

Italy has not yet adopted legislation similar to that of Germany and France on the protection of human rights and the environment in global supply chains.

However, Italy has become more sensitive to the issue since the UN Human Rights Council unanimously adopted the Guiding Principles on Business and Human Rights (GC) in 2011.

The Guiding Principles rest on three pillars:

- (i) the obligation of the state to respect, protect and implement human rights and fundamental freedoms;
- (ii) the responsibility of business to avoid negative impact on third parties and to respect all applicable laws and human rights;
- (iii) the obligation to ensure, in case of abuse, a remedy, judicial or otherwise, that is appropriate and effective.

It should be noted that a binding treaty on business and human rights is currently being drafted at the UN.

In order to strengthen the relationship between business and human rights, and to raise awareness among Italian companies to respect the Guiding Principles in their global production processes, Italy has prepared a National Action Plan (NAP) on Business and Human Rights to be implemented between 2016 and 2021.

The aim pursued by the NAP is not only to ensure the protection of human rights and to promote the adoption of an adequate legislative framework, but it is also to avoid that enterprises that act in compliance with standards and protection of human rights are harmed on the market when competing with other enterprises.

In any case, Article 41 of the Constitution guarantees free economic activity and states that it may not be conducted contrary to the attainment of social ends or in such a way as to endanger or violate fundamental rights and freedoms and human security.

Therefore, companies legally located and/or operating in Italy must respect human rights in the conduct of their activities: respect for human rights is the basis of economic activities conducted by public or private companies.

However, there are many companies that relocate production abroad and, by exploiting loopholes in the law, make a profit.

Pending the adoption of specific legislation on this point, the guidelines are not binding and several multinationals comply with them voluntarily, including clauses in contracts with their counterparts, suppliers or subcontractors in developing countries.

Violation by one of the contracting parties of these 'ethical' clauses constitutes contractual liability under Article 1218 of the Civil Code, with the right for the non-defaulting contracting party to take action to obtain exact fulfilment or termination of the contract, and in any case the right to compensation for pecuniary and non-pecuniary damage.

Some companies also adhere to the conditions of fair trade certification, such as through the Fairtrade system, thereby obliging themselves to respect certain standards regarding workers' rights, the violation of which implies the loss of certification and the impossibility of using the trademark.

As already mentioned, companies that voluntarily adhere to the UN Guiding Principles establish a code of ethics on human and labour rights to ensure adequate standards of health, safety and environmental protection.

Companies that are sensitive to this issue carefully select their suppliers and subcontractors, especially when they operate in countries considered critical from the point of view of human and labour rights.

Hot topics are child and forced labour, freedom of association and the right to collective bargaining, pay, discrimination, disciplinary practices and working hours.

Contractors are obliged to know and respect the code of ethics, which is an essential part of the contractual obligations.