

OMNIBUS SIMPLIFICATION PACKAGE: CSRD and CSDDD

1. Background

In March 2023, the European Commission stated in its “Long-term competitiveness of the EU: looking beyond 2030” Communication that *“reporting obligations are necessary to properly monitor and enforce legislation, however they entail costs, particularly for SMEs. Further streamlining reporting obligations and reducing administrative burden is a Commission priority. (...) The aim should be to reduce such burdens by 25%, without undermining the related policy objectives.”*¹

More recently, on November 8, 2024, the EU leaders adopted the Budapest Declaration on the new European Competitiveness Deal, which called on the Commission to launch a *“simplification revolution”* and *“make concrete proposals on reducing reporting requirements by at least 25 % in the first half of 2025 and including red-tape and competitiveness impact assessments in its proposals”*.

Although the Budapest Declaration itself does not explicitly mention an *“Omnibus Regulation”*, President Ursula von der Leyen highlighted in the press conference afterwards that the EC: (i) is planning to propose an *“Omnibus Regulation”* to reduce red tape; and (ii) will be looking at, for instance, the *“triangle of the EU Taxonomy Regulation, the CSRD and the CSDDD”*. Further adding that *“the content of the laws is good – we want to maintain it and we will maintain it - but the way we get there, the questions we are asking, the data points we are collecting, is too much – often redundant, often overlapping – so our task is to reduce this bureaucratic burden without changing the correct content of the laws”*.

Member States discussed the Omnibus in the Economic and Financial Affairs EU Council, on January 21, 2025. Ministers strongly supported reducing and simplifying reporting requirements for businesses, expressing a shared commitment to meaningful steps toward regulatory simplification as an effective means of enhancing the competitiveness of the EU economy. They also welcomed the European Commission’s planned proposal for an *“Omnibus Simplification Package”*, aimed at streamlining processes and reducing regulatory burdens on businesses².

¹ Cf. “Long-term competitiveness of the EU: looking beyond 2030” Communication Available here: https://commission.europa.eu/system/files/2023-03/Communication_Long-term-competitiveness.pdf.

² See Economic and Financial Affairs Council, 21 January 2025, Main Results, cf. <https://www.consilium.europa.eu/en/meetings/ecofin/2025/01/21/>.

The EC is expected to unveil the Omnibus proposal on February 26, 2025, with Ursula von der Leyen now directly overseeing the file, a responsibility previously assigned solely to Vice President Stéphane Séjourné. Additionally, the EU is set to release its long-awaited Competitiveness Compass on January 29, 2025. A first draft version of this document was leaked on January 24, 2025, which states that: *“The Commission will ensure tight alignment of the data required with the needs of investors, proportionate timelines, focus on the most harmful activities, financial metrics that do not discourage investments in smaller companies in transition, and obligations proportionate to the scale of activities of different companies”*. Furthermore, the Compass notes that the Omnibus package *“will notably address the trickle-down effect to prevent smaller companies along the supply chains from being subjected in practice to excessive reporting requests that were never intended by the legislators”*³.

Indeed, pressure is mounting from all sides. From inside the EU, German politicians have taken a leading role in advocating for scaling back European Green Deal rules, with Chancellor Olaf Scholz and four ministers expressing their concerns in official letters⁴. Meanwhile, the French national standard setter (Autorité des Normes Comptables) has presented an opinion that diverges from Germany’s position on several key points;⁵ and some French companies, like Électricité de France (EDF)⁶ and Amundi⁷, have also urged the EU not to dilute the regulations⁸. However, France seems to be divided: the French Association of Large Companies (Afp) issued a position paper containing several proposals, namely (i) to make the CSRD the cornerstone of the sustainable finance framework; (ii) to postpone the application of CSDDD to assess its impacts on the EU companies’ competitiveness and propose amendments; and (iii) to streamline provisions on climate transition plans to make them consistent. Moreover, the French Government recently issued a letter on the Omnibus package pushing for an indefinite delay of the CSDDD and a possible two-year delay of the CSRD, further arguing that CSDDD should only apply to companies with more than 5,000 employees⁹.

From outside the EU, pressure is also coming from the United States, where several members of Congress and the U.S. Chamber of Commerce have strongly criticized the CSDDD specifically

³ Cf. “EU’s new economic vision is speaking to Green Deal critics”, January 24, 2025, Politico. Available at: <https://www.politico.eu/article/eu-new-economic-vision-is-speaking-to-green-deal-critics-competitiveness-compass/>.

⁴ Cf. “Olaf Scholz’s business pitch to Brussels sparks election mudslinging”, January 3, 2025, Politico. Available at: <https://www.politico.eu/article/olaf-scholz-business-pitch-brussels-election-boomerang/>.

