

EU Due Diligence

How we lost Justice

**Unpacking the struggle and losing
battle for a corporate sustainability
due diligence law
in the EU.**

The shake-up

On April 24, 2013, the **Rana Plaza building in Dhaka Bangladesh**, that houses five different garment factories, **collapses**. The catastrophe kills 1134 garment workers and injures 2500 more. Amongst the rubble are clothing tags from some of the biggest global fashions brands including Zara^[1], Primark^[2] and Mango^[3]. The case triggers **outrage across the globe** after reports emerge about the **long-standing safety concerns** in the building, and it quickly becomes part of a larger debate: **who, if anyone, is responsible** for the devastation and harm caused by big corporations?

Our economic model is set up to ignore the greedy and blatant exploitation of people and planet for profit.

Two years prior to the disaster, the UN attempted to address the issue by publishing its **Guiding Principles on Business and Human Rights**, setting the practical standards for mitigating adverse impact by businesses in the global economy. It is still regarded today as one of the benchmark frameworks to **tackle human rights abuse, exploitation and forced labour**.

But it is a **voluntary framework** and there is no mechanism in place that holds **transnational corporations to account** when they choose to ignore it and/or fail to implement them. Many corporations claim to adhere to it, including some of the parent companies of the brands that were found amongst the rubble of Rana Plaza.

In fact, there were **many more cases of corporate negligence** – before and after the UN's Guiding Principles on Business and Human Rights were published, showing that a **voluntary framework does not equate to corporate accountability**:

● The BP Deepwater Horizon platform in the Gulf of Mexico exploded in 2010, directly killing 11 workers, and causing the largest marine oil spill in history. It affected the livelihoods of millions of people

● The Ali Enterprises/Kik factory in Karachi burned down in 2013, killing 289 workers due to barred windows, locked rooms and blocked emergency exits

● The Mariana dam in Brazil collapsed in 2015, effectively turning the Doce into a "dead river", and cutting access to drinkable water for millions of people

● The Brumadinho dam, in Brazil collapsed in 2019, immediately killing 259 people and causing heavy pollution up to 300km away from the site.

^[1][*Fashion Network*](#)

^[2][*Clean Clothes Campaign*](#)

^[3][*Clean Clothes Campaign*](#)

The solution

All of these are cases of acute corporate negligence, with strong ties to major Western transnational corporations, and they make clear that there is **a need for a legal tool that holds corporations accountable for the harm they cause, whilst providing affected communities with the justice they deserve**. If we want corporations to stop 'business as usual' and get away with polluting the environment, mistreating their workers, and harming communities across the world, we need binding legal rules that prevent them from doing so, because it will not happen on a voluntary basis. That is why we need a **binding corporate sustainability law** that forces corporations to **address human rights violations and their climate impact** as well as securing a path to justice for victims of corporate negligence and abuse.

When **France adopted the very first binding due diligence legislation** in the world in 2017, advocates rejoiced. The European Commission followed up quickly with their own corporate sustainability law as part of their progressive European Green Deal: **The Corporate Sustainability Due Diligence Directive (CSDDD)**. There were **two important factors** that contributed to the launch of CSDDD. First of all, in 2014 negotiations started for an **UN Treaty on Business and Human Rights**. While the EU was not playing a very constructive role during these negotiations, this process **did pressure the Commission** to develop its own corporate accountability law. The second push factor was the European Parliament which adopted a **legislative own initiative resolution** on 10 March 2021, recommending to the Commission to initiate a legislative proposal on corporate due diligence and corporate accountability.

An earth-shaking piece of legislation

After decades of urging decisionmakers and institutions to create an effective and binding instrument for corporate accountability, human rights advocates finally saw a window of opportunity to secure a game-changing instrument. The CSDDD, proposed in 2022 and finally adopted in 2024, included:

- **a unified civil liability regime**, creating pathways to court for victims, and preventing corporations from picking and choosing the lowest-ambition regimes in the EU
- **risk-based scoping obligations**, mandating that corporations conduct due diligence in areas and sectors considered high-risk first
- **the obligation to design and implement climate transition plans** in line with the Paris agreement (a global premier)

All of these represented a giant leap in corporate regulation: transnational corporations now had the duty to prevent, mitigate or remediate human rights and environmental violations in their value chains. And even more importantly, people could now fight back if they did not. **It was by no means perfect, though.**

Parisian charm

France pressured the Council of the EU to exclude financial services from the scope of the directive. As a result, the **core business of banks, insurances, pension funds, asset managers - actors who are basically shaping the world economy with their investments - was entirely excluded**. The move seemed bizarre, considering the French law covers financial services, meaning France put itself at a competitive disadvantage. Many believed it to be part of Paris' charm offensive towards financial firms, in the aftermath of Brexit.

