

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

WORKSHOP
REPORT:
COMMUNICATING
ON THE CSDDD

24 OCTOBER 2023



COMMUNICATING ON THE CSDDD

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This workshop is part of the “Building capacity of national human rights institutions and strengthening policy outcomes on business and human rights” project led by the Danish Institute for Human Rights and supported by the Laudes Foundation.
For more information, see [here](#).

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EXECUTIVE SUMMARY

On 24 October 2023, the Danish Institute for Human Rights (DIHR) convened representatives from 16 European national human rights institutions (NHRIs) for an online workshop led by Portland Communications, a communications and public affairs firm specialised in advocacy at the European Union (EU).

The workshop focused on crafting messaging on the upcoming EU Corporate Sustainability Due Diligence Directive (CSDDD) with a variety of stakeholders, including policymakers of different political leanings, industry actors, civil society and media.

This workshop is part of a training programme organised by the DIHR for NHRIs to build their capacity on the CSDDD and the wider EU policy and regulatory environment related to business and human rights.

For more information on the project, please see the DIHR's dedicated [webpage](#).

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PART 1

INTRODUCTION

On 24 October 2023, the Danish Institute for Human Rights and Portland, a communications and public affairs firm, convened a 2.5-hour workshop on developing messaging on EU policy and regulatory developments as they relate to business and human rights, with a specific focus on the upcoming EU Corporate Sustainability Due Diligence Directive (CSDDD).

The workshop convened European national human rights institutions in a workshop that combined a learning session and group activities.

UNDERSTANDING EU POLICYMAKING

To be able to craft appropriate and effective messaging on the CSDDD and with a range of stakeholders at the EU and in national jurisdictions, it is critical to understand the key steps in EU policymaking.

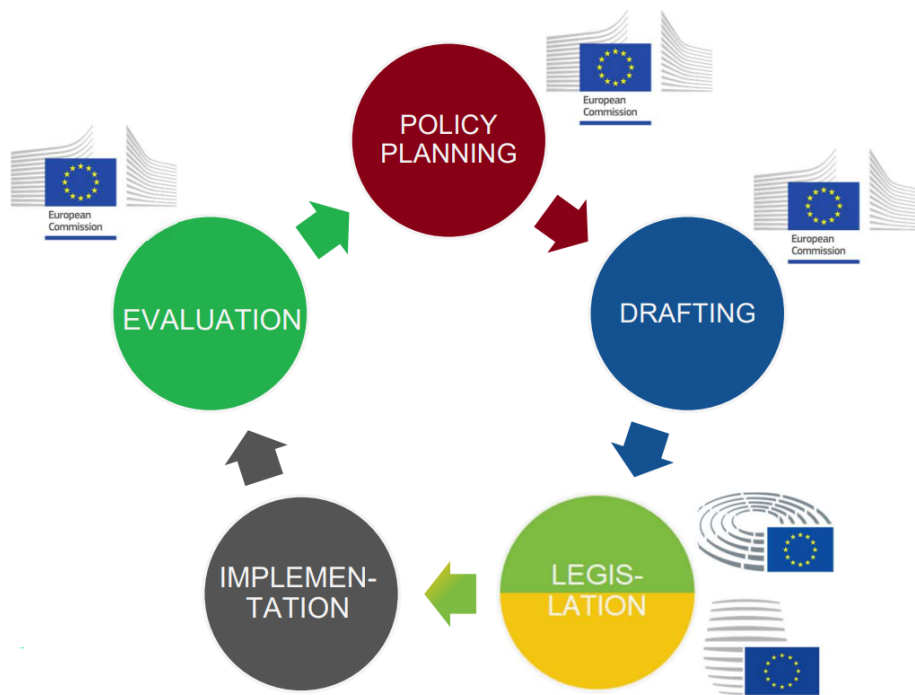
The European Commission (the Commission) creates legislative proposals, which can take the form of directives or regulations. The Council of the European Union (the Council), composed of Member States representatives, has Working Groups composed of relevant national experts and led by the Council Presidency, which will draft the Council's position, known as the "General Approach". The European Parliament (the Parliament), composed of elected Members of European Parliament (MEP), identifies the competent parliamentary committee (and opinion giving committees) and appoints a Rapporteur and Shadow Rapporteurs for the file, which will prepare a report with amendments to the Commission's proposal. Once the Rapporteur and the Shadow Rapporteurs find a compromise for the report, the competent parliamentary committee votes on the report, which will be formally adopted by all MEPs in Plenary.

Once the Parliament's and the Council's positions are adopted, inter-institutional negotiations, known as "trilogue" can begin, where the institutions negotiate the text article by article, at the end of which the final text is adopted and published in the Official Journal of the EU.

Other actors are able to feed into the process. These include industry, trade associations, NGOs, civil society, think tanks, which have varying levels of access,

engagement and influence with policymakers. Other European agencies, courts, national authorities and even third countries may have leverage over the negotiations. Media are also a non-negligible actor, as they can shape legislative debates. These “external” actors should not be overlooked when aiming to influence policymaking.

There exist key entry points presenting opportunities to influence the negotiations, where stakeholders like NHRIs can intervene. The phases of the legislative cycle are set out in the graphic below.



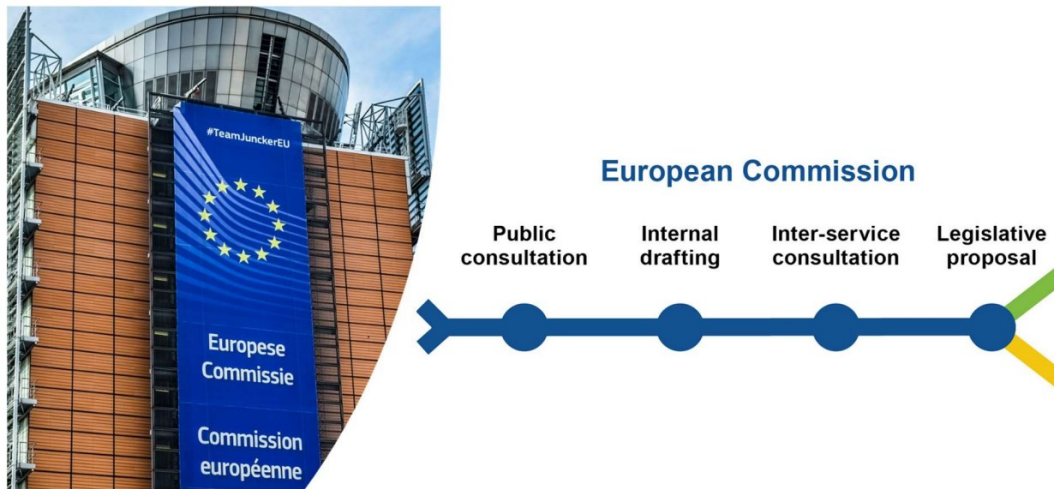
Source: [EU Changer](#)

The legislative process can be broken into various steps which each of the Commission, the Parliament and Council undertake shown in the graphic below.



Source: [EU Changer](#)

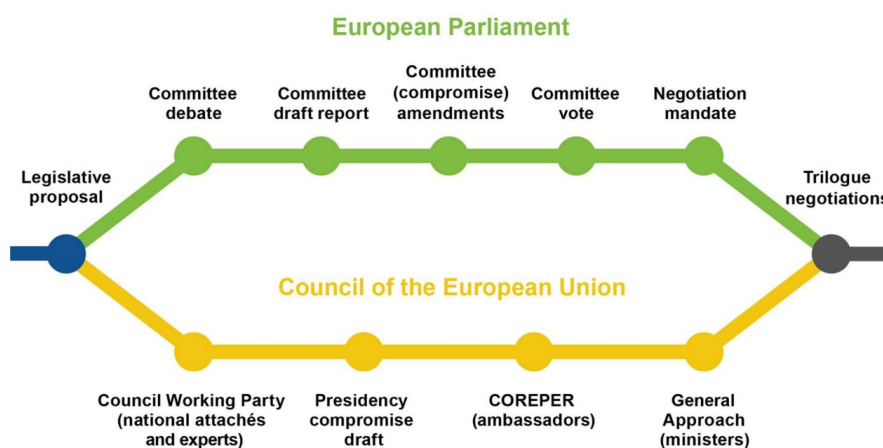
Typically, the earlier the NHRI starts to engage in the process, the more influence it can exercise.



