway as an area for small suppliers. Within the healthcare sector, this could mean that the treatment of diseases affecting individuals from certain ethnic backgrounds or vulnerable groups, which require niche products and where financial returns are limited, may no longer be available in Norway due to the excessive efforts required to meet all the regulations.”

The Transparency Act’s effects on the competitiveness and risk appetite of Norwegian enterprises

Some enterprises express concerns about the competitiveness of Norwegian enterprises as a result of the Transparency Act’s obligations. This applies especially to Norwegian enterprises competing against enterprises in other countries where there are no corresponding legal requirements. It also applies to small enterprises that may be overlooked due to a lack of procedures or documentation, which leads their customers to perceive the risk as too high to engage.

The competitive situation comes to the forefront when asked about dilemmas the enterprises have experienced that have resulted or may result in them not entering into agreements they would otherwise have entered into. Out of 106 responses, 61 per cent stated they did not have relevant examples. Some enterprises explained that they had already set extensive requirements for responsible business conduct and implemented strict prequalification processes for supplier selection. In this group, there is a higher proportion of small enterprises, which make up around 60 per cent of respondents that had no examples of such dilemmas.

However, 39 per cent of the enterprises that answered the question stated that they have encountered dilemmas that have had consequences for contract conclusion. This group is evenly distributed between the three size categories. The dilemmas are particularly related to quality and price, and whether this might come at the expense of choosing suppliers who meet the necessary ethical standards. Some enterprises explained that choosing suppliers with a high degree of transparency and traceability in the supply chain can entail higher costs. This is also related to immaturity among international suppliers, who are not prepared for the degree of transparency and access in the supply chain required by the Transparency Act, e.g., due to a desire for exclusivity at factories.

“It is considered sustainable to shop locally and support local businesses. This is also environmentally sound as it often reduces transport and travel. As a buyer, we also have a better insight and overview of local actors and how they run their business. However, local operators in [rural Norway] are often too small to be covered by the Transparency Act, and can therefore quickly be disqualified from being our suppliers as they have not implemented the necessary systems. We then have to opt for larger, professional actors that are located further away, where our insight into their activities is poorer and our influence is reduced. The risk of us contributing to undesirable conduct in the supply chain then increases because we adhere to the recommendations of the Transparency

“[In one case,] the supplier [...] could not document all its conditions. This is a shame, considering that they are good suppliers who are too small to establish their own systems [due to limited] resources.”

Some enterprises describe that, as a result of the new requirements, they have had to exclude certain suppliers, especially small enterprises that are not covered by the Transparency Act or those including high-risk countries and goods. In the survey, enterprises were also asked whether they have taken steps such as not investing in high-risk areas or opting out with smaller subcontractors as a result of challenges in complying with the Transparency Act. The majority of respondents have not taken or considered taking such steps (Figure 15).

However, a minority of enterprises state that they have opted out of investing in high-risk areas or smaller subcontractors or have at least considered taking such steps. Avoidance of smaller suppliers, as a result of the Act, appears to be somewhat more prevalent than opting out of high-risk jurisdictions. The distribution of results among the size categories also shows that avoiding smaller subcontractors with such factors is somewhat more prevalent among the large enterprises (Figure 16).

"[We] experience [challenges] in getting our suppliers and the entire supply chain to participate and follow up on what we expect and are obliged to implement. It can be perceived as [easier] to discontinue cooperation with suppliers than to use [resources] to improve and motivate suppliers."

Figure 15 - Survey responses to the statement:
"Our enterprise has faced challenges with the Transparency Act that have led us to:"

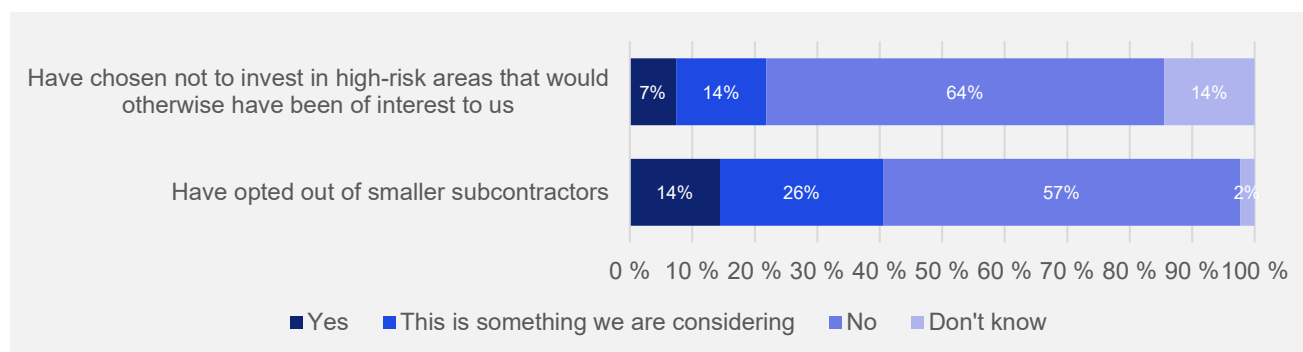


Figure 16 - Survey responses, grouped according to enterprise size, to the statement:
"Our enterprise has faced challenges with the Transparency Act that have led us to: opt out of smaller subcontractors"

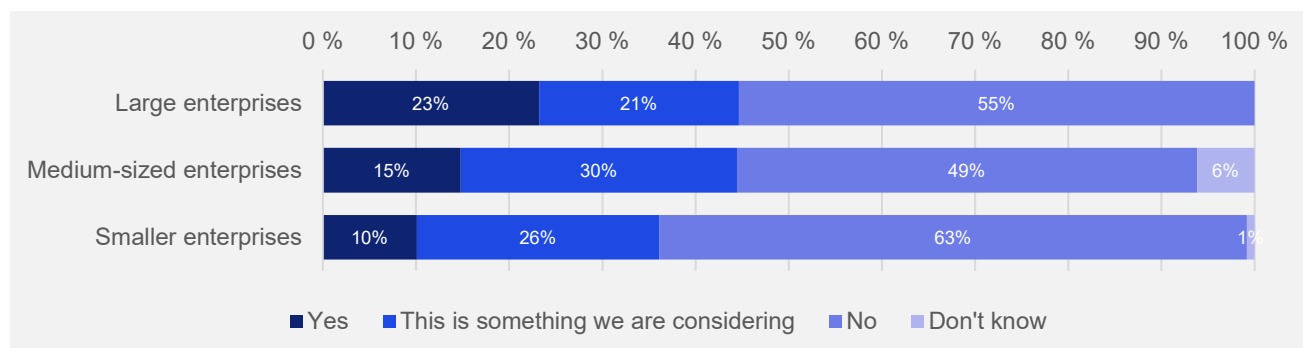
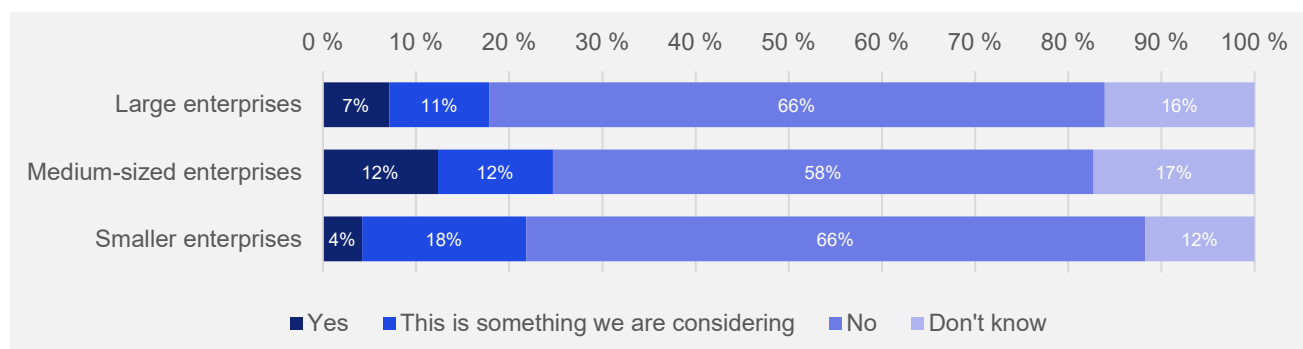


Figure 17 - Survey responses, grouped according to enterprise size, to the statement:
"Our enterprise has faced challenges with the Transparency Act that have led us to: opt out of investing in high-risk areas that would otherwise have been of interest to us"



Several enterprises have pointed out that it will be important for Norwegian law to harmonise with new requirements in the EU. Multiple enterprises have had negative experiences with following up with suppliers in other countries where there is not similar legislation. This particularly applies in situations where enterprises have limited influence as small customers of large suppliers, as well as with challenges in obtaining consent to contractual requirements from international actors who avoid committing to special requirements in a small market like Norway. A level transnational playing field will contribute to more efficient work and better understanding, as market participants relate to the same requirements and the same terminology. Several enterprises have expressed a desire for as similar conditions as possible in Europe and believe that any additional requirements in Norway in relation to the EU could be burdensome for Norwegian enterprises.

Public procurers fail to reward proper due diligence

Several enterprises that have participated in public tendering processes express concern about the use of ethical requirements and, more specifically, contractual conditions for the safeguarding of fundamental human rights in the supply chain. Some enterprises report poorer outcomes in public tenders when exercising transparency regarding supply chain challenges. Dutiful enterprises that offer solutions where due diligence is accounted for and priced in may risk losing tenders to less reputable competitors who have not necessarily conducted as thorough due diligence or implemented the measures outlined in their proposals. One enterprise expressed that this could result in unfair competition for the enterprises.³³

Furthermore, some point out that short-term supplier relationships in public contracts are not conducive to thorough improvement processes. This may, e.g., be relevant in thorough improvement processes that extend beyond the term of the contract and where the contracting authority is thereby only involved in parts of the improvement process or remediation.

“[It is a challenge that] we are a public procurer who, in most cases, have to announce procurements every four years. This creates [...] challenges related to follow-up further down the supply chain, as we do not have long-term relationships with the factories. We have to focus our efforts on selecting reputable suppliers who have good systems and procedures for follow-up in their value chain.”

The use of ethical requirements in tendering processes is addressed in the CSDDD. The Directive states that compliance with its provisions may be applied as part of the award criteria and contract terms in public procurement processes (Article 31).

Furthermore, it stipulates that the contracting authorities may choose to include compliance with the Directive as a qualification requirement or be required to do so if it is transposed into national law.

Change can take time

Several enterprises and civil society organisations point out that actual effects from due diligence can take a long time. They also believe that an evaluation of the effect of the Transparency Act after just two years is too early to see real effects. This is especially applicable in situations characterised by what is referred to as *systemic issues* (e.g., country or area risks related to child and forced labour, corruption, etc.) This is also highlighted in the OECD Due Diligence Guidance for Responsible Business Conduct, which identifies it as particularly challenging for the business sector. Enterprises are, for example, encouraged to explore cross-industry cooperation and engage with governments as part of their efforts to identify effective measures.

³³ This was also one of the findings in the Deloitte report *Evaluering av hvordan offentlige innkjøp bidrar til å fremme seriositet* [Evaluation of how public procurement contributes to promoting reputable conduct]: “A clear finding in the evaluation is that public contracting authorities to a greater extent than before impose stricter requirements for reputable conduct in their

procurements. However, these requirements are not always tailored to the realities of the enterprises or industries that will deliver the work and are often not followed up after the contract has been signed.” (Deloitte 2022).

“It [is] not always obvious if buyers understand the difference between a company that actually works on risk identification in its [procurement practices] (supplier visits, audit follow-up, tier 1 projects on social and environmental aspects, non-conformity improvements, [subcontractor compliance], requirements for greater transparency, [information], sharing etc.) and general continuous improvement throughout the value chain, versus companies that are not as active and can easily refer to a policy.”

Uncertainty regarding how the banking and finance industry are to relate to the Act

Some actors in banking and finance have described challenges applicable to their sector. These enterprises find it challenging to determine the scope of the duty to carry out due diligence. Several actors in these sectors have expressed that they specifically experience dilemmas related to credit and investment activities, or their downstream value chain. They described these areas as more challenging for them, as they often see higher risk and greater complexity associated with credit and investment activities than in the supply chain associated with their own operations. Investment activities often involve broad, global exposure to numerous sectors with complex value chains. Further, Credit and investment activities are regarded as the most important aspect of these companies' activities, and often receive the most enquiries and information queries from external parties. Nevertheless, the financial sector's downstream value chain is exempt from the due diligence requirements in the Transparency Act.

“Excluding the financial sector or parts of the financial sector, such as institutional investors, from the scope of the Directive, as proposed by some negotiating parties, would be contrary to the international consensus that all enterprises – both financial and non-financial – have a responsibility to prevent and address adverse impacts on human rights and the environment.”

The scope of the duties of the financial sector was also a much-debated topic in the negotiations for the EU's CSDDD. In the final text of the Directive, financial undertakings are obliged to carry out due diligence related to their supply chains and to prepare a transition plan for climate change mitigation. The obligation to carry out due diligence does not cover downstream activities, i.e., investments and customer relationships. The Directive states that this should be reassessed once the Directive has been in force for two years.

Some Nordic actors have expressed a desire for clearer requirements for the financial sector.

This is supported by the industry-specific challenges described by survey respondents.

Some enterprises also expressed public support for clearer requirements in connection with the negotiation of the CSDDD, including in a statement signed by several investors.³⁴

These challenges also relate to the topic of enterprises' competitive conditions. The position of certain enterprises in the financial sector shows that they perceive the lack of clear due diligence legislation that covers their entire operations as both a challenge and as anti-competitive.

Stakeholder engagement is important and difficult

According to the OECD Due Diligence Guidance for Responsible Business Conduct, stakeholder engagement is important at all stages of enterprises' due diligence. In the updated OECD guidelines from 2023, stakeholder engagement has been given increased emphasis, clarifying the significance of meaningful stakeholder engagement. Although the enterprises express in the survey that the knowledge and information duties are feasible, some express that they experience stakeholder engagement as challenging.

We also observe that the requirement for stakeholder engagement is often misunderstood in practice. Examples of misunderstandings include that stakeholder engagement is perceived as one-way communication and that publishing the due diligence account is sufficient.

³⁴[Nordic Investors Statement EU Corporate Sustainability Due Diligence Directive 1eq3xDa.pdf](#)

“Due diligence as a concept is difficult to fully implement, especially related to the duties pertaining to engagement and remediation locally, as the end product we purchase is far removed (number of tiers) [...] from those affected.”

Civil society organisations have pointed out that they are unsure to what extent the enterprises involve stakeholders in their due diligence. This concern is supported, for example, by findings from EY’s review of due diligence accounts from the 67 companies on the Oslo Stock Exchange’s main index, where they found that 13 per cent reported stakeholder engagement with vulnerable groups.³⁵ It is also worth noting that several cases considered by the National Contact Points for the OECD MNE Guidelines concern a lack of or inadequate stakeholder engagement.³⁶ This indicates that stakeholder engagement, in accordance with the expectations of the OECD guidelines and guidance, is inadequate and difficult for the enterprises.

In Ethical Trade Norway’s publication of the guide *Engaging stakeholders in due diligence: A beginner’s roadmap for small and medium-sized companies (SMEs)*, the authors write that “stakeholder engagement can be a difficult concept for even large enterprises.”³⁷ In the publication, a member enterprise shares its experiences in order to emphasise the importance of engaging with relevant stakeholders in a country with manufacturing. It is stated that despite previous good audit results, work-related problems such as sexual harassment and discrimination against pregnant women were uncovered through the use of a local organisation that came into direct contact with workers at a manufacturing plant in India. The engagement led to targeted measures related to training and complaint mechanisms.

