

BUSINESS AND HUMAN RIGHTS IN TÜRKİYE:

A Review of Current Issues





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This report compiled in January 2024 is based on current data obtained from publicly available sources for the years 2022 and 2023.

About Business and Human Rights Association (Minerva)

As the first independent non-governmental organisation in Türkiye to focus on business and human rights, Minerva aims to promote responsible business conduct in light of the United Nations Guiding Principles on Business and Human Rights and to promote the responsibility and accountability of companies to respect human rights. In line with this objective, it works to prevent or provide remedial solutions to human rights violations arising from the business activities of multinational companies and their suppliers, especially in global value chains.



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Abbreviations	Açılım
Al	Artificial Intelligence
EU	European Union
CSDDD	European Union Corporate Sustainability Due Diligence Directive
CSRD	European Union Corporate Sustainability Reporting Directive
LkSG	German Act on Corporate Due Diligence Obligations in Supply Chains (Lieferkettensorgfaltspflichtengesetz)
BAFA	Federal Office for Economic Affairs and Export Control
UN	United Nations
ICTA	Information and Communication Technologies Authority
DISK	Confederation of Progressive Trade Unions
ILO	International Labour Organization
BHR	Business and Human Rights
OECD	Organisation for Economic Cooperation and Development
UNGPs	United Nations Guiding Principles on Business and Human Rights
UK	United Kingdom
NGO	Non-governmental Organisation
HRDD	Human Rights Due Diligence
TURKSTAT	Turkish Statistical Institute
ISIG Council	Health and Safety Labour Watch



Executive Summary

The study, prepared by the Business and Human Rights Association (Minerva) with the support of the Etkiniz Programme, was carried out as a reporting study covering the analysis of the risks to the field of Business and Human Rights (BHR), which has come to the fore in Türkiye in recent years, and international developments that may affect Türkiye, using information obtained from public and civil society actors' publicly available sources and the media. A summary of the findings of the desk study conducted in this context is provided below:

Legislative Developments in the Field of Business and Human Rights

International and regional regulations on the responsibility of business to respect human rights generally consist of non-binding soft law texts. Under the influence of the United Nations Guiding Principles on Business and Human Rights (UNGPs), these regulations have evolved in recent years into binding legal regulations based on responsible business conduct around the world and particularly within the European Union (EU). In particular, the EU Corporate Sustainability Due Diligence Directive (CSDDD) and the EU Corporate Sustainability Reporting Directive (CSRD) impose reporting obligations on companies with respect to human rights and environmental impacts and impose responsibility on Member States. In countries such as Germany, France, the Netherlands and Switzerland, mandatory legislation has been adopted or is in the process of being adopted, setting out companies' obligations to identify and prevent human rights abuses in their global supply chains.

In Türkiye, there is not yet a national action plan in line with the UNGPs or legislation that directly regulates the responsibility of companies to respect human rights. However, due to close trade relations with EU countries, it is expected that companies originating in Türkiye will be significantly affected by these regulations, albeit indirectly.

Business and Human Rights in Türkiye from a Business and Human Rights Perspective Within the scope of the study, the prominent human rights risks in terms of BHR in Türkiye and sectors such as seasonal agriculture, industry and textile, which can be considered particularly risky, are emphasised. In this context, human rights issues such as unregistered work, forced labour, child labour, trade union rights, gender equality and environmental rights were evaluated. According to the results of the research, it is determined that unregistered work is widespread especially in agriculture, textile and construction sectors. In addition, it was found that the lack of data on child labour should be eliminated and effective supervision and compensatory solutions should be developed in practice, occupational health and safety (OHS) inspections and sanctions should be strengthened, freedom of association should be strengthened, employment measures should be taken for women and LGBTI+ workers to ensure equality and inclusion, various measures should be taken to prevent discrimination, environmental impact assessment process and public participation should be improved to protect the environment.



Aim of the Study

This study is a continuation of the "Business and Human Rights Perspectives in Türkiye" report series prepared by Minerva with the support of the Etkiniz Programme, which evaluates the issues related to business and human rights in Türkiye between 2019 and 2022, especially during the Covid-19 pandemic, from the perspectives of children's rights, labour rights, women's rights and environmental rights. Using information from publicly available sources of private, public and civil society actors, the study aims to reveal the risks and developments in the field of BHR in Türkiye that have come to the forefront in recent years, including legal developments affecting Türkiye.

The limited awareness of BHR among the media and CSOs and the lack of transparency in supply chains have led to most of the BHR risks addressed in the report being associated with small and medium-sized enterprises in their supply chains rather than multinational companies. The limited availability of publicly available official data, especially on issues such as child labour and unregistered work, creates limitations in terms of a complete picture of the risks related to BHR in Türkiye.

Scope and Methodology

While international human rights standards and legal regulations, as well as legislative, governance and implementation gaps in Turkish legislation and government programmes have been examined in the "Business and Human Rights Perspectives in Türkiye" report series, this study focuses on the potential impact of recent developments in the field of BHR on Türkiye and the human rights risks that can be assessed in the field of BHR that are prominent in practice based on various sources, including public media and Civil Society Organisation (CSO) reports.

In this respect, in line with the main purpose of the study and independent of the legal analysis, the study includes examples of risks and violations in practice on the basis of publicly available sources (public, media, CSO reports, etc.) on issues such as child labour, forced labour, living wage, freedom of association, gender equality and environmental rights, which are prominent in the Turkish context. In this context, legal developments in the field of BHR in the world are taken into account and Türkiye-specific evaluations on the relevant regulations are included.





I. Current Legal Developments in Business and Human Rights and Their Expected Impact on Türkiye

Various international and regional regulations related to the corporate responsibility to respect human rights mainly comprise the non-binding soft legal instruments of international and regional organisations. While these documents consist of guiding rules of a non-binding nature, they serve as a basis for national and some regional regulations that include binding rules on this subject. These non-binding regulations, pioneered by the UNGPs have recently become legal and binding regulations based on responsible business conduct in various countries as well as across the EU. The primary examples of such legal regulations introduced reporting obligations on certain human rights issues such as modern slavery, forced labour, and human trafficking, while the more recent ones go beyond reporting requirements and impose mandatory human rights due diligence (HRDD) obligations on corporations and set out the implications of non-compliance with due diligence obligations. Although varying in terms of scope and scale, these regulations mainly impose an obligation on corporations to systematically assess and address, through HRDD, the human rights impacts of their activities and business relations with suppliers and partners on a global scale.

In the current state of affairs with increasing global acceleration towards policy development regarding the corporate responsibility to respect human rights and adoption of mandatory HRDD legislation, Türkiye is still without a national action plan aligned with the UNGPs, or any legislation or regulation that directly governs the corporate responsibility of respecting human rights. However, it is projected that Türkiye cannot refrain for long from laying down such regulations due to its close commercial relationships with other countries, such as EU member states, which have legal regulations on this matter. Likewise, legal regulations in these countries provide cross-border access to justice for victims of rights violations in Türkiye.

Nevertheless, in the Strategic Plan 2024-20287 published by the Ministry of Labour and Social Security (MoLSS) in January 2024, it is emphasised that 'legal developments on production respecting human rights that have come into force in countries that are important export markets of Türkiye and the increasing sensitivity at the global level in the context of protection of human rights in supply chains' and that 'the risk of loss of employment due to the contraction of the market should be reduced' by conducting studies to increase the awareness of enterprises on the issue. The Strategic Plan also emphasises that efforts will be made to inform society, business actors and consumers about legal regulations.

Regulations on non-financial reporting and sustainability, which may cover human rights and environmental impacts in addition to BHR and HRDD, are mostly featured in the EU. In this context, the EU has taken further comprehensive steps in recent years on sustainability and responsible business practices, in addition to special legal regulations on deforestation which is one of the environmental risks, and mining which is one of the riskiest sectors in terms of BHR. In particular, CSDDD, which was politically agreed upon by the EU Commission, European Parliament and Council and which will enter into force in the event of approval by the European Parliament and Council, imposes HRDD obligations that refer to international standards such as the UNGPs, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, on corporations operating in the EU internal market, and provides for a regime in which the responsibility of implementation regarding adverse human rights and environmental impacts and good governance issues is left to Member States.