Source: [EU Changer](#)

Phase	What happens?	What can NHRIs do?
Policy planning	Policy priorities are defined and the Commission will consider whether to propose legislation When the Commission publishes an initiative, it has a broad idea of what it wants to do. Even though multiple policy directions can feature in the inception impact assessment, there is usually one preferred approach. Accordingly, it can be useful and present more opportunities to influence if you are able to make recommendations for policy directions before the public consultation stage.	NHRIs may provide qualitative and quantitative data and research to call attention to specific key issues that should be focused on or not overlooked by the Commission as it is preparing the proposal.
Public consultation	To inform the development of the proposal, the Commission will undertake a public consultation to inform the development of the proposal. All organisations (public or private)	This is a procedural step and is an opportunity not only to present the views of the NHRI to the Commission to inform the drafting process, but also for your NHRI to consolidate thinking and

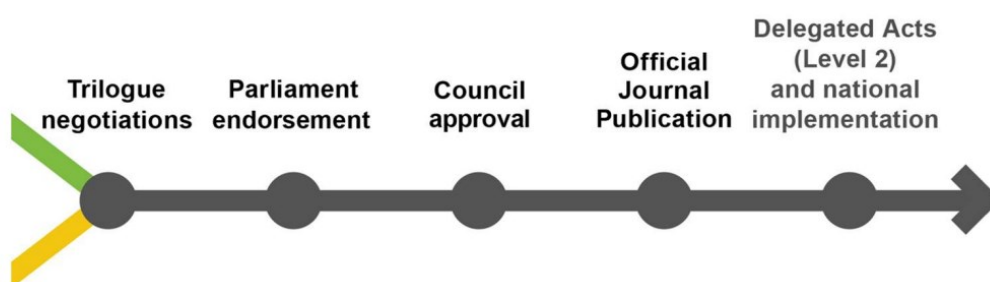
	<p>as well as individuals can participate in the public consultation.</p>	<p>develop a position on the forthcoming proposal.</p> <p>When the Commission has published its proposal, NHRIs can analyse the text and once more stress key points that the Council and the Parliament should be mindful of when developing their negotiating positions.</p>
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Source: [EU Changer](#)

Phase	What happens?	What can NHRIs do?
<p>Development of the Council's negotiating position</p>	<p>After the Commission proposal, the Council has to develop its own approach to the file. While the process for building their position is more opaque, Member States' representatives, known as attachés, often welcome the contributions of different organisations.</p>	<p>Relevant institutions may engage in consultations with stakeholders in the national context as they are developing their position on a particular proposal. It may be useful to reach out to the relevant ministries or other authorities in your jurisdiction to position your NHRI as a relevant actor to consult.</p>

		NHRIs can also engage with their national representation in Brussels.
Development of the Parliament's position	After the Commission proposal, the Parliament has to develop its own approach to the file. Relevant parliamentary committees often commission reports or otherwise welcome expert views.	NHRIs can present views to rapporteurs and shadow rapporteurs. NHRIs can also engage with the MEPs of their countries as well as other relevant stakeholders in Brussels and their national contexts to ensure that the texts are grounded in international human rights frameworks.



Source: [EU Changer](#)

Phase	What happens?	What can NHRIs do?
Trilogue negotiations	These are a key phase during which the three institutions negotiate the final text based on their positions.	NHRIs can meet with relevant stakeholders, provide statements, propose wording for the final text, join forces with other like-minded groups (e.g., CSO coalitions; garner support from businesses; etc.), engage with negotiating teams, etc., as this is the last step to influence the EU-level text.
Transposition	Member States will be required to adopt national-level legislation transposing the Directive into their national context. That is the	This phase presents critical opportunities for NHRIs to engage with national level policymakers as human rights

	<p>case for the CSDDD: Member States will have two years to transpose the Directive.</p> <p>During and after transposition, there will be other relevant implementation actions, like the adoption of secondary legislation (delegated/implementing acts) and soft law (e.g. sector specific guidelines). For both, the Commission will be in the driving seat, and is the most important to set up meetings with. Member States will also play a role (though the level of influence by Member States depends on the precise policy instrument chosen, and any additional procedural requirements reflected in the CSDDD). Parliament will have a much smaller role.</p>	<p>experts in their jurisdictions by taking part in consultations, meeting with relevant national policymakers, engage with and convene stakeholders, including business and civil society and garner support for human rights-compliant legislation.</p>
<p>Review</p>	<p>The Commission will be obliged to undertake a review of the Directive and its implementation.</p>	<p>This can present an opportunity for your NHRI to provide evidence of how the national laws transposing the directive are operating in practice. In the case of the CSDDD, the scope and timing or the review period is still under negotiation, but is likely to occur 6 or 7 years after adoption. In relation to the CSDD, although the review clause is still under negotiation, the Commission will likely also need to evaluate the possibility of extending the scope (to more companies/sectors), extending the due diligence obligations to adverse climate impacts, and editing the annex (specifying the adverse environmental impacts</p>

		and adverse human rights impacts).
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1. IDENTIFYING KEY PEOPLE IN THE EU

Mapping stakeholders is critical to ensure that NHRIs' actions are effective and tailored to the right audience.

1.1 IDENTIFYING PEOPLE IN THE COMMISSION

The political layer of the Commission is made up of the Commissioners and their cabinets. These have specific individuals coordinating with other cabinets. Information can be found on the [website](#) dedicated to the Commissioners.

While the Commission is typically responsible for initiating the legislative process and developing and publishing a proposal, the Commission's role is more limited in the trilogue negotiations. In fact, the Commission plays more of a technical facilitator role by trying to come up with compromise solutions that will both suit the Parliament and the Council and be implementable.

In the legislative process, there is usually a key Unit within the Commission in charge of a specific file working with other Directorate Generals (DGs). For the CSDDD, the Unit in charge is DG-JUST.A3 (Company Law). The [EU directory](#), "WholsWho", is useful to find the right policymaker to address, including the Director-Generals, Directors and Heads of Unit. Director-Generals will also have principal advisers and assistants. On this website, phone numbers are available to contact these actors directly. These actors are more in touch with the technical aspect of the file.

However, WholsWho no longer has information on policy officers, who are the ones to actually draft proposals and other documents. Instead, this information can be obtained by contacting the Head of Unit in charge of drafting a proposal.

Certain EU agencies are specifically related to certain policy areas. For files related to responsible business conduct and human rights, the EU Agency for Fundamental Rights (FRA), the European Institute for Gender Equality (EIGE) and the EU's Judicial Cooperation Unit (EUROJUST), among others, can be useful.

1.2 IDENTIFYING KEY PEOPLE IN THE PARLIAMENT

The Parliament is the most transparent institution in the EU, so it is easier to find information on who and how to engage directly—the MEPs. For each specific file, there will be a lead committee and typically one MEP is in charge of drafting the file (the “Rapporteur”) and is supported by Shadow Rapporteurs. This information can be found on the [Legislative Observatory](#). In the case of the CSDDD, the Legal Affairs committee (JURI) is the lead committee, with Lara Wolters as the Rapporteur.

As mentioned above, the legislative process often involves several parliamentary committees: information including names and contact information of the members of specific committees can be found on the Legislative Observatory.

While MEPs can be challenging to reach, especially during busy periods like trilogue negotiations, assistants to MEPs can prove to be a key resource. Sometimes, an MEP will even delegate an entire file to an assistant. Moreover, when requesting a meeting with a MEP, it is most likely that the assistant will take the meeting. Information about assistants can be found on the webpage dedicated to the MEP.

- For example, this [webpage](#) lists the assistants to Lara Wolters, Rapporteur on the CSDDD.

The Parliament is made up of different political groups, with political advisers working for them: meeting with these advisers is very useful, as they have good technical knowledge of the files they follow and are a great source of information. Information about the political advisers can be found on the political groups’ websites.

- For example, [Renew](#), [S&D](#), [EPP](#), [ECR](#), [the Greens](#) and [The Left](#) have specific policy advisers in the JURI committee, the lead committee for the CSDD.

1.3 IDENTIFYING KEY PEOPLE IN THE COUNCIL

The Council is the most opaque of the three institutions. Every Member State has a permanent representation to the EU located in Brussels. The permanent representations’ pages are the best way to find national counsellor (or *attaché*) in charge of a specific file— identifying the relevant attaché has to be done by calling the permanent representation.

While it is more challenging to engage the Council, it is a key player in the trilogue and national experts play a critical role for each Member State on a given file. These national experts are often located in the capital of the Member State and help bridge the Member State’s position on an issue with the attaché in Brussels. The national expert can be identified by contacting the permanent representation.

