

Approval of the EU's Corporate Sustainability Due Diligence Directive

Reaction- EU-LAT Network

On May 24, 2024, after long months of discussions and setbacks, the Council of the European Union gave the green light to the Corporate Sustainability Due Diligence Directive (CSDDD). The CSDDD establishes that the largest European companies, or those with important economic activities in Europe, must comply with due diligence obligations regarding the impacts of their operations and commercial relations on human rights and the environment.

The EU-LAT Network closely followed the discussions around the CSDDD, advocating for a solid Directive capable of preventing corporate abuses, that included a gender perspective and that allowed for adequate access to justice for victims. A version of the CSDDD had been politically agreed upon by the European co-legislators at the end of 2023. This version, having gaps and loopholes, contained quite a few robust obligations, and included a considerable scope of companies.

Unfortunately, after undemocratic pressures from some Member States and the lobby of some business sectors that tried to sabotage the CSDDD, the reached political agreement was modified, strongly watering down the content and scope of the Directive. This has resulted in a CSDDD that, while still a step forward, contains many gaps and leaves out a large number of companies whose unregulated activities would produce severe impacts on human rights and the environment in Latin American countries.

Specifically, we regret that part of the downstream value chain (such as the disposal of products), as well as a large part of the activities of the financial sector have been left outside the scope of the CSDDD. Likewise, we deeply regret the substantial reduction in the number of companies that will have to comply with the Directive, currently covering approximately only 0.05% of European companies. Furthermore, the duty of care set out in the CSDDD will come into force for most companies only in 2029.

Likewise, it is deplorable that a limited list of human rights instruments that companies must respect has been included in the CSDDD, leaving out some relevant instruments such as the United Nations Declaration on the Rights of Indigenous Peoples or the Declaration on Human Rights Defenders. This goes in direct contradiction with the indivisible and interdependent nature of human rights, and with international standards that require companies to respect all human rights. Finally, there are important limitations on the legal liability of companies and access to justice for victims of abuse.

All in all, some positive aspects of the CSDDD can be considered as a step forward, such as the obligation for large companies to identify and address risks to human rights and environmental damage throughout their global chains of activities. This involves looking at the operations of their subsidiaries, suppliers and other business relationships. Companies must then take steps to prevent, stop or mitigate those risks and remedy the damage that has already occurred. In this process, companies must also engage meaningfully with stakeholders, such as workers and communities affected by their operations. The CSDDD also recognizes the link between the environment, natural resources and human well-being. Thus, as part of their environmental due diligence, companies must respect the prohibition of causing environmental degradation that interferes with the enjoyment of rights, such as access to drinking water, or access to lands on which indigenous peoples and communities locals depend for their livelihood.



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Finally, a lot will be at stake in the transposition and implementation phase of the CSDDD. Member States must go beyond what was agreed by the Council, allowing the gaps in the Directive to be closed. **The EU-LAT Network, together with its membership, will continue to closely monitor the implementation process of the CSDDD and to push for national legislation that is in line with international Business and Human Rights standards.**

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