COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME
RÉPUBLIQUE FRANÇAISE

Resisting deregulation made at the expense of the protection of human rights and the environment - Opinion on the European Commission's « Omnibus I » Proposal

Plenary Assembly of 20 May 2025
Adopted unanimously

Introduction

1. On 26 February 2025, the European Commission published its first package of proposals referred to as "Omnibus I" [1], aiming to revise the timeline and/or content of several European Union (EU) sustainability regulations, notably the Directive (EU) 2022/2464 on Corporate Sustainability Reporting (CSRD) and the Directive (EU) 2024/1760 on Corporate Sustainability Due Diligence (CSDDD) [2]. It aims at reducing "bureaucracy" and "cutting red tape" for companies, in the name of the competitiveness of European companies, against a backdrop of increasing discourse on "simplification" [3]. While the Commission committed, and publicly shows its willingness, to preserve the objectives of these instruments, the proposed amendments reflect a broader deregulatory agenda at the expense of the protection of human rights and the environment.

2. The French National Consultative Commission on Human Rights (CNCDH) expresses concern about France's role in this process, as illustrated by its requests to the European Commission in a Note dated 20 January 2025 [4]. Through its President, the CNCDH warned of the unprecedented shift represented by this Note, which goes back on decades of France's commitment to a fairer and more sustainable globalisation [5]. Far from advocating for technical changes to facilitate effective implementation of EU

[1]. The term "Omnibus", in the EU legislative context, refers to a legislative initiative that consolidates multiple amendments or revisions to existing texts into a single Act. For more information, see: European Commission, "Questions and answers on simplification omnibus I and II", 26 February 2025; Novethic, "Everything you need to know about the Omnibus Law(*Tout ce qu'il faut savoir sur la loi omnibus*".

[2]. The "first Omnibus package" (hereinafter "Omnibus I") also includes a draft delegated Act amending the Taxonomy Disclosures and the Taxonomy Climate and Environmental delegated Acts, a proposal for a regulation amending Regulation (EU) 2023/956 to "simplify and strengthen" the Carbon Border Adjustment Mechanism (CBAM), as well as a proposal for a Regulation to amend the "InvestEU Regulation" (see information available at https://commission.europa.eu/publications/omnibus-i_en).

[3]. The European Commission, which has placed competitiveness at the heart of its new mandate (see the Commission's press release "An EU Compass to regain competitiveness and secure sustainable prosperity," 29 January 2025), relies in particular on two reports: the "Draghi Report" on the future of European competitiveness published in 2024 and the "Letta Report" entitled "Much more than a market," published in April 2024.

[4]. This Note from the French authorities, revealed by Politico, is available (in French) at www.politico.eu/wp-content/uploads/2025/01/23/NAF_Simplification_des_normes_europeennes.clean_.pdf.

[5]. CNCDH, "European Omnibus Legislation: CNCDH voices concern about France's role," 12 February 2025. In its *Business and Human Rights* report, the CNCDH illustrates France's pioneering role over several decades in the

sustainability regulations, France's promotion of a "new highly ambitious simplification agenda" and a "regulatory pause" risks encouraging a race to the bottom in terms of social and environmental standards, which contradicts the leadership role it claims to uphold.

3. On 14 April 2025, Directive (EU) 2025/794 — known as the "stop-the-clock directive" — was adopted, postponing the entry into application of CSRD obligations by two years for large companies that have not yet started reporting, as well as for listed SMEs, and by one year the transposition deadline and first phase of application of the CSDDD. France has already transposed it into French law with regard to the postponement of the CSRD [6]. Negotiations are currently underway on the proposal for a directive containing substantial amendments to these texts [7], with a very tight timeline aiming for adoption by the end of 2025 or early 2026.

4. The CNCDH regrets both the postponement and the potential substantive weakening of instruments which have only recently entered into force and have not yet delivered their anticipated effects [8]. These regulations can be amended to improve the coherence of their articulation and the clarity of corporate sustainability obligations. The CNCDH regularly makes recommendations along these lines to ensure effective implementation, legal certainty and promote fair competition practice (level playing field) [9]. It is however essential not to undermine the progress achieved thanks to the adoption of these regulations. They are both levers for the respect of human rights and the protection of the environment in the context of business activities, and shields for enhancing the long-term competitiveness and resilience of European companies, by combining sustainability and economic performance — a path to prosperity for all. While the number and volume of regulations can be a significant constraint, particularly if they are poorly articulated and insufficiently consistent with each other, norms are also, and above all, an essential means of providing protection and legal certainty. They are grounded in international standards, notably the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, which derive from international human rights law. Furthermore, these EU's sustainability regulations share a common ambition and rationale based on the objectives and values set out in the EU Treaty. They provide a common framework for the 27 Member States to ensure that businesses, financial institutions, and the broader economic system operate responsibly and contribute to the Sustainable Development Goals (SDGs), whose fulfilment is imperative to tackle the triple planetary crisis (climate change, pollution, biodiversity loss) that is jeopardizing the effective enjoyment of all human rights and our future [10].

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realm of corporate responsibility concerning human rights (CNCDH, Business and Human Rights. Protect, Respect, Remedy, La Documentation française, 2023).

[6] . Law no. 2025-391 of 30 April 2025 *on various provisions adapting to EU law in economic, financial, environmental, energy, transport, health, and movement of persons matters*, Official Journal of the French Republic (OJFR) No. 0103 of 2 May 2025, Text No. 1, Article 7 (known as the "DDADUE Law"). Yes, France was the first Member State to transpose the CSRD.

[7]. Proposal for a directive amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464, and (EU) 2024/1760 as regards certain corporate sustainability reporting and due diligence requirements, 26 February 2025, COM(2025) 81 final (referred to as the "substantive directive").

[8]. Statement by the CSR Platform, "Why revise the Green Deal pillars only one year later without assessing their transformative power?", 17 February 2025.

[9]. See the aforementioned CNCDH's *Business and Human Rights* report.

[10]. For an overview of these instruments and the EU's Corporate Social Responsibility (CSR) policy, see Annex 1 of the CNCDH's *Business and Human Rights* report. In order to "*advance a more level global playing field*", the European Commission's 2011 communication, which marked a significant step in the development of this policy, sought to align European and global CSR approaches by promoting "*European interests in international CSR policy developments, while at the same time ensuring the integration of internationally recognised principles and guidelines into its own CSR policies*" (Communication from the Commission to the European Parliament, the

5. The scope of the proposed amendments under the Commission's "Omnibus I" proposal is all the more worrying given that they run counter to the progress made in the area [11] and to the efforts of businesses to align their practices with these instruments as well as the efforts of Member States to transpose and implement them. Moreover, these changes are part of process characterised by a lack of transparency and the absence of public consultation with all relevant stakeholders [12]. The CNCDH is concerned about the potential repercussions of such a practice, which, if it were to spread and become widespread, would be likely to undermine the European rule of law and erode public trust in both the democratic process and the economy. This arouses even more suspicion, given that many of the Commission's proposed amendments are largely based on the demands made by certain professional associations [13] and their perception of these instruments as overly burdensome [14]. Yet numerous businesses [15] — including French companies — and investors, while indicating that adjustments are necessary, have expressed their support for the objectives of the regulations on sustainability reporting, due diligence, and taxonomy. These are described as essential tools for ensuring that companies and investors identify, address and anticipate environmental, social and governance (ESG) risks, by building resilience strategies that incorporate sustainable practices into decision-making processes and value chains. Such stances echo the mobilisation of numerous other stakeholders against the undermining of sustainability regulations, including non-governmental organisations, trade unions, National Human Rights Institutions (NHRIs) [16], academics, but also business practitioners and consultants, members of Parliament and international bodies. They align with the CNCDH's observation of an unprecedented mobilisation in favour of the adoption of the CSDDD, illustrating the strong support and the imperative it represented.