Reversal of burden of proof

The reversal of the Burden of Proof (RBOP) is a **legal tool that would have ensured that the onus of proving that a company had done everything they reasonably could to prevent harm, was on the companies**, rather than the survivors of corporate abuse. In practice, victims would have been responsible for demonstrating harm and demonstrating the link between the companies or their supplies' operations and the harm. Then and only then the burden of proof would have been reversed.

Despite being included in the initial Parliamentary initiative, it was not included in the Commission's proposal, which is the actual bill. A second window of opportunity was created when a Parliamentary committee reintroduced a debate on it and included it in its opinion, but it was **ultimately taken out by conservatives** as a preliminary condition in the lead committee negotiations.

Without the RBOP, it is up to victims to demonstrate poor behaviour from the parent company, a difficult task due to corporate secrecy and the need to access, navigate and process internal corporate documents - made nearly impossible for victims who are most often lacking resources and operating in positions of vulnerability

Climate transition plans

Another point of contention was the supervision of the climate transition plans. Though the CSDDD made their design and implementation mandatory, administrative authorities only had supervisory powers over the design and content - not the implementation. **Companies could, in theory, turn their transition plans into greenwashing. In the absence of precedence, no one knew whether they could get away with it.**

Berlin calling

Christian Lindner, the former finance minister and leader of the FDP party in Germany decided to **create controversy around the CSDDD** ahead of the EU Council vote in 2024 in a desperate attempt to **dodge a forecasted trainwreck** for his party in the 2024 elections and his own political position.

He argued that the EU due diligence directive represented a **great threat** to the German economy and that it endangered small companies and entrepreneurs, **despite the law's personal scope only covering big corporations**.

He forced Olaf Scholz's, then Chancellor of Germany, hand in dropping German support of the law, and literally broke the European legislative process by getting the negotiations on the CSDDD reopened after they officially concluded. **This opened the floodgates** to anyone wanting to weaken the directive, or use it as a bargaining chip in other unrelated negotiations. From then onwards, conservative ministers were appearing out of thin air in Brussels to demand their own **pound of flesh through secret meetings and attempting to sideline the original negotiators**. When the dust settled, the CSDDD covered a whole lot less: two thirds of the companies under the original scope had fallen out of it and high-risk sectors just vanished from the text. From this point onwards, only 5000-6000 corporations would still be included in the directive's scope.

The high-stakes manoeuvre did not pan out: Christian Lindner was not re-elected. But the damage was done.

The EU finally adopted its heavily watered-down due diligence directive in the spring of 2024. Now it was up to the Commission's services to issue guidance on the law to companies – how to comply with it in practice – and Member States – how to transpose it into their national law.

At least that's what should have happened.

Big polluters strike back in Antwerp

CSDDD was one of the last adopted pieces of the **European Green Deal** legislations during the first Von der Leyen mandate, and therefore at the forefront when she kicked off her renomination campaign. It quickly became a **target for bad actors and conservative politicians** looking for a scapegoat.^{[1] [2] [3]}

^[1] *ExxonMobil CEO: [Source: Fashion Network](#)*

^[2] *Source: [Clean Clothes Campaign](#)*

^[3] *Source: [Clean Clothes Campaign](#) (available in interview form at CNBC)*

^[2] *Macron and Merz*

^[3] *Total and Siemens*

Her first mandate started in the middle of a progressive wave in 2019, but in 2024 she decided to **ride the coattails of conservative backlash in order to secure a second mandate**. Alongside Belgian prime minister Bart De Wever - whose party is affiliated to the European far-right - she visited **350 CEOs from the petrochemical industry** in the port of Antwerp, in February of 2024. Business leaders delivered a declaration to a glowing Ursula with straight-forward demands: **more money, less rules, and a transfer of responsibility to consumers**. A declaration she quickly vowed to put at the core of her future policies.

The first stone for Ursula von der Leyen's second mandate was laid, with the **intention of crushing the legacy of her first one**. Days after inaugurating her new commission, and sending them out to hearings about upholding existing legislations, **she announced a brand-new mechanism to dismantle and destroy the files in the European Green Deal**. The Omnibus, an obscure EU mechanism that allows legislators to re-open multiple existing laws at once, was dug up from the confines of history and quickly became the centrepiece of **Von der Leyen's new deregulation agenda**.

The first to be thrown under **the Omnibus were reporting obligations, including the EU's Corporate Sustainability Due Diligence Directive** - despite it not being a reporting file. Since then, they announced a total of seven Omnibus packages - three of which have been formally proposed by the Commission. There are rumours that three more packages will be announced in the early months of 2026, making it ten in total.

