eurelectric
powering people

Corporate Sustainability Due Diligence Directive

Eurelectric amendments

November 2022

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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WG Financial Regulation & Market Integrity
WG Social Sustainability

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Amendment Proposals

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 1
Article 2 - Scope

Original text	Original text +**amendments**
1. This Directive shall apply to companies which are formed in accordance with the legislation of a Member State and which fulfil one of the following conditions […]	**5. (new) By way of derogation from paragraph 1 and 2, subsidiaries that are falling under the scope of this Directive shall be exempted from the fulfilment of due diligence obligations when the parent company falling under the scope of this Directive fulfils these obligations on behalf of the subsidiaries.**
4. As regards the companies referred to in paragraph 1, the Member State competent to regulate matters covered in this Directive shall be the Member State in which the company has its registered office.	**The fulfilment of the overall content of the proposed directive on a group level should be without prejudice to the civil liability of subsidiaries. If the conditions for civil liability are met, the subsidiary should be held liable for damage occurred, irrespective of whether the due diligence obligations were carried out by the subsidiary or by the parent company on behalf of the subsidiary.**

Justification

We propose to allow parent companies to fulfil the due diligence requirements on behalf of their subsidiaries covered by this directive. As long as the governance arrangements put in place by the parent company ensure their application within the subsidiaries, such an exemption is reasonable and useful to avoid any excessive administrative burden. It will ensure simplification within the group and harmonisation, most needed both for the fulfilment of the obligations and their monitoring.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 2

Article 3 - Definititions

Original text	Original text +**amendments**
(g) '***value*** chain' means activities related to the production of goods or the provision of services by a company, including the development of the product or the service **and the use and disposal of the product** as well as the related activities of upstream **and downstream** established business relationships of the company. As regards companies within the meaning of point (a)(iv), '***value*** chain' with respect to the provision of these specific services shall only include the activities of the clients receiving such loan, credit, and other financial services and of other companies belonging to the same group whose activities are linked to the contract in question. The ***value*** chain of such regulated financial undertakings does not cover SMEs receiving loan, credit, financing, insurance or reinsurance of such entities;	(g) '**supply** chain' means activities related to the production of goods or the provision of services by a company, including the development of the product or the service as well as the related activities of upstream established business relationships of the company. As regards companies within the meaning of point (a)(iv), '**supply** chain' with respect to the provision of these specific services shall only include the activities of the clients receiving such loan, credit, and other financial services and of other companies belonging to the same group whose activities are linked to the contract in question. The **supply** chain of such regulated financial undertakings does not cover SMEs receiving loan, credit, financing, insurance or reinsurance of such entities; ***(This amendment applies throughout the text.)***

Justification

The scope of the Directive should be limited to the supply chain of companies as they can manage to control their upstream business relationships but are not able to effectively monitor the future transactions/contracts of their clients (downstream business relations). The difficulty of tracing the availability and use of products and services in the downstream value chain appears particularly delicate for reasons relating to the protection of trade secrets and the profound imbalance in customer relations. It would mean introducing a new obligation that the company cannot fulfil. Therefore, the obligation to control the downstream relationship should not be covered by the scope of the Directive.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 3 Article 4- Due Diligence	
1. Member States shall ensure that companies conduct human rights and environmental due diligence as laid down in Articles 5 to 11 ('due diligence') by carrying out the following actions: (a) integrating due diligence into their policies in accordance with Article 5; (b) identifying actual or potential adverse impacts in accordance with Article 6; (c) preventing and mitigating potential adverse impacts, and bringing actual adverse impacts to an end and minimising their extent in accordance with Articles 7 and 8; (d) establishing and maintaining a complaints procedure in accordance with Article 9; (e) monitoring the effectiveness of their due diligence policy and measures in accordance with Article 10; (f) publicly communicating on due diligence in accordance with Article 11. 2. Member States shall ensure that, for the purposes of due diligence, companies are entitled to share resources and information within their respective groups of companies and with other legal entities in compliance with applicable competition law.	Original text **+amendments** **Member States shall ensure that companies which are subject to temporary emergency obligations decided at EU level or with the support of the European authorities can benefit from a derogation from the obligations mentioned in Article 4. The derogation shall end when the emergency measures are repealed.**

