

CHILDREN AS STAKEHOLDERS AT HEIGHTENED RISK OF ADVERSE IMPACT



ACKNOWLEDGEMENTS

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OVERVIEW:

Companies should consider children as a key stakeholder group in the reporting process where the ESRS refer to 'persons in vulnerable situations'.

In line with international law on business and human rights, the CSRD and ESRS require companies to recognize 'persons in vulnerable situations' as a distinct category of stakeholder that must be awarded additional consideration in the reporting process. Children, as a group susceptible to impact from business practices, fall under the category of vulnerable groups, and reporting companies must ensure that impacts on children are considered in the reporting process.

This guidance brief helps organisations understand how the ESRS refer to 'persons in vulnerable situations' and the linkages with children.



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WHO IS A CHILD?

The United Nations Convention on the Rights of the Child, Article 1, states that **"a child means every human being below the age of 18 years"**.

This brief is designed to guide companies on their reporting requirements relevant to impacts on children as persons in vulnerable situations and at risk of marginalization under the ESRS.

Children are a stakeholder group at a heightened risk of adverse impact by business, but they are seldom identified as a key stakeholder group. This results in children remaining unheard and not adequately consulted by companies as a key stakeholder and rightsholder group.

Due to their age, development and size, children require specific attention in human rights and environmental due diligence processes to guarantee respect for their human rights. It is often the case that while one business activity might not impact the rights of adults, the same activity could have an adverse impact on the rights of a child. For example, certain levels of air emissions or water effluents created by the extractives sector may not have adverse effects on an adult, whereas a lower threshold of emissions or water pollution may negatively affect the health of children living in the nearby communities due to their size, developing bodies and metabolic rates.

Companies often exclusively link business impacts on children's rights to child labour. Child labour is certainly a material issue for many companies, and a very serious child rights issue. This narrow focus, however, does not capture the full extent of how children's rights can be affected by business. While child labour is the most widely recognized risk and adverse business impact on children, businesses come into contact with children in many other ways and can also have an impact on other rights.

Children are consumers of business products and services. They are exposed to marketing and advertising, and they can be legal workers or exploited child labourers. They are children of workers, they use digital platforms and they live and play in the environments where business operate. In addition, most businesses come into contact with children daily, and although these interactions may not be direct or purposeful, sometimes business facilities and services can raise serious child safeguarding and protection concerns. For example:

- A hotel company owns and operates a hotel chain. Perpetrators of child sexual abuse and exploitation might use the hotel's premises to harm children.

HOW ARE CHILDREN IMPACTED BY BUSINESS?

In the United Nations Guiding Principles on Business and Human Rights (UNGPs), OECD Guidance on Responsible Business Conduct (OECD Guidance) and Children's Rights and Business Principles (CRBPs), children are identified as one of the groups at heightened risk of marginalization and vulnerable to negative impacts by business. Businesses, therefore, are required to pay special attention to impacts on children and their rights.¹

Similarly, the Corporate Sustainability Reporting Directive (CSRD) specifically references the United Nations Convention on the Rights of the Child, among other United Nations human rights conventions designed to protect the human rights of those at heightened risk. The ESRS also recognize 'persons in vulnerable situations' as a distinct category of stakeholder, including children, and puts requirements on companies to report where necessary on considerations relevant to them.²

¹ See United Nations Office for the High Commissioner on Human Rights, 2011. [United Nations Guiding Principles on Business and Human Rights](#); OECD, 2018. [Guidance on Responsible Business Conduct](#).

² See, e.g., ESRS 1, Appendix A: Application Requirements, AR6; ESRS E4, Appendix A: Application Requirements, AR20; ESRS S1, Disclosure Requirement S1-2, paragraph 20; ESRS S1, Appendix A: Application Requirements, AR 25; ESRS S2, Disclosure Requirement related to ESRS 2 SBM-3, paragraph 11(v); ESRS S2, Disclosure Requirement S2-2, paragraph 22; ESRS S3, Disclosure Requirement S3-2, paragraph 22; ESRS S4, Disclosure Requirement related to ESRS 2 SBM-3, paragraph 10(a)(iv); ESRS S4, Disclosure Requirement S4-2, paragraph 21.

