

# An EU Corporate Sustainability Due Diligence Directive that Works for Children

## *UNICEF comments on the European Commission proposal [COM(2022) 71 final]*

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### Key recommendations and context

UNICEF welcomes the initiative of the European Commission for a Directive on Corporate Sustainability Due Diligence (EU CSDD). EU legislation on sustainability due diligence for business has the potential to make a powerful contribution to building respect for human and children’s rights in the business world.

The significance of due diligence for children’s rights was recognized by the Committee on the Rights of the Child as far back as [2013](#) when it asserted that States should require businesses to undertake “child-rights due diligence”, as part of upholding their obligations under the Convention on the Rights of the Child (CRC).

It is UNICEF’s view that for EU corporate sustainability due diligence to be effective for children, children’s rights must be explicitly reflected in both the Directive and in all

mechanisms and guidance enabling its implementation. While we welcome the inclusion of the CRC in the Annex, we have specific recommendations for how the Directive can be revised to become more inclusive of children's rights.

**Specifically, this paper makes recommendations on how the Directive can be strengthened to ensure it creates effective mechanisms for children's rights. At a minimum, the following should be reflected:**

- An explicit recognition that children as well as other groups in vulnerable and marginalized situations require special attention in business' due diligence and in accessing justice.
- The expansion of the scope of the due diligence obligations: to cover the entire value chains of business; to fully include the finance sector; and with a commitment to develop a clear roadmap for the progressive extension of the due diligence obligation to other businesses and industries.
- The inclusion of a stronger emphasis for child rights-based approaches to companies' due diligence and actions to prevent, mitigate and bring negative impacts to an end.
- A comprehensive package of supporting measures that include: implementation guidelines developed in consultation with key stakeholders; coherence among other legislative initiatives such as the EU Corporate Sustainability Reporting Directive and processes relating to the digital environment, including the Digital Services Act; EU's foreign policy and international cooperation efforts to effectively support business, member States and third countries in strengthening business respect for child rights.

## The unique and crucially relevant circumstances of children

Children make up 30 percent of the world's population – yet they are at risk of being invisible. Because the experiences and perspectives of children differ from those of adults, mechanisms designed around adults do not capture salient issues for children.

Children are psychologically, socially and physically developing beings, and this puts them in an especially vulnerable situation, generally - more so than adults. Therefore, standards and policy based on adults do not necessarily protect children adequately or appropriately.

Children are dependent on others, on parents, caregivers and the wider community. As a result, the situation of children is further affected by the challenges faced by those on whom they are dependent.

For the Directive to be effective for children, children's rights must be reflected in both the instrument and in all mechanisms and guidance enabling its implementation.

Negative business impact on children can have lifelong impacts and prevent children from reaching their full potential, which is why it's crucial that the directive creates a robust due diligence process that works for children's rights. Abuse and deprivation in childhood are often transferred across succeeding generations, but protecting and respecting children's rights breaks this intergenerational transfer.

The EU Directive on Corporate Sustainability Due Diligence has the potential to significantly improve responsible business conduct regionally as well as globally, to influence other legislators as well as to drive the strengthening of national systems in countries of business' global value chains.

**The following is an analysis of the Directive with more detailed recommendations for operationalizing these key headline recommendations from a child rights perspective. This analysis builds on UNICEF's technical expertise and experiences working with key stakeholders across the world in the field of child rights and business.**

## **Children as key rights holders and stakeholders in the EU CSDD**

**The EU CSDD should explicitly recognize children as independent and separate rights holders and stakeholders to avoid the continued disregard of adverse child rights impacts in business due diligence processes. This is also important to ensure that children can access legal remedies in case of abuses.**

Applying an explicit child rights lens would enable companies to conduct comprehensive due diligence without blind spots, allowing them to effectively identify and address the most severe and salient risks to people and especially to children, who are often overlooked in due diligence processes. The need for special attention and consideration to children and their specific challenges should also be mirrored in the areas pertaining to access to justice and remedies (see [below](#)).

While the Explanatory Memorandum refers to the importance of children's rights for business, the need for specific attention to groups in vulnerable and/or marginalized situations, such as children, is not explicitly spelled out in the text of the draft Directive itself. If children are not explicitly mentioned, there is a significant risk that they will be overlooked in companies' sustainability due diligence.

