

SYMPOSIUM ON NEW PATHWAYS TOWARD SUPPLY CHAIN ACCOUNTABILITY

THE EVOLUTION OF CODES OF CONDUCT TO ENSURE LABOR RIGHTS IN GLOBAL SUPPLY CHAINS

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The EU Corporate Sustainability Due Diligence Directive (CSDDD) marks a significant step in the evolution of transnational corporate governance, moving away from the predominantly voluntary nature of corporate social responsibility toward a more binding regulatory framework. A key feature of this shift is the introduction of mandatory requirements for companies to adopt codes of conduct—private policies that set out standards, such as labor rights, which must be enforced across global supply chains. As expectations grew for businesses to integrate human rights and environmental risk assessments into their due diligence processes,¹ codes of conduct became an increasingly common way for companies to demonstrate their commitment to social and environmental concerns. Today, nearly 80 percent of European multinationals have adopted such codes.²

The CSDDD formalizes the role of these private policies by incorporating the obligation to adopt codes of conduct among due diligence requirements.³ Previously, the adoption and enforcement of codes of conduct were entirely left to the discretion of companies, with no external verification or oversight. This essay explores the implications of elevating codes of conduct under the CSDDD, examining both the potential benefits and risks of transforming these voluntary guidelines into binding legal obligations. Additionally, it seeks to better understand the European legislator's objective in mandating the adoption of these codes within the framework of corporate accountability.

Codes of Conduct as a Mandatory Policy

Codes of conduct are corporate policies including a set of prescriptions, guidelines, or principles developed by the company intending to guide the behavior of their suppliers.⁴ These guidelines often concern values and commitments of how the company conducts business, and specifically labor rights. Studies show that labor

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¹ The adoption of the United Nations Guiding Principles on Business and Human Rights (UNGPs) in 2011 marks the international commitment to increase corporate social responsibility and expectations toward social and environmental risks. These expectations progressively integrated into national legal frameworks, particularly in Europe, with the adoption of due diligence laws in France, Germany, and Norway.

² Sarah Vandenbroucke, Jaroslaw Kantorowicz & Yvonne Erkens, *Decoding Supplier Codes of Conduct with Content and Text as Data Approaches*, 31 CORP. SOCIAL RESPONSIBILITY & ENVTL. MGMT. 472 (2024)

³ [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](#), Art. 7 (July 5, 2024) [hereinafter CSDDD].

⁴ Muel Kaptein & Mark S. Schwartz, *The Effectiveness of Business Codes: A Critical Examination of Existing Studies and the Development of an Integrated Research Model*, J. BUS. ETH. 77, 111–27 (2007).

standards are “by far the best covered issue in the codes,”⁵ and more recently that 90 percent of codes of conduct include a reference to child labor, forced labor, and discrimination, while collective bargaining or trade union rights are referred to in 70 percent of codes.⁶ This suggests that most companies align their policies with the core labor rights enshrined in the International Labour Organization (ILO) Conventions.⁷

By transforming the voluntary business practice of adopting codes of conduct into a mandatory requirement in the CSDDD, the EU legislator recognizes the private actor as a regulator of global corporate governance and gives companies a responsibility in regulating their supply chains. This role is granted with a large autonomy, as the CSDDD does not include specific guidelines or requirements on the content of codes of conduct, merely mentioning that the code of conduct must describe “rules and principles to be followed throughout the company and its subsidiaries, and the company’s direct or indirect business partners.”⁸ To ensure compliance with their codes of conduct, companies must obtain contractual assurances from business partners,⁹ and take measures to verify their compliance.¹⁰ The text of the Directive, however, also includes a public supervision, by establishing national supervisory authorities¹¹ in charge of supervising companies’ compliance with the CSDDD’s requirements, including the examination of the content of codes of conduct.

With this formulation, the CSDDD assigns companies a significant role in shaping global corporate governance by effectively entrusting them with policymaking functions. Some scholars see this as inviting multinationals to act as “quasi-legislators”¹² because the legislator not only shifts responsibility to private actors, but also elevates them to a position of influence traditionally reserved for public authorities. This move reflects a broader trend in global governance, where non-state actors are increasingly recognized as key players in regulating transnational economic activities.¹³ While this is a pragmatic solution to the challenges of regulating global supply chains, questions remain on the implications for labor standards down supply chains, and the potential effectiveness of this approach.