“Given the different types of business activities we have, engagements with potentially affected stakeholders may take place before we have finalised agreements with host authorities. Practicing stakeholder engagement in these situations can be challenging, and we often use trusted third parties with knowledge of local conditions and international standards, to support us. We might perform public consultations, surveys, interviews, one-to-one meetings or community panels to better understand concerns from members of local communities.”

- Equinor: 2022 Human Rights Statement

The expectation in the OECD MNE Guidelines and Due Diligence Guidance for Responsible Business Conduct is that stakeholder engagement should be characterised by two-way communication. However, section 4, first paragraph (e) of the Transparency Act only refers to a duty to “communicate with affected stakeholders and rights-holders regarding how adverse impacts are addressed.”

Guidance on the Norwegian Consumer Authority’s website states that stakeholder engagement is one of several “important principles for due diligence.”³⁸ This has been pointed out in *Åpenhetsloven - Lovkommentar* [The Transparency Act – Commentary], where the authors believe that, based on the preparatory work of the Act, it should be assumed that stakeholder engagement is a consistent requirement. However, they believe it could be beneficial for stakeholder engagement to be more clearly stated as a consistent principle in the legal text.³⁹

Stakeholder engagement plays an important role in due diligence. However, both enterprises and civil society point out that this is often a challenging exercise in practice. There also appears to be a gap between the expectations outlined in the OECD MNE Guidelines and the way stakeholder engagement is described in Norwegian law. To make it easier for enterprises to comprehend and carry out stakeholder engagement, clarification in the Act and additional guidance may be beneficial.

³⁵ [Åpenhetsloven i praksis - erfaringer fra første året med rapportering \[The Transparency Act in Practice - experiences from the first year of reporting\] | EY Norway](#)

³⁶ O. Mestad, K. Tonstad, E. A. Methi, 2024, *Åpenhetsloven - Lovkommentar* [The Transparency Act – Commentary] Reference is made to the cases *Framtiden i våre hender v Intex Resources*, *Jijnjevaerie Sameby v Statkraft AS*, and *Society for Threatened Peoples Switzerland v BKW Group*.

³⁷ [Engaging stakeholders in due diligence: A beginner’s roadmap for small and medium-sized companies \(SMEs\) - Ethical Trade Norway](#)

³⁸ [Viktige prinsipper for aktsomhetsvurderinger \[Important principles for due diligence\] - Norwegian Consumer Authority](#)

³⁹ O. Mestad, K. Tonstad, E. A. Methi, 2024, *Åpenhetsloven - Lovkommentar* [The Transparency Act – Commentary]

Involvement can provide valuable insight, but some enterprises have also pointed out that engagement with stakeholders, such as civil society organisations, can backfire on enterprises if they are not prepared for criticism and public disclosure

of complex issues. Some enterprises have referred to situations they believe could have been handled better by various actors and emphasised the importance of cooperation and good dialogue to achieve the purpose of the Transparency Act.

4. Structuring of the work

Coordination or responsibility is most often assigned to those responsible for sustainability in the enterprises. Larger enterprises naturally have greater capacity and more dedicated resources available compared to smaller companies. For enterprises that had already been working on due diligence before the Transparency Act entered into force, the transition was smoother than for those encountering the process for the first time. Many enterprises report increased workload as a challenge in complying with the Transparency Act, with most spending the majority of their time on preparing due diligence accounts. External assistance and digital tools are seldom used; however, a market has emerged for both advice and customised digital support tools since the Transparency Act was introduced.

Workloads as a result of the Transparency Act

As previously described, many enterprises report increased workload as a challenge related to compliance with the Transparency Act. This has been expressed in responses to questions concerning challenges in the survey, as well as in interviews. In many cases, enterprises describe this as being related to limited internal administrative resources and an increased number of administrative tasks. Medium-sized enterprises are more likely to highlight workload as a challenge: 31 per cent of medium-sized enterprises express that this is a challenge for them, compared to 12 per cent of small enterprises and 23 per cent of large enterprises.

Respondents to the survey were asked how resource-intensive the various duties in the Transparency Act have been for them. Most enterprises state that they spend 1-20 work days on each of the duties (Figure 18). A small number of enterprises believe that implementation requires more than 20 work days for each of the duties, and very few believe that the individual duties require a full-time equivalent or more. Interpreting these responses to mean that most enterprises spend 1–20 work days per duty, this amounts to a total of 8–160 work days, i.e., up to 70 per cent of a full-time equivalent.

The results show that the duty to identify and assess actual and potential adverse impacts and the duty to account for due diligence are the duties enterprises perceive as most resource intensive. The enterprises report that they spend the least amount of time on the duty to remedy and almost half report that this duty requires one work day or less. However, it is important to note that specific measures for remediation can be very time-consuming in many cases.

For example, a large Norwegian enterprise spent more than two years investigating and remedying wage conditions and wage theft from subcontractors across several of its development projects.

There is a correlation between enterprise size and the amount of time enterprises believe the Transparency Act requires of them (Figure 19 - 23). Significantly more of the large enterprises report that the duties require one full-time equivalent or more than is the case for SMEs. Among the largest enterprises, very few state that the duties require one work day or less, with the exception of the duty to remedy.

The results show a distinction related to the duty to provide information. This is where the smallest enterprises report spending the least amount of time, with more than half reporting that it requires one work day or less. Among large enterprises, 66 per cent believe that the duty to provide information requires 5 or more working days. 14 per cent of large enterprises report that it requires 100 work days or more. This may be due to greater consumer interest in the risks associated with the largest enterprises, resulting in them receiving more requests for information than smaller companies.

This is supported by the responses to the statement on how many requests for information the enterprises have received, with almost half of the small enterprises reporting that they have not received any requests for information.

Figure 18 - Survey responses to the statement:
"Carrying out the duties of the Transparency Act required the following labour input from our enterprise in 2023:"

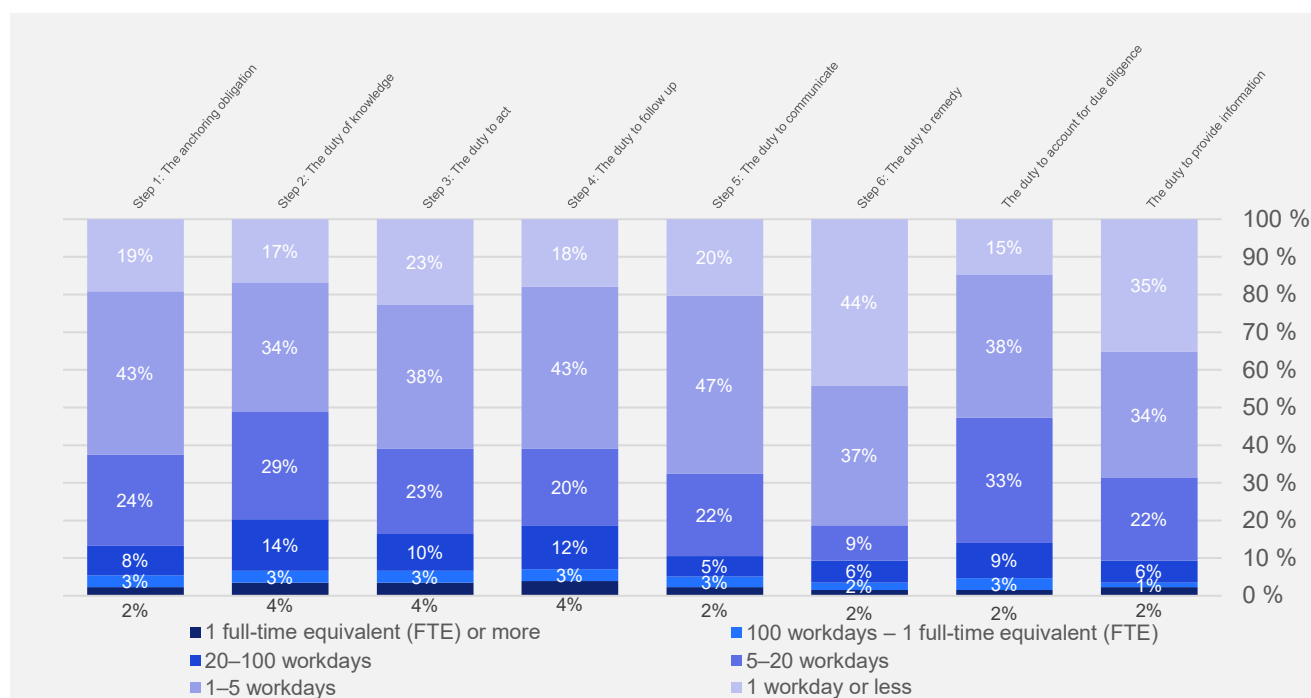


Figure 19 - Survey responses from large enterprises to the statement:
"Carrying out the duties of the Transparency Act required the following labour input from our enterprise in 2023:"

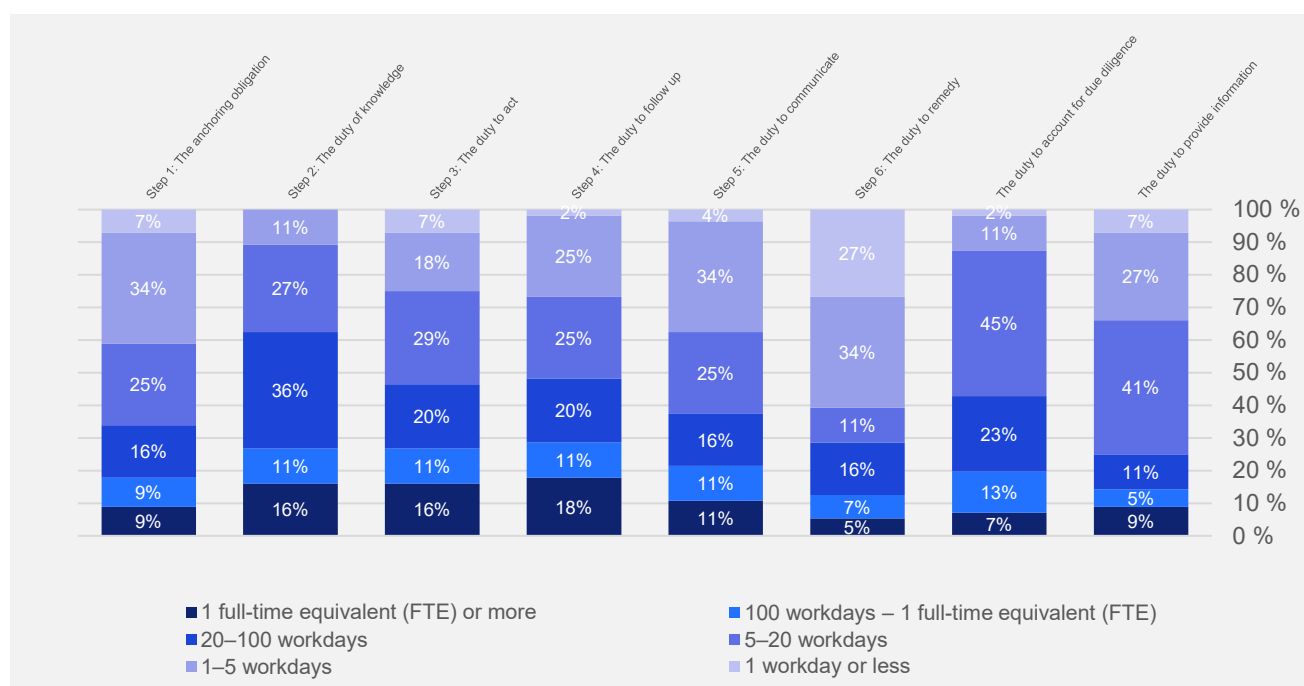


Figure 20 - Survey responses from medium-sized enterprises to the statement:
"Carrying out the duties of the Transparency Act required the following labour input from our enterprise in 2023:"

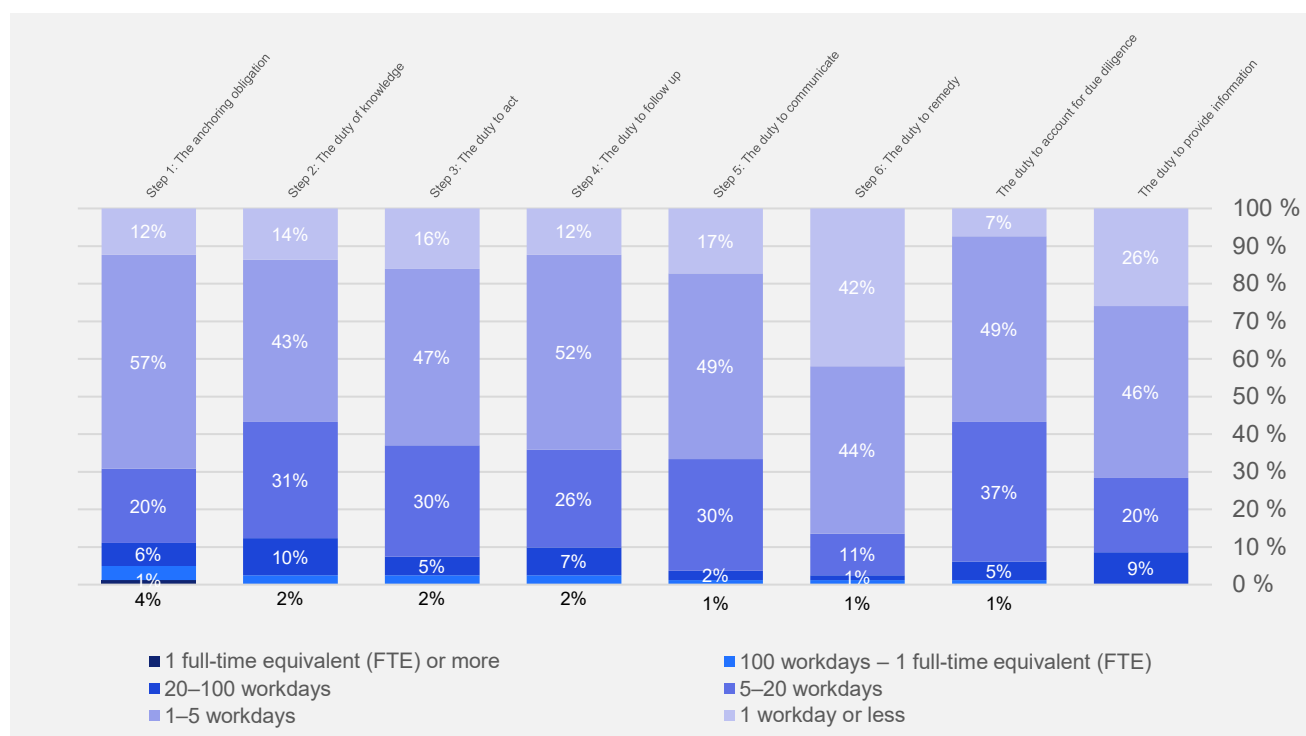


Figure 21 - Survey responses from small enterprises to the statement:
"Carrying out the duties of the Transparency Act required the following labour input from our enterprise in 2023:"