When files are highly political like the CSDDD, responsibility tends to move up the hierarchy. These dynamics must be known in order to engage effectively with the permanent representation.

The Presidency of the Council is a fundamental aspect of engaging with the Council, as it chairs meetings, sets the agenda and the work programme of the Council, as well as facilitates dialogue at the Council and with other EU institutions. Engaging with Permanent Representatives of the Member State holding the Presidency is therefore key.

Given the presidency's key role, the Member State occupying the office has the opportunity to leverage its position to provide strategic direction. However, in the case of the current Presidency, we see that Spain is taking a more administrative role, aiming to facilitate compromise on key elements of the legislation rather than driving through its own stance.

Spain will hold the presidency until 31 December 2023. Belgium will then have the Presidency from 1 January 2024 until June 2024, followed by Hungary.

1.4 IDENTIFYING RELEVANT STAKEHOLDERS FOR A FILE

When starting to engage on a file like the CSDDD, it can be challenging to know who exactly is already working on the topic and what stakeholders' positions are.

To find out, actors like NHRIs can use the following means:

- **Following media and social media** to see which voices stand out the most. Relevant media are the Financial Times, Euractiv, Politico and social media. In particular, organisations like trade associations, NGOs, and companies will use both traditional media and social media to make their positions known on a file.
- **Consult the transparency pages of Commissioners** in order to understand which Commissioner has met with which institution and on which file. This will allow you to understand which organisations are deemed relevant for a Commissioner to discuss a file. To do so, choose a [Commissioner](#) and select "Transparency" to find out.
- Check the responses to the [Commission's consultations](#) when developing a file, the Commission will open for consultations, thereby giving opportunities to relevant organisations to provide input. This enables the reader to see which organisations are relevant and what they have to say about the file. For example, this is the [page](#) where consultations for the CSDDD are stored. Identify actors who are active on this agenda. For more information on who are relevant actors on the CSDDD, please see Annex 2.
- Find **position papers, public letters, reports, press releases and other materials from NGOs, companies**, etc. These are generally available through google searches or a review of social media.

2. CREATING MESSAGES FOR DIFFERENT STAKEHOLDERS

When preparing engagement materials or meetings, it is critical to tailor messaging to the stakeholder.

It is key to understand what each stakeholder's interests and arguments are and what your institution's objective is, while having reasonable expectations. With different stakeholders, that engagement can vary from trying to convince them; soften their arguments; to simply understanding where they are coming from.

2.1. TAILORING YOUR ARGUMENT TO THE COMMISSION

Because the Commission is in charge of good, enforceable legislation that will get adopted, the Commission looks for expertise and data: making technical arguments by providing facts is key. As they have a facilitator role in the negotiations between the Parliament and the Council, they are eager to hear from experts on knowledge they may not have access to and which they can use and bring up during the negotiations.

It is key to understand that different DGs have different interests:

- DG GROW, led by Thierry Breton, focuses on the internal market and wants to create European champions. Understanding the leading figure in each DG is also useful to tailor argumentation; Breton is quite a big figure who wants to boost the internal market and the European economy.
- DG ENV is concerned with environmental objectives: therefore, any such argument, facts or data will both spark their interest in your institution's work and may be brought up during the negotiations.
- DG JUST focuses on liberal economics and human rights protection. It is headed by Didier Reynders, who may be less outspoken than other Directors, but who is sensitive to some socialist human rights-related arguments, despite being a liberal. Once again, keeping track of the people behind the institutions can help shape the most effective arguments.

2.2. TAILORING YOUR ARGUMENT TO THE PARLIAMENT

First and foremost, MEPs are politicians, who will listen to ideological and political arguments. Therefore, any messaging should be tailored to the MEP's party ideology, combining both what is said at the EU party and covering the MEP's national interests. Indeed, MEPs linked to a national coalition in their country will often follow the government's line, especially when the Member State has made its stance clear on certain issues.

- For example, Renew Europe will follow what French President Emmanuel Macron is saying on the CSDDD, especially on the issue of the inclusion of the financial sector.

Left-wing MEPs, such as those part of the social and democrats (S&D) and the Greens are interested in social and environmental goals.

The right (Christian Democrats, EPP, etc.) will focus on the economy, jobs and businesses' interests.

A key tip to engage with right-wing MEPs (and any other groups!) is to point out support from large businesses from the MEP's constituency. The industry position is not *just one* position: there can be different positions among businesses and groups of businesses. Finding champions among the [business community](#) can be effective to counteract lobbying from conservative business associations.

For example, a list of companies and financial actors signed a [statement in favour of a strong CSDDD](#). When arguing on specific issues, it is useful to research whether businesses have spoken out on the topic. For example, [case studies of companies arguing for the inclusion of the downstream](#) value chain in human rights and environmental due diligence was taken up by relevant negotiators.

2.3. TAILORING YOUR ARGUMENT TO THE COUNCIL

Identifying the relevant policymakers and actors (including ministries, state authorities, etc.) is critical as they can become key entry points into the negotiations by consulting NHRIs, providing updates on the trilogues and sharing information. Conducting outreach and starting to build relationships with these players is therefore a highly effective way to engage in EU policymaking.

Member States will listen to arguments that are attuned to national economic interests. Therefore, it is fundamental to understand what the country's key sectors are.

- For example, France will always listen to arguments that are favourable to the nuclear sector, which might create clashes with Germany.

Similarly, understanding a Member State's key policies can help understand its position. Member States are usually interested in EU legislation that aligns with their existing policy and legislative frameworks.

- For example, Italy is promoting recycling within the [proposal on packaging and packaging waste](#) because it has already adopted such a policy and does not want to change it.

Countries can also be split along ideologies.

- For example, countries like the Netherlands and Denmark are usually more liberal and generally favour open markets, while France might be more conservative and protectionist.

Understanding national election cycles is also an important aspect to grasp a government's priorities as elections near.

Pointing out support from large companies from the Member State is a great way to get it to engage on a topic.

2.4. TAILORING YOUR ARGUMENT TO INDUSTRY ACTORS

In general, industries' arguments aim at preventing additional costs and creating excessive red tape in legislation.

Larger companies will most likely want three main things: ensure harmonisation in the internal market to avoid different obligations; prevent additional costs; and avoid administrative costs.

On the other hand, small to medium-sized enterprises (SMEs) will want to avoid large companies outsourcing their obligations by requiring SMEs to meet certain human rights or environmental standards, including under contractual obligations, without providing support to do so.

Therefore, arguments need to revolve around economic benefits for industry actors (whether direct or indirect); minimising administrative burdens; and fostering legal certainty. Arguments do not necessarily need to be about these topics, but arguments should be prepared to address these potential concerns.

- It is also important to note that national industry associations do not necessarily speak for all their members. For example, the Confederation of Danish Industry made a statement on the CSDDD while its members signed other statements that argued for a strong CSDDD.

All too often, for the purpose of simplification, it is depicted in the media that industry is against a certain issue. Industry associations will also often present their stance as if it represents their particular industry or sector unanimously. However, you will nearly always find industry players that are supportive of the legislation in question. As such, it becomes important to elevate these voices, in order to break the illusion that legislation will necessarily harm business.

2.5. TAILORING YOUR ARGUMENT TO CIVIL SOCIETY ORGANISATIONS

CSOs will expect a diluted legislation due to intensive lobbying by industry actors; they will therefore push for ambitious messages. CSOs will therefore be likely to hear any arguments attuned to ambitious social and environmental objectives.

Similarly to the industry, CSOs do not see the adoption of EU legislation as the end goal and will value involvement in the implementation.

Q&A

Question: It can be difficult to know when to engage on a new file when an institution like an NHRI does not necessarily have the capacity to follow the negotiations in detail. A consequence can be that the trilogue negotiations do not feel transparent. What are some concrete ways to get over that difficulty and engage on a file?

Answer: It will depend on the legislation. Some files have more straightforward negotiations that are publicised. For files like the CSDDD, the negotiations are both at a political and technical level, which can make it hard to follow. As an NHRI, you can reach out to your national representation (that can be your MEPs, your permanent representation, etc. as per tips shared in the above) to understand where the file stands. These individuals are more willing to share information during an informal discussion or during a meeting than in writing. There is also a growing willingness to share documents to make the EU process more transparent. Once again, as NHRIs, you have the standing within your jurisdictions to reach out to these persons.

Question: During the trilogue, the three institutions have already adopted their positions, so not all actors within the institutions are still relevant. Who are the right people to reach out to during the trilogues?