The bully from across the pond - Trump II

But it is not just the EU law makers who are intent on destroying green rules. True to his nature, Donald Trump took the **opportunity of international upheaval to protect the interests of corporations rather than human rights and the environment**. The US government, conservative US states and the Trump administration meddled in the process through:

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direct criticism of the European Due Diligence Directive and issuing threats of retaliatory measures. Amplifying false information issued by the US Chamber of Commerce and ExxonMobil, the US Secretary for Energy collaborated with Qatar to threaten the European Union to hinder or cut off access to liquified natural gas (LNG) should the core provisions of the CS3D remain in place.

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cases like the US State Attorney Generals. 16 of them petitioned the heads of Google, Microsoft and Meta, to not comply with the CSDDD in an official letter. It is worth noting that CSDDD was not - and is still not - actually implemented at the time of their writing, considering its earliest enforcement date would be some time in 2029. So, was their objective to urge for non-compliance or was it just to strategically and politically damage the European Green Deal framework?

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watering down EU regulations (climate, social, digital, etc) and consistently issuing tariff threats to get their way. As a result, the tentative content of the EU-US trade deal negotiated in the Summer of 2025 is broadly seen as unfavourable to the EU - including an energy purchasing provision forcing the EU to acquire more products and services than the US can even produce.

But the pressure does not stop there. In November 2025, EU diplomats involved in the green shipping rules negotiations reported threats from US diplomats regarding the migration status of closed relatives, disengagement from businesses, and personal intimidation. **EU Vice-President Teresa Ribera has described the US deregulatory overreach as “blackmail”.**

Von der Leyen’s bonfire - The Commission Proposal

On February 26, 2025, the Von der Leyen Commission announced two major initiatives:

● **The Clean Industrial Deal**, a 100 billion euros subsidy package aimed at energy-intensive and large-scale industrial sectors, with little to no conditionalities.

● **The Omnibus 1**, a legislative package aimed at reducing the ambition of the Corporate Sustainability Due Diligence Directive (CSDDD), the Corporate Sustainability Reporting Directive (CSRD) and the EU Taxonomy.

Amendments to the CSDDD include:

- the removal of direct obligations to put climate transition plans into effect
- the removal of the unified civil liability regime
- the removal of the overriding mandatory principle
- a shift from a risk-based approach to due diligence obligations towards a value chain scope that is limited at direct business relationships - with an imprecise trigger mechanism for generating due diligence on partners deeper in the value chain
- a reduced definition of stakeholders that excludes civil society organisations

These changes to the CSDDD **seriously undermine its core ability to protect people and the environment from corporate harm** by complexifying litigation options against non-compliant multinationals – making it harder for survivors of corporate harm to access justice – re-routing due diligence away from high-risk areas and sectors, and turning the climate obligations into a potential greenwashing tool for bad actors.

In addition, the process of the **Omnibus itself is marred by controversial irregularities**. The EU Commission:

- **disregarded its own obligations** to conduct an impact assessment, a round of open public consultations and a climate impact assessment in line with EU non-regression clauses for climate law
- the **Inter Services Consultation**, a process during which relevant Commission services are consulted on the content of incoming proposals, which usually lasts around 14 days, was **seriously stunted**. It was triggered on a Friday night, with a 24h deadline.

The result: 80% of the demands coming out of the largest and most conservative business associations are transcribed almost one-to-one on CSDDD.

As a result of these irregularities, 8 organisations (including Friends of the Earth Europe) filed a complaint with the **European Ombudswoman**. In her opinion, released on 27.11.2025, she concludes: *"The Commission adopted a broad interpretation of 'urgency' and failed to sufficiently justify the 'urgency' of the legislative proposals towards the public and to document its derogations from the applicable Better Regulation rules."*

The Ombudswoman also found that *"the Commission has not put in place a procedure that would ensure, as required by the Treaties and case law, a transparent, evidence-based and inclusive preparation of 'urgent' legislative proposals."*

The Ombudswoman further found that, *"by not keeping proper records of mandatory consistency checks of its proposals with the EU's climate goals, the Commission failed to act in an accountable manner."*

This just shows the **interest and priorities of the current Commission and their willingness to forego democracy in order to push through their own agenda.**

A few hours after the February 26th announcements, Ursula Von Der Leyen went back to Antwerp and met again with the group of CEOs at the origin of the Antwerp declaration, in a demonstration of her fealty.