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 4	
Article 6 - Identifying actual and potential adverse impacts	
Original text	Original text **+amendments**
1. Member States shall ensure that companies take appropriate measures to identify actual and potential adverse human rights impacts and adverse environmental impacts arising from their own operations or those of their subsidiaries and, where related to their value chains, from their established business relationships, in accordance with paragraph 2, 3 and 4.	1. Member States shall ensure that companies take appropriate measures to identify actual and potential adverse human rights impacts and adverse environmental impacts arising from their own operations or those of their subsidiaries and, where related to their **supply** chains, from their established business relationships, in accordance with paragraph 2, 3 and 4.
[…]	[…]
	5. (new) Member States shall ensure that companies are allowed to prioritise the identified actual and potential adverse impacts. The risk-based prioritisation of adverse impacts shall be based on the level of severity and likelihood of an adverse impact, the company's ability to address the adverse impact, and the company's direct contribution to the cause of the adverse impact. Severity of an adverse impact shall be assessed based on its scale, scope and irremediable character.
	6. (new) Where a company has made a comprehensible prioritisation pursuant to paragraph 5, the fact that measures to prevent, mitigate, bring to an end or minimise an actual or potential adverse impact under Article 7 or Article 8 have not or have not yet been taken place shall not give rise to sanctions in the meaning of Article 20 nor to civil liability in the meaning of Article 22.

Justification

Prioritisation of adverse impacts, that is based on severity and likelihood of the adverse impact, and a risk-based approach are key elements of the existing international voluntary standards and also the German Due Diligence Law (Lieferkettensorgfaltspflichtengesetz- LkSG). These are important factors in making due diligence manageable for business. The company's ability to address the impact should also be taken into account. In order to add legal certainty for companies, there must also be clarity that where companies have made a comprehensible prioritisation in the meaning of Article 6, liability is excluded. The legislation should clearly set out the obligations imposed on companies.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 5	
Article 7 – Preventing potential adverse impact	
Original text	Original text +**amendments**
1. Member States shall ensure that companies take appropriate measures to prevent, or where prevention is not possible or not immediately possible, adequately mitigate potential adverse human rights impacts and adverse environmental impacts that have been, or should have been, identified pursuant to Article 6, in accordance with paragraphs 2, 3, 4 and 5 of this Article.	1. Member States shall ensure that companies take appropriate measures to prevent, or where prevention is not possible or not immediately possible, adequately mitigate potential adverse human rights impacts and adverse environmental impacts that have been, or should have been, identified pursuant to Article 6, in accordance with paragraphs 2, 3, 4 and 5 of this Article.
[…]	
	To determine the appropriate measures referred to in the first subparagraph, due account shall be taken of the ability of the company to influence the business partner causing the potential adverse impact.
[…]	[…]
2. As regards potential adverse impacts within the meaning of paragraph 1 that could not be prevented or adequately mitigated by the measures in paragraphs 2, 3 and 4, the company shall be required to refrain from entering into new or extending existing relations with the partner in connection with or in the value chain of which the impact has arisen and shall, where the law governing their relations so entitles them to, take the following actions:	5. As regards potential adverse impacts within the meaning of paragraph 1 that could not be prevented or adequately mitigated by the measures in paragraphs 2, 3 and 4, the company shall be required to refrain from entering into new or extending existing relations with the partner in connection with or in the value chain of which the impact has arisen and shall, where the law governing their relations so entitles them to, take the following actions:
(a) temporarily suspend commercial relations with the partner in question, while pursuing prevention and minimisation efforts, if there is reasonable expectation that these efforts will succeed in the short-term;	(a) **after formal notice to the defaulting company,** temporarily suspend commercial relations with the partner in question, while pursuing prevention and minimisation efforts, if there is reasonable expectation that these efforts will succeed in the short-term;
(b) terminate the business relationship with respect to the activities concerned if the potential adverse impact is severe.	(b) **as a last resort,** terminate the business relationship with respect to the activities concerned if if the potential adverse impact is severe.
Member States shall provide for the availability of an option to terminate the business relationship in contracts governed by their laws.	

	. Member States shall provide for the availability of an option to terminate the business relationship in contracts governed by their laws.

Justification

The OECD Guidelines recognise that there are practical limitations on the ability of enterprises to effect change in the behaviour of their suppliers. Also the directive must recognise that the leverage of a company might be limited.

