

Complaint to the European Ombudsman

Maladministration of the Commission in the preparation of the 2025 proposal to amend the CSDDD as part of the Omnibus I package



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1. Context

In this complaint, ClientEarth, Notre Affaire A Tous, Clean Clothes Campaign, European Coalition for Corporate Justice, Global Witness, Transport & Environment, Antislavery International, Friends of the Earth Europe (“**Complainants**”) submit that the manner in which the European Commission (“**Commission**”) prepared the legislative proposal **COM(2025) 81 final** for a directive amending certain corporate sustainability reporting and due diligence requirements (hereafter the “**Proposal**”)¹ – which proposes to amend, *inter-alia*, the Corporate Sustainability Due Diligence Directive of 13 June 2024 (“**CSDDD**”) –, as part of the broader Omnibus I package², constitutes maladministration. Specifically, this complaint raises the failure of the Commission to conduct an impact assessment or otherwise demonstrate that it based its decisions on the best available evidence; to carry out a public consultation; and to justify any reasons for such deviations from the principles enshrined in the TEU, Better Regulation Guidelines and European Climate Law. Bypassing the procedural safeguards typically required under the Better Regulation Guidelines amounts to maladministration in the preparation of the Proposal.

These standards are particularly important given the high level of public interest and stakeholder engagement associated with the CSDDD – including beyond EU borders as the strong participation from civil society organisations based in the Global South demonstrated³ – throughout its entire legislative development between 2020 and 2024.⁴ In total, 473 461 public responses were obtained during the consultation period that was held in 2020 during the preparation of the proposal for the CSDDD.⁵

The preparation and adoption of the Omnibus I package generated widespread outcry from CSOs, businesses, EU politicians from across the political spectrum and wide media attention, which underscores the deep concerns held by a significant portion of EU society regarding the lack of proper scrutiny and accountability in this process.⁶ This collective alarm signals that the Commission’s approach risks undermining public confidence in its capacity to serve the interests of all EU citizens.

By bypassing proper impact assessment and excluding broad public participation, the Commission is harming its own credibility as a transparent and evidence-based policy-maker. Its actions appear detached from the democratic principles enshrined in the Treaties, and this is damaging to its role as a legitimate and trustworthy institution in the eyes of EU citizens.

The closed-door approach followed by the Commission, which favoured consulting certain stakeholders over others, also risks fueling antidemocratic discourses and eroding the trust of EU citizens in the EU institutions. The selective and private nature of these consultations, and the Commission’s prioritisation of corporate lobbying over public participation, feeds concerns that the EU is becoming less accountable to

¹ COM(2025) 81 final, Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting and due diligence requirements.

² European Commission, Omnibus I, https://commission.europa.eu/publications/omnibus-i_en.

³ See for example [EU: 93 Global South defenders urge EU negotiators to uphold a human rights-centred CSDDD - Business & Human Rights Resource Centre](#), 7 December 2023.

⁴ [Civil society statement on the proposed EU CSDDD](#), May 2022; [100+ large companies, SMEs & networks reaffirm support for EU CSDDD at final stage of adoption - Business & Human Rights Resource Centre](#), 3 July 2024. See more on [Broad support for the CSDDD](#).

⁵ Ares(2021)3297206 Public Consultation on a Proposal for legislation fostering more sustainable corporate governance in companies, https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance/public-consultation_en.

⁶ See [Broad support for the CSDDD](#).

its citizens and more responsive to narrow, vested interests. This undermines the very foundation of the EU's democratic legitimacy.

Finally, the rushed nature of the Commission's policy-making, without proper evidence or consideration of diverse viewpoints, negatively impacts the quality and effectiveness of EU legislation. By failing to provide an open platform for all relevant stakeholders to contribute their expertise and concerns, the Commission is jeopardising the integrity of its decision making and the long-term success of the initiatives it promotes.

The Complainants stress that this complaint arises against the backdrop of a recent and broader trend, which risks becoming more established in the coming months and years. Indeed, recent complaints to the Ombudsman concerning the Common Agricultural Policy ("CAP")⁷ and the protection status of wolves⁸ already point to a new pattern of rushed and undemocratic decision-making process since 2024. In addition, the Proposal was adopted by the Commission as part of a new strategy that it recently announced, consisting of prioritising for the next five years the 'simplification' of the EU *acquis*, notably through the adoption of a series of so-called 'Omnibus packages', of which the Omnibus I package containing the Proposal is the first.⁹ The Commission also indicated that in doing so, it would make use of new policy-making tools which, as is explained in the complaint, have led to maladministration due to the manner in which they were effectively applied during the elaboration of the Proposal.¹⁰ If left unaddressed, there is therefore a risk that the instances of maladministration that arose with respect to the Proposal will be replicated in the forthcoming Omnibus packages that have already been announced,¹¹ underscoring the systemic relevance of this complaint and the need for scrutiny to ensure procedural integrity in future legislative initiatives.

The Proposal proposes to amend several pieces of legislation in addition to the CSDDD,¹² such as the Corporate Sustainability Reporting Directive ("**CSRD**").¹³ However, the scope of this complaint is limited to the Commission's conduct in preparing the Proposal insofar as it seeks to amend the CSDDD, reflecting the specific expertise and knowledge of the Complainants in this area. This targeted focus enables the Complainant to provide a detailed and evidence-based account of the procedural failings. However, the issues identified in this complaint – particularly the lack of a comprehensive impact assessment and public

⁷ [Complaint to the European Ombudsman on the preparation of the 2024 CAP revision | ClientEarth](#); [EU Ombudsman opens inquiry into legitimacy of CAP rewrite process | ClientEarth](#).

⁸ [Ombudsman opens inquiry after EU trashes wolf protections | ClientEarth](#).

⁹ COM(2025) 47 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A simpler and faster Europe: Communication on implementation and simplification, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025DC0047>. See in particular p.1: "To boost prosperity and resilience, the Commission will propose unprecedented simplification to unleash opportunities, innovation and growth. We will launch a new drive to speed up, simplify and improve EU policies and laws, make rules clearer and easier to understand and faster to implement. [...] The Omnibus packages outlined in the 2025 Commission Work Programme will be our first deliverables of this mandate. They are only the start".

¹⁰ This is particularly the case of so-called 'reality checks', which the Commission introduced in its Communication on implementation and simplification (COM(2025) 47 final, op. cit., p. 5 and 8).

¹¹ *Ibid.*, p. 6: "Omnibus packages and other simplification proposals, adopted throughout the year, will maximise simplification by addressing interactions between different pieces of legislation. They will include, inter alia: Omnibus package on sustainability [...] Omnibus package on investment simplification [...] Omnibus package, including on small mid-caps and removal of paper requirements."

¹² Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ L, 2024/1760, 5.7.2024.

¹³ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, OJ L 322, 16.12.2022.

consultation – may equally apply to the entire policy process underpinning the Omnibus I package, including in relation to the CSRD and the Taxonomy Regulation.

Section 2 of the complaint describes the context and background of the complaint. Section 3 gives an explanation of the underlying facts surrounding the preparation of the Proposal and the exchange of letters between the Complainants and the Commission. Section 4 provides an overview of the legal framework for the Better Regulation Guidelines, evidence-based decision making and stakeholder consultations. Section 5 focuses on maladministration in relation to failure to comply with Better Regulation Guidelines and other applicable rules in preparing the Omnibus I package. In particular Section 5.1. focuses on the failure to observe the principles of coherence and evidence-based law making, including the failure to carry out the necessary impact assessments and analysis. Section 5.2. focuses on the failure to conduct proper public consultations in the preparation of the Proposal.

Finally, Section 6 concludes and respectfully requests the European Ombudsman to reach a finding of maladministration and issue appropriate recommendations.

2. Background

2.1. The CSDDD

The CSDDD¹⁴ is the first cross-sectoral legislation at the EU level requiring large companies operating in the EU market to conduct due diligence to identify, prevent, address, remediate and monitor actual and potential adverse impacts on human rights and the environment, including throughout their own operations, those of their subsidiaries, and those of their business partners in their value chains. Additionally, the CSDDD requires that companies adopt and implement a transition plan for climate change mitigation that aims to ensure that the company's business model and strategy are compatible with the transition to a sustainable economy and the goal of limiting global warming to 1.5°C. Companies will also have to communicate information on their due diligence policies, processes and activities to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities externally. For the majority of companies subject to the CSDDD, this reporting obligation is covered by rules laid down in the CSRD.¹⁵

By establishing a mandatory risk-based due diligence legal framework broadly in line with existing international standards on responsible business conduct such as the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines), the CSDDD seeks to increase corporate accountability for the adverse social and environmental impacts within companies' value chains, thus promoting responsible business conduct across the EU and globally. The CSDDD is crucial in order to fulfil the objectives of various existing EU policies and measures in the field of human rights, including labour rights and the environment, in particular the European Green Deal.

The CSDDD proposal of 23 February 2022 was accompanied by a thorough and in-depth environmental, social and economic impact assessment of several policy options.¹⁶ In 2020, a public consultation carried

¹⁴ Directive (EU) 2024/1760, op. cit.

¹⁵ Directive (EU) 2022/2464, op. cit, p. 15–80.

¹⁶ SWD(2022) 42final Commission Staff Working Document Impact Assessment Report Accompanying the Proposal for a CSDDD, 23.2.2022 ; SWD(2022) 43final Commission Staff Working Document Executive Summary of the

out during the preparation of the proposal yielded almost half a million responses,¹⁷ showing overall support for the objective of EU action and the majority of the proposed actions. The CSDDD was adopted on 13 June 2024 and entered into force on 25 July 2024. Member States must transpose the CSDDD into national law within two years from its entry into force, and apply it gradually to companies in three phases from 2027 to 2029.