6. As early as 28 February 2025, the CNCDH warned that, under the guise of "simplification," the proposed amendments would considerably weaken the European model of responsible business conduct that the EU has built and promoted over the last decade and threaten the very effectiveness

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Council, the European Economic and Social Committee and the Committee of the Regions, "A renewed EU strategy 2011–14 for Corporate Social Responsibility," 25 October 2011, COM(2011) 681 final, section 4.8).

[11]. France has played a major role in advancing CSR-related normative developments (see the CNCDH's *Business and Human Rights* report cited above).

[12]. As highlighted in the aforementioned letter from the CNCDH's President, "consultations" held exclusively behind closed doors and granting privileged access to a select, non-representative and inequitable group of stakeholders violate democratic principles of the EU and fail to meet the goal of "better regulation." Several non-governmental organisations (NGOs) have filed a complaint with the European Ombudsperson to denounce the European Commission's maladministration (see the joint NGO press release, "Breaking. We're challenging the EU Commission's undemocratic 'Omnibus' process," 18 April 2025).

[13]. According to the NGO Reclaim Finance, 70 % of the demands made by MEDEF, BDI and Confindustria (the French, German, and Italian employers' organisations) and 62 % of those from the French Banking Federation were included in the Commission's proposal: Reclaim Finance, "EU Omnibus: a playground for industry lobbies," 6 March 2025. The UN Working Group on Business and Human Rights (UNWGBHR) calls on companies to engage responsibly in these discussions, in alignment with the UNGPs and its report A/77/201 on corporate influence in the political and regulatory sphere*: Statement by the United Nations Working Group on Business and Human Rights on the European Commission's "Omnibus simplification package," * 20 March 2025. Similarly, the OECD Guidelines commentary (§6) states that "*enterprises should take due account of the* Recommendation on Principles for Transparency and Integrity in Lobbying [OECD/LEGAL/0379] *and ensure that their lobbying activities are consistent with their commitments and goals on matters covered by the Guidelines*".

[14] . See the explanatory memorandum of the aforementioned "substantive directive" proposal of 26 February 2025.

[15]. See in particular statements of support for the CSDDD ("Broad support for the CSDDD") available at www.we-support-the-csddd.eu/. The Business & Human Rights Resource Centre (BHRRC) also compiles stakeholder positions on both the CSDDD and the CSRD.

[16] . See the letter from 10 European NHRIs, dated 22 January 2025, available at https://www.business-humanrights.org/en/latest-news/european-nhris-raise-concerns-in-relation-to-the-european-commissions-omnibus-proposal/.

of the directives in question [17]. Many voices have been raised to express concerns about the content of the proposed revisions, which risk diluting the EU's environmental and social ambitions, without guaranteeing to reduce the burden on the companies subject to them and to enhance their competitiveness [18]. Rather, the proposed revisions, to which similar amendments may be added during the negotiations, would lower the standards set by the EU for both EU-based companies and non-EU companies operating in the Single Market [19]. Rolling back on European norms and its social model sends out a sign of weakness, undermining the credibility of the EU, which is striving to guide its partners towards ambitious environmental and social objectives at a global level. It could set a dangerous precedent both within the EU and beyond, especially as other regulations could be called into question as part of a series of other "Omnibus packages" now under discussion or in preparation [20].

7. In light of its concerns over proposals such as the drastic narrowing of the CSRD's scope, the CNCDH recalls the recommendations made by the European Network of National Human Rights Institutions (ENNHRI), which urged to maintain the directive's ambition to deliver reliable and high-quality information on environmental and human rights issues at scale [21]. The CNCDH wishes here to draw particular attention to the risks created by the proposed amendments to the CSDDD [22]. This opinion sets out a series of recommendations aimed at, on the one hand, preserving the directive's ability to prevent human rights violations and environmental harm (Section I) and, on the other hand, safeguarding strong enforcement mechanisms, including access to remedies (Section II). These recommendations are addressed to France and to the co-legislators in the context of the ongoing negotiations on the substantive "Omnibus I" Directive (hereinafter "Omnibus I proposal"). They pursue three main objectives: (1) to ensure that any amendments made to sustainability regulations are aimed at "simplifying" them to enhance their effectiveness; (2) to resist attempts at deregulation by continuing to align EU legislations with international standards [23] and best practice; and (3) to ensure that any amendments are made through a credible and legitimate process and do not undermine the Member States' ability to provide a higher level of protection [24].

[17]. See the video published by CNCDH, available at www.youtube.com/shorts/s5tbWltRTII.

[18]. See for example the position paper by Mouvement Impact France, "The new European competitiveness still seeks its compass," 10 March 2025; Clément Fournier, "CSR: in the face of the omnibus and the backlash, resistance is building within companies," *Novethic*, 23 April 2025.

[19]. The CNCDH mentioned this risk of race to the bottom in its aforementioned *Business and Human Rights* report.

[20]. See the European Commission's work programme 2025 (COM(2025) 45 final).

[21] . ENNHRI, "ENNHRI raises important concerns over the European Commission's Omnibus I proposal," March 2025.

[22] . Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence (hereinafter "Corporate Due Diligence Directive" or CSDDD).

[23]. The UN Working Group on Business and Human Rights (UNWGBHR), along with many others, considers that the Commission's proposals are not aligned with the UNGPs (see the aforementioned statement of 20 March 2025).

[24]. This ability would be severely restricted if the co-legislators were to accept the European Commission's proposal to significantly broaden the maximum harmonisation clause provided for in Article 4 of the CSDDD, which prevents Member States from adopting more protective provisions when transposing the directive. In the CSDDD negotiation context, the CNCDH recommended that France oppose any such clause or provision allowing Member States to limit the scope of their existing national legislation (CNCDH, *Business and Human Rights* report, *op. cit.*, recommendation no. 72.10). In this regard, it is essential to preserve Article 1(2) of the CSDDD to avoid any regression.

1. Preserve the CSDDD's ability to prevent human rights violations and environmental harm and to foster resilient value chains

8. The Directive (EU) 2024/1760 on corporate sustainability due diligence (CSDDD) requires Member States to ensure that the largest companies falling within its scope [25] exercise human rights and environmental due diligence, the different steps of which it defines [26]. While the Omnibus I proposal retains these steps, it includes a number of changes that would undermine the very logic of due diligence as defined by international standards. This would hinder the CSDDD's ability to effectively prevent human rights violations and environmental harm within value chains, while increasing the burden on companies.

1.1. Maintain a risk-based approach to due diligence, encompassing the entire value chain

9. The European Commission now proposes, as a general rule, to limit a company's due diligence obligations to its own operations, those of its subsidiaries, and those of its direct business partners ("Tier 1"). There are only two specific situations in which a company falling under the scope of the directive would be required to carry out an in-depth assessment of its indirect business partners' activities: first, when it has "plausible information" that suggests that adverse impacts [27] have arisen or may arise at their level, and second, when the indirect nature of the relationship with the business partner results from an artificial arrangement that does not reflect economic reality.

10. This new approach represents a shift difficult to reconcile with the logic of due diligence as it stems from international standards and the rules adopted in the 2024 Directive. It moves away from the pragmatic logic provided for by the UNGPs and the OECD Guidelines, according to which companies' due diligence must be based on a risk-based approach, focusing their attention and resources on the most severe and most likely risks, regardless of where they occur in the value chain [28].