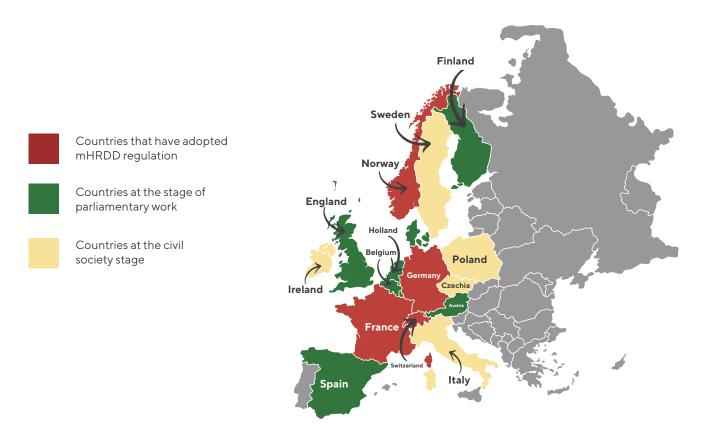


Image 1: Legal developments regarding HRDD in EU member states

The CSRD which came into force in January 2023 expands the scope of the European Union's Non-Financial Reporting Directive, adopted in 2014, for EU corporations including listed companies as well as small and medium-sized enterprises. CSRD requires reporting on social and governance criteria including human rights, anti-bribery and anti-corruption in addition to environmental issues and sets out in detail the reporting obligations expected from corporations.

Legal regulations related to identifying and preventing various human rights violations occurring in the global supply chains of corporations, conducting the inspections required, and the civil and penal liability of corporations have already come into force and/or been adopted to go into force in the EU member states. In 2017, France introduced the first example of legislation for mandatory HRDD with the French Corporate Duty of Vigilance Law. The German Act on Corporate Due Diligence Obligations in Supply Chains (Lieferkettensorgfaltspflichtengesetz - LkSG) which, following France, gradually came into force in January 2023 and January 2024, defines

comprehensive HRDD obligations and designates a public authority in charge of the implementation and oversight of such obligations.

Following Germany and France, Switzerland introduced the Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour through an addition to the Swiss Code of Obligations, setting out new requirements on reporting and due diligence, comprising additional due diligence requirements regarding conflict minerals and child labour for high-risk corporations.

Other examples of mandatory HRDD legislations include the Norwegian Transparency Act which came into force in June 2022 and provides for due diligence obligations regarding human rights and decent work; the Netherlands Child Labour Due Diligence Act which limits its scope to due diligence obligations regarding child labour risks but is yet to enter into force; and the draft Belgian Vigilance Proposal which is subjected to the legislative process by the Federal Parliament of Belgium.



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Mechanisms for Access to Justice for Victims Provided by HRDD Laws - The Case of Germany

LkSG authorises the Federal Office for Economic Affairs and Export Control (BAFA), a public institution, to oversee the implementation of the HRDD process.

BAFA has significant powers and duties arising from the law, such as conducting unannounced inspections and confiscating and seizing company documents, and its oversight mandate applies within the borders of Germany. BAFA can also initiate ex-officio investigation into German companies through media and NGO reports, with regard to human rights and environmental violations linked to German companies that operate or have suppliers in other countries. Additionally, the investigation process can be initiated through an online complaint form submitted by any relevant party. Therefore, the mechanism provided under BAFA offers an opportunity to victims of corporate human rights violations for trans-boundary access to justice.

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Mechanisms for Access to Remedy Provided by HRDD Laws for Victims - The Case of France

The French Corporate Duty of Vigilance Law provides different solutions in the event of failure to fulfil the obligations introduced:

- → Periodic fines for corporations
- → Precautionary measures for the fulfilment of HRDD obligations
- → Civil law (tort) liability: Enables victims who were exposed to violations of human rights and fundamental freedoms, environmental risks and serious physical injuries due to corporations' failure to issue or implement precautionary plans to bring an action to demand compensation from the relevant corporation. This makes it possible to directly compensate for the damages suffered by victims, in addition to the fines paid to the state.



Pending Cases under the French Corporate Duty of Vigilance Law

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Since its entry into force in March 2017, the French Corporate Duty of Vigilance Law has been brought to the agenda of French courts in numerous cases, including those related to the climate change impacts caused by Total and their alignment with the Paris Agreement targets, seizures of land and biodiversity risks linked to the petroleum project in Uganda; violation of employees' rights in the call centre associations of Teleperformance; workers' rights in the value chain of the road transport and logistic company of XPO Logistics; the wind energy project of EDF in Mexico and the rights of native populations; allegations of union rights and discrimination against women in Türkiye by Yves Rocher; allegations of violations of subcontracting and workers' rights by La Poste; allegations of deforestation, violation of native population rights and forced labour in the meat supply chain in Brazil and Colombia by Casino; IDEMIA's biometric data capture technology in Kenya; contribution of Total Russia to the war in Ukraine; rights of McDonald's workers in Brazil and France; plastic pollution by Deplastify Now; and allegations of the contribution of BNP Paribas to climate change through financing deforestation and fossil fuels in Brazil.

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BAFA Complaints

The first complaints to BAFA regarding the violation of due diligence obligations under LkSG started with the introduction of the law in January 2023. According to the announcement made by BAFA in December 2023, 13 complaints related to human rights violations linked to the supply chains of German companies in 5 countries namely Türkiye, China, Ecuador, Bangladesh and Germany, are pending at BAFA. Of these complaints, five are related to the automotive industry, two to the food/beverage and textile industries, one to the chemical industry, and one to the construction industry.







II. Prominent Human Rights Risks in Türkiye in Relation to Business and Human Rights

Despite its commitments under international treaties and the regulations in its domestic law, Türkiye is struggling with frequent human rights and labour rights violations, particularly issues such as forced labour, child labour, OHS, and freedom of association in supply chains. Additionally, the devastating earthquakes of 6 February 2023, affecting numerous cities in Türkiye and Syria, claimed many lives as well as having adverse impacts on the local economy and labour market. Such economic and societal impacts, including disruption of many businesses and livelihoods and serious impacts on economic activities in the affected regions, potentially further exacerbate existing problems in terms of economy and working conditions, child labour and OHS risks, and seriously threaten the ecosystems and human health in the region.

1. Risks of Informal Labour and Forced Labour

Informal labour represents a significant part of the economy and the labour market, especially in developing countries. According to ILO data, in the current global economy, there is a lack of sufficient creation of formal jobs and many existing formal jobs are shifting to the informal sector. Cases of fragmented labour markets, inadequate social safety nets, or low wages and/or working hours in formal jobs encourage workers to resort to informal employment. Informality, however, exposes employees to a higher risk of vulnerability and insecurity as well as negatively impacting adequacy of wages, OHS, and overall working conditions.

Türkiye is directly affected by this situation, especially given the continuously growing population, reduced per capita income, increased inflation, high tax and premium payments and unemployment rates.

According to the Discussion Paper on Policy issued by the Centre for Economic Policy Research, the Turkish informal employment rate accounts for 25.6% of gross national income. Among OECD members, Türkiye is one of the countries with the largest informal sector (based on Gross Domestic Product), with an estimated 29% of employees working in the informal economy in 2022. According to ILO data, Türkiye maintains its top rankings in the statistics in all areas of the informal economy.

Modern slavery and forced labour are other concepts closely linked to the informal economy. The relationship between forced labour, which is defined as all work or service which is exacted from any person under the menace of any penalty and that the person in question does not offer voluntarily, and the informal economy is based on various factors. First, the fact that individuals working in the informal economy are typically without legal protection creates a risky situation in terms of forced labour. Additionally, due to the lack of a regulatory framework, the informal economy creates a working environment where inspection difficulties may arise, carrying the risk of enabling the continuation of forced labour practices.