2.2. The inception of the Omnibus I package

On 20 February 2024, a closed-door meeting took place in Antwerp where 73 business leaders across 17 sectors presented the 'Antwerp Declaration for a European Industrial Deal' to Commission President Ursula von der Leyen and Belgian Prime Minister Alexander De Croo.¹⁸ It emphasised *inter alia* the need to prevent over-reporting.

On 8 April 2024, economy, finance, and business ministers from France, Germany, and Italy met to discuss plans for an "omnibus" law aimed at cutting requirements for businesses. French Minister Bruno Le Maire specifically proposed a directive to review all European standards, aiming to simplify, streamline, or abolish regulations, and aligning with the industry's call for reduced regulatory burdens.¹⁹

In September 2024, in his report on 'The Future of European Competitiveness' (the "**Draghi Report**"), Mario Draghi emphasised the need for Europe to create a regulatory landscape which facilitates competitiveness and resilience, drawing anecdotal attention to burden and compliance costs created by the reporting and due diligence framework – with the CSRD and the CSDDD only mentioned in a footnote as legislations considered.²⁰

As far as the Complainants are aware, active lobbying took place from the end of 2024 led by business associations, seeking support from the conclusions of the Draghi Report to request the postponement and re-opening of corporate sustainability laws with a view to lowering the requirements they introduced for companies. Some of these lobbying actions known to the Complainants – with a particular focus on those related to the CSDDD – are summarised in the following paragraphs.

On 5 November 2024, 25 business associations signed a joint statement welcoming the Commission's intention regarding administrative burden relief and simplification. They called for a postponement of the CSDDD, a comprehensive competitiveness assessment, as well as timely issuing of guidelines and other supportive measures by the Commission.²¹

Impact Assessment Report Accompanying the Proposal for a CSDDD, 23.2.2022; See also European Commission: British Institute of International and Comparative Law, Civic Consulting, Directorate-General for Justice and Consumers, LSE, Torres-Cortés, F. et al., Study on due diligence requirements through the supply chain – Final report, Publications Office, 2020, <https://data.europa.eu/doi/10.2838/39830>.

¹⁷ Ares(2021)3297206, op. cit.

¹⁸ See [The Antwerp Declaration for a European Industrial Deal and Behind the scenes of the Antwerp Declaration – POLITICO](#), 16 May 2024. Today over 1,300 organisations spanning 25 sectors join in support, including trade unions such as IndustryAll.

¹⁹ [France, Germany and Italy eye 'omnibus' law to cut regulatory burden - Euractiv](#), 8 April 2024.

²⁰ The future of European competitiveness: Report by Mario Draghi, September 2024, see notably p. 318, footnote 20, https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en.

²¹ [Trade association Joint Statement](#), 5 November 2024.

On 8 November 2024, at the informal European Council meeting in Budapest, EU leaders endorsed the 'Budapest Declaration on the New European Competitiveness Deal', calling for proposals to reduce reporting requirements, yet without explicit reference to the CSDDD.²²

During a press conference immediately after this informal meeting, Commission President Ursula von der Leyen announced that the Commission would propose an "omnibus" law to streamline existing corporate sustainability legislations, including the Taxonomy Regulation,²³ the CSRD and the CSDDD. President Ursula von der Leyen made clear during her statement that this Omnibus law would focus on reducing the volume of reporting only and would not seek to amend the substantive content of the three pieces of legislation considered. She said: "the content of the laws is good. We want to maintain it and we will maintain it."²⁴

This announcement was the first time that the future Omnibus I package was publicly mentioned by the Commission. From then, it took the Commission less than four months to adopt it.

On 21 and 22 November 2024, in a joint declaration German, French and Italian industry associations (BDI, MEDEF, Confindustria respectively) targeted both the CSRD and the CSDDD, specifically calling for the simplification of the CSRD. Regarding the CSDDD, they requested a competitiveness assessment but did not demand reopening the directive.²⁵

On 12 December 2024, a multistakeholder statement from over 90 organisations expressed concern over the misrepresentation of EU sustainability reporting as a threat to competitiveness, urging for smart implementation of EU sustainability rules rather than drastic changes.²⁶

On 22 January 2025, industry associations MEDEF, BDI and Confindustria sent a joint letter to Commission Vice Presidents Séjourné and Ribera as well as to Commissioners McGrath, Albuquerque, and Dombrovskis, this time advocating for significant cuts in the CSRD and CSDDD.²⁷ Most of these demands were later transcribed, in letter or spirit, in the final Proposal.

In its Communication on the Competitive Compass for the EU of 29 January 2025, the Commission confirmed that it would propose a first 'Simplification Omnibus package' which would include far-reaching simplification in the fields of sustainable finance reporting, sustainability due diligence and taxonomy.²⁸ It

²² Budapest Declaration on the New European Competitiveness Deal, 8 November 2024, <https://www.consilium.europa.eu/en/press/press-releases/2024/11/08/the-budapest-declaration/>. Objective 4 reads: "Launching a simplification revolution, ensuring a clear, simple and smart regulatory framework for businesses and drastically reducing administrative, regulatory and reporting burdens, in particular for SMEs. We must adopt an enabling mindset based on trust, allowing business to flourish without excessive regulation. Key objectives to be implemented by the Commission without delay include making concrete proposals on reducing reporting requirements by at least 25 % in the first half of 2025, and including red-tape and competitiveness impact assessments in its proposals."

²³ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13–43.

²⁴ Why von der Leyen's deregulation drive has Brussels confused – Financial Times, 28 November 2024, see **Annex 1**.

²⁵ MEDEF, BDI, and Confindustria Joint Declaration, 21 November,.

²⁶ Multi-stakeholder statement: Smart implementation of EU sustainability reporting standards: make complying with rules easy, December 2024.

²⁷ MEDEF, BDI and Confindustria joint letter to Commission Vice Presidents Séjourné and Ribera as well as to Commissioners McGrath, Albuquerque, and Dombrovskis, 22 January 2025, see **Annex 2**.

²⁸ COM(2025) 30 final Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A Competitiveness Compass for the EU, 29 January 2025.

is only then that the Commission indicated in writing that it might propose substantial amendments to the CSDDD in the Proposal.

In the months of January and February 2025, a broad group of stakeholders, including a number of businesses, CSOs, researchers, and business and human rights practitioners, voiced their concerns about the changes to the CSDDD and called for the protection of the existing provisions of the CSDDD in numerous letters and statements.²⁹

2.3. The CSDDD amendments proposal

On 26 February 2025, as a part of the Omnibus I package,³⁰ the Commission proposed certain amendments to the CSDDD, the CSRD,³¹ the Taxonomy Regulation and the Carbon Border Adjustment Mechanism Regulation³². At the same time, the Commission introduced a proposal postponing the dates of application of certain corporate sustainability reporting and due diligence requirements, as well as the transposition deadline of the due diligence provisions (the so-called “Stop-the-Clock” proposal).³³ The Omnibus I package aims at simplifying and streamlining the regulatory framework “with a view to reduce the burden on undertakings resulting from the CSRD and the CSDDD without undermining the policy objectives of either piece of legislation and to ensure more cost-effective delivery of the overall ambition of the European Green Deal related to the green and just transition”.³⁴

The present Complaint relates only to the proposal for a Directive of the European Parliament and of the Council amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting and due diligence requirements as far as it concerns proposed amendments to the CSDDD (the “Proposal”).

²⁹ See notably: Broad support for the CSDDD; Civil Society Stakeholder input to the European Commission Roundtable Consultation on Simplification, 5 February 2025; Multi-stakeholder Joint Statement signed by 170 stakeholders, 14 January 2025; Open letter “Deregulation Will Not Help Europe Build Its Strategic Autonomy” signed by 240 researchers, 5 February 2025; Statement by the United Nations Working Group on Business and Human Rights encouraging the EU not to reopen the CSDDD, 12 February 2025.

³⁰ Op. cit.

³¹ COM(2025) 81 final, op. cit.,

³² COM(2025) 87 final Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism, https://commission.europa.eu/document/download/606b4811-9842-40be-993e-179fc8ea657c_en?filename=COM_2025_87_1_EN_ACT_part1_v5.pdf.

³³ Commission proposal COM(2025) 80final Proposal for a Directive of the European Parliament and of the Council amending amending Directives (EU) 2022/2464 and (EU) 2024/1760 as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0080>.

³⁴ COM(2025) 81 final, op. cit., p. 2.

3. Facts

At no point throughout the entire process that led to this proposal, from its announcement on 8 November 2024 until its adoption on 26 February 2025, did the Commission conduct any impact assessment to collect evidence, define issues and investigate the underlying causes of the problem that the Proposal was aiming to tackle, assess the need for action, options and potential trade-offs between the different objectives sought by this proposal, or evaluate the potential consequences of the measures it was to propose.

The only consultation processes that preceded the adoption of the Omnibus I package containing the Proposal were two meetings with stakeholders (section 3.1) and a rushed inter-service consultation (section 3.2) – a rushed and biased process that civil society complained about (section 3.3).