11. By limiting the assessment of adverse impacts mainly to direct business partners, the Omnibus I proposal would undermine the very effectiveness of due diligence, as it would significantly reduce the CSDDD's ability to prevent a significant proportion of violations occurring in the in-scope companies' value chains – particularly the most serious ones. As acknowledged by the European Commission [29],

[25]. According to Article 2, the CSDDD applies to EU companies with over 1,000 employees and a net worldwide turnover of more than €450 million, and to non-EU companies with equivalent turnover in the EU. It is estimated that only around 5,500 European companies—or 0.05 % of all companies—fall within the scope of the CSDDD (ECCJ, "Reaction: CSDDD endorsement brings us 0.05% closer to corporate justice", 15 March 2024). France, in the aforementioned Note, again advocates for significantly increasing the thresholds (5,000 employees and €1.5 billion worldwide turnover), which the CNCDH has already warned would undermine the directive's purpose. The same would apply if the threshold increase for the CSRD proposed by the European Commission were adopted, which would reduce the number of companies in scope by 80 %.

[26]. The level of precision of the CSDDD on this point is among the added values commonly identified in comparison to the French Duty of Vigilance Law.

[27]. The latter concern adverse impacts on the environment or on human rights (Article 2 CSDDD). They are defined in Article 3, in relation to the instruments listed in the Annex.

[28]. Where the company's value chain comprises a large number of entities (as will often be the case for companies falling within the scope of the CSDDD), it is not expected to assess and address all adverse impacts of each entity. It should identify the general areas where the risk of adverse impacts is greatest and prioritise them based on their severity and likelihood (see: Commentary on UN Guiding Principle 17; OECD, Translating a risk-based due diligence approach into law: Background note on Regulatory Developments concerning Due Diligence for Responsible Business Conduct, 2022; Articles 8 and 9 of the CSDDD).

[29]. See the Commission services' working document published alongside the Omnibus I Directive proposals, 26 February 2025, SWD(2025) 80 final, p. 35: "*the main risks to human rights and the environment most often*

and as emphasized by civil society organisations [30] and many business associations themselves [31], the most serious and frequent human rights and environmental violations often take place further down the value chain—i.e., among indirect partners: subcontractors and sub-subcontractors.

12. While the Omnibus I proposal seeks to simplify and "reduce burdens [and costs] on companies," [32] this amendment would in fact introduce a more complex system. First, companies shall map "*the general areas where adverse impacts are most likely to occur and to be most severe*" across their entire chain of activities [33]. If the European Commission's proposed approach were adopted, companies would then need to allocate their resources to carry out an in-depth assessment of these impacts based on whether the relationship with the business partner is direct or indirect [34]. As a general rule, companies would only be required to conduct this assessment for direct business partners, focusing on the impacts most likely to occur or to be most severe. They would also have to conduct such assessments for indirect partners, but only if they have "plausible information" that adverse impacts are occurring or are likely to occur, regardless of their probability or severity. Additionally, there would be an obligation to carry out such an assessment where the indirect, rather than direct, nature of the relationship is the result of an artificial arrangement. While this clarification by the European Commission aims to prevent circumvention through the creation of an intermediary tier of suppliers, it is difficult to predict how it could be implemented in practice. These artificial limits create confusion, do not draw lessons from the weaknesses observed in the implementation of the German law—which focuses on Tier 1 [35]—and do not reflect the operational realities of companies. On the contrary, they risk increasing costs, both for the companies subject to the directive and for their business partners (not subject to the CSDDD), particularly small and medium-sized enterprises (SMEs) and

occur farther upstream (and downstream) in the value chain (for instance upstream at the stage of raw material sourcing or at initial manufacturing stages, or downstream at the transport stage)".

[30]. According to SOMO's analysis of data from 6,758 suppliers to seven major European supermarket chains, a limitation in principle to Tier 1 suppliers would exclude most high-risk suppliers (94 %) from the due diligence process: SOMO, "Save your tiers for another day. Omnibus restriction excludes most supermarket suppliers in risk countries," 22 April 2025. See also the examples relating to the extraction of metals for the manufacture of batteries for electric vehicles provided by the members of the Citizens' Forum for Economic Justice (*Forum citoyen pour la justice économique*, FCJE), "European Duty of Vigilance: Key recommendations on the so-called 'Omnibus I' directive proposed by the European Commission", April 2025. For the garment and footwear sectors, see: Clean Clothes Campaign Position Paper, Omnibus Proposal: Re-centering workers and human rights in the EU Corporate Sustainability Due Diligence and Reporting Directives, 24 April 2025.

[31]. See, for example, the statement from organisations bringing together over 6,000 member companies and affiliates: Amfori, Cascale, Ethical Trade Norway, ETI Sweden, Fair Labor Association, Fair Wear, the Social & Labor Convergence Program (SLCP), "Sustainability initiatives urge EU policymakers to consider adapting the Omnibus proposal for better risk management and worker and environmental protection," 17 March 2025.

[32]. Recital 21 of the preamble of the Omnibus I Directive.

[33]. See Article 8 (2) a) of the CSDDD.

[34]. In addition to the in-depth assessment required for the adverse impacts of their own operations and those of their subsidiaries.

[35]. Céline da Graça Pires and Daniel Schönfelder, "Mandatory human rights and environmental due diligence in practice: key insights from France and Germany," Revista Española de Empresas y Derechos Humanos, No. 4, January 2025. This has led many companies subject to the German law to issue general, sometimes very detailed, non-risk-based information requests to their (direct) suppliers, increasing the burden on suppliers and promoting a "box-ticking" exercise that brings little actual contribution to the prevention of violations. The German supervisory authority (BAFA) has recently stated that suppliers receiving such requests can report them: BAFA, "FAQ on the risk-based approach," April 2025.

smallholders [36], even though the "Omnibus I" proposal aims to mitigate unintended regulatory consequences for them (trickle-down effect).

13. By favouring, reactive risk management (dependent on the existence of "plausible information") rather than a preventive risk management for adverse impacts beyond Tier 1, such a limitation, as the European Commission itself admits, significantly reduces the benefits of the CSDDD on value chain resilience and "*competitive advantages from better value chain engagement*" [37]. By departing from the best practices of companies that currently exercise due diligence beyond Tier 1 in accordance with international standards [38], the European Commission's approach may encourage backsliding. It would also penalise the most advanced companies in terms of due diligence, insofar as that they already have the tools to detect "plausible information" requiring an in-depth assessment beyond their direct business partners. This contrasts with the stated aim of defending the competitiveness of European companies while preserving sustainability objectives, and sets a negative precedent outside Europe [39]. On the contrary, companies might be encouraged to limit their risk analysis in value chains, so as not to be in possession of "plausible information" which would require them to implement appropriate measures to prevent and eliminate these risks. This would reduce their ability to anticipate risks and would lead to responses that are too late, i.e once the risks have materialised. The preventive nature of the due diligence duty would thus be jeopardised and the companies' reputational and legal risks heightened.

14. The European Commission's approach of only imposing an in-depth assessment of adverse impacts at the level of indirect business partners when "*a company has plausible information*" also leads to legal uncertainty. This introduces a vague notion, without clarifying how to determine what constitutes such "plausible information" or when a company is deemed to possess it [40]. This introduces prejudicial uncertainty for both companies and rights holders, which could potentially delay proceedings brought before national supervisory authorities or courts.

15. Moreover, if this wording is retained, the burden of revealing this "plausible information" will likely may fall on third parties, particularly those excluded from the European Commission's proposed new definition of stakeholders, namely civil society organisations and national human rights and environmental institutions. According to the Office of the United Nations High Commissioner for Human Rights [41], this could create a fundamentally inequitable situation to the detriment of individuals living and working in regions where civil society and trade union organisations cannot operate independently or access sufficient resources. These individuals will then be less well protected from

[36]. For an analysis illustrating how restricting due diligence to direct business partners harms smallholders farmers, see: Joint position paper by 41 civil society organizations, "How the Omnibus package prevents the Corporate Sustainability Due Diligence Directive from supporting global supply chain resilience", April 2025.