**Going beyond child labour:** [Research](#) has demonstrated that, except for child labour, there is still a gap in companies considering children as stakeholders for the wider spectrum of their impacts. Consequently, these impacts on children are still not addressed by companies. In addition, though child labour is the most widely recognized issue, the working conditions for parents and other caregivers can limit a child's access to rights such

as education, adequate care and nutrition, play and health care. Businesses operating in the digital environment can impact children's rights to protection, freedom of expression and privacy. The degradation of the environment and climate change significantly impact children as, for example, they are physiologically more vulnerable to toxic substances than adults, even at lower doses of exposure.

**Children and other groups in vulnerable situations:** Business impacts on children can affect groups of children differently. For example, if toys and products are not adapted for [children with disabilities](#), their right to play is limited.

[Girls](#) can be exposed to risks of gender-based violence when freshwater supplies are affected, since they have to travel further to collect water. Because they are often the first ones to be removed from education to support families in times of crisis, girls' right to education might also be affected.

While the draft EU CSDD refers to important EU measures for child rights, such as the EU child rights strategy, and the Annex identifies key provisions of the CRC that go beyond those relating to child labour, some articles that are relevant for businesses are not included. In relation to consumer products, the right to privacy (article 16 CRC) and right to play (article 31 CRC) are key rights.

It is important that the EU CSDD drives companies to respect and act on the wide spectrum of children's rights. If children are not explicitly mentioned, there is a significant risk that they will be overlooked in companies' sustainability due diligence.

Despite the inclusion of a safeguarding provision to capture all rights in the instruments included in Section 2 of the Annex, there is still a risk that singling out specific child rights obligations would lead companies to focus their efforts only on such issues rather than taking a holistic approach. Moreover, some key international instruments are not included in the Annex. They include the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, and the Optional Protocol on the involvement of children in armed conflict; the European Convention on Human Rights; and the Charter of Fundamental Rights of the European Union.

**It is important that the EU CSDD drives companies to respect and act on the full spectrum of children's rights.** Ensuring that the Annex explicitly covers all articles of the Convention on the Rights of the Child and the additional instruments relevant for children's rights is vital to achieve this.

**UNICEF recommends strengthening the EU CSDD as follows:**

- Introduce a new article (*article 3 bis*) about "Groups in vulnerable and marginalized situations" that requires member States to ensure that:
  - Companies pay special attention to the rights and needs of groups at risk of vulnerability and marginalization, including children, throughout the due diligence

process, including in the phase of identification of actual and potential adverse impacts.

- *In the Annex*, consider referring to the list of relevant international instruments rather than singling out specific articles or at least clarify explicitly that the list of rights is not exhaustive.
- Include *in the list of international instruments in the Annex, Section 2*: the two Optional Protocols to the CRC, the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union.

## Corporate sustainability due diligence as an effective tool to address negative impacts on children

One of the objectives of the EU CSDD is to foster responsible corporate behaviour so that businesses can prevent, mitigate and account for negative impacts on human rights and the environment. In this context, it is positive that the draft EU CSDD has an extraterritorial application to the extent that it covers both companies and business activities within the EU and outside of the EU.

UNICEF's research has identified several challenges for the realization of children's rights in relation to various business sectors, activities, models and approaches to due diligence. It is vital to take these considerations into account in order to design a due diligence obligation that avoids unintended consequences for children and effectively prevents, mitigates and ends child rights abuses. The sections below explore these issues in more detail.

### 1. Scope of the due diligence obligation and its impact on child rights

**The EU CSDD should expand its scope to ensure the finance sector is fully covered as well as be accompanied by a clear road map for the progressive application of the Directive to other businesses and industries. It should also clarify the extent to which business' products, services and activities are covered to ensure that, as a minimum, the marketing and advertising of food and beverages fall under its scope.**

As defined in the UNGPs, all businesses have a responsibility to respect human rights, regardless of their size, sector, operational context, ownership and structure. To meet such responsibility, they should, among other actions, conduct human rights due diligence (Principles 14 and 15). It is important that the Directive recognizes this.

The draft Directive recognizes high-impact sectors seemingly on the basis of risk of labour rights violations, including child labour. However, this does not cover the full scope of other issues where business activities also pose a significant risk to children's rights, such as impacts in the digital environment.

UNICEF recognizes the challenge of designing a legislative instrument that is effective, enforceable and proportionate, and the fact that at the European level a number of sector-

specific instruments on responsible business conduct are being developed. In light of this, the European Union should identify a clear path to progressively extend its application to other sectors and industries in order to ensure a comprehensive approach to responsible business conduct. The EU should also ensure coherence among other instruments aimed at regulating business and their impact on human and child rights to ensure that they are aligned with the UNGPs and the objectives and principles of the EU CSDD (see [below](#)).