- A company provides social media services, including for children. It sets children's social media accounts to public by default. This means that information and social media activities can be viewed and commented on by anyone and children can be contacted by anyone, thus infringing children's rights to privacy and exposing them to risks of abuse, exploitation and violence.

Children can also be impacted through the working conditions of their parents and caregivers. Family-friendly workplace practices – those that provide sufficient paid parental leave, support breastfeeding mothers and facilitate access to good quality childcare – allow parents and caregivers to balance work and family life and to provide the care, attention and essential resources their children need to thrive.³ For example:

- A company in the garment and footwear sector sources from a manufacturing facility in a non-EU country with a large proportion of female workers. For nursing workers, paid breastfeeding breaks are a labour right. At the same time, exclusive breastfeeding for the first six months of life is important to a child's health, development and survival. With the combination of low wages and lack of breastfeeding support at work, workers often feel compelled to return to work before they are ready and stop breastfeeding, thus negatively impacting on children's health and development.

Children are also impacted by business activities in the communities and environments where they live and play. For example:

- A company is building a dam and has resettled nearby communities. Children now must walk longer distances than before to go to school and to fetch water for their families, thus exposing them, especially girls, to risks of violence along the way and of losing access to education.

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CHILDREN AS 'PERSONS IN VULNERABLE SITUATIONS' UNDER THE ESRS

ESRS 1 application requirements: Double materiality – stakeholders and their relevance to the materiality assessment process

AR 6. In addition to the categories of stakeholder listed in paragraph 22, common categories of stakeholders are employees and other workers, suppliers, consumers, customers, end-users, local communities and persons in vulnerable situations, and public authorities, including regulators, supervisors and central banks.

The ESRS confirms that children are a group of persons in vulnerable situations. Examples of 'persons in vulnerable situations' in the ESRS include children, women, migrants, persons with disabilities and indigenous peoples.

The ESRS uses several terms to refer to persons who are particularly vulnerable to negative impacts, including 'local communities and persons in vulnerable situations',⁴ persons 'particularly vulnerable to negative impacts, whether due to their inherent characteristics or to the particular context',⁵ and persons who 'may be particularly vulnerable to impacts and/or marginalized'⁶ by way of examples.

The way in which 'persons in vulnerable situations' are referenced in the ESRS is similar to the approach in international instruments on business and human rights. To ensure policy and business practice coherence, these terms should be interpreted consistently with the UNGPs, which are referred to in the recitals of the CSRD. The UNGPs state that businesses should be paying 'particular attention to the rights and needs of, as well as challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized.'⁷ The OECD Guidelines uses the terms 'individual characteristics' and 'vulnerable or marginalized groups' and states that companies should consider 'distinct and intersecting risks, including those related to individual characteristics or vulnerable and marginalized groups'.⁸

3 See, UNICEF. [Redesigning the workplace to be family-friendly: What governments and business can do.](#)

4 See, e.g., ESRS 1, Appendix A: Application Requirements, AR6

5 See, e.g., ESRS S2, Disclosure Requirement related to ESRS 2 SBM-3, paragraph 11(v).

6 See, e.g., ESRS S3, Disclosure Requirement S3-2, paragraph 22.

7 United Nations, 2011. [Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect, Remedy' Framework.](#)

8 OECD, 2023. [Guidelines for Multinational Enterprises on Responsible Business Conduct.](#)

EXAMPLES OF ESRS PROVISIONS RELATED TO IMPACTS ON CHILDREN'S RIGHTS

Here are some examples of ESRS requirements and some practical examples of how to report impacts on children and other persons or groups in vulnerable situations.

