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EDITORIALE SCIENTIFICA

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EU'S CHALLENGES IN ENSURING A SECURE *AND* SUSTAINABLE SUPPLY OF CRITICAL RAW MATERIALS *THROUGH* STRATEGIC PARTNERSHIPS AND PROJECTS

1. *Introductory Remarks*

So-called critical raw materials (hereinafter CRMs), such as lithium, cobalt, graphite, nickel, or rare earth elements are essential for the EU's competitiveness, clean energy and digital transitions, defence and aerospace applications, and the health sector. Several studies have shown that the demand for CRMs is projected to increase massively, driven primarily by the "twin transition" (green and digital) and further intensified by global rearmament[1].

The reliance on CRMs introduces, however, its own vulnerabilities. Due to geological distribution, economic specialisation and geopolitical drivers, the EU is excessively dependent on imports from third countries. The People's Republic of China (hereinafter China) has established dominance over global production capacity at all value chain stages, from extraction to processing, and magnet manufacturing. This – along with other quasi-monopolistic positions – create dependencies for the EU which are increasingly "weaponised" for geopolitical purposes, with the potential to significantly affect EU

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[1] INTERNATIONAL ENERGY AGENCY (hereinafter IEA), *Global Critical Minerals Outlook 2025*, May 2025, p. 6 *et seq.*; ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (hereinafter OECD), *Economic Security in a Changing World: New Approaches to Economic Challenges*, 2025, Paris, p. 40 *et seq.*; L. PATEY, *Military Minerals: Europe's new defense industrial capacities demand reliable supply chains*, Danish Institute for International Studies, 2026; S. CLAPP, D. ENGEL, *European defence readiness roadmap*, European Parliamentary Research Service, February 2026.

manufacturing[2]. Beyond supply risks, CRMs entail well-known significant social and environmental risks throughout their life cycle. Increasing demand amplifies social risks such as human rights violations (*e.g.*, child and forced labour), poor working conditions, displacement of indigenous and local communities, social unrest as well as water conflicts. As to environmental risks, mining and processing cause, *inter alia*, deforestation, habitat destruction, biodiversity loss, water contamination and shortages, and soil erosion, while generating high greenhouse gas emissions and hazardous waste[3].

In this context, the EU has launched several initiatives and plans over the last 15 years aimed at strengthening secure and sustainable CRM supply chains. Notable examples include the 2008 Raw Materials Initiative, the 2020 Action Plan on CRMs and, more recently, the 2025 RESourceEU Action Plan[4]. However, the so-called "Critical Raw Materials Regulation" (hereinafter CRMR) is – to date – the sole *legislative* instrument establishing a comprehensive, unified *regulatory* framework aimed at ensuring the Union's access to a secure, resilient, and sustainable supply of CRMs[5]. Driven by the urgent need to secure supply chains, reduce dependencies on single-country suppliers (particularly China), and support the EU's green and digital transitions, this Regulation was adopted in record time. Indeed, the Commission adopted the proposal on 16 March 2023; the Council of the European Union adopted its general approach on 30 June 2023; and the European Parliament adopted its negotiating position on 14 September 2023[6]. On 13 November 2023, the Parliament and the Council

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[2] S. CARRARA et al., *Supply chain analysis and material demand forecast in strategic technologies and sectors in the EU – A foresight study*, 2023, p. 8 *et seq.*; IEA, *Global Critical Minerals Outlook 2025*, cit., p. 24 *et seq.*; European Court of Auditors, *Critical raw materials for the energy transition – Not a rock-solid policy*, 2026, p. 5.

[3] On these adverse impacts see, *ex multis*, IEA, *Sustainable and Responsible Critical Mineral Supply Chains: Guidance for Policy Makers*, December 2023, p. 44 *et seq.*; S. DE HAES, P. LUCAS, *Environmental Impacts of Extraction and Processing of Raw Materials for the Energy Transition*, 2024, p. 14 *et seq.*; S. DE HAES, H. BRINK, *Social Impacts of Mining Critical Raw Materials: Challenges and Entry Points for Governance*, June 2025, p. 11 *et seq.*; WORLD ECONOMIC FORUM, *Nature Positive: Role of the Mining and Metals Sector*, 2025, p. 21 *et seq.*

[4] See – respectively – European Commission, Communication from the Commission to the European Parliament and the Council, *The raw materials initiative – meeting our critical needs for growth and jobs in Europe*, COM(2008) 699 final, 4.11.2008; European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Critical Raw Materials Resilience: Charting a Path towards greater Security and Sustainability*, COM(2020) 474 final, 3.9.2020, hereinafter the 2020 Action Plan; European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *RESourceEU Action Plan: Accelerating our critical raw materials strategy to adapt to a new reality*, COM(2025) 945 final, 3.12.2025, hereinafter RESourceEU Action Plan.