**Consider the digital environment:** As the Committee on the Rights of the Child has [highlighted](#), “The digital environment is becoming increasingly important across most aspects of children’s lives, including during times of crisis, as societal functions ... progressively come to rely upon digital technologies. It affords new opportunities for the realization of children’s rights, but also poses the risks of their violation or abuse.” The Committee has also [stated](#) that “States parties should require the business sector to undertake child rights due diligence” in relation to the digital environment.

Business activities in the digital environment can have a significant impact on children’s rights relating to a [variety of online risks and harms](#). Digital services that are developed and based within the EU can also be accessed by or impact children outside its borders. Companies developing or deploying digital technologies have a responsibility to respect children’s rights in the digital environment and to conduct human rights and environmental due diligence. Considering the existing ongoing legislative processes in relation to these issues at the European level, there should be coherence and a commitment to develop a clear plan to progressively extend the EU CSDD to other companies and industries.

**Relevance of the finance sector:** Financial institutions also have a responsibility to respect human rights and conduct human rights due diligence under the UNGPs and the OECD Guidance on Responsible Business Conduct for Institutional Investors. [Investors](#) may be directly linked to harms through their investments in companies whose business practices, operations and relations have caused, contributed to or are directly linked to harms to children. Investors also play an important role in influencing the practices of companies in which they invest, furthering due diligence.

However, the draft Directive only partially covers the financial sector, as it applies only to clients of a large size and their subsidiaries, does not extend to the clients’ value chains, and the identification of impacts are only required at the beginning of the relationship. This significantly limits the potential of the due diligence obligation in practice, which should be instead extended to cover all aspects and relationships of the finance sector.

**Impacts of products and services:** The draft Directive’s text is not clear on the extent to which impacts of products, services and activities such as marketing and advertising, and the impacts of products on end users and other individuals, are also covered by the due diligence obligation. In this regard, the EU CSDD should provide more clarity to ensure legal certainty for businesses and member States. For example, there is broad and consistent [evidence](#) that unhealthy food marketing is highly persuasive and has a powerful

impact on children’s nutrition choices, thus leading to increased risk of a range of non-communicable diseases as well as obesity and overweight. It is pertinent, therefore, that the marketing of food and beverage is explicitly reflected and included under article 2.1(b)(ii).

**UNICEF recommends strengthening the EU CSDD as follows:**

- Expand the scope of the due diligence by:
  - Ensuring that the financial sector is fully covered by the Directive;
  - Adding “marketing of food and beverages” *in article 2.1(b)(ii)*.
- Clarify the extent to which products, services and activities are covered by the obligation of due diligence.
- Commit to develop a clear plan for the progressive extension of the due diligence obligation to other companies and industries.

## 2. “Established business relationships” and its relevance for child rights impacts

**To be effective and manageable to implement, the EU CSDD should require companies to identify their impacts throughout their value chains, not only on portions of it, and prioritize actions on the basis of severity and saliency of risks to people and the environment.**

This would allow companies to prioritize their preventive and remedial measures based on the severity and likelihood of impacts, rather than proximity and ease of action. Companies’ actions should be focused on delivering outcomes for those affected. Linking the scope of the due diligence obligation to the scope of liability creates some issues here, and it is recommended that the Directive considers de-linking these to allow for a stronger value chain due diligence process while also ensuring access to justice.

The draft Directive introduces the new concept of “established business relationships” to limit the scope of due diligence in the value chains that companies in scope are expected to conduct and for which they might be held liable. By introducing this new concept, which is not in the United Nations Guiding Principles on Business and Human Rights (UNGPs), the draft Directive risks undermining legal certainty for companies as it is unclear what these relationships cover.

Child labour and other human rights risks are often most pronounced in the informal micro- and small enterprises operating at the lower tiers of supply chains. In the [palm oil sector](#) in Indonesia, for example, child labour is rarely found in large plantations, but rather in smallholder estates that may supply larger companies, where children assist their family members to meet harvesting quotas. In Bangladesh, while efforts to eliminate child labour from export-oriented [garment factories](#) have been relatively successful, child labour remains a concern in the formal and informal sectors that can feed into lower tiers of the supply chains of international brands, including through unauthorized sub-contracting.