Answer: The most relevant are the Rapporteurs and the Shadow Rapporteurs in the Parliament; the representatives of the Presidency in the Council; the representatives of the units in charge in the Commission. It might be more difficult to reach out to actors in the Council. To get information on the trilogue, target the attachés from “smaller” Member States, as they may have less meetings and may be more willing to put your position forward.

Contribution from a participant: In some countries, opinions are not really made public. For example, the attaché will forward documents to the responsible ministries working on the file to get the opinion on the compromise texts, and these documents are not publicly available. Sometimes, ministries can ask the opinion of relevant stakeholders, such as trade unions, industry associations, and others, but will not necessarily be transparent on what arguments they will retain from these groups. Involvement in such processes can thus differ depending on the national context.

Question: Once the Parliament and the Council have their position, how likely are they to change their position?

Answer: It will depend on the file. The CSDDD has been a flagship initiative, and there has therefore been a lot of push to have it. The political side of the trilogue has made little progress. However, on the technical side, some progress is being made, with some language being agreed on—this is where the changes and compromises are being made.

Question: Is providing wording for the provisions, working with what has already been proposed by the three negotiating institutions useful? If so, what is some advice to make proposals in a way that makes sense in the architecture of the proposal?

Answer: Providing wording can be a very useful, concrete way to engage with the negotiators by providing this technical support that is sought out from institutions like NHRIs. Ideally, your institution should work with the latest version of the text, which would require engaging with these policymakers, including when meeting with them to obtain the text. This has proven useful as it allows your NHRI to make suggestions for the best-case scenario for the provision while demonstrating that you are being pragmatic and willing to work for a text that is enforceable.



CONCLUSION

When engaging with the EU policymaking process, you should consider:

1. Identifying key stakeholders
2. Outlining your arguments
3. Sparking dialogue with the policymakers
4. Enhancing your footprint in Brussels

These four key steps feed into each other and will help you reinforce your role as a key human rights expert and a legitimate institution to consult.

Remember to ask yourself these questions:

- Am I seen as a knowledge-partner by the EU policymakers?
- Do I have allies to weigh in on a file?
- Have I developed a network with policymakers?
- Have my arguments/amendments been challenged? By whom? On which basis?
- Which arguments/amendments have been relayed? Why?
- Which arguments/amendments have not been understood? Why?

PART 2

CREATING MESSAGING ON THE CSDDD

OVERVIEW OF THE NEGOTIATIONS

The CSDDD is a flagship initiative of the EU that has the potential to revolutionise the conceptualisation of businesses' responsibility to respect human rights. It also ties in the many initiatives that have been adopted or proposed in recent years in relation to responsible business conduct with regard to human rights and the environment.

The trilogue negotiations are, as of October 2023, not progressing quickly because the CSDDD is a complex file, where there is a general challenge in including social requirements in green deal legislation, as well as make it fit in the broader policy and regulatory agenda in a coherent manner. Additionally, the file is very divisive: the Council and the Parliament have very different approaches to the text, and within each institution, some political groups and Member States diverge from the line of their institution.

There is therefore first a need to **stress the importance of the CSDDD** to both the EU institutions as well as national-level players and other relevant stakeholders. As NHRIs, it is key to **understand where the institution has the most expertise** to focus on priority issues with the most salient human rights risks, while being prepared that the point made may not be taken.

The next section presents three select key issues in the ongoing negotiations. The tables do not provide exhaustive arguments for the three issues. Instead, they are meant to represent some of the points discussed among the NHRI participants.

1. INCLUSION OF THE FINANCIAL SECTOR

1.1. CONTEXT

A key issue in the trilogue negotiations is the extent to which the CSDD Directive should apply to the financial sector. All three legislative proposals define a "company" to

include certain financial institutions within scope, such as credit institutions and investment firms. However, compared to real economy companies the different proposals take a narrower approach to due diligence. For instance, the scope of due diligence that financial institutions must undertake is limited to the activities (and due diligence practices) of direct business partners, i.e., legal entities directly receiving financial services and subsidiaries linked to the contract in question.

The inclusion of the financial sector has been a major point of contention, with Member States like France advocating for its exclusion, and others like Spain trying to find a compromise.

1.2. CRAFTING MESSAGING

This section reflects discussion held in a workshop style in plenary to work collectively on messaging to three main categories of stakeholders. The actors, motivations and messages listed are non-exhaustive but can provide concrete examples for further advocacy.

POLICYMAKERS

Actors	Motivations/concerns	Messages
Moderate MEPs (liberals)	Ensuring the free market, ensuring proper legal consistency for financial institutions	It is necessary to avoid fragmentation in the internal market.
Left wing MEPs (socialists, Greens)		Call to action: sharing key figures/data to underline the importance of the inclusion of the financial sector.
Right wing MEPs (Christian Democrats, Conservatives)	Financial institutions do not necessarily match with the scope of the legislation. Want to protect business interests. Avoid administrative/financial burden.	
Member States	Promote their own national model.	Need specific example of legislation to implement CSDDD for the transposition.
Commission		

INDUSTRY

Actors	Motivations/concerns	Messages
Financial sector	<p>Duplication of regulatory requirements would lead to inconsistencies and redundancies</p> <p>Cost-efficient investments would be undermined</p> <p>Global competitiveness of European asset managers would suffer</p>	<p>The inclusion of financial actors in the CSDDD complements rather than duplicates existing EU regulations and supports them to build robust internal systems and procedures, which are foundational to meaningful disclosures.</p> <p>The messaging should include that there already exists good practices from the sector that align with responsible business conduct standards.</p> <p>Financial institutions that have already implemented due diligence rules can be in favour of their inclusion.</p>
Companies in scope	<p>The CSDDD would have a negative impact on companies' profits.</p>	<p>The CSDDD ties in initiatives related to responsible business conduct while creating a risk-based approach to human rights and environmental due diligence, which means that companies will have to identify and address salient issues.</p> <p>Messages can also indicate that not conducting meaningful human rights and environmental due diligence exposes companies to litigation and reputational risks that will create losses.</p>
Large suppliers		
SME suppliers		
Industry in the Global South		

CIVIL SOCIETY & MEDIA

Actors	Motivations/concerns	Messages
Green NGOs	Want the inclusion of the financial sector.	The message should aim at mobilising them on this matter.
Social interest NGOs	Want the inclusion of the financial sector.	The message should aim at mobilising them on this matter.
Consumer groups	Want more consumer information on the product and services. Concerned about increases in prices of goods and services.	Emphasising consumer information in the final legislation cannot be done without proper due diligence.
Trade unions	Active organisations on this file, particularly in favour of the proposed provisions and of the inclusion of the financial sector. Being involved in the due diligence process. Would like more focus on the labour rights and their protection via the legislation.	
Think Tanks		
Media	Want to explain in a clear way the issues revolving around the file.	To explain to them clearly, with examples, your position on the issues at play.

2. SCOPE OF THE VALUE CHAIN

2.1. CONTEXT

Another key issue in the negotiations has been the scope of the value chain that will be covered by the due diligence obligations. In particular, there are divergences between the three versions with regard to the extent to which the downstream part of the value chain (i.e., what happens after a product or service has left a company) will be in scope. This can involve the provision of goods and services to end-users and consumers, how these goods and services are used by other companies or governments, as well as conditions for workers in distribution and logistics or impacts associated with end-of-life disposal of products.

All three versions of the proposal have slightly different definitions of the value chain, which carry a level of ambiguity.

2.2. CRAFTING MESSAGING

This section reflects discussion held in a workshop style in groups to work collectively on messaging to three main categories of stakeholders. The actors, motivations and messages listed are non-exhaustive but can provide concrete examples for further advocacy.