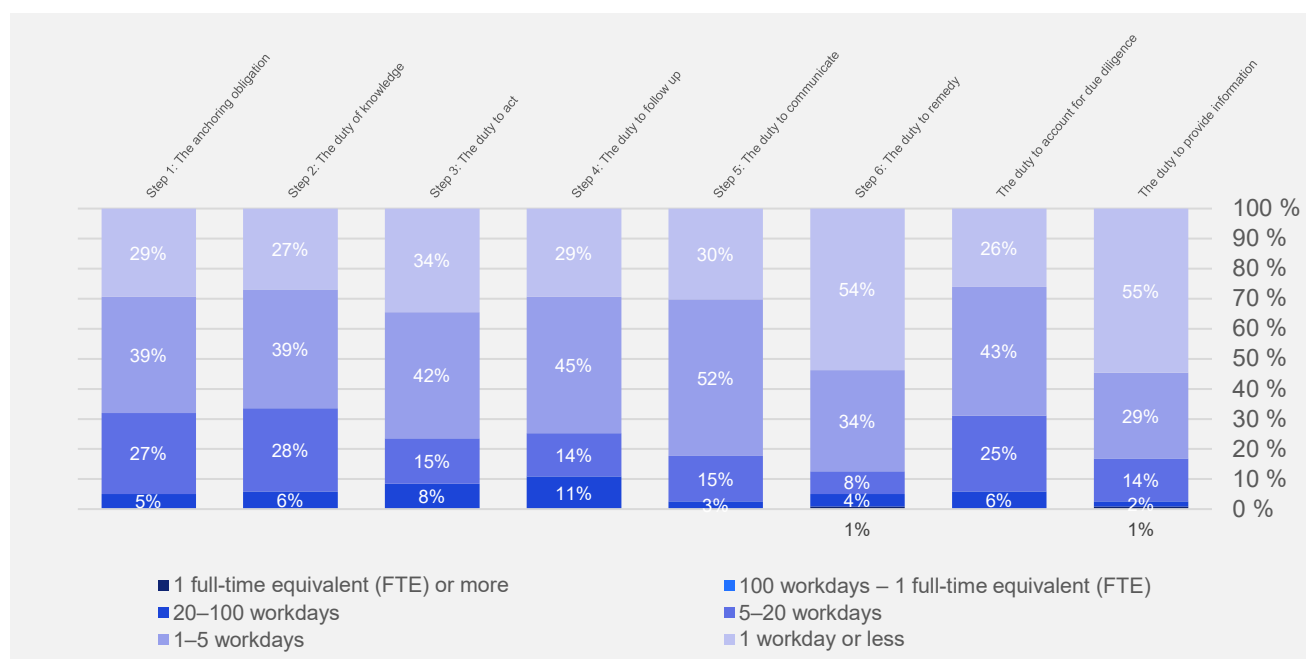


Figure 22 - Survey responses to the statement: “Carrying out of the duties of the Transparency Act required the following labour input from our enterprise in 2023:”, with the average response for stages 1-6 in the duty to carry out due diligence.

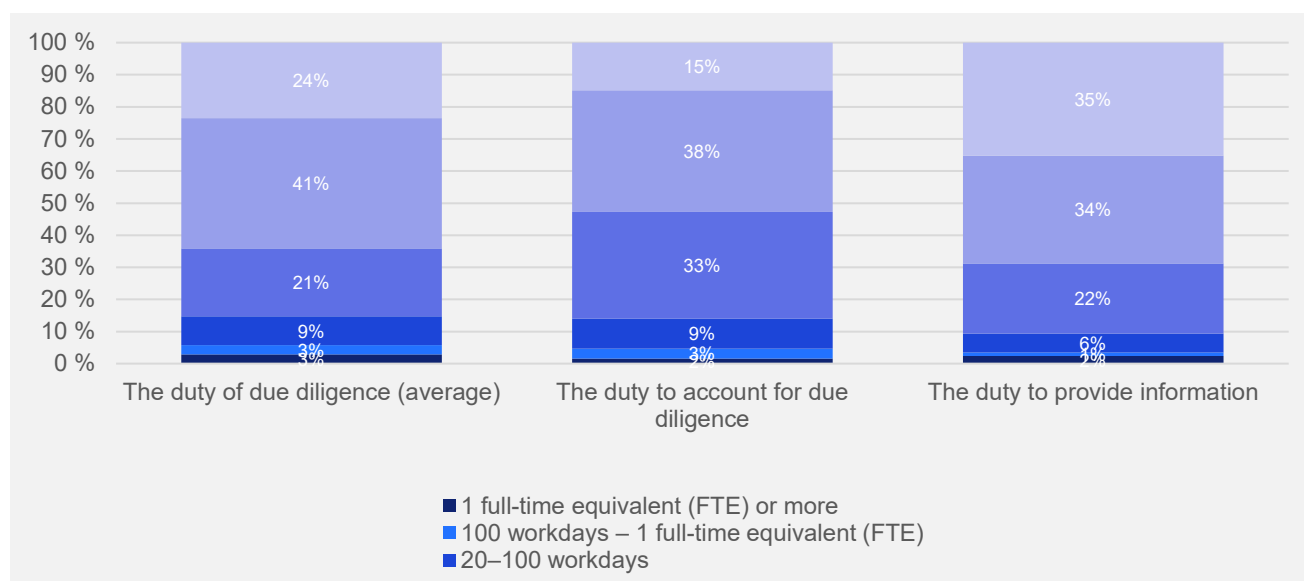
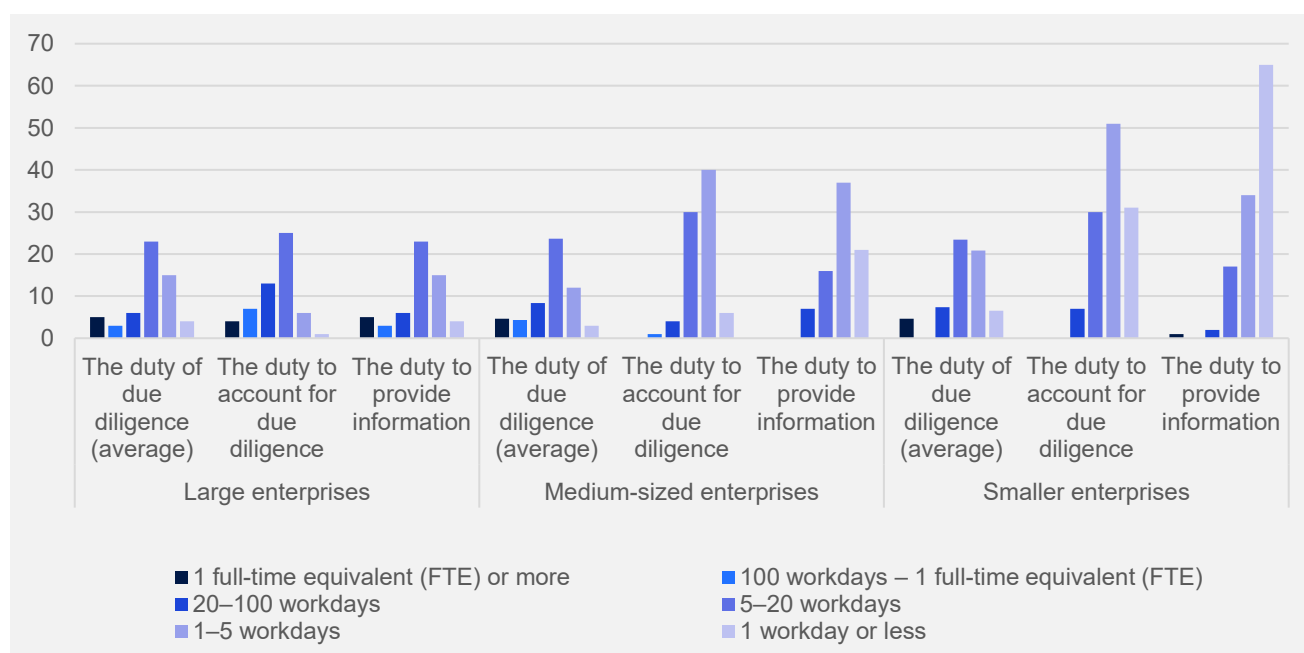


Figure 23 - Survey responses to the statement: “Carrying out the duties of the Transparency Act required the following labour input from our enterprise in 2023:”, with the average response for stages 1-6 in the duty to carry out due diligence.



Some interest groups have highlighted that the impact assessment of the Ethics Information Committee’s bill, prepared by Oslo Economics and KPMG in 2021, estimated a lower expected workload than what the Act has actually generated for the enterprises surveyed.

This has also been put forth as an argument, including by an employer association, that the authorities do not expect a workload beyond the estimates in the impact assessment. However, the impact assessment clarified that:

“Due to the limited scope of the assessment, it has been necessary to make simplifications and generalisations. Therefore, it is emphasised that there is uncertainty regarding the cost estimates, and that the cost estimates must therefore be considered rough estimates. A full understanding of the obligations that will apply to different enterprises and industries as a result of the bill requires more time and resources than have been made available for this analysis.”

It is KPMG's view that, at the time the impact assessment was prepared, there was limited information available on the enterprises' level of maturity regarding due diligence and sustainability, in general. A somewhat higher level of maturity was assumed than may actually have been the case, partly based on what the enterprises themselves described in their sustainability reports, as well as in published commitments and guidelines.

As advisors in the field of responsible business conduct, KPMG has supported both large and small enterprises in their efforts to comply with the Transparency Act. In our experience, even large enterprises have had a more extensive process of adapting to the Act than anticipated, e.g., due to a lack of a systematic approach, inadequate implementation of obligations or guidelines, an immature approach to risk and weak basic data for due diligence (especially related to the lack of supplier data).

In the impact assessment, annual average costs for medium-sized enterprises were estimated to range from approximately NOK 25,000 (enterprises in low-risk industries) to approximately NOK 170,000 (enterprises in high-risk industries). This category includes both small and medium-sized enterprises in this review.

For large enterprises, the corresponding costs were estimated to range from approximately NOK 150,000 (enterprises in low-risk industries) to approximately NOK 1,000,000 (enterprises in high-risk industries).

Data from the survey provides an estimate of how much time the enterprises spend on the various duties in the Act. We have used this basic data to estimate the corresponding costs for the enterprises. We have based our calculations on the average time usage for the six stages of the duty to carry out due diligence, the duty to account for due diligence and the duty to provide information, in order to calculate the total time spent for each of the respondents in terms of number of full-time equivalents. This is based on the assumption that 1 full-time equivalent corresponds to 230 working days.

We then calculated the estimated cost for each respondent by multiplying the estimated full-time equivalent and data from Statistics Norway on average labour costs per full-time equivalent for 2023.⁴⁰ In Figure 24, the calculation is grouped according to the following cost intervals: Low: NOK 0 - NOK 150,000, Medium: NOK 150,000 - NOK 600,000, High: NOK 600,001 - NOK 1,000,000, Very high: More than NOK 1,000,000.

With a few exceptions, the overall impression is that large enterprises have the highest expenses, and in many cases the costs are reported to be higher than NOK 1 million per year. SMEs report a more moderate cost level.

The costs for SMEs are on average higher than the average estimates in the impact assessment. Based on cost estimates derived from the enterprises' reported time usage in the survey conducted for this review, there are indications that the costs have been approximately three times higher than estimated in the impact assessment (Figure 25). Based on the average of the low and high cost estimates from the impact assessment, and a calculated average of costs derived from the time usage in the survey and the employer's cost applied in the impact assessment,⁴¹ the costs are estimated to be three times higher for the enterprises.

It should be stressed that these are rough estimates, as no information has been obtained regarding the enterprises' actual costs associated with compliance with the Transparency Act. Instead, they are based on multiple estimated values. The size categories from the impact assessment and those applied in this review do not correspond. We have chosen to make the comparison between those defined as large enterprises in the impact assessment and those defined as large enterprises in this survey, and between enterprises defined as medium-sized enterprises in the impact assessment and those defined as SMEs in this survey.

⁴⁰ Statistics Norway, "07685: 07685: Average labour costs per full-time equivalent employee, by industry (SIC2007) 2008 - 2023". The average "total labour costs (NOK)" for 2023 was used for the calculation (NOK 976,502.29).

⁴¹ When assessing the costs of time usage in the impact assessment, the average labour cost per actual hour worked was applied for all sectors (Statistics Norway, 2020b). For 2020, this was estimated to be NOK 540 per hour. This corresponds to an annual employer's cost of approximately NOK 850,000.

Figure 24 – Cost estimates for 2023 based on the average time usage in the survey and average labour costs per man-year for 2023 from Statistics Norway.

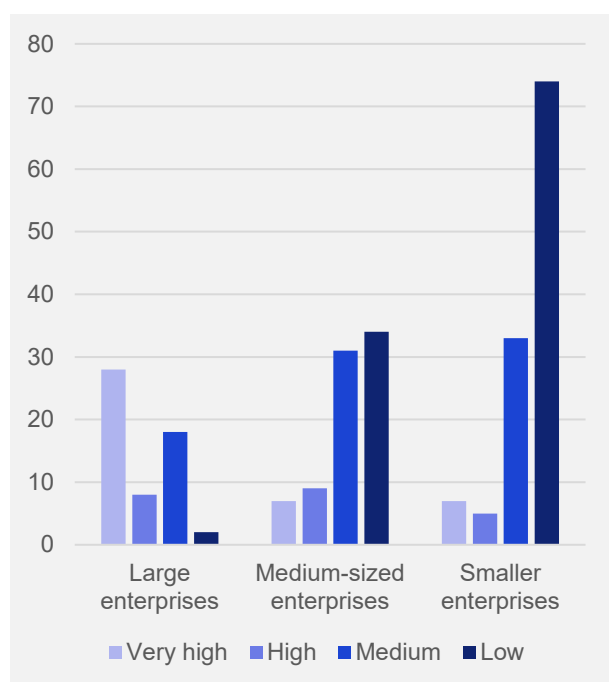
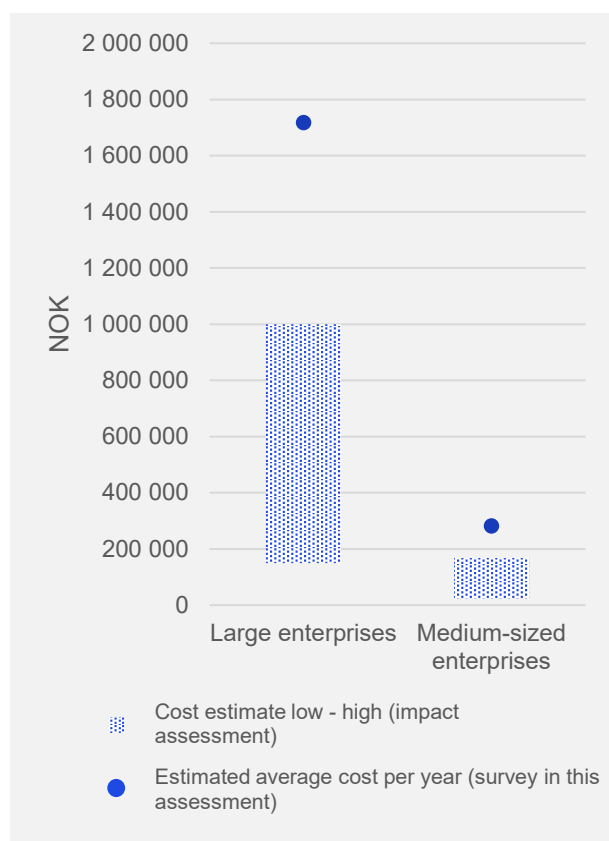


Figure 25 – Comparison of cost estimates from the impact assessment and estimated costs based on the average time usage in the survey and labour costs per man-year.