Different business situations may result from the termination of a business relationship such as loss of incomes, the difficulty to find another business partner, higher prices etc. and the severity of the potential adverse impact is subject to interpretations. It cannot be a legal obligation, because every company has to take this decision in the light of its specific situation, after carefully considering ethical issues and balancing risks linked to terminating the business relationship or not. Additionally, the CSDDD mandates Member States to provide for an option to terminate the contractual relationship, which could lead to discrepancies across national implementation and could distort competition.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 6	
Article 8 – Bringing actual advserse impact to an end	
Original text	Original text +**amendments**
1. Member States shall ensure that companies take appropriate measures to bring actual adverse impacts that have been, or should have been, identified pursuant to Article 6 to an end, in accordance with paragraphs 2 to 6 of this Article.	1. Member States shall ensure that companies take appropriate measures to bring actual adverse impacts that have been, or should have been, identified pursuant to Article 6 to an end, in accordance with paragraphs 2 to 6 of this Article.
[…]	**To determine the appropriate measures referred to in the first subparagraph, due account shall be taken of the ability of the company to influence the business partner causing the potential adverse impact.**
6. As regards actual adverse impacts within the meaning of paragraph 1 that could not be brought to an end or the extent of which could not be minimised by the measures provided for in paragraphs 3, 4 and 5, the company shall refrain from entering into new or extending existing relations with the partner in connection to or in the value chain of which the impact has arisen and shall, where the law governing their relations so entitles them to, take one of the following actions:	[…]
(a) temporarily suspend commercial relationships with the partner in question, while pursuing efforts to bring to an end or minimise the extent of the adverse impact, or	6. As regards actual adverse impacts within the meaning of paragraph 1 that could not be brought to an end or the extent of which could not be minimised by the measures provided for in paragraphs 3, 4 and 5, the company shall refrain from entering into new or extending existing relations with the partner in connection to or in the supply chain of which the impact has arisen and shall, where the law governing their relations so entitles them to, take one of the following actions:
(b) terminate the business relationship with respect to the activities concerned, if the adverse impact is considered severe.	(a) **after formal notice to the defaulting company**, temporarily suspend commercial relationships with the partner in question, while pursuing efforts to bring to an end or minimise the extent of the adverse impact, or
Member States shall provide for the availability of an option to terminate the business relationship in contracts governed by their laws.	(b) **as a last resort**, terminate the business relationship with respect to the activities concerned, if the adverse impact is considered severe.
[…]	Member States shall provide for the availability of an option to terminate the business relationship in contracts governed by their laws.
	[…]

Justification

The OECD Guidelines recognise that there are practical limitations on the ability of enterprises to effect change in the behaviour of their suppliers. Also the directive must recognise that the leverage of a company might be limited.

Different business situations may result from the termination of business relationship such as loss of incomes, the difficulty to find another business partner, higher prices etc. and the severity of the potential adverse impact is subject to interpretations. It cannot be a legal obligation, because every company has to take this decision in the light of its specific situation, after carefully considering ethical issues and balancing risks linked to terminating the business relationship or not. Additionally, the CSDDD mandates Member States to provide for an option to terminate the contractual relationship, which could lead to discrepancies across national implementation and could distort competition.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 7	
Article 9 – Complaints procedure	
Original text	Original text +**amendments**
1. Member States shall ensure that companies provide the possibility for persons and organisations listed in paragraph 2 to submit complaints to them where they have legitimate concerns regarding actual or potential adverse human rights impacts and adverse environmental impacts with respect to their own operations, the operations of their subsidiaries and their value chains.	1. Member States shall ensure that companies provide the possibility for persons and organisations listed in paragraph 2 to submit complaints to them where they have legitimate concerns regarding actual or potential adverse human rights impacts and adverse environmental impacts with respect to their own operations, the operations of their subsidiaries and their value chains.
2. Member States shall ensure that the complaints may be submitted by:	2. Member States shall ensure that the complaints may be submitted by:
(a) persons who are affected or have reasonable grounds to believe that they might be affected by an adverse impact,	(a) persons who are affected or have reasonable grounds to believe that they might be affected by an adverse impact,
(b) trade unions and other workers' representatives representing individuals working in the value chain concerned,	(b) trade unions and other workers' representatives representing individuals working in the value chain concerned,
(c) civil society organisations active in the areas related to the value chain concerned.	(c) civil society organisations **with a legitimate interest and** active in the areas related to the value chain concerned.
[…]	[…]
4. Member States shall ensure that	4. Member States shall ensure that

complainants are entitled	complainants are entitled
(a) to request appropriate follow-up on the complaint from the company with which they have filed a complaint pursuant to paragraph 1, and	(a) to request appropriate follow-up on the complaint from the company with which they have filed a complaint pursuant to paragraph 1, and
(b) to meet with the company's representatives at an appropriate level to discuss potential or actual severe adverse impacts that are the subject matter of the complaint.	**(b) deleted**