According to the Turkish
Statistical Institute (TURKSTAT)
informal employment data for June
2023, the number of uninsured workers
in Türkiye is 8,391,000, with this figure
increasing by 107,000 in the last year. 55%
of informal work is found in the industry
and service sectors and 45% in the
agriculture sector. The rate of uninsured
labour in overall employment is
26.6%, while this rate is 80.7% in
agriculture.



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Modern Slavery and Forced Labour

According to ILO, modern slavery is used as an umbrella term, covering a set of specific legal concepts including forced labour and other concepts linked to forced labour (debt bondage, slavery and slavery-like practices, and human trafficking). Essentially, it refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power.

According to the Global Slavery Index report published in 2023; in 2021, Türkiye ranked 5th among the 10 countries (i.e., North Korea, Eritrea, Mauritania, Saudi Arabia, Tajikistan, United Arab Emirates, Russia, Afghanistan, and Kuwait) where modern slavery is most prevalent worldwide, and 1st in the Europe and Central Asia region. While these results were associated with different factors such as social dynamics and conflict in different countries in the report, the refugees from Syria stood out in the case of Türkiye where the estimated number of persons exposed to modern slavery was recorded as 1.3 million.

Forced Labour Indicators of ILO

According to ILO data, the worldwide figure of persons exposed to forced labour is 24.9 million, 16 million of whom are in the private sector. The illegal gains estimated by ILO amount to USD 150 billion each year, the majority of which is generated in global supply chains.

ILO has designated indicators of forced labour to help institutions identify risks or cases of forced labour. These indicators are used to identify persons who are trapped in a forced labour situation or who may require urgent assistance. The presence of one or more of these indicators functions as 'red flags' for the risk of forced labour and work as alert signs that there is an increased risk requiring further investigation and action by corporations:

- → Abuse of vulnerability
- → Deception
- → Restriction of movement
- \rightarrow Isolation
- → Physical and sexual violence
- → Intimidation and threats
- → Retention of identity documents
- → Wage deductions
- → Debt bondage
- → Poor working and living conditions
- → Excessive overtime





The relationship between the two concepts suggests an environment in which vulnerable groups exposed to economic challenges can be drawn into conditions of forced labour, as those who are engaged in the informal economy typically earn lower wages and lack social security and therefore are at greater risk of exposure to forced labour. The influx of refugees to Türkiye especially in the last decade, the current economic stagnation and soaring inflation, and the lack of social security and legal protection carry with it the risk of working conditions based on exploitation, possibly resulting in the increased demand for informal labour in Türkiye being met by Syrian and other refugees and migrant workers and forced labour.

Serving as a strategic bridge between countries of migration origin and destination due to its geographical location, Türkiye currently hosts more than 3.6 million registered Syrians, 44.9% of whom are younger than 18 years old, as a result of mostly irregular migration from Middle Eastern and Asian countries in recent years as well as the open-door policy implemented after the civil war in Syria. It is still one of the countries hosting the largest refugee population globally. Refugee and migrant workers face various problems including bureaucratic challenges to obtaining work permits, language barriers, qualification and training incompatibilities, economic restrictions, discrimination, and bias. Such challenges often steer migrant and refugee workers to low-paid, informal, and temporary work. According to OECD data, while varying based on countries and migration histories, migrant workers are often more likely to be employed in informal jobs compared to native workers.

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The Syrian refugees in Türkiye are mostly employed in seasonal agriculture, and livestock breeding sectors in Southeastern provinces neighbouring Syria. However, the fact that workers or employers in such sectors as seasonal agriculture or livestock breeding can apply for a work permit exemption certificate and that such sectors do not require a work permit encourages informal employment and supports non-decent working conditions with a tendency to provide refugee and migrant workers with work at lower costs. Furthermore, Labour Law No. 4857 excludes from its scope the workplaces and business relations in which less than 50 workers are involved and that deal with agricultural and forestry works; this disqualifies workers from several rights such as employment contracts, minimum wage, weekend holidays, annual leave, sick leave, OHS measures, and daily maximum working time as well as preventing seasonal agricultural workers from being covered by social insurance and benefiting from social rights and workplaces from being inspected. Additionally, seasonal agricultural workers, in particular, and their families face problems in many key areas such as housing conditions, access to clean water, difficulty in reaching healthcare services, inadequate education opportunities for children, and child labour.

Temporary campsites where workers live collectively involve many risks such as hygiene problems and epidemics, flooding, electrical leakage, etc. caused by lack of electricity, sewer, waste management and clean water infrastructures. For seasonal agricultural workers to have limited or challenging access to healthcare services stands out as a factor threatening their health.

In addition to southeastern provinces, western provinces such as Istanbul and Izmir also stand out in terms of migrant and refugee populations due to having greater employment opportunities compared to other provinces. According to the Presidency of Migration Management data for 2023, Istanbul hosts the highest number of Syrian migrants under temporary protection in Türkiye. Those in Istanbul who are under temporary protection primarily work in sectors such as textile, construction, manufacture and waste (paper and scraps) collection, which heavily involve informal employment and therefore present precarious working and living conditions for workers.



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Topical Business and Human Rights Violations

- → According to the report published by the Health and Safety Labour Watch (ISIG Council) in December 2022, the number of refugee and migrant workers who died as a result of workplace death was 94 in 2021 and 828 in the past decade. When examined according to sectors, workplace deaths of migrants/refugees are concentrated in the agriculture (29%) and construction (25%) sectors which stand out in terms of informal employment.
- \rightarrow In March 2022, 6 refugees died in a fire that occurred in a textile workshop in Istanbul. It was found out in the subsequent investigation that no OHS measures were taken in the place where the refugee workers were made to stay to meet their accommodation needs.
- → In November 2023, it was claimed that an Afghan migrant worker, who fell sick while working informally at an allegedly illegally-operated mine in Zonguldak, had been killed to prevent the news of the workplace being illegally operated and his status as an informal worker from coming out. It was also alleged that his body was moved far from the mine site after being burnt.
- → In August 2023, an interview conducted with tomato harvest workers in Bursa set forth significant problems related to the working and living conditions of seasonal agricultural workers who come mainly from Southeastern and Anatolian provinces. The workers stated that they experienced issues such as lack of clean water, electricity, and sanitary living conditions at their camp sites, in addition to the working hours lasting from sunrise to sunset. Despite the day-long intensive working hours, day wages were insufficient to meet their basic needs which increased the tendency towards child labour. The workers also highlighted the financial challenges they experienced when commuting to their provinces of work and that employers and public authorities failed to effectively address occupational accidents.
- → In December 2021, the news published by the Migrant Union Initiative, which was founded with a view to safeguarding the rights and address the precarious working conditions of migrant workers especially in the textile, agriculture and construction sectors in Türkiye, highlighted that the working conditions in a textile factory that manufactures yarn, where nearly half of the workers comprise refugees and migrants were risky in terms of hygiene and OHS. It was further alleged that the costs related to obtaining work permits were unlawfully deducted from the workers' wages.

Business And Human Rights In Türkiye, A Review in the Framework of Guide No. 125025



2. Child Labour

Although explicitly prohibited and penalised in the relevant legal framework in Turkish law, child labour continues to be one of the most significant human rights issues in Türkiye due to inadequate deterrence of sanctions and the ineffective implementation of the legislation.

According to the Child Labour Force Survey data published by TURKSTAT on 31 March 2020, 720,000 of the 16,457,000 children in the 5-17 age group, accounting for 20.3% of the population, were part of the labour force in 2019. Of the 720,000 children, 30.8% work in the agriculture sector, 23.7% in the industry sector, 45.5% in the service sector, and 146,000 are in the 5-14 age group (32,000 in the 5-11 age group) which is prohibited from working.