KPMG observes that some enterprises believe there is an unnecessary burden created by the different parallel legal and reporting requirements related to sustainability.

However, this perspective must be weighed against the need for a “bureaucracy” or internal capacity to comply with legal requirements. The impact that sustainability, in general, has achieved in the regulatory landscape must also be taken into consideration. Some enterprises highlight that the reporting burden entails that internal resources have less time available for implementing concrete measures in the field.

It is not unusual that a new law such as the Transparency Act creates challenges and costs for those who are subject to it, which has indeed come to pass. The impact assessment highlighted that the costs will be higher during the initial phase compared to when the enterprises have established and implemented procedures and processes.

Although the costs associated with the Transparency Act are higher than estimated in the impact assessment, the burden imposed on enterprises by the Act currently seems relatively modest compared to other legislation, such as those governing anti-money laundering and privacy. For example, there is no requirement for dedicated resources in the Transparency Act, as there is in relation to safety representatives, data protection officers, etc. We have seen little evidence that the enterprises have increased internal staffing/capacity in order to comply with the legal requirements. Rather, they have dedicated existing resources to manage these efforts.

To the extent these resources claim not to have the capacity for anything other than reporting and administration, and therefore, little time for concrete follow-up, should also be discussed in the management teams of these enterprises, if they are serious about safeguarding human rights.

Organisation of the work with the Transparency Act within the enterprises

For most enterprises, the work with the Transparency Act entails the involvement of resources across the organisation. This applies to due diligence, preparation of due diligence accounts and responses to information queries.

Some enterprises experience challenges related to embedding the activities and internal interactions.

This relates to, e.g., embedding the activities throughout the enterprise in terms of changing the corporate culture and engaging employees. This is especially the case for larger groups of companies, where subsidiaries need to be involved in the work, and in enterprises where a large number of people carry out procurement.

Some enterprises have also described challenges related to in-house competence building.

The results of the survey show that the majority of the enterprises have sustainability managers/sustainability departments that coordinate and lead work on compliance with the Transparency Act. Among the small enterprises, several report that sustainability/ESG is not a relevant area of responsibility in their work with the various duties. This is also a matter of resources, as larger enterprises are more likely than smaller ones to have their own sustainability department. This may entail that small enterprises are less likely to have dedicated professional resources. In the small enterprises, the responsibility for the work is to a greater extent divided between multiple departments, as these enterprises report relatively high involvement of different areas of responsibility for the work. Procurement is involved to a high degree in most

enterprises, especially in terms of due diligence, though to a lesser extent in the work of preparing due diligence accounts and handling information queries.

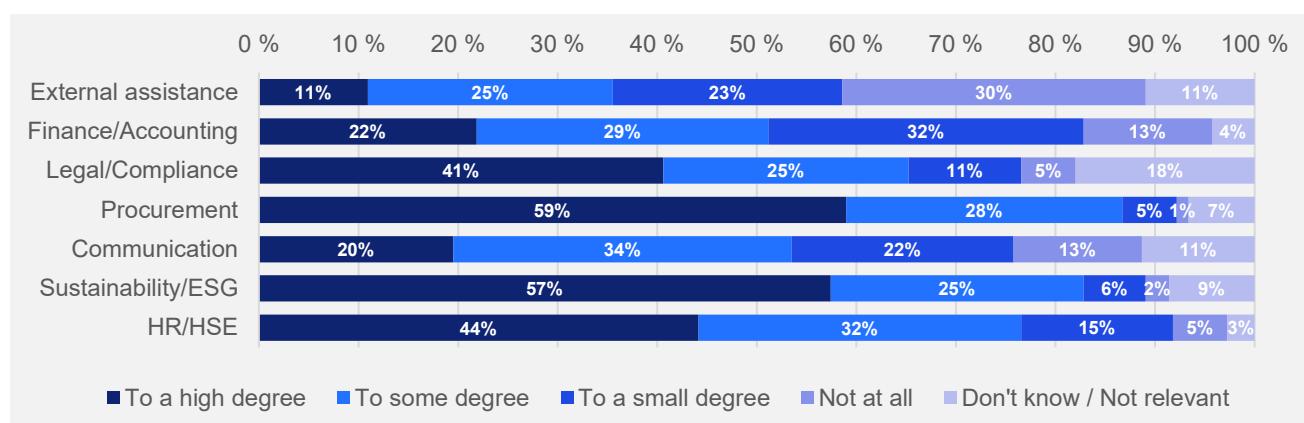
The organisation of work internally is fairly similar regardless of the size of the enterprise. However, large enterprises are more likely than SMEs to report involvement of legal/compliance. SMEs are more likely to report involvement of HR/HSE. Internal capacity and organisation appear to be related to the extent to which enterprises experience increased bureaucracy or workload. Large enterprises usually have more resources and personnel than small ones. Large enterprises are more likely to have in-house specialists, which may have facilitated a smoother transition with the Act. For small enterprises, restructuring can in many cases be faster, while at the same time there is a need for competence and capacity, which may have contributed to more SMEs experiencing increased bureaucracy as a result of the Act than large enterprises.

Due diligence

Sustainability, procurement, HSE/HR and legal/compliance are the main areas involved in due diligence.

Figure 26 - Survey responses to the statement:

"In our enterprise, the following areas of responsibility are involved in carrying out due diligence:"



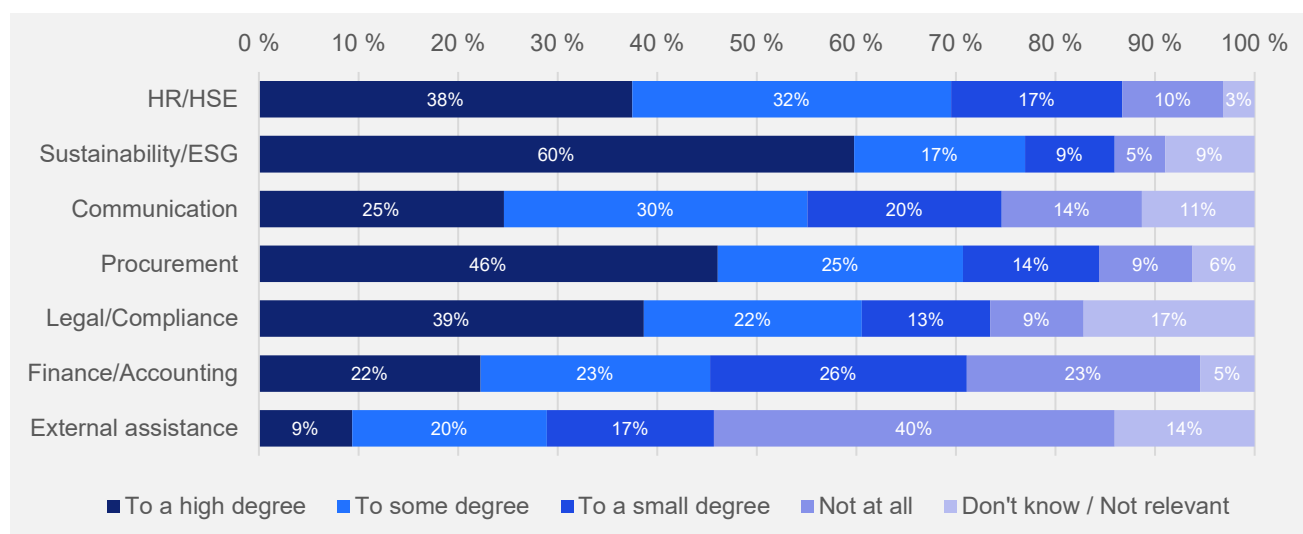
Due diligence accounts

Sustainability is the area of responsibility that is involved to the greatest extent with producing due diligence accounts. Few enterprises report that sustainability is not, or only to a small extent,

involved. However, most enterprises have considerable involvement of multiple areas of responsibility.

Figure 27 - Survey responses to the statement:

"In our enterprise, the following areas of responsibility are involved in due diligence accounts under the Transparency Act."



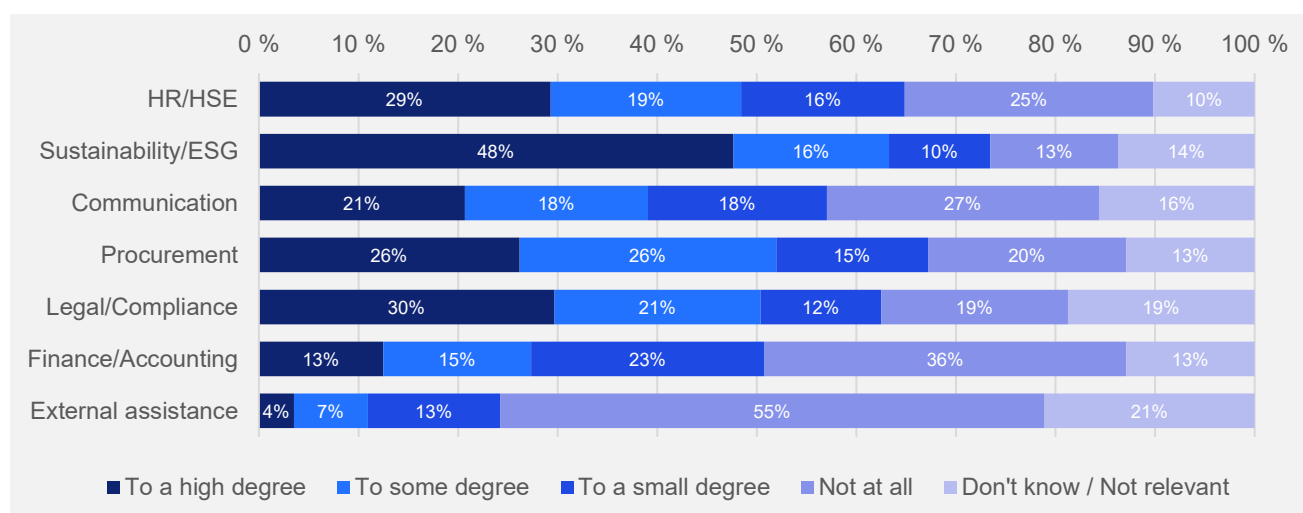
The duty to provide information

In handling information queries, most enterprises report that the areas of responsibility related to sustainability/ESG are the most involved. The enterprises report that procurement is less involved in the handling of information queries than they are in the work on due diligence and due diligence accounts. Here, there is also a larger

proportion of enterprises that report that the various areas of responsibility are not involved at all, compared to what they have reported for the work on due diligence and due diligence accounts. This may be related to the fact that most enterprises have received relatively few information queries.

Figure 28 - Survey responses to the statement:

"In our enterprise, the following areas of responsibility are involved in responding to information queries:"



Requests the enterprises receive with reference to the Transparency Act

Under to the Transparency Act, enterprises have a duty to respond to enquiries about how the enterprise handles actual and potential adverse impacts. Information shall be provided within a reasonable time and no later than three weeks after the request for information is received, with some exceptions.

Our survey shows that enterprises receiving information queries mainly receive a few key types of enquiries:

- **Requests for information:** Questions concerning potential or actual adverse impacts related to specific matters.
- **Customer enquiries:** Questions or questionnaires from customers who are subject to the Transparency Act and who, e.g., contact their supplies as part of their risk identification and responsible supply chain management.
- **Indirect enquiries:** Enquiries concerning business and human rights, but which do not fall under the obligations of section 4 of the Transparency Act. This may include enquiries relating to safeguarding human rights in fund management, or business relationships that are not defined as part of the enterprise's business activities or supply chain.

Normally, stakeholders will only be entitled to a response to type-1 information queries, i.e. enquiries that can be classified as a request for information, under the Transparency Act.

Some enterprises choose to refer to their due diligence accounts when they receive type-2 and possible type-3 information queries, if the request is answered in the account. In interviews, it has emerged that some enterprises have developed a "fear" of this type of enquiry and that they dare not fail to respond, even though they are not necessarily required to do so under the Act. Concerns about transparency also stem from enterprises' fears that disclosing potential and actual breaches could negatively impact their reputation.

Some enterprises point out that the time it takes to respond to enquiries and prepare the due diligence accounts, in the worst-case scenario, takes away from the time they have to work on concrete measures and due diligence, as the same resources are often responsible for both tasks.

It is unclear to what extent information queries contribute to learning within the enterprises and to what extent the enterprises are made aware of potential or actual adverse consequences that they use in their risk assessments and concrete measures/follow-up.

It is also unclear whether the degree of openness that the enterprises facilitate in their accounts impacts the number of information queries they receive.

Demonstrating compliance

As part of the survey, the enterprises were asked which stakeholder groups they considered important to demonstrate compliance to. A significant majority of the enterprises felt that it was important for them to demonstrate compliance to all of the available options: suppliers and subcontractors, authorities, investors, customers and employees. Demonstrating compliance to the authorities was the option with the highest response among the respondents. Authorities is interpreted as meaning the Norwegian Consumer Authority, which is assigned supervisory authority for the Transparency Act. After the authorities, the enterprises believe it is important to demonstrate compliance with the Act to their customers. This is in line with the consumer perspective of the Transparency Act, which involves publication of Accounts and making information available.

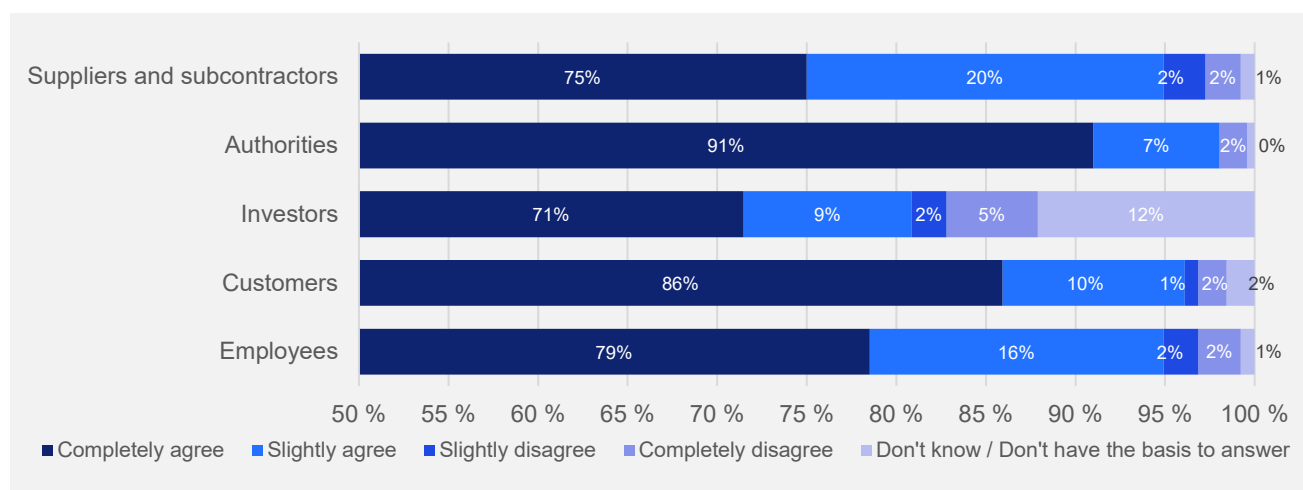
However, not all enterprises have consumers as customers. The high level of support for the importance of demonstrating compliance to customers can therefore be interpreted as applying to both consumers and business customers.

