The CSDDD and the CSRD after Directive (EU) 2026/470: a missed opportunity for regulatory coherence

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Abstract: This paper argues that the CSRD and the original proposal for the CSDDD were conceived as complementary instruments within the EU sustainability framework. While the final text of the CSDDD had already reduced that complementarity, Directive (EU) 2026/470 further weakens the systemic connection between the two regimes. The Omnibus reform does not merely narrow the personal scope of both instruments. It also deepens their asymmetry by preserving divergent concepts of "value chain" and "chain of activities", removing climate transition plans from the CSDDD and weakening the enforcement architecture. The result is a more fragmented sustainability framework, which generates legal uncertainty and constitutes a missed opportunity to build regulatory coherence between sustainability reporting and sustainability due diligence.

Keywords: sustainability reporting; sustainability due diligence; Omnibus I Package; Directive (EU) 2026/470; value chain; chain of activities; transition plans; enforcement.

A. Introduction: the original architecture of the EU sustainability framework

The Corporate Sustainability Reporting Directive (CSRD)[1] and the Corporate Sustainability Due Diligence Directive (CSDDD)[2] were originally conceived as two mutually reinforcing

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[1] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directives 2004/109/EC and 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15). In particular, the CSRD amended Directive 2013/34/EU and replaced the sustainability reporting regime introduced by Directive 2014/95/EU, commonly referred to as the Non-Financial Reporting Directive. See: Ahern, Deirdre, Turning Up the Heat? EU Sustainability Goals and the Role of Reporting under the Non-Financial Reporting Directive, ECFR 13, 2016, p. 599; Szabó, Dániel Gergely/Sørensen, Karsten Engsig, New EU Directive on the Disclosure of Non-Financial Information (CSR), ECFR 12, 2015, p. 307.

[2] 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,

instruments within the broader EU sustainability framework.[3] Their relationship was not merely chronological[4] or thematic. Rather, the two instruments were designed to operate as complementary components of a single regulatory architecture, in which transparency, corporate organisation, risk management and accountability were expected to support one another.

The CSRD, whose proposal preceded the CSDDD proposal and whose final text was adopted first, strengthened and expanded the previous non-financial reporting regime by requiring undertakings within its scope to disclose sustainability information from a double materiality perspective. Its function was primarily informational: it aimed to make visible both the undertaking's impacts on sustainability matters and the effects of sustainability matters on the undertaking's development, performance and position. The Commission's CSDDD proposal

2024/1760, 5.7.2024). See Schall, Alexander, The CSDDD: Good Law or Bad Law?, ECL 2024, p. 56; de Gioia-Carabellese, Pierre/Macrì, Letizia, CSRD and CSDD: How the Sustainability Regulatory Evolution Impacts on Sustainable and Green Investments, ECL 2023, p. 56; Villiers, Charlotte, New Directions in the European Union's Regulatory Framework for Corporate Reporting, Due Diligence and Accountability: The Challenge of Complexity, EJRR 13, 2022, p. 548; de Kluiver, Harm-Jan, Towards a Framework for Effective Regulatory Supervision of Sustainability Governance in Accordance with the EU CSDD Directive: A Comparative Study, ECFR 2023, p. 203; Ventura, Livia, Corporate Sustainability Due Diligence and the New Boundaries of the Firms in the European Union, EBLR 34, 2023, p. 239; McCullagh, Verity, The EU Corporate Sustainability Due Diligence Directive: Real Change or More of the Same?, EBLR 35, 2024, p. 603; Sinnig, Julia/Zetzsche, Dirk A., The EU's Corporate Sustainability Due Diligence Directive: From Disclosure to Prevention of Adverse Sustainability Impacts in Supply Chains, 2024, SSRN Working Paper, http://dx.doi.org/10.2139/ssrn.4865488; Ramos Muñoz, David, The Corporate Sustainability Due Diligence Directive (CSDDD). Everything, Everywhere, All at Once?, EUSFiL Research Working Paper Series No. 1/2025, 2025, http://dx.doi.org/10.2139/ssrn.5105205; Ferrarini, Guido, The Geopolitics of Corporate Sustainability Due Diligence: A Preliminary Analysis, EUSFiL Research Working Paper Series No. 4/2025, 2025, http://dx.doi.org/10.2139/ssrn.5308753; Papp, Tekla/Bankó, Zoltán/Berke, Gyula, The Path to CS3D – Company Law and Labour Law Trends and Aspects, EBLR 37, 2026, p. 345.

[3] The CSDDD also complements Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (Sustainable Finance Disclosure Regulation, SFDR) (OJ L 317, 9.12.2019) and 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 (Taxonomy Regulation) (OJ L 198, 22.6.2020, p. 13). See European Commission, Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, 23 February 2022, COM (2022) 71 final, 2022/0051 (COD), Explanatory Memorandum, p. 5: «*Like NFRD and the proposal for CSRD, the Taxonomy Regulation does not impose substantive duties on companies other than public reporting requirements, and investors can use such information when allocating capital to companies. By requiring companies to identify their adverse risks in all their operations and value chains, this Directive may help in providing more detailed information to the investors. It therefore complements the Taxonomy Regulation as it has the potential to further help investors to allocate capital to responsible and sustainable companies*». See Foerster, Anita/Landau, Ingrid/House, Mayleah, Sustainable Finance and Corporate Sustainability Due Diligence: Interactions, Complementarities and Accountability Logics, SSRN Working Paper, 2025, http://dx.doi.org/10.2139/ssrn.5123118; Aránguez Díaz, Pedro, The Financial Sector in the Corporate Sustainability Due Diligence Directive after the Omnibus: Advancing the EU Sustainable Finance Framework, in Perales Viscasillas, Pilar/Ramos Muñoz, David (eds.), Sustainable Supply Chains and Corporate Accountability, Valencia 2026; Stefaniak, Stanisław, Shades of Green: Reconstructing the EU Regulatory Framework for Sustainable Financial Products, EBLR 38, 2026, p. 581.

[4] The two directives followed a similar timeline, both in terms of their proposals (21 April 2021 for the CSRD and 23 February 2022 for the CSDDD) and their respective entry into force (5 January 2023 for the CSRD and 25 July 2024 for the CSDDD).

was intended to add a substantive dimension to that transparency-based framework. It did so by requiring certain companies to identify, prevent, mitigate, bring to an end and account for actual and potential adverse human rights and environmental impacts in their own operations, those of their subsidiaries and those occurring throughout their value chains. In this sense, the CSDDD proposal was not conceived as an isolated instrument, but as the organisational and behavioural counterpart of sustainability reporting.[5]

This original connection was expressly articulated by the Commission in the Explanatory Memorandum to the CSDDD proposal[6]. The Commission stated that the CSDDD would complement the CSRD by adding a substantive corporate duty to perform due diligence, while the CSRD would cover the final step of the due diligence process, namely the reporting stage. The two initiatives were therefore expected to generate synergies. First, the collection of information required for sustainability reporting presupposed the existence of internal processes capable of identifying and assessing adverse impacts.[7] Secondly, for companies subject to both instruments, sustainability reporting would provide the external and public dimension of the due diligence process. Thirdly, the obligation to adopt a climate transition plan under the CSDDD proposal corresponded to a disclosure obligation under the CSRD concerning the compatibility of the undertaking's business model and strategy with the transition to a sustainable economy and with the objective of limiting global warming to 1.5 °C in line with the Paris Agreement. In the Commission's original design, therefore, the CSDDD was expected to make sustainability reporting more complete and effective, while the CSRD was expected to make due diligence more visible, comparable and accountable.[8]

This explains why the relationship between the two directives is a privileged perspective from which to assess the coherence of the EU sustainability framework. If sustainability reporting is detached from substantive due diligence obligations, disclosure may become formalistic or incomplete. Conversely, if due diligence is not connected to reporting, its outcomes may remain

[5] Eccles, Robert G./Havard-Williams, Vanessa/Manning, Mark, The Limits of Reporting on Sustainability Impacts in Changing Corporate Behaviour, EBLR 35, 2024, p. 527, 529 et seq., arguing that reporting transparency is only the first step in a broader hierarchy of mechanisms capable of influencing corporate behaviour and that disclosure alone is unlikely to drive meaningful change.

[6] European Commission (fn. 3), p. 4 et seq.

[7] The close relationship between sustainability reporting and the actual measures undertaken by companies in pursuit of social and environmental objectives had already emerged during the implementation of Directive 2014/95/EU (NFRD). See Fiechter, Peter/Hitz, Jörg-Markus/Lehmann, Nico, Real Effects of a Widespread CSR Reporting Mandate: Evidence from the European Union's CSR Directive, JAR 2022, p. 1499; Cuomo, Francesca/Gaia, Silvia/Girardone, Claudia/Piserà, Stefano, The Effects of the EU Non-Financial Reporting Directive on Corporate Social Responsibility, EJF 2024, p. 726.

[8] As Ramos Muñoz observes, the CSDDD went beyond the disclosure logic of the CSRD by imposing due diligence conduct obligations on large corporations, with possible implications for non-contractual liability. See Ramos Muñoz (fn. 2), p. 1.

opaque, difficult to compare and weakly accountable. In this respect, the CSDDD proposal marked a shift from a purely transparency-based model towards a model in which companies were required to embed sustainability due diligence into their policies and management systems.

However, this systemic design was fragile from the outset. The final text of the CSDDD already departed from the broader architecture of the Commission proposal in several respects, including through the replacement of the notion of value chain with the narrower concept of chain of activities and the exclusion of downstream financial services.[9] These changes reduced the degree of alignment between the two instruments and anticipated the asymmetry that Directive (EU) 2026/470, adopted in the context of the 'Simplification Omnibus I Package', would later deepen. The latter Directive, formally adopted in the name of simplification, burden reduction and competitiveness, amends both the CSRD and the CSDDD while declaring that the policy objectives of the European Green Deal and the Sustainable Finance Action Plan should be maintained. Yet the crucial question is whether simplification has been used to improve the coherence of the original architecture or, rather, whether it has further fragmented it.