[37]. Commission Staff Working Document, SWD(2025) 80 final, *op. cit.*, p. 35.

[38]. See the Statement by the UN Working Group referred to above. Likewise, the French Duty of Vigilance Law covers both direct and indirect business partners: it includes the company's own activities, but also those of companies it directly or indirectly controls, as well as those of its subcontractors or suppliers, provided that it has an "established business relationship" with them and that the activities in question relate to that relationship (Article L. 225-102-1 I, paragraph 3 of the French Commercial Code).

[39]. See also: Office of the United Nations High Commissioner for Human Rights (OHCHR), "OHCHR Commentary on the Omnibus Proposal. EU proposal risks backsliding on historic Corporate Sustainability Directive," May 2025.

[40]. The compromise text proposed by the Polish Presidency of the EU Council on 16 April 2025 provides a definition of the notion of plausible information and examples of relevant sources, and crucially, specifies that in-depth assessment beyond direct business partners would be required not only when such information is available but also where it "*can be reasonably expected to know of*" it. These clarifications and changes to place the burden of monitoring these sources of information also on the companies themselves do not, however, neither truly simplify the process nor resolve the contradiction with the risk-based approach promoted by international standards.

[41]. OHCHR, "EU proposal risks backsliding on historic Corporate Sustainability Directive", May 2025, *op. cit*.

the harm caused by companies' activities than those who live and work in regions where such support exists.

Recommendation No. 1: The CNCDH recommends ensuring that the CSDDD remains aligned with international standards by maintaining a risk-based approach to due diligence throughout the entire value chain.

16. The changes proposed by the European Commission to Article 8 of the CSDDD are all the more concerning as they do not align with international standards, yet they are included in the extended maximum harmonisation clause. This would require Member States to adopt the limited approach to direct business partners (except where there is "plausible information"), which goes against the risk-based due diligence approach of the aforementioned standards and adopted by the French Duty of Vigilance Law [42].

17. The inclusion of other provisions in the maximum harmonisation clause proposed by the European Commission is also problematic. This is the case for those relating to the appropriate measures that companies must adopt to prevent or mitigate potential adverse impacts and to put an end to actual adverse impacts [43]. The same applies to provisions relating to the information that companies may request from their business partners in order to fulfil their due diligence duty. The CNCDH has already spoken out against maximum harmonisation clauses [44], as these restrict the freedom of States and prevent them from adopting more protective provisions, for example when transposing directives. With regard to human rights and the environment, European directives should only set minimum harmonisation requirements.

Recommendation No. 2: The CNCDH recommends refraining from extending the CSDDD's maximum harmonisation clause and opposing any provision further restricting Member States' ability to adopt protective provisions when transposing the directive.

18. The CNCDH also notes that one of the requests made by France to the European Commission in the context of Omnibus I was to give priority to due diligence applied at group level [45]. The CSDDD includes a specific provision (Article 6) allowing due diligence obligations to be fulfilled at group level (i.e., parent companies may carry out the obligations imposed by the CSDDD on behalf of their subsidiaries), which is welcomed. However, France would also like the CSDDD to be amended so that a subsidiary falling within its scope, whose parent company exercises due diligence obligations on its behalf, is not be subject to oversight by the designated authority and could not incur civil liability under Article 29 [46]. This position echoes the presumption of compliance with the obligations set out in the French Duty of Vigilance Law for group entities subject to it [47]. The CNCDH reiterates that this presumption is regrettable, as it places the difficult burden of proof of non-compliance on the victims, and that it should be an option rather than an obligation [48]. The CNCDH notes that the European Commission did not endorse this proposal [49].

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[42]. Law No. 2017-399 of 27 March 2017 *on the duty of vigilance of parent companies and instructing undertakings*, OJFR No. 0074 of 28 March 2017, Text No. 1.

[43]. This is particularly the case for Articles 10(2) and (3), and 11 (3) and (4).

[44]. CNCDH, *Business and Human Rights* report, *op. cit*., Recommendation No. 72.10.

[45]. French authorities' Note of 20 January 2025.

[46]. Hearing of representatives of the Ministry for the Economy, Finance, and Industrial and Digital Sovereignty (MINEFI), 28 April 2025, before the CNCDH.

[47]. Article L. 225-102-1 I, paragraph 2 of the French Commercial Code.

[48]. CNCDH, *Business and Human Rights* report, 2023, *op. cit*., p. 246.

[49] . The European Commission proposes that Article 6 of the CSDDD be included under the maximum harmonisation clause.

1.2. Preserve collaborative, targeted, and inclusive information exchange to ensure effective due diligence

19. The "Omnibus I" proposal would, on the one hand, restrict the definition of stakeholders and the stages of the due diligence process during which companies are required to consult them, and, on the other hand, introduce a criterion to limit the information companies can request from some of their partners. Consequently, it would reduce the ability of in-scope companies to access information and partners essential for carrying out effective due diligence.

20. The European Commission's proposed restrictions on the definition of stakeholders and the steps in the due diligence process at which they must be consulted would deprive companies of legitimate interlocutors and valuable resources to help them identify risks, as well as design and implement appropriate due diligence measures, with the risk of making the latter less effective.

21. The express inclusion of national human rights and environmental institutions, as well as civil society organisations (and consumers) [50], would be removed. Yet these actors play a key role in due diligence processes, notably by providing information, facilitating engagement with local stakeholders [51], and amplifying the voices of individuals and communities who are directly affected [52]—especially when those concerned cannot speak out for themselves due to fear of reprisals or because of their vulnerability. National human rights institutions (NHRIs) in Europe and Africa [53] have drawn attention to the removal of NHRIs as stakeholders. As independent institutions responsible for monitoring respect for human rights within their jurisdictions, NHRIs are especially well placed to advise both States and companies on implementing the CSDDD and aligning it with related regulations.

22. Furthermore, the European Commission intends to "enhance proportionality" of the CSDDD and "*reduce administrative burden on companies*" [54] by limiting the steps of the due diligence process at which companies are required to engage with stakeholders, specifying that consultation should only involve "relevant stakeholders" [55]. The European Commission also proposes removing the obligation to consult stakeholders when deciding to disengage from a business relationship and when developing monitoring indicators for assessing the implementation of due diligence measures. Yet, meaningful and safe stakeholder engagement is essential for exercising due diligence in accordance with the UNGPs, as well as being consistent with a human rights-based approach, while also reducing the risk of future litigation. Moreover, the steps targeted by this removal relate to measures for which stakeholder input is crucial to ensuring their substantive nature, beyond a mere compliance-based

[50]. This would leave only employees, trade unions and workers' representatives, individuals or communities whose rights or interests are or could be directly affected (by the products, services, and operations of the company, its subsidiaries and its business partners), plus their legitimate representatives.

[51] . For useful examples, see the practical guide published by the French network of the Global Compact, Companies – affected communities: adopting a human rights-based approach for constructive engagement and effective impact management, March 2025.

[52]. Beyond the more restrictive role they can play as "legitimate representatives" of the directly affected individuals and communities, a category introduced by the European Commission's proposal, which raises the complex and variable geometry question of whether representation is legitimate or not.

[53] . ENNHRI, "ENNHRI raises important concerns over the European Commission's Omnibus I proposal", March 2025; Statement by the African Network of National Human Rights Institutions (NANHRI), "NANHRI Secretariat submission on the European Commission's Omnibus proposal," 31 March 2025.