⁵ Élodie Béthoux, Claude Didry & Arnaud Mias, *What Codes of Conduct Tell Us: Corporate Social Responsibility and the Nature of the Multinational Corporation*, CORP. GOVERNANCE: AN INT’L REV. 15, 77–90. (2007)

⁶ *Id.* at 9

⁷ ILO core labor standards are outlined in eight conventions, namely: [Convention No. 87 on Freedom of Association and Protection of the Right to Organize](#) (1948); [Convention No. 98 on the Right to Organize and Collective Bargaining](#) (1949); [Convention No. 29, Forced Labour](#) (1930); [Convention No. 105 on the Abolition of Forced Labour](#) (1957); [Convention No. 138 on Minimum Age](#) (1973); [Convention No. 182 on Worst Forms of Child Labour](#) (1999); [Convention No. 100 on Equal Remuneration](#) (1951); [Convention No. 111 on Discrimination \(Employment and Occupation\)](#) (1958).

⁸ CSDDD, *supra* note 3, Art. 7(b).

⁹ *Id.* Art. 10(2)(b).

¹⁰ *Id.* Art. 7(c).

¹¹ Pursuant to Article 24 of the CSDDD, member states must set supervisory authorities to supervise compliance with the obligations laid down in Articles 7 to 16.

¹² Alex Geert Castermans & Cornelis J. W. Baaij, *The Potential of Contractual Assurances to Advance Supply Chain Due Diligence* (EUI, RSC, Working Paper, 2023/28, 2023)

¹³ On how serious structural issues provided the conditions for the emergence of Regulatory Standard-schemes, out of the traditional state-approach to address the adverse consequences of production: Kenneth W. Abbott & Duncan Snidal, *The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State*, in [THE POLITICS OF GLOBAL REGULATION](#) 44–88 (Walter Mattli & Ngaire Woods eds., 2009).

Implications for Labor Standards in Supply Chains

The consecration of codes of conduct in the CSDDD unfolds in a context of skepticism toward CSR. Civil society and sweatshop movements accuse multinationals of window dressing or greenwashing, and empirical scholars struggle to demonstrate a positive impact of codes of conduct on labor conditions in supply chains.¹⁴ This section examines whether the codes of conduct mandated under the CSDDD are likely to overcome these limitations.

Firstly, companies have been criticized for what is termed the “symbolic adoption” of their codes of conduct, whereby they commit to standards by adopting a code, but do not change their behavior in practice, nor set mechanisms to comply with said standards.¹⁵ In such cases, companies neither embed these codes in supplier contracts nor initiate discussions with suppliers about the standards, leading to a lack of awareness or engagement on both sides. The CSDDD seeks to address this issue by requiring companies to obtain contractual assurances of compliance from suppliers,¹⁶ and when that fails, from indirect business partners.¹⁷ Bound by contractual obligations, business partners are liable in case of non-compliance. In addition, companies must implement measures to verify that these standards are being upheld.¹⁸ This creates a more robust framework that formalizes the responsibility of both parties in the contractual relationship: the buyer and the supplier, aiming to limit codes’ symbolic adoption. However, this relationship is marked by asymmetry, including in the CSDDD text. The buyer unilaterally sets the standards and monitors compliance, while the supplier bears the primary responsibility for adhering to these standards—often incurring the associated costs.¹⁹ This reinforces a view of supply chains as hierarchical models, where market power is concentrated disproportionately at the buyer level. The company is, in essence, the chain leader, and retains a significant discretion in defining the standards that apply to their operations and those of their suppliers. This concentration of power forming a top-down style of governance is problematic, as it overlooks the complex and interdependent nature of global supply chains, where influence and accountability are often more diffused.²⁰

Second, codes of conduct are often criticized for their “symbolic implementation.”²¹ This occurs when mechanisms are established to enforce codes of conduct, but those mechanisms are inadequate to genuinely reach the standards they are intended to achieve. One example is social auditing, a widely used tool to verify compliance with codes of conduct. Civil society and scholars have heavily criticized the use of social audits to verify compliance, as they may perpetuate intimate governance practices that, rather than addressing root causes, enable the continued exploitation of resources and workers within global supply chains.²² In practice, audits often devolve into box-ticking exercises, where only superficial compliance is assessed, while systemic issues remain unaddressed. The

¹⁴ Niklas Egels-Zandén & Henrik Lindholm, *Do Codes of Conduct Improve Worker Rights in Supply Chains? A Study of Fair Wear Foundation*, 107 J. CLEANER PRODUCTION 107–31 (2015). For a comprehensive overview of the literature, see Sarah Vandenbroucke, *The Portrayal of Effectiveness of Supplier Codes of Conduct in Improving Labor Conditions in Global Supply Chains: A Systematic Review of the Literature*, 18 REGULATION & GOVERNANCE 307 (2024).