This article argues that the CSRD and the original proposal for the CSDDD were conceived as mutually reinforcing directives within the EU sustainability framework. That complementarity was already weakened in the final text of the CSDDD and was further worsened by Directive (EU) 2026/470. Although it reduces the scope and burden of both regimes, the Omnibus Directive further distances the two instruments by preserving different personal scopes, maintaining divergent chain concepts, weakening information flows, removing climate transition plans from the CSDDD and remitting civil liability largely to national law. It therefore represents a missed opportunity for regulatory coherence. Ultimately, this fragmented regulatory architecture generates complexity and legal uncertainty, thereby undermining the very objectives of simplification, legal certainty and administrative burden reduction that were presented as the rationale for the Omnibus Package.

The following analysis develops this argument in five steps. Section B reconstructs the movement from complementarity to asymmetry under Directive (EU) 2026/470. Section C examines the narrowing of the personal scope of the CSRD and the CSDDD, showing that both regimes have been reduced but not aligned. Section D focuses on value chain, chain of activities

[9] This was especially the outcome of the vote of the Council of the European Union on the CSDDD on 15 March 2024, which created a significant divergence from the provisional agreement reached with the European Parliament in December 2023.

and information flows, arguing that the Directive deepens conceptual divergences on key regulatory concepts. Section E analyses the disappearance of climate transition plans from the CSDDD as the loss of one of the main connecting elements between reporting and due diligence. Section F briefly examines enforcement, with particular regard to the weakening of the EU-level civil liability framework and the resulting reliance on national remedies. Section G concludes.

B. From complementarity to asymmetry under Directive (EU) 2026/470

Directive (EU) 2026/470 must be understood against the background of the broader simplification agenda launched by the European Commission in 2025. With the 'Simplification Omnibus I Package' of 26 February 2025[10], the Commission proposed amendments – among others – of the CSRD and the CSDDD justified by the need to enhance competitiveness, while formally maintaining the objectives of the EU green and just transition.

The political and economic background of the Omnibus reform is different from that which accompanied the adoption of the CSRD and the CSDDD. In fact, in recent years sustainability regulation has been reassessed through the lenses of administrative burden reduction and geopolitical pressure.[11] This shift reflects the wider debate on the fading competitiveness of EU markets, fuelled by the reports authored by Mario Draghi and Enrico Letta,[12] and by concerns regarding potentially disproportionate compliance costs, particularly for SMEs, and fragmentation across sustainability requirements.

In principle, simplification could have offered an opportunity to improve the coherence between the CSRD and the CSDDD. Since the two directives were originally designed to be complementary, a reform affecting both instruments could have been used to reduce duplications, clarify overlaps and better coordinate their respective concepts, scopes and functions. In fact, the European Commission expressly stated that one of the objectives of the reform was to promote closer alignment between the CSRD and the CSDDD[13]. Directive (EU)

[10] European Commission, 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, 26 February 2025, COM(2025) 81 final, 2025/0045 (COD), Explanatory Memorandum, 2.

[11] The geopolitical context is emphasised in the literature, which links the Omnibus proposal to the impact of wars, rising energy prices, trade tensions, diverging approaches in major jurisdictions such as the United States, and the need for the EU economy to compete in an unstable international environment. See Ferrarini (fn. 2), p. 11.

[12] Mario Draghi, The future of European competitiveness: Part A: a competitiveness strategy for Europe, September 2024; Enrico Letta, Much more than a market – Speed, Security, Solidarity – Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens, April 2024.

[13] European Commission (fn. 10), p. 7.

2026/470 itself repeatedly invokes objectives that are related to coherence.[14] With regard to the CSDDD, it explains the expansion of full harmonisation as a means of avoiding a fragmented regulatory landscape resulting in legal uncertainty and unnecessary burden.[15]

However, the operative choices made by Directive (EU) 2026/470 point in a different direction. The Directive does not reconstruct the original complementarity between reporting and due diligence. Both regimes are narrowed and lightened, but they are not brought into a more coherent relationship. This is why Directive (EU) 2026/470 marks a movement from complementarity to asymmetry.

C. The narrowing of the personal scope

The CSRD originally applied in waves, starting from large public-interest entities in 2025 and then extending to other large undertakings and listed SMEs. The CSRD was expected to apply to approximately 46,000 companies. The European Parliament Resolution of 10 March 2021, containing recommendations to the Commission on corporate due diligence and corporate accountability[16], was broadly aligned with this outcome in terms of scope, as it proposed an act that would have covered approximately 45,000 companies. By contrast, the Commission's Proposal for the CSDDD, adopted in February 2022, significantly narrowed the scope, applying to approximately 13,000 EU companies and around 4,000 non-EU companies[17]. Eventually, the final version of the CSDDD, following the amendments introduced by the Council on 15 March 2024, further reduced its scope of application, covering approximately 6,000 companies starting from 2027.

The difference in scope between the CSRD and the CSDDD certainly did not favour the complementarity and efficient application of the two legislative instruments.[18] In the debate that preceded the adoption of the Omnibus Directive, the opportunity for greater alignment between

[14] See Recitals 9 and 18 Directive (EU) 2026/470.
[15] See Recital 38 Directive (EU) 2026/470, in connection to the new article 4(1) CSDDD.
[16] European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability, 2020/2129(INL).
[17] European Coalition for Corporate Justice, Sabela Gonzalez Garcia, Reaction CSDDD endorsement brings us 0.05% closer to corporate justice, 15 March 2024.
[18] Furthermore, Directive (EU) 2025/794 of the European Parliament and of the Council of 14 April 2025 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 (OJ L, 2025/794, 16.4.2025), commonly referred to as the 'Stop-the-Clock' Directive, altered the timeline for the implementation of both the CSRD and the CSDDD. It postponed by two years the application of the CSRD reporting requirements for both "Wave Two" undertakings, namely large undertakings that are not public-interest entities and have more than 250 employees, and "Wave Three" undertakings, namely listed SMEs. As regards the CSDDD, the transposition deadline was postponed by one year, from 2026 to 2027, and the first wave of application was removed.

the two directives emerged clearly. However, the only certainty was that the overall scope of application would be substantially narrowed.

In the Explanatory Memorandum, the Commission expressly declared its intention to reduce by 80% the number of companies subject to mandatory sustainability reporting.[19] In this way, it would have brought the scope of the CSRD closer to that of the CSDDD.[20] The European Parliament's draft report of 26 May 2025 pointed to a genuine convergence between the two regimes by aligning their thresholds.[21] Conversely, the Council's negotiation mandate of 23 June 2025 preserved a more marked distinction between CSRD and CSDDD.[22]

Directive (EU) 2026/470 followed the latter path. Under the CSRD, mandatory sustainability reporting is now limited to undertakings and groups with a net turnover exceeding EUR 450 million and more than 1,000 employees, while under the CSDDD, the scope is raised much further: the Directive applies only to companies with more than 5,000 employees and a net worldwide turnover above EUR 1.5 billion, with corresponding franchising or licensing thresholds.

Therefore, the Omnibus does not bring the two regimes into a common perimeter; it simply narrows both of them, thereby making their application more complex and less coherent, as will be seen below.

D. Value chain, chain of activities and information flows

[19] The Commission's proposal referred to approximately 13,000 companies falling within the scope of the CSRD. In particular, all listed SMEs would have been excluded, and the reporting requirements would have applied exclusively to large undertakings with more than 1,000 employees, while maintaining the existing thresholds of EUR 50 million in net turnover and EUR 25 million in total assets. *See* European Commission (fn. 10), p. 4; Rasche, Andreas/Cojoianu, Theodor/Hoepner, Andreas G. F./Schneider, Fabiola, Scenarios for CSRD Scope Amendments – Advancing Reporting Scope While Reducing Further Burden, 2025, p. 5, https://ssrn.com/abstract=5350977.

[20] European Commission (fn. 10), p. 7.

[21] The Parliament's draft position entailed a reduction of around 9,600 companies compared with the Commission's proposal, leaving approximately 3,400 companies within scope. The scope was limited to large companies with a net turnover of EUR 450 million and more than 3,000 employees. *See* European Parliament, Committee on Legal Affairs, Draft report on 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, 26 May 2025, PE774.282v01-00, 2025/0045(COD); Rasche et al. (fn. 19), p. 6.

[22] The Council's position would have resulted in a reduction of approximately 6,800 firms compared with the Commission's proposal, due to the very high turnover criterion, leaving around 6,215 companies within scope. Under the CSRD, large companies would be defined as those with a net turnover of EUR 450 million and more than 1,000 employees. Under the CSDDD, however, the thresholds would be significantly higher, applying only to companies with a net turnover of at least EUR 1,500 million and more than 5,000 employees. *See* Council of the European Union, General Secretariat of the Council, Note to the Permanent Representatives Committee on 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 – Mandate for negotiations with the European Parliament, 21 June 2025, 10276/25, 2025/0045(COD); Rasche et al. (fn. 19), p. 6.

One of the most central and complex concepts for understanding the interplay between the CSRD and the CSDDD is that of the "value chain" and/or "chain of activities".[23] Although these expressions may appear equivalent, it must be emphasised that under European legislation, the concept of "value chain" has a broader scope compared to that of "chain of activities."

Under the CSRD, sustainability reporting must include a description of the principal actual or potential adverse impacts connected with the undertaking's own operations and its value chain, including its products and services, its business relationships, and its supply chain [article 19a(2)(f)(ii) CSRD]. The definition of "value chain" is provided in Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023, which supplements Directive 2013/34/EU as amended by the CSRD. It reads as follows: «*The full range of activities, resources and relationships related to the undertaking's business model and the external environment in which it operates. … Value chain includes actors upstream and downstream from the undertaking. Actors upstream from the undertaking (e.g., suppliers) provide products or services that are used in the development of the undertaking's products or services. Entities downstream from the undertaking (e.g., distributors, customers) receive products or services from the undertaking.*»

Moreover, as stated in Recital 33 of the CSRD, information relating to the undertaking's entire value chain must include not only activities carried out within the Union, but also those in third countries, where the value chain extends beyond the Union's borders, and must take into account short-, medium- and long-term perspectives. Therefore, the CSRD's "value chain" encompasses virtually all business relationships a company might have: all internal operations, upstream activities, and downstream activities, from raw material extraction to the end-of-life of a product. Accordingly, the "value chain" refers to the full range of activities related to the creation, delivery, and support of a company's products and services.