The limitation to “established business relationships” may leave out activities where children are significantly affected, thus impeding companies to identify and address these issues. It might also implicitly lead companies to focus the scope of their due diligence on their closest relationships only, rather than where the most severe and salient impacts are – and could incentivize conduct that increases risks of child rights abuses, such as short-term relationships with business partners. **In effect, these factors have the potential to make children invisible in the due diligence process, and can pose a concrete risk that impacts on child rights would remain unaddressed by companies.**

**UNICEF recommends strengthening the EU CSDD as follows:**

- *In article 1, expand the obligation for companies to conduct due diligence to the entire value chain, instead of limiting it to “established business relationships.”*

### **3. The need for a child rights-based approach to preventing, mitigating and ending negative impacts on children**

**The EU CSDD should integrate a stronger emphasis on child right and human rights-based approaches to due diligence, including with more focus on the saliency of child rights and human rights risks. This is crucial to prevent the Directive inadvertently leading to an increase in compliance-based approaches or the weakening of state-based enforcement mechanisms.**

The draft EU CSDD rightfully places the objective of preventing, mitigating and ending negative impacts on human rights and the environment at the core of companies’ due diligence obligation. In doing so, it is encouraging to see that among the actions that businesses should be required to take, the draft Directive identifies support to small- and medium-sized enterprises, development and implementation of prevention/correction action plans and payment of damages and compensation.

However, there is also a significant emphasis and reliance on the use of contractual clauses and verification mechanisms, which often do not lead to effective prevention of adverse impacts on children and might lead to unintended consequence for them. The Directive would benefit from a stronger child rights and human rights-based approach to due diligence, which would enable avoiding such risks.

Contractual clauses and verification mechanisms often do not lead to effective prevention of adverse impacts on children and might lead to unintended consequence for them. The Directive would benefit from a stronger child rights and human rights-based approach to due diligence, which would enable avoiding such risks.

**Integrate the “best interests of the child” in preventive, mitigation and remedial measures:** Negative impacts on children can have long-lasting consequences on their lives and children might face more severe impacts compared to adults. The Directive should



require the integration of child rights considerations both in impact assessments and in the identification of preventive, mitigating and remedial measures. Otherwise, there is a risk that a preventive measure could unintentionally create additional risks for children. For example, removing a child labourer from a supply chain might push them into an even more hazardous situation. [Excluding](#) children under 18 years of age but over the legal working age from employment, when safe work opportunities exist, as a preventive measure against child labour might push children to look for other working opportunities, potentially exposing them to more risks.

Where possible, preventive, mitigation and remedial measures should be informed by a robust and independent assessment on the best interests of the child (article 3 CRC). The best interests of the child is a concept that is dynamic in nature and requires an assessment that is specific to the context affecting the child. It requires considering how children's rights and their interests will be affected by companies' measures, assessing the specific situation of children in order to identify the best solution in the child's best interests.

Considering the best interests of the child will require a balancing exercise among several considerations and elements, but this should be from the perspective of delivering outcomes for children rather than for the company. The text of the EU CSDD should explicitly incorporate the best interests of the child as a principle to guide companies' preventive, mitigation and remedial measures for children.

**Encompass the broader range of business preventive and mitigating actions:** From its work with various business' sectors in countries, regions and globally, UNICEF has identified several challenges for the effective prevention of adverse impacts on children deriving from certain companies' approaches to human rights due diligence.

For example, while suppliers [codes of conduct and auditing](#) have contributed to increase the awareness of workers' rights, they have also led to a compliance approach to human rights due diligence. Such an approach can reinforce a 'policing' dynamic between companies and suppliers and might inadvertently incentivize [deceptive behaviours](#), such as coaching workers on how to respond to audit questions and removing those unauthorized from the workplace.

More specifically, when it comes to children's rights, compliance approaches have often proven to be ineffective in addressing children's specific needs and vulnerable situations.

[Compliance checks](#) generally do not focus on outcomes for children and their families, but just on the existence of a facility or service. However, addressing negative impacts on children requires attention on the actual needs of working households and children. In practice, this would translate in checking whether a facility or service exist as well as whether it is safe, accessible, affordable and of quality.

In addition, compliance checks are often designed with a predefined list of issues in the workplace that do not reflect workers' broader living situation. However, impacts on children do not occur only in factories, but in communities as well. A predefined list of issues risks undermining the due diligence prioritization process based on saliency, since some of the impacts on children would simply not be considered. Children of migrant workers might have limited access to basic services such as health care and education, for example, and an exclusive focus on the workplace might prevent companies to identify and act on negative impacts on children connected to their living situation.

