

Transcript of the Keynote Speech delivered by the Portuguese Secretary of State for Commerce, Services and Consumer Protection, João Torres

April 5, 2021

About the author: João Torres is the Portuguese Secretary of State for Commerce, Services and Consumer Protection. His full biography can be found [here](#).

Webinar on Corporate Due Diligence in Contract and Company Law – 25 March 2021 organised by the Nova Centre on Business, Human Rights and the Environment with the support of the Portuguese Presidency of the Council of the European Union in partnership with the British Institute of International and Comparative Law, the Portuguese Ombudsman (Provedor de Justiça), the Teaching Business and Human Rights Forum, and NOVA 4 The Globe.

I would first and foremost like to thank the organization and especially Nova School of Law for the invitation that was so kindly addressed to me.

It is with great honour that I join you today in the opening session of this seminar, dedicated to the importance of Corporate Due Diligence in Contract Law and Company Law.

The ways in which we have evolved as a society, especially during the last decades have brought about a Digital Revolution of sorts. It is fair to say that nowadays it is easier for everyone to contact and keep in touch with one another and even with the rest of the world.

This revolution has made us collectively aware, as nations and as individuals, of both the positive and negative impacts of entrepreneurial activity, at home and abroad. This is especially true regarding the activity of multinational enterprises (MNE) which operate across the globe. As of today, we recognise that despite the irrefutable progress achieved by decades of multilateralism and international cooperation regarding standards, regulations and law enforcement, a lot of grey areas remain when it comes to the application of national legislation to multinational enterprises.

Public recognition of these difficulties has risen in the last few years, accompanied by public awareness regarding inequality and social justice. Such inequality has become more evident with the arrival of the COVID-19 pandemic, as the vulnerable became ever more vulnerable, their lives severely impacted by unregulated global supply chains, which in turn throw the defence of human rights into jeopardy.

The issues that I just mentioned are not more visible in Portugal than in other parts of the world, nor can we ever hope to solve them in an isolated fashion, as some of them occur on

a global scale. Despite their magnitude, international entities such as the United Nations (UN), the Organisation for Economic Co-operation and Development (OECD) and the European Union (EU) itself, have steadily begun building instruments with the goal of creating a level playing field for the activity of MNE among the world.

At home, the Ministry for the Economy and Digital Transition is particularly aware of the challenges regarding these efforts, as it plays the role of National Contact Point for the OECD guidelines regarding such matters. These Guidelines consist in a multilateral agreement regarding the promotion of a comprehensive code of responsible business conduct (RBC), which several governments have agreed to carry out. As of today, 46 countries have adhered to these guidelines, including 12 non-OECD countries, which encourages us to confidently proceed with its pursuit.

The OECD Guidelines for multinational companies consist in a credible mechanism to fight the adverse impact of the COVID-19 pandemic on human rights and to prevent increasing social inequalities, with the process of Due Diligence playing a major part in it.

Essentially, it constitutes a series of guidelines for companies, providing a roadmap that businesses should follow in order to identify, prevent and mitigate the current and potential negative impacts of their activity, be it environmentally or socially, while also accounting for how those impacts shall be addressed. This process comprises meaningful consultation with potentially affected groups and other relevant stakeholders, in areas such as employment and industrial relations, human rights, environment, transparency, combating bribery and corruption, consumer protection, science and technology, competition and taxation.

The European Union, as well as other global multilateral bodies and conventions has adopted binding legislation to address human rights and environmental violations in the sectors traditionally worst affected, such as the extractive industries and timber.

Here at home, the Portuguese Ministry for the Economy and Digital Transition is also committed to have the “United Nations Guiding Principles on Business and Human Rights” adopted by Portugal throughout 2021, through the approval of the respective “National Action Plan for Responsible Business Conduct and Human Rights”, which shall include 3 initiatives related to responsible business conduct and due diligence, namely:

- Conducting the construction and adoption of the Portuguese national plan for the application of OECD Guidelines for Multinational Enterprises activities;
- Increasing awareness among companies with respect to the impact of identification, prevention, mitigation and repair of negative impacts that their activity may cause, through the publication of the Guide on Repair Mechanisms and the promotion of the OECD Guidelines for Multinational Enterprises and Due Diligence Processes;
- Promoting the European and International guiding instruments in the fields of responsible business conduct and Human Rights, namely, the OECD Guidelines for Multinational Enterprises, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the United Nations Guiding Principles on Business and Human Rights and Legal Instruments to protect fundamental rights (such as EU anti-discrimination directives and European Convention on Human Rights).

The great societal changes of our time, namely globalisation, business internationalisation, integration in global value chains and sustainable development in all its dimensions are now converging towards the notion that companies must assume a role in the prevention of human rights and labour rights violations in their business activity. Due diligence shall become a vital instrument to improve decision-making within companies, as it prevents, mitigates and, when necessary, helps to remedy the adverse impacts of business activity on society.

In Portugal, we too shall take the necessary steps towards the ultimate goal of defending

Humans Rights. Throughout history, governments have been steadily moving towards protecting these very same rights and it is high time that companies help us in this journey.

Suggested citation: J. Torres, 'Transcript of the Keynote Speech delivered by the Portuguese Secretary of State for Commerce, Services and Consumer Protection, João Torres', Nova Centre on Business, Human Rights and the Environment Blog, 5th April 2021.