Unlike the original Commission proposal, which referred to the "value chain"[24], the final text of the CSDDD, following the amendments introduced by the Council in March 2024, adopts

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[23] Ponte, Stefano/Gereffi, Gary/Raj-Reichert, Gale (eds.), Handbook on Global Value Chains, Cheltenham/Northampton 2019; Ulfbeck, Vibe/Andhov, Alexandra/Mitkidis, Kateřina Peterková (eds.), Law and Responsible Supply Chain Management: Contract and Tort Interplay and Overlap, London/New York 2019; Locascio Aliberti, Enrico, The Impact of the CSDDD on "Business Partners" and the Arising of New Liabilities Across the "Chain of Activities", EUSFiL Research Working Paper Series No. 2/2026, 2026, http://dx.doi.org/10.2139/ssrn.6858040, p. 4; McCullagh (fn. 2), p. 608.

[24] European Commission (fn. 3), p. 1: «*EU companies operate in complex surroundings and, especially large ones, rely on global value chains. Given the significant number of their suppliers in the Union and in third countries and the overall complexity of value chains, EU companies, including the large ones, may encounter difficulties to identify and mitigate risks in their value chains linked to respect of human rights or environmental impacts.*

instead the concept of the "chain of activities". Recital 25 explicitly clarifies that the term "chain of activities" is without prejudice to the terms "value chain" or "supply chain" as defined in, or within the meaning of, other Union legislation. This statement dispels any doubt as to a possible equivalence in meaning between these concepts.

The concept of the "chain of activities", which is involved in all due diligence processes, is itself broad, as clarified in the definition provided in Article 3(1)(g) CSDDD. It includes: *(i)* the activities of a company's upstream business partners that are related to the production of goods or the provision of services, such as the design, extraction, sourcing, manufacture, transport, storage, and supply of raw materials, products, or components, as well as the development of the product or service; and *(ii)* the activities of the company's downstream business partners that concern the distribution, transport, and storage of the company's product, insofar as those partners carry out such activities for or on behalf of the company.

However, Recital 26 specifies that «*the definition of the term 'chain of activities' should not include the activities of a company's downstream business partners related to the services of the company*.» In addition, for regulated financial undertakings, «*the definition of the term 'chain of activities' should not include downstream business partners that receive their services and products. Therefore, as regards regulated financial undertakings, only the upstream but not the downstream part of their chains of activities should be covered by this Directive.*» [25] It follows that the CSDDD's "chain of activities" has a narrower scope, covering all the upstream activities of a company's business partners, but not the entirety of the downstream activities. Moreover, in the case of financial undertakings, only the upstream part of their chain of activities is included within the scope. The exclusion of financial services is particularly problematic, as this is arguably the area in which the CSDDD could have had its most significant impact.[26]

Finally, the "chain of activities" involves business partners, including "direct business partners" linked by a commercial agreement and "indirect business partners" carrying out activities connected to the company's operations, products or services [Article 3(1)(f) CSDDD].[27]

Against this background, the Omnibus reform can be read as a missed opportunity for regulatory coordination between the CSRD and the CSDDD.

Identifying these adverse impacts in value chains will become easier if more companies exercise due diligence and thus more data is available on human rights and environmental adverse impacts. »

[25] The original Commission proposal included downstream financial services. See European Commission (fn. 3), article 3(1)(g).

[26] Ramos Muñoz (fn. 2), p. 9.

[27] Cruz, Trisha, Lessons from the Failures of Voluntary Due Diligence: Continuing the Case for Stronger Mandatory Frameworks, 2025, http://dx.doi.org/10.2139/ssrn.5698784, p. 18 et seq.

The Omnibus I package did not resolve the divergence between the concepts of "value chain" and "chain of activities", rather, it chose to address each directive through a different burden-reduction technique. The Commission's Proposal relied on a value-chain cap for the CSRD and on a combination of a Tier 1 limitation and a targeted information cap for the CSDDD, thereby aggravating, rather than reducing, the existing inconsistencies.[28] The European Parliament's draft report of 26 May 2025 showed greater awareness of the need for coordination, since it proposed to replace the concept of "value chain" with that of "chain of activities" in order to align the reporting directive more closely with the CSDDD.[29] The Council's negotiation mandate of 23 June 2025 did not follow that route and retained the term "value chain", while also supporting the value-chain cap and the right of business partners below the relevant threshold to refuse excessive information requests.[30] Directive (EU) 2026/470 ultimately preserves the distinction between "value chain" and "chain of activities" and does so through separate and only partially coordinated mechanisms, which leave the conceptual divide between the two directives intact.

Beginning with the CSRD, the Commission proposed to make extensive use of the so-called "value chain cap" when undertakings with fewer than 1,000 employees are involved in the value chain, with the aim of reducing the trickle-down effect.[31] Specifically, undertakings in the value chain with fewer than 1,000 employees are considered "*protected undertakings*" and cannot be required to provide any information beyond what is set out in the standards for voluntary use. The Commission will adopt the "*Sustainability reporting standards for voluntary use*" that should be proportionate to, and relevant for, the capacities and the characteristics of the undertakings for which they are designed and to the scale and complexity of their activities, in accordance with Article 29ca CSRD. These standards are based on the VSME[32] and are intended to provide a simplified, modular and proportionate reporting framework for undertakings not subject to mandatory sustainability reporting.

[28] Nevertheless, the Commission affirmed that consistency with the CSRD is preserved, as the proposed changes to the CSDDD allow for the involvement of indirect business partners, albeit only in exceptional circumstances. See European Commission (fn. 10), p. 7.

[29] European Parliament (fn. 21), Recital 9. The Parliament further endorsed the introduction of the value chain cap, as proposed by the Commission.

[30] Council of the European Union (fn. 22). The Council has likewise supported the introduction of the "value chain cap", specifying that any request for information going beyond what is outlined in the standards for voluntary use must be expressly indicated. In such cases, business partners with fewer than 1,000 employees are granted a statutory right to decline to provide the requested information.

[31] European Commission (fn. 10), p. 4.

[32] Voluntary Sustainability Reporting Standard for SMEs.

Directive (EU) 2026/470 retains this structure and turns it into a more explicit protective regime for smaller undertakings. Under Article 19a(3) and Article 29a(3), reporting undertakings may rely on a self-declaration to determine whether undertakings in their value chain are "protected undertakings"; they are not required to verify that declaration unless they know, or can reasonably be expected to know, that it is manifestly incorrect. In addition, protected undertakings have a statutory right to decline to provide information exceeding the voluntary standards and any contractual provision contrary to this shall not be binding.

The Directive further reinforces this architecture through Article 29b CSRD on Sustainability reporting standards.[33] It deletes sector-specific reporting standards, revises the first set of ESRS to remove datapoints considered least important, prioritises quantitative data over narrative disclosures, and clarifies that sustainability reporting standards may not require protected undertakings to disclose any information beyond what is set out in the voluntary standards. Moreover, the sustainability reporting standards shall take account of the difficulties that undertakings may encounter in gathering information from actors throughout their value chain, especially from those which are not subject to the sustainability reporting requirements and from suppliers in emerging markets and economies. In any case, the standards shall specify disclosures on value chains that are proportionate and relevant to the capacities and the characteristics of undertakings in value chains, and to the scale and complexity of their activities.

In addition, Article 34(2a) CSRD ensures that the assurance opinion on sustainability reporting – lowered from a reasonable to a limited assurance by the Omnibus reform – fully respects the right of undertakings below the 1,000-employee threshold to decline information beyond the voluntary standards.

To sum up, under the CSRD as amended by Directive (EU) 2026/470, the concept of "value chain" remains the very broad one defined in Commission Delegated Regulation (EU) 2023/2772, extending to upstream and downstream business partners alike. However,

[33] On 11 July 2025, the Commission adopted targeted "quick-fix" amendments to the first set of ESRS. This is intended to reduce the reporting burden and enhance legal certainty for companies required to begin reporting for the 2024 financial year, commonly referred to as "Wave One" companies. This quick-fix was deemed necessary because "Wave One" companies were not covered by the "Stop-the-Clock" Directive, which postponed by two years the sustainability reporting requirements for companies required to report as of the 2025 and 2026 financial years, the so-called "Wave One" and "Wave Three" companies. See European Commission, Commission Delegated Regulation amending Delegated Regulation (EU) 2023/2772 as regards the postponement of the date of application of the disclosure requirements for certain undertakings, Brussels, 11 July 2025, C(2025) 4812 final. The technical advisory body responsible for developing the ESRS, the EFRAG, required by the European Commission, published the draft amended ESRS on 3 December 2025. See EFRAG, Draft simplified ESRS – ESRS 1 – General requirements, 2025, https://www.efrag.org/en/draft-simplified-esrs (last accessed: 18.07.2026).

information flows are restricted where the value chain includes undertakings with fewer than 1,000 employees, which, by reason of their size, are to be protected and may be requested to provide only information that is proportionate to the scale and complexity of their activities.

Turning to the CSDDD, the decision was to maintain the distinct concept of "chain of activities", leaving the definition in Article 3(1)(g) CSDDD unchanged and preserving its narrower scope, which does not cover the entirety of downstream activities, especially in light of the exclusion of financial services.[34]

The amendments centred on Article 8 CSDDD, which governs the identification and assessment of actual and potential adverse impacts, in order to reduce the burden of information requests on the "weaker" business partners as well. The technique used in the Commission's proposal was not the same as the CSRD's value-chain cap based on employee thresholds. Instead, it consisted in limiting the in-depth assessment of risk factors to the level of direct — and not indirect — business partners.[35] This restriction is commonly referred to as the "Tier 1 Limitation". In addition, in order to further limit the trickle-down effect, the Commission proposed, also with respect to the CSDDD, an information limitation based on the number of employees. Thus, the "Tier 1 Limitation" was combined with a form of "value-chain cap".[36]

That original model was complex and layered, and it was accompanied by several exceptions;[37] yet, in the final text of Directive (EU) 2026/470, the explicit reference to direct business partners has lost centrality and has been retained only in a much more nuanced form.

