

Due Diligence on Trial: What the Verdict Tells Policymakers

A split decision reveals where corporate accountability regulation stands — and where it needs to go

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Corporate sustainability due diligence (CSDD) — the legal obligation for companies to identify, prevent and mitigate harm across their supply chains — was found guilty of being "too little" by a jury of 65 at a mock trial hosted by the Sustainability Regulation Observatory at LSE on 20 May 2026. It was acquitted of the other two charges: that it is a political distraction and that it is harmful to economies.

The trial

The prosecution brought three charges: that mandatory due diligence is *too little*, falling structurally short of what is needed to protect people and the environment; that it is *a distraction*, consuming finite political capital better spent on other instruments; and that it is *harmful*, causing companies to drop suppliers in vulnerable countries rather than improving conditions within them.

[Kate Levick \(E3G\)](#) prosecuted charges one and two. A [procedural](#) obligation without outcome guarantees rewards box-ticking over genuine improvement, she argued: companies can satisfy every due diligence requirement and still leave harm untouched. On the distraction charge, she argued that mandatory reporting consumes political space better directed at binding international agreements, stronger labour law and enforceable industrial policy.

[Prof. Dr Galina Kolev-Schaefer](#) (IW Köln / TH Köln) prosecuted charge three. She cited trade data showing Cambodia's exports to Germany fell by almost one fifth after the German Supply Chain Act came into force, while exports to less regulated markets rose substantially. Poorly designed rules, she argued, risk functioning as a trade barrier that hurts the most vulnerable countries in the Global South rather than improving conditions within them.

The defence, led by [Phil Bloomer](#) (Business and Human Rights Centre) and [Sarah-Jane Denton](#) (Travers Smith), accepted that due diligence did not guarantee the protection of human rights and the environment, but argued that it was a significant step forward from voluntary self-regulation, which has demonstrably failed to produce systemic change. They rejected the other two charges entirely. Bloomer argued that mandatory due diligence represents the first systematic legal effort to enforce [double materiality](#): the principle that companies must assess not only the sustainability risks their business faces, but also the harm their activities cause to people and the environment. Denton argued that a single mandatory standard simplifies rather than compounds the compliance burden, replacing dozens of bespoke supplier questionnaires with one consistent framework.

[Richard Howitt](#) (Frank Bold), former Member of the European Parliament and an architect of the EU's Non-Financial Reporting Directive, and [Colleen Theron](#) (Ardea International) gave evidence as independent witnesses.

Howitt took the view that "politics, not economics" explains what happened to the EU Corporate Sustainability Due Diligence Directive. By early 2026, the European Commission had completed its [impact assessment](#), fielded consultation responses including support from [over 200 companies and investors](#), and resolved most implementation details. The Directive was nonetheless reopened and de-scoped — driven by a shift to the right across European politics and by views expressed by business associations representatives rather than by businesses themselves, many of whom had actively backed the rules. Howitt noted that BusinessEurope's own position acknowledges that sustainability reporting costs represent only a small fraction of total company costs.

Both independent witnesses pointed to the same paradox: the instability created by revising rules mid-implementation is more economically damaging than compliance with the original obligation would have been. Howitt observed that accommodating a change of direction costs companies more than implementing the rules they had already prepared for.

Howitt and Theron each pointed to cases where the due diligence obligations led to engagement rather than exit — worker-voice mechanisms surfacing and then addressing discrimination against migrant workers on UK construction sites; [banana workers in Costa Rica securing compensation through the German Supply Chain Act](#) after Oxfam and a local union filed a complaint.

The jury agreed with the prosecution that CSDD is too little. They did not agree that it is harmful or a distraction. The point of the debate, however, was not to declare a winner, but rather to help clarify the questions policymakers must now answer.

What this means for policymakers

1. The public and businesses support corporate sustainability due diligence

Mandatory corporate accountability for supply chain harm does not lack support, whether from the public, from business or from the research evidence. An [academic survey across ten EU member states](#) found consistently positive support for the EU CSDDD's enforcement mechanisms in every country surveyed, with the authors noting a disconnect between the political controversy around the directive and actual public sentiment. That sentiment shows up in the polling too: a [September 2025 survey of nearly 11,000 people across ten EU countries, commissioned by Amnesty International and Global Witness and conducted by Ipsos, found 58% supported the](#) EU CSDDD against just 9% opposed. On the business side, a [YouGov survey of 2,500 business leaders, commissioned by E3G across Germany, France, Italy, Spain and Poland in August 2025](#), found similarly strong support, with a majority viewing the rules as essential for competitiveness rather than a threat to it. Policy makers retreating from mandatory CSDD are running against the grain of business opinion as much as public sentiment, in favour of concentrated but vocal and politically powerful interest groups.

2. The regulatory rollback is driven by politics, not evidence of economic harm

As Howitt testified at the trial, political change rather than evidence of negative economic impact drove the EU's rollback of CSDDD. The ten EU country academic survey backs this up: support for the EU CSDDD's enforcement mechanisms was remarkably uniform across all ten countries surveyed despite their differing political and economic circumstances. Thus, the rollback is not explained by evidence of economic harm. Nor is it explained by cross-national disagreement about how the rules should work. What we are left with as explanation is political pressure — a cautionary message for other jurisdictions such as South Korea, Indonesia and Thailand, which are currently developing their own mandatory due diligence legislation.

3. Many costs associated with due diligence stem from instability and poor preparation

As Howitt and Theron both observed, regulatory churn costs more than stable compliance. The EU Omnibus Directive, presented by its proponents as a burden-reduction measure, arguably generated greater uncertainty and disruption than the original framework would have imposed. Poor design, too, can be costly. Effective due diligence regulation needs to manage the risk, identified in Kolev-Schaefer's trade data, that some companies may respond to due diligence obligations by cutting supplier relationships rather than raising standards, reducing documented exposure while leaving harm in place and potentially diverting trade towards less regulated markets. Due diligence also tends to fail when it operates in isolation: it works best where procurement rules, certification schemes, investor expectations and customer demand all reinforce it, and produces paperwork with little substance behind it when they don't. The documented consultation processes behind the EU CSDDD and its national predecessors show little evidence of structured engagement with the governments of the countries that export into these markets, likely a missed opportunity for better policy design. Further analysis is needed to determine how CSDD regulations, and the guidance provided to businesses, could be better designed to raise standards while avoiding unnecessary disruption to trade relationships.

What's next?

The SRO's forthcoming policy brief, *Regulating Corporate Responsibility*, draws on comparative regulatory evidence from France, Germany, Norway and beyond to examine what due diligence can realistically deliver, and what it needs around it to work.