[5] Regulation (EU) 2024/1252 of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/857, (EU) 2018/1724 and (EU) 2019/1020, in OJ L, 3.5.2014, p. 1 *et seq.* (corrected by Corrigendum 1, in OJ L, 2024/90330, 3.6.2024, p. 1 *et seq.* and Corrigendum 2, in OJ L, 2024/90589, 1.10.2024, p. 1 *et seq.*), Article 1(1).

[6] European Commission, Proposal for a regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020, COM(2023) 160 final, 16.3.2023 (hereinafter the Commission's proposal); General Secretariat of the Council, Proposal for a regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 – Mandate for negotiations with the European Parliament, 11297/23, 30.6.23 (hereinafter the Council's position); European Parliament, Amendments adopted by the European Parliament on 14 September 2023 on the proposal for a regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No

reached a provisional agreement; the Parliament adopted the agreed text on 12 December 2023, and the Council gave its final approval on 18 March 2024.

The CRMR, which entered into force on 23 May 2024, is a key component of both the 2023 *Green Industrial Plan for the Net-Zero Age* and the recently updated *European Economic Security Strategy*[7]. The Commission's proposal was accompanied by two further documents, both very relevant for this study: the first one is an impact assessment, which identifies the EU's lack of secure and sustainable access to CRMs as a core problem[8]; the second one is a Commission's Communication explaining the overall Union strategic vision for strengthening the EU's supply of CRMs, through action both *within* and *outside* the Union[9]. The CRMR is structured around four pillars[10]. *First*, it establishes a *new* list of 34 CRMs – materials considered of high economic importance for the overall Union economy that face a high risk of supply disruption. It also introduces – for the *first* time – a list of 17 Strategic Raw Materials (hereinafter SRMs), a subset of CRMs deemed particularly vital for *green* and *digital* technologies, *defence*, and *aerospace* applications[11]. Moreover, this pillar sets ambitious (non-binding) *benchmarks* for 2030, aiming for at least 10% of the Union's annual consumption of SRMs to be extracted from EU reserves, 40% processed in the EU, and 25% recycled within the EU. Additionally, it stipulates that no more than 65% of the Union's consumption of each SRM – at any relevant step of processing – should originate from a single third country[12]. *Secondly*, the Regulation sets out provisions for the monitoring and mitigation of supply risks by performing regular "stress tests" for CRM supply chains, the reporting and coordination of strategic stocks, auditing the supply chains of large companies in strategic sectors, and facilitating the joint purchasing of SRMs[13]. *Thirdly*, the CRMR promotes circularity by encouraging the creation of secondary raw materials and by mandating national measures to improve the collection and recycling of CRMs, particularly from waste[14]. *Finally*, the Regulation establishes a new governance structure – the European Critical Raw Materials Board (hereinafter the Board) – to oversee the implementation of its provisions and to provide advice to the Commission[15]. As already mentioned, the

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168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020, P9_TA(2023)0325 (hereinafter the European Parliament's position).

7 European Commission, Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions, *A Green Deal Industrial Plan for the Net-Zero Age*, COM(2023) 62 final, 1.2.2023; see also European Commission, High Representative of the Union for Foreign Affairs and Security Policy, Joint Communication to the European Parliament and the Council, *Strenghtening EU economic security*, JOIN(2025) 977 final, 3.12.2025.

8 European Commission, Commission Staff Working Document, *Impact Assessment Report* accompanying the Commission's proposal, SWD(2023) 161 final, 16.3.2023 (hereafter the 2023 Commission's impact assessment report).

9 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A secure and sustainable supply of critical raw materials in support of the twin transition*, COM(2023) 165 final, 16.3.2023 (hereinafter the 2023 Commission's Communication on CRMs).