While the Child Labour Force Survey is the official source of data regarding child labour in Türkiye, it is contestable due to the facts that it is conducted in periods when agricultural activities end and schools are opened and therefore, does not cover the summertime economic activities including seasonal agriculture; it excludes from its sample Syrian children, who account for a significant part of child labour, and it does not cover informal activities. It is estimated that child labour figures may increase further with the addition of the excluded Syrian and migrant children and informal economic activities to this data.Likewise, the increase in the number of migrants and refugees in Türkiye significantly exacerbates the existing issue of child labour. The most significant causes of this situation include the use of child labour by refugee and migrant households as a coping mechanism for economic problems, barriers to access to school and education, discrimination, language barriers, etc.

Additionally, the current child labour figures are not fully known due to the lack of official data on child labour since 2019. However, this rate is predicted to have increased given various factors such as the increased number of refugee and migrant workers in recent years, reduced per capita income and inflation in Türkiye, as well as the effects of the earthquakes that occurred on 6 February 2023 on the economy and labour force. Likewise, according to the results of TURKSTAT's 2022 Household Survey, the labour force participation rate of children aged 15–17 increased to 18.7% from 16.4% in 2021.

Seasonal agriculture stands out among the sectors that pose a risk in terms of child labour in Türkiye. Children who, together with their seasonal agricultural worker families, migrate to various regions in Türkiye for varying periods of time ranging from three to nine months to perform agricultural work are exposed to various risks related to child labour, lack of access to education. OHS risks, and child safety. The inability of school-age children living at camp sites to access education facilities significantly affects child labour, which is one of the key issues in seasonal agricultural work, and adversely impacts the children's individual development, as well as social integration, particularly for migrant and refugee children.



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Topical Business and Human Rights Violations

- → "Child Rights Risks in Global Supply Chains: Why a 'Zero Tolerance' Approach is not Enough?", a report which was published in 2023 by Save the Children which is an international NGO working in children's rights and which looks into the situation of children affected by manufacturing, agriculture and mining sectors in eight countries, discusses hazelnut and rose supply chains in Türkiye and determines that the employment of the underage children of seasonal migrant workers is a prevalent problem. The report highlights that children in hazelnut gardens are engaged in hazardous work, like picking hazelnuts from branches on the slopes where there is a risk of falling and working in extremely hot weather. It also notes that similarly, children in rose gardens work under the sun for long hours, a daily average of 9.5 hours, performing challenging tasks such as carrying heavy sacks.
- → Likewise, an news article dated December 2023 which was published in Neue Zürcher Zeitung (NZZ), a prominent Swiss newspaper, pointed to the challenging working conditions of Syrian and Kurdish migrant workers working in rose gardens in Isparta province, low wages and the associated issue of child labour, as well as the challenging living conditions at the camp sites where workers reside. The article indicated that a large part of the rose oil obtained from Isparta has a significant share, especially in the European cosmetics industry, and is used by prominent perfume and cosmetics brands. It also addressed the fact that despite inspections by the gendarmerie and brand-owners, children continued to work to support their families, even moving on to other parts of the country after the rose harvest is over to work in the harvesting of other crops such as poppy, peas, and pepper.
- → According to Development Workshop's (an NGO) research on tobacco cultivation published in 2023, child labour is commonly used in tobacco production in Türkiye, especially in Denizli region. The research reveals that farmers resort to cutting corners to overcome economic difficulties and, as a result, utilising children as 'unpaid labour force'. Children often started working in tobacco fields starting from age 9 and worked at night as required by the nature of tobacco harvesting, which affected their development negatively by leading to sleep issues.
- → In addition to child labour, another prominent risk in terms of children's rights to grow up in a safe and healthy environment is that the children of agricultural workers engaged in agricultural activities are not sufficiently safeguarded due to the challenging working and living conditions of their families. Children who migrate to agricultural areas along with their families assume various responsibilities such as helping with chores or taking care of siblings, even if they are not actively involved in agricultural work. This situation introduces such risks as electrocution or drowning for children who live in places such as tents and camp sites that lack structural safety. For example, in Antalya in 2022, a 2-year-old Syrian child, who was playing with his sibling while their parents were working in a greenhouse, died by drowning after falling into a water duct near the greenhouse.



Other than seasonal agriculture, textile and apparel industries also stand out as risky sectors in terms of child labour in Türkiye. According to a study formulated in 2023 by Minerva with the support of UNICEF, this situation is caused by socio-economic factors, migration, access to education and informality as well as failure to establish traceability and transparency in the apparel supply chain, and the challenges in monitoring and oversight practices.

In addition to the seasonal agriculture, textile and garment sectors, the technical training and internships stipulated in the Vocational Education Law to enable vocational and technical high school students to gain professional experience in the relevant sectors also pave the way for the exploitation of child labour due to inadequate implementation of the legislation and cause work accidents with consequences that can even lead to loss of life.

The Regulation on the Procedures and Principles of Employment of Children and Young Workers, which regulates the principles for the training of apprentices, journeymen and masters in accordance with the Vocational Education Law, sets out the obligations of the state and employers to prevent internship and apprenticeship training from reaching the level of child labour. Accordingly, students can only do internships in workplaces designated by the Ministry of National Education and the relevant workplaces must be regularly inspected by the relevant public institutions in terms of the competence of the employer and the workplace to train the student and workplace safety. In practice, the inspection and control of the workplaces should be carried out by coordinating teachers. However, due to the fact that teachers also lecture in schools, their ability to inspect the relevant enterprises is limited to only two days a week and the existence of many enterprises makes it challenging to carry out an effective inspection process.

Furthermore, although enterprises involved in internship and apprenticeship training are subject to regular OHS inspections under the OHS Law, it is observed that this protection is not ensured due to inadequacies in implementation. Most recently, with the legislative amendment made in 2021, the number of students who can do internships in enterprises with master instructors was increased from 12 to 40, which may negatively affect supervision difficulties and working conditions in practice. According to the report prepared by the Fikir Sanat Atölyesi Association, while the number of insured workers under the age of 18 decreased between 2013 and 2019 in Türkiye, the increase in the number of occupational accidents in technical and secondary education institutions is considered to be a result of the deterioration of working conditions in practical training and internships

Photos From Seasonal Agriculture, Business and Human Rights Association (Minerva)



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Topical Business and <u>Human</u> Rights Violations

- → A 14-year-old boy working in a workshop in an industrial estate within the scope of the Vocational Training Law lost his life when his head got stuck in a machine while he was doing a job that was outside the scope of his training and should not have been entrusted to him. According to the Regulation on the Procedures and Principles of Employment of Child and Young Workers, students should be trained under supervision, however, no one was present in the area where the accident occurred and no one came to the aid of the student for 16 hours.
- → A 16-year-old student fell to his death from the 5th floor of the construction site where he was working on laying electrical wiring. As a result of the investigation carried out after the incident, it was revealed that the necessary measures were not taken to ensure OHS at the construction site and that the student was employed outside working hours.
- → It was reported in the media that a 16-year-old male student, who was receiving vocational training at a workshop in an industrial estate, was injured on his eyebrow at the workplace but continued to work without treatment and that the employer prevented the student from receiving treatment in order to prevent the detection of child labour outside legal working hours.

According to ISIG Council data, between 2013 and 2023, at least 631 children in Türkiye lost their lives while working. The sectoral distribution of the casualties is 56% agriculture, 22% industry, and 22% service sectors.

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- → According to the information made available to the public, a 15-year-old died in an accident associated with the use of a stove in an industrial plant in Körfez district of Kocaeli in December 2023.
- → Other publicly known examples of child worker losses throughout 2023 include a 15-year-old boy, who came to the Black Sea region with his family to work in hazelnut harvesting, who went swimming in a river to cool off; an 11-year-old girl who died while doing agricultural work, after being run over by an overturned tractor; the child of a migrant seasonal agricultural worker, who died while sleeping in his tent when a vehicle ran down the tent; the 9-year-old child of a family from Şanlıurfa who worked as seasonal workers in Kocaeli, who died after receiving an electric shock near the family's tent; and a 13-year-old Syrian who died after becoming jammed in a freight lift in a furniture cutting workshop in Ankara



3. Freedom of Association

As a country that relies on a labour-intensive labour force, the right to freedom of association is of major importance for workers in Türkiye. Yet informality, problems in employment practices, discrimination against union members, the termination of union member workers, and in general terms, challenges in exercising the rights to establish or join trade unions play a significant role in the low unionisation rates in Türkiye.

