October 2025

Comments on the Commission's reply

983/2025/MAS – Maladministration of the Commission in the preparation of the 2025 proposal to amend the CSDDD as part of the Omnibus I package

Contents

1. Introduction

The Complainants would like to thank the European Ombudsman (the "**Ombudsman**") for granting them the opportunity to provide comments on the Commission's reply to her letter of 11 July 2025 (the "**Reply**"), following the meeting of her inquiry team with the Commission's representatives on 16 June 2025 (the "**Meeting**").

The sections below address the arguments raised by the Commission in its reply and, where relevant, the position adopted by the Commission during the Meeting with the Ombudsman's inquiry team as reflected in the report of the Meeting. For the sake of clarity, the arguments raised by the Complainants in their complaint submitted on 18 April 2025 (the "**Complaint**") remain unchanged and continue to be valid.

Unless otherwise defined herein, all terms beginning with a capital letter which are defined in the Complaint shall have the same meaning as therein. For ease of reference, the expressions *'content' proposal* and *'stop-the-clock' proposal* in Section 3 below shall have the same meaning assigned to them in the Commission's Reply.

As a preliminary remark, the Complainants regret that the Commission deliberately maintains a lack of clarity as to the object of the maladministration raised in the Complaint. The Commission repeatedly refers to CSRD-related matters when attempting to justify for its compliance with the Better Regulation Guidelines and the European Climate Law in the making of the Proposal. This is despite the fact that the Complainants made it clear that the scope of the Complaint focused on the Commission's conduct in preparing the Proposal only insofar as it seeks to amend the CSDDD, not the CSRD.[1]

This distinction is essential: some of the Commission's arguments – such as the urgency of amending the CSRD in light of its transposition and implementation timeline, its stakeholders' outreach on reporting requirements or its assessment of policy options relating to the CSRD"s company scope – may be relevant in the context of the CSRD amendments, but they do not apply to the CSDDD revision.

The Complainants submit that, although the issues of maladministration identified in the Complaint may equally apply to the entire policy process underpinning the Omnibus I package, the CSDDD and CSRD are two different legislative instruments. Each requires its own assessments, and different considerations need to be taken into account in light of their differing objectives, transposition and implementation timelines. Accordingly, the assessments referred to by the Commission in relation to CSRD cannot be relied upon for and are not relevant to the amendments proposed to the CSDDD that form the subject of the Complainants' submission.

2. The Commission fails to justify the absence of impact assessment

In its Reply, the Commission argues that there was a situation of urgency that justified not carrying out an impact assessment (and, hence, a public consultation). In addition, the Commission contends that this urgency could not be addressed solely by the 'stop-the-clock' proposal, and it was critical to issue the 'content proposal' concurrently to avoid a longer legislative process and period of uncertainty for companies. Finally, the Commission reiterates the position expressed in its Explanatory Memorandum to

[1] See the Complaint, p. 4.

the Proposal that it could go without an impact assessment because the Staff Working Document itself was built on the original impact assessment for the CSDDD.

None of these arguments sufficiently justifies a major deviation from the Better Regulation Guidelines. The Commission still fails to demonstrate urgency (Section 2.1). Even assuming *arguendo* that there was such a situation of urgency, the Commission does not show how the 'stop-the-clock' proposal was insufficient to address it (Section 2.2). In addition, the Commission's Reply reveals that, contrary to what it alleges, the Proposal did not build on the initial impact assessment carried out for the original CSDDD proposal (Section 2.3).

2.1. The Commission fails to demonstrate urgency

In essence, the Commission contends that the situation of urgency that justified not conducting an impact assessment was constituted by the following:

- 'factual urgency', which it describes as "current and expected economic and factual implementation issues" that affected the application of the CSDDD;
- 'political urgency', which consisted in a "clear and urgent demand to the Commission to act swiftly to relieve companies overwhelmed by administrative burden and suffering from deteriorating competitiveness", following the European elections, the formation of the new Commission and the Draghi and Letta reports; and
- 'transposition and implementation' urgency, which required that any amendments to the CSDDD be made well ahead of its transposition deadline and date of entry into application.

None of these circumstances constitutes urgency that would warrant derogating from an obligation to gather evidence and carry out an impact assessment under the Better Regulation Guidelines. Therefore, the Complainants' position in Sections 5.1.3 and 5.1.4 of their Complaint is entirely restated: the Commission misused the exception provided by the Better Regulation Guidelines to omit an impact assessment on the basis of urgency that is not sufficiently justified. For the sake of completeness, the Complainants wish to provide additional comments on the following points of the Commission's Reply.

a. No 'factual urgency' justified doing away with an impact assessment

With respect to the so-called 'factual urgency', as highlighted by the Ombudsman in her letter of 11 July 2025, **the Commission does not point to any sudden or unexpected event that would create such urgency.**

Rather, the Commission refers to **ongoing structural challenges** (in essence, a deteriorating security and geopolitical context, intense competition from other jurisdictions, the eroding attractiveness of the EU for business activities and, according to the Commission, an overwhelming administrative burden). These issues – assuming that they are established and as serious as the Commission claims – cannot be considered new or so pressing that they would require urgent action derogating from basic requirements of participatory democracy in the legislative process. They have been a constant topic of public debate over the past few years and thus were previously known by the Commission and the co-legislators, prior to the adoption of the CSDDD. The Draghi Report mentioned by the Commission only restated and highlighted these challenges. The Commission cannot claim that these issues were suddenly revealed to it in 2024.