POLICYMAKERS

Actors	Motivations/concerns	Messages
Moderate MEPs (liberals)	<p>If the final text goes too far, companies might exit EU.</p> <p>Concerns over the level playing field, the litigation exposure.</p> <p>Companies would find the regulatory burden unreasonable.</p> <p>SME protection.</p>	<p>Way to manage risk – reputational, litigation etc. Important sectors will be excluded – e.g., Tech – will not facilitate level playing field.</p> <p>Can avoid harms if you do due diligence on whole value chain.</p> <p>Many processes to manage downstream impacts are done within own operations and companies are already doing it.</p> <p>Litigation risk overstated when you look at the civ liability provision – causation based.</p>
Left wing MEPs (socialists, Greens)	<p>Human rights are important.</p> <p>Strong ties with TUs</p> <p>Greenwashing re DD process</p>	<p>Labour risks relevant for downstream – transport/logistics/distribution etc</p> <p>Same arguments as for moderate and right wing</p> <p>Broader scope could address greenwashing concerns.</p>
Right wing MEPs (Christian Democrats, Conservatives)	<p>Level playing field,</p> <p>Regulatory burden, red tape</p> <p>Companies not ready etc</p>	<p>Same as for Moderates</p>

Member States	SMEs need to be protected.	<p>May be no position at the national level.</p> <p>Advocacy needs to be adjusted to national political context, e.g., federal system - BE New presidency</p> <p>Different ministries have different interests.</p>
Commission		

INDUSTRY

Actors	Motivations/concerns	Messages
Financial sector	All actors in the supply chain have issues with human capital.	They are under the obligations on CSRD, so they should not be too concerned with the CSDDD.
Companies in scope	<p>All actors in the supply chain have issues with human capital.</p> <p>Tech companies: concerns about conducting due diligence (in the provision of the services)</p>	Many big companies are conducting their businesses in accordance with the legislation to have a better reputation.
Large suppliers	<p>All actors in the supply chain have issues with human capital.</p> <p>Avoid administrative burden that could hinder profits.</p> <p>They may outsource their due diligence obligations to smaller suppliers.</p>	<p>Brussels-effect: a supplier out of scope would be more isolated. They should adapt to the new realities.</p> <p>The message should emphasise on the contrast between the outsourcing of their obligations and the Parliament's position on banning this practice.</p>
SME suppliers	<p>All actors in the supply chain have issues with human capital.</p> <p>Want to avoid being included in the scope of the definition of value chains.</p>	Keeping the obligation of due diligence is personal responsibility, it is not necessary being included in the legislation – on a voluntary basis.

		Primary companies in the scope are the large companies – it is not the purpose of the legislation to shift their obligations to them, so no need for concerns.
Industry in the Global South	<p>Main concern would be the Brussels effect – their obligations would be a value chain approach.</p> <p>CSDDD could create additional obstacles in their exports to the EU.</p> <p>Worried about the control of the implementation of the CSDDD.</p>	<p>“Divide and conquer” approach: they would favour a value chain approach to ensure a level playing field.</p> <p>They must comply with this new era of doing business, rebranding. The objective is to make their business future-proof.</p>

CIVIL SOCIETY & MEDIA

Actors	Motivations/concerns	Messages
Green NGOs	Want the inclusion of the financial sector.	The message should aim at mobilising them on this matter.
Social interest NGOs	Want the inclusion of the financial sector.	The message should aim at mobilising them on this matter.
Consumer groups	<p>Want more consumer information on the product and services.</p> <p>Concerned about increases in prices of goods and services.</p>	Emphasising consumer information in the final legislation cannot be done without proper due diligence.
Trade unions	<p>Active organisations on this file, particularly in favour of the proposed provisions and of the inclusion of the financial sector.</p> <p>Being involved in the due diligence process.</p>	

	Would like more focus on the labour rights and their protection via the legislation.	
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3. SCOPE AND DUE DILIGENCE OBLIGATIONS FOR SMES

3.1. CONTEXT

While the CSDDD creates explicit obligations for large companies, there have been concerns regarding the extent to which small to medium-sized enterprises (SMEs) will have to carry out due diligence themselves when being part of the value chains of in-scope companies.

3.2. CRAFTING MESSAGING

This section reflects discussion held in a workshop style in groups to work collectively on messaging to three main categories of stakeholders. The actors, motivations and messages listed are non-exhaustive but can provide concrete examples for further advocacy.

POLICYMAKERS

ACTORS	MOTIVATIONS/CONCERNS	MESSAGES
MODERATE MEPS (LIBERALS)	Administrative burdens for the SMEs who should be out of scope. Negative effect on productivity	Providing them data on the costs for SMEs to ensure comparability between the different types of companies.
LEFT WING MEPS (SOCIALISTS, GREENS)	Greens re in favour of including all economic actors to ensure that environmental objectives are achieved. Social support.	
RIGHT WING MEPS (CHRISTIAN DEMOCRATS, CONSERVATIVES)	Level-playing field for all companies might be preferable to ensure that large companies are not facing too many obligations compared to other.	You can provide more guidance to SMEs. The severity of obligations differs from the size of companies.
MEMBER STATES	Promote their own national model.	Need specific example of legislation to implement

		CSDDD for the transposition.
COMMISSION		

INDUSTRY

Actors	Motivations/concerns	Messages
Financial sector		
Companies in scope	<p>They would benefit from having their suppliers also be in legislation. They can rely on due diligence from their suppliers.</p> <p>Competition concerns.</p> <p>Help/ tools provided by authorities.</p>	Argue for fair competition by having an EU initiative with wide enough scope.
Large suppliers		
SME suppliers	<p>SMEs may have the belief that the fewer companies in scope, the better as they would be impacted less.</p> <p>Another worry is a lack of resources to undertake HRDD.</p>	Large companies will be obliged. It will not be an obligation that gets passed on to them.
Industry in the Global South	<p>Too much regulation concern. Not used to it.</p> <p>May not respect legislation that gets adopted or won't be enforced.</p>	Level playing field between countries - they won't loose out to demand from the EU. And the extra asks for data/facts, means they can raise prices.

CIVIL SOCIETY & MEDIA

Actors	Motivations/concerns	Messages
Green NGOs	<p>Environment –</p> <p>Making sure widest possible scope of companies do effective DD to mitigate impacts on environment.</p>	Engage them on SME support provisions.

		Give examples of how SMEs are conducting due diligence.
Social interest NGOs	Supporting human rights, making sure widest possible scope of companies do effective DD to mitigate impacts on human rights	
Consumer groups		
Trade unions		
Think Tanks		
Media		Give examples of how SMEs are conducting due diligence.

ANNEX 1

LIST OF RESOURCES

1. AT THE EU

1.1. THE COMMISSION

- EU directory or “[WholsWho](#)”: Commission’s Directorate-Generals, including Director-Generals, Directors and Heads of Units
- Websites dedicated to each EU Commissioner, e.g., the [website](#) for the Commissioner for Justice Didier Reynders.

1.2. THE PARLIAMENT

- [Legislative Observatory](#): Rapporteurs, Shadow Rapporteurs
- [Parliamentary Committees](#)
- Assistants to MEPs can be found on the webpage dedicated to the MEP
- Political group’s policy advisers can be found on the political groups’ websites:
 - [Renew Europe](#)
 - [European People’s Party \(EPP\)](#)
 - [Socialists & Democrats \(S&D\)](#)
 - [European Conservative and Reformists \(ECR\)](#)
 - [Identity and Democracy \(ID\)](#)
 - [The Left](#)
 - [Greens/EFA](#)

1.3. THE COUNCIL

- Permanent representations to the EU can be found online on the specific websites, most of which outline which person is active on which topic. For instance:
 - [Bulgaria](#)
 - [Cyprus](#)
 - [Czechia](#)
 - [Estonia](#)
 - [Finland](#)
 - [France](#)
 - [Hungary](#)
 - [Ireland](#)
 - [Luxembourg](#)
 - [Poland](#)
 - [Spain](#)

- [Sweden](#)

1.4. EU CHANGER

Website: <https://www.euchanger.org/>

About: EU Changer supports organisations through trainings, an EU academy and direct consultancies to engage more effectively in the EU and beyond.

- The [EU Advocacy Toolbox](#) gives access to online tools that will help advocates access essential information on EU decision-making and influencing efficiently by identifying the key decisionmakers, providing access to essential documents, tracking decision making etc.
EU Changer has developed a toolbox for all three negotiators ([Commission](#), [Parliament](#) and [Council](#)), as well as other [institutions](#).

2. CIVIL SOCIETY ORGANISATIONS AND NGOS

EUROPEAN COALITION FOR CORPORATE JUSTICE (ECCJ)

Website: <https://corporatejustice.org/>

About: Coalition of over 480 civil society organisations dedicated to corporate accountability, human rights and the environment.

- ECCJ lists [their members](#), which are useful stakeholders for NHRIs to engage with.

BUSINESS AND HUMAN RIGHTS RESOURCE CENTRE (BHRR)

Website: <https://www.business-humanrights.org/en/>

About: Website providing news and updates on business and human rights, and tracks companies worldwide. BHRR has special thematic focuses, including labour rights, natural resources, human rights defenders and civic freedoms, and corporate legal accountability.

GLOBAL WITNESS

Website: <https://www.globalwitness.org/en/>

About: NGO focused on the climate crisis, corporate accountability and the duty of States to protect and respect the environment and human rights. They advocated for people in the Global South, indigenous communities, communities of colour, women and younger generations in particular. They also have a focus on online hate speech and misinformation.