¹⁵ The concepts of “symbolic adoption” and “symbolic implementation” were developed by Patricia Bromley & Walter Powell, *From Smoke and Mirrors to Walking the Talk: Decoupling in the Contemporary World*, 6 ACAD. MGMT. ANNALS 483, Art. 1 (2012).

¹⁶ CSDDD, *supra* note 3, Art. 10(2).

¹⁷ *Id.* Art. 10(4).

¹⁸ *Id.* Art. 7(2)(c).

¹⁹ Jowita Mieszkowska, *The Unintended Consequences of the EU Corporate Sustainability Due Diligence Directive*, 118 AJIL UNBOUND 291 (2024).

²⁰ *Id.* at 15.

²¹ *Id.* at 16.

²² Phillip Paiement, *Transnational Auditors, Local Workplaces and the Law*, 12 TRANSNAT’L LEGAL THEORY 390 (2021).

CSDDD provides little specificity regarding the measures that will be considered adequate for verifying compliance with codes of conduct. Article 10 of the Directive states that companies “may refer to independent third-party verification” for compliance checks.²³ This provision raises concerns among scholars that third-party external auditing could be interpreted as an adequate measure,²⁴ thereby reinforcing existing practices that have been criticized for their ineffectiveness. The determination of “adequate” compliance verification measures will likely depend on the interpretation given by national supervisory authorities and national courts.

Finally, scholars have extensively discussed the importance of stakeholder consultation and buyer-supplier collaboration to promote the improvement of labor conditions in supply chains.²⁵ The literature opposes this “collaborative approach” to the “traditional compliance model,” which often focuses solely on ensuring that minimum legal requirements are met rather than fostering genuine improvements in social and environmental performance.²⁶ The collaborative approach is also promoted in the UN Guiding Principles (UNGPs), which make meaningful consultation with potentially affected groups and other relevant stakeholders central to the due diligence process.²⁷ However, the provisions of the CSDDD are less explicit on this point. While the Directive refers to an obligation to consult their direct employees,²⁸ there are no mandatory requirements to integrate external stakeholders in this process. The initial proposal from 2022 stipulated that “[c]ompanies shall, where relevant, carry out consultations with potentially affected groups including workers.”²⁹ Yet, the final text of the CSDDD modifies this language, suggesting that buyer-supplier collaboration and stakeholder consultation are peripheral rather than integral, stating that “[w]here information necessary for the assessment . . . can be obtained from business partners . . ., the company shall prioritize requesting such information, where reasonable, directly from business partners.”³⁰ Even then, the scope of this consultation is very limited, as it only concerns the identification of “adverse impacts” when they are likely to occur. Again, this provision reflects a preference for the top-down approach typical of the “traditional compliance model,” where the buyer monitors compliance but does not involve business partners in setting standards or defining what constitutes compliance.

When it comes to improving labor standards, top-down governance has generally proven ineffective. Literature on collective bargaining shows that workers’ empowerment is critical for addressing structural inequalities, raising wages, and balancing power dynamics.³¹ At the supply chain level, the same issue may persist: addressing unequal power dynamics must pass by the empowerment of business partners, workers, and affected communities to counterbalance the economic dominance of the buyer. Until now, studies showed that codes of conduct have an uneven impact on labor conditions: while technocratic labor issues such as occupational health and safety

²³ CSDDD, *supra* note 3, Art. 10(5).

²⁴ Christopher Patz, *The EU’s Draft Corporate Sustainability Due Diligence Directive: A First Assessment*, 7 BUS. & HUM. RTS. J. 291 (2022).

²⁵ Cristina Gimenez, Vincenta Sierra & Juan Rodon, *Sustainable Operations: Their Impact on the Triple Bottom Line*, 140 INT’L J. PROD. ECON. 149 (2012).

²⁶ Robert McCorquodale & Justine Nolan, *The Effectiveness of Human Rights Due Diligence for Preventing Business Human Rights Abuses*, 68 NETH. INT’L L. REV. 455 (2021).

²⁷ Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, Pillar II (UNGPs), Prin. 18, UN Doc. A/HRC/17/31 (Mar. 21, 2011) [hereinafter UNGPs].

²⁸ CSDDD, *supra* note 3, Art. 7(2).

²⁹ Eur. Comm’n, *Proposal for a Directive on Corporate Sustainability Due Diligence and Annex*, Art. 6 (2022).

³⁰ CSDDD, *supra* note 3, Art. 8(4).