According to the data provided by the MoLSS under the 'Communiqué on July 2022 Statistics on Number of Sectoral Workers and Trade Union Members pursuant to Law No. 6356 on Trade Unions and Collective Labour Agreement', the total number of workers increased by 4.53% compared to January of the previous year, reaching 15,987,428. The number of union member workers increased by 4.14% to become 2,280,285 while the unionisation rate was 14.26%. Despite the increase, the unionisation rate remains insufficient compared to the current number of workers.

The study by the International Trade Union Confederation (ITUC), which is the largest umbrella organisation of trade unions worldwide, evaluates countries annually through numerous research and surveys; accordingly, Bangladesh, Belarus, Brazil, Colombia, Egypt, Eswatini, the Philippines, Guatemala, Myanmar, and Türkiye are listed as the most underdeveloped countries in terms of workers' rights. Türkiye's position on this list is mainly explained by the repression of strikes, arrests of trade unionists, and systematic union-busting and the country is put down as a state with 'no guarantee of rights'. With the impact of these factors, Türkiye has been listed in ITUC reports among the worst ten countries in terms of trade union rights since 2016.

According to publicly known information, the most common problems in exercising trade union rights in Türkiye are trade union discrimination and dismissal of unionised workers.



spotlight

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- → In June 2022, a lawsuit was filed against the production plant, located in Kocaeli, of a South Korean-based steel manufacturing company, the world's sixth largest company in the steel industry, on the grounds that workers affiliated with the United Metalworkers' Union were coerced into disaffiliating from the union, the workers who refused to resign from the union were laid off, and the company altered its sectoral registration to prevent the union from gaining majority at the factory. The Court of Cassation ruled that the union had the majority in the workplace, that the company must recognize the union as the collective bargaining representative, and ordered the reinstatement and compensation of the workers who were dismissed. After the company refused to reinstate the workers, the Union communicated the company stakeholders and, as interestingly in terms of BHR, Nordea Bank in Sweden withdrew its investments in the company and added the company to its exclusion list citing 'violation of rules'.
- → Motor courier and warehouse workers working for an online food delivery application in Türkiye began protests in February 2022 over low wages, uninsured labour, and non-unionized working conditions. As a result of the protests, allegations emerged in the media that the company was attempting to obstruct trade union organisation through mobbing practices such as relocation or dismissal of unionised workers and pressuring them into resignation. Three workers who worked in the same company's warehouse in Manisa province brought an action against the company, claiming they had been dismissed due to union-related reasons after the Transport Workers' Union (TUMTIS) constituted the majority required for a collective labour agreement; in the case heard at the 35th Labour Court in Istanbul, it was concluded that the workers had been dismissed due to 'union-related reasons' and it was ruled for the reinstatement and compensation of the workers.
- At the supplier factory operating in Izmir, of a US-based tobacco and cigarette company, which operates globally and is the world's largest tobacco company in terms of global market value, allegations surfaced that the subcontracted workers employed in the company were deprived of the rights granted to permanent workers and faced pressure against union initiatives. The workers claimed they had been subjected to low wages and denied their rights to leave and promotion. Protests were organised based on allegations that those who joined the efforts to organise had been relocated to different workplaces and other workers at the factory had been pressured not to join the union. It was further alleged that the factory's bathrooms had been closed to the protesting workers, they were prevented from using electricity and water, and police teams were called to the factory garden and tried to intimidate the workers inside to break the resistance. According to reports, no response has so far been provided to the union's demands in the process, during which a total of 120 workers were dismissed and more than 100 received warnings.
- → In January 2023, it was alleged that 12 cleaning workers in a textile workshop in Esenyurt in Istanbul, which produces for an international apparel and textile brand based in Türkiye, had been dismissed due to their membership to Limiter-İş Union. After a 19-day protest organised by the workers who had been deprived of severance and unemployment pays due to their dismissal, the apparel company which was in the purchasing brand position signed a protocol, undertaking the compensation for the workers.
- → In January 2023, the workers at the factory of a France-based energy management and automation company in Kocaeli decided to strike after failing to reach an agreement with the company during the collective bargaining process with the Turkish Metal Industrialists Union. When the strike was banned, citing its potential to 'disrupt national security', members of the United Metalworkers' Union protested the ban. Following the protests, an agreement was reached through the acceptance of workers' demands as a result of the negotiations between the trade union and the employer.
- → In September 2023, the workers in a greenhouse in Izmir that manufactures for a German supermarket chain, most of whom were women, staged demonstrations in front of the Istanbul consulates of Germany and Russia, to which the company exports, claiming dismissal after unionisation and unpaid wages and severance pays. The greenhouse company located in Izmir and the German supermarket chain denied the allegations, advocating that the workers had been dismissed not due to their union membership but because they blocked the entranceways to company premises during their demonstration. The German supermarket chain, on the other hand, stated that they had been attempting to investigate potential violations of rights as part of minimising the negative impacts on their supply chains and their commitment to effectively remedy violations of rights.
- → Another incident that is still ongoing as of January 2024 involves workers at a factory in Urfa which is a supplier for a global jeans and apparel brand. The workers have been continuing to protest for longer than a month, with allegations related to the factory's working conditions as well as pressures and threats against their rights to choose unions. After gendarmerie intervention and arrests of workers during the protests, the global apparel brand stated that the allegations would be examined in detail and the rights of workers to choose unions would be respected.



As shown in the examples above, the legal trade union threshold required to make collective labour agreements in Türkiye is a significant contributing factor to unfair termination by employers. For this reason, even if the actions for reinstatement and damages filed by victims result in the favour of workers and trade unions, they may fall short of providing an effective remedy for the workers who demand reinstatement or compensation due to factors such as prolonged prosecution processes and inflation in Türkiye. In this context, the mechanisms for access to justice, provided by international HRDD laws, may offer a significant advantage, especially for workers of companies or suppliers controlled by international corporations. In particular, the power to litigation at French courts granted to victims by the French Corporate Duty of Vigilance Law stands out as a significant mechanism for access to justice in terms of the ability to compensate for the damages suffered by victims.

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Pending Cases Under the French Corporate Duty of Vigilance Law – the case of Yves Rocher

A recent example that is significant for Türkiye involves workers at the factory of a brand, owned by a France-based cosmetics group, located in Gebze. The dismissal of 130 workers who joined the Petrol-Is Union to stand against such practices as working conditions, forced overtime, low wages, and discrimination against women, was brought to trial by Sherpa, a France-based NGO; the French network of ActionAid, a global NGO; and 34 workers in March 2022. In the lawsuit filed under the French Corporate Duty of Vigilance Law, it was claimed that the French-based company had failed to act in line with the law, resulting in the violation of the workers' rights to association and collective bargaining. The trial is still in the judicial process, with 47 new workers joining in November 2023. The court decision is expected to carry importance in terms of the impact of mandatory HRDD laws on Türkiye.

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Court Decisions Under the French Corporate Duty of Vigilance Law – the case of La Poste

The December 2023 judgement in the lawsuit filed by trade unions regarding the French postal service La Poste is significant in terms of human rights impacts at the level of the subsidiaries and suppliers of French companies operating in Türkiye, as it is the first decision made based on the French Corporate Duty of Vigilance Law.

The case, which was heard at the French Civil Court, was filed upon finding out about the informal workers recruited by the subcontractors of La Poste. In the case, the defects in La Poste's risk assessment related to informal labour were emphasised and an injunction was issued regarding the requirement to establish a HRDD procedure which includes a complaint mechanism and internal controls for subcontractors. According to the decision, the company had, in accordance with the law, declared the human rights risks it encountered in its annual report but the risk assessment failed to fully determine the top priority risks. This situation demonstrates that companies must set a more diligent and transparent approach to identifying the human rights risks which they may cause or contribute to.