⁵ Notably, the ANC opposes the German government’s proposal to postpone the implementation of the Corporate Sustainability Reporting Directive (CSRD) for larger companies.

⁶ Électricité de France SA, commonly known as EDF, is a French multinational electric utility company owned by the government of France. See website: <https://www.edf.fr/en/the-edf-group>.

⁷ Amundi is a French asset management company. With €2.2 trillion of assets under management (AUM) in 2024, it is the largest asset manager in Europe and one of the 10 biggest investment managers in the world. See website: <https://about.amundi.com>.

⁸ Cf. Amundi, EDF Join Firms Asking EU Not to Water Down ESG Rules, January 08, 2025. Available at: <https://www.bnnbloomberg.ca/business/company-news/2025/01/08/amundi-edf-among-firms-asking-eu-not-to-water-down-esg-rules/>.

⁹ Cf. “France urges Brussels to indefinitely delay EU green rules for business”, January 23, 2025, Politico. Available at: <https://www.politico.eu/article/france-urges-brussels-to-indefinitely-delay-eu-green-rules-for-business/>.

complaining about the “disastrous” effects of potential CSDDD penalties on the American economy¹⁰.

In contrast, a coalition of over 90 organizations, led by WWF and Frank Bold, has urged the EU to avoid “*playing ping pong with the legal framework*.”¹¹ They have called for a focus on smart, straightforward implementation while maintaining a long-term perspective, such as reducing the costs of compliance¹².

2. Scope of the Omnibus package: content and meaning of “*simplification*”

While the “*sustainability reporting*” triangle of Taxonomy Regulation, CSRD and CSDDD is seen as the primary focus of the Omnibus proposal, the European Commission appears to be considering inclusion of additional legislative texts, as reported by Vice President Valdis Dombrovskis. In other words, the exact scope of the Omnibus package is still under evaluation, and it would be misleading to assume that it will be limited solely to the commonly discussed trio of legislative files. The broader and more dispersed the scope, the more unfocused and ineffective the action taken is likely to be.

Beyond the content of the laws to be included in the Omnibus package, there are also several doubts around what “*simplification*” might imply. It might at least mean:

- Technical simplification: i.e., limited amendments across several legal acts, revisions to the legal wording, harmonization of legal definitions, elimination of legal inconsistencies, clarification of the legislator’s intent through recitals, streamlining obligations, or eliminating complex wording or provisions.
- Political simplification: i.e., more substantive changes due to a growing political desire to revisit the requirements for sustainability reporting and due diligence generally in the name of European competitiveness. Non-EU countries affected by EU reporting obligations may also turn to their political leaders to apply pressure in an effort to reduce these burdens.
- Cosmetic simplification: e.g., a delay in implementation without achieving any reduction in the scope of reporting, or a change to thresholds to achieve a reduction of companies in scope, but with no reduction in the scope of value chain reporting.

It is important to ensure that simplification and the avoidance of duplication do not result in the adoption of a “maximalist approach” which, in the end, might theoretically result in addressing

¹⁰ See U.S. Chamber of Commerce Coalition Letter to Congress Voicing Concerns Over EU Corporate Sustainability Due Diligence Directive, December 9, 2024. Available at: <https://www.uschamber.com/finance/u-s-chamber-of-commerce-coalition-letter-to-congress-voicing-concerns-over-eu-corporate-sustainability-due-diligence-directive>.

¹¹ Frank Bold (formerly Environmental Law Service) is a public interest law organisation working to defend human rights and the environment. See website: <https://en.frankbold.org>.

¹² Cf. Multi-stakeholder statement, “Smart Implementation of EU Sustainability reporting standards: make complying with rules easy,” December 2024. Available at: https://cdn.prod.website-files.com/661fcba58239ab26c7f9227b/675aa0c00136cc418d1bc0b5_Multi-stakeholder%20statement_Smart%20implementation%20ESRS.pdf

one problem – by harmonizing obligations – but creating an exponentially higher burden and competitiveness challenge by doing so at the highest level.

3. Key issues for consideration in the Omnibus package

3.1. “What”, not “How”

- The EU has enacted extensive regulations and constraints to meet its ambitious climate targets and align its regulatory framework with the European Climate Law.
- While these measures reflect a commitment to addressing climate change, achieving these goals should rely on a market-based and technology-neutral approach that encourages innovation and entrepreneurship.
- In a market economy, determining the “how” of achieving climate objectives should remain the prerogative of corporate management and Boards, guided by fiduciary responsibility and a deep understanding of their business operations.

