



EUROPEAN COMMISSION

*Brussels, 20.9.2022
C(2022) 6795 final*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 {COM(2022) 71 final}.

The proposal on Corporate Sustainability Due Diligence plays a key role for the Commission's objective of a just transition to a sustainable economy and society and in delivering on the United Nations Sustainable Development Goals, including on its objectives related to human rights and the environment. Aimed at fostering long-term sustainable and responsible corporate behaviour, the proposal introduces a mandatory human rights and environmental corporate due diligence duty, requiring companies to identify and address actual or potential human rights and environmental adverse impacts in their own operations, in those of their subsidiaries and in their value chains.

The Commission has carefully analysed the Opinion of the Bundesrat and welcomes that it recognises the need to address the adverse impacts of business activity on human rights, including labour and social rights, and the environment, which corresponds also to the objectives of the proposal. The Commission appreciates the Bundesrat's support for harmonised due diligence rules in the single market, and for the application of those rules to non-European Union companies operating in the European Union. The recent German supply chain due diligence legislation has informed, among many other inputs, the preparation of this proposal. The Commission welcomes the Bundesrat's support for other complementary Commission proposals and goals, such as the deforestation-free supply chains or the prohibition of products made with forced labour in the context of a comprehensive approach developed by the Commission to promote decent work worldwide.

The Commission takes note of the Bundesrat's comments concerning the potential indirect financial and administrative burdens that the Corporate Sustainability Due Diligence proposal may impose on small and medium-sized enterprises, and possible ways to avoid these. The Commission also takes note of the Bundesrat's remarks concerning the provision related to sanctions (Article 20), asking in particular whether these could be made more specific, including through harmonised provisions on the

*Mr Bodo RAMELOW
President of the Bundesrat
Leipziger Straße 3–4
D - 10117 BERLIN*

enforcement procedure, to avoid potential distortions of competition and 'forum shopping' as regards sanctions within the European Union.

The Commission is pleased to have this opportunity to provide several clarifications regarding this proposal and trusts that these will allay the Bundesrat's concerns.

Reacting to the comments regarding possible indirect financial and administrative burdens for small and medium-sized enterprises, the Commission wishes to emphasise that the proposal contains safeguards to avoid that larger companies shift their duties to their smaller business partners and explicitly refers to accompanying measures and supporting tools for all types of companies. Those could include hotlines, databases or training, as well as the setup of an observatory to help companies with the implementation of the Directive. In particular, to help small and medium-sized enterprises to gradually integrate sustainable considerations in their business operations, specific support such as guidance, information about the obligations, tools and funding would be made available.

Regarding the comments made on the proposed sanctions regime, the Commission wishes to underline that the proposal envisages the creation of a European Network of Supervisory Authorities that would bring together representatives of the national supervisory authorities. The network would facilitate the cooperation, sharing of information, coordination and alignment of regulatory, investigative, sanctioning and supervisory practices of the supervisory authorities while respecting the principles of subsidiarity and proportionality. The sanctions provided for would need to be, in any case, effective, proportionate and dissuasive, and, when pecuniary sanctions are imposed, they would have to be based on the company's turnover.

The points made above are based on the initial proposal presented by the Commission, which is currently in the legislative process involving both the European Parliament and the Council.

The Bundesrat Opinion has been made available to the Commission's representatives in the ongoing negotiations of the co-legislators, the European Parliament and the Council, and will be taken into consideration in these discussions.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Didier Reynders
Member of the Commission*