3.1. Meetings with stakeholders in the preparation of the Proposal

After the announcement of the Proposal, the process that led to its adoption was marked by a notable lack of transparency regarding the scope of the Omnibus I package and its preparation process. For some time, public statements made by the Commission suggested it would be limited to "simplifying reporting rules", and amendments would aim to preserve the objectives of the instruments, address duplication and not amount to deregulation.³⁵ In consequence, there was widespread uncertainty as to whether the CSDDD would be included in the Omnibus I package (the CSDDD being not a reporting legislation), and in such case which specific provisions would be amended.³⁶

The preparation of the Proposal was handled at the highest political level, and decisions made by a small group, primarily within the cabinets of Vice-President Dombrovskis and President von der Leyen, as well as the Commission's Secretariat General. No calls for evidence or other invitations for the public to express its views on the initiative in relation to the CSDDD were published on the Have Your Say portal or other communication channels used by the Commission.

In a meeting with the Cabinet of Vice-President Dombrovskis on 20 January 2025, a small group of NGOs³⁷ learned that a closed-door meeting to discuss the Omnibus law with a limited number of stakeholders was planned for 5 and 6 February 2025 and that invitations to that meeting were going to be sent out by the end of that week. The next day, the press reported that Vice-President Dombrovskis was organising an invitation-only, closed-door meeting in early February to discuss the Omnibus I package with a limited number of stakeholders. However, the Commission itself never publicly announced nor mentioned this meeting through its normal channels of communication. No agenda, participant's list or minutes of this meeting were made available to the public, in contravention to the Commission's new transparency rules.³⁸

³⁵ See notably: Confirmation Hearing of Commissioner McGrath, 5 November 2024, <https://elections.europa.eu/european-commission/en/mcgrath/>; Changing green rules won't help industry, EU climate chief says – POLITICO, 11 December 2024; Trump 2.0 will hurt planet, open door for America's green rivals: EU climate chief – POLITICO, 16 December 2024.

³⁶ Why von der Leyen's deregulation drive has Brussels confused – Financial Times, 28 November 2024, see **Annex 1**; EC says omnibus still a maybe, warns co-legislators not to add 'unwanted burdens' – Responsible Investor, 27 November 2024, see **Annex 3**.

³⁷ European Coalition for Corporate Justice, Global Witness, Clean Clothes Campaign, Frank Bold, Anti-Slavery International, Friends of the Earth Europe, Human Rights Watch.

³⁸ See respective Articles 5 and 6 of Commission Decision (EU) 2024/3081 of 4 December 2024 on transparency measures concerning meetings held between Members of the Commission and interest representatives, and repealing Decision 2014/839/EU, Euratom, and of Commission Decision (EU) 2024/3082 of 4 December 2024 on transparency measures concerning meetings held between Commission staff holding management functions and interest representatives, and repealing Decision 2014/838/EU, Euratom.

Formal invitations in view of the planned meetings were sent to some NGO participants less than a week before they took place.³⁹

The events held on the 5 and 6 February 2025 – which the Commission later qualified as a so-called ‘reality check’⁴⁰ – consisted of two separate meetings. On 5 February, the Commission held an industry-only event that lasted half a day. The number of companies invited to this reality check is unknown, as there are no publicly available agendas or minutes.

This ‘reality check’ was held back to back with a broader ‘roundtable on simplification’ on 6 February which brought together companies, as well as a small number of civil society representatives.

At the time, several aspects of these meetings raised serious concerns among civil society. Firstly, there were worries the Commission may have disproportionately prioritised certain business concerns, with the aim of simplifying regulatory frameworks in the future Proposal, at the expense of addressing the needs and concerns of the broader public and other stakeholders:

- Media reported that the Commission initially extended invitations to this stakeholder roundtable to 58 industry actors, compared to only ten NGOs and two trade unions. The composition of the invitees was therefore significantly imbalanced in favour of the industry with six times as many business representatives attending in comparison with the civil society.⁴¹
- The Centre for Research on Multinational Corporations (SOMO) reviewed 30 of the companies invited to the consultation and found that: less than 15% of the companies attending were SMEs (although SMEs make up 99% of all EU businesses and the Omnibus I package aims at significantly relieving burden for SMEs), no less than eight banks were invited as well as four fossil fuel companies. The companies invited all came from only five EU Member States (Germany, France, Italy, Spain and the Netherlands) as well as from the United Kingdom and the United States of America.⁴²
- Some of the influential corporate actors, who had contributed to the process of adoption of the CSDDD and had urged the Commission to “ensure the ‘Omnibus’ approach will not allow renegotiation of agreed texts, including the CSDDD”,⁴³ were, to the Complainants’ knowledge, not invited in the first place. It is only after business stakeholders complained to the Commission of not being invited that some of them subsequently received invitations.

Both meetings were only made publicly known through press leaks. The Commission has not officially commented on the meetings neither before, nor after they took place. No minutes of the meetings, agenda or participant lists or selection criteria of the participants have been published online or otherwise made available to the public. No summaries of recommendations or evidence gathered in these meetings have been made available to the public.

³⁹ Email from the Commission to Friends of the Earth Europe of 30 January 2025, see **Annex 4**.

⁴⁰ COM(2025) 81 final, p. 11.

⁴¹ See notably Commission means business: Dombrovskis summons corporates for EU rules review - Euractiv, 29 January 2025.

⁴² SOMO, Who is the European Commission actually consulting this week on the Omnibus proposal?, see **Annex 9**. The findings of this analysis were also published by SOMO on LinkedIn: https://www.linkedin.com/posts/activity-7293237012180967425-kFEB/?utm_source=share&utm_medium=member_desktop&rcm=ACoAAAdjauoBZqiFtitDN3owj2rKi55BNDv8MWQ.

⁴³ See for example EU: Major businesses urge Commission to ensure ‘Omnibus’ approach will not allow renegotiation of agreed texts, incl. CSDDD - Business & Human Rights Resource Centre, 24 February 2025.

This consultation was the only form of official dialogue with stakeholders organised by the Commission throughout the process that led to the adoption of the Proposal.

On 11 February 2025, the Commission adopted its Communication entitled 'A simpler and faster Europe: Communication on implementation and simplification', outlining its plans to improve implementation, streamline regulations across various sectors as well as introducing new consultation modalities and impact assessment methodologies.⁴⁴ In particular, as part of its new strategy for simplifying the EU regulatory framework, the Commission introduced a new policy-making tool the so-called 'reality checks', consisting of the Commission "reach[ing] out to practitioners in companies [...] to understand their experience on the ground and the impact of EU law on their activities". This came five days after the first so-called 'reality check' had already taken place on 5 and 6 February 2025.

3.2. 24-hour Interservice Consultation

On Friday 21 February 2025, the Commission launched an Interservice Consultation on the Omnibus I package proposal with a deadline of 24 hours, a process that is usually allocated two weeks. Thus the Interservice Consultation took place over the weekend, between Friday 21 February and Saturday 22 February. The Omnibus I package was published immediately after, on 26 February 2025.

3.3. Civil society organisations' letters to the Commission

On 5 February 2025, more than 50 NGOs, including the Complainants, sent a letter to the Commission raising their concerns about the inadequate consultation process on the Omnibus I package.⁴⁵ In particular, the letter raised concerns about the lack of public consultation in preparation of the Proposal. The NGOs noted that "European Commission [...], as 'guardian of the treaties', must be particularly vigilant that these democratic principles are upheld when it initiates a legislative process. To ensure this, Article 11 TEU obliges the Commission to carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent." The letter also noted the failure to adhere to the Better Regulation Guidelines throughout the process and requested that the Commission carried out a proper impact assessment in preparation of the legislative proposal.

The Commission replied on 24 February 2025.⁴⁶ In a letter of less than half a page the Commission stated that it is "committed to create an equitable regulatory environment that advances both economic sustainability and competitiveness. To this end, the Commission is actively working on initiatives to simplify EU laws and reduce administrative burdens across the EU. We aim to achieve at least a 25% reduction in administrative burdens and at least 35% for SMEs without undermining the related policy objectives. We believe these efforts are vital to enhance competitiveness, and ultimately benefit companies without compromising Europe's high standards. In line with this commitment, we are also focused on harmonising rules and procedures to eliminate duplication and unnecessary bureaucracy." It also stressed that the intention of the Commission is to "cooperate closely with stakeholders to ensure that our legislative framework supports the competitiveness of European industries and enables more effective and efficient delivery of our policy goals. Your input is very welcome in this context and has been shared with the services working to deliver on this agenda."

⁴⁴ COM(2025) 47 final, op. cit.; See also [Simplification and Implementation - European Commission](#).

The Complainants note that although the document mentions it applies for the period 2024-2029, it was adopted only on 11 February 2025.

⁴⁵ [Joint letter to the European Commission: Concerns about the inadequate consultation process on the Omnibus Simplification Package | ClientEarth](#), 4 February 2025.

⁴⁶ Ares (2025) 1018552, Commission response to ClientEarth et al. joint letter, 24 February 2025, see **Annex 5**.

The Commission provided no substantive response regarding the absence of proper public consultation on the legislative initiative as well as the absence of impact assessment or any other assessment that would provide a sound evidentiary basis for the policy choices that were being considered.

4. Legal and Policy Context

4.1. The Better Regulation Guidelines and Toolbox

The Commission's administration of legislative processes, and any maladministration committed in that context, shall be assessed against the Commission's legal obligations as well as against the Better Regulation framework.