Justification

The right to complain to the company should be balanced in order to avoid complaints from persons or organisations with a mostly theoretical risk of being affected by an adverse impact or who have no legitimate interest. This will help companies focus on the more relevant complaints and avoid abuses from complainants. This is also the rule in the existing due diligence laws of EU countries.

It is an unreasonable, disproportionate requirement that any complainant should have the right to meet with the company's representatives at an appropriate level. The right to request appropriate follow-up is already balanced.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 8

Article 15 – Combating climate change

Original text	Original text +**amendments**
1. Member States shall ensure that companies referred to in Article 2(1), point (a), and Article 2(2), point (a), shall adopt a plan ***to ensure*** that the business model and strategy of the company are compatible with the transition to a sustainable economy and with the ***limiting of global warming to 1.5 °C in line with the Paris Agreement***. This plan shall, in particular, identify, on the basis of information reasonably available to the company, the extent to which climate change is a risk for, or an impact of, the company's operations.	1. Member States shall ensure that companies referred to in Article 2(1), point (a), and Article 2(2), point (a), **and Article 2(5), and covered by the Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting ,** shall adopt **a plan mentioned in Article 1 point 3 (Article 19a point (2) (a) (iii)) of that Directive**aiming to make the business model and strategy of the company compatible with the transition to a sustainable economy and with **the objective of climate neutrality in the Union by 2050 set out in point (a) Article 2.1 of the Paris Agreement.** . This plan shall, in particular, identify, on the basis of information reasonably available to the company, the extent to which climate change is a risk for, or an impact of, the company's operations.
2. Member States shall ensure that, in case climate change is or should have been identified as a principal risk for, or a principal impact of, the company's operations, the company includes emission reduction objectives in its plan.	2. Member States shall ensure that, in case climate change is or should have been identified as a principal risk for, or a principal impact of, the company's operations, the company includes emission reduction objectives in its plan.
3. Member States shall ensure that companies duly take into account the fulfilment of the obligations referred to in paragraphs 1 and 2 when setting variable remuneration, if variable remuneration is linked to the contribution of a director to the company's business strategy and long-term interests and sustainability.	**3. deleted**

Justification

We fully support the Paris Agreement and the objective of climate-neutrality by 2050. In this respect, just as we do, many European companies and industrial sectors are developing long-term decarbonisation strategies, which are reflected in the on-going legislative work under the 'Fit-for-55' package, the Corporate Sustainability Reporting Directive (CSRD) and the Taxonomy.
However, contrary to the objective stated in the Explanatory Memorandum of the CSDDD proposal to avoid overlaps, we believe that Art. 15 will interfere in already existing and in-the-making climate and sustainability policies and lead to an incoherent framework that is not helping but rather hindering the green transition. The EU already has a strong regulatory framework to regulate CO2 emissions (EU ETS and ESR) and it is currently strengthening this framework to reach its objectives. Moreover, referring to legislation in force in the European Union is more appropriate and robust in terms of legal basis.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 9 Article 20 - Sanctions	
Original text	Original text +**amendments**
1. Member States shall lay down the rules on sanctions applicable to infringements of national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate and dissuasive.	1. Member States shall lay down the rules on sanctions applicable to infringements of national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are implemented. The sanctions provided for shall be effective, proportionate **to the offence committed** and dissuasive.
	1a. Member States shall ensure that different supervisory authorities do not adopt corrective measures or sanctions for the same breach with respect to the same natural or legal person.
2. In deciding whether to impose sanctions and, if so, in determining their nature and appropriate level, due account shall be taken of the company's efforts to comply with any remedial action required of them by a supervisory authority, any investments made and any targeted support provided pursuant to Articles 7 and 8, as well as collaboration with other entities to address adverse impacts in its value chains, as the case may be.	2. In deciding whether to impose sanctions and, if so, in determining their nature and appropriate level, due account shall be taken of the company's efforts to comply with any remedial action required of them by a supervisory authority, any investments made and any targeted support provided pursuant to Articles 7 and 8, as well as collaboration with other entities to address adverse impacts in its value chains, as the case may be**.3. deleted**
3. When pecuniary sanctions are imposed, they shall be based on the company's turnover.	
[…]	[…]
Justification *It is essential to avoid two national agencies sanctioning the same undertaking for the same infringement, in application of the non bis in idem principle which prohibits multiple prosecutions for the same fact. Similarly, it will be imperative that the sanctioning regime be harmonized between the European agencies in order to ensure the functioning of the internal market.* *A company's turnover is just one out of many criteria that can be relevant when deciding on the fairness and proportionality of pecuniary sanctions and it says nothing about the gravity of the non-compliance. A pure turn-over based pecuniary system would lead to unfair and disproportionate sanctions.*	

