

BHR lawyers and practitioners call for support for the Belgium compromise on the CSDDD

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We are Business and Human Rights (BHR) lawyers and practitioners that work with companies, academia, NGOs and state institutions to implement human rights and environmental due diligence in order to foster responsible and sustainable business practices that uphold respect for human rights and environmental standards throughout global value chains.

Stakeholders involved in this field and their representatives both in the European Union and beyond have repeatedly expressed a shared desire to formalize in a EU-level legislation the core elements of the United Nations Guiding Principles on Business and Human Rights (UNGPs) which were unanimously endorsed by the UN Human Rights Council in 2011 and have become the global norm of reference in the field. A growing number of countries, both within the EU and beyond, have already taken steps to implement the UNGPs. Following in their footsteps, the Draft Directive on Corporate Sustainability Due Diligence (CSDDD) aims to require companies to respect human rights and environmental standards in their activities and in their value chain. In doing so, it will not only be a step towards alignment with international standards set out in the UNGPs and other international instruments, but it will also provide more legal certainty by resulting in a uniformized standard at the EU level rather than a patchwork of legislation with varying standards in the various Member States.

The current draft of the CSDDD covers both large EU companies and companies based outside the EU which are active in the EU market. As such, the CSDDD creates a harmonized set of rules for all large companies operating in the EU, providing a much needed global level playing field and upholding the protection of all internationally recognized human rights.

We have carefully examined the most recent compromise offered by the Belgian Presidency and call on all Member States to accept it. This call is despite the fact that the changes introduced in the last few weeks significantly reduce the scope of the applicability of the CSDDD.

Indeed, even though many important provisions protecting human rights and the environment have been diluted, the current compromise for CSDDD still provides for Human Rights and Environmental Due Diligence (HREDD) across the supply chain, climate transition, rightsholder engagement and redress. It is feasible for companies, as it creates an obligation of means and implementable obligations, allowing companies to prioritize through a risk-based approach. The compromise also avoids overburdening SMEs as it does not cover them and ensures special support and protections for SME suppliers. We hope that those businesses for whom HREDD is still quite a new topic might welcome this compromise as workable.

We understand that in a political organization as complex and important as the EU, especially in the difficult context worldwide, a compromise is a necessity and politics will

always be the art of the possible.

Therefore, we believe the Belgian proposal to be a necessary compromise.

In this perspective, we call on all EU Member States to support the latest CSDDD compromise made by the Belgian Presidency of the EU and, for this, we call on BHR experts from the EU and from around the world to signal their support for this version.

This compromise is an important step for our collective aspirations for business practices, which are transparent and committed to respecting human rights and the environment and contributes to give the “human face to the market” through respect of fundamental rights of people that Kofi Annan and John Ruggie have tirelessly defended through the UNGPs.

Let us not waste this chance, but adopt it, to enable a fairer and more inclusive economy which reconciles Business and Human Rights and the dignity of people, to ensure that business serves not only profits but people and the planet.

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