ESRS PROVISION

APPLICATION REQUIREMENT	PRACTICAL EXAMPLES	RECOMMENDATION
ESRS 1 3.3 APPLICATION REQUIREMENTS – DOUBLE MATERIALITY		
<p>AR 6. In addition to the categories of stakeholder listed in paragraph 22, common categories of stakeholders are: employees and other workers, suppliers, consumers, customers, end users, local communities and persons in vulnerable situations, and public authorities, including regulators, supervisors and central banks.</p>	<p>An extractive company operating in a volatile environment might use public or private security forces for the protection of their sites. Children and adolescents from local community often trespass on the site. Children have the right to be protected from abuse and violence and there are special protections in relation to how they must be treated when in conflict with the law.</p>	<p>The materiality assessment by the company should be informed by the views and inputs of children and/or their legitimate representatives, along with other child rights experts as children are affected stakeholders who are in vulnerable situations.</p>
ESRS S1, DISCLOSURE REQUIREMENT S1-2 – PROCESSES FOR ENGAGING WITH OWN WORKFORCE AND WORKERS' REPRESENTATIVES ABOUT IMPACTS		
<p>AR 28. Where applicable, the undertaking shall disclose the steps it takes to gain insight into the perspectives of people in its own workforce who may be particularly vulnerable to impacts and/or marginalized (for example, women, migrants, people with disabilities).</p> <p>AR 25. The undertaking may also disclose the following information in relation to paragraph 28 on diversity: (a) how it engages with at-risk or persons in vulnerable situations (for example whether it takes specific approaches and gives special attention to potential barriers); (b) how it takes into account potential barriers to engagement with people in its workforce (for example, language and cultural differences, gender and power imbalances, divisions within a community or group); (c) how it provides people in its workforce with information that is understandable and accessible through appropriate communication channels; (d) any conflicting interests that have arisen among its workforce and how the undertaking has resolved these conflicting interests; and (e) how it seeks to respect the human rights of all stakeholders engaged, for example, their rights to privacy, freedom of expression, and peaceful assembly and protest.</p>	<p>A hotel company might employ young workers legally (those who are above the legal age to work and are employed in safe and age-appropriate positions). However, young workers, especially if they are migrants, are particularly vulnerable to abusive labour arrangements. They may know little about their rights and feel unable to speak up against abuse.</p>	<p>The company should disclose the steps it has taken to gain an understanding of the perspectives of young workers, how it considers the barriers to engagement that young workers may face and how it engages with them, e.g. by providing information in a language that is clear, simple and that they understand.</p>

APPLICATION REQUIREMENT	PRACTICAL EXAMPLES	RECOMMENDATION
ESRS S2, DISCLOSURE REQUIREMENT RELATED TO ESRS 2 SBM-3 MATERIAL IMPACTS, RISKS AND OPPORTUNITIES AND THEIR INTERACTION WITH STRATEGY AND BUSINESS MODEL		
<p>AR 11. When fulfilling the requirements of paragraph ESRS 2 SBM-3 paragraph 48, the undertaking shall disclose whether all value chain workers who are likely to be materially impacted by the undertaking, including impacts that are connected with the undertaking's own operations and value chain, including through its products or services, as well as through its business relationships, are included in the scope of its disclosure under ESRS 2. In addition, the undertaking shall provide the following information: (a) a brief description of the types of value chain workers who can be materially impacted by the undertaking, including impacts that connected with the undertaking's own operations and value chain, including through its products or services, as well as through its business relationships, and specify whether they are: ...</p> <p>v. workers who (within the prior categories or additionally) are particularly vulnerable to negative impacts whether due to their inherent characteristics or to the particular context, such as trade unionists, migrant workers, home workers, women or young workers.</p> <p>AR 8. Examples of particular characteristics of people in the undertaking's own workforce that may be considered by the undertaking when responding to paragraph 15 relate to young people that may be more susceptible to impacts on their physical and mental development, or women in a context where women are routinely discriminated against in the terms and conditions of work, or migrants in a context where the market for the supply of labour is poorly regulated and workers are routinely charged recruitment fees. For some people in the workforce, the inherent nature of the activity that they are required to undertake may put them at risk (for example, people required to handle chemicals or operate certain equipment or low paid employees who are on 'zero hours' contracts).</p>	<p>A supplier of a fashion company might employ young workers legally (those children who are above the legal age to work and are employed in safe and age-appropriate positions). However, due to their stage of development compared to adults, young workers are at greater risk of occupational accidents and injuries. Risk areas for young workers include heavy lifting and the use of complex machinery designed for adults; exposure to high-pressure situations or emotionally demanding assignments; and contact with direct and ambient hazards, such as those caused by toxic chemicals, to which they are more vulnerable than adults.</p>	<p>The reporting company should include young workers in the description of the types of value chain workers who could be materially impacted.</p>