10 For more details, see – *ex multis* – B. TRÖSTER, S. PAPATHEOPHILOU, K. KÜBLBÖCK, *In search of critical raw materials: What will the EU Critical Raw Materials Act achieve?*, May 2024, ÖFSE Research Report 18; V. GRADO, *The Critical Raw Materials Regulation: EU's challenges in ensuring a secure* and *sustainable supply of raw materials*, in this Journal, 2/2026, p. 300 *et seq.*, also for further bibliographical references.

11 CRMR, Articles 3 and 4, Annex I and II.

12 CRMR, Article 5(1)(a-b).

13 CRMR, Chapter 4.

14 CRMR, Chapter 5, Section 1.

15 CRMR, Chapter 6.

overarching objective of the CRMR is to establish a framework ensuring the Union's access to a supply of CRMs that is *not only* secure, *but also* sustainable[16]. These two goals are on *equal* footing, rather than a hierarchical one. However, tension may arise between them, considering that the increased demand for CRMs could lead to intensified negative social and environmental impacts.

In light of the above, this study particularly aims to assess the degree to which the CRMR implements environmental, social and governance (hereinafter ESG) standards, specifically focusing on the two core tools designed to achieve the 2030 benchmarks mentioned above. Under such a perspective, it will consequently first analyse and critically discuss the EU's Strategic Partnerships (Section 2). Subsequently, it will examine the second key instrument aimed at achieving the 2030 benchmarks: the so-called Strategic Projects (Section 3). As explained below, projects can be recognised as "strategic" provided that they meet ESG standards, among other criteria. Therefore, this study will discuss how these standards are operationalised, considering that Strategic Projects can be located within the EU (Section 3.1) as well as in third countries or in overseas countries and territories (Section 3.2). Finally, this section will examine the role of certification schemes in "validating" the sustainability dimension of Strategic Projects (Section 3.3). Based on the analysis above, this study will show that while the CRMR formally aims to ensure a secure and sustainable supply of raw materials, in practice the aim of securing their adequate supply in order to maintain industrial competitiveness – or geoeconomic resilience – takes precedence over that of ensuring sustainable raw materials management (Section 4). Finally, it concludes by demonstrating how the actual prioritisation of the (political and) economic considerations over the sustainability aspects of the CRMR could, in the long term, jeopardise – even – the achievement of its primary objective: a secure and also resilient supply of CRMs (Section 5).

2. *EU's Strategic Partnerships*

As already mentioned, the CRMR includes an ambitious benchmark according to which by 2030 no single third country or overseas country or territory (hereinafter OCT) should provide more than 65% of the Union's annual consumption of any SRM at any stage of the value chain. Therefore, EU's Strategic Partnerships constitute a "building block" for achieving this benchmark. These partnerships are not a new instrument; references to them were already included indeed in the 2020 Action Plan, which identifies "resource-rich third countries" (highly developed mining countries, developing countries in Africa and Latin America, countries close to the EU, and enlargement countries) as fertile ground for the conclusion of these partnerships[17].

The 2023 Commission's Communication on CRMs re-emphasises the importance of Strategic Partnerships for the Union's CRM strategy. First, this document recognises that the EU will never be self-sufficient in the supply of CRMs and will continue to rely on imports for the *majority* of its consumption[18]. Secondly, it highlights the need – respectively – to work with partners to diversify and integrate sustainable *value chains* (not only extraction); to build

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[16] CRMR, Article 1(1).
[17] 2020 Action Plan, pp. 15-16.
[18] 2023 Commission's Communication on CRMs, p. 2, emphasis added.

