

Executive summary: Legal Analysis Identifies Critical Constitutional Questions in EU Sustainability Reforms

A comprehensive legal assessment by Cirio Law Firm examines constitutional challenges to the EU's Omnibus package. The analysis indicates that certain reform proposals may face extended judicial review periods of 3–5 years, creating significant uncertainty for businesses across Europe.

The EU Commission's Omnibus package aims to simplify sustainability regulations, but our legal analysis reveals that key proposals could encounter substantial judicial scrutiny. The most significant concerns arise from proposals to fundamentally alter or repeal corporate due diligence requirements, which may raise questions about compatibility with established EU legal principles.

Constitutional Considerations

Our analysis identifies several specific rollback proposals in the Omnibus package that raise serious constitutional concerns.

These include:

- the proposed repeal (Merz/Macron) of the CSDDD;
- the restriction of due diligence duties to direct (tier-1) suppliers only;
- the deletion of the phrase “put into effect” in Article 22 of the CSDDD, which would remove the obligation to implement climate transition plans; and
- the amendment to CSRD Article 19a(1), which would exempt more than 80% of currently covered companies.

Together, these changes would significantly lower protection levels previously established through secondary legislation in areas closely tied to Charter rights — such as environmental protection, intergenerational equity, and access to information.

When EU secondary legislation gives concrete effect to Charter rights, any subsequent reduction in protection levels raises significant questions under Article 52(1). The legislator must demonstrate that such changes are necessary and proportionate. This interpretation finds support in the Court’s evolving jurisprudence on fundamental rights protection. Reductions that are not properly justified may not survive judicial scrutiny if challenged after implementation.

The Timeline Challenge

Based on precedent from similar constitutional challenges to EU legislation, any serious legal challenge could require 3–5 years for resolution through the European court system. This timeline presents a paradox: reforms intended to reduce business uncertainty could instead create a prolonged period of regulatory ambiguity that exceeds the challenges of the current system.

Understanding the Core Issue

Our research reveals that the primary challenge isn't the volume of regulations but their interpretive complexity. Companies operating in identical sectors report vastly different numbers of material sustainability issues—ranging from 9 to 140—under the same regulatory framework. This variance suggests that clearer definitions and methodologies, rather than fewer obligations, might more effectively address business concerns. Moreover, in the CSDDD, obligations are

framed in terms such as "appropriate measures" without clear thresholds for sufficiency, proportionality, or causation. This ambiguity results in legal uncertainty not only for companies, but also for regulators and assurance providers, and contributes to systemic risk across the internal market.

Alternative Pathways

The analysis identifies potential reforms that could reduce reporting and compliance burdens by 45–48% while maintaining legal robustness. These approaches focus on establishing clear legal thresholds, implementing proportionality based on measurable criteria, and providing methodological clarity rather than prescriptive requirements. For the CSRD, this includes restructuring materiality around stakeholder decision relevance. For the CSDDD, it involves linking the duty to act with causation, clarifying what constitutes an appropriate measure, and introducing a structured proportionality framework. Such technical improvements could achieve simplification objectives without triggering constitutional concerns.

Implications for Stakeholders

The current situation requires careful consideration from multiple perspectives. Policymakers must balance simplification objectives with legal framework requirements. Businesses face the challenge of planning for multiple scenarios—either reformed regulations or an extended period of legal uncertainty. The international dimension adds further complexity, as trading partners who have aligned with EU standards may need to reassess their approaches if fundamental changes occur.

This assessment draws on extensive review of Commission documents, relevant court precedents, and comparative corporate reporting data. The analysis also incorporates insights from David Frydlinger's *Rules of the Game for Sustainable Business* (Wolters Kluwer, 2024), which provides comprehensive framework analysis of EU sustainability regulations.

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The three Cirio papers are available [here](#) for download.

Cirio is a leading Nordic law firm, also specialising in regulatory compliance and sustainability frameworks. This analysis represents technical legal assessment based on current juridical understanding.