Urgent call: Stop the EU Corporate Sustainability Due Diligence Directive!

Do not weaken existing initiatives for effectively protecting human rights and the environment in the supply chain, but instead use them to actively strengthen companies

For European companies, the UN Guiding Principles on Business and Human Rights are authoritative. They are already gearing their global supply relationships towards these principles and are spreading European standards throughout the world via their international partners. However, the German Supply Chain Due Diligence Act already shows that the juridification and bureaucratisation of processes places an undue burden on companies and does not support the common goal. Furthermore, the directive in its currently discussed form would not even create a level playing field at European level, as it envisages no full harmonisation. For German companies, it would tighten a number of existing requirements and therefore definitely overburden small and medium-sized companies in particular, in some cases demanding the impossible from them.

The scope of the planned civil liability is particularly critical. It is simply impractical to demand that companies from EU member states should be liable for breaches of duty that occur in their supply chains – even globally. The trilogue negotiators were even unable to agree on exceptions such as a “safe harbour” solution. Instead, non-governmental organisations are to benefit from their own rights of action without democratic legitimation, while companies are to be burdened with additional rules of evidence. This way, the liability risks, which are often impossible to calculate, can lead to companies withdrawing from affected regions. Instead, it should have been ensured that companies were provided with practical tools to fulfil the requirements. This should have included an unambiguous exemption of the entire EU internal market. It can also be assumed that international business partners will turn away from their EU partners, as the requirements are too high for them and business is easier to realise in other regions of the world. Such an invasive directive creates a real barrier to trade and weakens European companies in global competition. It places companies under general suspicion and risks cost-related decoupling of supply chains. This runs contrary to the important improvement of the situation in the countries of origin. This cannot be desirable in terms of development policy or in the broader international context. When implemented by the member states, there is also a risk that non-governmental organisations will be able to sue for the submission of climate plans by affected companies in future. Such impractical regulations would have a serious impact on business planning and legal certainty. The Commission’s current efforts to reduce bureaucracy will also be thwarted in the long term.

The political agreement in the trilogue comes at a time of economic crisis in Europe. Current figures, such as the EU Commission's repeatedly lowered economic forecasts, prove this. Such a supply chain directive would further exacerbate the loss of economic substance in the EU. The requirements of the German supply chain law have already led to small and medium-sized companies being completely overwhelmed by the burdens within their supply relationships. An EU Corporate Sustainability Due Diligence Directive, as is currently planned, would result in a new dimension of bureaucratic overload and legal uncertainty. In addition to liability, this applies in particular to:

- The validity for purely intra-European supply chains in the already highly regulated EU internal market. It is incomprehensible why companies cannot rely on their suppliers to comply with existing laws in Europe. An explicit exception for all suppliers and customers based in the EU internal market would be urgently required – as a requirement of the risk-based approach.
- The number of affected supply relationships: Larger companies often have tens or even hundreds of thousands of suppliers at the first supplier level alone, a considerable proportion of which change every year. The costs of compliance alone would run into the millions per company in many cases. In order to keep due diligence obligations manageable, threshold values – measured in terms of purchase value – should be required, above which the obligations apply. These are missing in the provisional trialogue result.
- The review not only of suppliers and their suppliers, but also of downstream parts of the supply chain. It is a completely unrealistic assumption that SMEs would also be able to control downstream parts of the supply chain or even dictate to customers how the products they sell may ultimately be used. Companies can only take responsibility for what actually falls within their sphere of influence.

In addition, the responsible authorities are unlikely to be able to scrutinise an adequate proportion of the documents generated. The fact that the EU Corporate Sustainability Due Diligence Directive and the Sustainability Reporting Directive indirectly shift the control function for reporting obligations to NGOs is a cause for concern and further increases legal uncertainties.

We therefore make an urgent appeal to you:

- Instead of taking the path of this directive, let's take a new approach together and engage in dialogue with each other to consider how we can enforce our standards for protecting human rights and the environment even more effectively across global supply chains worldwide!
- Let's utilise the practical experience of existing industry initiatives to combat specific grievances together!
- Let's collaborate with business and politics to tackle grievances where they actually exist, instead of making all European companies jointly liable for excessive bureaucratic burdens!

Please stop the EU Corporate Sustainability Due Diligence Directive in its current form by rejecting it in the ambassadors' vote in the Permanent Representatives Committee, in the subsequent Council vote, and in the European Parliament! Particularly in light of the multiple crises, companies in the European single market do not need new burdens, but rather relief and support from legislators and governments. This will not be achieved through an abstract programme of obligations that cannot be implemented in practice, but through the close cooperation of politics and business. Let's rethink sustainability in the supply chain as a whole. The economy is ready for joint solutions.

The signatories speak for companies with several million employees in all member states of the European Union.

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Registernummern Lobbyregister beim Deutschen Bundestag:

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ID Numbers EU-Transparency Register:

Bundesverband Großhandel, Außenhandel, Dienstleistungen e. V.: 9922252784-95; Confederation of the German Textile and Fashion Industry: 630565418685-37; Der Mittelstandsverbund – ZGV e. V.: 196997510883-76; Gesamtverband der Arbeitgeberverbände der Metall- und Elektro-Industrie e. V. 03004067068-71; Stiftung Familienunternehmen und Politik: 552069443013-09; Verband der Chemischen Industrie e.V.: 15423437054-40; Verband Deutscher Maschinen- und Anlagenbau e. V.: 9765362691-45; Verband der Elektro- und Digitalindustrie (ZVEI e. V.): 94770746469-09