

Corporate Sustainability Due Diligence Directive (Proposal)

Positions of Austrian Chamber of Commerce

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General Introduction

- The Austrian business community is committed to sustainable, responsible, and future-oriented business. In this sense, it supports the intentions of the CSDD-initiative to improve international human rights and environmental protection through a coherent legal framework.
- We advocate for realism, proportionality and practicability for this legislative framework to effectively enable and instruct businesses in taking necessary actions to create more sustainable supply chains.
- However, it must be ensured that international supply chains are not impaired in the long term by overreaching regulations that are detached from reality. Global supply chains are subject to massive strains already as a result of the current crises and companies must not be put at a competitive disadvantage by disproportionate additional administrative burdens.

WKO Positions in Detail

- Art. 25 and 26: CSDDD shall not interfere with existing corporate governance rules. A company basically is to act in the company's interest. CSDDD must not create rules subverting market principles. This would not be implementation just of eco-social market economy but the end of market economy per se.
- CSDDD is not to regulate the remuneration of management. That would work as a push-factor, since competent managers would emigrate out of Europe to countries, where they are paid better. But competent management is needed to make and keep CSDDD-regime effective.

WKO Position in Details

- CSDDD must only focus on supply chain. Companies monitoring their whole value chain, that would be unrealistic. Companies regularly could not cope with that.
- Therefore the definition of the “indirect business partner” must ensure that the scope of the directive is meaningfully limited (Art. 3, first paragraph, point (e) and (g).)

WKO Position in Details

- Unforeseeable liability risks must be excluded. That means:
 - Implementation of a safe harbor clause.
 - CSDDD must apply the principle of fault-based liability.
 - No reversal of the burden of proof.
 - Liability must be limited only to Art. 7 (due diligence on preventing potential adverse impacts) and Art. 8 (due diligence in bringing adverse impacts to an end).

WKO Position in Detail

- The cascade of contracts must be fair with SMEs. That means:
 - FRAND: FaiR - Appropriate - Non-Discriminating
 - The CSDDD-regime must not lead into a tendency of delegating due diligence from big to small players by contractual provisions.
 - Contractual delegation must be limited to activities only related to the supply chain concerned, and nothing else.

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