³¹ Thomas A. Kochan & William T. Kimball, *Unions, Worker Voice, and Management Practices: Implications for a High-Productivity, High-Wage Economy*, 5 RSF J. SOC. SCI. 88 (2019).

improve when companies integrate codes in their management systems, they lack impact on collective bargaining rights.³² As demonstrated, the text of the CSDDD fails to address this issue and promote external stakeholder collaboration. This is unlikely to allow to challenge embedded labor relations or social norms underlying the production process. It also marks a departure from the more inclusive, collaborative approach initially proposed and promoted by the UNGPs.³³

The Necessary Shift of Companies' Internal Priorities

The analysis of the CSDDD reveals that the EU legislator (1) formalizes and promotes the role of companies in shaping global corporate governance by entrusting them with policy-making functions, and (2) adopts a top-down governance approach to global supply chains. This carries the risk that multinationals will prioritize economic interests over human rights considerations, and fails to promote innovative, multi-stakeholder governance of global supply chains. Within this model, it is essential for companies to move beyond merely shifting the compliance burden onto suppliers. Instead, they must reframe their internal priorities to integrate human rights considerations as a central component of their operational goals. While this is one of the objectives of the CSDDD, the current text may fall short in achieving it. In contrast, the UNGPs emphasize the internal integration of human rights concerns, asserting that effective integration requires changes to internal decision-making processes, budget allocations, and oversight mechanisms within companies.³⁴ This framework sets expectations for companies to embed human rights concerns throughout all corporate practices before extending these considerations down the supply chain. The UNGPs stress that human rights impact assessments are only effective when a company's human rights policy commitments are embedded across all relevant business functions.

This internal focus is missing from the CSDDD obligations, which concentrates more on ensuring suppliers' compliance rather than holding companies responsible for the lack of attention to labor risks internally, or investments to prevent labor rights violations. Article 7(c) of the CSDDD does, however, represent a positive step in this direction, requiring companies to "make necessary modifications or improvements to the company's own business plan, overall strategies, and operations, including purchasing practices, design, and distribution practices." While this provision highlights the importance of internal corporate action, the European Parliament's initial 2020 proposal went further by obliging companies to avoid contributing to harm through their purchasing practices—a provision that was ultimately abandoned in the final version of the Directive.³⁵

It is now up to national legislators and the soon-to-be-established supervisory authorities to ensure that companies prioritize stakeholder consultation, account for the internal costs of implementing human rights policies, and achieve both the horizontal and vertical integration of these policies—not only at the supplier level but within the corporate structure itself. Germany's due diligence law already sets a precedent in this regard by requiring

³² Tim Bartley & Niklas Egels-Zandén, *Responsibility and Neglect in Global Production Networks: The Uneven Significance of Codes of Conduct in Indonesian Factories*, 15 GLOB. NETWORKS s1 (2015).

³³ This is especially visible in Principles 18 and 19 of the UNGPs and 19, but is generally represented in the multi-stakeholder approach of the UNGPs. UNGPs, *supra* note 27, Prins. 18–19.

³⁴ *Id.*, Prin. 18.

³⁵ Article 4 of the European Resolution states: "Undertakings shall ensure that their purchase policies do not cause or contribute to potential or actual adverse impacts on human rights, the environment or good governance." [European Parliament Resolution of 10 March 2021 with Recommendations to the Commission on Corporate Due Diligence and Corporate Accountability \(2020/2129\(INL\)\)](#). This was abandoned in the European Commission Proposal of 2022. [Eur. Comm'n](#), *supra* note 22.

companies to establish an internal human rights committee.³⁶ These internal structural changes are likely to have a trickle-down effect throughout the supply chain, leading to positive implications for labor standards, as suppliers align with the renewed priorities of buyers.

Conclusion

By emphasizing corporate self-regulation and the unilateral adoption of standards, the CSDDD positions multinationals as “quasi-legislators” of their supply chains, increasing their responsibility for labor standards, even at the supplier level. However, the analysis provided in this essay highlights the risks of perpetuating existing challenges, such as the lack of stakeholder engagement and the potential shifting of compliance burdens onto suppliers without changing internal corporate priorities. To fundamentally alter economic principles, policymakers and courts must promote transformative rules. Achieving this requires shifting multinationals’ internal priorities to ensure human rights become central alongside economic objectives. While the CSDDD is a crucial first step in prioritizing labor conditions in supply chains, true progress in transnational labor rights governance must follow deeper structural reforms that embed human rights into corporate strategy and decision making.

³⁶ [Lieferkettensorgfaltspflichtengesetz \[Supply Chain Due Diligence Act\]](#), BUNDESGESETZBLATT [FEDERAL LAW GAZETTE], TEIL I [Pt. I], at 2959 (July 22, 2021) (Ger.).