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[34] Directive (EU) 2026/470, following the Commission's proposal, provide for the deletion of Article 36(1) CSDDD, which contained a first review clause requiring the Commission to submit a report to the European Parliament and the Council on the need to introduce additional sustainability due diligence requirements specifically tailored to regulated financial undertakings in relation to the provision of financial services and investment activities. The purpose of this provision was to assess the possible extension of the chain of activities to include downstream relationships, particularly with business partners receiving such services and products. The deletion of Article 36(1), instead, further confirms the tendency to narrow – or, as in this case, to maintain – a limited scope for the chain of activities. The Commission's justification for this deletion, which appears unconvincing, lies in the argument that the review clause, scheduled for July 2026, would not allow sufficient time to draw conclusions based on experience with the newly established general due diligence framework. *See* European Commission (fn. 10), p. 20.

[35] European Commission (fn. 10), p. 18.

[36] However, the Commission, somewhat inexplicably, applied a different threshold than that used in the CSRD, setting it at 500 employees instead of 1,000. Large companies subject to the CSDDD could not request from direct business partners with fewer than 500 employees any information beyond that required by the voluntary sustainability reporting standard, except in limited cases, such as where the required information could not reasonably be obtained by other means. See European Commission (fn. 10), p. 39. The Parliament's and the Council's positions also combined the Tier 1 Limitation with a value chain cap, but with different thresholds. See European Parliament (fn. 21) and Council of the European Union (fn. 22).

[37] The Commission provided for two exceptions in which companies were required to look beyond their direct business partners. The first concerned the code of conduct. Companies were expected to ensure that their code of conduct, which formed part of their due diligence policy, was followed throughout the chain of activities in line with contractual cascading and SMEs support. The second exception applied where a company had plausible information indicating that an adverse impact might occur at the level of an indirect business partner. The company was required to carry out an in-depth assessment where the indirect nature of the relationship resulted from an

Under the amended Article 8(2) CSDDD, a shift from an entity-based approach to a risk-based approach is introduced, focusing on areas where actual or potential adverse impacts are most likely to occur.[38] In other words, companies are no longer required to carry out a comprehensive mapping exercise of all actual and potential risk factors relating to their own activities and those of their business partners, but rather a scoping exercise. This scoping exercise, based solely on reasonably available information, aims to identify the general areas across the companies' own operations, those of their subsidiaries and, where related to their chains of activities, those of their business partners where adverse impacts are most likely to occur and be most severe. Only on that basis must they conduct an in-depth assessment in the relevant areas. The result is a more targeted screening of risk-prone areas.

Directive (EU) 2026/470 also introduces a value-chain cap, but only in connection with the in-depth assessment stage. New article 8(2a) CSDDD therefore permits companies to request information from business partners only where it is necessary and, in the case of business partners with fewer than 5,000 employees, only where the information cannot reasonably be obtained by other means. This threshold, unlike the 1,000-employee threshold used by the CSRD to identify "protected undertakings", may appear somewhat difficult to reconcile when the two directives are read together. It is nonetheless explicable in light of the different personal scope of the CSDDD, which applies only to companies with more than 5,000 employees.

The distinction between direct and indirect business partners re-emerges in relation to the prioritisation of information. In conducting the in-depth assessment, where the necessary information can be obtained from different business partners, companies must prioritise requesting information, where reasonable, directly from the business partner where the adverse impacts are most likely to occur; and only where adverse impacts are identified as equally likely to occur or equally severe in several areas may companies prioritise assessing those areas involving "direct business partners".

In conclusion, the divergences that existed between the concepts of "value chain" and "chain of activities" in the original texts of the CSRD and the CSDDD have remained unchanged. Directive (EU) 2026/470 makes the informational architecture of EU sustainability law more selective, but not more unified. Moreover, the techniques used to limit information flows under the two directives are not even perfectly aligned. This increases the uncertainty and complexity

artificial arrangement designed to circumvent the Directive's obligations. See European Commission (fn. 10), Recital 21 and p. 18 et seq.

[38] This technique was proposed by the European Parliament and the Council in their negotiation mandates. See European Parliament (fn. 21) and Council of the European Union (fn. 22).

of the joint application of the two directives to value chains and chains of activities, which is one of the most important concepts for the effectiveness of the entire sustainability framework. In addition, these uncertainties increase compliance costs for companies and ultimately run counter to the very objectives of the Omnibus reform.

E. The disappearance of climate transition plans as a connecting element

A central theme that the CSRD and the CSDDD originally shared is related to climate change transition plans.[39] In the context of the European Green Deal, both sustainability directives were conceived as complementary instruments, capable of aligning corporate disclosure and corporate conduct with the transition to a climate-neutral economy and with the objective of limiting global warming to 1.5 °C, in line with the Paris Agreement and the European Climate Law.

However, once again, the two directives addressed the matter using different language. In the CSRD, Articles 19a(2)(a)(iii) and 29a(2)(a)(iii) state that the disclosure shall cover «*the plans of the undertaking, including implementing actions and related financial and investment plans*.» Article 22(1) of the CSDDD was more explicit instead, stating that «*companies adopt and put into effect a transition plan for climate change mitigation*.»[40] The distinction was not merely terminological. Under the CSRD, transition plans are primarily framed as a disclosure object, as an integral component of sustainability reporting. Nevertheless, the CSRD does not introduce a substantive duty to adopt or disclose transition plans; rather, the purpose of the provision is to harmonise the content and format of such plans for the companies that choose to publish them.[41] Under the CSDDD, by contrast, transition plans were converted into an organisational obligation, linked to the company's due diligence architecture and to the alignment of business strategy with climate objectives. This was why transition planning came to function as the most visible bridge between the two regimes.

The Omnibus reform revealed that this bridge was fragile.

The Commission initially pursued a form of coordination between reporting and due diligence, by leaving the CSRD wording untouched and by intervening on the CSDDD in a way that

[39] Sinnig/Zetzsche (fn. 2), p. 29 et seq.; Hösli, Andreas/Weber, Rolf H., Climate Change Reporting and Due Diligence: Frontiers of Corporate Climate Responsibility, ECFR 2021, p. 948; Agostini, Federica/Galasso, Nicolò, 'Transition Plans Are Dead, Long Live Transition Plans?': The Rise, Fall and Persistence of Climate Transition Plans in the EU, EUSFiL Research Working Paper Series No. 6/2026, 2026, http://dx.doi.org/10.2139/ssrn.6931839; Bleeker, Tim, Corporate Climate Transition Planning after the Omnibus Overhaul: A Six-Question Guide, 2026, http://dx.doi.org/10.2139/ssrn.5552702.

[40] de Kluiver (fn. 2), p. 214.

[41] Recital 30 CSRD. See Ramos Muñoz (fn. 2), p. 7 and 11; Agostini/Galasso (fn. 39), p. 6 et seq.

would have aligned Article 22 more closely with the disclosure logic of Article 19a(2)(a)(iii) CSRD.[42] The European Parliament then went further and proposed the outright repeal of the CSDDD obligation,[43] while the Council adopted a more restrained position which, however, reduced the normative intensity of the duty.[44]

Directive (EU) 2026/470 ultimately resolves that debate by repealing the CSDDD provisions on climate transition plans. Recital 47 justifies this choice by reference to the administrative burden, the alleged legal uncertainty associated with the design of those plans, and the need to make sustainability obligations more consistent and effective. Yet this legislative choice removes one of the most substantive points of contact between sustainability reporting and sustainability due diligence, thereby breaking the normative chain that linked transparency, strategy and implementation. In systemic terms, the repeal therefore marks not only a weakening of the climate dimension of EU sustainability, but an increased legal uncertainty and an additional layer of complexity.

In fact, as it has been convincingly affirmed in literature,[45] the repeal of Article 22 CSDDD does not mean that climate transition plans will disappear from corporate practice. They are likely to remain a recurrent governance tool for reputational, financial and regulatory reasons. More specifically, the persistence of transition plans is supported by the continued operation of the CSRD regime, which still requires in-scope undertakings to disclose sustainability information along their value chain in a structured way, including information on climate plans and implementing actions. The CSRD, by itself, does not reintroduce the CSDDD duty; rather, it preserves a reporting infrastructure that continues to demand and legitimise transition planning as a corporate practice. In addition, the core due diligence obligations concerning the prevention, mitigation and bringing to an end of environmental adverse impacts remain in force

[42] The revised formulation of Article 22 CSDDD required companies to «*adopt a transition plan for climate change mitigation, including implementing actions*» in order to align their business model and strategy with the sustainable transition. This amendment entailed the deletion of the "put into effect" requirement previously contained in the provision, thereby weakening its normative force. See European Commission (fn. 10), p. 8: «*The provision on climate transition plans will be better aligned to the language of the CSRD, while continuing to complement CSRD with a clear obligation to adopt such a plan*».

[43] In its draft report, on one hand the European Parliament repeals Article 22 of the CSDDD; on the other, it provides that sustainability reporting shall include "*any climate-related transition plans of the undertaking, if such a plan exists.*" This introduces a merely voluntary disclosure of "any" plan, while deleting any reference to implementing actions, the objective of limiting global warming, and climate neutrality. See European Parliament (fn. 21).

[44] The Council, focusing on Article 22 CSDDD, proposed to limit the obligation imposed on companies in relation to the adoption of a transition plan for climate change mitigation, which shall outline «*amongst other things implementing actions*» through which the company's business model and strategy "*contribute to*" the transition to a sustainable economy. In addition, the Council provided that the adoption of the transition plan remained optional during the first two years of application of the relevant measures. See Council of the European Union (fn. 22).

[45] Agostini/Galasso (fn. 39), p. 12 et seq.

after the Omnibus reform. Thus, Articles 10 and 11 CSDDD still require companies to adopt appropriate measures, including adjustments to their business plans, strategies and operations. In the climate context, such obligations cannot realistically be discharged without some form of transition planning.[46]

Against this background, the main risk created by Directive (EU) 2026/470 is not the disappearance of transition plans, but their fragmentation. In the absence of a common due diligence baseline, the plans that survive will be shaped by different legal logics: disclosure logic under the CSRD, prudential logic in banking regulation, and financing logic in capital markets. The result is a less coherent and less intelligible framework, in which transition plans may continue to exist, but no longer operate as a shared legal device connecting sustainability reporting, corporate governance and climate due diligence.[47]

For these reasons, the repeal of Article 22 CSDDD should be understood as the removal of the most substantive systemic link between the two directives, rather than as a simple reduction of climate ambition.