mutually beneficial relationships with resource-rich countries and to seek *win-win* partnerships[19]. Thirdly, and most importantly, it clarifies that Strategic Partnerships pursue *several* aims. The latter are: i) to integrate EU's raw materials value chains with that of the partner country, including cooperation to identify Strategic Projects eligible under the CRMR, on research and innovation and sharing of knowledge and technologies related to sustainable exploration, extraction, processing and recycling of CRMs, substitution of CRMs and monitoring of supply risks; ii) to improve EU's and partner country's regulatory frameworks, as well the capacity to enforce relevant rules; iii) to promote mutual industrial and economic benefits through an increase in value added in the production in third countries; iv) to develop and improve international standards, including to ensure that they provide a high level of environmental and social protection and support their climate and environment related commitments; v) to mobilise funding for development of infrastructure required for the raw material value chain; vi) to work together on enhancing the resilience and sustainability of CRM supply chains; and vii) to increase training and skills related to the CRM value chain. Moreover, the 2023 Commission's Communication on CRMs emphasises that for developing countries, the partnerships are built on in-country *value creation*, supporting them to *move up* the value chain using the framework of the Global Gateway strategy[20]. In light of those aims, it is clear that the Union's vision is to transcend the purely transactional, extractive relationships typical of other global players – such as China or the US – by building long-term relationships based on mutual benefits, sustainability, sharing of technologies and local value addition, especially for developing countries. This intention is confirmed in the Commission's 2023 impact assessment report, which specifies that partnerships with *developed* countries are usually based on three pillars: a) integration of raw materials value chains – the business-oriented pillar; b) cooperation on research and innovation along the raw materials value chains – to develop cutting edge and clean technologies and solutions for the raw materials value chains; and c) cooperation on ESG standards – that aims at improving sustainability along the raw materials value chains, in its three dimensions. The partnerships with *developing* countries are based on five pillars: to the three pillars above it adds a pillar on capacity building, training and skills along the raw materials value chains and a pillar on deployment of the necessary hard and soft infrastructure to support projects development[21]. As of May 2026, the EU had concluded 16 Strategic Partnerships with: Canada and Ukraine (signed in 2021); Kazakhstan and Namibia (signed in 2022); Argentina, Chile, Zambia, the Democratic Republic of Congo (hereinafter DRC), and Greenland (signed in 2023); Rwanda, Norway, Uzbekistan, Australia, and Serbia (signed in 2024); South Africa (signed in 2025); and the United States of America (signed in 2026)[22].

Under the CRMR Strategic Partnerships are more clearly defined and integrated into the EU's raw material strategy. First of all, the Regulation provides for a definition of a

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[19] *Ibidem*, pp. 2-3, emphasis added.

[20] *Ibidem*, pp. 10-11, emphasis added. The Global Gateway is a EUR 300 billion strategy (2021–2027) designed to support projects aimed at narrowing the global investment gap, while fully aligning with the UN 2030 Agenda for Sustainable Development. Thematically, investments cover five areas: digital, climate and energy, transport, health, and education and research. It follows a "Team Europe" approach, combining resources from EU institutions, Member States, financial institutions, and the private sector; see, *ex multis*, S. TAGLIAPIETRA, *The European Union's Global Gateway: An institutional and economic overview*, in *The World Economy*, 2024, p. 1326 *et seq.*

[21] 2023 Commission's impact assessment report, p. 30.

[22] For a comparative overview of the EU's Strategic Partnerships, see K. KÜBLBÖCK et al., *EU Raw Material Partnerships: Mutual Benefits or Green Extractivism? A critical analysis of the EU's Strategic Partnerships on Raw Materials, with a focus on Kazakhstan, Chile, and Rwanda*, September 2025, Annex.

Strategic Partnership as «a commitment between the Union and a third country or an overseas country or territory to increase cooperation related to the raw materials *value chain* that is established through a *non-binding* instrument setting out actions of *mutual interest*, which facilitate *beneficial outcomes* for both the Union and the relevant third country or overseas countries or territories»[23]. The partnerships are formalised through Memoranda of Understanding (hereinafter MoUs) which explicitly state that they do not create rights or obligations under domestic or international law on either side[24]; therefore, they signal merely a *political* commitment. Each MoU commits both sides to develop within six months a "roadmap" that identifies concrete actions to be developed under each pillar. The implementation of the roadmap is monitored on an annual basis by a working group composed of senior officials of both partners and can be updated with new actions as appropriate.[25] Notably, while each MoU is accessible online[26], almost all of the texts of the roadmaps are *not* published. Regarding the legal character of these partnerships, it is important to note that they are framed as *non-binding* instruments and, consequently, they do not require a formal treaty ratification process. As established by the Court of Justice of the EU in the *Swiss Memorandum of Understanding* case, when non-binding agreements involve policy-making, the Council must grant approval based on its powers under Article 16 of the Treaty on the European Union (hereinafter TEU)[27]. As envisaged in the inter-institutional agreement on non-binding agreement concluded by the Commission and the Council in December 2017, the Commission must obtain separate authorisations from the Council to negotiate and conclude non-binding agreements[28]. Consequently, the European Parliament plays no role in the process of negotiating and concluding non-binding agreements, including Strategic Partnerships, which raises important accountability questions[29].