4. Gender Inequality

According to the Global Gender Index data published by the World Economic Forum for 2023, among 146 countries, Türkiye ranks 129th in gender equality; 99st in women's access to education; 118th in women's political empowerment; 133th in economic participation and opportunities for women; and 100th in health. While these results demonstrate the presence of gender inequality in a wide range of areas including education, economic participation, and health, this situation may also introduce some additional implications for women in working life.

The first implication involves labour force participation. The data published by TURKSTAT in September 2023 demonstrate the labour force participation rate as 65.8% for men and 31.2% for women. According to the Report on Female Labour published by the Confederation of Progressive Trade Unions (DISK), Türkiye has one of the lowest female labour force participation rates among OECD countries. Among the reasons for this situation, gender stereotypes regarding the need for women to fulfil domestic chores and the care needs of children, the elderly and, if any, the sick in the family have an important share. According to the Women's Labour and Employment Initiative, the lack of institutionalisation of child and care services and the insufficient number of public and workplace nurseries make it difficult for women to participate in social life, including employment.

In terms of wage
inequality, a joint study by
the ILO Office for Türkiye and
TURKSTAT in 2020 demonstrates
that gender wage inequality in Türkiye
is around 15.6%. According to the
Global Gender Gap Index, Türkiye
ranks 94th in a list of 146 countries in
which countries are assessed based
on wage gap between male and
female workers performing
the same work.

According to data published by the OECD in 2023, Türkiye ranks penultimate among OECD countries in terms of enrolment rates for early childhood education and care for 0-5 year-olds. Considering that 56.9 percent of children aged 0-5 are enrolled in pre-school education in Türkiye, it is important for women's participation in employment to increase the number of day-care facilities in workplaces.

In Türkiye, the requirement to open breastfeeding rooms and nurseries in workplaces is subject to certain conditions. These requirements are set out in the Regulation on the Conditions of Employment of Pregnant or Breastfeeding Women and the Regulation on Breastfeeding Rooms and Childcare Centres, which is based on the OHS Law. Pursuant to the Regulation, it is obligatory to establish a breastfeeding room in workplaces with 100-150 female employees, and in workplaces with more than 150 female employees, it is obligatory for the employer to open a nursery for leaving and caring for children between the ages of 0-6 under the responsibility of the employer, and for breastfeeding workers to breastfeed their children. However, the fact that the obligation to open a nursery in workplaces is subject to the condition of having at least 150 female employees and that male employees are excluded from this scope leads to women employees not being able to benefit from this opportunity sufficiently, especially in Türkiye, where small workplaces predominate. In fact, according to DISK data, out of 1 million 593 thousand workplaces in Türkiye, 1 million 579 thousand workplaces have less than 100 employees. Based on these data, it can be concluded that the regulation covers less than 1 per cent of the workplaces, and the requirement of 150 female employees causes the number of workplaces to shrink even further. In addition, even in workplaces that are covered by the law, it is observed that these obligations are neglected in practice.



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- → According to the Women Workers' Platform, several factories in Malatya resumed their operations shortly after the earthquakes of 6 February, however, daycare facilities in workplaces were largely eliminated after the earthquakes and women workers had to send their children to daycare centres with their own means in order to start work. This situation has significantly reduced the employment of women workers, who constitute 60 percent of registered workers in the agricultural and industrial sectors in Malatya, due to limited childcare facilities and rising nursery fees.
- → In Diyarbakır, a female employee working in the call centre of a telecommunications company was dismissed from her job as a result of the employer's failure to fulfil this obligation upon her request to open a childcare centre at the workplace. The court accepted that the employer had failed to fulfil its obligation to open a crèche and that the employee could therefore terminate her employment contract with just cause.

In addition, the 2022 Gender Equality in the Workplace Survey conducted by PwC sets out that 56% of participants had been exposed to bias and discrimination in at least one human resources process: this rate was 60% for female and 42% for male participants. According to the same survey, the female participants believed they were not taken seriously or able to express themselves due to their gender, and had been exposed to higher rates of discrimination and bias than men during human resources processes. The research by DISK, analysing the results of interviews with 2,000 employees across Türkiye, attained similar results. Accordingly, 14.1% of the women stated that they had been discriminated against based on their ethnicity/religion/sect and beliefs; 13.8% based on their political views and opinions; 13.7% based on their gender; 8.6% based on their marital/parental status; and 23.2% during recruitment, which is the first stage of working life.

The problems encountered by women in working life may worsen in cases where gender inequality is intersected by different identities and socio-economic statuses. Refugee women, in particular, experience intersectional discrimination for being a woman in addition to being a refugee and exposed to sexual and gender-based violence.



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- → According to a statement by the Chamber of Agricultural Engineers in October 2023, nearly 78% of women working in agriculture are regarded as unpaid family workers, and 95% work informally. Additionally, according to TURKSTAT data for 2022, 21% of the women employed in Türkiye worked in agriculture. Based on these rates, informal work, which is common in agriculture given that nearly a quarter of women's employment is found in the agriculture sector, is a problem encountered by a majority of women who work in Türkiye. The statement also mentioned that female seasonal agricultural workers experienced problems in access to fundamental rights such as seeking legal remedies and OHS.
- → According to a statement by the Afghan Refugees Solidarity Association in September 2023, female migrant workers were concentrated in 'unlicensed' textile workshops, and the economic crisis as well as increased anti-immigrant sentiments exacerbated the lives of migrant women in Türkiye. The challenges experienced by these women included exposure to various forms of harassment and pressure in workplaces, unemployment, long working hours, and precarious employment. Additionally, it was noted that employers who would like to employ foreign workers were required to incur three times the amount of minimum wage, which was not preferred by most employers and therefore, women workers in particular mostly engaged in informal work.
- → An interview with women workers in a textile workshop in Ikitelli, Istanbul in August 2022 addressed the risks faced by workers in the textile sector, most of whom are women, regarding working conditions and OHS, and discussed general problems in the sector. It was stated in the interviews that repeating the same task for long hours, rushing to finish work on time, and working under constant pressure to hurry impacted the physical health of women workers adversely. This situation caused occupational diseases that became chronic in the long term, as well as other health problems including eye diseases, shaky hands, and difficulty concentrating. Other risks that came up in the interviews include work accidents by women workers who work with machinery. It was stated that working at a fast pace to finish the job in time caused distractibility which, in turn, resulted in serious OHS problems. According to the interviews, the risk of finger cutting or loss due to the sharp objects used in cutting departments affects women workers who work in large factories as well as small workshops.
- → A Türkiye-based supplier of prominent German and Japanese global vehicle manufacturers, which operates in Kocaeli and is a member of the United Nations Global Compact, was also subject to protests in 2022. The protests involved demands, particularly concerning women, including equal pay, menstrual leave, daycare facilities, and doing less intensive work during pregnancy. Women workers stated that, in addition to getting lower wages compared to their male counterparts with whom they do the same work, they lacked effective protection mechanisms against internal harassment and mobbing. The workers joined the United Metalworkers' Union to have these issues addressed, but the trade union's demand for recognition was rejected by the factory management and more than 100 workers were dismissed. As a result, the workers held nearly 2-month-long protests during which many workers were arrested.
- → In December 2022, women workers who worked in the factory of a textile company, which operates in Bursa and whose clients include global brands, were dismissed because of their unionisation efforts. Allegations of violation of rights were brought to the agenda, concerning the related problems, dismissals due to union membership, and discriminatory working conditions. Women workers, who continued their demonstrations in front of the factory for 3 months to protest against dismissals due to trade union membership, especially stated that they had been made to work in tougher jobs compared to their male counterparts, had been subjected to continuous and forced overtime, had restricted food breaks, could not exercise their right to a workplace daycare centre even though it was required from the employer, and that women workers had been exposed to harassment, insults, and violence.