F. Enforcement without systemic coherence

Enforcement is one of the points that most clearly distinguishes the CSRD from the CSDDD, while at the same time revealing the latter's complementary function within the EU sustainability framework. It is indeed the CSDDD that establishes the substantive due diligence obligations whose implementation the CSRD is meant to make visible through reporting. The CSRD operates primarily as a disclosure regime, whereas the CSDDD was designed to provide the normative and operational content that reporting is supposed to reflect. Accordingly, it is understandable that the more developed enforcement architecture is found in the CSDDD rather than in the CSRD.

The CSRD contains only an indirect reference to the liability of corporate bodies for preparing the management report, which must include the sustainability reporting (Article 33 CSRD). As a consequence, any enforcement logic under the CSRD largely depends on national company law rules concerning directors' duties and civil liability.

[46] Eccles et al. (fn. 5), p. 545 et seq.; Agostini/Galasso (fn. 39), p. 15 et seq. argue that, outside the CSRD-CSDDD tandem, prudential rules applicable to banks, supervisory expectations concerning climate-related and environmental risks, and financing practices of investors all continue to create strong incentives for companies to elaborate credible transition plans.

[47] See Nieto, María J./Papathanassiou, Chryssa, Different Shades of Green: EU Corporate Disclosure Rules and Their Effectiveness in Limiting "Greenwashing", EBLR 37, 2026, p. 389; Macchiavello, Eugenia, "Greenwashing" in Investment Intermediation: Investor Protection and the Difficult Role of Enforcement, EBLR 36, 2025, p. 1009, on the need for harmonised, verifiable disclosure and effective enforcement to avoid sustainability claims becoming misleading or purely formal.

Conversely, the CSDDD provides for a developed system of both public and private enforcement tools.[48] The literature on the limits of voluntary due diligence makes it clear why enforcement is the decisive issue: without compulsory mechanisms, effective remedies and credible escalation, due diligence remains vulnerable to structural failures.[49]

Public enforcement relies on one or more national supervisory authorities, investigative powers, information requests, substantiated-concern mechanisms and administrative penalties. Directive (EU) 2026/470 intervenes here only at the margin, most notably by reducing under Article 27(4) the maximum level of pecuniary penalties from 5% to 3% of the company's net worldwide turnover.

The more interesting, and at the same time more debated,[50] dimension is private enforcement and civil liability. Following the original version of Article 29(1) CSDDD, a company could be held liable where it intentionally or negligently failed to comply with the due diligence obligations laid down in Articles 10 and 11, provided that the relevant rights, prohibitions or obligations set out in the Annex to the Directive[51] protected the claimant and that damage resulted to the claimant's legal interests as protected under national law.[52] The Directive further provided for a right to full compensation, while excluding punitive, multiple or other forms of overcompensation [Article 29(2) CSDDD].

This liability was regulated directly at the level of European Union law and Article 29(3) also laid down various procedural rules designed to reduce the practical obstacles that had long limited access to justice in due diligence disputes, including difficulties in accessing evidence, limitation periods, representative actions and litigation costs. Article 29(5) CSDDD also extended to the chain of activities, so that, where damage was jointly caused by the company and its subsidiary or by a direct or indirect business partner, joint and several liability could be

[48] Ferrarini (fn. 2), p. 8 et seq.; Sinnig/Zetzsche (fn. 2), p. 30 et seq.

[49] Cruz (fn. 27), p. 11 et seq.

[50] The provision on the civil liability of companies has been the subject of extensive debate since the Commission's initial proposal in 2022, which also included provisions concerning directors' duties and liability. These provisions were later removed due to concerns over a potentially excessive expansion of directors' liability. See Agostini, Federica/Corgatelli, Michele, Article 25 of the Proposal for a Directive on Corporate Sustainability Due Diligence: Enlightened Shareholder Value or Pluralist Approach?, ECL 19, 2022, p. 92; Knapp, Vanessa, Sustainable Corporate Governance: A Way Forward?, ECFR 18, 2021, p. 218; Ventura (fn. 2), p. 259 et seq.

[51] The list in the Annex to the CSDDD which limited the scope of liability to the violation of rights, prohibitions, and obligations relating to environmental protection and human rights – as enshrined in the international agreements, conventions, and treaties specified therein – thereby becoming binding legal rules for companies.

[52] Lafarre, Anne, The Proposed Corporate Sustainability Due Diligence Directive: Corporate Liability Design for Social Harms, EBLR 2023, p. 213, 225 et seq.; Pacces, Alessio M., Civil Liability in the EU Corporate Sustainability Due Diligence Directive Proposal: A Law & Economics Analysis, ECGI Law Working Paper No. 691/2023, 2023; Pantazi, Tania, The Proposed Corporate Sustainability Due Diligence Directive and Its Provisions on Civil Liability and Private International Law in Particular, in Grmelová, N. (ed.), Perspectives of Law in Business and Finance, Adjuris 2023, p. 133; de Groot, Cees, The CSDD, Oversight Liability and Risk Management Systems, ECL 21, 2024, p. 4; Cruz (fn. 27), p. 19 et seq.

triggered. Finally, Article 29(7) CSDDD gave the regime a genuinely Union-wide reach by treating the national transposition rules as overriding mandatory provisions in cases involving non-EU applicable law, such as damages occurring in a third country. Therefore, civil liability aimed to ensure effective remedy against substantive due diligence violations and to supersede divergences among Member States' legal systems.

Directive (EU) 2026/470 substantially weakens this architecture, removing its harmonising core.[53] Article 29(1) is deleted, and paragraph 2 is replaced by a much thinner rule according to which full compensation is due only where liability already arises under national law. The consequence is clear: the CSDDD no longer establishes an EU-level liability rule capable of operating as a common remedial standard across Member States. The Commission has presented this shift as a way of preserving effective access to justice while respecting national diversity,[54] but that promise is difficult to reconcile with the structural differences between Member States' civil liability systems. The result is a fragmentation of enforcement which cannot ensure the effective protection of victims of human rights violations and environmental harm. This is even more so in light of the repeal, by Directive (EU) 2026/470, of the mechanisms that would have facilitated representative actions [Article 29(3)(d) CSDDD] and of the overriding-mandatory character of the liability regime [Article 29(7) CSDDD]. Once these elements are removed, the effectiveness of the remedy once again depends on the relevant national law, rather than on a common Union standard.

The weakening of the civil liability regime is compounded by the parallel dilution of the CSDDD's escalation mechanisms vis-à-vis business partners, which were originally designed to make the due diligence duty operational along the chain of activities.

Where adverse impacts occur along the chain of activities and cannot be prevented, adequately mitigated, or brought to an end through the preventive or corrective action plans and other "appropriate measures" under Articles 10 and 11 of the CSDDD, the company is required to escalate its response at the level of its business relationships. In the original scheme, as a measure of last resort, the company had to refrain from entering into new, or extending existing relations with the relevant business partner, then temporarily suspend the business relationship where there remained a reasonable expectation that leverage could still produce a successful

[53] During the preparatory work on the Omnibus reform, the Commission, the European Parliament and the Council all agreed on removing the specific, EU-wide liability framework from the Directive.
[54] European Commission (fn. 10), p. 20.

outcome, and finally terminate the relationship if those efforts and the enhanced corrective action plan had failed and the adverse impact was severe [Articles 10(6) and 11(7) CSDDD].[55] Directive (EU) 2026/470 removes the possibility for companies to terminate business relationships in cases of both actual and potential adverse impacts.[56] This amendment reduces the intensity of the escalation mechanism that originally gave practical force to the due diligence duty.[57]

The explanation offered by the Commission seeks to emphasise the economic risks arising from an obligation to terminate contractual relationships, noting that companies may find themselves in situations where their production heavily relies on inputs from one or several specific suppliers.[58] However, this position – according to which, after having unsuccessfully exhausted all due diligence measures, the company is, as a last resort, merely allowed to suspend the business relationship while continuing to engage with the supplier towards a solution[59] – does not appear fully compatible with the objective of effectively addressing severe adverse impacts. This is particularly true in cases such as child labour or serious environmental harm at the level of a business partner, where no adequate remedy has clearly been provided despite prior efforts. The removal of termination as a mandatory last resort weakens the leverage that the CSDDD had originally attached to the company's position within the chain of activities.

The result is that private enforcement ceases to operate as a functional connection between reporting and due diligence. It remains conceptually linked to sustainability governance, but it no longer provides the Union-wide remedial backbone that could have made the CSRD-CSDDD tandem coherent. Instead, the Omnibus reform replaces a common liability architecture with a patchwork of national remedies, thereby increasing legal uncertainty and weakening the deterrent effect that the original CSDDD had sought to achieve. This fragmentation is also visible in the way business partners are now positioned within the framework. Rather than being drawn into a structured escalation sequence capable of producing contractual, organisational and remedial consequences, they are increasingly governed through

[55] This was one of the provisions, through which the CSDDD could contractually translate sustainability obligations into inter-firm governance, including through contractual guarantees and flow-down clauses, *i.e.* contractual cascading. See Locascio (fn. 23), p. 11 et seq.

[56] Likewise the removal of European civil liability, the Commission, the European Parliament and the Council all agreed on deleting the obligation to terminate the business relationship.

[57] See Locascio (fn. 23), p. 15: «*This amendment clearly reveals the intention to mitigate the binding scope of the provision and reduce the risks for partner companies; nevertheless, the absence of a time limit for such suspension may give rise to problems of interpretation.*»

[58] European Commission (fn. 10), p. 18.

[59] Ferrarini (fn. 2), p. 12.

thinner and more indirect pressures, with a greater reliance on national law, contractual drafting and ad hoc compliance strategies.

G. Conclusions

Directive (EU) 2026/470 should be read not only as a simplification and burden relief exercise but as a regulatory choice that reshapes the relationship between sustainability reporting and sustainability due diligence. Rather than restoring the original complementarity between the CSRD and the CSDDD, the Omnibus reform narrows both regimes while leaving their underlying asymmetries substantially intact. Different personal scopes are preserved, the distinction between "value chain" and "chain of activities" remains in place, information flows are curtailed, climate transition plans are removed from the CSDDD and the enforcement architecture is largely devolved to national law.