It is important to note that the Better Regulation Guidelines were adopted as a key means to implement the commitments undertaken in the Better Regulation Communication,⁴⁷ in particular a commitment to evidence-informed policymaking, a strong approach to stakeholder consultations, impact analysis and the integration of strategic foresight.⁴⁸ These guidelines not only guarantee a democratic and participatory law and policy-making process but also help ensure better legislative outcomes. Better Regulation Guidelines apply to "day-to-day practices of Commission officials preparing new initiatives, proposals or managing existing policies and legislation."⁴⁹

Although the Better Regulation Guidelines and the associated Toolbox are not binding legislative acts, they are a set of concrete rules and tools to implement the public's right to democratic participation in legislative processes enshrined in Articles 10(3) and 11 TEU. By analogy, the General Court has stated concerning internal rules and policies developed by other EU bodies such as the European Investment Bank (EIB): "It should be recalled that, for the purposes of achieving the objectives of the TFEU, the bodies of the EIB adopt, in particular in the form of policies, strategies, appraisals, principles or standards, internal policies of general scope, duly published and implemented, which, irrespective of their binding nature or not in the strict sense, limit the exercise of the EIB's discretion in the exercise of its activities."⁵⁰ Thus the General Court recognised that internal rules and policies are taken into account by the courts of the European Union when examining the legality of an act adopted by an EU body such as the EIB.⁵¹

Through continuous application of Better Regulation Guidelines, in particular the key elements of Chapter II regarding public participation, the public also has a legitimate expectation that the Commission will be consistent in its continued application of the guidelines. The Commission itself has repeatedly renewed its commitment to adhere to the Better Regulation Guidelines stressing that "looking forward, the need for evidence-based policymaking supporting EU political priorities is only growing stronger. Better regulation

⁴⁷ Commission Communication, Better regulation: taking stock and sustaining our commitment, COM(2019)178 final, 15 April 2019.

⁴⁸ Better Regulation Guidelines, Introduction, p.3.

⁴⁹ Ibid.

⁵⁰ General Court, Case T-9/19, ClientEarth v European Investment Bank, ECLI:EU:T:2021:42, para 123.

⁵¹ Ibid.

is increasingly an integral part of the institutional culture of the Commission and is widely supported by stakeholders who want to be involved even more in our policymaking and in a more meaningful way.”⁵²

Similarly, the European Ombudsman has noted that “the Commission has committed itself to a set of rules and principles to ensure a transparent, evidence-based and inclusive policy and law-making process. The rules and principles are laid down in the Better Regulation Guidelines and the associated Better Regulation Toolbox.”⁵³ These rules ensure consistency, and transparency and avoid any sense of arbitrariness in the way the EU administration works.⁵⁴ Therefore, the Better Regulation Guidelines set binding rules on the manner of conducting public consultations and limit the discretion of the Commission to guarantee the right of the public to democratic and participatory decision making enshrined in Articles 10(3) and 11 TEU.

Among the key concepts and principles that comply with and complement those in the Treaties and the EU Charter of Fundamental Rights, ‘better regulation’ requires to adopt:

- **A participative approach:** all interested parties, be they experts or individuals or groups affected by EU laws and regulation, should be able to contribute to policymaking by expressing their views and providing relevant data;
- **An evidence-based approach:** policy decisions need to be informed by the best available evidence (including scientific evidence, where available);
- **Learning from experience:** this requires to ‘evaluate first’ legislation before undertaking to revise it.

4.2. The obligation to base decisions on the best available evidence

In line with these concepts and principles, the Better Regulation Guidelines set out that EU policy-making should be supported by evaluations and impact assessments. “Evaluations gather evidence to assess how a specific intervention has performed (or is working), taking account of earlier expectations in the context of an impact assessment and/or ensuing from the adopted legislation and whether there were unintended or unexpected effects that were not anticipated and taken into account in the impact assessment or the adopted act.”⁵⁵ The objective is to draw conclusions as to whether a specific EU intervention:

- remains fit for its purpose;
- should be adjusted for greater effectiveness, relevance and coherence, and/or to eliminate unnecessary burdens or inconsistencies;

⁵² Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee and the Committee of Regions Empty, Better regulation: taking stock and sustaining our commitment, COM(2019) 178 final, 15.04.2019, Section 4.

⁵³ European Ombudsman, Decision in case 1474/2018/TE on alleged shortcomings and biases in the European Commission’s preparation of its policy and legislative proposal on the reduction of single-use plastic products, Case 1474/2018/TE, 22.03.2019, paras. 28-30.

⁵⁴ Ibid., paras. 29.

⁵⁵ Better Regulation Guidelines, Chapter I, Section 3.3.

- or should simply be repealed.⁵⁶

Impact assessments, on the other hand, “collect evidence (including evaluation results) to assess whether future legislative or non-legislative EU action is justified and, if so, how it can be best designed to achieve relevant policy objectives. (...) The Commission’s impact assessment system follows an integrated approach that assesses the environmental, social and economic impacts of a range of policy options thereby mainstreaming sustainability into Union policymaking and the implementation of the UN sustainable development goals.”⁵⁷

Carrying out broad consultations with interested parties is a duty under Article 11 TEU, and an “important means of collecting evidence to support policymaking.”⁵⁸ The Better Regulation Guidelines designate the research community as a category of stakeholders that is important to consult and that might need to be specifically targeted, as it can “provide evidence based on rigorous scientific methods and peer review processes”.⁵⁹

In a recent decision, the European Ombudsman stressed that good administration involves the duty of policy-makers to engage with the public on the substance of scientific arguments raised in relation to policies of high public interest. The European Ombudsman stated in relation to the regulation of genetically modified organisms that “[i]n this context, and as a matter of good administration, the Commission should openly engage with the substance of scientific and other arguments raised by the public questioning its policy choices. It may also request specialised EU bodies advising it, such as EFSA, to engage with any substantial concerns.”⁶⁰

4.3. Policy coherence

Policy coherence is one of the key principles of EU decision making. Article 11 TEU states that “the European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union’s actions are transparent and coherent.” The Better Regulation Guidelines specifies that the principle of coherence applies to all stages of the policy-making process and means that “EU laws and regulations cannot be adopted in isolation.”⁶¹ The Better Regulation Toolbox further explains that “coherence across different policy domains and between related policy instruments is essential. New initiatives, impact assessments, consultations, and evaluations should be prepared in cooperation with all relevant services in the framework of interservice groups.”⁶²

This means that policy-making processes must take full account of other areas of EU law and long-term policy objectives; the “better regulation” framework ensures that necessary steps are taken to ensure consistency. The principle of coherence covers all stages of decision making, including consultation processes, analysis, review, and quality control.⁶³

Ensuring consistency of policies includes multiple short-term and long-term activities, such as collecting up-to-date data on developments and preparation of strategies and long-term plans in different areas of

⁵⁶ Ibid.

⁵⁷ Ibid., Section 3.4.

⁵⁸ Ibid., Chapter II, Section 1.

⁵⁹ Ibid., Section 5.1.2.

⁶⁰ European Ombudsman, Decision on how the European Commission dealt with concerns about how it carried out an impact assessment of ‘new genomic techniques’ in relation to the application of EU legislation on genetically modified organisms, Case 346/2023/MIK, 15.04.2024, para. 37.

⁶¹ Better Regulation Guidelines, Chapter I, Section 1.

⁶² Better Regulation Toolbox, Tool #1, section 2.1.

⁶³ Better Regulation Guidelines, Chapter II, Section 3, box. 3.

environmental policy, developing legislative proposals, monitoring the implementation and where necessary proposing amendments to existing EU law, ensuring consistency with EU international obligations in environmental law and other responsibilities.

The European Climate Law reinforces the principle of coherence by requiring the Commission to assess the consistency of any draft measure or legislative proposal, including budgetary proposals, with the 2050 climate-neutrality objective and the Union climate targets. The Commission is also under an obligation to make the result of the consistency assessment publicly available at the time of adoption, where relevant by including it in the impact assessment accompanying the measures or proposals.⁶⁴

Consistency cannot be ensured without systematic and rigorous adherence to the procedures designed to ensure consistency. This means that all relevant laws, including mandatory assessments such as the assessment under Article 6(4) of the European Climate Law, that are aimed at ensuring such consistency have to be applied systematically and any deviations from the fulfilment of these obligations, where they are permitted, should be an exception that is well-justified in advance and disclosed to the public.

4.4. The obligation to conduct public consultations

The right to participate in EU decision-making processes in environmental matters is protected by EU law. First, the Treaty on European Union (TEU) enshrines the democratic principles which underlie the right to participation. These underlying principles are the concept of openness and proximity of decision making to the citizen, key concepts in the European Union project, as stated in Article 1(2), and reiterated in Article 10(3). Article 1(2) states that “[d]ecisions shall be taken as openly and as closely as possible to the citizen”, while Article 10(3) specifically states that “[e]very citizen shall have the right to participate in the democratic life of the Union.”

Article 11(1) TEU places an obligation on the institutions of the European Union to, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. The European Commission in particular must carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent (Article 11(3) TEU). Public consultations are required on topics of broad public interest and initiatives that should be accompanied by an impact assessment.⁶⁵

Public participation is key to enhancing the quality and the implementation of environmental decisions. Participation in environmental decision making contributes to public awareness of environmental issues and gives the public the opportunity to be heard: to express its concerns and ensure they are taken into due account by the authorities in their decision-making process.⁶⁶ The European Ombudsman has observed that public participation “[i]s crucial to enhance the legitimacy of, and public trust in, the EU's decision-making process. Transparency and participation are considered particularly important when it comes to EU decision making related to the environment.”⁶⁷

⁶⁴ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), Article 6(4).

⁶⁵ Better Regulation Guidelines, Chapter II, section 2, p.13.

⁶⁶ UNECE Convention on Access to Information, Public Participation in Decision making and Access to Justice in Environmental Matters (Aarhus Convention), Preamble, Recital 8.