Employees are also a group to whom most enterprises believe it is important to demonstrate compliance with the Transparency Act. This may be an opportunity that enterprises identify in their work with the Transparency Act. The Transparency Act also covers human rights and labour conditions in the enterprises own business activities. An increased focus on improving internal conditions could contribute to greater employee satisfaction, which could in turn lead to increased productivity and greater loyalty to the enterprise.

In KPMG's experience, employees are also increasingly concerned with the enterprise they work for maintaining high ethical standards, particularly among younger employees who are concerned about

their job being "meaningful." Enterprises that focus on high ethical standards will potentially improve their reputation in the market and attract more, and more qualified, applicants.⁴²

Figure 29 - Survey responses to the statement:
"It is important for us to demonstrate that we fulfil our obligations under the Transparency Act to:"



Enterprises make little use of external assistance

The results of the survey show that the enterprises make relatively little use of external assistance in their work with the Transparency Act. This applies to the three main duties included in the Act. More than half of the enterprises state that external assistance is not used, or only to a small extent, in their work with due diligence assessments, the duty to provide information and the handling of information queries. Among those reporting that they use external assistance to a considerable extent, such assistance is predominantly relied upon for due diligence work, rather than for the duties related to due diligence accounts and providing information. The survey also shows that external assistance is utilised to a somewhat lesser extent by large enterprises than SMEs.

The enterprises were also asked whether consultants and external advisors have been an important resource or source of information in their efforts to comply with the Transparency Act. Here, too, most of the enterprises reported that consultants and external advisors have not played a significant role in their work or have only been involved to a small extent. A larger proportion of SMEs report that consultants and external advisors have played an important role in their work with the Transparency Act, compared to the large enterprises. However, fewer of the large enterprises state that consultants and external advisors have not been significant at all.

⁴² [Young professionals feel responsible in driving the ESG agenda but lack empowerment from leadership, says KPMG International](#)

Figure 30 - Survey responses on the extent to which external assistance is involved in the work on due diligence, due diligence accounts and responding to information queries.

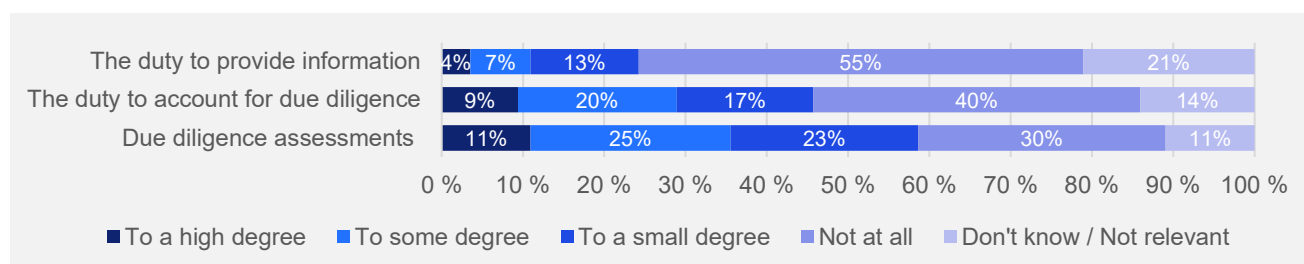


Figure 31 - Survey responses on the extent to which external assistance is involved in the work on due diligence, due diligence accounts and responding to information queries, in total and grouped according to enterprise size.

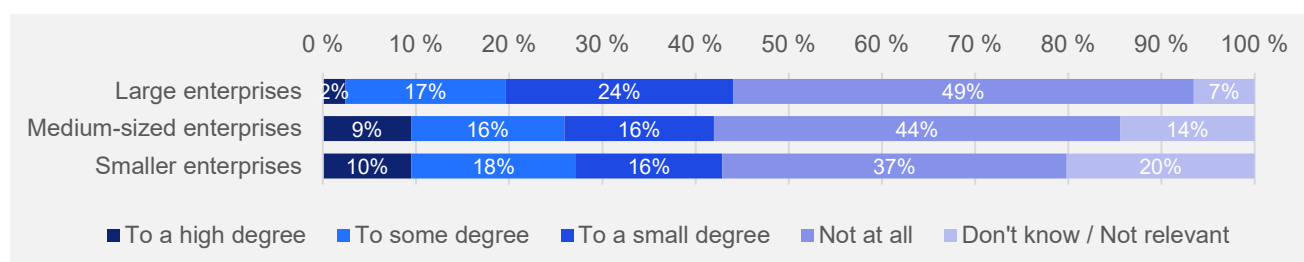
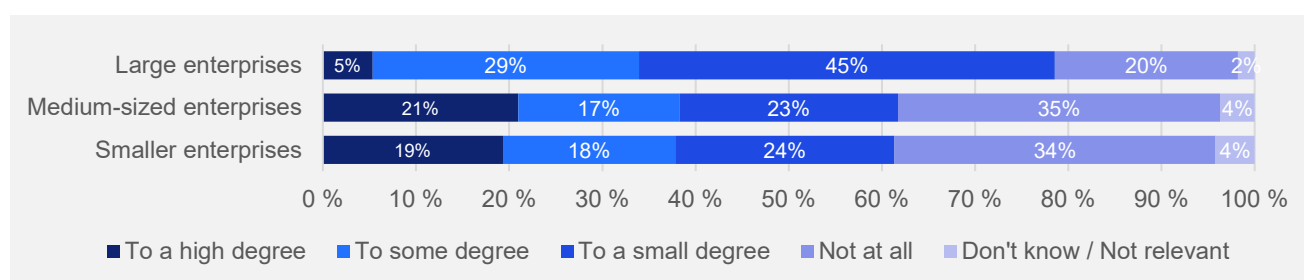


Figure 32 - Survey responses, grouped according to enterprise size, to the statement: *"The following resources/information sources have been important in our work to fulfil our duties under the Transparency Act: Consultants/external advisors"*



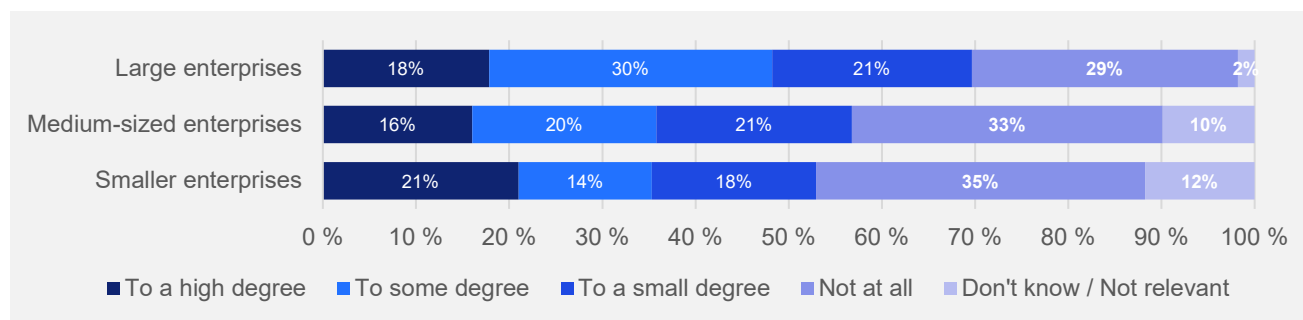
Digital tools can improve the efficiency of due diligence, but also create an unnecessary amount of paperwork

The enterprises that are subject to the Act seem to utilise digital solutions to a relatively small extent. Results from the survey show that a minority of respondents, across all size categories, believe digital solutions have been important for their work with the Transparency Act, or have only been of limited importance (Figure 33).

A slightly higher proportion of the large enterprises believe digital solutions have been important for their work with the Transparency Act.

"[It has been challenging to] achieve structure and quality in the data systems to be able to carry out due diligence in a meaningful and, not least, cost-effective way."

Figure 33 - Survey responses, grouped according to enterprise size, to the statement:
"The following resources/information sources have been important in our work to fulfil our duties under the Transparency Act: Digital solutions from external suppliers"



In interviews and responses to open-ended questions in the survey, some enterprises have raised the lack of suitable or effective digital solutions to comply with the Transparency Act as a challenge. In the context of the challenges and frustrations associated with increased bureaucratisation, several enterprises have raised the need for a common working method, particularly in relation to information gathering. Accounting Norway and others have suggested the establishment of common database for publishing due diligence accounts and that the Brønnøysund Register Centre can house such a database.⁴³

There are various providers of digital solutions that support the work of complying with the Transparency Act. A number of enterprises have developed automatic solutions that distribute questionnaires and reminders to suppliers, and in some cases solutions that distribute "chain letters" down the supply chain.

The marketing of this type of digital solution often emphasises the time saved by using the solution rather than whether the system enhanced due diligence and responsible conduct in the supply chain.

Although enterprises may be able to streamline their own work, it may, on the other hand, generate additional work for suppliers who are expected to respond to the enquiry. Some providers note that questionnaires can be sent from the enterprise to the supplier, which registers 10 suppliers, which, in turn, registers 10 suppliers, and so on. Thus, a single questionnaire from one enterprise has

the potential to generate vast numbers of forms (1x10x10x10=1000 forms) across supply chain tiers. Even though this methodology can be an effective way to map the supply chain, such a practice can cause a reporting burden for suppliers, which is then passed down the supply chain.

It is unclear what effect this type of measure has on protecting human rights and decent work. Furthermore, analyses of the forms and the enterprises' risk assessments will in many cases be based on the suppliers' self-reporting and to a lesser extent on an objective factual basis, which may entail a risk of "greenwashing" and manipulation of data in supply chains.

"[All] enquiries about our work with [the Transparency Act have been] very different, (use of systems such as Ignite and Factlines, electronic questionnaires, manual questionnaires), all with different sets of questions and different amounts of questions.

Some enquiries can take many hours to answer and require the involvement of a large number of people in the enterprise. A common working method and common drafting of questions will ease the work, if all questions can be answered [once] and shared. Instead of spending excessive amounts of much time answering questions, [which can occur at the expense of activities that] actually [create] value in your own value chain."

⁴³ <https://www.panoramanyheter.no/arbeiderrettigheter-arbeidsliv-menneskerettigheter/apenhetsloven-en-ren-administrativ-byrde-uten-reelt-innhold/342463>

5. Consequences for small enterprises not covered by the Act

Small enterprises that are not directly covered by the Transparency Act nevertheless experience indirect requirements via contracts with larger enterprises that are subject to the Act. Although many small enterprises do not experience challenges as a result of the Transparency Act, they have limited capacity and resources to conduct further follow-up in the supply chain. Several enterprises highlight the importance of taking into account small enterprises and their limited resources.

Many small enterprises are indirectly covered by the Act

The responses to the survey from enterprises not covered by the Act suggest that the Transparency Act has not resulted in a particularly increased burden for them. The survey was sent to 50 enterprises that are not covered by the Transparency Act, 17 of which responded. The purpose of including a selection of enterprises that are not covered by the Act was to be able to address the issues related to how small enterprises that are not subject to the Act have been affected by its requirements and related to the possibility of subjecting small enterprises to the Act in the future. These enterprises were mainly asked questions about how they had been followed up by other enterprises in connection with the Transparency Act,

and whether they perceived the follow-up as appropriate.

When asked how many self-reporting or similar forms the enterprises had received from customers in the past year, most responded that they had not received any such requests (Figure 34). The enterprises that had received requests were from various industries (manufacturing, finance and insurance, retail and transport and storage). Most had no opinion as to whether this type of self-reporting is appropriate to fulfil their responsibilities for safeguarding human rights and decent working conditions (Figure 35). The enterprises that had received the most requests for self-reporting and similar forms were also the ones that strongly agreed that this was an appropriate way to fulfil their responsibilities in relation to human rights and decent working conditions. When asked whether the enterprise had been followed up in ways other than self-reporting or similar forms, 8 out of 10 responded that they had not.

Figure 34 - Survey responses from enterprises not covered by the Transparency Act to the question: *"How many self-reporting forms or similar requests have you received from customers over the past year?"*

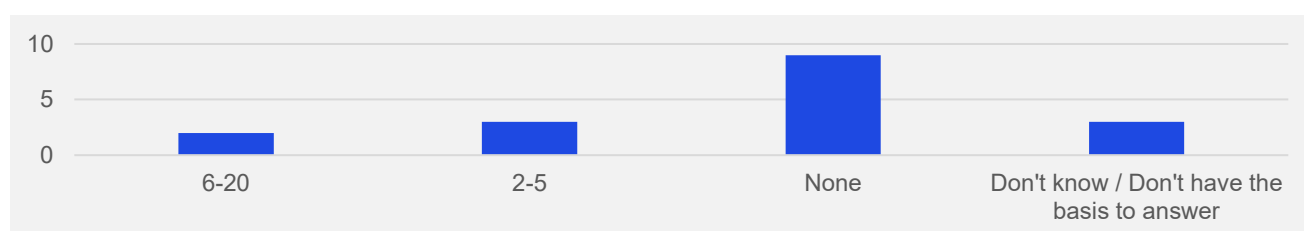
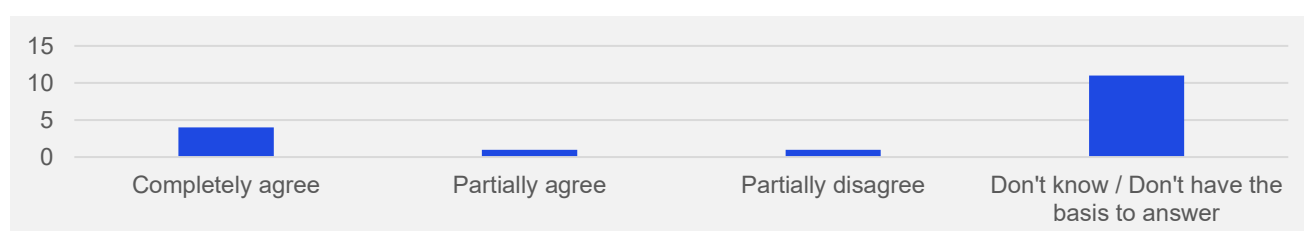


Figure 35 - Survey responses from enterprises not covered by the Transparency Act to the statement: *"Our enterprise feels that self-reporting is a good way to fulfil our responsibility in relation to human rights and decent working conditions"*



Challenges for small enterprises

Some small enterprises experience challenges related to customer expectations, particularly due to the fact that they have fewer administrative resources to carry out contract follow-up and reporting.

Interviewees from trade associations, a large proportion of whose members are small enterprises not covered by the Act, described how, in their experience, the principle of proportionality in the Act is negated by imposing identical requirements on large and small enterprises by way of contracts. Small enterprises that are not covered by the Transparency Act are still subject to the duties of the Act. The requirements are often set by larger enterprises that are themselves subject to the Act and are concerned with ensuring compliance and low risk in their supply chains.

“The work is very important, but it is not always easy for small enterprises to establish all the procedures, controls and follow-up that are required. The will is there, but a lack of time, resources and knowledge can be a stumbling block.”

This was especially described by actors in the building and construction industry. They pointed out that public contracting authorities rarely take the size of the enterprise into account when setting ethical requirements, and that the requirement to carry out due diligence is often imposed if the contract exceeds a certain value. They also emphasised that in this industry, the work is often carried out by subcontractors rather than the primary contracting party.