[54]. Recital 24 of the preamble to the proposal for an Omnibus I directive.

[55]. The English phrasing used by the European Commission is problematic, since the term "relevant stakeholders" is neither defined by the Omnibus I proposal nor used in relevant international standards (see the aforementioned UN Working Group Statement). In French, the term used is "*parties prenantes concernées*" (concerned stakeholders), while "*parties prenantes pertinentes*" seems to be a more accurate translation (of "relevant stakeholders").

approach [56]. This removal would be all the more regrettable given that the "Omnibus I proposal" would also amend provisions related to responsible disengagement, which could have harmful consequences for (potentially) affected individuals and communities, and the environment, if misinterpreted [57]. The European Commission also proposes removing the obligation under the CSDDD to terminate business relationships as a last resort. Yet, this obligation only applies "*if there is no reasonable expectation that those efforts would succeed, or if the implementation of the enhanced action plan* [of preventive or corrective measures] *has failed to prevent or mitigate the adverse impact*", and only in the case of severe impacts [58]. What would remain is merely the obligation to refrain from extending or entering into new relations with the business partner in question and, as a last resort, to suspend the business relationship. However, while the termination of a business relationship should only be considered as a last resort, the OECD reminds us that "*a real possibility of disengagement is necessary in many instances for an enterprise's leverage to be effective* [59]". It is important to be able to continue to rely on the deterrent effect of the regulated obligation to terminate business relationships. Its deletion would deprive companies and stakeholders of a means of changing behaviour and could perpetuate significant adverse impacts. Conversely, the lack of a definition of "suspension", combined with the removal of the qualifier "temporary", could lead to the *de facto* termination of business relationships and disengagement practices that are harmful to affected individuals and communities (particularly the workers of the relevant business partner) [60]. Stakeholder engagement is also essential to ensuring disengagement—whether through suspension or termination—is responsible and inclusive, in line with the UNGPs and the OECD Guidelines.

Recommendation No. 3: The CNCDH recommends maintaining a broad definition of stakeholders, that includes, in particular, an explicit reference to civil society organisations and national human rights and environmental institutions.

Recommendation No. 4: The CNCDH recommends ensuring that stakeholder consultation is required at all steps of the due diligence process, in accordance with international standards in this area.

23. While it is understandable to want to restrict information requests made to (direct) business partners with fewer than 500 employees, given their limited resources, the "Omnibus I proposal" also seeks to limit such requests to information provided in accordance with a standard developed for sustainability reporting: the Voluntary Sustainability Reporting Standard for non-listed SMEs (VSME). However, this standard reduces social issues to a few parameters and focuses primarily on information related to the company's own operations [61]. This proposal, commonly referred to as the "VSME shield", would hinder the exchange of vital information between companies and their business partners regarding the adverse human rights impacts on workers throughout the value chain, as well as on

[56]. See the above-mentioned NANHRI Statement, which warns that the combined effect of curtailing the due diligence value chain scope to Tier 1 and narrowing the definition of stakeholder to those "directly impacted" would severely limit stakeholder engagement, making the due diligence process less effective.
[57]. Commenting on the CSDDD's proposal, the CNCDH recommended that consultation with affected individuals be explicitly required before deciding to suspend or terminate a business relationship, as such a decision can itself have adverse impacts (CNCDH, *Declaration for an ambitious EU Directive on corporate responsibility to respect human rights and the environment in global value chains*, Plenary Assembly of 24 March 2022, OJFR No. 0079 of 3 April 2022, Text No. 71, §19).
[58]. Articles 10(6) b) and 11(7) b) of the CSDDD. The European Commission also proposes, notably, to add that as long as there is a reasonable expectation that the enhanced prevention action plan will succeed, the mere fact of continuing to engage with the business partner shall not trigger the company's liability.
[59]. OECD Due Diligence Guidance for Responsible Business Conduct, 2018, p. 80.
[60]. For an example involving smallholders in the agricultural sector, see: Joint position paper by 41 civil society organizations, "How the Omnibus package prevents the Corporate Sustainability Due Diligence Directive from supporting global supply chain resilience", April 2025.
[61]. See also the aforementioned ENNHRI Statement.

communities and end users/consumers [62]. The "Omnibus I proposal" provides for a derogation – "*where additional information is necessary*" [63] and "*cannot reasonably be obtained by other means*". However, this is both insufficient and complex to implement. Together with the limitation of due diligence to direct business partners (except in cases of "plausible information"), this "VSME shield" [64] risks creating significant blind spots, especially with regard to the most severe adverse impacts on human rights and the environment. By moving away from the pragmatic, proactive and collaborative risk-based approach promoted by international standards and the CSDDD – and by focusing instead on contractual assurances (contractual cascading) – the "Omnibus I proposal" risks increasing burden and complexity for suppliers, especially SMEs, by encouraging in-scope companies to shift their obligations onto them [65].

24. Moreover, it is essential that due diligence measures adopted in accordance with the CSDDD be regularly assessed to ensure they remain appropriate and effective at preventing or bringing adverse impacts to an end. However, reducing the minimum monitoring frequency from once a year to once every five years, as proposed by the European Commission, contradicts the continuous nature of due diligence obligations under international standards [66]. It also fails to reflect the operational needs of companies [67]. The directive would still require these assessments to be carried out "*without undue delay after a significant change occurs*" and "*whenever there are reasonable grounds to believe that the measures taken are no longer adequate or effective*". However, changing the monitoring frequency sends a contradictory signal, which not only risks limiting the ability of due diligence processes to adapt to changing circumstances and address adverse impacts in a timely manner, but also exposes companies to greater risk of sanctions for non-compliance.

1.3. Support the review clause on financial services

25. The CNCDH questions the proposed deletion of the review clause on financial services provided for in Article 36(1) of the CSDDD. France, which is defending its removal, argues that it wishes "*to prevent the eventual creation of specific obligations for these regulated financial undertakings, given*

[62]. According to the aforementioned SOMO analysis of data from 6,758 suppliers to seven major European supermarket chains, this "VSME shield" would prevent companies from obtaining the necessary information to properly carry out due diligence for around 90 % of their suppliers (those with fewer than 500 employees): SOMO, "Save your tiers for another day," 22 April 2025.

[63]. To highlight likely adverse impacts or because the standards do not cover relevant impacts (Article 4(4) b) of the "Omnibus I Proposal").

[64]. The latter is also included in the extended maximum harmonisation clause proposed by the European Commission, which raises the same concerns regarding the freedom of Member States to go beyond.

[65]. Although according to recital 66 of the CSDDD's preamble, "*the mere use of contractual assurances cannot, on its own, satisfy the due diligence standards provided for in this Directive*".

[66]. "*Because human rights situations are dynamic*", the monitoring of the implementation and effectiveness of due diligence practices should be conducted "*at regular intervals*" (see the commentary on Guiding Principle No. 18 of the UNGPs as well as the OECD Due Diligence Guidance, p. 26). In its aforementioned Statement of 20 March 2025, the UN Working Group on Business and Human Rights (UNWGBHR) thus considers that assessing due diligence efforts only once every five years is contrary to the Guiding Principles. Similarly, French law requires "*procedures to regularly assess the situation* (…) *in view of the risk mapping*" and "*a system to monitor the measures implemented and assess their effectiveness*" (Article L. 225-102-1 paragraph 6 2° and 5 of the French Commercial Code).