Secondly, in order to develop and ensure a coherent framework for Strategic Partnerships, the CRMR establishes that the Board will periodically assess these non-binding instruments. More specifically, for *existing* partnerships, these assessments must determine whether they are contributing towards: i) their aim of reducing dependency on single third-country suppliers; ii) improving cooperation along the critical raw materials value chain between the Union and partner countries, including capacity building and technology transfer programs to promote circularity and responsible recycling of CRMs in producing countries; and iii) the economic and social development of partner countries, including by promoting

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23 CRMR, Article 2(63), emphasis added.

24 See, for example, Memorandum of Understanding between the European Union and the Republic of Chile on a Strategic Partnership on Sustainable Raw Materials Value Chain (hereinafter EU-Chile Strategic Partnership), 18.11.23, p. 4.

25 *Ibidem*.

26 https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/raw-materials-diplomacy_en.

27 CJUE, Case C-660/13, *Council v Commission*, ECLI:EU:C:2016:616, para. 40. The Council's competence to conclude Strategic Partnerships is confirmed by Article 37(2) of the CRMR, which states that the Board's periodic discussions on Strategic Partnerships shall be without prejudice to the Council's prerogatives in accordance with the Treaties.

28 General Secretariat of the EU Council, Follow up to Judgment in Case C-660/13 - Arrangements between Secretaries General on non-binding instruments, 15367/17, 4 December 2017, pp. 1-2.

29 On these aspects see T. VERELLEN, *On Conferral, Institutional Balance and Non-binding International Agreements: The* Swiss MoU *Case*, in *European Papers*, 2016, p. 1225 *et seq.*, p. 1230 *et seq.* See also European Parliament resolution of 10 July 2025 on tackling China's critical raw materials export restrictions, P10_TA(2025)0166, para. 13, in which the Parliament insists on the need for binding agreements on CRMs to ensure long-term security of supplies, enhance transparency, and guarantee its own scrutiny powers.

sustainable and circular economy practices, decent working conditions and respect for human rights along their raw material value chains[30]. For new Strategic Partnerships the Board is expected to discuss which third countries *could* be prioritised taking into account four criteria. First, the potential contribution to security of supply as well as resilience thereof, taking into account a third country's potential reserves, extraction, processing and recycling capacities related to CRMs. Secondly, whether a cooperation between the Union and a third country could improve a third country's ability to ensure the monitoring, prevention and minimisation of adverse environmental impacts through its regulatory framework and the implementation thereof, the use of socially responsible practices including respect for human and labour rights, in particular on forced and child labour, meaningful engagement with local communities, including indigenous peoples, the use of transparent and responsible business practices, the prevention of adverse impacts on the proper functioning of public administration and the rule of law. Thirdly, whether there are existing cooperation agreements between the Union and a third country and, for emerging markets and developing economies, the potential for the deployment of Global Gateway investment projects, including with a view to facilitating investment in Strategic Projects. Fourthly, for emerging markets and developing economies, whether and how a partnership could contribute to local value addition, including downstream activities, and would be mutually beneficial to the Union and the partner country[31]. The inclusion of sustainability criteria – despite being somewhat vaguely defined – and mutually beneficial elements in the Board's periodic assessments of Strategic Partnerships is encouraging. However, it must be emphasised that, for *existing* partnerships, the Council is responsible for the suspension or termination of Strategic Partnerships, especially if sustainability or human rights criteria are not met. In this respect it worth noting that in February 2025 the European Parliament called for the immediate suspension of the EU-Rwanda partnership until Rwanda proves that it has ceased exporting minerals illegally mined in rebel-controlled areas of eastern DRC and known to be associated with widespread human rights violations[32]. Despite this, the EU-Rwanda Strategic Partnership remains in place, creating a paradoxical situation: Rwanda remains a "Strategic Partner" of the Union, despite the fact that both the head of its raw materials agency and a major domestic refinery are under EU sanctions[33]. With regard to *new* Strategic Partnerships, the fact that third countries *could* be priorities if they satisfy sustainability criteria (above-mentioned) implies that those currently falling short of these standards are *not automatically* disqualified from the mineral cooperation with the Union.[34] Consequently, it is clear that the Union's minerals value chain diversification strategy has led (and will lead) the EU to partner with a wide array of nations, *including* those with low