The text of the draft Directive could be significantly strengthened by identifying the broader range of actions that businesses can and should take to prevent and mitigate against negative impacts on human and child rights.

Furthermore, compliance checks only provide a 'snapshot in time' but often fail to provide enough information to understand the root causes of problems, which is critical if businesses are to address risks and prevent abuses of rights.

The emphasis on contractual clauses and verification mechanisms might lead to a [risk](#) of proliferation of business-led 'private' compliance approaches in countries where their value chains are that might undermine state-based enforcement mechanisms and international cooperation efforts. This would effectively hinder at-scale interventions to prevent child rights abuses by companies, especially when it comes to child labour.

The text of the draft Directive could be significantly strengthened by identifying the broader range of actions that businesses can and should take to prevent and mitigate against negative impacts on human and child rights.

Businesses should consider how their own purchasing, pricing and employment practices might affect workers and communities in their value chains and operations and the extent to which they can exercise leverage with partners and suppliers. They should also consider how their business model, product development and end use can negatively affect children as well as the broader context in which they are operating or from which they are sourcing. Ensuring that these actions are part of prevention plans would significantly enable business to address key factors that are the foundations of many negative, direct and indirect, impacts on children.

When seeking to tackle systemic or highly complex issues, such as child labour eradication, a multi-sectoral approach is necessary to create sustainable change. Long-lasting sustainable outcomes for rights holders involve addressing root causes, and corporate sustainability due diligence is one instrument that can help achieve this. It is important, however, that the corporate sustainability due diligence agenda is connected to the broader sustainability and human rights agenda (see [below](#)).

**UNICEF recommends strengthening the EU CSDD as follows:**

- *In article 7*, expand the list of actions that companies should take to prevent adverse impacts to include:
  - Consider how their purchasing, pricing and employment practices can affect workers and communities in their value chains.
  - Consider how their business model, product development and end use can affect children's rights.
  - Consider the broader context in which they are operating or from which they are sourcing.
  - Consider the extent of leverage they have with partners and suppliers.
- *In articles 7 and 8*, introduce a specific reference to the best interests of the child (article 3 CRC) as a key criterion to identify effective measures to prevent, mitigate and end adverse human rights impacts on children.

#### 4. The interconnection between child rights and climate change

**The EU CSDD should explicitly require companies to look at the interconnection between child rights impacts and environmental impacts as well as the need for companies to identify and address the child rights impacts connected to the green transition.**

It is now unquestionable that environmental and climate hazards have negative impacts on human and children's rights. However, many companies are still treating these two aspects separately, thus risking some impacts to go unnoticed and to create unintended consequences for children.

**The environment and child rights are intertwined:** UNICEF has [highlighted](#) how impacts on the environment negatively affect children's rights as well. Children are more vulnerable to climate and environmental shocks and many of them experience multiple and overlapping shocks. These hazards not only exacerbate each other and affect children's fundamental rights, but also increase inequality and marginalization. They also interact with other social, political and health risk for children, thus significantly affecting the lives and potential of children.

In addition, there is broad recognition of the human and child rights risks connected with the green transition. For example, there is well documented [evidence](#) of child labour in the cobalt supply chains and the extraction of lithium has been linked to environmental degradation.

**Climate change is a risk multiplier:** In [Bangladesh](#), for example, UNICEF has documented how climate change is one of the reasons why an estimated 3.45 million children are involved in child labour. Children have been found to work in the informal sector as well as in garment factories to support their families, who had lost everything in floods or had to migrate because of them. This means that businesses need to be more

alert and assess how social and climate impacts are connected, identifying how climate change impact communities where they operate and increase human rights risks.

While the draft Directives recognizes the critical role of the private sector in achieving the goals of the Paris Agreement, it should draw stronger links between environmental impacts and human and child rights impacts. The obligation to adopt a plan to ensure companies' business model and strategy are compatible with the transition to a sustainable economy and the limiting of global warming in line with the Paris Agreement should also require companies to identify and address the child rights and human rights risks connected to such transition. This approach should be mirrored also in companies' identification of potential and actual adverse impacts in their due diligence.