⁶⁷ Public consultation on transparency and participation in EU decision making related to the environment (SI/5/2022/KR) - Background information.

In the context of environmental matters, the right to public participation is also guaranteed under the Aarhus Convention, which the EU ratified on 17 May 2005. It provides for the right of the public to participate in decision making on specific activities (Article 6), as well as in the elaboration of plans and programmes and policies relating to the environment (Article 7), and the preparation of generally binding normative instruments (Article 8).⁶⁸ More broadly, the right to public participation in environmental decision making stems from every person's right to live in an environment adequate to his or her health and well-being.⁶⁹ Effective participation in environmental decision making is not only fundamental for preserving that right, but also an important means of fulfilling the duty of every person, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.⁷⁰

The principles and process of consulting the public in accordance with Article 11 TEU are set out in the Better Regulation Guidelines⁷¹ and Better Regulation Toolbox.⁷² According to Chapter II of the Better Regulation Guidelines, public consultations should follow four general principles – participation, openness and accountability, effectiveness, and coherence. The principle of participation requires the Commission to “take an inclusive approach by consulting as widely as possible”. Openness and accountability require to “make the consultation process and how it has affected policymaking transparent to those involved and to the general public, including to persons with disabilities”. The principle of coherence requires to “ensure the consistency (across all services) of consultation processes, analysis, review, and quality control.” Last but not least, the principle of effectiveness requires to “consult at a time when stakeholder views can still make a difference, taking account of proportionality and specific constraints.”⁷³

In addition to these general principles, the consultation process must adhere to certain minimum standards, including:

- **Clarity** – all consultation documents must be clear and concise, and include all necessary information to facilitate responses. These documents should include the ‘call for evidence’ document, questionnaires, background, and other information;⁷⁴
- **Targeting** – ensure that the consultation strategy targets all interested parties so that they have an opportunity to express their opinions;
- **Outreach** – ensure adequate awareness-rising and publicity, and adapt communication channels to the needs of all target audiences. Without excluding other communication tools, public consultations should be published on the “Have your say” web portal (the ‘single entry point’)⁷⁵;

⁶⁸ While the Aarhus Convention does not cover public authorities acting in a legislative capacity, the European Commission has committed to participatory and evidence-based decision making, including in the legislative process. The principles of effective and timely public participation under the Aarhus Convention can be used to interpret and guide obligations that the European Commission has under Articles 10 and 11 TEU and the Better Regulation Guidelines.

⁶⁹ Aarhus Convention, op. cit., Preamble, Recital 7.

⁷⁰ Ibid.

⁷¹ Commission Staff Working Document, Better Regulation Guidelines, SWD(2021) 305 final, 03.11.2023.

⁷² Better Regulation Toolbox, op. cit.

⁷³ Better Regulation Guidelines, Chapter II, Section 3, Box.3.

⁷⁴ Ibid., Section 4.

⁷⁵ Ibid., Section 5.2.1.

- **Sufficient time for participation** – allow sufficient time for planning and responses to invitations and written contributions. As a rule, ‘call for evidence’, which include public consultations, are published for 12 weeks⁷⁶; and
- **Publication of contributions and results** – of public consultations on the ‘*Have Your Say*’ web portal and, if possible, on DGs’ websites (with an appropriate link to ‘*Have Your Say*’).

5. Maladministration in relation to a failure to comply with Better Regulation Guidelines and other applicable law

5.1. Failure to follow Better Regulation Guidelines regarding evidence-based decision making

The Complainants submit that in the process of preparing the Proposal, the Commission failed to conduct proper, balanced evidence gathering and failed to communicate evidence basis for the policy choices made in the proposal to the public. In addition, the Commission failed to justify any reasons for such deviations from the principles enshrined in the TEU, Better Regulation Guidelines and European Climate Law. This amounted to maladministration in the preparation of the Proposal.

5.1.1. Lack of coherence with the recently adopted CSDDD

The haste in preparation and the lack of assessment before adopting the Proposal are in stark contrast with the process of adoption of the original CSDDD proposal of 23 February 2022, which was based on a thorough and in-depth environmental, social and economic impact assessment of several policy options.⁷⁷ On the basis of this impact assessment, the Commission adopted the CSDDD which is currently reversed in the Proposal in several key aspects. The Complainants note that in the preparation process of the Proposal, the Commission has not presented any impact assessments, fitness checks or any other studies that would present and assess any systematically collected data from the Member States or stakeholders highlighting issues in transposition or practical application of the CSDDD.

This lack of evidence and of explanations is particularly striking in relation to proposed amendments that directly reverse conclusions reached in the original impact assessment of the CSDDD. Notably, the executive summary of the impact assessment accompanying the original CSDDD proposal in 2022 explained that certain regulatory options such as limiting the due diligence duty to value chain direct business partners were discarded at the time “due to ineffectiveness”.⁷⁸ However, this is one aspect of the CSDDD that the Proposal seeks to amend, by limiting due diligence to the first tiers of the value chains, with some limited exceptions.⁷⁹ This change is not supported by more recent evidence or any assessments that would explain the reversal of the conclusions that served as the basis of the adoption of the CSDDD less than a year before.

⁷⁶ Ibid., Section 5.1.1., Box 6.

⁷⁷ SWD(2022) 42final, op. cit.; SWD(2022) 43final, op. cit.. See also Study on due diligence requirements through the supply chain – Final report, op. cit.

⁷⁸ SWD(2022), op. cit., p.1.

⁷⁹ Article 4, para. (4) of the Proposal.

Similarly, based on the impact assessment of the initial CSDDD proposal, the Commission had proposed as part of their due diligence a duty for companies to terminate business relations under certain conditions,⁸⁰ as well as an EU-wide civil liability regime for breaches of due diligence obligations.⁸¹ Yet, both these aspects are reversed in the Proposal, despite the absence of new evidence explaining this change, and of assessment of their impact on the effectiveness and enforceability of the companies' due diligence obligations.

5.1.2. Failure ensure policy coherence by affording sufficient time for inter-service consultations

The Complainants note that ensuring sound evidence basis and policy coherence requires a certain amount of time. Even though the CSDDD envisages a review process by 2030,⁸² the Commission announced its intention to revise the CSDDD less than six months after its adoption, rushing the revision process and bypassing the intended timeline for a thorough review that would have been based on facts and practical application experience.

The Commission launched a 24-hour interservice consultation on the Proposal, a process that is usually allocated between ten days and two weeks. In accordance with the Commission's rules of procedure,⁸³ "the services consulted shall be given at least ten working days". However, in exceptional cases where there is a valid justification for urgency, the service responsible may request a fast-track interservice consultation from the Secretariat-General, allowing for the completion of the consultation within a shorter timeframe. The decision lies with the Secretariat-General. The rule of procedure further clarifies that "When the fast-track consultation takes place in writing, the time limit for the services consulted to submit their opinions shall be fixed by common agreement between the Secretariat-General and the service responsible and may *not be less than 48 hours*, except when otherwise provided for by the Secretariat-General." (emphasis added).

In this case, the inter-service consultation was launched on a Friday evening, over a weekend, further limiting the time available for meaningful internal deliberations and cross-departmental engagement within the Commission. Such a condensed timeline not only hindered proper feedback but also compromised the usual standard decision-making procedures typically expected from the Commission during policy development.

⁸⁰ Article 4, para (8) of the Proposal.

⁸¹ Article 4, para (12) of the Proposal.

⁸² Article 36(2) CSDDD reads: "2 .By 26 July 2030, and every three years thereafter, the Commission shall submit a report to the European Parliament and to the Council *on the implementation of this Directive and its effectiveness in reaching its objectives, in particular in addressing adverse impacts*. The report shall be accompanied, if appropriate, by a legislative proposal. The first report shall, inter alia, assess the following issues: (...)."

⁸³ Commission Decision (EU) 2024/3080 of 4 December 2024 establishing the Rules of Procedure of the Commission and amending Decision C(2000) 3614, OJ L, 2024/3080, 5.12.2024, <https://eur-lex.europa.eu/eli/dec/2024/3080/oj/eng>, Articles 59 and 60.

5.1.3. Failure to carry out an impact assessment

As pointed out by the Commission in its Explanatory Memorandum to the Proposal, the collection and analysis of evidence underlying amendments proposed to the CSDDD could not be done through an ex-post evaluation of the CSDDD, since this law has not yet been transposed or applied by companies.⁸⁴ The Commission thereby acknowledged that there is no evidence available yet demonstrating what are the practical hurdles in the application of the CSDDD and how the enforcement process would generate a burden or costs for EU companies hindering their competitiveness.

Better Regulation Guidelines state that “the Commission’s impact assessment system follows an integrated approach that assesses the environmental, social and economic impacts of a range of policy options thereby mainstreaming sustainability into Union policymaking and the implementation of the UN sustainable development goals.”⁸⁵ An impact assessment is required for Commission initiatives that are likely to have significant economic, environmental or social impacts or which entail significant spending, and where the Commission has a choice of policy options.⁸⁶

The Complainants submit that the Proposal is more than likely to have significant economic, environmental and social impacts. This is the case, given the intention in the Proposal to revise significant corporate sustainability laws that were adopted to protect environmental, economic and social values. The CSDDD, in particular, obliges companies to conduct due diligence to prevent, mitigate or bring to an end the adverse environmental and human rights impacts arising out of their chains of activities. It also requires companies to adopt and put into effect transition plans for climate change mitigation to ensure that their business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5°C in line with the Paris Agreement and the objective of achieving climate neutrality. The Proposal substantially proposes to change these obligations and is therefore likely to have significant economic, environmental and social (including human rights) impacts. The Complainants therefore submit that the Commission was obliged to carry out an impact assessment.