The result is not a more coherent sustainability framework, but a more selective and fragmented one. The CSRD continues to fulfil its informational function, while the CSDDD remains the main instrument of substantive due diligence. Yet the connections that were meant to link disclosure, organisational conduct and accountability are now significantly weaker. Companies may still prepare transition plans and sustainability-related disclosures for reputational reasons, but they will do so under different legal logics and with reduced comparability, weaker coordination and greater uncertainty as to the interaction between the two regimes.

From this perspective, Directive (EU) 2026/470 represents a missed opportunity for regulatory coherence. A more convincing simplification strategy would have reduced duplication and strengthened coordination between reporting and due diligence.

In conclusion, even setting aside the concerns raised by such a deviation from the goals of the European Green Deal, it must be emphasised that a system lacking coordination among its legal instruments is ultimately detrimental to businesses and, by extension, to the competitiveness of the internal market. It therefore produces an outcome that is contrary to the very objectives of burden reduction and legal certainty pursued by the Omnibus reform.

Ensuring a living wage in the fishery sector: is it a sustainability factor?

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1. The international nature of maritime labour and the challenges of social dumping

The maritime sector is, by its very nature, an internationally oriented sector in a way rarely encountered to the same extent in other areas: crews are composed of individuals of various nationalities; the nationality of the seafarers often does not coincide with that of the shipowner, the country of registration of the vessel, or the countries visited during voyages.

The exploitation of the vessel is intrinsically linked to the law of the flag, due both to the absence of any sovereignty on the open sea - that is, in international waters - and to the vessel's international mobility. The registration of the vessel, and its attachment to the State whose flag it flies, ensures the legal status of the open sea[60]. Thus, when the work is performed on the high seas public international law supports the application of the law of the flag by 'placing' all matters related to the ship, including maritime employment, under the authority of the flag state[61]. This connecting factor was supposed to prevent the permanent shift from one law to another depending on the waters through which the vessel is sailing, in addition to submitting all employment relationships on board to the same law, in principle guaranteeing equal treatment for all workers on board. The aim was to ensure a consistent legal framework for all employment relationships on board, regardless of where the vessel sails, promoting equal treatment for workers.

Perhaps, the opportunity for companies to register vessels in favorable registers, with more flexible and less costly regulations, led them to conduct their activities at considerably reduced costs compared to those they would incur if the vessel were registered in states with more restrictive legislative frameworks. In the absence of requirements aimed at proving a genuine link between the flag State and the vessel, the recourse to the law of the flag as a criterion for determining the applicable law has given rise to a phenomenon of social dumping[62], which has had a significant impact on the subsequent regulatory developments in international law.

At the end of the 1950s, there was a strong reaction with the boycott of ships registered under flags of convenience by transport workers' unions and the intervention of various international conventions. Moreover, the response of many countries – particularly European ones – which saw their fleets reduce, was to introduce encouragements to keep ships under their own registers with the establishment of international registers. The registration of a vessel in these separate registers leads to the application of a separate set of rules from those applicable to other vessels under the same flag. States individualize the regime for certain vessels to ease nationality requirements and conditions of employment for the crews of those vessels most exposed to international competition. The aim is to prevent shipowners from changing the flag of their vessels in order to take advantage of less stringent and therefore less costly social regulations.

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[60] P. Chaumette, *Transmanche et concurrence sociale : Rattachements d'artifice et retour à la réalité ?*. in *Annuaire de droit maritime et océanique*, 2023, XLI, pp.139-181.

[61] Moreover, according to article 94 of the United Nations Convention on the Law of the Sea (UNCLOS) "*every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag*".

[62] G. Proutière-Maulion, *La construction jurisprudentielle du droit social maritime au travers du concept de lieu habituel de travail*, in P. Chaumette (direction) *Gens de mer: un marché international du travail en perspectives*, 2016, p. 418.

For vessels registered in the international register, it became possible to recruit foreign nationals on board with lower standards of treatment compared to national and European Union seafarers[63]. The application of different legislation is permitted, even though the workplace (the ship) is the same for all crew members on board on the assumption that they are guaranteed in any case the minimum standards established by international legislation, and in particular, the system of protection provided by the 2006 Maritime Labour Convention.

In this context, for example, article L5621-7 of the French Transport Code states, on the one hand, that the maritime engagement contract for seafarers residing outside France is subject to the law chosen by the parties and, on the other hand, it specifies that regardless of the law chosen the contract shall be drawn up "*in accordance with the provisions of the Maritime Labour Convention, 2006, of the International Labour Organization relating to the maritime employment contract of seafarers, without prejudice to more favourable provisions".* With regard specifically to remuneration, article L5623-9 provides that "*the wages of seafarers residing outside France may not be lower than the amounts set by decree, with reference to the wages generally practised or recommended at the international level*"[64]. Indeed, as will be clarified in paragraph 1.3, there are references to a benchmark minimum wage established within the ILO Social Committee.

The guarantee of a minimum standard in accordance with international law does not, however, exclude the issue of discrimination among workers on the same vessel.

In 2005, the French Constitutional Council rejected the unconstitutionality of the law concerning the international register, which allowed for differential treatment to foreign seafarers, on the following grounds: *"seafarers residing outside France are not in the same situation as those residing in France, given the specific economic and social conditions of the countries where the centre of their material and moral interests is located; in view of this objective difference in circumstances, it was permissible for the legislator to apply to them minimum rules on remuneration and social protection that differ from those provided for seafarers residing in France".*

In contrast, with reference to Dutch law, it can be recalled a non-binding decision of the Netherlands Institute for Human Rights[65], who considered the different economic treatment of a Filipino seafarer, compared to that of his colleagues employed on the same ship, as a discrimination based on nationality. According to the Institute, although the "country of residence" criterion in the agreement is, in itself, neutral (considering that a resident of the Philippines does not necessarily have Filipino nationality or Southeast Asian ethnicity) in practice, this criterion mainly affects people who have Filipino nationality and are of Southeast Asian ethnicity. This would therefore constitute indirect discrimination based on nationality and race - unlawful according to article 1 of the Dutch Equal Treatment Act - without an objective justification, as the argument that the system of maritime commercial enterprise would collapse in the absence of differentiated wage criteria is not sufficient, given the lack of adequate data to support such a conclusion.

In this regard, reference was also made to Guideline B2.2.2.4(a) of the Maritime Labor Convention, 2006, which establishes the principle that: "*equal remuneration for work of equal value should apply to*

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[63] On the issue C. Faggioni, *The International Ship-Registers in Europe: An Analysis from the Labour Law Perspective*, in *Ljubljana Law Review*, 2023, pp. 59-77.

[64] Perhaps, as highlighted by P. Chaumette, *Un salaire minimum européen, mais sans les marins ?*, https://www.obs-droits-marins.fr/actualites.html?idArticle=598, the ministerial order of 21 December 2005 set the basic wage for a qualified seaman, for 208 hours of work per month, at an amount of USD 620.05, that is actually a rate lower than the basic wage recommended by the ILO and adopted by the Joint Maritime Commission (Guideline B2.2.4 of the MLC 2006).

[65] Decision 2025-75 accessible at the link https://oordelen.mensenrechten.nl/oordeel/2025-75/e411961b-4763-4bf3-8d7b-0da33bca7f74#kop102

all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin".

The issue of the law applicable to the seafarer's contract, and, consequently, that of determining the seafarer's remuneration, must also be examined from the perspective of private international law considering the Regulation (CE) 593/2008 on the law applicable to contractual obligations (Rome I). The principle fixed in article 8 is that *"an individual employment contract shall be governed by the law chosen by the parties"*, perhaps, in order to guarantee a minimum level of protection, it is provided that the choice of the law *"may not, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law that, in the absence of choice, would have been applicable".* In this regard, the connecting factors set out in Article 8, paragraphs 2, 3 and 4 constitute the cornerstone of the conflict-of-law rules governing employment contracts, as they must be referred to both in the absence of an express choice of law by the parties and in order to identify the mandatory provisions applicable in cases where such a choice has been made.

Pursuant to paragraph *2, "to the extent that the law applicable to the individual employment contract has not been chosen by the parties, the contract shall be governed by the law of the country in which or, failing that, from which the employee habitually carries out his work in performance of the contract […]".* The drafting of Article 8 of the Rome I Regulation takes account of the Court of Justice of the European Union interpretation of the habitual place of work criteria under Article 6(2)(a) of the 1980 Rome Convention. Specifically, considering the nature of work in the navigation sector it occurs taking account of "*all the factors which characterise the activity of the employee"* and determining "*in which State the place is situated from which the employee carries out his transport tasks, receives instructions concerning his tasks and organises his work, and the place where his work tools are to be found* "[66].

In the absence of an habitual place of work, as a subsidiary factor applies that *"of the country in which the place of business through which the employee was engaged is situated*" which does not in itself provide protection against law shopping, given the ease with which a shipowner can select it based on the most favourable employment legislation. Indeed, it was highlighted that it is thanks to the broad interpretation of the *lex loci laboris* criterion that aircrew members of low-cost airlines have seen their employment contracts linked to their operational bases, rather than to the airlines' registered offices, which were often chosen in Member States with less stringent requirements.

In this perspective can be read the choice of the Court of Justice to not consider the vessel itself as the habitual place where the work is performed. This approach, particularly when considering the phenomenon of law shopping arising from the choice of flag - especially in the absence of a system clarifying the requirements and the necessary connection with the flag State - can also be interpreted from a protective *ratio*, aimed at finding a genuine link with the place where the employment relationship is carried out.

Perhaps, we have to consider that paragraph 4 states that "*where it appears from the circumstances as a whole that the contract is more closely connected with a country other than that indicated in paragraphs 2 or 3, the law of that other country shall apply"*. The Court of Justice has clarified, in this regard, that when a contract is more closely connected with a State other than the one in which the work is habitually carried out, the law of the State of habitual performance of the work should be set aside in favour of the law of this other State, and that this interpretation does not necessarily lead to the application of the law most favourable to the worker[67]. According to the Court of Justice among the significant connecting factors, particular consideration should be given to the country in which the employee pays taxes and duties on income derived from their activity, as well as the country in which they are affiliated to social security and various pension, health insurance, and disability schemes. In these terms, it cannot be

[66] CJEU, Koelzsch C-29/10, pararagraph 45.
[67] CJEU, Schlecker, C-64/12, paragraph 34.

excluded that the law of the flag may still play a residual role in determining the law applicable to the contract of employment[68].