The circumstances raised by the Commission are indeed a far cry from the "political urgencies or crises" that it itself referred to during the Meeting with the Ombudsman's inquiry team to illustrate the types of urgent situations that could warrant a derogation under the Better Regulation Guidelines (the war in Ukraine, the COVID pandemic and the energy crisis).[2]

Thus, **the situation described by the Commission cannot be considered as creating, or reaching the gravity of, the kind of urgency that justifies departure from good policy-making** principles under the Better Regulation Guidelines.

Quite to the contrary, the "deteriorating economic climate" and "geopolitical situation" invoked by the Commission strengthen, rather than weaken, the case for carrying out an impact assessment. If these elements, together with deteriorating competitiveness and regulatory burden, were indeed putting the EU economy under pressure, an impact assessment seems the most adequate tool to weigh the different policy options that can best address these challenges, analyse whether modifying or delaying existing legislation would effectively alleviate these pressures, whether less invasive alternatives are available, and assess the cost (economic, environmental and social) of the options considered.

With respect to the Commission's concern about the EU's competitiveness in particular, it should be noted that a thriving environment for businesses is not solely about simplifying (or deregulating) legal frameworks as quickly as possible. Instead, it requires foundational guarantees as to how laws are made and the legal landscape evolves, such as the quality of governance, legal consistency, certainty and predictability, and the assurance that rules are grounded on solid evidence. The Commission rushed the revision of the recently adopted CSDDD without properly gathering evidence and assessing expected impacts. This undermines these foundations by conveying the signal that EU law can change erratically when the Commission finds itself under pressure.

In any event, the Complainants reiterate (see our Complaint, page 21) that **taking note of the changing political and economic environment, as well as implementation challenges, is a normal part of evaluating the effectiveness of any legislative act**. Evaluation of these changes and determination of whether any amendments are required should be a normal part of the legislative cycle, enshrined in the Better Regulation Guidelines. Accordingly, the Commission cannot merely equate the suspected inadequacy of the CSDDD to a situation of urgency to derogate from the policy-making processes enshrined in the Better Regulation Guidelines. Otherwise, a situation of urgency warranting such derogations would be deemed to occur whenever any provisions of existing laws appear to need updating to align with the current circumstances. This would make derogations the norm whenever the Commission considers it necessary to revise legislation.

b. The 'political urgency' invoked by the Commission cannot justify derogating from the Better Regulation Guidelines

In its reply, the Commission also refers more diffusely to a situation of 'political urgency'.

The Commission indeed admits that through its Proposal, it wished to respond swiftly to "a clear and urgent demand" following the European elections and the formation of the new Commission in 2024. In other words, it appears that the Commission considers pressing demands from certain lobbies or policymakers to be sufficient to constitute a situation of urgency that allowed it to derogate from the requirement to

[2] Report on the meeting of the European Ombudsman inquiry team with representatives of the European Commission, 16 June 2025, p. 3.

conduct an impact assessment and a public consultation under the Better Regulation Guidelines. The Complainants argue that this would be contrary to the democratic values the EU is built upon.

First, **the newly constituted European Parliament and the new Commission's mandate resulting from the European elections in 2024 are normal parts of the EU's institutional cycle, not exceptional circumstances** that would justify circumventing established rules and essential principles of evidence-based policy-making such as conducting impact assessments. While it is normal for a new Commission to pursue new political priorities, this does not absolve it from the obligation to respect the Better Regulation Guidelines, particularly when considering revisions to legislation adopted under the previous mandate, such as the CSDDD. To the contrary, a new Commission should start its term by reinforcing trust in EU governance and the Rule of Law, which starts with the observance of good policy-making principles as enshrined in the Better Regulation Guidelines. Impact assessments and public consultations are fundamental mechanisms to ensure that all voices are heard and that policy choices are objectively documented: omitting them under the pretext of political shifts risks producing poorly justified policy changes that may not stand up to public scrutiny and may erode public trust.

Secondly, **democratic change in EU leadership should also not be presented as "political urgency" and as a justification to fulfil the demands of certain interest groups in a manner that deviates from the basic principles of good law-making**. Political pressure from business lobbies cannot meet the bar of urgency to justify derogating from the Better Regulation Guidelines. Pressing demands from a discrete group of stakeholders asking policy-makers to adopt or change laws are a normal and constant aspect of democratic life: if mere political pressure resulting from such demands were sufficient to consider it "political urgency" and justify a derogation under the Better Regulation Guidelines, such derogation would in practice always be available to the Commission and rob the Better Regulation Guidelines and the democratic principles they uphold of any useful effect.

Finally, the Commission contends that departing from the Better Regulation Guidelines is objectively justified by the contents of the Draghi Report and the Letta Report. However, the Complainants submit that these reports do not contain any evidence that could serve as a basis for derogating from the requirement to conduct a proper impact assessment. The Commission's references to the Draghi and Letta reports in its Reply, in the Explanatory Memorandum to the Proposal and in the Staff Working Document are very broad and general: they reflect high-level recommendations but do not offer a specific recommendation or analysis of the urgency of these changes.

c. There was no 'transposition and implementation' urgency

The Commission's argument that it was urgent to amend the CSDDD in view of the transposition and implementation processes does not stand scrutiny.

At the time of the decision to propose the Omnibus (January 2025), the transposition deadline was still nearly a year and a half away (26 July 2026), and the CSDDD would not apply to affected companies for a further year (26 July 2027), which is almost two years from now. The Better Regulation Guidelines do not recognise future transposition and implementation milestones as justification for not conducting an impact assessment.