[30] CRMR, Article 37(1)(a).
[31] CRMR, Article 37(1)(c).
[32] European Parliament resolution of 13 February 2025 on the escalation of violence in the eastern Democratic Republic of Congo, P10_TA(2025)0020, para. 11.
[33] Council Implementation Regulation (EU) 2025/509 of 17 March 2025 implementing Regulation (EC) No 1183/2005 concerning restrictive measures in view of the situation in the Democratic Republic of Congo, in OJ L, 17.3.2025, p. 1 *et seq*.
[34] It is worth noting that both the Commission's proposal and the European Parliament's position referred to «which third countries *should* be priorities»; see Commission's proposal, Article 33 (1)(c), and European Parliament's proposal, Article 33(1)(c), emphasis added.

governance scores, fragile rule-of-law structures, challenging environmental records and significant negative human rights impacts[35].

As stated on several occasions in the 2023 Commission's Communication on CRMs, while Strategic Partnerships with resource-rich developing and emerging countries should contribute to the diversification of the EU's raw-material value chain, they should *equally* enhance *sustainability* and *local value addition* in these countries. These two critical dimensions will be briefly discussed below.

As to the ESG standards, it should be noted that almost all Strategic Partnerships concluded with emerging markets and developing economies envisage a pillar on cooperation to leverage ESG criteria and align with international standards.[36] However, in this respect it is important to highlight – first – that the MoUs include *only* aspirational language. Secondly, because roadmaps are not published, it is almost *impossible to assess* if the implementation of ESG standards are contemplated therein. Thirdly, in the light of the non-binding nature of the roadmaps, it becomes difficult to ensure that partner countries *effectively cooperate* to respect and implement international standards. Fourthly, and most importantly, ESG language in MoUs *is not likely to override* strong investment protection provisions contained in EU (binding) investment agreements concluded with developing countries which can constrain the policy space of these countries in implementing higher ESG standards[37].

With regard to value addition, it is worth noting that the MoUs remain *vague* and *lack* a proper definition of what "local value addition" and "beneficial for both partners" actually mean, as well as how they are to be achieved in practice. In this respect, it is important to highlight that the European Parliament's position proposed that Strategic Partnerships with emerging markets and developing economies had to contain measures – *inter alia* – to increase «local value addition, *by supporting the development of processing and recycling capacity alongside newly developed extraction capacities* as well as measures to facilitate knowledge and skill transfers».[38] However, this proposal was not accepted by the Council. Similarly, the European Parliament's position proposed that «the Union processing capacity is able to produce at least 50% of the Union's annual consumption of strategic raw materials; *up to 20% of the Union's new processing capacity might be developed under strategic partnerships in emerging markets and developing countries*».[39] However, this proposal was not accepted by the Council as well. Consequently, while the MoUs include objectives such as "local value addition" and "mutual benefit", it remains unclear how these will be realised in the absence of specific legally binding Union obligations. In addition, and significantly, these partnerships often exist in a complex legal landscape that includes free trade agreements (hereinafter FTAs) concluded between the EU

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[35] For an analysis of those partners see E. I. STEWART, *Green ambition, questionable track records: Who are the EU's strategic partners?*, 26 July 2024, available at https://globalwitness.org/en/campaigns/transition-minerals/green-ambition-questionable-track-records-who-are-the-eus-strategic-partners/. For an analysis of the EU-Serbia questionable partnership see M. MÜLLER, L. STRACK, M. VULOVIĆ, *The EU's Raw Materials Diplomacy: Serbia as a Test Case*, SWP Comment 10, March 2025.

[36] See, for example, the EU-Chile Strategic Partnership, p. 3. While the EU-Kazakhstan Strategic Partnership officially aims to develop «mineral resources sustainably and in a socially responsible way» it is the only one lacking an ESG pillar; see Memorandum of Understanding between the Republic of Kazakhstan and the European Union on a strategic partnership on sustainable raw materials, batteries and renewable hydrogen, 7.11.2022, p. 2.