Another prominent issue in terms of gender equality is the discrimination to which LGBTQ+ individuals are exposed in working life. The common fear of being discriminated against based on gender identity or sexual orientation especially during and after the recruitment process forces the LGBTQ+ community to hide their sexual orientation or gender identity in working life. The Report on the Human Rights of LGBTQ+ Persons, prepared as a result of interviews with LGBTQ+ individuals in working life and published in 2022, demonstrates that approximately 50% of LGBTQ+ persons experience discrimination in the recruitment or employment process. The report also establishes that LGBTQ+ persons who are exposed to workplace discrimination are often hesitant to seek remedies such as taking legal action or notifying authorities because of their fear of the continuation of prejudice.

5. The Right to a Clean, Healthy and Sustainable Environment

Environmental impacts of corporate activities, when considered in a broad perspective, include various issues such as environmental pollution, waste management, destruction of forest areas and water resources, and causing the global climate crisis through carbon emissions. In particular, impacts such as air pollution caused by emissions from industrial enterprises and the climate crisis caused by carbon emissions, as well as soil pollution and ecosystem degradation caused by the ineffective management of wastes generated as a result of production processes, violate the right to a clean, healthy and sustainable environment, which is classified as a third-generation human right as recognised by the United Nations Human Rights Council resolution of October 2021. In addition, pollution of the environment can negatively affect the right to life, which is a first generation right, and the right to health and nutrition, which are second generation rights.

The Committee of Ministers of the Council of Europe, in a recommendation on human rights and environmental protection of September 2022, calls on 46 Member States to actively consider recognising the right to a clean, healthy and sustainable environment as a human right at the national level.

Recognising that measures to address the triple global crisis of climate change, biodiversity loss and pollution are human rights, the Committee of Ministers resolution underlines the need to recognise the right to a clean, healthy and sustainable environment in regional and international human rights instruments, as well as in national constitutions, legislation and policies. The resolution also encourages Member States to require businesses to act in accordance with their environmental human rights responsibilities.

The environmental risks associated with corporate activities in Türkiye mostly include waste management, environmental pollution, and public engagement in Environmental Impact Assessment (EIA) practices.

According to the joint report by the International Commission of Jurists and the Capacity Building Association published in March 2022, more than 90% of the waste produced in Türkiye is dumped in landfills due to failure to duly implement waste management regulations. Additionally, the amount of imported plastic waste has increased over the years, demonstrating that Türkiye has become one of the main countries to which waste is directed particularly by EU member states. According to the 2023 report of the United Nations Development Programme, the total amount of plastic waste imported by Türkiye reached 687.1 thousand tonnes between 2018-2022, with an annual increase of 12%.

Although there is no universally accepted definition of the right to a clean, healthy and sustainable environment, it is understood that the right generally includes substantive and procedural elements. Among the material elements fresh air, a safe and stable climate, access to safe water and adequate sanitation, access to healthy and sustainably produced food, non-toxic environments for living, working, studying and playing; and healthy biodiversity and ecosystems. Procedural elements include access to information, the right to participate in decision-making, access to justice and effective remedies, including the safe exercise of these rights without reprisals and retaliation.



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Topical Business and Human Rights Violations

- → A plastic recycling programme, initiated by a supermarket chain that operates in the United Kingdom (UK) and dominates the market, which encourages customers to recycle plastic bags and wrapping papers raised concerns regarding the aftermath of the plastic waste exported. As a result, Greenpeace conducted a study which revealed that the plastic wastes were processed by a UK-based recycling company and sent to Türkiye. The study mentioned that high-income countries delegated the activity of processing hard-to-process waste to lower-income countries, resulting in illegal landfilling and environmental hazards. In the case of Türkiye, the study addressed concerns regarding unethical business practices such as the use of Syrian refugee camps for cheap labour. Another risk factor that stood out in the research was the allegations that imported waste was burnt, piled up on mountains, or released into rivers and seas instead of recycling. These allegations are proven by the plastic packaging, mostly of UK-based brands, that were found in 10 locations investigated by Greenpeace around Adana province in the south of Türkiye.
- → In July 2023, the Court of Rotterdam in the Netherlands issued a judgement, convicting a Dutch shipping company and two of its directors for their involvement in illegal export to Türkiye for ship recycling. The verdict, issued for the breach of the notification procedures under the European Waste Shipment Regulation, also led to criticism in Türkiye for failure to follow legal processes and failure by the oversight mechanism of the Ministry of Environment, Urbanization and Climate Change to effectively address the subject, despite the ships involving environmental risks and containing hazardous waste.
- → A report published in December 2023 by the CSO Shipbreaking Platform, a Belgian coalition of environmental, human and labour rights organisations, drew attention to the fact that Türkiye has the fourth-largest ship recycling industry globally and is one of the world's largest importers of scrap steel. It also mentioned the high rates of accidents and fatalities in the ship dismantling and scrapping sector which is concentrated in the coastal town of Aliağa in Izmir province, as well as risks related to coastal pollution, worker exposure to asbestos and other toxics, and mismanagement of hazardous waste, and the lack of transparency in the sector.

Another topical issue that is significant in terms of the environmental impacts of companies in Türkiye concerns opening ecosystems for development and the resulting damage caused by thermal power plants or mining activities. The environmental damage caused to ecosystems and the destruction of forests as a result of corporate activities has long been met with protests by the public as well as CSOs. The public backlash and environmental protests first started in the 1990s against the gold mine in Bergama and now continue for other causes, including, in particular, the initiation of mining and thermal power plant projects without requiring an EIA decision; companies that continue their operations after receiving permits from administrative bodies during ongoing administrative judicial processes against an EIA affirmative decision due to environmental concerns; or failure to carry out the EIA process to ensure public engagement.



spotlight

Topical Business and Human Rights Violations

- → In October 2019, while the lawsuit was pending for the stay of execution against the likely damage to Akbelen Forest, the start of tree-felling to expand the lignite mine field supplying fuel to Yeniköy-Kemerköy thermal power plants sparked backlash from the locals of İkizköy neighbourhood in Muğla. The protests turned into an ongoing guard duty in July 2021, during which the protestors were detained by gendarmerie forces and sued on charges of 'obstructing civil service'. After the court decision for a stay of execution was annulled through an expertise report that 'the forest was suitable for coal mining', tree-felling activities were resumed in July 2023. This situation once again resulted in widespread opposition by local communities, NGOs, and the general public.
- → In October 2023, news came out that a solar energy project carried out in Karaburun district of Izmir threatened the uprooting of nearly 30,000 olive trees. While a permit had been obtained to build solar panels near the existing wind power plant as part of the project which was carried out by a Turkish energy company, the fact that the relevant state-owned land had been leased to the villagers for 150 years for olive farming purposes was met with backlash by the locals, as well as concern that they would be forced to abandon the area. Although the area was covered with well-tended and healthy olive trees, the EIA report declared the area unsuitable for olive farming. In November 2023, it was stated during the lawsuit, filed by the farmers working in the region for the annulment of the EIA decision after the report received ministerial approval, that nearly 3,000 olive trees had been uprooted while the judicial process was ongoing.



6. Technology, Digitalization, and Right to Access Information

The significance of digitalization artificial intelligence (AI) in today's world reflects the key changes in the functioning of modern societies. These technologies revolutionised every last area of life from communication and industry to healthcare services and education; they have reshaped societal dynamics and continue to do so. The development of AI technologies, in particular, plays a significant role in automation and decision-making processes. While these advancements offer various opportunities in individual and social life, they have also brought along new human rights challenges in terms of privacy, data protection, surveillance, etc.

The importance of regulating digitalization gradually increases depending on the pace of technological advancements and their far-reaching impacts on society. Digital technologies not only transform economic and social life but also deeply impact individual rights and freedoms. For this reason, effective regulation of digitalization is critical in terms of protecting the rights of individuals as well as the overall welfare of society.

The rapid development and change of technological advancements introduce various problems related to access to information. First, digitalization brought with it access to information, and the expansion of the internet and the use of digital technologies enabled individuals to easily access an extensive source of information. Access to online sources, databases and educational materials democratised access to information. However, when assessing the overall human rights situation of Türkiye in the context of technology and digitalization, we must consider the human rights impacts of the advancements in these fields. While offering new opportunities, the innovations introduced by digitalization and the use of Al also introduce risks that may lead to human rights violations in such areas as privacy, data protection, and surveillance.