The Complainants also do not understand the Commission's argument that the interlinkage between the CSDDD and CSRD contributed to a situation of urgency that justified derogating from the requirement to conduct an impact assessment. Quite to the contrary, such an interlinkage meant that any changes to one directive could have legal consequences on the other or create risks of inconsistencies. This situation of legal complexity made a strong case for carrying out an impact assessment to identify the cross-effects of

revising the directives on each other, ensure consistency in obligations and timelines, and avoid duplication, or regulatory gaps between the two laws.

2.2. The 'Stop-the-clock' proposal should have been sufficient to address the alleged urgency

Even assuming *arguendo* that the elements above characterised a situation of urgency capable of justifying a derogation from conducting an impact assessment under the Better Regulation Guidelines, as contended by the Commission, **the 'stop-the-clock' proposal should have been sufficient to address this urgency** by postponing the timeline for transposition and implementation of the CSDDD. The delay offered by the 'stop-the-clock' proposal gave the Commission ample time to carry out an impact assessment and assess how to deliver the "simpler and clearer regulatory framework", which it considered was urgently needed during the Meeting with the Ombudsman's inquiry team.[3]

Nonetheless, in its Reply, the Commission unconvincingly argues the opposite and contends that the 'content' proposal had to be urgently put forward at the same time as the 'stop-the-clock' proposal to avoid a longer amending process and a longer period of uncertainty for companies.[4]

The Complainants submit that **the Commission's justification for bundling the 'stop-the-clock' proposal and the 'content' proposals is both insufficient and inconsistent.** In essence, **the Commission admits that the primary motivation for bundling the two proposals together was not to address genuine urgency, but rather to ensure legislative expediency** by advancing substantive reforms without respecting procedural requirements of evidence-based policymaking and stakeholder consultation.

However, legislative efficiency is not an adequate justification to skip essential parts of the legislative process, such as the evidence basis and democratic involvement of all stakeholders. A certain period and degree of uncertainty are inherent in any legislative process and cannot, on their own, justify a departure from the Better Regulation Guidelines. To suggest otherwise would undermine the purpose of those Guidelines, as similar concerns could be raised in relation to virtually any legislative proposal imposing obligations on private actors.

Moreover, in this case, the Commission has failed to substantiate the alleged risk of legal uncertainty it sought to avoid, or to explain why taking the time to conduct an impact assessment and public consultation would be problematic. It is indeed hard to see how the revision of provisions that were due to be implemented about two years from now would create such urgent need to address the lack of legal certainty, and which, in any case, could be resolved by a 'stop-the-clock' proposal" to allow time for a proper assessment and a democratic discussion. It also failed to demonstrate why less intrusive alternatives – such as issuing a communication or roadmap to clarify its intentions – were not pursued.

Instead, the lack of impact assessment and public consultation in developing the Proposal generates significant uncertainty. Without supporting evidence, it is unclear whether the Proposal can achieve its stated economic, environmental, and human rights objectives. Moreover, the lack of a clear rationale and evidence for the proposed changes to the CSDDD affects both the clarity and the credibility of certain amendments – such as those concerning due diligence obligations (Article 8), the civil liability regime

[3] Report on the meeting of the European Ombudsman inquiry team with representatives of the European Commission, 16 June 2025, p. 3.
[4] *Idem*.

(Article 29), and climate transition plans (Article 22) – which are ambiguously drafted and open to conflicting interpretations. This uncertainty is further compounded by the lack of public consultation, which prevented stakeholders and experts from contributing their views on the Proposal's underlying policy choices.

It follows from all the foregoing that the Commission's decision to rush through the adoption of the 'content' proposal without conducting an impact assessment and a public consultation was not an attempt in good faith to address a situation of urgency.

2.3. The Commission could not rely entirely on previous impact assessments

To justify the absence of an impact assessment in the making of the Proposal, the Commission argues in its Reply (i) that the evidence supporting the proposal was set out in the Explanatory Memorandum and the Staff Working Document accompanying the Proposal and (ii) that the latter was itself based on the initial impact assessment conducted for the original CSDDD proposal.

With respect to the first point, the Complainants refer to Section 5.1.3 of their Complaint, which demonstrates that neither the Explanatory Memorandum nor the Staff Working Document present sufficient evidence to assess whether the proposed changes to the CSDDD would achieve their intended benefits – in particular, the preservation of the environmental and human rights-related objectives claimed by the Commission.

Regarding the second point, it is clear from the Commission's Reply that, contrary to what it alleges, **the Proposal was not built on the impact assessment initially conducted for the CSDDD proposal**.

In its reply, the Commission indeed admits that in the making of the Proposal, it referred to the impact assessment for the initial CSDDD only insofar as it was helpful to calculate compliance cost savings that could result from the proposed amendments to the Directive. The Commission thereby agrees that it did not consider the previous impact assessment for the CSDDD to evaluate the potential impacts of the Proposal on the environmental and human rights-related objectives pursued by the Directive. **Absent any such assessment in the Explanatory Memorandum and Staff Working Document, it therefore appears that the Commission has not at all assessed if and how its proposed amendments may affect the environmental and human rights benefits that the initial impact assessment for the CSDDD identified for the policy options reflected in the initial Directive**. Instead, the Commission simply presumed that the proposed amendments would not affect these expected benefits, or chose not to assess these benefits and to focus only on the savings of compliance costs that the Proposal could bring about. The Complainants have already highlighted that the Proposal represents a significant departure from the substantive requirements of the CSDDD that aim to provide better protection of the environment and human rights. Therefore, the Commission cannot allege that its Staff Working document "built on" the initial impact assessment for the CSDDD and cannot invoke it to justify not conducting a new impact assessment in making the Proposal.