[37] For an overview, see INTERNATIONAL INSTITUTE FOR SUSTAINABLE DEVELOPMENT, *International Trade and Investment Agreements and Sustainable Critical Minerals Supply*, April 2025, p. 20 *et seq.*

[38] European Parliament's position, Article 33(3)(3d)(iv), emphasis added.

[39] *Ibidem*, Article 1(2)(a)(ii), emphasis added.

and its partner countries. As has already been examined in many studies, the FTAs contain several *binding* and *enforceable* obligations – such as the elimination, respectively, of raw material import and export monopolies, export prices and import and export restrictions. These obligations can severely limit the policy space for measures that help advance the industrial policy objectives of developing exporting countries, such as greater local value addition[40]. Consequently, even if the narrative of the EU is currently set to understand Strategic Partnerships as "mutually beneficial" to increase the "local value addition", especially in regard to emerging and developing countries, there is significant uncertainty and contradiction regarding *whether* these goals will be achieved, primarily due to the Union competing interest in securing raw materials for its *own* domestic processing and manufacturing industries[41].

In conclusion, while the EU positions Strategic Partnerships as mutually beneficial – highlighting commitments to, *inter alia*, value addition, skills development, and the promotion of high ESG standards – its external raw material strategy *risks falling short* of its stated objectives.

3. *Strategic Projects*

Another core feature of the CRMR is the establishment of Strategic Projects, located both within the EU and in third countries or OCTs, aimed at contributing to building SRM capacities across all value chain stages (extraction, processing, and recycling).

Projects promoters of SRMs can request the Commission to recognise and declare a project as "strategic"[42]. Article 6(1) of the CRMR sets out five criteria for selecting "Strategic Projects": a) whether the project would make a meaningful contribution to the security of the Union's supply of SRMs; b) the project is or will become technically feasible within a reasonable timeframe and the expected production volume of the project can be estimated with a sufficient level of confidence; c) the project would be implemented sustainably, as

[40] See, *ex multis*, B. MÜLLER, L. GHIOTTO, L. BÁRCENA, *The Raw Materials Rush: How the European Union is using trade agreements to secure supply of critical raw materials for its green transition*, Transnational Institute, January 2024, p. 16 *et seq.*; V. CROCHET, W. ZHOU, *Critical insecurities? The European Union's strategy for a stable supply of minerals*, in *Journal of International Economic Law*, 2024, p. 147 *et seq.*, pp. 148-150, 155-157.

[41] In this respect see the EU Net-Zero Industry Act, designed to boost clean tech manufacturing by ensuring that 40% of annual deployment needs are met by local production by 2030; Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724, in OJ L, 28.6.2024, p. 1 *et seq.* Additionally, in March 2026 the Commission proposed the EU Industrial Accelerator Act to speed up the decarbonisation and competitiveness of EU manufacturing; see European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for the acceleration of industrial capacity and decarbonisation in strategic sectors and amending Regulations (EU) 2018/1724, (EU) 2024/1735 and (EU) 2024/3110, COM(2026) 100 final, 4.3.2026.

[42] CRMR, Article 7(1). Article 7(3-10) established the procedure to apply for a project to be recognised as "strategic". The first selection round led, in 2025, to the designation of 47 Strategic Projects in the EU and 13 Projects in third countries and OCTs; see European Commission, Commission Decision (EU) 2025/840 of 25 March 2025 recognising certain critical raw material projects as Strategic Projects under Regulation (EU) 2024/1252 of the European Parliament and of the Council, in OJ L, 30.4.2025, p. 1 *et seq.*; Commission Decision (EU) 2025/1174 of 4 June 2025 recognising certain critical raw material projects located in third countries and in overseas countries or territories as Strategic Projects under Regulation (EU) 2024/1252 of the European Parliament and of the Council, in OJ L, 12.6.2025, p. 1 *et seq.*

explained in detail below; d) for a project in the Union, the establishment, operation or production of the project would have cross-border benefits beyond the Member State concerned, including for downstream sectors; and e) for projects in third countries that are emerging markets or development economies, the project would be mutually beneficial for the Union and the third country concerned by adding value in that third country.