APPLICATION REQUIREMENT	PRACTICAL EXAMPLES	RECOMMENDATION
ESRS S2, DISCLOSURE REQUIREMENT S2-2 – PROCESSES FOR ENGAGING WITH VALUE CHAIN WORKERS ABOUT IMPACTS		
<p>AR 23. Where applicable, the undertaking shall disclose the steps it takes to gain insight into the perspectives of workers that may be particularly vulnerable to impacts and/or marginalized (for example, women workers, migrant workers, workers with disabilities).</p>	<p>A company sources palm oil for its products from a supplier in Southeast Asia. In the country the company sources from, plantation workers employed on a permanent basis are entitled to three months of paid maternity leave at their ordinary rate of pay.</p> <p>However, maternity benefits are not always provided in accordance with the law, particularly when women are unaware of their entitlements and how to claim them. This leads to lower rates of exclusive breastfeeding as mothers often go back to work rather than stay home with their infants.</p> <p>Casual workers have reported that they may have their employment terminated if they announce that they are pregnant, leading to them continuing to work in conditions that are potentially harmful to them and their child, such as handling pesticides or doing physically arduous work.</p>	<p>The company should disclose the steps it has taken to gain an understanding of the perspectives of female workers on potential barriers and policy gaps in maternity protection policies and implementation of these. It should also disclose how it considers the barriers to engagement that female workers may face and how it engages with them while safeguarding from discrimination.</p>
ESRS S3, DISCLOSURE REQUIREMENT S3-2 – PROCESSES FOR ENGAGING WITH AFFECTED COMMUNITIES ABOUT IMPACTS		
<p>AR 21. Where applicable, the undertaking shall disclose the steps it takes to gain insight into the perspectives of affected communities that may be particularly vulnerable to impacts and/or marginalized, and into the perspective of specific groups within the affected communities, such as women and girls.</p>	<p>A company with a large development project in a popular tourism destination might affect children's right to access places of play and leisure. This may be the case where public areas are privatized for tourists, or access to essential services such as healthcare, decent housing and education, is strained due to a large influx of labour migration.</p>	<p>In this case, the company should disclose information about how it has engaged in a safe and meaningful way with children in local communities to understand their perspective and views, directly or indirectly.</p>

APPLICATION REQUIREMENT	PRACTICAL EXAMPLES	RECOMMENDATION
ESRS S4, DISCLOSURE REQUIREMENT RELATED TO ESRS 2 SBM-3 – MATERIAL IMPACTS, RISKS AND OPPORTUNITIES AND THEIR INTERACTION WITH STRATEGY AND BUSINESS MODEL		
<p>AR 10. When fulfilling the requirements of paragraph 48, the undertaking shall disclose whether all consumers and/or end-users who are likely to be materially impacted by the undertaking, including impacts connected with the undertaking’s own operations and value chain, including through its products or services, as well as through its business relationships, are included in the scope of its disclosure under ESRS 2. In addition, the undertaking shall disclose the following information: (a) a brief description of the types of consumers and/or end-users subject to material impacts by its own operations or through its value chain, and specify whether they are: ...</p> <p>v. consumers and/or end-users who are particularly vulnerable to health or privacy impacts or impacts from marketing and sales strategies, such as children or financially vulnerable individuals;</p>	<p>A gaming company might use marketing and advertising techniques to reach consumers. However, children’s rights to privacy and freedom from exploitation can be affected by irresponsible practices, such as the profiling and targeting of children of any age for commercial purposes.</p>	<p>The reporting company should specifically disclose the potential and actual impacts on children as well as the identification of children as a key stakeholder and consumer group impacted or likely to be impacted by marketing activities.</p>
ESRS S4, DISCLOSURE REQUIREMENT S4-2 – PROCESSES FOR ENGAGING WITH CONSUMERS AND END USERS ABOUT IMPACTS		
<p>AR 21. Where applicable, the undertaking shall disclose the steps it takes to gain insight into the perspectives of consumers and/or end-users that may be particularly vulnerable to impacts and/or marginalized (for example, people with disabilities, children, etc.).</p>	<p>A company uses an online platform to engage its customers. An online platform can contain inappropriate content for children, and provide opportunities for unintended use, inappropriate contact and insufficient protection of personal data, thus exposing children to risks of harm. Children have unique perspectives on digital technologies.</p>	<p>The reporting company should describe the steps it has taken to gather the views of children about their experiences on their online platform, either via engaging key stakeholders on children’s rights or children directly. In the case of the latter, the company should describe how it has engaged with children in a safe and meaningful way.</p>