In reality, **the Commission could not possibly rely on the initial impact assessment for the CSDDD and had to conduct a new impact assessment:**

- According to the Commission itself, the main reason for putting forward the Proposal is a change of circumstances (the economic, geopolitical and regulatory landscapes have evolved) raising challenges about the application of the CSDDD. However, as explained in Section 5.1.4 of the

Complaint, such change of circumstances should have made the initial impact assessment obsolete and required a new impact assessment to evaluate the impacts of the proposed changes and how they would affect the achievement of broader objectives of the CSDDD. It would also require an assessment of whether in light of the new context, the competitive benefits of the proposed amendments would be proportional to the negative impacts on the protection of the environment and human rights. Moreover, it is hard to see how the Commission could rely on an impact assessment that justified the opposite policy options enshrined in the CSDDD to depart from them in the Proposal – such an approach is inconsistent methodologically flawed.

- Moreover, the original impact assessment for the CSDDD was designed to assess the impacts of introducing the new legislation, not modifying, delaying, or weakening the legislation adopted on the basis of that impact assessment. These are fundamentally different questions to be answered and the conclusions of an initial impact assessment for a law do not automatically apply to its revision. Changing or delaying the implementation of the CSDDD may affect relevant stakeholders (companies, investors, workers, civil society and victims of environmental damages or human rights abuses) in different and potentially more disruptive ways than originally assessed. For example, the lowering of certain legal obligations as suggested in the Proposal with respect to companies' due diligence and climate transition plans risks generating an unlevel playing field, sanctioning companies that have already invested in complying with the Directive. The impact on such companies and the potential loss of time, staff or financial investment in preparation of the implementation of the CSDDD is entirely unaddressed in the Staff Working Document. Likewise, the proposal to weaken the substantive standards or suppress certain provisions with a view to simplifying the CSDDD can result in changing their meanings or to a less precise legislative text, which may entail legal uncertainty for Member States having to transpose and implement, and for companies having to apply the Directive. These potential unintended consequences were not assessed in the original impact assessment. A new impact assessment was thus needed to fully understand the balance of the expected costs and benefits of amending or delaying the CSDDD rules.

3. The Commission fails to justify the absence of public consultation

In its Reply, the Commission defends its decision to bypass a public consultation on the grounds that (i) it was not required under the Better Regulation Guidelines in the absence of an impact assessment due to urgency, (ii) it was in fact not feasible due to the urgency of the file and (iii) a public consultation was not necessary, given the Commission's numerous exchanges and interactions with stakeholders, namely those already listed in the Explanatory Memorandum. None of these arguments are convincing.

3.1. The lack of public consultation was not justified by urgency

With respect to the first point, the Complainants refer to Section 2 above, which demonstrates that **the Commission fails to substantiate its claim** that waiving both the impact assessment and public consultation was warranted by **genuine and exceptional urgency** under the Better Regulation Guidelines, rather than political convenience – especially in light of the substantive changes proposed by the Commission to the CSDDD (and CSRD).

3.2. The alleged urgency was not such as to prevent a public consultation

Regarding the second point, even assuming *arguendo* that there was urgency as the Commission alleges, the Commission's argument that such urgency made a public consultation unfeasible is unconvincing.

Indeed, as part of the Omnibus I package, the Commission also included two other initiatives: (i) a draft delegated act under the EU Taxonomy Regulation[5] amending previous delegated acts that detailed the disclosure requirements[6] and the conditions for an activity to qualify as sustainable under the Taxonomy framework;[7] and (ii) a specific mandate[8] for the European Financial Reporting Advisory Group ('EFRAG', the association mandated as a technical advisor to the European Commission for the development of draft sustainability reporting standards under the CSRD) to deliver technical advice on the simplification of the European Sustainability Reporting Standards (or 'ESRS', which set out in detail the reporting requirements for companies under the CSRD). The draft Taxonomy Delegated Act was subjected to public consultation.[9] Likewise, the EFRAG proposal for revised ESRS went through public consultation.[10] This suggests that the situation of urgency alleged by the Commission was not such as to prevent public consultation.

The Commission, therefore, could and should have, conducted a public consultation with respect to the Proposal, despite the tight political timelines which it invokes.

3.3. The Commission's limited engagement with stakeholders was inadequate

The Commission's reference to "numerous consultation activities", "intense outreach to stakeholders", and "abundant feedback" gathered cannot credibly substitute for a formal public consultation process as required by the Better Regulation Guidelines.[11] In its response, the Commission does not provide any additional information beyond what it already indicated in the Explanatory Memorandum and during its Meeting with the Ombudsman's inquiry team. Therefore, the Complainants restate here Section 5.2 of their Complaint demonstrating that these activities were insufficient and lacked the necessary structure to support meaningful input for the Proposal concerning the CSDDD – and hence do not qualify as proper public consultations within the meaning of the Better Regulation Guidelines.

Nevertheless, the Complainants wish to point out the following elements:

- During the Meeting with the Ombudsman's inquiry team and in its Reply, the Commission claims that the call for evidence on the rationalisation of reporting requirements from October to December 2023, in response to which it received many submissions, including "stakeholder positions on other matters", informed the Omnibus proposal. While this call for evidence may have touched upon matters relevant to the CSRD, **the Commission fails to demonstrate how the contributions from**

[5] Regulation (EU) 2020/852 of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.
[6] Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021.
[7] Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 and Commission Delegated Regulation (EU) 2023/2486 of 27 June 2023.
[8] Commissioner Albuquerque Letter to EFRAG March 2025.pdf
[9] See the 'Have your say' webpage on the Commission's website for the public consultation conducted with respect to the Taxonomy Delegated Acts.
[10] See EFRAG's press release of 31 July 2025 on EFRAG's website.
[11] Commission's Reply, pp. 6-7.

this call for evidence were directly relevant to the CSDDD, especially considering that the CSDDD had not yet been adopted in 2023.