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 10 Article 22 – Civil liability	
Original text	Original text +**amendments**
1. Member States shall ensure that companies are liable for damages if:	1. Member States shall ensure that companies can be held liable for damages if:
(a) they failed to comply with the obligations laid down in Articles 7 and 8 and;	a) they **intentionally or negligently** failed to comply with the obligations laid down in Articles 7 and 8 and;
(b) as a result of this failure an adverse impact that should have been identified, prevented, mitigated, brought to an end or its extent minimised through the appropriate measures laid down in Articles 7 and 8 occurred and led to damage.	(b) as a result of this failure **the company caused** an adverse impact that should have been identified, prevented, mitigated, brought to an end or its extent minimised through the appropriate measures laid down in Articles 7 and 8 occurred and led to damage.
2. Notwithstanding paragraph 1, Member States shall ensure that where a company has taken the actions referred to in Article 7(2), point (b) and Article 7(4), or Article 8(3), point (c), and Article 8(5), it shall not be liable for damages caused by an adverse impact arising as a result of the activities of an indirect partner with whom it has an established business relationship, unless it was unreasonable, in the circumstances of the case, to expect that the action actually taken, including as regards verifying compliance, would be adequate to prevent, mitigate, bring to an end or minimise the extent of the adverse impact.	**Member States shall ensure that where a company prioritised adverse impacts in accordance with Article 6 and the damage stems from the less significant adverse impact that was not yet addressed, it shall not be held liable for the damage occurred.**
*In the assessment of the existence and extent of liability **under this paragraph**, due account shall be taken of the company's efforts, insofar as they relate directly to the damage in question, to comply with any remedial action required of them by a supervisory authority, any investments made and any targeted support provided pursuant to Articles 7 and 8, as well as any collaboration with other entities to address adverse impacts in its **value** chains.*	2. In the assessment of the existence and extent of liability, due account shall be taken of the company's efforts, insofar as they relate directly to the damage in question, to comply with any remedial action required of them by a supervisory authority, any investments made and any targeted support provided pursuant to Articles 7 and 8, as well as any collaboration with other entities to address adverse impacts in its **supply** chains.
3. The civil liability of a company for damages arising under this provision shall be without prejudice to the civil liability of its	**3. deleted** **4. deleted** **5. deleted**

subsidiaries or of any direct and indirect business partners in the *value* chain.

4. The civil liability rules under this Directive shall be without prejudice to Union or national rules on civil liability related to adverse human rights impacts or to adverse environmental impacts that provide for liability in situations not covered by or providing for stricter liability than this Directive.

5. Member States shall ensure that the liability provided for in provisions of national law transposing this Article is of overriding mandatory application in cases where the law applicable to claims to that effect is not the law of a Member State.

Justification

An introduction of extensive civil liability rules would create enormous legal uncertainty for companies with complex supply chains. The civil liability should therefore be limited to where the company caused the adverse impacts. According to general legal principles, liability is always linked to a culpable breach of duty that is causal for the damage. There is no objective reason to deviate from this in the planned legislation. It is also important that the burden of proof lies with the one seeking justice. In order to add legal certainty for companies, there must also be clarity that where companies have made a comprehensible prioritisation in the meaning of Article 6, liability is excluded.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 11 Article 24 – Public Support	
	Original text +**amendments**
Member States shall ensure that companies applying for public support certify that no sanctions have been imposed on them for a failure to comply with the obligations of this Directive.	**Deleted**

Justification

Prohibiting companies (which would already be sanctioned under the Directive) from receiving public support is disproportionate measure, which might also impact company's investments and undertakings non-related to the matter of sanctions/obligations of this Directive.
In case of a company's infringements of national provisions sanctions should be a sufficient instrument .

