

How does the parliamentary counter-proposal differ from the popular initiative (RBI)?

| | Responsible Business Initiative (RBI) | Counter-proposal (version May 4 2018) |
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| Form | Dedicated constitutional article, implementation probably in a special act | «Patchwork» in the Swiss Code of Obligations, Swiss Civil Code and IPRG |
| Which rights? | Internationally recognized human rights and environmental standards | Only binding provisions under international law ratified by Switzerland |
| Due diligence required | According to UNGP/ OECD Guidelines: <ul style="list-style-type: none"> • identify risks for rights holders and environment • take appropriate measures • report publicly Risks in all business relationships in scope | <ul style="list-style-type: none"> • Similar • Also mentions remediation • Due diligence must be «appropriate» • measures to be taken depend on «leverage» |
| What companies are covered? | All companies (except low-risk SME) | <ul style="list-style-type: none"> - Basically, companies exceeding two of three thresholds: a.) balance sheet total of 40 mio. CHF/ USD, b.) turnover of 80 mio CHF/ USD, c. 500 full-time employees - Companies with particular high-risk activities included independent of size - Exception for large companies with particular low risks (example mentioned in report: real estate company exclusively active in Switzerland) - High/low-risk activities to be defined by the government in a decree - Exception for certain Swiss entities in a corporate group (to avoid duplication) |
| For which foreign companies are Swiss parent companies liable? | Subsidiaries and economically controlled entities (e.g. exclusive purchasing agreements for total production) | Only (legally controlled) subsidiaries , and only when control is really exercised |
| In what cases are Swiss parent companies liable? | In the event of human rights violations and violations of international environmental standards | Only when damage to life & limb or property has happened, and only when being a result of violating international standards, ratified by Switzerland |
| How can corporations exempt themselves from liability? | If they can prove that they have performed appropriate due diligence | Similar. In addition, the corporation could also release itself from liability if – during the relevant period of time – the possibility to influence the behaviour of the controlled company did not exist in reality. |
| What law is applicable in a liability case? | <ul style="list-style-type: none"> - Damage and causality: according to current Private International Law Act - Unlawfulness: Swiss law, referring to internationally recognized human rights and international environmental standards - Fault: Swiss law, incorporating international standards (due diligence) - Control: Swiss law | <ul style="list-style-type: none"> - Damage and causality: according to current Private International Law Act - Unlawfulness: Swiss law, referring to internationally recognized human rights and environmental standards ratified by Switzerland OR local law if leading to an appropriate result - Fault: Swiss law, incorporating international standards (due diligence) - Control: Swiss law |