- The Commission also points to two large hybrid forums held in May and November 2024 on the CSRD, which it claims provided it with in-depth assessments of difficulties companies faced in implementing ESRS. However, **the Commission again does not explain how the feedback from these events contributed to or was relevant for the proposed amendments to the CSDDD**, nor is it apparent from the Staff Working Document.

- The Commission mentions various stakeholders' position papers, open letters, as well as bilateral meetings with some of the Complainants as part of its outreach activities that helped make "a targeted set of proposals that ensure cost-effective delivery of the underlying policy objectives".[12] While these contributions may have been valuable, they do not qualify as a formal public consultation under the Better Regulation Guidelines (see our Complaint, page 25). According to the latter, consultations must include proper documentation and a transparent process, allowing stakeholders to submit informed and meaningful contributions. **The inputs referenced by the Commission were submitted without knowledge of the formal preparation process of the Omnibus Proposal and without the background documentation required by the Better Regulation Guidelines for public consultations**, and thus cannot be treated as equivalent to a proper consultation. Moreover, the Commission's responses to these inputs were vague and lacked clarity on how they were integrated into the policymaking process.[13] In this regard, the Complainants would like to point out that attempts by stakeholders to contact the Commission to make their views heard through open letters and position papers cannot be used to demonstrate that the Commission has met the requirements and discharged the duties that fall upon it when consulting the public. Furthermore, the Complainants argue that the need to resort to pro-active outreach of specific interested organisations was notably stimulated by the absence of a structured stakeholder consultation or clear process, not the cause of it.

- The Commission refers to the "**reality checks**" held on 5–6 February 2025 as part of its stakeholder engagement process. However, the Complainants would like to stress that these reality checks are a novel form of engagement specifically introduced by the Commission to carry out its new simplification strategy (see our Complaint, page 27). The reality checks were introduced without prior notice or explanation of their purpose or format. The Commission only mentioned these reality checks in its Communication on Implementation and Simplification of 11 February 2025, a few days after the meetings on the 5-6 February took place, leaving stakeholders with no clear understanding of their role in the policymaking process and how to access them. Mere reference to them in Commissioner Dombrovskis' mission letter of 17 September 2024, without any explanation, is not enough to formalise these types of meetings. In addition it is also unclear how broad participation and the ability to voice an opinion is ensured in these meetings. **Therefore, reality checks cannot serve as a substitute for the balanced process of public consultation with open access or at least regulated participant selection (as it is in the case of targeted consultations) to ensure that it represents the widest range of interests.**

- The Complainants note that, during the Meeting with the Ombudsman's inquiry team, the Commission explained that "since the meetings were taking place under the authority and with the participation of Commissioner Dombrovskis, it was normal that his Cabinet took the decision on the

[12] *Ibidem*, p. 7.
[13] See examples of such replies in Annexes 6, 7 and 8 to our Complaint.

participants to be selected for the meetings."[14] However, **the Commission fails to clarify the criteria used to select participants as well as the approach taken to ensure a broad range of interests could be present.** This lack of transparency leaves significant room for arbitrariness and raises serious concerns about the diversity and balance of the feedback collected to inform policy choices.

- The Commission also stated during the Meeting that the reality checks were intended to gather input from "stakeholders who are directly concerned."[15] Yet **the Commission's conception of "directly concerned" appears very narrow**: the Commission itself indicated that the majority of participants were businesses and business associations – despite the fact that the CSDDD directly affects not only companies, but also civil society, affected communities, and EU citizens in areas such as human rights and environmental protection. By overwhelmingly favouring business interests, the Commission disregarded many of the stakeholders most "directly concerned" by the legislation. While the Commission claims that over a hundred participants were involved, "including civil society organisations,"[16] it failed to mention that civil society organisations made up only a small fraction of attendees (see our Complaint, page 10). The composition of invitees was heavily skewed, with six times more business representatives than civil society participants. Such an imbalance undermines any claim that the process constituted an objective or representative consultation of "stakeholders who are directly concerned."

To conclude, the manner in which stakeholder exchanges were conducted in no way demonstrates that a public consultation would not have brought new and valuable information to the decision-making process, contrary to what the Commission claims. Indeed, an adapted consultation strategy allowing a broader diversity of stakeholders to participate may have yielded broader insights, making the claim self-fulfilling. In light of the above, **it is indeed highly questionable that the Commission could consider these so-called "extensive exchanges and interactions" with stakeholders as a sufficient basis to proceed with confidence that it had heard and taken into account diverse relevant views or provided stakeholders with a meaningful opportunity to raise their concern**s, including in written form. The informal, selective, and opaque nature of these interactions falls far short of the standards set by the Better Regulation Guidelines for conducting a proper consultation process.

4. The Commission did not carry out a climate consistency assessment on aspects of the Proposal related to the CSDDD

The Commission asserts that it conducted a climate consistency assessment pursuant to Article 6(4) of the European Climate Law (a "**CCA**") on the Proposal and summarized its findings in the Staff Working Document and Explanatory Memorandum. It also refers to an internal document shared with the Ombudsman, which allegedly contains an analysis amounting to a CCA. According to the Commission, this analysis concluded that the proposed changes to Article 22 of the CSDDD are merely terminological and have no impact on the EU's climate objectives. The Commission further claims that in any case, where

[14] Report on the meeting of the European Ombudsman inquiry team with representatives of the European Commission, 16 June 2025, p. 5.
[15] *Idem*.
[16] *Idem*.

no impact assessment is required under the Better Regulation Guidelines, a CCA does not need to take a specific form.