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 12 Article 25 – Directors' duty of care	
Original text	Original text +**amendments**
1. Member States shall ensure that, when fulfilling their duty to act in the best interest of the company, directors of companies referred to in Article 2(1) take into account the consequences of their decisions for sustainability matters, including, where applicable, human rights, climate change and environmental consequences, including in the short, medium and long term.	**Deleted**
2. Member States shall ensure that their laws, regulations and administrative provisions providing for a breach of directors' duties apply also to the provisions of this Article.	

Justification

It is important that directors are encouraged to consider the consequences of their decisions for sustainability matters. The Directors' duties provisions in the proposal are however unclear and inappropriate. The functionality of the proposed provisions remains very unclear and their relationship to existing company law and the duty of care included therein raises questions. The article is about directors' general duty of care – not due diligence. There is no direct link between directors' general duty of care and due diligence. The EU has not previously regulated directors' general duty of care. This calls for strong evidence on its necessity and impacts. Art. 25 would create legal uncertainty and interfere with well-functioning long-standing national corporate governance models, and could damage the competitiveness of European companies, without any proven benefit for neither due diligence nor sustainability more broadly. Art. 25 is not enforceable on third country companies either. Sustainability should be targeted through other much more direct, effective and well-documented instruments as is also already the case.

Text proposed by Commission	*Amendment proposal by Eurelectric*

Amendment 13

Article 26 – Setting up and overseeing due diligence

Original text	Original text +**amendments**
1. Member States shall ensure that directors of companies referred to in Article 2(1) are responsible for putting in place and overseeing the due diligence actions referred to in Article 4 and in particular the due diligence policy referred to in Article 5, with due consideration for relevant input from stakeholders and civil society organisations. The directors shall report to the board of directors in that respect.	**Deleted**
2. Member States shall ensure that directors take steps to adapt the corporate strategy to take into account the actual and potential adverse impacts identified pursuant to Article 6 and any measures taken pursuant to Articles 7 to 9.	

Justification

The directors' obligations are governed by the national laws of the Member States. The respective national provisions already aim for compliance with duties relating to sustainability. The far-reaching extension of duties and liability proposed is inappropriate and collides with national company law. The directors' duty of care already ensues from the company's obligations in the proposed Directive, in conjunction with the national laws of the Member States.

When a legal responsibility applies to the company as a legal entity it automatically becomes a responsibility of the directors according to existing company law in the Member States. This means that it is not necessary to explicitly legislate about directors' duties every time we legislate on something that put obligations on companies. Adding specific directors' duties in relation to the company's due diligence requirements also comes with a high risk of creating deviations between the duties of companies and their directors', interrupting well-functioning national corporate governance models and violating the subsidiarity and proportionality principles. Art. 26 is not enforceable on third country companies either.

Text proposed by Commission	*Amendment proposal by Eurelectric*
Amendment 14 Article 30 – Transposition	
Original text	Original text +**amendments**
1. Member States shall adopt and publish, by … [OJ to insert: ***2*** years from the entry into force of this Directive] at the latest, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions. They shall apply those provisions as follows: (a) from… [OJ to insert: ***2*** years from the entry into force of this Directive] as regards companies referred to in Article 2(1), point (a), and Article 2(2), point (a); (b) from … [OJ to insert: ***4*** years from the entry into force of this Directive] as regards companies referred to in Article 2(1), point (b), and Article 2(2), point (b).	1. Member States shall adopt and publish, by … [OJ to insert: **3** years from the entry into force of this Directive] at the latest, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions. They shall apply those provisions as follows: (a) from… [OJ to insert: **3** years from the entry into force of this Directive] as regards companies referred to in Article 2(1), point (a), and Article 2(2), point (a); (b) from … [OJ to insert: **5** years from the entry into force of this Directive] as regards companies referred to in Article 2(1), point (b), and Article 2(2), point (b). **When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.**

Justification

Extending the period until which Member States shall adopt and publish regulations and administrative provisions necessary to comply with the Directive by one year will give companies more time to prepare for the obligations imposed on them by the Directive.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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