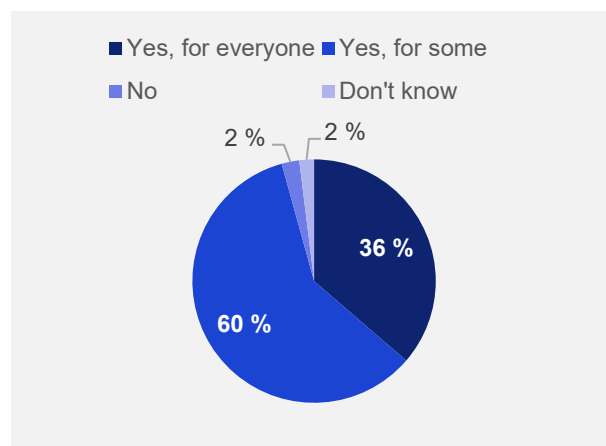
Subcontractors, which are often small enterprises, have less bargaining power to question the requirements stipulated in the contract.

According to representatives from the building and construction industry, this often results in small enterprises that are not covered by the Transparency Act having to accept requirements that mirror the obligations of the Act that also do not take into account the enterprise's size or proportionality considerations.

The survey responses from the enterprises covered by the Transparency Act show that the vast majority of enterprises continue to impose due diligence requirements on suppliers and business partners in the form of contractual and/or reporting requirements (Figure 36). Large enterprises continue to impose due diligence requirements on all their suppliers and business partners (Figure 37). This may be related to the enterprises' contractual procedures, as well as their degree of influence. The results of the survey do not show whether the requirements carried forward by the duty-bearers of the Act take into account the size of the supplier.

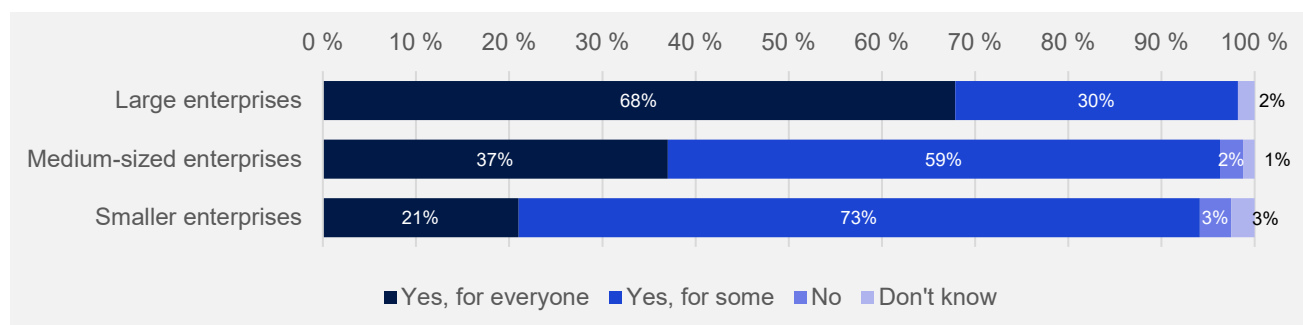
It is emphasised that it is considered good practice to incorporate “expectations and guidelines on responsible business conduct in all contracts with suppliers and business partners.”⁴⁴

Figure 36 - Survey responses to the statement: “Our enterprise carries forward requirements related to due diligence to suppliers and business partners in the form of contractual requirements and/or reporting obligations”



⁴⁴ OECD Due Diligence Guidance for Responsible Business Conduct

Figure 37 - Responses from the survey, grouped according to enterprise size, to the statement: “Our enterprise carries forward requirements related to due diligence to suppliers and business partners in the form of contractual requirements and/or reporting obligations”



The impact on small enterprises was emphasised in connection with the preparation of the EU CSDDD, in particular the concern that the Directive would be burdensome for small enterprises due to requirements imposed by larger enterprises via contracts and supplier follow-up. In the final text of the Directive it is stated that enterprises are to take into account the size of the enterprise when setting requirements and following up suppliers. Articles 10 and 11 of the Directive state that enterprises shall:

“[...] provide targeted and proportionate support to an SME which is a business partner of the company, where necessary in light of the resources, knowledge and constraints of the SME, including by providing or enabling access to capacity-building, training or upgrading management systems, and, where compliance with the code of conduct or the prevention action plan would jeopardise the viability of the SME, by providing targeted and proportionate financial support, such as direct financing, low-interest loans, guarantees of continued sourcing, or assistance in securing financing.”

The Directive notes that enterprises should include cost-sharing commitments in their contracts to ensure that due diligence costs are fairly distributed and that business partners, especially SMEs, are not overburdened. This is also an issue addressed in the Responsible Contracting Project,⁴⁵ which may have future implications for the CSDDD, as its Article 18 envisions the development of

standard terms to assist enterprises in complying with the Directive.

The work shows that shared responsibility is advantageous and more realistic, as opposed to direct transfer of obligations to subcontractors and guarantees of compliance. One ethical trade organisation stated that they do not have many members not covered by the Act, but that members often view the efforts they make to maintain membership as a competitive advantage. Maintaining membership includes the requirement for an enterprise to carry out due diligence work and report on it annually, regardless of the enterprise's size.

Some civil society organisations believe that the Transparency Act should apply to *all* enterprises, regardless of size, and that the current applicability threshold should be lowered. The reason for this is that there are a large number of small enterprises in Norway that, despite having few employees, may have extensive and global supply chains where there may be a high risk for adverse impacts.

⁴⁵ Responsible Contracting Project, led by S. Dadush.
[Responsible Contracting Project](#).

6. Enterprises' experiences with goal attainment

The Transparency Act has led to greater awareness and enhanced competence related to human rights and decent working conditions, both within enterprises and across their supply chains. The Act has contributed to improved procurement practices and a more systematic approach to due diligence. Many enterprises believe they have adequate systems in place to comply with the Act, but few have reported actual adverse impacts, which may indicate that the enterprises have not carried out sufficient risk identifications. However, many enterprises have in their due diligence accounts committed to specific activities moving forward. Norwegian enterprises that have implemented a systematic approach to due diligence may have an advantage in other markets where similar legislation is being developed (for example in the EU once the CSDDD is implemented).

The Transparency Act has contributed to a greater focus on responsible business conduct.

It has also led to greater awareness of and support for responsible business conduct, and particularly due diligence. For many enterprises, the Act has led to increased attention for due diligence from their board of directors and management, which has resulted in stronger internal support within the enterprise. This also applies to enterprises that actively worked on due diligence before the Transparency Act entered into force. Several of these enterprises have experienced a revitalisation of their work on due diligence as a result of the Act. A number of professionals who work on due diligence are experiencing a greater understanding of the subject matter and feel that it is increasingly being prioritised as an important matter within the enterprise.

In response to an open-ended question in the survey on examples of where due diligence has strengthened respect for human rights and decent work, 28 per cent of respondents referred to the work on due diligence resulting in better awareness.

In interviews, enterprises have highlighted the opportunities that have arisen as a result of the Act. Examples include that the Transparency Act can contribute to, or has already contributed to:

- Enhanced competence in the business sector's responsibility for human rights and decent

working conditions, both internally and throughout the supply chain.

- Better functioning markets, as actors are required to adhere to the same rules, which can limit the competitive advantage for irresponsible enterprises.
- Market participants being able to make well-informed decisions based on improved due diligence information from suppliers, which can contribute to reducing undesirable conduct in the supply chain.
- Improved and more responsible procurement practices, including clearer contract requirements and an increased focus on background checks of suppliers prior to the conclusion of contracts, as well as part of contract follow-up.

The enterprises express support for the authorities focus on initial competence building that has facilitated an open discussion about the Act and compliance. This is in contrast to a scenario in which the authorities imposed sanctions at an early stage and where enterprises to a greater extent may have avoided open discussion about challenges.

Risk-based approach and better overview of supply chains

As a consequence of the Transparency Act, many enterprises are working more systematically and purposefully to safeguard human rights and decent work. The Transparency Act emphasises that due diligence is to be risk-based. This has enabled enterprises to focus their efforts on areas with a

high-risk of adverse impacts. Many enterprises can therefore be more confident in their prioritisations than before, where there was not an agreed upon practice between whether all suppliers should be followed up or a more risk-based selection would be utilized. Although this should be expected to reduce bureaucracy in the enterprises, as mentioned, we observe that the Act has resulted in a not insignificant amount of paperwork and increased the reporting burden across enterprises. This may be related to the fact that many enterprises still lack competence related to good practices for due diligence and that the guidance could have been clearer.

Through their identification of significant risks, the enterprises have also improved their knowledge of the supply chain. For many enterprises, it has been important to improve the basic data on suppliers and supply chains in order to conduct good risk assessments. A positive effect of this goes beyond the purpose of the Transparency Act and has led to an improved overview of purchases and competence in supplier management in general in several enterprises. Traditionally, many procurement functions have predominately focused on quality of delivery and savings, but with new legislation there is an increased focus on sustainability and responsible conduct.

The enterprises have established systems and procedures

Most enterprises believe they have established systems and procedures that are sufficient to ensure compliance with the Transparency Act (Figure 38). Responses from the survey show that a significant majority of respondents “strongly agree” with this statement, and only 3 per cent disagree. There is little variation between the different sizes of enterprises in this regard.

The review of due diligence accounts shows that, among the enterprises that provided accounts, the vast majority included information about their policies and procedures for handling adverse impacts on fundamental human rights and decent working conditions. The review also shows an improvement from 2022 to 2023 among those who accounted for this information, as well as in terms of how comprehensive the information was in relation to the guidance from the Norwegian Consumer Authority (Figure 39).

Figure 38 - Survey responses to the statement: “Our enterprise has systems and procedures that are sufficient to comply with the Transparency Act”

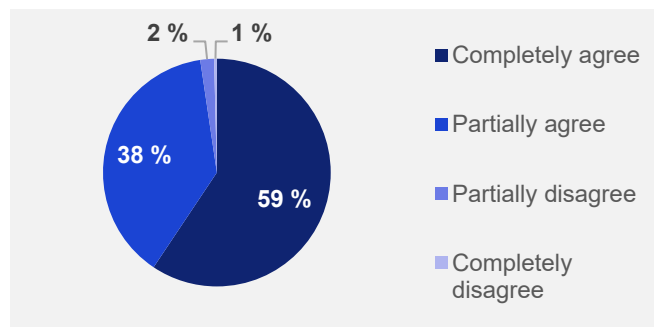
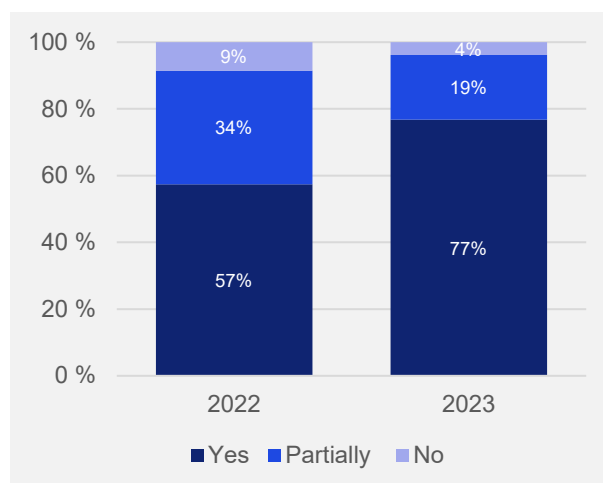


Figure 39 - Percentage of the 150 enterprises' due diligence accounts that included information on guidelines and procedures for handling adverse impacts on fundamental human rights and decent working conditions.



A 2020 survey by Norwegian NCP for RBC shows that there has been a significant strengthening of enterprises' due diligence efforts in the period since the Transparency Act entered into force. The survey provides an overview of the status before the Transparency Act entered into force. According to the survey, 50 per cent of the enterprises had responsible business or sustainability guidelines at the time. Furthermore, the survey showed that 91 per cent of the enterprises worked on due diligence in their own business, 40 per cent assessed conditions in the supply chain, and 27 per cent assessed conditions at business partners. Therefore, our findings show that there has been a development in the last four to five years, where more enterprises have established procedures for due diligence, and are now also examining the supply chain to a greater extent.

Most enterprises describe that their risks mainly exist in the supply chain and that the measures

introduced can therefore largely be categorised under responsible supply chain management. In most of the due diligence accounts there are descriptions on how the work on due diligence is supported by management and the organisation, on the changes that have been made to governing

documentation, and on what kind of risk the enterprises have assessed for further prioritisation and follow-up. In addition to this, several due diligence accounts contain different types of measures that go beyond the actual risk assessment.

To what extent do enterprises follow up on potential and actual adverse impacts and how?

According to the Transparency Act, enterprises have a duty to “[...] *implement suitable measures to cease, prevent or mitigate adverse impacts*”. We have taken a closer look at due diligence accounts from enterprises that have described potential or actual adverse impacts, as well as measures that have been introduced. What the enterprises have assessed and followed up on varies greatly, as do the types of measures that have been introduced. We have not assessed the quality of the measures, i.e., the extent to which they have ceased, prevented or mitigated adverse impacts.

Internal	Supplier management	Active measures
Management support Changes to governing documentation, procedures and routines, etc.* Risk assessments* Trade union dialogue* Responsible recruitment practices* HSE improvement work* Certification (ISO, etc.) Changed design/material usage to reduce risk/change supply chain Double materiality assessment* Training and education* Instructions and education of employees in close proximity to matters with a high risk of adverse impacts Internal audit of measures introduced since the Transparency Act entered into force Implementation of technology/system for monitoring requirements for decent work and human rights, etc. Calculation of living wage Implementation of procedures for “enhanced due diligence” ¹ in connection with purchases/activities from/in conflict areas*	More stringent contract requirements for suppliers Self-declaration from suppliers confirming compliance with ethical requirements Qualification requirements for suppliers related to the safeguarding of human rights and decent work Approval of suppliers prior to commencement/prequalification of suppliers Self-reporting from suppliers/survey sent to suppliers Assess and follow up on suppliers’ due diligence accounts under the Transparency Act Supplier audits Supervisory controls of pay and working conditions Unannounced inspections at production sites Investigation of notifications related to, e.g., working conditions with suppliers On-site inspections/factory visits with follow-up of working conditions, HSE, etc. Technical building inspection (HSE at factories) Requirements for and calculation of living wage for suppliers	Responsible relocation of people in connection with construction projects Measures to combat gender-based violence and harassment Contribute to positive wage adjustments for employees in the supply chain Consultations with indigenous peoples regarding their rights Pause/suspend suppliers pending improved practices Terminate projects that may cause adverse impacts, with land restitution to the affected party. Termination of supplier relationships
Other measures*: <ul style="list-style-type: none"> ○ Stakeholder engagement with civil society organisations ○ Industry collaboration on improvements and follow-up in supply chains 		
*may be applicable to both internal affairs and in the supply chain		

The Transparency Act has resulted in positive changes

More enterprises remark on concrete improvements within their enterprise and across the supply chain. 13 per cent believe that the measures have had a major to somewhat of an effect in their own organisation and 28 per cent report this in relation to the supply chain.

However, most enterprises have not disclosed instances of actual or potential adverse impacts. The results of the survey and the review of due diligence accounts indicate this.

The majority of survey respondents stated that they have not uncovered any cases of actual or potential adverse impacts in the past two years (Figure 41). Large enterprises are more likely than SMEs to have uncovered instances of potential or actual adverse impacts.