4.1. No CCA was conducted for the provisions of the Proposal amending the CSDDD

The Complainants maintain that including a brief summary of the Commission's conclusions in the Staff Working Document and Explanatory Memorandum does not constitute a CCA within the meaning of Article 6(4) of the European Climate Law. These documents merely assert that the Proposal simplifies reporting and due diligence obligations without impacting climate objectives, yet fail to provide the legal or factual reasoning behind this conclusion. Without transparency regarding methodology, assumptions, and legal interpretation, stakeholders and the co-legislators cannot meaningfully assess the climate compatibility of the proposal (see our Complaint, pages 22 and 23).

While the Commission states in its Reply that a CCA underpinning these conclusions was carried out and shared it with the Ombudsman on 30 June 2025, the only relevant document listed at the end of the report of the Meeting is an email of the Commission services with an analytical attachment focused solely on the scope of the CSRD (the fifth document in the list). There is no indication that the analysis addressed the amendments to the CSDDD, particularly Article 22 or other key provisions.

The argument put forward by the Commission in its Reply that the changes to Article 22 of the CSDDD have no practical implications, thus appears to be an *ex post* justification developed in response to the Ombudsman's inquiry, rather than a forward-looking assessment conducted prior to the adoption of the Proposal, as required under Article 6(4) of the European Climate Law.

This is also confirmed by the Ombudsman in her letter of 16 June 2025, in which she stated that "these documents do not seem to contain a specific internal assessment of the consistency of the legislative proposal with the climate-neutrality objective".[17]

Even assuming that the Commission did conduct some form of analysis, it appears to be superficial and incomplete for several reasons:

- The Commission's **framing of the amendments as mere simplifications** is factually incorrect. The Complainants have already pointed out in their Complaint that the changes proposed to the CSDDD are substantive and significant. Even if these changes were small, terminological or procedural changes (as alleged by the Commission), they can materially affect corporate behaviour, the stringency of climate-related obligations, and ultimately the pace and scale of climate action. This in turn, impacts the EU's ability to meet its climate targets. The Commission's failure to evaluate these effects demonstrates an absence of meaningful assessment.
- The analysis appears **limited to a semantic comparison** between the existing obligation to "put into effect" climate transition plans (**CTPs**) and the new requirement for CTPs to include "implementing actions". If the two expressions were truly interchangeable, a legislative amendment would be unnecessary. The Complainants submit that the fact that such an amendment was proposed suggests that it has a substantive difference (in this respect, see our Complaint, pages 23-24). Accordingly, the Commission's assertion that the Proposal "will not alter the expectation that

[17] Letter of the European Ombudsman to the Commission of 11 July 2025, p. 3.

companies will implements the climate transition plan",[18] required a clear explanation of the intended meaning and potential effects of the new language. Specifically, the Commission should have assessed whether the revised wording might change how companies implement their CTPs in practice – and whether this could affect the achievement of the EU's climate goals. No such explanation is provided.

- The Commission's analysis, if any, seems limited to Article 22 CSDDD. **It does not address other proposed changes to the CSDDD that could affect its climate objectives** – most notably, the proposed amendments aimed at reducing the scope of the CSDDD due diligence obligations as defined in its Article 8.[19] A climate consistency assessment that fails to examine all relevant aspects of the Proposal cannot satisfy the requirements of Article 6(4) of the European Climate Law.

4.2. The Commission misinterprets its legal obligations under Article 6(4) of the European Climate Law

The Commission states that when there is no impact assessment for a proposal, "there is no specific format required for the assessment of the climate consistency".[20] The Complainants note that this position appears to nuance a previous Commission's position that when there is no impact assessment for a measure, there is no obligation to carry out a CCA.[21] If the Complainants' understanding of the Reply is correct and if this is now the Commission's position, it is a step towards alignment with Article 6(4) of the European Climate Law and recent case law.

Indeed, the obligation applies to **all legislative proposals**, regardless of whether they are accompanied by an impact assessment. The European Climate Law imposes a **separate and independent procedural requirement**. While the European Climate Law requires the CCA to be included in the impact assessment where such an assessment exists, it does not state or imply that the absence of an impact assessment removes the obligation to assess climate consistency. Similarly, the absence of a legally prescribed template does not mean the Commission can avoid producing or publishing a substantive assessment in another format. This has recently been confirmed by the General Court, which ruled that "*Article 6(4) of the European Climate Law does not provide for any specific form to be observed for the assessment for which it provides. Thus, the essential objective of that provision is **to make sure** that the Commission takes **an informed decision** about the consistency of a draft measure with the targets of that law*" (emphasis added)".[22] According to the General Court, this is an "essential objective". In that particular case relating to the amended Climate Delegated Act (on nuclear power and fossil gas) under the Taxonomy Regulation, the General Court found that a prior impact assessment assessed the compatibility of the

[18] Commission's Reply, p. 8.
[19] Indeed, given that the due diligence required by the CSDDD covers *inter alia* harmful greenhouse gas emissions and climate-related impacts on human rights (see in this respect ClientEarth and Frank Bold, Corporate Environmental Due Diligence and Reporting in the EU, Legal analysis of the EU Directive on Corporate Sustainability Due Diligence and policy recommendations for transposition into national law, September 2024, pp. 31-34.), reducing its scope may result in weakening companies' duty to mitigate their impact on climate. This, in turn, risks significantly undermining the CSDDD's contribution to achieving the EU's climate neutrality objective.
[20] Commission's Reply, p. 9.
[21] In this respect, ClientEarth respectfully refers the Ombudsman to page 5 of the Reply by the European Commission on a request for information from the European Ombudsman, inquiry ref. 1379/2024/MIK; and the references to the Better Regulation Guidelines and the EU Climate Action progress report 2023, pursuant to which CCAs must be drawn "as part of the impact assessment process."
[22] Judgment of 10 September 2025, *Austria v. Commission*, T-625/22, ECLI:EU:T:2025:869, para. 86.

contested regulation with the EU's climate objectives.[23] In the present case however, there was no impact assessment for the amendments to the CSDDD where such essential CCA could have been contained.