Therefore,

- Mandating rigid, long-term corporate plans for climate change mitigation compatible with limiting the increase in the global average temperature to 1.5°C above pre-industrial levels, that need to be reviewed and approved by national authorities, inserts an element of central planning and level of state intervention that goes beyond what is expected in a market economy, even one with strong social-democratic tendencies.
- Companies require flexibility to adapt to rapidly evolving technological, economic, and market conditions, and state intervention in management does not seem compatible with these realities.
- In addition, the role of supervisory authorities should not extend to overseeing compliance and securing management decisions, as it risks stifling creativity, innovation, and competitiveness.
- Imposing time-bound targets extending as far as 2050 can similarly constrain management decisions, preventing them from responding flexibly to new opportunities or unforeseen challenges. A more adaptive, principles-based regulatory framework would better balance the urgency of climate action with the need to sustain economic growth, foster innovation, and ensure the EU remains a competitive and attractive region for investment and entrepreneurship.

3.2. Alignment with the Paris Agreement

- The Paris Agreement, negotiated under the UNFCCC, is an international treaty that binds its Parties, which are sovereign states, to collective climate action.
- Its primary goals, including reaching net zero emissions and achieving temperature targets, are intended as global objectives to be pursued through coordinated efforts at the national level.
- It is also important to note that the Agreement’s goals are not focused on limiting warming to 1.5°C; instead, the aim is to “hold the increase in the global average temperature to well below 2°C, while pursuing efforts to limit the increase to 1.5°C.”

- The Paris Agreement operates on the principle of nationally determined contributions (NDCs), enabling each Party to set its own targets and methods for achieving them based on local conditions and priorities.
- This nuanced approach, underpinning the negotiated and adopted Paris Agreement, recognizes the challenges of balancing ambition with feasibility across diverse national contexts.

Therefore,

- Disaggregating global targets to individual enterprises undermines the spirit of the Agreement, as it shifts the burden from governments to private entities – a move that is both inappropriate and impractical.
- EU directives that extend these responsibilities to enterprises effectively apply EU regulations extraterritorially, a practice that diverges from the EU's commitment to addressing climate change through multilateral cooperation and intervenes in how Parties to the Paris Agreement make decision under their NDCs. After all, requirements of EU directives may diverge significantly from what Parties see as priorities in their own NDCs.
- This is contrary to the letter and spirit of the Paris Agreement and risks creating tensions with international partners, complicating global efforts to combat climate change.

3.3.Extraterritoriality

- It has been argued that focusing on impacts and activities outside the EU does not constitute genuine extraterritorial regulation but rather a “territorial extension” of EU policymaking, designed to gain regulatory influence over activities occurring abroad and govern transactions that do not primarily involve EU territory.
- While it may be true that the EU may pursue internationally agreed objectives – rather than merely seeking to export its own norms –, its chosen approach increasingly shapes the nature and content of third-country and international law.
- In fact, in the past, the EU has criticized other countries – notably the United States – for deploying unilateral measures with extraterritorial or global reach.
- This approach is not without challenges, raising concerns about regulatory overreach, implications for international trade, and potential conflicts with national sovereignty.
- Furthermore, the effectiveness of the Brussels Effect relies on the EU maintaining both its regulatory leadership and market power - power comes from economic power.
- There has been and will continue to be the reality of the extraterritorial application of legislation and regulation¹³, but it has always been a matter of degrees. In this case, in our view,

¹³ Other EU regulations with territorial extension beyond the EU borders, such as the attempted inclusion of international aviation in the EU ETS, the REACH regulation on chemical safety, sustainability criteria for timber and biofuels, and the recently adopted CBAM, have similarly sought to promote high social and environmental standards beyond the EU, yet their implementation has been complicated – and at times thwarted – by diplomatic tensions and resistance due to concerns over national sovereignty and practical enforceability, and has also been accompanied by a number of unintended effects.

mandating reporting duties and certain types of corporate behavior crosses a line into conflicts with significant international norms and agreements.

Therefore,

- The CSRD¹⁴ and CSDDD's implications may collide, for instance, not only with fundamental principles of national sovereignty under the UN Charter as well as Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) under the UNFCCC and Paris Agreement, but also with the fact that defining sustainable development was initially a national prerogative as envisioned by the Rio Declaration on Environment and Development. This should be defined by every country according to its local conditions.