FRANK BOLD

Website: <https://en.frankbold.org/>

About: Frank Bold is a purpose-driven law firm which provides specific legal consultations to the public and local NGOs, run legal cases and publish briefings and papers on social and environmental issues, including business and human rights-related matters.

- [Frankly Speaking Podcast](#) discussing the latest political, legal, and business developments in the field of ESG, business and human rights, and corporate reporting.

SHIFT

Website: <https://shiftproject.org/>

About: Non-profit organisation with expertise on the United Nations Guiding Principles on Business and Human Rights.

3. INDUSTRY

Some companies and trade associations have come out in favour of the due diligence framework or certain provisions, see for example:

- [Letter](#) signed by 40 large companies and trade bodies calling for alignment between CSDDD and international standards on sustainability due diligence.
- Finance industry groups from the [Nordics](#) and from [The Netherlands](#) have called for inclusion of financial services

EUROSIF

Website: <https://www.eurosif.org/>

Organisation of institutional investors, asset managers, financial services, index providers and ESG research and analysis firms. Its mission is to promote sustainable development through financial markets.

***Tip:** Consult the Commission's [platform](#) compiling the public consultations launched by the European Commission, in order to identify more NGOs, industry players and other organisations active on the topic.*

ANNEX 2

FAST TIPS: FIRST STEPS TO ENGAGE IN EU ADVOCACY AND THE CSDDD

Step 1: Identifying and prioritising issues

Engaging with all human rights-related issues is both not an effective way to use resources and an impossible task. As an NHRI, you must identify which issues are most relevant to your mandate and your national context, as well as where you have the most expertise. Issues related to the work you may already be undertaking are especially valuable, as you will be able to provide evidence and data supporting your arguments.

- For example, if your NHRI is particularly focused on environmental issues, this can be the angle to take and on which to focus your efforts.

Step 2: Building capacity

To be able to engage on a topic, your NHRI may need to build capacity. This can be supported by identifying allies in organisations that are doing work on the issue as well as gathering resources.

To find key allies in the corporate accountability and business and human rights sector, please see the list of resources in Annex 2.

Finding statements, press releases, reports, responses to public consultations and other analytical documents can provide a good overview of the key issues on one topic as well as find out what actors are saying on the topic.

- For example, finding business statements or even statements from trade associations can be a useful way to identify which industry actors are supporting which arguments. This can then be used for advocacy in your jurisdiction, as showing that industries are supporting a point you are making has proven to be an effective way to get support from policymakers. Showing national business support is especially useful when engaging national governments as well as

business friendly political groups like centrist/liberal and right wing/conservative groups

Step 3: Knowing when to engage

Conducting advocacy on EU developments can be overwhelming, as the EU legislating process can be perceived as a black box, especially if you may feel your NHRI is not ready to take on this role.

It is most effective to engage as soon as possible on a file during the negotiations. In the context of the CSDDD, trilogue negotiations are at an advanced stage. Therefore, following sources like Euractiv and Politico, which are well-informed on ongoing negotiations and share calendar updates for strategic engagement can be useful.

The [work programme](#) of the European Commission provides a good overview and timeline regarding its intentions to publish a proposal. Moreover, you can keep an eye on the public consultation page of the Commission, where new initiatives are published.

The European Coalition for Corporate Justice (ECCJ) also possesses insider knowledge and is a good source of information regarding key dates on negotiations.

- Reach out to the Danish Institute for Human Rights, which has specialised staff dedicated to supporting and building the capacity of sister NHRIs on business and human rights.

Step 4: How to engage

Policymakers are also open to hearing from expert institutions, especially if they are from their national constituencies. Similarly, in the context of business and human rights, industry actors may want to consult NHRIs on their expertise on a specific human rights issue or on a file the NHRI is engaging with.

a) Convening stakeholders

Because of their mandate, their positioning as an independent human rights institution and their convening power, NHRIs hold a privileged role in convening events. This is an effective way to engage a range of stakeholders, including on topics your NHRI may not yet be an expert about, as you can invite expert organisations and speakers to provide presentations, including for policymakers in your national jurisdictions.

In addition, this can provide opportunities for the NHRI to activate other actors and engage civil society.

b) Awareness raising, sharing expertise, guidance and training

Industry actors, civil society and other rights-holders need to be capacitated on the contents of EU policy and legislative developments, especially with complex files like the CSDDD. NHRIs can raise awareness on the key issues touched on in the texts, with specific advice for the stakeholder groups. As human rights experts well versed in the national context, NHRIs can share their expertise by capacity building, including through the development of context specific guidance and trainings tailored to specific industries, types of businesses and human rights impacts that are key for their national contexts. NHRIs can use a train the trainer approach by training state authorities, lawyers, auditing and certification businesses, as well as bringing in other organisations' expertise and becoming a hub for capacity-building.

c) Identifying and engaging with Supervisory Authorities

In the context of the CSDDD specifically, each Member State will be required to appoint a Supervisory Authority to oversee compliance and enforcement of the directive. Supervisory Authorities are expected to be adequately resourced and capacitated, including capacity on human rights, as well as empowered with a range of powers including investigation and sanctioning powers. The Supervisory Authorities could benefit from the national and local knowledge of NHRIs with regards to business and human rights, and NHRIs could have a capacity building role. NHRIs can explore a more formal role in relation to the Supervisory Authorities, potentially taking the role of observer or part of an advisory body to support the institution(s) that will be appointed to this role and build their human rights expertise.

a) Engagement with sister NHRIs

NHRIs are well placed to liaise with sister organisations in the EU to share learnings as well as explore avenues to act collectively, for example by preparing joint positions and statements in collaboration with ENNHRI in order to have more influence on EU and/or domestic policymakers and other influential actors. European NHRIs are also well placed to liaise with sister organisations in third countries where European companies have their operations or those of their business relations covered by the future directive; in this context, European NHRIs can act as a bridge for these institutions outside the EU to reach the relevant resources in the EU and vice-versa.

ANNEX 3

SLIDEDECK





Agenda

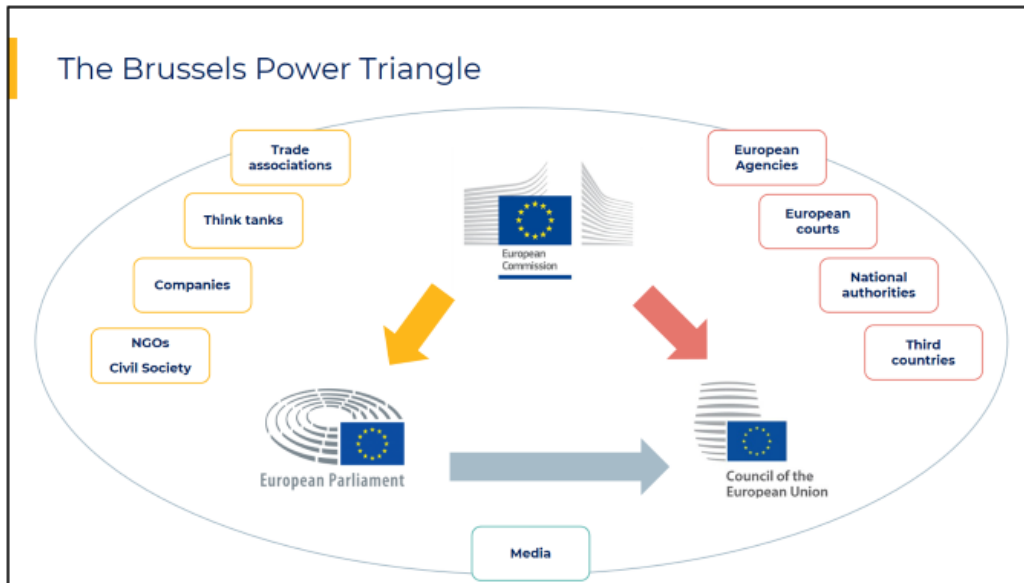
1. EU advocacy – presentation
2. CSDDD state of play – presentation
3. CSDDD messaging workshop



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Part 01

EU advocacy



1. The European Commission:

- EU executive power
- (Largely) independent administration with technical expertise, monopoly of legislative initiative and in fact holding the pen on most EU texts; guardian of the EU treaties
- Importance of internal dynamics and power plays between a) different services and b) between technical level and political level (Commissioners), which can have diverging agendas

2. The European Parliament:

- Co-legislator and only elected EU body
- 705 MEPs elected on a national basis supported by political staff (assistants, political advisors) and a small secretariat
- Limited technical capacity and importance of political positioning with tendency from MEPs to follow national interests in addition to, and sometimes rather than, party lines.