Despite the Commission’s stated objective of “maintaining the objectives of the legislation”⁸⁷ and to ensure “delivery of the overall ambition of the European Green Deal related to the green and just transition,”⁸⁸ the objectives and ambitions of the original text of the CSDDD are substantially changed. Neither the Explanatory Memorandum nor the Staff Working Document detail how the proposed amendments to the due diligence and climate obligations set out in the CSDDD guarantee the initial level of environmental and human rights protection sought in this legislation.

In fact, the Staff Working Document limits itself to describing the various demands some business associations have presented for amending the CSDDD. It then explains how the Commission balanced these requests in the Proposal against the current content of the CSDDD.⁸⁹ In other words, the Staff Working Document merely explains how demands from a specific group of stakeholders were transcribed into the Proposal. The Complainants note that there is no analysis of what impact these “balanced”

⁸⁴ Commission’s Explanatory Memorandum to the Proposal COM(2025) 81 final, op. cit., p. 10. According to the Better Regulation Guidelines, evaluation only pertains to existing legislation that has been implemented, in order to assess its performance: “evaluations and fitness checks involve thorough analysis of how existing legislation and spending programmes have been performing, to check that they are efficient, effective, relevant and coherent, and that EU-level intervention is actually adding value” (p. 23); “Evaluations aim to help the Commission learn about the functioning of EU interventions and assessing their performance against initial expectations.” (p. 23)

⁸⁵ Better Regulation Guidelines, Chapter I, Section 3.4., p.10.

⁸⁶ Ibid., Chapter IV, Section 1, p.30.

⁸⁷ SWD(2025) 80 final Commission Staff Working Document Accompanying the Proposal, p. 5.

⁸⁸ Commission’s Explanatory Memorandum to the Proposal COM(2025) 81 final, op. cit., p. 2.

⁸⁹ SWD(2025) 80 final, op. cit., pp. 31-40.

provisions would have on either the environment or human rights and whether they are proportionate in light of the foundational value the European Union gives the protection of human rights and the environment.⁹⁰

Finally, the Commission had a choice of policy options and was free to consider a multitude of options, including whether to amend the CSDDD at all. No option other than how to transcript the demands of certain industry associations are presented and assessed in the Staff Working Document.

Therefore, the Complainants submit that the Commission committed maladministration in not assessing the impact of its Proposal though an impact assessment, Staff Working Document or any other relevant assessment, in particular in light of the likely effect of the proposed amendments on the environment, economy and social rights.

5.1.4. Failure to properly justify departure from Better Regulation Guidelines

With regard to the lack of impact assessment, the Court of Justice has confirmed that there are situations where an impact assessment can be dispensed with provided the EU legislature “has sufficient information enabling it to assess the proportionality of the measure.”⁹¹ As the Court further confirmed, “in order to exercise their discretion properly, co-legislators must take into account, during the legislative procedure, the available scientific data and other findings that became available.”⁹² In the present case, the Commission explains that the Proposal involves amendments to existing legal acts, which have already undergone comprehensive impact assessment.⁹³ The Commission also argues that it conducted a sufficient impact assessment of the proposed amendments to the CSDDD in the Staff Working Document accompanying the Proposal.⁹⁴ According to the Commission, this document (i) contains “an explanation of the simplification measures implemented to streamline the regulatory framework, while maintaining the objectives of the [amended] legislations”,⁹⁵ (ii) includes an analysis of the expected impacts of the proposed measures, and (iii) indicates the considerations behind each of the retained options “in particular on the burden of companies, as well as estimations of cost savings as well as supporting evidence.”⁹⁶ However, as explained above, the Staff Working Document does not contain any assessment of the impact of the proposal on the environment and on human rights, in particular.

Furthermore, these explanations are blatantly inconsistent with the narrative justifying the whole Omnibus I package. According to the Commission, the Proposal fits in a wider policy strategy aiming at simplifying the regulatory environment, reducing the “administrative burden” and lowering compliance costs for EU companies as a means to ensure their competitiveness.⁹⁷ This would be warranted by “new realities”⁹⁸ and a new and difficult context: Russia’s war against Ukraine and its consequences on energy prices, rising trade tensions and shifts in the geopolitical landscape, that “[raise] questions about the effects of [the CSRD and CSDDD] on the competitive positioning of EU companies”.⁹⁹ In addition, the Staff Working

⁹⁰ See Articles 2 and 3(3) TEU.

⁹¹ Judgment of 3 December 2019, *Czech Republic v Parliament and Council*, C 482/17, EU:C:2019:1035, para. 85.

⁹² *Ibid.*, para. 86. See also paras 87-92 where the Court looks concretely at whether there were sufficient scientific studies or reports available.

⁹³ *Ibid.*, p. 12.

⁹⁴ SWD(2025) 80 final, pp. 32-44.

⁹⁵ *Ibid.*, p. 5.

⁹⁶ *Ibid.*, p. 31 *et seq.*; COM(2025) 81 final Commission’s Explanatory Memorandum to the Proposal, p. 12.

⁹⁷ COM(2025) 81 final, op. cit., pp. 1-2; SWD(2025) 80 final, op. cit., pp. 2-5.

⁹⁸ SWD(2025) 80 final, op. cit., p. 3.

⁹⁹ COM(2025) 81 final, op. cit., p. 2.

Document refers to “perceptions” or “feedback” by corporate stakeholders of risks such as compliance costs or administrative burdens.¹⁰⁰ If circumstances have changed so drastically that a speedy change in legislation that was not even applied is required, and that the response to these changes is reducing the scope of the legislation and removing certain obligations, the Complainants fail to see how the Commission could rely on a previous impact assessment according to which a broad scope of application and solid obligations were deemed appropriate.

Finally, the Commission justifies the absence of an impact assessment by a derogation granted under the Better Regulation Guidelines “given the importance and urgency of this initiative”.¹⁰¹ According to the Commission, this urgency stems from the need for the EU to safeguard its competitiveness on the global stage:

“The issue of competitiveness is of critical urgency as it directly influences the European Union's ability to achieve sustainable economic growth and maintain its position in the global market. [...] The current economic environment, characterised by rapid technological advancements, shifting consumer demands, and increased global competition, necessitates swift action to safeguard the EU's competitive edge. Given this urgency, the proposal does not allow for an impact assessment”.¹⁰²

While Better Regulation Guidelines provide for certain flexibilities which include the eventuality of a “political imperative to move ahead quickly” or “an emergency that requires a rapid response”⁸⁸ the Complainants submit that the Commission misused these exceptions.

Firstly, the war in Ukraine, while admittedly having a significant impact on many policy areas, began in February 2022, long before the adoption of CSDDD. Therefore the Commission was aware of its impact for two years throughout the entire process of adoption of the CSDDD.

Secondly, even if the Commission had identified implementation costs and administrative burdens as issues warranting potential changes in legislation, the Better Regulation Guidelines envisage evaluation and fitness checks as an inherent part of a circular decision-making process.¹⁰³ In other words, identification and assessment of implementation hurdles is an inherent part of the adjustment of legislation in a normal process and does not justify a departure from the principles of good law-making under the Better Regulation Guidelines. Thus, if the Commission had identified a change of circumstances, it should have led the Commission to gather evidence and assess if and how these new circumstances affected (by reinforcing or challenging) its initial impact assessment for the CSDDD and what should be the most adequate policy response. This analysis should have included the assessment of different policy options and what effect would they have on a range of public interests, not only competitiveness but also the protection of human rights, the environment and climate goals.

Finally, the need to ensure competitiveness is overly broad and insufficient to justify urgency that would warrant a departure from the basic principles of democratic law-making. If the need to ensure competitiveness was accepted as a proper justification for departure from the normal law-making process, it could be used to justify any changes in legislation that benefit businesses regardless of their social,

¹⁰⁰ COM(2025) 81 final, op. cit., p.8. see e.g. “the Directive is *perceived* as imposing significant regulatory burden, in particular, when value chains are very complex and extensive and therefore *business associations have called for further simplifications and burden reduction*, including regarding SMEs which may *allegedly* still experience unwanted trickle-down effects. Furthermore, business associations have pointed to *uncertainties* linked to a possible increase in liability risks.”(emphasis added).

¹⁰¹ COM(2025) 81 final, op. cit., p. 12.

¹⁰² Ibid.

¹⁰³ Better Regulation Guidelines, Chapter I, Section 3, p.8.

environmental, societal and other impacts rendering the Better Regulation Guidelines and the democratic principles they reinforce meaningless.

The Complainants note that only consistent application of Better Regulation Guidelines can ensure the public trust in European Institutions and the democratic nature of law-making. The Commission itself has repeatedly renewed its continued commitment to adhere to the Better Regulation Guidelines stressing that “looking forward, the need for evidence-based policymaking supporting EU political priorities is only growing stronger. Better regulation is increasingly an integral part of the institutional culture of the Commission and is widely supported by stakeholders who want to be involved even more in our policymaking and in a more meaningful way.”¹⁰⁴ Selective and unjustified departure from these principles only serves to reinforce public suspicion and the perception that decision making increasingly serves the interests of a narrow group of business interests holding disproportionate resources and influence in the decision-making process.

5.1.5. Failure to assess consistency with climate objectives

The Complainants submit that the Commission also failed to comply with essential procedural requirements under Article 6(4) of the European Climate Law consisting in the absence of a climate-consistency assessment.