The Complainants would also like to inform the Ombudsman that the Commission admitted for the draft amendments to the Taxonomy Regulation Climate Delegated Act having only stated that the proposal was consistent with the climate targets in a recital – that was not even accurate since it was "based on the wording from a prior, but different, delegated act" – and not having drawn up a separate document containing a CCA.[24] Although this is for a different act than the CSDDD amendments proposal (albeit also part of the Omnibus I package), this exemplifies that the Commission is recurrently failing its obligation to draw and publish CCAs.

In any case, Article 6(4) of the European Climate Law explicitly requires the Commission to **publish** its CCA. This is an additional obligation that ensures not only that the assessment is carried out, but the public is informed of the contents of this assessment. Indeed, the European Climate Law does not specify the form of such publication; however, it is clear that an assessment, which would allow the public to understand the reasoning behind the main conclusions made therein, must be made directly accessible to the public.

Therefore, sharing internal documents with the Ombudsman during an inquiry does not meet this transparency requirement. Stakeholders must be able to access and scrutinise the CCA to assess whether the Proposal is aligned with the EU's climate goals. Public disclosure of the Commission's document of 30 June 2025 (document 5), assuming it even constitutes a valid CCA, would contribute to informing the public.

To conclude, the Commission has failed to demonstrate that it conducted a meaningful and timely CCA for the amendments to the CSDDD contained in the Proposal. Furthermore, no such CCA was published. Its selective, after-the-fact justifications and narrow interpretation of its legal obligations fall far short of the transparency and rigour required under the European Climate Law. This represents a clear procedural shortcoming and undermines stakeholders' ability to scrutinise the Commission for alignment with the EU's climate objectives in this legislative process.

5. The Commission fails to justify a fast-track interservice consultation

The Complainants understand from the Meeting between the Commission and the Ombudsman's inquiry team that the interservice consultation started on a Friday evening and the deadline was less than 24 hours with a technical meeting organised only 7.5 hours before the deadline and relevant documents not shared with the services in advance.

These elements make it hard to perceive this as a genuine and meaningful interservice consultation with an intent to meaningfully involve all the services concerned within the Commission. This is particularly damaging to rigorous and evidence-based policymaking, especially in light of the importance and cross-service impact of legislative acts such as the CSDDD and the Proposal. In addition, the absence of proper

[23] *Ibidem*, para. 86-92.
[24] Commission's reply to ClientEarth access to document request, ref. Ares(2025)5090681 – 26/06/2025, attached as Annex 1.

public consultation meant that any external experts on the aspects touched upon by the Proposal were not consulted. This would have warranted an even stronger and extended interservice consultation.

The Commission's only response to this is that (i) the use of a fast-track interservice consultation "is not extraordinary"[25] and the Rules of Procedures of the Commission allowed for a fast-track interservice consultation of less than 48 hours on grounds of urgency, (ii) in any event, the departments concerned worked together on the preparation of the Proposal from an early stage and (iii) the interservice consultation was followed by a special meeting of Cabinets and the weekly meeting of Heads of Cabinet.

With respect to the first point, this is factually incorrect. Article 60(1) of the Rules of Procedure of the Commission explicitly reserves fast-track interservice consultation to "exceptional cases", where it can be demonstrated that there are "duly justified grounds of urgency". The present case is, however, not an exceptional one, and the Complainants refer to Section 2 above demonstrating the absence of urgent circumstances which could justify a derogation under Article 60(1) of the Rules of Procedure of the Commission and, in any event, that were so extreme as to justify an interservice consultation of less than 24 hours. In addition we note that the Ombudsman stressed in her letter of 11 July 2025 that the Commission did not submit for inspection any documents explaining the extreme urgency that justified such a short interservice consultation and requested clarification on this issue. The Commission has not provided further explanation on this in its Reply, except for the laconic statement that "this derogation was deemed appropriate" in light of urgency.[26] The fact that the Commission did not provide to the Ombudsman the documents requested to justify the extreme urgency it alleges raises doubts as to whether the procedure foreseen by Article 60 of the Rules of Procedure of the Commission was actually followed at all.

Furthermore, the second point is irrelevant. The fact that the Commission's departments concerned might have been involved in the preparation of the Proposal from the outset of the preparation is not a derogation foreseen in Articles 59 and 60 of the Rules of Procedure of the Commission to justify a fast-track interservice consultation absent "duly justified grounds of urgency". In any case, the Commission does not demonstrate what it claims. On the contrary, as explained in Section 3.1 of the Complaint, the information available to the Complainants indicates that the preparation of the Proposal was handled at the highest political level, primarily within the cabinets of Vice-President Dombrovskis and President von der Leyen, as well as the Commission's Secretariat General, rather than at the level of the Commission's services.

