



Towards a More Sustainable Model of Economic Activity in the EU

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The European Commission (EC) is working on new rules pertaining to economic undertakings on the single market. The objective is to reduce the negative impact on environment and climate, and improve the protection of workers' and human rights. Apart from creating better conditions for implementation of the Green Deal, these aims reflect the ambition to strengthen the Union's position in global economic competition and promotion of EU standards. The scope of new obligations for firms is, however, disputed between the left and the right.

European companies are accused in reports, for example, by the International Trade Union Confederation, of tolerating harmful environmental consequences of their activity and breaching labour rights. The criticism is not limited to events taking place outside the EU. The UN Working Group on Business and Human Rights, which visited Italy last year, condemned the inadequate protection of workers' rights, in particular those of migrant workers employed in agriculture and the textile industry. The panel recommended introducing legal changes that would improve protection against such infringements.

EC Proposals. In late 2020 and early 2021, the Commission carried out public consultations on legal changes intended to tackle these problems. The changes are also meant to mobilise the private sector to boost its contribution to the green transition (emission reduction, protection of biodiversity). The EC wants to oblige companies to perform a thorough risk analysis of their activity, reduce the negative impacts, and introduce procedures that would facilitate prevention of various infractions (this set of obligations is concisely referred to as "due diligence"). This level of higher standards has already been adopted by the EU for timber and mineral extraction.

The Commission also seeks to encourage companies to adopt a more long-term and comprehensive perspective in planning their development. The EC deplores that managers focus excessively on short-term profits as a key objective for

shareholders. Such an approach can provoke negative consequences for the environment, a variety of stakeholders, and sometimes for the firm itself, for example, when investments are reduced in order to increase dividends. Therefore, the new rules would oblige companies to consult a wider circle of stakeholders when creating development strategies, and adopt measurable targets regarding emission reduction, biodiversity protection, and prevention of deforestation.

Although implementation of adequate procedures will entail costs, the EC claims that higher standards of economic activity will bring benefits. Environmental damage and breaches of workers' rights provoke financial and reputational losses. Firms that demonstrate that they reduce the risk of such impacts through the implementation of adequate procedures will be more attractive to investors and could get loans on better terms. Actions oriented at mitigating environmental impact will stimulate innovation. Meanwhile, greater transparency will enable customers to make more sustainable choices. Finally, because some Member States (including France and Germany) have already introduced laws on due diligence, settling these issues at the community level is necessary to maintain coherence of the single market.

The publication of the draft directive, planned for the second quarter of 2021, was postponed several times. An internal EC body whose main task is to assess the conformity of

planned actions with the principles of subsidiarity and proportionality has twice judged the impact assessment as insufficient. Details were not disclosed but one could assume that there are different views within the Commission as to the right scope of obligations that could be put to companies and effectively enforced.

Positions of the Major Actors. Trade unions and NGOs promoting environmental protection and human rights strongly support the introduction of binding requirements for companies. In the consultations organised by the EC, 96% of participants from this category favoured new regulations. A similar position was taken by the European Parliament (EP), which wants to oblige companies to monitor more thoroughly the environmental impact and respect of workers' rights within their value chains. The requirements are to apply not only to EU companies but to all firms active on the single market. Companies that do not fulfil the obligations could be deprived of state aid or prevented from participation in tenders. The EP has called for a ban on imports of products created by forced labour and urged the Commission to analyse the activities of firms in Chinese Xinjiang in order to identify potential breaches of human rights.

Left-wing political groups in the chamber put forward the most demanding requirements for companies. They argue that a system based on non-binding recommendations has been ineffective. Their suggestions include making parts of managers' remuneration dependent on fulfilling goals related to the environment and climate.

The Christian Democrats and Conservatives are more hesitant and argue that the new rules must not constitute too much of a burden for businesses. They do not support obliging firms to monitor the actions of their subcontractors and suppliers. They advocate limiting the legal responsibility of EU companies for breaches of human rights committed within their value chains. Consultations with a large circle of stakeholders should, in their view, be a recommendation not a legal obligation for companies.

The reservations expressed by right-wing political groups resemble the position of business circles. In a letter to the French presidency, Business Europe, an umbrella organisation for national business associations, argued that the existing legal framework is appropriate to make economic activity more sustainable. In its opinion, the duty

to assess and monitor risks should not apply to the entire value chain (as advocated by the EP) but only to direct business partners.

Recently formed governments of Germany and the Netherlands expressed their support for adopting due diligence rules at the EU level. The French presidency expects the Commission to come up with a proposal in the first semester. Meanwhile the Nordic states, keen to preserve autonomy for employers and employees to shape their mutual relations, criticise some of the Commission's proposals as excessive interference in entrepreneurial freedom.

Conclusions and Prospects. The debate so far suggests that the EC will likely focus on obliging firms to more attentive management of their impact on the environment and better performance on workers' rights. But it could give up some proposals concerning corporate governance that are disputed by the right-wing and business circles. The new regulations, provided that they are properly enforced, could strengthen the Union's international reputation and enable it to put more pressure on foreign business entities. However, they also could complicate relations with some partners such as China, [which rejects criticism regarding the situation in Xinjiang](#).

The pandemic has disturbed value chains globally, which has encouraged some companies to consider ways of diversifying or shortening them. This situation favours the promotion of more far-reaching changes with a view to ending, or at least modifying, undertakings that are harmful to the environment or do not guarantee adequate working conditions. Yet, the prevailing concern for achieving a dynamic economic rebound after the period of recession will reinforce the reservations expressed by some businesses that aim to loosen the proposed new obligations.

Ways of improving the monitoring of business activity evoke lesser interest in the countries of Central and Eastern Europe (CEE), which have not adopted national regulations on the subject. In comparison to Western and Northern Europe, fewer firms from the CEE control complex value chains. For Poland, it will be important that the new EU rules create fewer obligations for small and medium-sized enterprises, for example, as regards scrutiny of the activity of business partners, as suggested by the Commission and advocated by the EP.