3. The Council of the EU:

- Co-legislator with the EP; represents national interests.
- Negotiations are driven by national interests, but often with the aim to achieve consensus. Sensitive to interests of national stakeholders, largely through contacts at national level rather than in Brussels.
- Member States are also represented at the European Council, gathering the 27 heads of government and state, and setting the EU's political direction: big political priorities such as the Green Deal is often first pushed at this level.

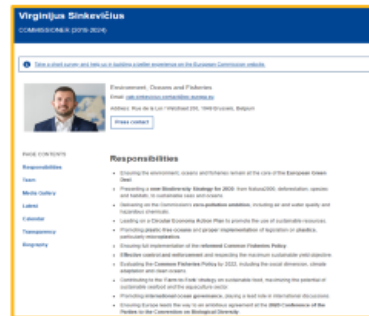
- While these three institutions are central, many other stakeholders are able to feed into the legislative and policy process. These include industry, trade associations, NGO, think tanks, third countries, etc: they have varying level of access, engagement and influence with the power triangle.
- Media can shape the legislative debates, with stories heavily driven by policy and technical issues (rather than consumer or commercial news as in capitals).
- Consensus and transparency are two key principles guiding the institutional process – especially in the Council and Parliament. Contrary to what can be the case at national level, there is no taboo around lobbying and most organisations operating at EU level stand on the transparency register.
- Most EU regulations have the potential to become global standards or have the ambition to have an impact even beyond EU member countries.



The stars indicate key points for intervention. Typically, the earlier you start, the more influence you can exert. The overall approach of legislation is determined during the proposal phase, when the file is with the Commission. Then the EP and Council will tweak the text, e.g. making edits to the scope, obligations and timeline for implementation.

Identifying key people in the Commission

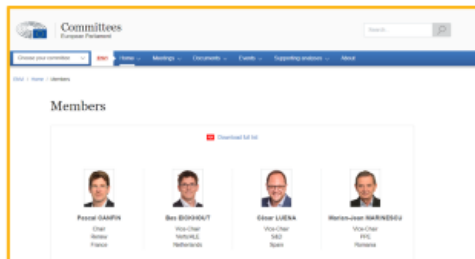
- Maintaining a "stakeholder mapping" is key to keep track of the main actors within the institutions.
- The Commission's Directorate-Generals form the services (i.ae. "ministries")
 - The EU directory ([WhoisWho](#)) is the best way to spot Director-Generals, Directors and Heads of Units at the Commission.
- The Commissioners and their cabinets form the political layer of the Commission
 - They can be found on the website dedicated to the Commissioners, e.g. [Commissioner for Justice Didier Reynders](#).



- In the trilogue phase the role of the Commission is limited. They often take the role as a facilitator of the discussion, trying to come up with compromise solutions that will suit the Parliament's and Council's wishes to ensure progress is made. However, the Commission will also make sure to opt for solutions that it deems implementable.
- Since recently, the whoiswho doesn't contain policy officers anymore, these are the people that hold the pen on EU proposals. This info can still be obtained by contacting the head of unit of the unit in charge.
- Aside from the Unit in charge, be aware that other Units (sometimes from other DGs) are also involved, formally providing their input during the interservice consultation

Identifying key people in the Parliament

- In the EP's "[Legislative Observatory](#)", you can find rapporteurs, and shadow rapporteurs, they lead negotiations on behalf of their groups.
- Every committee has a dedicated section on their website to list the MEPs, e.g. the [Legal Affairs committee](#).
- Assistants to MEPs can be found on the website dedicated to the MEP, e.g. [Assistants to Lara Wolters](#).
- Policy advisors work for political groups and can be found in the political group's website.
 - Policy advisors have an acute technical knowledge of the files they follow and are a great source of information.
 - [Renew](#), [S&D](#), [EPP](#), [ECR](#), [the Greens](#) and [The Left](#) have specific policy advisors in the Legal Affairs committee.



- Role of assistants shouldn't be underestimated. In many cases, the MEP has effectively delegated the file to them, following their advice

Identifying key people in the Council

- Every Member State has a Permanent Representation to the EU located in Brussels, e.g. the [French Permanent Representation](#).
 - It is the best way to know which national counsellor (attaché) is in charge of a specific file.
- National experts also play a key role for Member States on a given file.
 - Often located in the capital of their Member State, they help bridging the State's position with the attaché in Brussels.
 - A good way to identify the national expert can be through the Permanent Representation.

• Le Représentant Permanent Adjoint ☰

 Cyril Piquemal
Secrétaire
Muriel Georget - Tél : + 32 2 229 82 10

• La Représentante Permanente de la France auprès du COPS ☰

 Mathilde Félix Paganon
Ambassadrice, Représentante permanente auprès du Comité Politique et de sécurité

 Secrétaire
Thomas Lorat - Tél : + 32 2 229 88 06
Sylvie Alévy - Tél : + 32 2 229 88 23

• Conseiller Antici ☰

 Sophie Martin-Lang
Conseillère Antici
Groupes Antici: coordination COBBER II, @coflectacts, @copactix

Ambassador Søren Jacobsen
Deputy Head of Mission, Deputy Permanent Representative (Comper I)

Ambassador Michael Lund Jeppesen
Representative to the PSC

Secretary Birgit Peters
(02/233 0671/birpet@um.dk)
- Secretary to Per Fabricius Andersen

Secretary Danille Lauridsen
(02/233 0672/danila@um.dk)
- Secretary to Søren Jacobsen

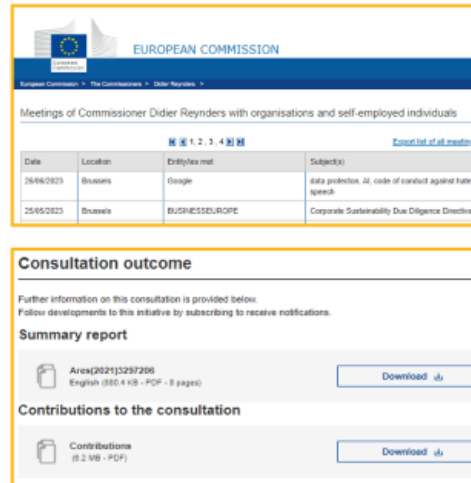
Secretary Annemarie Dunbar
(02/233 0892/anndu@um.dk)
- Secretary to Michael Lund Jeppesen

HORIZONTAL COORDINATION AND COMMUNICATION

Counsellor Christian Atzen
(02/233 0666/chraat@um.dk)
- Antici
- Comper II coordination
- Meetings of the European Council
- Councils of Ministers, Troika-related meetings

Identifying the stakeholders

- Follow media and social media to see which voices are the loudest.
- Consult the [transparency pages](#) of Commissioners and their staff to see who has taken meetings on CSDDD.
- Check the Commission's [consultation](#) outcome to see which organisations have voiced their position and what their arguments are.
- Complement by a search for position papers, public letters and similar materials for CSDDD.



The screenshot displays the European Commission's website interface. At the top, it features the European Commission logo and the text 'EUROPEAN COMMISSION'. Below this, there is a navigation bar with the text 'European Commission > The Commissioners > Other Resources'. The main content area is titled 'Meetings of Commissioner Didier Reynders with organisations and self-employed individuals'. It includes a table with columns for Date, Location, Entity/ies met, and Subject(s). The table contains two rows of data. Below the table, there is a section titled 'Consultation outcome' which provides further information on the consultation and offers download links for a 'Summary report' and 'Contributions to the consultation'.

Date	Location	Entity/ies met	Subject(s)
26/06/2023	Brussels	Google	data protection, AI, code of conduct against hate speech
25/05/2023	Brussels	BUSINESS-EUROPE	Corporate Sustainability Due Diligence Directive

Consultation outcome

Further information on this consultation is provided below.
Follow developments to this initiative by subscribing to receive notifications.

Summary report

Area(2021)3297206
English (850.4 KB - PDF - 8 pages) [Download .pdf](#)

Contributions to the consultation

Contributions
(9.2 MB - PDF) [Download .pdf](#)

- Trade associations are often used by companies to hide behind. Sometimes, you'll find that the industry association is the one making public statements, and replying to the consultation, but this is driven by a single (set of) companies which are the main drivers. Checking the transparency pages of Commissioners is key to find those with the most influence.

