

BMW Position on the proposal for a Directive on Corporate Sustainability Due Diligence

The European Commission (EC) adopted a common legal framework for corporate sustainability due diligence (CSDD) in February 2022. The objective of the adopted directive is to set up a harmonized framework for mandatory human rights, social and environmental standards in the value chain of companies.

What do we stand for?

The BMW Group welcomes a common and harmonized legal framework on corporate sustainability due diligence. A harmonized set of mandatory due diligence obligations will significantly contribute to foster sustainability and human rights in the value chain of businesses.

Is the scope of the directive sufficient?

The scope of the legal framework should cover all companies independent of their size or turnover taking a risk-based approach for sustainability due diligence into account. The EC proposal only covers businesses of a certain size and if they are part of a high-risk sector. On the basis of our experience, we know that there is no correlation between the size of a business and the potential risk for human rights, social or environmental abuses. Extending the scope to all businesses and following a risk-based approach, will limit the administrative burden to a minimum extent and will make value chains more sustainable.

Are exemptions for subsidiaries required?

We strongly recommend setting the due diligence obligations at group level with a full exemption for subsidiaries where the subsidiaries are fully integrated in the compliance, risk and due diligence process at group level. Obliging subsidiaries of big companies implementing their own processes will increase the administrative burden significantly without any significant added value for fostering human rights, social and environmental standards in the value chain.

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How should an implementable due diligence process look like?

Due diligence obligations for companies should clearly differentiate between measures in relation to direct and indirect business relationships considering what companies can achieve and deliver. The EC proposal doesn't differentiate in the extent of due diligence measures between direct and indirect business relationships. In addition, the proposal doesn't follow a risk-based approach. Only in the case of direct business relationships companies will be able to conduct due diligence proactively. Regarding indirect business relationships companies will have to establish occasion-based due diligence. For enabling the implementation of a harmonized framework, we strongly recommend taking into account a risk-based approach and differentiate between direct and indirect business relationships in regards of the extent of due diligence obligations.

How can additional administrative burden be limited?

Industry schemes and multi-stakeholder initiatives will play an important role for limiting the administrative burden for businesses to a minimum extent. In addition, new technologies (e. g. Catena X) will enable the exchange of human rights, social and environmental related information within the value chains. Without the support of new technologies, the exchange of sustainability related information won't be feasible in the value chains of businesses.

Do climate related issues have to be addressed via the CSDD?

The CSDD shall focus on the implementation of human rights, social and environmental standards in the own business conduct of a company and in regard to direct business relationships. Avoiding double regulation obligations combating climate change as set out in article 15 of the CSDD should be deleted considering that these obligations will be set out in the upcoming CSRD (including detailed reporting standards).

Should civil liability be limited?

In general companies should only be held liable for damages caused by actual human rights and environmental adverse impacts, which are directly linked to the business conduct of the company, and which are a result of acting deliberately or grossly negligent. In all other cases businesses should be exempted from civil liability, if they proof evidence that they have acted fully compliant in regards of their due diligence obligations.

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