The EU¹⁰⁵ and, specifically, the Commission¹⁰⁶ have repeatedly committed to reducing greenhouse gas emissions as required by the Paris Agreement. In December 2019, the Commission proposed a European Green Deal entailing a commitment to a ‘climate-neutral Europe’ by 2050.¹⁰⁷ Climate neutrality by 2050 has then been adopted by the EU as a binding objective in pursuit of the long-term temperature goals of the Paris Agreement, as enshrined in the European Climate Law, together with a binding target to cut domestic net GHG emissions by at least 55 % compared to 1990 levels by 2030.¹⁰⁸

The European Climate Law not only sets binding climate objectives and targets but also sets rules facilitating and enabling their achievement. In particular, it requires a climate-neutrality consistency assessment of all EU draft measures and legislative proposals. Article 6(4) of the European Climate Law provides:

¹⁰⁴ COM(2019) 178 final, Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee and the Committee of Regions Empty, Better regulation: taking stock and sustaining our commitment, 15.04.2019, Section 4.

¹⁰⁵ For example, Regulation (EU) 2018/842 of the European Parliament and of the Council expressly describes the emissions reductions measures it enacts as “contributing to climate action to meet commitments under the Paris Agreement.”

¹⁰⁶ The Commission has also affirmed the duties of the EU to reduce GHGs in order to meet the temperature objectives defined by the Paris Agreement: “The EU has been at the forefront of addressing the root causes of climate change and strengthening a concerted global response in the framework of the Paris Agreement. The Paris Agreement, ratified by 181 parties, requires strong and swift global action to reduce greenhouse gas emissions, with the objective to hold global temperature increase to well below 2°C and to pursue efforts to limit it to 1.5°C”: see COM(2018) 773 final Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, “A Clean Planet for all: A European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy”, 28 November 2018, p.4.

¹⁰⁷ COM(2019) 640 final Communication from the Commission of 11 December 2019, The European Green Deal, Section 2.1.1.

¹⁰⁸ European Climate Law, op. cit. Article 2(2) requires the relevant Union institutions to take the necessary measures at Union level to enable the collective achievement of climate neutrality, Article 4(1) first subparagraph sets the binding Union 2030 climate target, and Article 4(3) provides for setting the Union 2040 climate target.

“The Commission shall assess the consistency of any draft measure or legislative proposal, including budgetary proposals, with the climate-neutrality objective set out in Article 2(1) and the Union 2030 and 2040 climate targets before adoption, and include that assessment in any impact assessment accompanying these measures or proposals, and make the result of that assessment publicly available at the time of adoption. The Commission shall also assess whether those draft measures or legislative proposals, including budgetary proposals, are consistent with ensuring progress on adaptation as referred to in Article 5. When making its draft measures and legislative proposals, the Commission shall endeavour to align them with the objectives of this Regulation. In any case of non-alignment, the Commission shall provide the reasons as part of the consistency assessment referred to in this paragraph.”

To ensure policy coherence with regard to climate, Article 6(4) contains an obligation for the Commission to assess the consistency of any draft measure or legislative proposal, regardless of their legal basis and content,¹⁰⁹ with the 2050 climate-neutrality objective and the Union climate targets and with ensuring progress on adaptation.

Given the mandatory and clear terms of Article 6(4), this is not a matter in which the Commission has discretion. The EU Climate Law does not contain any derogation to this obligation, in particular in case of urgency or in case of limited or targeted scope of a legislative proposal. Moreover, since the obligation to draw a climate consistency assessment under Article 6(4) is a standalone obligation contained in a legislative act, it should apply even when the Commission does not conduct an impact assessment under the Better Regulation Guidelines. The Complainants submit that the circumstance that the Better Regulation Guidelines and Toolbox do not provide for an internal process for conducting a climate consistency assessment independently from a general impact assessment does not dispense the Commission from doing so; rather, the Better Regulation rules should be brought in line with Article 6(4) of the European Climate Law.

This obligation to conduct a climate consistency assessment applies without any doubt to the Proposal, which is a “legislative proposal”, and the assessment should have been published at the latest with the Proposal on 26 February.

However, it is established that the Commission did not publish, nor even conduct a climate consistency assessment or any impact assessment for the Proposal. Neither the Explanatory Memorandum, Staff Working Document, nor the Q&A documents published with the Proposal contain an assessment related to the climate impact of the proposed amendments.

The Complainants thus consider that the failure by the Commission to conduct a climate consistency assessment as required by Article 6(4) of the European Climate Law constitutes a breach of EU law, which also qualifies as maladministration.

Any realistic climate assessment conducted in accordance with the European Climate Law would have made clear the inconsistency between (a) the EU’s climate neutrality objectives and intermediate climate targets and (b) the deletion of the explicit obligation for companies to actually implement (‘put in effect’) the climate transition plans adopted under Article 22 CSDDD. The CSDDD recognises the central role of the private sector in achieving the Paris Agreement objectives, besides specific actions being expected from all signatory Parties. It also recognises that the European Climate Law objectives require changing the way in which companies produce and procure. As a result, Recital 73 CSDDD states that “[...] In order

¹⁰⁹ This seems to be the view of the Commission as well, which has recently included a section on the conformity with the ‘climate consistency principle’ in the Explanatory Memorandum to the Proposal for a Directive on combating violence against women and domestic violence, COM/2022/105 final.

to ensure that this Directive effectively contributes to combating climate change, companies should adopt and put into effect a transition plan for climate change mitigation which aims to ensure, through best efforts, that the business model and strategy of the company are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5°C in line with the Paris Agreement and the objective of achieving climate neutrality as established in Regulation (EU) 2021/1119, including its intermediate and 2050 climate neutrality targets.”

Article 4(10) of the Proposal proposes to amend Article 22 CSDDD by removing the requirement to ‘put into effect’ the transition plan for climate change mitigation. Instead, it requires that the transition plans include ‘implementing actions’.

The requirement for the plans to include implementing actions, along with a recital stating that these include actions “planned and taken”,¹¹⁰ cannot be interpreted as an equivalent obligation to put the plan into effect”, as this would be inconsistent with the intention of deleting the express duty to implement. As a result, the proposed new wording introduces legal uncertainty by conveying contradictory messages to companies regarding the extent to which they have to deliver their plans. This creates a risk that companies may design and adopt climate transition plans, but do not implement the actions or measures they identified to reduce their GHG emissions and reach their own targets, thereby failing to contribute to the EU’s emissions reduction targets.

The Staff Working Document, Explanatory Memorandum and the Q&A accompanying the Proposal do not provide any explanation about how the deletion of the duty to implement transition plans will still ensure that companies take action to reduce their emissions.

Therefore, the Complainants submit that the Commission committed maladministration in failing to comply with its legal obligation to conduct and publish a climate consistency assessment pursuant to Article 6(4) of the European Climate Law, which is an obligation that could not be dispensed of.

As a result of all the foregoing, the Complainants submit that the Commission has failed to fulfil this obligation to carry out and communicate proper evidence basis for its legislative proposal which constitutes maladministration.

5.2. Failure to follow Better Regulation Guidelines regarding the conduct of a public consultation

As mentioned above under section 4.4, legislative initiatives requiring an impact assessment under the Better Regulation Guidelines require a mandatory internet-based public consultation of a minimum of 12 weeks, launched through the ‘Have Your Say’ web portal.¹¹¹ The Complainants note that no such public consultation took place for the Proposal.

In an attempt to demonstrate that it has conducted sufficient stakeholder engagement, the Commission cites four consultation activities that have helped shape the Proposal:¹¹²

- a ‘Call for evidence on the rationalisation of reporting requirements’, carried out from October to December 2023;

¹¹⁰ Recital 26 of the Proposal.

¹¹¹ Better Regulation Guidelines, Chapter II, Section 5.1.1., Box 6.

¹¹² COM(2025) 81 final, p. 10-12; SWD(2025) 80 final, p. 30

- separate stakeholder activities including two large hybrid stakeholder forums on the CSRD in May and November 2024 with the participation of approximately 400 people in person and more than 3000 people virtually;
- public statements, position papers, letters and policy proposals from all types of stakeholders (from companies to investors, banks, civil society, NGOs, chambers of commerce and Member States' national administrations); and
- two-day meetings with companies and other stakeholders on 5 and 6 February 2025 (a 'reality check' and a 'stakeholders roundtable').

However, these activities do not qualify as proper public consultations regarding a concrete legislative proposal within the meaning of the Better Regulation Guidelines.

Firstly, the 2023 'Call for Evidence on the rationalisation of reporting requirements' and the 2024 hybrid stakeholder forums were limited to the CSRD and did not, nor could they cover the CSDDD due to its adoption in mid-2024.

Secondly, the letters sent to the Commission were outside of a formal, properly informed and adequately framed consultation process. Any letters and statements sent to the Commission, especially those by the NGOs were sent on self-initiative without a guarantee that they will be taken into account in the decision-making process, nor that they will be formally included in any assessments or reports analysing the impact and proportionality of the proposed measures. They were also sent without knowledge of the formal preparation process of the Proposal or sufficient background information that the Better Regulation Guidelines mandate for all public consultations. According to Better Regulation Guidelines, "the quality of the consultation documents will determine the quality of contributions received and thus the quality of input to policymaking."¹¹³ Thus consultations must be accompanied by documentation that allows for the submission of informed and meaningful contributions. These documents should include the 'call for evidence' document, questionnaires, background, and other information.¹¹⁴ None of these documents were provided. In addition, the Commission also failed to appropriately respond to any of the letters, position papers, or policy proposals from civil society organisations: when the Commission did respond, its replies were extremely vague, providing little to no insight into how their input was taken into consideration. Several such replies are added as **Annexes 6, 7 and 8** to this Complaint.