A sheep and a pack of wolves – the Council of the EU’s general approach

Similar to the Commission’s departure from the norm, the **Council part of the process broke precedent in two ways:**

- The **Council formed an Antici on Simplification**. This is a working group dedicated to undoing the provisions of laws falling under the Omnibus agenda, and it has been formed with the express objective to exclude experts that had previously negotiated the files under revision. One can easily see why they would select individuals who would be less sentimental about unravelling the product of years of negotiations, but not being experts in the field they are also less competent at estimating how much damage they are actually causing to the substance of the files
- While **France and Germany officially supported a reduction of CSDDD**, not a deletion, President Emmanuel Macron and Chancellor Friedrich Merz both called for the **annihilation of the due diligence directive in bombshell public appearances**

From this point onwards, it became harder and harder to estimate who defended what position, **creating the chaos that was necessary for an approval without an actual vote of member groups**, aka another divergence from customary protocol.

Rupturing the cordon sanitaire – the race to the bottom in Parliament

And then the **European Parliament**. **Swedish conservative rapporteur Jorgen Warborn**, the lead negotiator on the file, said it in the very first work session dedicated to the file: **his only concern would be to reduce cost for businesses**. Though he seemed selective about which businesses, considering he refused to meet with companies that had previously stated their support for the due diligence directive.

Between his **peddling of false information about an alleged burden reduction for SMEs** (who are not in scope) and his bizarre nods to toxic masculinity trends on social media, the self-appointed “tough guy” **secretly brokered a deal with the far-right**, attempted to shove an unacceptable compromise down the centre coalition’s throat, and will ultimately go down in history as the first ever rapporteur to rupture the cordon sanitaire at European level.

And now?

CSDDD may have been hollowed out, but it is far from the end of the political conversation regarding binding Business and Human Rights legislations.

For starters, **the climate crisis is not going anywhere, and governments have proven yet again at COP30 in Belem that they are less than enthusiastic about tackling the problem at the required scale.** At this stage, many are looking toward the *International Court of Justice's July 2025 Advisory Opinion*^[1], which **reinforces the obligation for States to regulate the activities of private actors** (encompassing large multinationals from polluting sectors). In this context, the removal of the CSDDD's article 22 and its corresponding climate obligations places the **EU and its member states in breach of their legal obligations**, and heightens the legal exposure of large corporations.^[2]

The *civil society and city of Paris v. Total court case*, with a hearing taking place on 19 and 20 February 2026, could provide an insight into how national courts will interpret the mentioned ICJ Advisory Opinion. Other ongoing cases are equally as relevant.

But that is not all. Over the past two years, progress has been achieved in the negotiations of the **UN Binding Treaty on Business and Human Rights**, which is a multilateral binding treaty taking up many of the issues originally tackled by CSDDD. A new round of negotiations is scheduled for October 2026, with an inter-sessional round in the spring of 2027. It is worth noting, however, that since the confirmation of the VDL II commission and the beginning of the EU's deregulation cycle, the EU's negotiators have played a less than constructive role in these negotiations.

The political context may have changed, and the EU seems to be steaming ahead with deregulation initiatives that clear the path for heavy polluters and predatory multinationals. **But civil society remains committed to defending and securing human, social and environmental rights, courts continue to weigh in, and the relevance of corporate accountability frameworks will not disappear.**

^[1][International Court of Justice](#)

^[2][Briefing from Firends of the Earth Netherlands, Notre Affaire à Tous & Client Earth](#)

Timeline



1976	Adoption of the OECD guidelines for Multinational Enterprises on Responsible Business Conduct. <i>Updated in 1979, 1982, 1984, 1991, 2000, 2011, and 2023</i>
16.11.2011	The UN Human Rights Council endorses the Guiding Principles on Business and Human Rights
24.04.2013	The Rana Plaza building collapses, killing 1134 workers
2014	Negotiations start at the UN level for a Binding Treaty on Business and Human Rights
28.03.2017	French Due Diligence law (Devoir de Vigilance) is adopted. <i>This is the first mandatory human rights and environmental due diligence law passed in the world</i>
10.03.2021	The European Parliament adopts an own-initiative report recommending the Commission initiates a legislative proposal on corporate due diligence and corporate accountability
23.02.2022	The EU Commission releases the CSDDD proposal. <i>Opening of the first legislative cycle</i>
10.01.2023	German Supply Chain law (Lieferkettengesetz) comes into force
01.06.2023	EU Parliament votes on CSDDD
14.12.2023	Conclusion of the CSDDD trilogue. <i>Theoretical closing of the negotiations, with an agreement</i>
01.01.2024	German party FDP and its leader Christian Lindner force a reopening of the negotiations
20.02.2024	Public announcement of the Antwerp Declaration
6 to 9.06.2024	European elections, resulting in a significant shift to the right

Timeline