**UNICEF recommends strengthening the EU CSDD as follows:**

- *In article 15*, add reference to the need for the transition plan to also identify negative impacts on human and child rights connected to the transition to the green economy and how they are being addressed.
- *In article 6*, clarify that, as part of their due diligence, companies should identify the human and child rights impacts deriving from the transition to a green economy as well as the impact and risks that climate change has on the communities where they and their value chains operate that can be a risk to the company.

## Children's access to justice and effective remedies

**The EU CSDD should integrate the perspective and needs of those affected by corporate activities who are in vulnerable and marginalized situations and provide for measures to ensure that barriers for children in access to justice and effective remedies at the company and national levels are removed. These procedures should be made safe to use and accessible by children. This would considerably advance access to justice and effective remedies for victims of corporate abuses, especially when these are children.**

In the [words](#) of the Committee on the Rights of the Child, "For rights to have meaning, effective remedies must be available to redress violations." Children face particular barriers in seeking effective remedies for abuses of their rights when businesses are involved. Lack of legal standing in national legal systems prevents them from pursuing claims on their own; children and their families often do not have knowledge of their rights and the procedures available to seek redress.

The power imbalance between children and business, and the prohibitive costs of litigation are often a deterrent in children's access to justice. The situation is exacerbated when abuses occur in the context of global operations, where business' structures, access to information and the availability of legal aid might concur to create challenges.

Importantly, one of the objectives of the EU CSDD is to improve access to remedy for those affected by adverse corporate human rights and environmental impacts. The addition of a liability, monitoring and enforcement mechanism to the obligation of sustainability due diligence is a key aspect. However, for this objective to effectively work for children, the text needs to be strengthened to include specific considerations and measures to remove barriers for children.

**Outline specific measures to remove barriers for children:** The Committee on the Rights of the Child has [recognized](#) as part of States' obligations deriving from the CRC the need to remove social, economic and juridical barriers to ensure children can effectively have access to judicial mechanisms without discrimination, and has recommended several actions, including: the provision of information to children and their representatives about remedies; the possibility for children to initiate proceedings on their own and to have access to legal aid; and the introduction of collective complaints, such as class action and public interest litigation.

UNICEF and the International Commission of Jurists have also provided [detailed guidance](#) for States on how to overcome barriers for children to access justice in the context of business activities. The reversal of the burden of proof is also an important measure to overcome the power imbalances and lack of access to information that victims of corporate abuses face.

These measures should be included in the text of the Directive. The current draft provides for a civil liability regime to be implemented at the national level, but it does not provide for any specific safeguard to ensure that children's barriers to access justice and obtain effective remedies are removed. In addition, the draft Directive adds reference to contractual assurances as a defence from liability, which not only lacks clarity but can potentially limit substantially the possibility to seek remedies.

The Directive should also refer to the whole array of remedies that should be available to victims of corporate abuses. When it comes to children's rights, reparations can go beyond monetary compensation, and should include, for example, guarantees of non-recurrence, restitution, and additional measures to promote children's recovery and reintegration in an environment that foster their health, self-respect and dignity (article 39 CRC).

**Ensure complaints mechanism are safe, meaningful and accessible to children:** The explicit introduction of an obligation for companies to provide for a complaint mechanism and for member States to designate an independent supervisory authority is a welcome addition to the mandatory sustainability due diligence regime. The possibility for supervising

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authorities to initiate an investigation on their own or as a result of the communication of substantiated concerns and to adopt interim measures is also a positive step for enabling effective remedies for children.

However, the draft Directive should also recognize the important role that children's legitimate representatives and child rights organizations play in bringing complaints on behalf of them. Given children's dependent status, in most cases their legitimate representatives would bring complaints and claims and raise concerns on their behalf.

It is crucial that the Directive explicitly requires member States to ensure that companies design the complaints procedure with affected stakeholders and their legitimate representatives and in a manner that is safe, meaningful and accessible to children directly.