[67]. See the above-mentioned Statement by Amfori & co, "Sustainability initiatives urge EU policymakers to consider adapting the Omnibus proposal for better risk management and worker and environmental protection", 17 March 2025, which states that effective due diligence and risk management are a continuous process and cannot be achieved by monitoring only certain suppliers once every five years.

that they should be treated by this directive in the same way as undertakings in other sectors" [68]. However, unlike other companies, the CSDDD excludes the vast majority of financial actors' activities from the scope of the due diligence obligations, targeting only the upstream part of their chains of activities, and not the downstream part. They thus benefit from a form of "exemption," which is not the case under French law or international standards on the matter. The review clause, on the contrary, provides the opportunity to put an end to this sectoral exemption, thereby strengthening coherence with EU instruments promoting sustainable investment and alignment with the UN Guiding Principles and the OECD Guidelines [69]. As key actors for steering financial flows towards companies and/or activities that are least harmful to human rights and the environment, and for driving change in corporate practices, financial actors should be fully included within the scope of the CSDDD [70]. The review clause, which was the result of a compromise during negotiations, merely requires the European Commission to submit a report on the potential need for "additional requirements" in this area, without prejudging what the co-legislators will decide. Its removal would send a very negative signal regarding the role and responsibilities of financial actors, at a time when the EU and its Member States are undertaking "*significant collective investment efforts*" to strengthen the competitiveness of European companies and "*Europe's sovereignty in strategic sectors*" [71].

Recommendation No. 5: The CNCDH recommends keeping the review clause on financial services, which sets a timeline for reconsidering the inclusion of downstream value chain activities of financial actors within the due diligence obligation – a tool essential for preventing human rights and environmental violations.

1.4. Maintain the obligation to adopt and implement a transition plan for climate change mitigation

26. In order to combat climate change, the CSDDD also requires Member States to ensure that companies falling within its scope adopt and put into effect a transition plan for climate change mitigation (Article 22). The aim is to ensure the compatibility of their business models and strategy with the transition to a sustainable economy and the limitation of global warming to 1.5°C, in line with the Paris Agreement and the climate neutrality goal set by Regulation (EU) 2021/1119. While the due diligence duty set out in the CSDDD covers both human rights and the environment, climate change mitigation measures are subject to a specific treatment and, being excluded from the liability regime under Article 29 of the CSDDD, fall solely under the supervision of national supervisory authorities [72].

27. The European Commission proposes to amend the CSDDD by removing the obligation to implement ("put into effect") this transition plan, retaining only the requirement to adopt it, while specifying that it must include "*implementation actions*". This change would call into question the commitment of EU legislators for the climate transition plans adopted by companies to be effectively implemented *"through best efforts"*. The CSDDD already makes it clear that this is not about imposing an obligation of result on companies (a standard not even required of States themselves), but rather

[68]. See the Note from the French authorities dated 20 January 2025 (free translation). For a summary of France's contradictory positions regarding the financial sector in the CSDDD negotiations, see: CNCDH, *Business and Human Rights* report, *op. cit*., p. 185.

[69]. See for example the resources available at www.ohchr.org/en/special-procedures/wg-business/financial-sector-and-human-rights and https://mneguidelines.oecd.org/rbc-financial-sector.htm.

[70]. CNCDH, *Declaration for an ambitious EU Directive* (...), 24 March 2022, *op. cit*., §8.

[71]. EU Strategic Agenda for 2024–2029.

[72]. In its statement on the European Commission's CSDDD proposal, the CNCDH expressed regret that climate-related adverse impacts were not directly included in the corporate due diligence obligations and recommended strengthening the consequences of non-compliance by companies (CNCDH, *Declaration for an ambitious EU Directive* (...), 24 March 2022, *op. cit*., §13).

an obligation of means, requiring companies to make all reasonable efforts for the effective implementation of the climate transition plan. The objective – and added value – of the CSDDD is to ensure that this is an obligation to act ("*obligation de comportement*") rather than a mere obligation to say ("*obligation de dire*"). However, the amendment proposed by the European Commission could lead to companies merely including implementation actions in their transition plans and communicating about them, without any guarantee of internal or external oversight over their actual implementation—thereby encouraging greenwashing practices [73]. There is therefore a risk that a genuine commitment to achieving climate neutrality, which requires joint efforts from States and companies, will be replaced by a declarative compliance approach, at a time when the climate crisis represents an existential challenge.

28. There is room for improvement in the coherent articulation of different European regulations concerning transition plans for climate change mitigation. However, the CNCDH recalls that companies that report a transition plan for climate change mitigation under the CSRD are exempt from presenting such a plan under the CSDDD [74]. The CNCDH also notes that French legislator has just introduced an exemption from publishing a greenhouse gas emissions report and a transition plan under Article L.229-25 of the French Environmental Code for companies that do so under provisions transposing the CSRD [75]. The guidelines that the European Commission must publish no later than 26 July 2027 should also include practical guidance on the transition plan referred to in Article 22 of the CSDDD and its interaction with similar obligations under EU law.

Recommendation No. 6: The CNCDH recommends maintaining the obligation to adopt and put into effect a transition plan for climate change mitigation under the CSDDD, in order to ensure that the implementation of this obligation of means is monitored.

2. Ensure the existence of robust enforcement mechanisms and access to remedy

29. As the CNCDH emphasised when the CSDDD proposal was published, monitoring and control mechanisms are crucial to help ensure the effective implementation of the obligations imposed [76]. The CSDDD is based on two pillars: administrative supervision by national authorities and judicial control through civil liability. It also requires in-scope companies to establish a notification mechanism and a complaints procedure. Natural or legal persons alleging adverse impacts from corporate activities can thus rely on three mechanisms to effect change in the behaviour of companies in order to prevent potential adverse impacts or bring to an end actual ones, and, where appropriate, seek remediation. They may submit complaints to the companies themselves, communicate "substantiated concerns" to the national supervisory authorities, and/or bring a case before national courts under certain conditions to hold a company liable for causing them damage. The CNCDH welcomes the existence of these mechanisms, which are essential for access to remedies and remediation if prevention fails. The CSDDD also includes provisions [77] aimed at removing some of the barriers victims face in accessing

[73]. See, in the same vein, the April 2025 Statement by the FCJE mentioned above.
[74]. See Article 22(2) of the CSDDD.
[75]. "[S]*ubject to this report including descriptions specific to the activities carried out on national territory*": Law No. 2025-391 of 30 April 2025 ("DDADUE Law"), *op. cit*., Article 10, which amends Article L. 229-25 of the French Environmental Code introduced by the so-called "Grenelle 2" Law of 2010.
[76]. CNCDH, *Declaration for an ambitious EU Directive (...)*, 24 March 2022, *op. cit*., §25. It emphasised the need for an architecture based on supervision by national administrative authorities to be complementary to judicial review.
[77]. These notably relate to costs of proceedings, limitation periods, disclosure of evidence, or representative actions.

justice [78]. While the CSDDD has shortcomings, it can play a significant role in addressing the gaps observed in the implementation of the third pillar of the UNGPs and in combating corporate impunity.

30. However, several of these provisions are targeted by the European Commission's "Omnibus I proposal". Their amendment or deletion would constitute a significant setback, both for the harmonisation of administrative and judicial control measures and for the improvement of access to remedy. This is especially true of the proposal to remove the European civil liability regime, given the numerous examples, notably since the Rana Plaza disaster, that highlight the urgent need for robust accountability mechanisms for private actors.

2.1. Preserve a deterrent regime of financial penalties

31. The European Commission proposes several amendments to the regime of financial penalties, the imposition of which is among the powers granted to national supervisory authorities. The Commission rightly notes that the wording of Article 27 (4), which states that "*the maximum limit of pecuniary penalties shall be no less 5% of the net worldwide turnover of the company in the financial year preceding that of the decision to impose the fine*", has caused some confusion. This provision is sometimes misunderstood as setting a minimum amount for fines (implying that national authorities could not impose fines below this level). In reality, it states that if Member States choose to set a maximum amount (a ceiling) – which the adopted version of the CSDDD does not require – then this amount must not be less than 5 % of worldwide turnover. The aim is to avoid undermining the CSDDD's effectiveness by setting a maximum amount that would not be a sufficient deterrent.