The construction of social labour law for maritime workers by means of the criteria established in the Rome I Regulation appears to be extremely challenging.

Beyond the issue of the various factors governing conflicts of laws, it seems appropriate to highlight a critical aspect concerning the economic and regulatory treatment of foreign seafarers employed on vessels registered in the international registers of States with advanced legislation: if the applicable law in the absence of choice would have been that of a member State, could the guarantee of a minimum international standards lead to the conclusion that foreign seafarers are ensured with protection equivalent to that "*afforded (…) by provisions that cannot be derogated from by agreement*" under the law of that member State? The problem seems to arise, in particular, when the international standard is particularly low compared to the national minimum. The criterion should, in fact, be that of the protection offered in that particular State, without taking into account the argument that protection is adapted to the cost of living in the place of residence.

Recently, in the light of social dumping, particular attention has been devoted to the issue of establishing overriding mandatory provisions, as set out in Article 9 of the Rome I Regulation, concerning the possibility that a law may determine the priority of the applicable provisions notwithstanding the registration of the vessel and the contractual rules imposed on seafarers.

The issue was related to cross-Channel transport lines, where a problem of social dumping has been addressed[69]. The Calais-Dover route passes through both British and French territorial waters. However, it constitutes an international line, which is no longer intra-Community following the entry into force of Brexit. In this context, the issue of competition based on labour costs is independent of the practice of registering vessels in favourable foreign registers, as it remains possible for ships flying the flag of a European Union Member State to employ non-European seafarers, thereby incurring lower labour costs.

In particular, the issue entered the public debate when, on 17 March 2022, the company P&O Ferries dismissed nearly 800 British seafarers who operated services between Calais (Pas-de-Calais) and Dover (England). In their stead, foreign seafarers were employed, receiving remuneration that was substantially below the minimum wage applied in France and the United Kingdom.

With the explicit aim of combating social dumping in France, Law no. 2023-659, known as the "Le Gac" law, was adopted on 26 July 2023. It constitutes a public policy measure requiring that the determination of the minimum hourly wage for the crews of all maritime companies - regardless of flag - operating regular international passenger services calling at a French port must be established by reference to the legal provisions and collectively agreed terms applicable to employees of companies in the same sector established in France (article L5592-1 du Code de transport).

In the same perspective, in United Kingdom was adopted the Seafarers act 2023 requiring the harbour authority, in case of "*a service for the carriage of persons or goods by ship, with or without vehicles, between a place outside the United Kingdom and a place in the United Kingdom"*, to request a national "minimum wage equivalence declaration" where has reasonable grounds to believe that ships providing the service will enter, or have entered, its harbour on at least 120 occasions during a relevant year. The declaration concerns the fact that the seafarers working on ships providing the service are remunerated, in respect of their work in UK territorial waters, a rate that is equal to or exceeds the national minimum wage equivalent.

2. The Maritime Labour Convention and the definition of a global minimum wage

[68] M. Wilderspin, *The contribution of the CJEU to the notion of habitual workplace in the field of international transport*, in *European Labour Law Journal*, Volume 15, Issue 1, March 2024, p. 137.

[69] P. Chaumette, *Transmanche et concurrence sociale : Rattachements d'artifice et retour à la réalité ?*. in *Annuaire de droit maritime et océanique*, 2023, XLI, pp.139-181.

The issues arising from regulatory differences at the social level are partly addressed by resorting to legislation that ensures a degree of uniformity at the international level. Various international conventions address matters related to the employment relationship of maritime workers: while conventions concerning training and navigational safety have primarily been consolidated within the International Maritime Organization, the principal regulatory references regarding social protection - including remuneration - are fixed within the International Labour Organization.

The Convention has been widely ratified and is of particular interest from the perspective of effectiveness for two main reasons: on the one hand, the intention to extend its scope of application through Port State control; on the other, a mechanism for the certification of social standards by the flag State.

The rules regarding remuneration are set out in Regulation 2.2, which, as in other areas of the Convention, distinguishes between mandatory provisions (Standards, Part A) and non-binding guidelines (Guidelines, Part B), the latter often consolidating and replacing previous ILO recommendations.

The mandatory provisions stipulate that "each Member shall require that payments due to seafarers working on ships flying its flag are made at intervals not exceeding one month and in accordance with any applicable collective agreement". Although the establishment of a minimum wage for seafarers is not a mandatory requirement for Member States, it is nevertheless stipulated, among the binding provisions, that "Each Member that adopts national laws or regulations governing seafarers' wages shall give due consideration to the guidance provided in Part B".

In this regard Guideline B2.2.2 on the calculation and payment provides that national laws and regulations adopted after consulting the representative shipowners' and seafarers' organizations or, as appropriate, collective agreements should take into account the principle of "*equal remuneration for work of equal value should apply to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin*". The Convention sets out the principle of 'equal pay on the same ship' as a guiding standard.

According to guideline B2.2.3 "*each Member should, after consulting representative shipowners' and seafarers' organizations, establish procedures for determining minimum wages for seafarers"*. Moreover, it is provided that "w*hen establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles: (a) the level of minimum wages should take into account the nature of maritime employment, crewing levels of ships, and seafarers' normal hours of work; and (b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers"*.

Of particular significance is the fact that the convention Guideline B2.2.4 provides that: *"the basic pay or wages for a calendar month of service for an able seafarer should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office […]"*.

The methodology for updating the basic pay considers a list of countries and areas that are representative of maritime nations (those with at least 2 million gross tons of shipping) and of countries and areas which are major suppliers of seafarers (those with at least 10,000 seafarers)[70].

Inflation is taken into account in the various countries: over the entire period between adjustments, the change in the purchasing power is measured between 1 March 2022 and 1 October 2024 in selected countries and areas. For each country is calculated the number of US dollars required to make the same

[70] *Updating of the minimum monthly basic pay or wage figure for able seafarers Maritime Labour Convention, 2006, as amended, Guideline B2.2.4 – Minimum monthly basic pay or wage figure for able seafarers,* Subcommittee on Wages of Seafarers of the Joint Maritime Commission (Geneva, 14–15 April 2025).

purchase as could be made with the previously established minimum wage of US$673. The aim was determining the purchasing power equivalent in October 2024 in respect of US $673 in March 2022. The ultimate objective is to obtain the median value of purchasing power which has been fixed in US$715.427. The updated median figure points to an overall increase of 7.1 per cent in relation to the median obtained at the May 2022 meeting (US$667.963), due to significant increase in general price levels during the period between 1 March 2022 and 1 October 2024.

In a sector that is highly exposed to international competition, the establishment of a system for determining global minimum wage is of particular significance, even though its definition is based on a non-binding provision.

In fact, thanks in part to the work of trade unions, this limit is often referred to in collective agreements, especially when it comes to establishing the minimum wage for foreign seafarers employed on ships registered in international registers[71].

However, as also highlighted in the previous paragraph, precisely in relation to the employment of seafarers on ships flying the flag of EU Member States or involved in operations involving the territory of Member States or States with more advanced social legislation, there is, on the one hand, the issue of assessing the adequacy of international wages in light of the principles governing the social legislation of the Member State; on the other hand, there is the problem of the inadequacy of the international minimum standard with regard to the interests of combating social dumping.

3. Wage protection for seafarers working in the fishing industry

International legislation frequently differentiates fisheries from other navigation-related activities, such as commercial transport. Fishing vessels are often excluded from the scope of certain regulations - for example, the Port State Control Directive (2009/16) specifically excludes fishing vessels from its application - or they are only considered when exceeding 24 metres in length, presumably on the basis that, in such cases, operations are regularly conducted in international waters.

In line with this distinction, the decision to exclude the fishing industry from the scope of the Maritime Labor Convention has also been made. For fishery workers, the applicable instrument is the 2007 ILO Convention concerning work in the fishing sector entered into force in 2017.

With regard to wages, there are no recommendations concerning the setting of a minimum wage. With regard to the payment of fishers, article 23 merely states that "*Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or other regular payment"*[72]. A further provision states that "*the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides*."

In the fisheries sector, it is common for workers to be remunerated wholly or partly by a share of the profits. Remuneration based on a share of the catch requires that the written maritime employment contract specifies the expenses and charges to be deducted from the gross proceeds, namely the common

[71] We can consider as example the Italian case. Article 3 of Decree-Law No. 457 of 1997 provides that collective bargaining is responsible for determining "the minimum economic, wage and insurance conditions that must in any case be observed for all non-EU workers employed on board vessels registered in the International Register, in accordance with internationally established limits". For this purpose, the representatives trade unions in the sector have signed the "collective bargaining agreement for non-doms seafarers embarked on Italian international register vessels or vessels under the bare-boat system", which applies to "all seafarers who are neither citizens nor residents of a Member State of the European Union". The agreement sets out wage scales with applicable minimums defined in US dollars, specifying that these thresholds take into account the ILO guidelines on wages and that the "monthly basic wage" complies with the ILO minimum monthly basic wage for able seafarers.

