

To: Committee on Legal Affairs of the European Parliament (JURI)

10 November 2025

**Subject: Omnibus infringes EU Law - say over 100 law professors and lawyers**

Dear members of the European Parliament's Committee on Legal Affairs,

We are a group of over 100 academics and lawyers from across the European Union writing to express our concern regarding the dangerous legal precedent that the Omnibus I proposal, notably the one focusing on revisions to Directive (EU) 2022/2464 on sustainability reporting (CSRD) and Directive (EU) 2024/1760 on corporate sustainability due diligence (CSDDD), is establishing in the EU's legislative process and broader constitutional system. We draw your attention to two recent **legal opinions**<sup>1</sup> that examine both the substantive and procedural deficiencies associated with this proposal, which indicate that the **Omnibus I package** may **infringe** upon fundamental principles of **EU law**.

If adopted as it is, this proposal faces a **high risk of legal challenges** in national or EU courts. Such proceedings would likely cause years of legal uncertainty, **undermining the predictability and ultimately the very competitiveness** the Commission aims to promote, while affecting the Union's commitment to the rule of law and international obligations.

Regulatory simplification, while a legitimate objective, must proceed within constitutional boundaries. The current proposal does not satisfy the restrictions imposed to the otherwise wide discretion of the EU legislature by violating (i) the principle of proportionality, (ii) the Charter of Fundamental Rights (CFR), and the non-regression principle, particularly given the **absence of comprehensive impact assessments and proper public consultations**.

**(i) The principle of proportionality**

Legally, we are highly concerned that the Commission has not demonstrated compliance with one of the general principles of EU law, that of **proportionality**<sup>2</sup>. While the EU legislature has a wide discretion with respect to the aims of and the means of implementing its legislative measures, this principle requires those measures to **pursue a legitimate aim**, be **suitable** and necessary (with **no less restrictive alternative**), and be **proportionate stricto sensu**, meaning benefits must outweigh negative effects on protected interests. While the absence of an impact assessment by the EU Commission or that of a supplementary impact assessment by the EU legislature do not automatically render the EU legislation subsequently adopted invalid, this may be characterised as a breach of the principle of proportionality when the EU legislature does not have sufficient information enabling it to assess the proportionality of an adopted measure, that is to exercise its discretion effectively. For example, the proposal to raise CSRD thresholds and exclude listed SMEs lacks a comparative analysis of whether ongoing ESRS reforms could deliver equivalent relief without reducing reporting scope. Similarly, the limitation of CSDDD

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<sup>1</sup> See: [The Legal Validity of the Omnibus Package: A Charter Rights Analysis](#) (November 2025) by David Frydinger, partner at CIRIO law firm and [The Legality of Omnibus Legislation Under EU Law. A Preliminary Analysis of Omnibus I Simplification Directive of CSRD and CSDDD and its Legal Consequences on the EU Legal Order](#) (November 2025) by Professor Alberto Alemanno.

<sup>2</sup> Enshrined in Article 5(4) of the EU Treaty, Article 1 of Protocol (No 2) on the application of the principles of subsidiarity and proportionality, annexed to the Treaties, and Article 52(1) of the CFR.

obligations to “tier 1” suppliers, presented as a simplification, does not appear to have considered risk-based models or technical support to facilitate compliance. This lack of comprehensive alternatives analysis and structured rights impact assessment suggests the evidentiary basis required by the CJEU’s *Mobility 2024* judgment<sup>3</sup> is not met.

## **(ii) The Charter of Fundamental Rights and the non-regression principle**

The Omnibus proposal, by deliberately **reducing existing protections for fundamental rights**, is subject to Article 52(1) CFR, qualifying as ‘limitations’ to those very same rights. While the Charter does not forbid the EU legislature from lowering a previously chosen level of fundamental-rights protection, the Court’s case law has consistently viewed any sudden step-back with particular suspicion. In *Digital Rights Ireland* and *Schrems*, it obliged the legislature to satisfy legality, respect for essence, strict necessity and strict proportionality as well as the burden of proof. Moreover, in line with the legitimate expectations doctrine, the Court has upheld such a step-back only if compelling public reasons and proportionate transition measures were demonstrated (*Salumi, Barber*). Therefore, once the legislature has deliberately put flesh on the bones of e.g. Articles 11, 35, 37 or 38 CFR—by mandating for example CSRD-style disclosure standards—and communities, workers along supply chains, civil society and sustainability-oriented investors have organised around those standards, any later attempt to dilute the existing regime faces the restrictions posed by Article 52(1) CFR thus triggering the Court’s strict reliance-based scrutiny. While an outright repeal would certainly not survive such scrutiny - as it would require a strong justification - also specific roll-back amendments would face substantial legal vulnerabilities under Article 52(1) CFR.

These limitations, imposed by the principle of proportionality on sustainability legislation, must be understood within a broader context. While political trends increasingly seek to limit sustainability regulation, recent judicial developments, including from the CJEU, ECtHR, and other courts, underscore strict rule-of-law constraints. **A growing body of case law clarifies limitations on legislative discretion regarding environmental and social protection and the “non-regression” principle.**<sup>4</sup>

### **Our demand**

In light of the above and based on the legal opinions attached to this letter, **we respectfully urge the JURI committee to request an opinion of the European Parliament’s Legal Service before taking any further legislative action**, starting with the CSRD and CSDDD. The Committee should ensure that no changes to the CSRD and CSDDD are adopted unless clearly demonstrated—based on robust evidence and thorough alternative analysis—that the proposals are fully compatible with the proportionality principle, the EU Charter, and the Union’s international climate obligations. Only such a structured legality review can safeguard the Union’s legal integrity, protect fundamental rights, and provide essential regulatory certainty for sustainable competitiveness.

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<sup>3</sup> See Joined Cases C-541/20 to C-555/20, Republic of Lithuania and Others v Parliament and Council, ECLI:EU:C:2024:818. See in particular para 243, where the court points to the requirement that, in legislation, “the EU legislature must base its choice on objective criteria”. See furthermore paras 722 and 723, establishing that it is the EU legislature that has the burden of proof “that it took into consideration all the relevant factors and circumstances of the situation the act was intended to regulate”, and that it had “sufficient information to allow it to assess the proportionality”.

<sup>4</sup> See [ICJ advisory opinion on 23 July 2025](#) providing an authoritative articulation that preventing dangerous global warming is not merely a matter of political will, but a binding legal duty incumbent on every state vis-à-vis the international community, peoples, and future generations. Sustainability is not merely a policy question; the rule of law clearly restricts the legislature’s political discretion.

As additional Omnibus proposals have been announced<sup>5</sup>, proper legislative procedures and safeguards must be upheld to ensure full compliance with the fundamental principles of EU law, and, ultimately, to preserve the rule of law.

Please find the legal opinions by Professor Alberto Alemanno and lawyer David Frydlinger linked below.

We look forward to hearing from you.

## Signatories

1. Alberto Alemanno, Jean Monnet Professor of European Union Law, HEC Paris and author of [\*The Legality of Omnibus Legislation Under EU Law: A Preliminary Analysis of Omnibus I Simplification Directive of CSRD and CSDDD and its Legal Consequences in the EU Legal Order\*](#).
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<sup>5</sup> See [here](#) for more information.

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