32. The European Commission has opted for a different approach, proposing to delete this provision and replace it with a prohibition for Member States to set a maximum limit of pecuniary penalties "*that would prevent supervisory authorities from imposing penalties in accordance with the principles and factors set out in paragraphs 1 and 2*" [79]. However, it does not set any percentage or amount, leaving this to the discretion of Member States. Oddly, the European Commission also proposes removing the obligation to base pecuniary penalties on the company's net worldwide turnover, even though this is a useful criterion for guiding decision-making and helping to ensure that the amount is both dissuasive and proportionate to the company's global financial resources. The "Omnibus I proposal" nonetheless provides that the European Commission, in cooperation with Member States, shall issue guidance to assist supervisory authorities in determining the level of penalties. This clarification is welcome, as it strengthens the harmonisation of national authorities' practices, promoting conditions of fair treatment across the EU (both between companies but also between rights holders). However, it remains insufficient and represents a clear shift away from the 2024 CSDDD.

Recommendation No. 7: The CNCDH recommends ensuring that the scope of powers granted to national supervisory authorities under the CSDDD is preserved, so that they are effectively able to monitor and enforce its implementation.

[78]. See, in this regard, the study by the EU Agency for Fundamental Rights (FRA): FRA, *Business and Human Rights – Access to Remedy*, October 2020 or the OHCHR project on accountability and remedy.

[79]. Article 4(11) of the "Omnibus I Directive Proposal". Paragraphs 1 and 2 of Article 27 of Directive 2024/1760 include the requirement, common in EU law, that penalties be "*effective, proportionate and dissuasive*" and set out criteria national supervisory authorities must consider when determining the nature and appropriate level of penalties (including the severity of the infringement or the existence of aggravating or mitigating circumstances).

Recommendation No. 8: The CNCDH recommends ensuring that, if changes are made to the regime of financial penalties that national supervisory authorities can impose in the event of an infringement of the provisions of the CSDDD, their effective deterrent effect is guaranteed.

2.2. Preserve a harmonised civil liability regime

33. The "Omnibus I proposal" considers deleting Article 29(1) of the CSDDD, which establishes a partially harmonised Europe-wide regime for the civil liability of companies within its scope for damage arising due to the failure to comply with their due diligence obligations. Deleting this article would seriously undermine the CSDDD's objective of ensuring that victims of adverse impacts resulting from non-compliance with due diligence obligations have effective access to justice and compensation [80]. Yet, closing the implementation gaps of Pillar 3 of the UNGPs is an urgent priority [81].

34. The "Omnibus I proposal" retains Article 29(2), concerning the "*right to full compensation*" for persons who have suffered a damage caused as a result of the company's failure to comply with the obligations under the CSDDD – but only if the company is held liable pursuant to national law. Such a modification would strip the CSDDD of its added value [82]. Indeed, the value of Article 29(1) is twofold: on the one hand, it expressly imposes the principle of legal (civil) liability for breaches of due diligence obligations, and, on the other, it establishes a partially harmonised set of conditions for triggering such liability. Removing Article 29(1) would increase the risk of Single Market fragmentation, an issue the CSDDD specifically aims to address [83]. This would be detrimental to victims, who would face inconsistent access to justice and legal remedies. It would also harm businesses [84], who would remain exposed to litigation risks [85] but would be treated differently depending on the legislation of the Member States whose courts would have jurisdiction. Moreover, the ambiguity arising from removing Article 29(1) while maintaining Article 29(2) would create legal uncertainty.

35. The CNCDH welcomes France's support for the harmonised civil liability regime set out in the CSDDD [86] and encourages it to continue mobilising other Member States along these lines. The harmonisation elements introduced by the CSDDD are necessary so that the question of whether or not a company can be held liable for breaching its due diligence obligations, and under what conditions, do not depend solely on the legislation of Member States. They enhance legal certainty for

[80]. See recitals 16 and 79 of the CSDDD's preamble.
[81]. UNWGBHR, Doubling the ambition – accelerating the pace. A roadmap for the next decade of business and human rights, 2021, goal 4.
[82]. The right to compensation, as well as access to remedy, is enshrined in positive law. And while the principle of legal liability for breaches of obligations imposed by the CSDDD would remain, there would be no (explicit) obligation in this respect, and its materialization would depend solely on national laws of the Member States.
[83]. This risk arises from both the proliferation of national due diligence laws, which diverge particularly in terms of enforcement mechanisms and extent of liability; and the general civil liability regimes of Member States. Without harmonised conditions set by the CSDDD, this risk could be exacerbated further upon transposition.
[84]. See, for instance, the above-mentioned Statement by business organisations stating that the "Omnibus I proposal" risks creating a fragmented litigation landscape and calling for the CSDDD's harmonised enforcement mechanisms to remain intact, keeping the level playing field and ensuring legal clarity: Amfori & co, "Sustainability initiatives urge EU policymakers to consider adapting the Omnibus proposal for better risk management and worker and environmental protection", 17 March 2025.
[85]. The European Commission, even while recalling that "*the core objective of the Directive* [is] *to ensure the protection of victims against human rights violations and environmental harm resulting from* business operations" justifies its proposal to delete Article 29(1) by its wish "*to limit possible litigation risks linked to the harmonised civil liability regime of* [the] *Directive*" (explanatory memorandum and Recital 28 of the Omnibus I Directive's preamble).
[86]. Hearing of representatives of the Ministry of the Economy, Finance, and Industrial and Digital Sovereignty (MINEFI) on 28 April 2025.

both rights-holders and companies, improve access to justice [87], and are essential to the very effectiveness of the CSDDD.

Recommendation No. 9: The CNCDH recommends maintaining the provisions of the CSDDD which explicitly require Member States to provide in their national laws that a failure to meet obligations under the CSDDD engages the civil liability of the defaulting company, and to set the conditions under which such liability is incurred.

36. Under the "Omnibus I proposal," Article 29(7) of the CSDDD would also be deleted. Yet, this is the only private international law provision that – although imperfectly drafted – ensures that the CSDDD's civil liability rules apply even when the law governing compensation claims is not that of a Member State. As the CNCDH has previously pointed out, this provision is essential to facilitating access to justice [88] and to ensuring the CSDDD's effectiveness. Without it, conflicts of laws would be settled by EU or Member States' private international law rules. As these rules currently stand, civil liability claims against companies for alleged human rights violations committed in third countries would likely [89] be governed by the law of the country in which the damage occurred. But it is far from certain that the laws of a third countries provide for the possibility of holding a parent company liable for acts committed by its subsidiaries or subcontractors, although more and more legislation of this kind is being developed. As a result, national provisions transposing Article 29 would not apply, despite the fact that the CSDDD is meant to apply to third-country companies operating in the Single Market and to the global value chains of EU companies (if they reach the thresholds set out in Article 2).

Recommendation No. 10: The CNCDH recommends keeping Article 29(7), which enables the CSDDD's provisions to be applied in cases where companies are taken to court for failing to fulfil their obligations, in order to seek compensation for damages that occurred abroad.