Tailoring your argument to the Commission

10

- Commission officials (in DGs) always look for expertise. Making technical arguments and providing facts and data are key.
- The Commission hopes to see legislation adopted by the Parliament and Council, while supporting solutions that are implementable and enforceable.
- Different DGs - who are led by different Commissioners - have different interests.
 - DG GROW: internal market; creation of European Champions.
 - DG ENV: concerned with delivering the objectives of the EU Green Deal.
 - DG JUST: liberal economics, human rights protection



Tailoring your argument to the Parliament

11

- MEPs are politicians, attuned to ideological and political arguments. They support policies that will make them popular with their target electorate.
- MEPs linked to national coalitions often follow the government line, especially when the country has taken a stronger stance (like France on inclusion of finance in CSDDD)
- Left-wing MEPs are more interested in social welfare and climate
- the right focusses on economy, jobs and business interests.
 - Tip: point out support from large businesses within the MEP's constituency



- **Regardless of ideological proclivity, always be prepared to back up your arguments with hard facts and data.**

Tailoring your argument to the Council

12

- Member States will listen to arguments attuned to their national – mostly economic – interests.
- Be aware of national election cycles, and the issues ruling parties profile themselves on.
- Tip: point out support from large companies from the country
- But also countries can be split along ideologies. E.g. liberal countries like the Netherlands generally favour open markets, while France is more protectionist.



The stakeholders

13

Industry

- Industries aim at preventing additional costs and excessive red tape in legislation.
- Arguments need to revolve around:
 - Economic benefits (direct / indirect)
 - Minimising administrative burden
 - Legal certainty

CSO

- CSOs expect a diluted legislation, so they push for ambitious messages.
- Arguments linked with an ambitious social and green objectives are key.

Both value involvement in implementation

Conclusion



Questions to ask yourself

- Am I seen as a knowledge-partner by the EU policymakers?
- Do I have allies to weigh in on a file?
- Have I developed a network with policymakers?
- Have my arguments/amendments been challenged? By whom? On which basis?
- Which arguments/amendments have been relayed? Why?
- Which arguments/amendments have not been understood? Why?



Part 02
Delving into the CSDDD

A flagship initiative for the European Union

- CSDDD was announced as a **flagship initiative**, and a major priority for the EU. It would create a "brussels effect", setting the tone for other regions.
- However, we now see a **lack of progress in trilogues** due to:
 - **Complexity**: general difficulty in including social requirements in green deal legislation
 - **Positions far apart**: the EP and Council position are very far apart and even within both institutions political groups and countries diverge from the line of their institution
- Uncertainty increases around adoption of the file this mandate.
- As such its largely about **political will** to push through, which means efforts should focus on the political layer of the institutions:
 - Remind EU of the importance of this file
 - Focus on priority issues, and have a plan B in place



- The Corporate Sustainability Due Diligence Directive (CSDDD) is the **flagship initiative that enshrines the EU's ambition to be a global standard-setter** as regards social and green welfare.
- Even before the publication of the proposal, **the CSDDD has been perceived as a highly political file**, with the Regulatory Scrutiny Board (The Commission's independent committee which checks the quality of a draft legislation) redlighting the draft proposal of the Commission.
 - Many green advocacy groups and MEPs saw behind these redlights from the Regulatory Scrutiny Board **the influence of the larger companies** that would fall under the scope of the CSDDD.
- After mediatic negotiations within the Parliament and the Council, the file is now at the **trilogue stage**.
- Three rounds of trilogues have taken place and **very little progress has been made**. Negotiations are still stuck on e.g. obligations for directors, provisions related to the compliance to the Paris agreement for companies as well as the inclusion of financial services in the scope of the Directive.
- The Spanish Presidency seems to remain hopeful that the co-legislators would **reach an agreement by Christmas**. However, many stakeholders involved in the negotiations doubt that it can happen during the current mandate of the Commission.



Inclusion of financial sector

Commission

- In the proposal of the Commission, financial undertakings are in scope.

Parliament

- While the Rapporteur initially included financial services in the list of high-risk sectors, the Parliament ended up watering this down, deleting the high-risk category all together.
- They did keep the sector in scope and included an obligation for the Commission to develop sector **specific guidelines** for financial services.

Council

- The inclusion of the financial sector caused the most disagreement among Member States. France positioned itself as the biggest opponent, and was supported by Spain, Italy and Slovakia.
- Currently, the General Approach of the Council allows Member States the **flexibility to include financial services** in the scope of their national frameworks implementing the CSDDD.
- However, discussions are still ongoing on whether to include the sector and to what extent.



Disagreements can still persist between each institutions

- Neither the Council nor the Parliament or the Commission have a monolithic position on legislative files. Compromise can be made but disagreements can persist.
- **Council:** France spearheaded an internal fight to exclude the financial sector from the scope. The Presidency of the Council of that time (CZ) leaned towards France's position, but it doesn't mean that other countries might agree with it. For instance, when deciding to vote for their position on the CSDDD, Belgium, Austria, Bulgaria, Estonia, Ireland, Lithuania, NL and Slovakia voted against the position.
- Moreover, the Spanish presidency is exploring the removal of an exemption in the position, which could conflict with the Parliament's stance. Regarding the banking and insurance sectors, Spain proposes an obligation to mitigate potential impacts. Madrid also acknowledges connections between financial services and adverse effects but rules out complete client value chain oversight by banks.
- **Parliament:** EPP is more pro-industry oriented than the S&D and against the inclusion of the financial sector, in contrast with the S&D.
- **Commission:** DG GROW (Breton) and DG JUST (Reynders) had difficult internal negotiations before publishing the proposal, DG GROW being more pro-industry than DG JUST, which has led to postponements of the proposal.

Supply chains / Value chains

Commission

- The Commission takes a **value chain** approach, including:
 - development of the product or the service
 - use and disposal of the product
 - related upstream and downstream activities
- Though limited to **established business relationships**.

Parliament

- In their position, MEPs decided to **broaden the definition of "value chains"**, including a variety of upstream and downstream activities.
- More so, the Parliament removed the criterion for business relationships to be "established".

Council

- Conversely, the Council has decided to **replace "value chains" with "chains of activities"**, leaving the use of the company's products or provision of services out of scope.
- Aiming to increase legal certainty, Member States listed the more precise activities, resulting in disagreements among them.



Commission

- Value chains would encompass activities related to the production of goods or the provision of services by a company.
- It would include the development of the product or the service and the use and disposal of the product as well as the related activities of upstream and downstream established business relationships of the company

Parliament

- The MEPs have decided to broaden the definition of "value chains": Therefore, value chains would encompass:
 - Activities related to, and entities involved in, the production, design, sourcing, extraction, manufacture, transport, storage and supply of raw materials, products or parts of a company's product and the development of a company's product or the development or provision of a service
 - Activities related to, and entities involved in, the sale, distribution, transport, storage, and waste management of a company's products or the provision of services, and excluding the waste management of the product by individual consumers

Council

- The Council has decided to replace "value chains" with "chains of activities". Therefore, the phase of the use of the company's products or provision of services are left out of due diligence requirements.
- However, Member States listed downstream activities covered by the Directive to ensure legal certainty, i.e.:
 - The distribution, transport, storage and disposal of the product, including the dismantling, recycling, composting or landfilling.
 - To these downstream activities, the Council added an exemption on products being subject to export control (i.e. dual-use items and weaponry) as regards to the distribution, transport, storage and disposal.
- **Czechia and Lithuania want clearer definitions on downstream activities., while Poland and Slovakia want a narrower focus on the supply chain side.**

Scope and due diligence rules for SMEs

Commission

- Companies in scope must **limit the reporting burden for SMEs**, as the financial and administrative burden of setting up and implementing a due diligence process is relatively high.
- The Commission aimed to **lessen the burden on companies**, notably through:
 - Support for collaborative stakeholder activities
 - Allowing Member States to facilitate capacity building for SMEs (financial and operational).

Parliament

- MEPs ask that SMEs should also have the possibility to apply this Directive on a **voluntary basis**.
- Additional provisions to ensure that the burden for reporting must not be shifted from larger companies to SMEs.
- There is concern among Greens with regard to the adverse impacts on SMEs in the global south.

Council

- Member States roughly followed the **Commission proposal**.
- Driven by i.a. Germany, their position mainly focusses on cutting red-tape for smaller companies.



The German government called on EU institutions to lower EU reporting obligations for companies in an effort to cut bureaucracy and is likely to push for companies under 1,000 employees to be excluded from the directive, in line with its national due diligence law.