[72] According to article 24 "Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost".

costs or other items considered in determining the net proceeds. In some countries, such as Italy and France, this status is classified as that of an employee.
In France, the social chamber of the Court of Cassation, on 1 April 1992, required compliance with the minimum wage even in cases where remuneration is based on a share of the catch. Instead in Italy, where there is no statutory minimum wage, it is the collective bargaining that establishes a guaranteed minimum monetary amount according to the qualification of the seafarer and the type of fishing. This amount must be paid to the seafarer as a supplement to their "part" when the latter do not reach the guaranteed minimum. In other States this role is associated to that of a self-employed worker. The Uk National Minimum Wage Act 1998, Sections 43-45B, states that a person employed as a member of the crew, of a fishing vessel, and "*remunerated, in respect of that employment, only by a share in the profits or gross earnings of the vessel, does not qualify for the national minimum wage in respect of that employment*".
The share system represents a significant difference compared to the maritime sector, but it does not justify the lack of need of a minimum standard.
The fisheries sector is more territorially grounded, and it should be noted that, in many cases - Italy being one such case - fishing vessels are not registered in international registries. Nevertheless, fishing vessels frequently operate in international waters, and indeed, the issue of differential treatment among crew members is well recognized within the fisheries sector as well[73].
In most cases, international employment agencies recruit crew members on behalf of the vessel, typically under contractual terms and wage rates aligned with their country of origin. The assumption, as for the seafarer, is that if the working status do not grant migrant workers permission to reside and spend in the State, their financial needs would generally be those of the resident State.
In particular, there are studies that have addressed this issue with reference to fishing vessel crews in the United Kingdom, highlighting the large number of seafarers who come from outside the European Economic Area and the fact that they are paid significantly less than crew members[74]. In Uk the Minimum wage Act has been extended to individuals employed for the purposes of activities on fishing vessels in the territorial waters of the United Kingdom. Consequently, this guarantee does not apply to non-EEA migrants who are supposed to be working outside the 12 nautical mile boundary.
The absence of a minimum international standard of reference in this sector in similar circumstances aggravates the position of foreign seafarers.
A reference to the ILO standards for seafarers has been made in the agreement signed by the Dutch social partners in the offshore fishing sector, intended to apply to fishers residing outside the European Union who work aboard pelagic freezer-trawlers[75]. The agreement is premised on the notion that, in accordance with Article 94 of the United Nations Convention on the Law of the Sea, 1982, the working conditions of offshore fishers who are not domiciled within the European Union ("non-EU offshore fishers") and who are employed on Dutch pelagic freezer-trawlers, are the responsibility of the national social partners in the fisheries sector and should, at a minimum, comply with internationally agreed standards. Regarding the remuneration of non-EU offshore fishers, it is clarified that it should be, in the absence of specific guidelines for fishers, *"be based on international minimum guidelines, as adopted by the International Labour Organization (ILO) for remuneration of able seafarers, but should*

[73] Regarding the differences between maritime employment and work in the fisheries sector, including aspects related to the safety of navigation: D. Guelker, *fishers and seafarers in international law – really so different?*, in *marine policy*, 148 (2023) 105473 *"fishing can no longer be considered a simple domestic matter and, like seafaring, fishing requires a truly global response"*.
[74] E. Jones, K. Botterill, C. Chikwama, A. Caveen, T. Gray, Pay Gaps Between Domestic and International Fishers: an Economic or Ethical Issue?, Maritime Studies (2020)
[75] Collective bargaining agreement for non-eu offshore fishers 2024-2028 signed by Coöperatieve Redersvereniging voor de Zeevisserij, as Party on the Employers' side, and CNV as Party on the Fishers' side.

nonetheless reflect the particular nature of the offshore fishing sector". A specific provision related to the nature of the activity is the one stating that "*the worker is entitled to a consolidated minimum piece wage for the number of blocks produced aboard the pelagic freezer-trawler while he serves on board"*. Moreover, an adjustment mechanism for wages is envisaged by virtue of the provision stating that, "*the Parties to this CBA shall amend the remuneration schedules for 2024 and 2028 in Annex II once the Joint Maritime Commission of the International Labour Organization has set minimum monthly basic pay or wage figure(s) for able seafarers for those years*".

An area of interest may also be that of the Sustainable Fisheries Partnership Agreements between the European Community and some of the African, Caribbean, and Pacific Group of States. These agreements allow EU vessels to fish for surplus stocks in partner countries' waters. In respect of a social clause Protocols implementing the Partnership Agreement states that *"where no collective bargaining agreement has been concluded and the minimum basic wage of the flag State does not apply, the basic wage conditions granted to ACP fishers shall not be inferior to those applied to crew from the relevant country and shall under no circumstances be below the ILO standards for seafarers meant to provide an international safety net to protect and help ensure decent work for seafarers"*[76].

Beyond the issue of the international composition of crews and the differential treatment between members of the same crew, it remains the case that, in a globalized market such as that of seafood, the discussion ought at the very least to be framed at least in terms of Global Value Chains and corporate social responsibility actions.

4. The corporate social responsibility perspective and the living wage as a sustainability factor

In the absence of sector-specific international wage standards for fishers, the obligations of the states and the responsibility of business might be considered under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and UN Guiding Principles on Business and Human Rights (UNGPs). Human rights instruments are often mentioned in the codes of conduct of companies working in the sector and voluntary certifications schemes. Perhaps, just few certification schemes integrate requirements for a particular level of wage (living, fair, adequate wages, or subsistence) in the fisheries. The primary certification in the fisheries sector is that of the Marine Stewardship Council (MSC), which is considered the global benchmark for sustainable fisheries certification. However, the MSC Fisheries Standard and Guidance (version 3.1) does not specifically address working conditions, being more focused on the profile of responsible and sustainable resource use.

The Friend of the Sea certification program (*Friend of the Sea Standard FOS - Wild Sustainable Fishing Requirements*) includes as an essential requirement the fact the unit of certification *"pay the employees adequate salaries compliant at least with the minimum legal wages according to the international legal framework".* Despite the reference to the international legal framework, it is clarified that "*the minimum wages vary depending on the country"* and that the Auditor *"shall verify that the unit of certification is aware of the minimum wages of the countries in which it operates".* In this regard, the adequacy of wages is left solely to national regulation, with no relevance given to any international standards such as those applicable to maritime labour convention.

Similar provisions are also set out in the Responsible Fishing Vessel Standard (RFVS), a voluntary, vessel-based certification programme that attests to high standards of operational practices concerning crew safety and welfare aboard fishing vessels. The RFVS was developed jointly by the Global Seafood Alliance (GSA), an international non-profit corporation registered in the United States, and Seafish, the

[76] Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community (2025-2029), OJ L, 22.10.2025

public organisation established to support the UK seafood industry. Among its standards is the requirement that "*each crew member will receive sufficient remuneration to meet, at least, the minimum wage requirements of the vessel's flag State, where present".* Even from this perspective, there is no reference to a sufficient or adequate income to guarantee decent living conditions, not to mention that many countries may not have set a minimum wage.
The implementation of the responsibility of business to ensure a remuneration that provides a decent standard of living to a worker and his family under UNGPs and article 7 of the ICESCR, remains inconsistent and the wages in fishing sector still fall short of respecting the human right to a living wage.

5. The Common Fisheries Policy and the Relationship between Environmental and Social Sustainability

Within the fisheries sector, sustainability is discussed primarily in relation to environmental issues and the conservation of fish stocks. The same conclusion applies within the European Union with regard to the Common Fisheries Policy, although Regulation 1380/2013 on the Common Fisheries Policy contains references to the fact that "*CFP should contribute to the improvement of safety and working conditions for fishing operators*"[77].
The attention dedicated to the fight against IUU fishing can be understood in this light, as cases of abuse are more likely to occur on IUU fishing vessels and combating this type of fishing can help reduce instances of labour exploitation.
The control model on fishery is an effective one, which also includes inspections of third country vessels in the ports of Member States for the purpose of controlling fishery resources[78]. Furthermore, in order to ensure that no product originating from IUU fishing is imported into or exported from the Union, the regulation provides for a catch certification system by which the traceability of all marine fishery products is guaranteed. This regime is an essential part of the IUU regulation, which also improves and facilitates the monitoring and enforcement of conservation and management rules for fishery products, in cooperation with third countries, with the aim of ensuring that only certified marine fishery products can be imported into or exported from the European Union[79]. Nevertheless, European regulations do not provide for monitoring compliance with social legislation. In this respect, trade unions have suggested that forms of certification should also be considered in relation to social aspects.
There have, however, been some new developments regarding the social dimension of the common fisheries policy.
The Regulation establishing a Community control system for ensuring compliance with the rules of the common fisheries policy provides that *conducting fishing activities with the use of forced labour, as defined in Article 2 of the ILO Convention No 29 on Forced Labour"* constitutes "*a serious infringement*"[80]. There is a really strict sanction system: the application for financial support submitted by an operator responsible of a serious infringement shall be inadmissible.

[77] Regulation (EU) no 1380/2013 of the European parliament and of the council of 11 December 2013 on the Common Fisheries Policy, Recital 15
[78] Reg. Ce n. 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.
[79] G. Spera, *Il contrasto alla pesca illegale non dichiarata e non regolamentata. Le iniziative a livello internazionale e unionale*, Giappichelli, Torino, 2021.

[80] ILO Forced Labour Convention, 1930 (No. 29), forced or compulsory labour is "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily".

The authorities may carry out inspections not only of the fishing gear used or compliance with the fishing effort regime, but also of working conditions. A Commission Delegate Regulation of 2025 laying down rules on the control of fisheries and on the surveillance and inspection of fishing activities. According to that regulation to determine whether fishing activities involving forced labour have occurred on board a fishing vessel, officials responsible for the inspection may consider one or more of the indicators such as, for example: excessively long fishing trips; chronic lack of rest hours and days off; denial of shore leave and annual leave - Work with remuneration sub-standards or no wage: (a) fishers partially or completely deprived of wages.

A final remark can be made with reference to the fact that in the short-term environmental concerns often risk being at odds with workers' interests, specifically in a share-based payment system, where workers can directly profit of productivity. The reduction in fishing efforts is slightly shifting the issue of guaranteeing a living wage towards a responsibility of social security, with the State intervening to cover extended periods of unemployment.

In this perspective, regulation (EU) 2021/1139 of the European parliament and of the council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund provides an economic support as compensation for the temporary cessation of fishing activities in case of conservation measures that may be "*granted where the fishing activities of the vessel or fisher concerned are stopped during at least 30 days in a given calendar year"*. The support may be granted not only *"to owners or operators of Union fishing"* and to "*fishers who have worked at sea on board a Union fishing vessel concerned by the temporary cessation for at least 120 days during the last two calendar years preceding the year of submission of the application for support".*

For some time now, Italy has allocated, through its annual budget law, a sum of 30 million euros per year to support the income of employees of companies engaged in maritime fishing who have suspended work due to temporary cessation measures imposed by the competent maritime authorities. For suspensions that occurred during 2024, the payment of compensation was authorised by in favour of approximately 12,288 employment positions[81]. The number of suspended and compensated working days amounts to an average of about sixty days per seafarer. It has been highlighted that the measure of €30 per day, foreseen before tax deductions, falls far short of ensuring an adequate living standard, especially considering that the mandatory continuous suspension ordered by the authorities corresponds to a continuous period of at least 30 days (during which, therefore, the seafarer does not carry out any productive activity). Moreover, within a share-based payment system, one must also take into account the loss of potentially much higher earning opportunities for the seafarer.

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[81] Director's Decree of 8 October 2025, No. 2987.