37. The ability of rights-holders to collectively defend their rights in response to corporate violations, through representative and class actions, helps strengthen access to remedies and redress [90]. Nevertheless, the European Commission proposes removing the CSDDD provision on representative actions [91], which can be brought by various organisations [92], even though its circumscribed and non-binding wording already leaves ample room for manoeuvre for Member States [93]. The European Commission cites differences in national legislations as a reason for removing the provision, whereas those differences should justify preserving it. This amendment to the CSDDD would be all the more regrettable given that, although this provision does not truly harmonised representative actions that can be brought in this area, it highlights a means available to Member States to improve access to justice and address power imbalances. The CSDDD would therefore forgo a useful provision for

87. Notably by expressly providing that a breach of due diligence obligations constitutes a fault that can give rise to civil liability, or by helping lift the "corporate veil" that prevents holding a parent company liable for acts committed by its subsidiaries.
88. CNCDH, *Declaration for an ambitious EU Directive* (...), 24 March 2022, *op. cit*., §30.
89. With the exception of certain cases, such as when there has been an environmental damage.
90. CNCDH, *Business and Human Rights* report, 2023*, op. cit*., pp. 357 et seq.
91. In reference to the terminology used in Directive (EU) 2020/1828 of 25 November 2020 on representative actions for the protection of the collective interests of consumers.
92. See Article 29(3) d) of the CSDDD, which refers to trade unions, human rights or environmental NGOs, and NHRIs.
93. According to Article 29(3) d) of the CSDDD, Member States must ensure that "*reasonable conditions are provided for*" to authorise a trade union, NGO, and, "*in accordance with national law*", NHRIs, to bring actions to enforce the rights of the allegedly injured party. However, this provision applies "*without prejudice to national rules of civil procedure*".

overcoming barriers to access to justice, that can result from the victims' remoteness, lack of resources or expertise, and so on.

38. The CNCDH encourages France, which has recently unified and strengthened the national legal regime for class action (with the exception of the field of public health) [94] – which is welcome – to defend the retention of this provision. France should also help ensure that all the other CSDDD provisions aimed at removing barriers to access to remedy are preserved, including those not covered by the "Omnibus I proposal" [95], to help "*make access to remedy a reality*" [96].

Recommendation No. 11: The CNCDH recommends maintaining the CSDDD provision on representative actions.

39. The CNCDH calls on France and the EU co-legislators to take into account the recommendations outlined in this opinion, which echo those of numerous stakeholders. It is crucial to ensure that the content of the CSDDD, whose adoption was a historic and globally acclaimed achievement, enables it to preserve its ability to prevent human rights violations and environmental harm in value chains and to guarantee access to remedy.

40. Europe is at a turning point. It has the opportunity to defend its sustainability regulations, which are an undeniable strategic asset for the long-term competitiveness of European businesses and the resilience of their value chains; for combating human rights violations and environmental damage; and for the necessary consideration of planetary boundaries. These regulations can be simplified to ensure effective implementation and clarity of obligations, by improving their interrelationship and through accompanying measures, particularly clear guidance and guidelines. Alignment with the UN Guiding Principles on Business and Human Rights [97] and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct [98] must be ensured, both to uphold normative coherence and to prevent backsliding [99]. Any rollback by the EU would not only affect Europe but also damage its credibility globally, weaken ongoing international negotiations [100], and potentially discourage other countries from adopting similar regulations.

41. The CNCDH therefore calls on France and the EU co-legislators to resist deregulation made at the expense of the protection of human rights and the environment. It encourages them to refrain from advocating "simplifications" that would erode European values and undermine legal predictability and certainty. Far from sending a "positive signal to businesses", the simplification agendas put forward by

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[94]. See the aforementioned "DDADUE Law" of 30 April 2025.

[95]. Such is the case, for example, with provisions on limitation periods, cost of proceedings, the possibility of seeking injunctive measures, or the ordering of disclosure of evidence.

[96]. CNCDH, *Business and Human Rights* report, 2023, *op. cit.*, pp. 356 et seq.

[97]. The "*fundamental ambition*" of the UNGPs to fix the imbalance between States, people and markets, and to "*bridg*[e] *the gaps between economic forces and respect for individuals, particularly those most at risk*", by placing respect for human dignity and protection of the planet at the heart of priorities, is more necessary than ever (Human Rights Council, *Guiding Principles on Business and Human Rights at 10: taking stock of the first decade*, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, 22 April 2021, A/HRC/47/39, §5 and §6).

[98]. Their 2023 amendments precisely aim to respond to the "*urgent social, environmental, and technological priorities facing societies and businesses*" (OECD, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, 2023, p. 3).

[99]. The CNCDH has warned of the risk of a "race to the bottom" in its above-mentioned Report on *Business and Human Rights* (pp. 17 and 394) or in its *Declaration for an ambitious EU Directive* (...), 24 March 2022, *op. cit*.

[100]. For example, those conducted by the intergovernmental working group to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

the European Commission and France will reward the least virtuous and/or most lagging companies, at the expense of those that have already invested considerable resources to comply with their obligations and are committed to this cause. These agendas also betray legitimate expectations for harmonised regulation of increasingly global corporate activities, for the benefit of human rights and environmental protection.

42. The CNCDH recalls France's particular responsibility in the matter as it contributed to shaping the European model of responsible business conduct, notably through its historical support for transparency regarding companies' social and environmental impacts as well as for human rights and environmental due diligence. Respect for human rights and environmental protection should be the main compass guiding the negotiations. There is an urgent need to act in the public interest, within a transparent and inclusive process, and to reaffirm the ambition of a united Europe working towards a fair and sustainable global economy. The CNCDH calls on France, whose position will be decisive both for its position within Europe and for "*the French vision of what Europe should be*" [101], to place this ambition at the heart of its priorities in the context of Omnibus I and similar ongoing or upcoming processes.

CNCDH Recommendations

Recommendation No. 1: The CNCDH recommends ensuring that the CSDDD remains aligned with international standards by maintaining a risk-based approach to due diligence throughout the entire value chain.

Recommendation No. 2: The CNCDH recommends refraining from extending the CSDDD's maximum harmonisation clause and opposing any provision further restricting Member States' ability to adopt protective provisions when transposing the directive.

Recommendation No. 3: The CNCDH recommends maintaining a broad definition of stakeholders, that includes, in particular, an explicit reference to civil society organisations and national human rights and environmental institutions.

Recommendation No. 4: The CNCDH recommends ensuring that stakeholder consultation is required at all steps of the due diligence process, in accordance with international standards in this area.

Recommendation No. 5: The CNCDH recommends keeping the review clause on financial services, which sets a timeline for reconsidering the inclusion of downstream value chain activities of financial actors within the due diligence obligation – a tool essential for preventing human rights and environmental violations.

Recommendation No. 6: The CNCDH recommends maintaining the obligation to adopt and put into effect a transition plan for climate change mitigation under the CSDDD, in order to ensure that the implementation of this obligation of means is monitored.

Recommendation No. 7: The CNCDH recommends ensuring that the scope of powers granted to national supervisory authorities under the CSDDD is preserved, so that they are effectively able to monitor and enforce its implementation.

[101]. See the general policy Statement by the French Prime Minister dated 14 January 2025.

Recommendation No. 8: The CNCDH recommends ensuring that, if changes are made to the regime of financial penalties that national supervisory authorities can impose in the event of an infringement of the provisions of the CSDDD, their effective deterrent effect is guaranteed.

Recommendation No. 9: The CNCDH recommends maintaining the provisions of the CSDDD which explicitly require Member States to provide in their national laws that a failure to meet obligations under the CSDDD engages the civil liability of the defaulting company, and to set the conditions under which such liability is incurred.

Recommendation No. 10: The CNCDH recommends keeping Article 29(7), which enables the CSDDD's provisions to be applied in cases where companies are taken to court for failing to fulfil their obligations, in order to seek compensation for damages that occurred abroad.

Recommendation No. 11: The CNCDH recommends maintaining the CSDDD provision on representative actions.