In Türkiye, the control of the internet and content moderation in social media platforms cause serious problems in terms of human rights. The online censorship capabilities of the government seemingly have restrictive impacts on the use of democratic rights, especially during election processes.

While independent electoral watchdogs and NGOs rely on social media platforms to publish election results, the censorship capabilities of the government may prevent the spread of such information, making it difficult to ensure transparency and a fair election environment during electoral processes.

The political scene is further complicated by the content moderation and account verification policies social media companies impose in Türkiye. Social media platforms are inconsistent and far from transparency in respecting human rights and allocating adequate resources, especially during electoral periods. Although the immunity of individuals' private lives is enshrined in the Turkish Constitution, the restriction or censorship of online publications and broadcasts on grounds of national security and public order brings with it the risk of violation of freedom of expression and the right to access information. This situation is mainly true for digital media and internet publications and broadcasts and has adverse impacts on the functioning of democratic processes.

Potential human rights violations related to the digitalization and AI use of corporations in Türkiye require detailed oversight and continuous monitoring. In this context, the policies and practices employed by corporations in their digitalization process must be thoroughly assessed in terms of compliance with human rights standards. Although certain companies take on a leading role in this area, there is still room for improvement for most companies in Türkiye.

In conclusion, the human rights impacts of the advancement in technology and digitalization in Türkiye must be continuously monitored and assessed at the local and international levels. In this context, the policies and practices employed by corporations as well as the government must be subjected to an in-depth inspection in terms of compliance with human rights standards, and the advancements in this regard must be subjected to continuous review.

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- → FinFisher GmbH, a company producing surveillance software for police and secret services, decided to cease its business operations as a result of a criminal investigation upon allegations of illegal export of surveillance software to authoritarian governments such as Egypt and Türkiye. Upon a criminal complaint filed by the Society for Civil Rights, Reporters Without Borders, the European Centre for Constitutional and Human Rights, and the blog netzpolitik.org, the company accounts were frozen by the public prosecution in Munich, as a result of which the company filed for bankruptcy. Known as FinSpy, the software is capable of locating users, recording their communications, and accessing their computer data. Although no export licence has been issued by the German government for such software since 2015, the updated versions of FinSpy continued to turn up in countries with repressive regimes, including Egypt, Türkiye, and others. This situation brings up international concerns related to illegal use of surveillance technologies and the corporate responsibility of respecting human rights.
- → A criminal complaint was filed against GSM operators and the Information and Communication Technologies Authority (ICTA) executives over the banning of Twitter and TikTok during the earthquake disaster that occurred in Türkiye in February 2023. The charges included allegations such as 'misuse of public duty', 'prevention of communication', 'reckless killing', and 'reckless injury', emphasising that such negligence and irresponsibility was unacceptable in a period where people held on to life through social media. Under the complaint, it was stated that the responsibility of GSM operators and ICTA officials should not be forgotten in the dust cloud of this disaster, and that the state must effectively investigate related deaths and bring those responsible before the courts.



Conclusion





III. Conclusion

Given these prioritised human rights risks and violations linked to business activities;

- → The high rate of informal employment in Türkiye increases the risk of precarity and vulnerability in certain sectors of the economy and groups of workers. Modern slavery and forced labour are closely linked to the existence of the informal economy, which risks pushing low-income workers and those lacking legal protections into forced labour conditions.
- → Türkiye hosts a significant migrant and refugee labour population due to its strategic location. However, these groups often have difficulties in obtaining work permits, are employed in low-paid and unregistered jobs and are deprived of social rights. Especially Syrian refugees are employed under challenging working conditions in sectors such as agriculture and construction.
- → The problem of child labour in Türkiye continues to be a serious violation of human rights despite legal regulations. Especially Syrian and other migrant children are at risk of child labour due to economic problems, barriers to access to education and language barriers. The lack of up-to-date and comprehensive publicly available data in this field constitutes an obstacle to understanding the true extent of the problem.
- → Seasonal agriculture, textile and ready-to-wear clothing sectors stand out as risky sectors in terms of child labour. The fact that refugee and migrant children tend to turn to child labour as a coping mechanism for economic difficulties, combined with factors such as educational barriers, discrimination and language barriers, increases child labour. Moreover, practical training and internships in vocational education can lead to grave consequences such as exploitation of child labour and fatal work accidents due to inadequate legal regulations and inspections.
- → Union discrimination and dismissal of unionised workers stand out among the problems experienced in Türkiye with regard to the enjoyment of trade union rights.

The legal union threshold required for collective labour agreements in Türkiye paves the way for unfair termination by employers. This situation leads to the fact that the lawsuits filed by workers to redress their grievances do not reach an effective solution due to protracted judicial processes and economic factors.

- → Gender disparities in labour force participation rates, wage inequality and gender-based discrimination in the workplace have an important place among the effects of existing gender inequalities in Türkiye. According to TURKSTAT data, the labour force participation rate of women in Türkiye is less than half of that of men. Especially in Türkiye, where small enterprises predominate, the obligation to open nurseries in workplaces is conditional on conditions such as the number of female employees and the attribution of care-giving responsibilities to women stands out as an important factor limiting women's participation in the labour force.
- → In Türkiye, the most prominent risks in terms of environmental impacts associated with company operations are mostly related to waste management, environmental pollution and local public participation in EIA practices. Waste management problems in Türkiye arise due to inadequate implementation of regulations and unregulated landfilling, and the lack of effective waste management policies has negative impacts on the environment and human health. In addition, the increase in plastic waste imports, inadequate management of waste especially from EU countries, damage to forest areas by thermal power plants and mining activities and ecosystem destruction exacerbate environmental problems.
- → Given that digitalisation and artificial intelligence are shaping today's social dynamics, especially artificial intelligence plays an important role in data analysis, automation and decision-making processes, but brings with it human rights challenges such as privacy, data protection and surveillance, the impact of digitalisation and technology use on human rights in Türkiye stands out as an issue that requires a detailed examination and continuous monitoring.



In Türkiye, it is observed that the existing legal regulations regarding some of these risks summarised above are not sufficient or are ineffective in practice due to inadequate supervision or impunity. The cases presented in this study also indicate that the non-binding regulations developed so far have not had the desired impact on companies' adoption of responsible business conduct. In this context, it appears to be an important necessity to include the legal regulations on human rights responsibility of companies made in the EU and some member states under Turkish law. As a matter of fact, it becomes important for Turkish companies that have commercial relations with EU countries to develop a HRDD mechanism within the framework of the mentioned legal regulations in order to maintain their place in the competitive market. Failure to comply with the regulations would entail legal, financial and reputational risks for the relevant companies. Therefore, in line with the rule of law principle, reflecting the human rights due diligence regulations, which will lead to a change in practice for companies through the EU acquis, to Turkish law will have positive results for all stakeholders.

In this regard, taking into account international regulations as well as the most recent examples reflected in the press and media, in order to effectively address the human rights and environmental impacts of the business world, in order to prevent problems such as labour exploitation, unregistered employment, work accidents, trade union discrimination and gender inequality within the scope of all kinds of commercial activities, especially global supply chains, our recommendations for action to be taken in the state-private sector-civil society triangle are listed below:

- → Cooperation between relevant public institutions, NGOs and international organisations is of great importance in order to carry out awareness-raising activities involving all stakeholders, from producers at each stage of global supply and value chains to multinational companies in general.
- → As the UN Working Group encourages states to develop, enact and periodically update a national action plan on business and human rights, and as part of the responsibility of states to disseminate and implement the Guiding Principles, a National Action Plan should be prepared and implemented in Türkiye.
- → Companies should publicly disclose the projects and policies they have developed by promoting employee rights and human rights issues in a way that ensures transparency, and throughout their supply chains, disseminate human rights due diligence activities to identify risks related to human rights, develop human rights policies and guidelines in line with international standards and principles, and implement them in every link.



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