**UNICEF recommends strengthening the EU CSDD as follows:**

- Introduce a new article (*article 3 bis*) about "Groups in vulnerable and marginalized situations" that requires member States to ensure that:
  - Social, economic and juridical barriers for children in accessing justice and effective remedies without discrimination are removed.
- *In article 9*, on complaints procedure:
  - introduce the possibility for complaints to be brought by individuals on behalf of those affected or have reasonable grounds that they might be affected, as well as the possibility for collective complaints;
  - expand the list of civil society organizations to cover also those which represent groups and/or individuals affected or potentially affected;
  - introduce a clause requiring that complaints mechanisms are:
    - Designed with affected stakeholders, including children and/or their legitimate representatives
    - Designed with specific safeguards to ensure they are safe to use and accessible to children.
- *In article 19*, introduce a clause for member States to ensure that the procedure to submit substantiated concerns is accessible to children and that it has safeguards to ensure protection from retaliation and other harms for those who take part in it.
- *In article 22*:
  - Introduce the possibility for bringing collective complaints under this Directive.
  - Introduce a clause to ensure that member States provide for the reversal of the burden of proof.
  - Introduce a clause to ensure that member States disseminate information among children and their families about their rights and procedures to seek redress in the subjects covered by this Directive.
  - Clarify that effective remedies can go beyond monetary compensation and include other forms such as guarantees of non-repetition, restitution and measure for children's recovery and reintegration.
  - Consider designing the liability regime under the more general principle of causation and contribution, reasonability and foreseeability.

## The need for a comprehensive package of supporting measures

**To effectively achieve outcomes for children, the EU CSDD will need to be accompanied by a comprehensive package of supporting measures – including: implementation guidelines; coherence among other legislative initiatives such as the EU Corporate Sustainability Reporting Directive and those initiatives relating to the digital environment, such as the Digital Services Act; and EU’s foreign policy and international cooperation efforts to support business, member States and third countries in strengthening business’ respect for child rights.**

This would enable coherent and concerted action among EU institutions, member States and third countries to effectively address negative business impacts on children.

**Ensure policy coherence among legislative initiatives:** The reference to the EU Corporate Sustainability Reporting Directive in the text of the draft EU CSDD is an important reference for cohesiveness of the EU business and human rights policy architecture. Corporate reporting and mandatory corporate sustainability due diligence are intimately connected. To ensure consistency and maximize the potential of both the EU CSDD and EU Corporate Sustainability Reporting Directive, it will be important that the reporting requirements for companies comprehensively and accurately reflect the obligations of the EU CSDD and that they require specific attention to the impacts on groups in vulnerable and marginalized situations, such as children.

The EU is also undertaking legislative action in the digital environment, for example, through the Digital Services Act. To ensure consistency between the different initiatives aimed at regulating business’ conduct and its impact on human and child rights, it is important that these sector specific initiatives are designed in line with the UNGPs and the objectives of the EU CSDD.

**Commit to publish implementation guidelines:** Clear implementation guidelines will be critical to ensure harmonized implementation of the EU CSDD. The Directive should contain an explicit commitment to issue such guidance, instead of an option, and such guidance should be developed in close collaboration with civil society, rights holders, States and international cooperation actors. Such guidelines should cover not only the implementation of the due diligence obligation by companies but also monitoring and enforcement by States as well as specific issues related to child rights and critical sectors.

**Connect to the broader sustainability and human rights agenda:** Beyond the EU legislative measures directly regulating business and related guidance, there are other EU international policy areas that can influence responsible behaviour as well as support the realization of the objectives of the EU CSDD. Notably, these can include trade, investment and international cooperation.

The Preamble of the EU CSDD recognizes the need for the Commission and member States to use their neighbourhood, development and international cooperation instruments to support third country governments and upstream economic operators to address adverse impacts on human rights and the environment, including their root causes. It is critical that these instruments are used to foster responsible business behaviour, prevent negative impacts, and provide access to justice for victims.

In this context, it will be necessary that third countries be supported in strengthening their national business-related legislation, their monitoring and enforcing mechanisms for business' respect for child rights, and their justice system. This would enable a 'double approach' to preventing and ending negative impacts on children as well as to realizing child rights within and outside the EU borders.

**UNICEF recommends to:**

- Ensure that sustainability reporting requirements for both the EU Corporate Sustainability Reporting Directive and the EU CSDD reflect the obligations contained in the EU CSDD accurately and that they require specific attention to the impacts on groups in vulnerable and marginalized situations, such as children.
- Introduce a clear commitment in *article 13* of the EU CSDD to develop guidance for business and States for the implementation of the Directive in close collaboration with civil society, rights holders, Governments and international cooperation actors and on specific themes, including on child rights, and critical sectors.
- Ensure broader international EU policy coherence so that trade, investment and international cooperation also contribute to the objectives of the EU CSDD and that third countries are supported in strengthening their national business-related legislation, their monitoring and enforcing mechanisms for business' respect for child rights and their justice system.

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**FOR MORE INFORMATION**

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