Figure 40 - Survey responses to the statement: *"The measures our enterprise has introduced as part of compliance with the Transparency Act have led to:"*

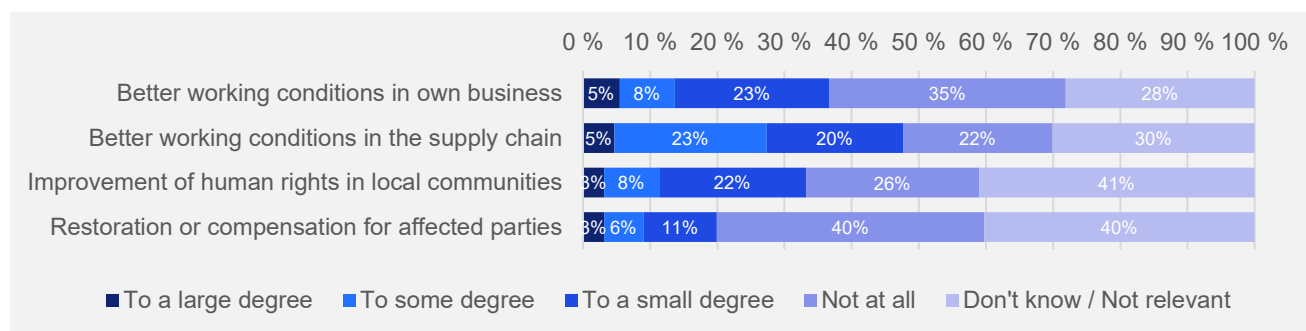


Figure 41 - Survey responses to the question: *"How many instances of actual or potential adverse impacts have your enterprise uncovered as a result of due diligence in the last two years?"*

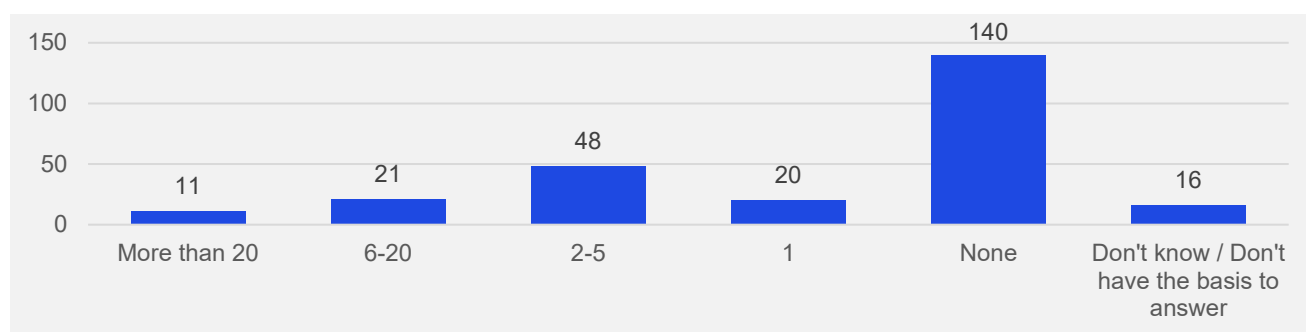
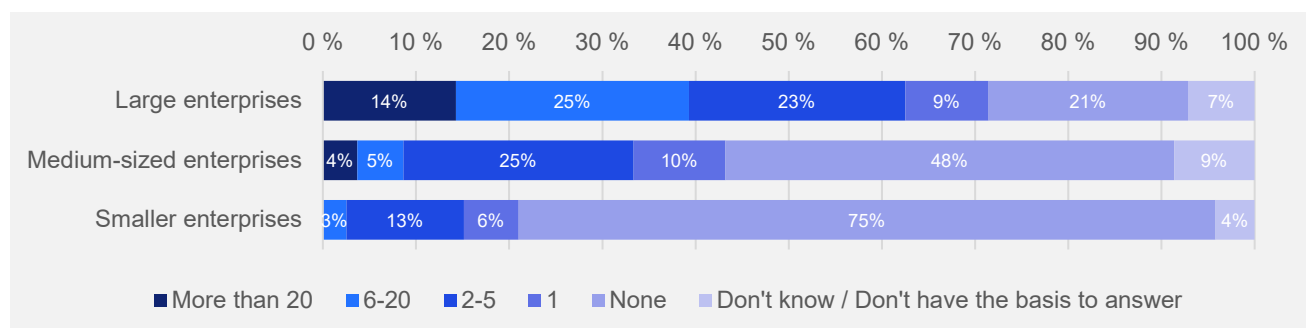


Figure 42 - Survey responses, grouped according to enterprise size, to the question: *"How many instances of actual or potential adverse impacts have your enterprise uncovered as a result of due diligence in the last two years?"*



Examples of specific instances of improvement reported in the survey

- “Increased awareness and control of wage and working conditions”
- “Introduced rules to ensure that guest researchers from low-wage countries receive adequate support for research stays”
- “Assessment of living wage and closing gaps for own employees”
- “CAP [Corrective Action Plan] related to HSE implemented and followed up to correct gaps where fabric materials were in the way and blocking emergency exits.”
- “Follow-up resulted in changes to employment conditions (direct employment instead of employment in sole proprietorship).”
- “Discovered that hired personnel had poorer conditions and were therefore employed directly so that they would have the same conditions as their colleagues.”
- “The focus on a living wage has led directly to increased wages above the supplier’s minimum wage.”

There is some variation based on industries. Several respondents to the survey from the following industries reported that they had uncovered more than 20 instances of potential or actual adverse impacts: retail, transport and storage, oil and gas, energy and building and construction. Certain industries are more regulated than others in terms of duties related to follow-up, e.g., deriving from the supervisory duty.

The requirement to carry out controls in the form of the supervisory duty, in addition to the Transparency Act’s requirement to monitor the supply chain, may be underlying reasons for the higher number of uncovered instances of adverse impacts in these industries.

In the survey, respondents were asked an open-ended question about whether they had examples of actual instances where due diligence has enhanced respect for human rights and decent working conditions. Out of 101 responses, 52 per cent were negative, with enterprises responding that they had no examples of actual examples of improvements. 5 per cent of respondents described expectations of future effects of the work. 20 per cent of the respondents referred to specific instances (see examples in text box).

Few enterprises account for actual adverse impact

The review of the due diligence accounts shows that only a small number of enterprises account for actual adverse impacts. This may indicate that many enterprises have not yet commenced concrete follow-up, or that they are reluctant to report on this. On its website, the Norwegian Consumer Authority writes as follows:

“The Norwegian Consumer Authority observes that some enterprises write that they have not identified any adverse impacts whatsoever. Rarely will an enterprise not have any form of harm or significant risk associated with its own business activities, supply chains or business partners. Failure to identify any harm or significant risk is reason to continue the risk identification work and initiate measures to investigate more thoroughly.”

From minimum wage to a living wage

As a result of the Transparency Act and developments in international frameworks, a living wage is increasingly on the agenda of several Norwegian enterprises. One of the special features of the Transparency Act is the reference that employees are entitled to “[...] a living wage”. Here, the Transparency Act goes further than comparable legislation in other countries. Typical contract requirements in global trade to date have been characterised by “minimum wage” requirements. After the introduction of the Transparency Act, the ILO launched a definition of a living wage in 2024, as a measure to highlight the fact that in many typical low-cost/manufacturing countries, a minimum wage does not necessarily ensure workers a living wage. On the contrary, wages in line with minimum wage provisions in such markets entail an increased risk of overtime, child labour, and other problems. As a result of this, one large Norwegian enterprise with global operations has identified its own locations where wages are too low and established measures to remedy this issue. Other enterprises have also launched similar projects in their supply chains.

Norwegian suppliers are more mature than suppliers in the other Nordic countries

Some enterprises have pointed out that they observe a difference in suppliers’ attention to and maturity in due diligence with Norwegian suppliers, compared to suppliers from the other Nordic countries, where there is no comparable legislation.

Thus, Norwegian enterprises can potentially gain a competitive advantage in relation to customers in markets where due diligence rules are introduced (e.g., when the CSDDD is introduced in EU countries).

Many enterprises have committed to making concrete improvements

Many enterprises' due diligence accounts contain descriptions of planned measures for the future. Although, after two years of the Transparency Act, while there are good examples of specific improvement measures, the general impression is that most of the due diligence accounts fail to describe what the enterprises have actually achieved. However, many due diligence accounts contain information about what the enterprises are planning as the next steps in their work.

Many enterprises also describe the specific goals they have for their work. Thereby, in practice, due diligence accounts under the Transparency Act can serve as publicly available declarations of commitment from enterprises. This will especially be the case if enterprises publish a history of due diligence accounts over time. Although this is not a legal requirement, the Norwegian Consumer Authority refers to it as good practice in its guidance:

"It is good practice to keep previously published due diligence accounts on the website, so that it is possible to track the progress of your due diligence." ⁴⁶

⁴⁶ <https://www.forbrukertilsynet.no/vi-jobber-med/apenhetsloven/redegjorelsesplikt>

7. Topics for further development

Larger enterprises are concerned about how the implementation of new European directives will affect reporting requirements. They highlight harmonisation of the Transparency Act with other sets of rules as an important topic in the Government's future work. As part of this work, many are also seeking clarification on varying terminology and uncertainty regarding which obligations apply. Many believe that the Act is primarily a due diligence law, and several point out that the title *Transparency Act* has led to misaligned expectations of enterprises. At the same time, there is a risk of losing the momentum achieved in the initial years of the Transparency Act if some of the special features of the Transparency Act are diluted, such as the duty to account for due diligence, the duty to provide information and the principle of a living wage.

This review emphasises the critical need to focus on constructive and positive improvements moving forward, with dialogue among enterprises, civil society, authorities, and other stakeholders. The Act's purpose of promoting enterprises' respect for fundamental human rights and decent working conditions should be at the core of these efforts.

Overlap with other regulations and reporting requirements

With the introduction of the CSRD and an announced introduction of the CSDDD, enterprises are expressing concern that they will face additional obstacles as a result of overlapping reporting requirements.

Many enterprises are already experiencing practical challenges due to different and overlapping reporting requirements, even though a small number of respondents to this survey report that they currently experience a high degree of overlap with other reporting requirements. Those reporting that they experience an overlap between the duty to account for due diligence and other reporting requirements are, unsurprisingly, the larger enterprises.

There are indications that the enterprises' adaptation to new reporting requirements in the CSRD may have an impact on their due diligence accounts. The Norwegian Consumer Authority and others have pointed out that the duty to account for due diligence is not a reporting duty as such and that the Transparency Act is not a "reporting act". However, on 1 November, the Transparency Act was updated:

"Section 5, first paragraph of the Transparency Act now stipulates that the due diligence accounts may be included in the annual report, cf. the Accounting Act. Previously, it was stated that the due diligence account could be included in the report on corporate social responsibility under section 3-3 c of the Accounting Act. The report on corporate social responsibility has now been replaced by new requirements for sustainability reporting in the Accounting Act."

If due diligence accounts are incorporated to a greater extent into annual/sustainability reports, this may lead to a change in practices related to due diligence accounts, e.g., in that the due diligence account becomes part of the auditors' statutory certification of sustainability reports.

Several enterprises already practice this, and more are now changing their practice and including the due diligence account in the annual report, also on the grounds of streamlining sustainability reporting efforts. It is unclear how such a development will affect the consumer perspective, but it may mean that due diligence accounts in practice become less accessible if the account is integrated into different parts of the sustainability report.

In terms of other legislation, the enterprises especially experience an overlap with the Accounting Act, the Equality and Anti-Discrimination Act and the CSRD. This applies to the CSRD, especially, where 41 per cent of the large enterprises felt there was a high degree of overlap, 52 per cent reported some degree of overlap, and only 7 per cent experienced that there was no overlap.

The large enterprises are concerned about the future harmonisation with new EU directives, which contain different requirements for assessments and different formal requirements than those in the Transparency Act. They are seeking the greatest possible degree of harmonisation with the new European directives and believe that any requirement in the Transparency Act that goes beyond the requirements of the new directives will

constitute a burden and barrier to competition for Norwegian enterprises. Accounting Norway also believes that it should be possible for due diligence

reporting to become part of the annual report, in line with the requirements of the CSRD and the CSDDD.

Figure 43 - Survey responses to the statement:

"In our experience, the requirement to account for due diligence under the Transparency Act overlaps with:"

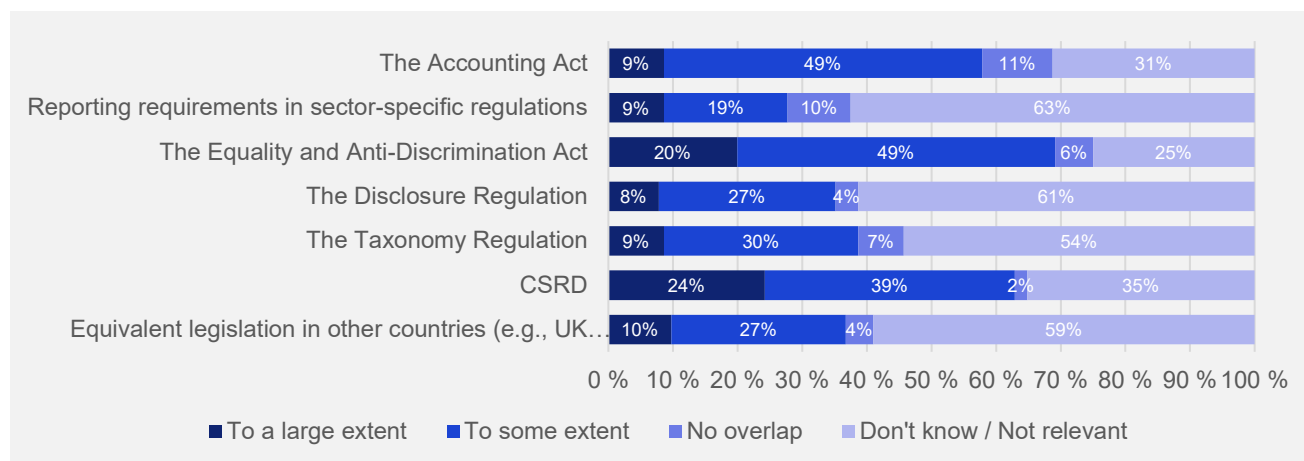
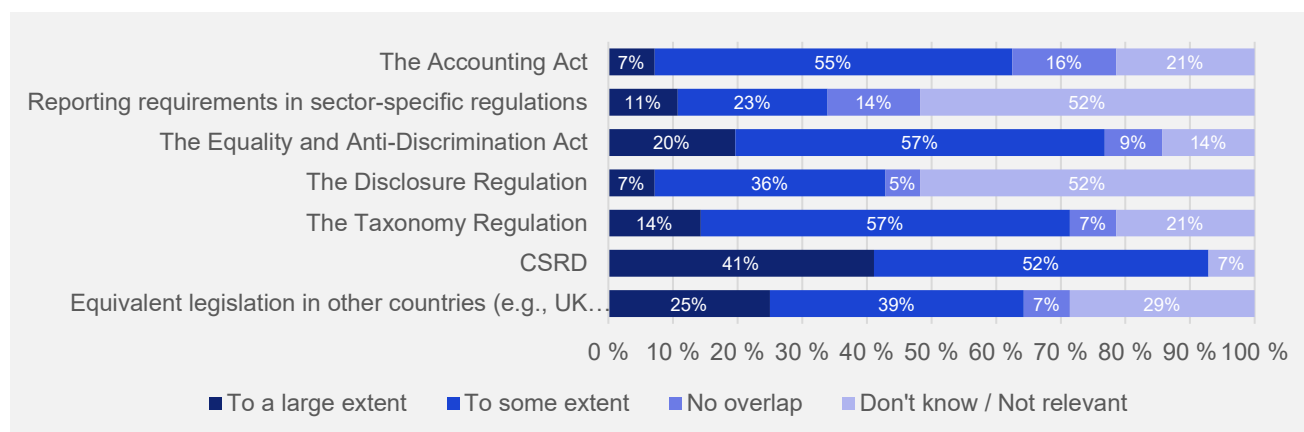


Figure 44 - Survey responses from large enterprises to the statement:

"In our experience, the requirement to account for due diligence under the Transparency Act overlaps with:"



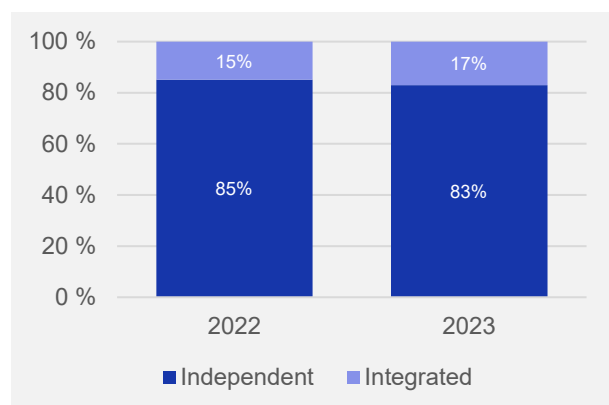
Some enterprises experience challenges in organising reporting under the Transparency Act and consolidation. Particularly in large enterprises, the management's signing of due diligence accounts can in itself involve extensive coordination work if all subsidiaries and the respective

management are to sign. In a written submission, an enterprise has described overlapping requirements due to the fact that several companies in a group are covered by the Act (see text box). This issue was also raised by some enterprises in the survey.