Thirdly, the two-day event on 5 and 6 February 2025 was flawed by lack of transparency and inclusiveness. According to Chapter II of the Better Regulation Guidelines, public consultations should follow four general principles – participation, openness and accountability, effectiveness, and coherence. The principle of participation requires the Commission to "take an inclusive approach by consulting as widely as possible". Openness and accountability require to "make the consultation process and how it has affected policymaking transparent to those involved and to the general public, including to persons with disabilities".¹¹⁵

The Explanatory Memorandum explicitly admits that the Proposal lies primarily on feedback from corporate stakeholders only: "[w]hile the CSDDD already incorporates a number of mechanisms to ensure proportionality and to ensure that companies in scope obtain the reputational and resilience benefits of more sustainable value-chain management, *taking into account companies' feedback*, this proposal aims

¹¹³ Better Regulation Guidelines, Chapter II, Section 5.2.2.

¹¹⁴ Better Regulation Guidelines, Chapter II, Section 4.

¹¹⁵ Better Regulation Guidelines, Chapter II, Section 3, Box.3.

to clarify and simplify the framework, and to reduce the burden of companies, including one-off and recurring compliance costs, already in the short-term.” (emphasis added)¹¹⁶

The Complainants note that even the first meeting on 5 February 2025 for industry representatives was at odds with a recent assessment made by the European Ombudsman regarding the Commission meeting with industry representatives. In its decision of 12 December 2024 in case 728/2024/VB, the European Ombudsman insisted on the need for transparency regarding such meetings and sufficient inclusiveness, especially when the topic discussed concerns an area of public interest such as health or the environment:

“The Commission’s work in the area of pesticides has a direct impact on health and the environment. In view of this, the public reasonably expects the Commission’s work in this area to be as inclusive and transparent as possible. While the Ombudsman understands that the Commission needs at times industry’s input to conduct its work, the organisation of industry-only workshops may raise legitimate public concerns. The public might indeed perceive such workshops as an occasion for industry unduly to influence the work of the Commission. [...] in order to reassure the public about the nature of such meetings – independent of whether they are organised upon the request of Member States, stakeholders or on the Commission’s own initiative - the Commission should ensure that they are subject to the highest level of transparency. At the same time, the Commission should ensure that all relevant stakeholders are invited.”¹¹⁷

As for transparency, the Ombudsman considered that “the Commission should be particularly attentive to ensure the widest possible transparency of any discussions it has with industry”, which entails that an account of a meeting with industry representatives should be made publicly available to reassure the public about the nature of these discussions.¹¹⁸ Regarding the need for inclusiveness in areas of public interest, the Ombudsman stressed the Commission’s exacting duty to allow for broad participation: “the Commission should explore all possibilities to ensure that other stakeholders have opportunities to provide their views on the topics that have been discussed with industry”.¹¹⁹ None of these standards were upheld by the Commission in relation to the meeting on 5 February 2025.

Similarly, the meeting of 6 February 2025, also failed to meet the standards of broad and open public participation as the meeting was invitation-only and the composition of the participants was vastly unequal in favour of the industry that had already had an exclusive meeting a day before. Invitations were sent to some select participants less than a week before the events with very little background information, which meant they did not have sufficient time to prepare and this very tight timeframe seriously affected the quality of input that they could provide.

Even if the Commission considers that the meetings of 5 and 6 February should be characterised as “targeted” consultations, the Better Regulation Guidelines require in that case that “the Commission should avoid granting privileged access to some stakeholders”¹²⁰ regardless of whether the consultations are public or targeted. The overrepresentation of industry interests composition during the meetings of 5 and 6 February 2025 was in blatant contradiction with this requirement. As detailed above under section 3.1, the organisation of these meetings also failed to meet the standard of outreach, which aims at ensuring adequate awareness-raising and publicity and adapting communication channels to the needs of all target audiences.

¹¹⁶ COM(2025) 81 final, p. 6.

¹¹⁷ European Ombudsman, Case 728/2024/VB, Decision of 12 December 2024, para. 17-20, <https://www.ombudsman.europa.eu/en/decision/en/197148>.

¹¹⁸ Ibid., para. 25-26 (emphasis added).

¹¹⁹ Ibid., para. 23 (emphasis added).

¹²⁰ Better Regulation Guidelines, Chapter II, Section 5.1.2, p. 19.

The Complainants note that the Commission considers in its Explanatory Memorandum to the Proposal that the meetings of 5 and 6 February 2025 were a ‘reality check’.¹²¹ The introduction of the concept of ‘reality checks’ as a new policy-making tool was only formally introduced by the Commission, in its recent communication of 11 February 2025 entitled “A simpler and faster Europe: Communication on implementation and simplification”. The Commission describes the nature of these ‘reality checks’ as follows:

“The Commission will reach out to practitioners in companies, in particular SMEs and small mid-caps across a wide range of areas, to understand their experience on the ground and the impact of EU law on their activities. These exchanges at the technical level will help identify and solve practical issues, such as issues linked to authorisations, permitting, control or compliance. Reality checks will seek to identify any hurdles or positive experiences, and how they relate to EU rules, implementation and national transposition. They will help to verify whether the assumptions underpinning EU legislation are correct and deliver the expected benefits. They will also help gauge whether the simplification measures planned would generate cost savings and are appropriate and realistic. The outcome of the reality checks feed into the stress-testing of existing legislation (including evaluations and fitness checks) and the design of future simplification proposals.”¹²²

These so-called ‘reality checks’ are currently not mentioned in the Better Regulation Guidelines and do not follow the democratic principles on which the guidelines are based. They seem to be a novel form of engagement specifically introduced by the Commission to carry out its new simplification strategy. In its communication, the Commission indicates that “to translate this new [simplification] drive into practical action, the Commission will use the following tools and actions: [...] hands-on experience by conducting reality checks”.¹²³ While the Complainants do not oppose various methods of evidence gathering, they cannot replace proper public participation that fulfils the basic requirements under the Better Regulation Guidelines. Most importantly, to maintain public trust, they must be handled as transparently and openly as possible to avoid any risk or even appearance of undue industry influence.

Transparency and balanced collection of evidence are particularly important where there are obvious concerns that the text of the proposal and solutions offered decisively favor the opinion of the industry thus creating a suspicion of undue corporate influence. While the Commission acknowledges the diverse range of opinions it received, claiming to have balanced feedback from various stakeholders, including business associations, companies, civil society, and researchers,¹²⁴ it is evident that business concerns, particularly those regarding regulatory burden, have been given disproportionate weight in the assessment and final textual proposal.

An analysis by Reclaim Finance¹²⁵ further reinforces this concern, revealing a striking alignment between the proposed changes in the Proposal and the demands made by a small number of key corporate and industry lobby groups: MEDEF, BDI, Confindustria, the American Chamber of Commerce, Business Europe and the French Banking Federation. According to the analysis, 70% of the demands put forward by these industry lobbies were met in the final proposal. Furthermore, the close alignment between industry lobbyists’ demands – particularly those from Medef, BDI, and Confindustria – and the Commission’s proposals raises legitimate concerns about the integrity, transparency and independence of the Commission’s decision making. This overwhelming alignment suggests that the Commission’s

¹²¹ COM(2025) 81 final, op. cit., pp. 10-11.

¹²² COM(2025) 47 final, op. cit., p. 8.

¹²³ Ibid., p. 5 (emphasis added).

¹²⁴ COM(2025) 81 final, op. cit., pp. 6, 9, 10, 11, 12; SWD(2025) 80 final, op. cit., p. 30.

¹²⁵ [RF analysis - Content and link to lobbying - Omnibus final proposal](#), March 2025.

approach to the Proposal has been heavily shaped by corporate lobbying, which is why organizing an open and transparent consultation process and affording sufficient time and opportunity for the submission and analysis of diverse opinions was paramount.

In conclusion, the meetings of 5 and 6 February 2025 cannot be considered a public consultation that ensured sufficiently transparent, open and broad public participation, nor even a targeted consultation as per the standards of the Better Regulation Guidelines and the standards set by the European Ombudsman in previous decisions. Furthermore as mentioned above, the Commission did not engage in any other dialogue with stakeholders for the preparation of the Proposal. Therefore the failure to organise a public consultation regarding the Proposal constituted maladministration.

6. Conclusion

Based on the above, we urge the European Ombudsman to find maladministration in the manner in which the preparation of the Proposal was carried out.

We urge the European Ombudsman to recommend that the Commission provides prior detailed and concrete reasons for any deviations from Better Regulation Guidelines should they occur in the preparation of future proposals, including reasons as to why the preparation of proposals deviates from the obligation to carry out an impact assessment, as well as the obligation to carry out broad public consultations, including format, timeframe, manner of collecting the opinions as well as transparency and feedback to the contributions received. We also urge the European Ombudsman to find maladministration for the absence of a climate consistency assessment under Article 6(4) of the European Climate Law, which could not be dispensed with and was not conducted nor published with the Proposal.

We also urge the European Ombudsman to recommend that new evidence-gathering tools such as the so-called “reality checks” that are not based on transparent selection of stakeholders and do not reveal the participants, agenda or opinions expressed cannot replace proper public consultations based on principles of openness, transparency and diversity of opinions envisaged by the Better Regulation Guidelines.

We would like to thank you for your consideration of our complaint and remain at your disposal in case any further information is required.

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