



**Mr Jozef Sikela**  
Chair of the EU Competitiveness Council  
Minister of Industry and Trade  
of the Czech Republic  
Na Františku 32  
110 15 Praha 1

28 November 2022

Dear Minister,

**RE: key messages to EU Competitiveness Council of 1 December 2022**

The upcoming EU Competitiveness Council will address a few very important legislative proposals under the umbrella of green transition: on the **Empowering Consumers in Digital** and on **Corporate Sustainability Due Diligence (CS3D)**.

On the latter proposal (CS3D), we understand that there will be an attempt to reach a general approach and we are concerned that important legal gaps have not yet been properly addressed. This will jeopardise legal certainty, feasibility and effectiveness of the proposal and ultimately affect the competitiveness of EU companies facing multiple and difficult crises today.

**On Corporate Sustainability Due Diligence: crucial points still to be addressed**

- **The proposal should aim to ensure a level playing field in the EU single market.** Legal fragmentation, prejudicial to the objectives the proposal, will be a reality if full harmonisation on key provisions of this directive is not ensured. An idea could be to replicate what is done in EU consumer directives that use an “internal market clause”. In accordance with this clause Member States “*shall not maintain or introduce, in their national law, provisions diverging from those laid down in this Directive, including more, or less, stringent provisions, unless otherwise provided for in the Directive.*”
- **A supply chain approach (instead of value chain) is the only one proportionate,** manageable, and realistic and in line with existing national due diligence mandatory frameworks.



- **Clarity of material norms that companies must adhere to is crucial.** It is crucial to revisit and shorten considerably the list of norms/conventions in the Annex. Most of them are applicable to states (not legal entities like companies) and leave companies in a lot of legal uncertainty.
- **Liability provisions need to be balanced and proportionate. They should be limited to companies own acts and with safe harbour provisions when companies prioritise the most salient risks, or adhere to sectoral schemes or use certification schemes.** This is essential to avoid frivolous international litigation.

### **Empowering consumers in the green transition**

Whilst being supportive of different initiatives around sustainable consumption, we call for reasonable information requirements (applying *need to know* principle), no overlaps among parallel initiatives (including from other areas of law) and realistic implementation periods. We also stress that EU Consumer policy initiatives should be used as an enabling instrument for businesses to better take advantage of the benefits of operating in the single market, for example by help fighting administrative burden and reducing legal fragmentation. Proportionality and a full harmonisation approach are essential to ensure this.

We stand ready to discuss these issues further.

Yours sincerely,



Markus Beyrer