As for the third point, the special meeting of Cabinets and the weekly meeting of Heads of Cabinet cannot make up for an insufficient interservice consultation. Cabinets of Commissioners have a *political* function and are not services of the Commission within the meaning of Articles 55 *et seq* of the Rules of Procedure of the Commission which govern the interservice consultation, and therefore cannot play the more *technical* role assigned to the latter in the making of a legislative proposal.[27] According to Article 10(1) and (2) of the Rule of Procedure of the Commission, special meetings of Cabinets and weekly meetings of Heads of Cabinet have a different function to that of the interservice consultation, which is to prepare the agenda items for meetings of the Commission. They take place *in addition to* a meaningful interservice consultation conducted in accordance to Articles 55 *et seq* of the Rules of Procedure of the Commission, not *in lieu of* it.

[25] Report on the meeting of the European Ombudsman inquiry team with representatives of the European Commission, 16 June 2025, p. 5.
[26] Letter of the European Ombudsman to the Commission of 11 July 2025, p. 4; Commission's Reply, p. 9.
[27] The Rule of Procedure of the Commission make a clear distinction between cabinet on the one hand, and services on the other. See for example Article 50(3) of the Rule of Procedure of the Commission, which distinguishes the two.

6. The Commission's assertion that the Better Regulation Guidelines are not binding is incorrect

The Commission insists that the Better Regulation Guidelines are not legally binding requirements.[28] This is incorrect and contradicts established CJEU case-law on internal guidance documents.

While the Better Regulation Guidelines and the associated Toolbox are not binding legislative acts, the Complainant wish to again point out that these instruments are a set of concrete rules to implement the public's right to democratic participation in legislative processes enshrined in Articles 10(3) and 11 TEU and that the General Court has recognised that such internal rules and policies must be taken into account when examining the legality of acts adopted by EU bodies. The Complainants have already stated in their Complaint that the General Court has found that the internal rules and policies developed by other EU bodies such as the European Investment Bank (EIB) limit their discretion: "*It should be recalled that, for the purposes of achieving the objectives of the TFEU, the bodies of the EIB adopt, in particular in the form of policies, strategies, appraisals, principles or standards, internal policies of general scope, duly published and implemented, which, irrespective of their binding nature or not in the strict sense, limit the exercise of the EIB's discretion in the exercise of its activities.*"[29]

In addition, according to the Ombudsman's decisional practice, restated in the present case, "EU institutions and bodies should apply the rules they have established for themselves. This ensures consistency, transparency and avoids any sense of arbitrariness in the way the EU administration works".[30] The public has a legitimate expectation that the Commission will follow its own guidelines and be consistent in their continued application.[31] Therefore, as explained in Section 4.1 of the Complaint, the Better Regulation Guidelines set binding rules on the manner of conducting public consultations and limit the discretion of the Commission to guarantee the right of the public to democratic and participatory decision making enshrined in Articles 10(3) and 11 TEU.

In any event, in the present case, the Complainants submit that the Commission committed a case of maladministration and raise concerns about arbitrariness, lack of transparency and a lack of democratic participation, which do not require a finding of a breach of legally binding obligations.

Finally, the Complainants would like to remind the Commission that Article 6(4) of the European Climate Law, which the Commission violated when adopting the Proposal, as demonstrated in Section 4 above, constitutes a legally binding requirement on the Commission.

[28] Commission's Reply, p. 3.
[29] General Court, Case T-9/19, *ClientEarth v European Investment Bank*, ECLI:EU:T:2021:42, para. 123.
[30] Letter from the European Ombudsman to the Commission of 21 May 2025, p. 1.
[31] The Better Regulation Guidelines use language that shows high levels of expectation as to how the Commission should conduct law-making. They state in very peremptory terms that the Commission is required to act in a certain way regarding the conduct of impact assessments and public consultation. For example: "An impact assessment is **required** for Commission initiatives that are likely to have significant economic, environmental or social impacts or which entail significant spending, and where the Commission has a choice of policy options" (Better Regulation Guidelines, p. 30); "When is stakeholder consultation required?"; "Public consultation and feedback **requirements** […] **Mandatory** internet-based public consultation (minimum 12 weeks) […] initiatives with impact assessments" (Better Regulation Guidelines, pp. 15-16).

7. Conclusion

As a conclusion, on the absence of impact assessment in the making of the Proposal, the Complainants wish to reiterate the risk that **the Commission is setting a dangerous precedent for future policymaking** that, when exposed to pressure from certain interest groups, it may:

- hurriedly revise laws soon after their adoption, without first assessing on the basis of objective evidence and consulting the public whether such revision is necessary and what its impacts may be; and
- if needed to accommodate the pressing demands from those interest groups, not only circumvent the rules it has set for itself in the Better Regulation Guidelines, but also its legal obligations (as in this instance relating to climate consistency assessment under Article 6(4) of the European Climate Law).

Such a practice undermines the foundation of evidence- and rules-based policymaking and democratic participation, as well as the level of integrity and transparency that EU citizens should expect from their institutions. It risks fuelling a sense of arbitrariness and distrust towards EU institutions' willingness have their political decisions scrutinised by the public. In short, the Commission's disregard of its own procedural standards for political reasons in the present case opens the door to future abuses, and threatens to erode EU citizens' trust in EU democracy.

This risk is **imminent** as further omnibus-type legislative initiatives have been announced and partly have already been put forward by the Commission for the coming year in sectors as varied as agriculture, environmental law, the regulation of batteries, energy, chemicals, defence, and food and feed safety.

Based on the above, the Complainants restate all their requests under Section 6 of their Complaint.

We would like to thank you for your consideration of our complaint and additional comments and remain at your disposal in case any further information is required.

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