3.4. Competitiveness

- The Draghi and Letta reports, commissioned by Ursula von der Leyen, have highlighted critical deficiencies in the EU's approach to regulation, particularly concerning overregulation and its adverse impact on the competitiveness of the EU economy and industry.
- These reports underscore the pressing need for reform to ensure that regulatory frameworks do not stifle growth, innovation, and market efficiency.
- The EU's acknowledgment of this issue was already reflected in its long-term strategy for competitiveness, published in March 2023, which outlines a 25% reduction in regulatory burdens.
- This goal, now reinforced by the Budapest Declaration in November 2024, signals a strong commitment to reevaluating the economic strain caused by excessive regulation.
- Specifically, one of the major challenges stems from the extensive information requirements imposed by recent legislation, such as the CSRD/ESRS and CSDDD.
- These frameworks demand a level of detail and supply chain transparency that raises concerns about confidentiality and economic feasibility.
- The necessity of sharing sensitive information throughout the supply chain could discourage suppliers, as enterprises might opt to withdraw from EU markets in favor of less restrictive environments. This would undermine the ability of businesses to secure the most economically advantageous supply options, potentially leading to higher costs and reduced competitiveness. Finally, SMEs will be vulnerable in their relationship with large customers with the dilemma to respond or not respond and potentially damage an important business relationship.
- Moreover, requiring European businesses to align with a 1.5°C pathway introduces significant competitive pressures, as these enterprises may face higher compliance costs and operational constraints compared to counterparts in regions not subject to such stringent requirements.

¹⁴ Namely, Article 40a presents a compliance challenge for subsidiaries and branches of non-EU parent companies, as they are obligated to report on behalf of their non-EU parent in addition to their own reporting obligations. The extraterritorial reach of the EU, requiring entities to report on activities controlled by their (ultimate) parents in other geographic locations, creates legal and operational complexities and constitutes regulatory overreach.

- This is likely to place European companies at a competitive disadvantage, potentially driving investment and business activity outside the EU's jurisdiction, undermining its own economic and environmental objectives.

Therefore,

- An assessment of competitiveness implications and sector-specific impacts in light of geopolitical and economic developments, ensuring robust stakeholder engagement inside and outside the EU, should be conducted first.
- Until the full implications of these legislative measures are clearly understood, their implementation should be paused.
- Premature implementation risks exacerbating the very issues of overregulation and economic inefficiency that the EU is striving to address, while simultaneously triggering international conflicts in an already increasingly hostile geopolitical context. A measured, evidence-based approach that carefully evaluates the economic and operational consequences is essential to ensure that these regulations do not unintentionally hinder EU competitiveness while pursuing broader sustainability goals.

3.5. Practicalities

- The sheer volume of data required under the new regulations has been criticized by domestic and foreign public and private stakeholders for being overwhelming and imposing significant costs on both EU and non-EU entities that fall within their scope.
- The financial and operational burden of compliance is expected to be substantial, yet the scale of capacity building necessary to meet these requirements has been grossly underestimated.
- There is little clarity on who will be responsible for undertaking this capacity-building effort, leaving a critical gap in preparedness.
- The potential impact on supply chains, particularly in developing countries, has also not been adequately considered.
- Additionally, the requirement for listed subsidiaries of parent companies already subject to CSRD to produce their own sustainability reports is unnecessarily duplicative, adding further inefficiencies.
- Other issues include the broad and ambiguous definition of the chain of activities, which could extend regulatory obligations well beyond reasonable bounds.
- The mandate to engage with a large number of stakeholders is excessive and potentially unmanageable for many companies.

Therefore,

- These regulations could drive consolidation, disproportionately affecting small and medium-sized enterprises (SMEs) in these regions and potentially limiting their access to the EU market.

- Such outcomes would undermine the inclusion of smaller enterprises and exacerbate inequalities.
- Furthermore, the assessment of transition plans poses significant challenges, particularly in balancing the fiduciary responsibilities of corporate management and Boards with the regulatory oversight of authorities.
- Without clear guidelines on how to achieve this balance, there is a risk of undermining the autonomy of corporate governance and creating additional layers of complexity in compliance.

4. Overall takeaways

Given the uncertainty arising from current geopolitical circumstances, as well as concerns about the economic competitiveness of the EU – which may cast doubt on the viability of its industrial base – ERCST recommends the following actions:

- Pause the entry into force of the CSDDD: A temporary pause should allow for necessary adjustments to be made, including:
 - (i) Ensuring the legislator’s intention that the main obligations under CSDDD are effectively interpreted as “*obligations of means*”;
 - (ii) Introducing thresholds that are more aligned with the companies’ capacities to implement due diligence;
 - (iii) Assessing the viability and rationale of transition plans for climate change mitigation compatible with the 1.5°C target, and, if necessary, revisiting their existence;
 - (iv) Centralizing risk identification and management to encourage the application of due diligence at the group level;
 - (v) Ensuring the harmonization of supervisory practices across the EU; and
 - (vi) Reducing the scope of non-EU companies to which the CSDDD is applicable (e.g., to those legal entities operating in or conducting direct business with the EU (below the monetary thresholds)).
- Simplify CSRD Reporting Obligations: Simplification of the reporting requirements under CSRD by reducing the number of indicators, thereby alleviating the burden on companies; and a similar extraterritorial reduction as suggested above for CSRD. Redesign the CSRD reporting obligation to start from a position of alignment and integration with existing global standards to ensure consistency, efficiency, and clarity for reporting entities.

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