“The Transparency Act requires that each company covered by the Act is obliged to submit a due diligence account in accordance with section 5 of the Transparency Act that fulfils the statutory requirements, regardless of whether the company is part of a group. This requirement is incongruent with accounting rules and the CSRD, where a subsidiary that has a parent company that reports on a consolidated basis is exempt from the requirements. As there is no possibility of consolidation, enterprises must prepare due diligence accounts for companies such as funds that do not have their own operations or employees, and where due diligence is carried out by other entities in the group. [This] causes the due diligence accounts to be longer, more comprehensive and more complicated than is appropriate for the users of the accounts. This is also particularly relevant if the CSDDD’s transition plan requirement is to be incorporated into the Transparency Act, as it would be burdensome and inappropriate for each company in a group to have its own transition plans.”

Most enterprises publish the due diligence account in accordance with the Transparency Act as an independent document, separate from other statutory and voluntary reporting. The review of the due diligence accounts shows that a significant majority of the selected 150 enterprises published an independent due diligence account in both 2022 and 2023. The choice of independent or integrated reporting does not seem to affect the fulfilment of statutory requirements, as those that report in an integrated manner fulfil the formal statutory requirements to roughly the same extent as the enterprises that publish independent due diligence accounts.

Figure 45 - Proportion of the due diligence account of the 150 enterprises that were self-contained documents and integrated into other reporting.



The Corporate Sustainability Due Diligence Directive

Norwegian authorities are now conducting an evaluation of the Transparency Act, including in relation to the requirements of the CSDDD.

The largest Norwegian enterprises will be covered by the CSDDD directly and many Norwegian enterprises will be affected indirectly as part of the value chain of larger enterprises.

The Transparency Act and the CSDDD are based on the OECD Guidelines for Responsible Business Conduct and the OECD Due Diligence Guidance. However, the CSDDD provides greater detail regarding these obligations.

Discrepancies include different wording of key requirements, including those relating to whistleblowing and complaints, as well as different use of terminology, including in the value chain concept. The CSDDD also includes environmental due diligence and requirements for a transition plan for climate change mitigation.

The applicability thresholds in the Transparency Act are considerably lower than in the CSDDD, where approximately 8,000 enterprises are covered by the Transparency Act. Approximately 5,500 enterprises are covered by the CSDDD. If the requirements of the CSDDD are directly incorporated into the Transparency Act, this would lead to more Norwegian enterprises being covered compared to other countries, which could create challenges in the market.

Under the CSDDD, the authorities are required to appoint national supervisory authorities that are to supervise the rules governing enterprises' due diligence. In this context it may be relevant to consider the role of the Norwegian Consumer Authority. Many have pointed out the consequences of the Norwegian Consumer Authority's current dual role, and some have also pointed out that the body lacks experience of working with due diligence in the business sector. However, many note that the Consumer Authority has strong competence regarding transparency. Regardless, it will be important to balance these considerations and avoid an unnecessary fragmentation of supervisory roles that could challenge, rather than strengthen, existing capacity and competence in this field.

Due diligence on other areas related to responsible business conduct

Many enterprises are already carrying out due diligence on other matters, such as climate and the environment. We have not observed a widespread concern about the Transparency Act being extended to include requirements for due diligence of adverse environmental impacts. Some enterprises in the industry have pointed out that they are already subject to strict environmental requirements.

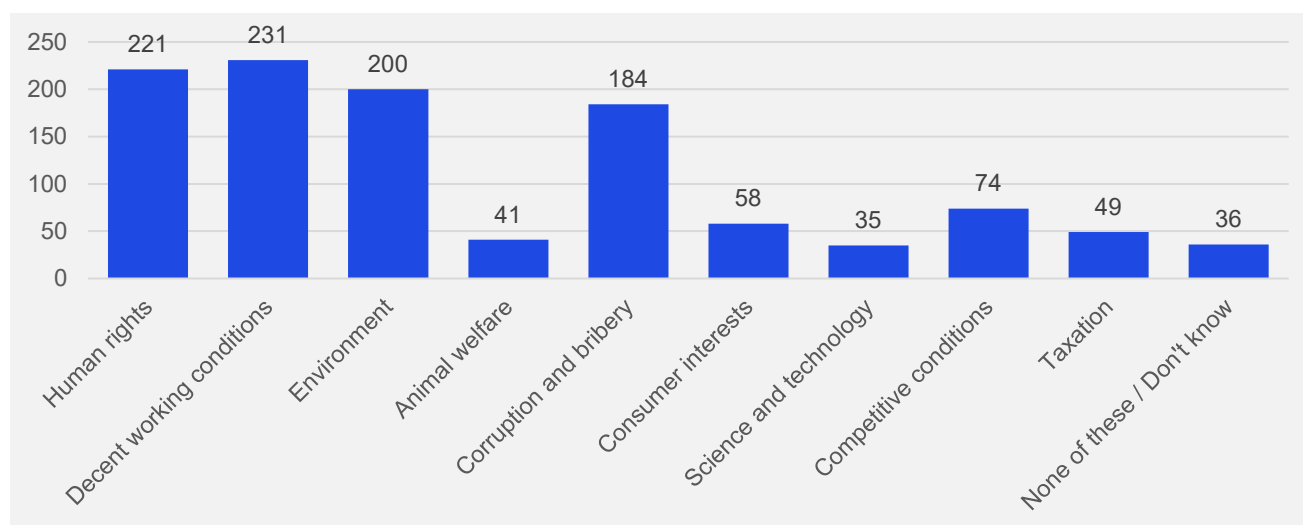
Most of the enterprises also work systematically on other topics related to responsible business conduct. In the survey, the respondents were asked whether they carry out due diligence or similar systematic work in other areas. The results show that, in addition to human rights and decent working conditions, a majority of enterprises across the size groups also conduct systematic work on the

environment and anti-corruption. 36 enterprises (13 per cent of the survey respondents) state that they do not work systematically with any of these matters or do not know, which is more than the 17 respondents that are not covered by the Transparency Act. These 36 enterprises include 1 large enterprise, 3 medium-sized enterprises, 21 small enterprises and 11 enterprises that are not covered by the Transparency Act.

Of the 17 enterprises that are not covered by the Transparency Act, 11 responded that they do not work systematically with any of the matters. 3 stated that they work systematically on human rights, 4 on decent working conditions, 5 on the environment, 4 on anti-corruption and bribery, 1 on animal welfare and 1 on consumer interests.

	Large enterprises	Medium-sized enterprises	Small enterprises	Enterprises not covered by the Act
Human rights	98%	96%	92%	18%
Decent working conditions	100%	99%	97%	23%
Environment	86%	86%	64%	30%
Anti-corruption and bribery	84%	78%	59%	23%
Animal welfare	25%	16%	11%	6%
None / Don't know	2%	4%	17%	65%

Figure 46 - Survey responses to the statement: "Our enterprise carries out due diligence or equivalent systematic work related to the following topics in the OECD Guidelines for Multinational Enterprises:"



Clarification of significant concepts, and guidance

Several point out that the title Transparency Act may lead to misaligned expectations of the enterprises and that the Transparency Act is primarily a due diligence law. Nevertheless, transparency is a key aspect of the Act.

Several stakeholders believe it is important that the three main duties be retained, as they cumulatively impose a greater obligation on the enterprises than would be the case if, for instance, the duty to provide information were omitted.

There are different interpretations of what due diligence is, and the enterprises require proper guidance. Several point out that the term itself can be misleading, as it does not only include “assessments”, but rather all stages of due diligence, which entails specific duties. Several note that the term *Due Diligence* is a more accurate designation, as it better reflects a process-oriented approach.

Current practice varies in different enterprises and industries. Many enterprises largely engage in “desk work,” where they typically establish a simple declaration of commitment, carry out an overall risk assessment and distribute questionnaires to suppliers. At the other end of the scale, we find enterprises that work actively on stakeholder engagement and develop competence on adverse impacts in the field, as well as spending significant resources on improvement and remediation. A number of Norwegian enterprises are actively working on enhanced due diligence and have to make highly complex decisions based on systemic failures in various markets, as well as in war and conflict zones.

The guidance should be adapted to the entire spectrum of enterprises and industries represented, and the authorities should focus on enhancing competence on advanced due diligence in order to properly administer the Act. For example, a number of enterprises have called for guidance on measures that will have an effect over time and that reflect a complex world.

Other elements

It is essential to track “moving targets” in the ongoing harmonisation of sustainability legislation in the EU, as there is still an ongoing political tug-of-war that could have an impact. This applies, e.g., to potential changes to reduce the administrative burden on enterprises.

The review has also documented unintended and unintended consequences of the Transparency Act:

- Where Norwegian enterprises withdraw from high-risk markets where there is a need for a presence/responsible business.
- Where enterprises or authorities opt out of work with smaller suppliers that are unable to document compliance with statutory requirements. This has an adverse impact on innovation and competition in the market.

These are topics that are important to keep on the agenda for the continued work. Further strengthening of procedures, competence and capacity in this area can help reduce such unintended effects. Furthermore, these are also important topics in the discourse surrounding due diligence and human rights. For example, several of the enterprises called for better informed media coverage and warned against the effects of sensationalist reporting. Strengthening of established forums for the exchange of opinions can have a positive effect and contribute to a more informed and balanced debate.

Sharing knowledge and competence regarding due diligence

The Transparency Act has contributed to increased awareness of work on responsible business conduct and human rights. In this context, it has also become an increasingly important part of the public discourse. This discourse often manifests itself as a discussion with sharp divisions, with enterprises on one side and civil society and the media on the other.

This is an area where the authorities can play a role by facilitating a more constructive discourse process. There may be potential for even better use of existing forums, such as the Norwegian NCP for RBC, to promote cooperation between the business sector and consumers. Civil society can contribute to better and more nuanced risk assessments, and enterprises can develop more effective measures to strengthen human rights in their areas of operation.

It has also been suggested that, in the long term, the Transparency Act may give Norwegian enterprises an advantage internationally, as the Act may have contributed to Norwegian enterprises being among the leaders in an area that may prove to be a competitive advantage rather than a hindrance.

Appendix 1 References

International frameworks and legislation:

- The Corporate Sustainability Due Diligence Directive
- The Regulation on Deforestation-free Products (2023)
- The Batteries Regulation (2023)
- The Corporate Sustainability Reporting Directive (CSRD)
- The EU Taxonomy
- The UN Sustainable Development Goals
- The UN human rights conventions
- The UN Guiding Principles on Business and Human Rights (UNGP)
- The ILO Core Conventions
- The Conflict Minerals Regulation (2017)
- The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
- The Sustainable Finance Disclosure Regulation (SFDR)
- The Forced Labour Regulation

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Appendix 2 Interviews and dialogue meetings

- Meeting with the Norwegian Consumer Authority on 21 May 2024.
- Meeting with the Federation of Norwegian Enterprise (Virke), 27 May 2024.
- Introductory dialogue meeting, 5 June 2024.
 - Main question: What do you believe is important or problematic about the Transparency Act, and what is particularly important that we examine in this review?
 - Participants: Amnesty International Norway, Future in Our Hands, Norwegian Bar Association, the Norwegian Confederation of Trade Unions (LO), Ethical Trade Norway, Rafto/Future Proof, Norwegian Shipowners' Association, the Norwegian Corporate Governance Board, the Norwegian NCP for RBC, Accounting Norway, the Norwegian Consumer Authority.
- Group interview with the Confederation of Norwegian Enterprise (NHO) Sustainability Forum, 28 August 2024.
 - Main question: What have you seen change for the better as a (direct or indirect) result of the Transparency Act? Do you have specific examples of instances where you have ensured better responsible business conduct than before? What challenges do you face in complying with the Act? How have you changed the way you organise and ensure responsible business conduct in how you do business? What has and has not worked well? What are your thoughts on a possible expansion of the Transparency Act to include environmental impact and possibly other areas in line with the OECD Guidelines for Multinational Enterprises – and on alignment with the CSDDD?
 - Participants: Confederation of Norwegian Enterprise (NHO), Hydro, Statkraft, Kongsberg Gruppen, Strawberry, Elkem, IKEA Norge, Yara, Orkla, Telenor, Equinor, Aker Biomarine, Statnett, Schibsted Media, Rema 1000, Celsia, Jotun Asplan Viak, Scatec.
- Focus group interview on the duty to provide information, 10 October 2024.
 - Participants: Statkraft, Lyreco Norge, Strømmes 24 (other invitees: Vinmonopolet, Wenaas Workwear)
- Presentation of ongoing study conducted by Lysverket on behalf of the Norwegian Confederation of Trade Unions (LO), Amnesty and Future in Our Hands, 30 October 2024.
 - Participants: KPMG, the Norwegian National Institute for Consumer Research (SIFO), Lysverket, LO, Amnesty International Norway and Future in Our Hands.
- Group interview with small enterprises, 31 October 2024.
 - Main question: How have small enterprises that are not subject to the Transparency Act been affected by the Act's requirements?
 - Participants: SMB Norway, Ethical Trade Norway, the Norwegian Contractors' Association – Building and Construction (EBA), the Norwegian Road Transport Association, the Norwegian Machine Contractors' Association (MEF).
- Interview with the Norwegian NCP for RBC, 4 November 2024.
- Interview with the Norwegian Consumer Authority, 6 November 2024.
- Digital workshop, 29 November 2024.
 - Theme: Input on the preliminary findings and recommendations in the review.
 - Participants: Future in Our Hands, Ethical Trade Norway, Accounting Norway, the Norwegian Consumer Authority, the Norwegian NCP for RBC, the Confederation of Norwegian Enterprise (NHO), the Ministry of Children and Families, Statnett, Strawberry, Equinor, Hydro, the Rafto Foundation for Human Rights, the Federation of Norwegian Enterprise (Virke), the Norwegian Contractors' Association – Building and Construction (EBA).

KPMG has also received written input from: DNB Bank ASA, Amnesty International Norway, Confederation of Norwegian Enterprise (NHO)/Telenor, Glitre Nett AS, the Norwegian Union of Journalists, Accounting Norway and Future in Our Hands



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