Article 6(1)(c) requires that a project would be implemented sustainably, in particular as regards: «the monitoring, prevention and minimisation of environmental impacts»; «the prevention and minimisation of socially adverse impacts through the use of socially responsible practices including respect for human rights, indigenous peoples and labour rights, in particular in the case of involuntary resettlement»; «potential for quality job creation»; «meaningful engagement with local communities and relevant social partners» and «the use of transparent business practices with adequate compliance policies to prevent and minimise risks of adverse impacts on the proper functioning of public administration, including corruption and bribery». As analysed in further detail below, these sustainability requirements for Strategic Projects can be undermined by mere *certification* of the project, or even by a *declaration of intent* to obtain such certification.

The sustainability criteria enshrined in Article 6(1)(c) of the CRMR cover a broad range of ESG adverse impacts and risks. These risks are mentioned in Annex IV(2) of the Regulation (entitled "Criteria for certification schemes") and in the Commission's document "Strategic projects under the Critical Raw Materials Act - Guide for Applicants" (hereinafter, the Commission's Guide for Applicants)[43]. These documents envisage three risk categories. The first category addresses environmental risks and must encompass at least the following impacts: i) air, including air pollution such as greenhouse gas emissions; ii) water, including seabed and marine environment, and water pollution, water use, water quantities, taking into account flooding or droughts, and access to water; iii) soil, including soil pollution, soil erosion, land use and land degradation; iv) biodiversity, including damage to habitats, wildlife, flora and ecosystems, including ecosystem services; v) hazardous substances; vi) noise and vibration; vii) plant safety; viii) energy use; and ix) waste and residues. The second category addresses social impacts, including respect for human rights, indigenous peoples' rights, in particular in the case of involuntary resettlements, and labour rights. The third category covers governance impacts, namely adverse impacts on the functioning of public administration, including anti-bribery and anti-corruption measures.

In terms of considering environmental impacts, the CRMR refers to a *broad* (yet non-exhaustive) list of adverse environmental impacts, which is an encouraging approach[44]. The environmental risk category covered by the CRMR is equivalent to the one outlined in the so-called Battery Regulation[45]. The latter, approved in 2023, *inter alia* introduces due diligence obligations for economic operators requiring in-scope companies to identify, prevent, mitigate and account for human rights and environmental impacts along the battery materials (cobalt, lithium, graphite, and nickel) supply chain[46]. On the contrary, the social risk category set out in the CRMR seems to be *poorly* defined, especially when compared to the

[43] European Commission, Strategic projects under the Critical Raw Materials Act – Guide for Applicants, Version 1.0, 23.05.2024, pp. 28-29.
[44] *Ibidem*, p. 28.
[45] Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC, in OJ L 191, 28.7.2023, p. 1 *et seq*., Annex X(2) (hereinafter Battery Regulation).
[46] *Ibidem*, Articles 48-50.

environmental risk category. Indeed, the Regulation lacks sufficient explicit and detailed references to specific, core labour rights, including freedom of association, collective bargaining, and comprehensive working condition standards[47]. Similarly, the text of the Regulation does *not* mention specific human rights which can be affected by project promoters.

A further – and perhaps more problematic – aspect of the three ESG risk categories outlined in the Regulation is the *omission* of any reference to primary international agreements (and instruments) on human rights, labour rights, indigenous peoples' rights, environmental protection, and good governance[48]. By contrast, both the Corporate Sustainability Due Diligence Directive – which will be analysed below – and the Battery Regulation establish mandatory due diligence obligations. These must be carried out regarding adverse human rights and environmental impacts that fall under the scope of the *international conventions* listed in their respective Annexes[49]. The rationale behind this approach is to provide companies with clear guidance on which human rights and environmental impacts they must consider as part of their due diligence obligations, thereby enhancing legal *clarity* and *certainty*. Consequently, the omission of a list of international ESG instruments from the CRMR may result in assessments that *lack* objectivity.

3.1. *Strategic Projects Located Within the EU*

Annex III (entitled "Assessment of the recognition criteria for Strategic Projects"), point 5, of the CRMR clarifies that for projects located *within the EU*, assessing whether the project fulfils the sustainability criteria will be determined by taking into account «an overall assessment of a project's compliance with relevant Union or national law as well as relevant supplementary evidence, taking into account the location of the project». In this regard, it must be highlighted that during the legislative process of the Regulation, it was established that *all* projects – whether located *within or outside* the EU – should have been assessed against Union legislation (where applicable to the project promoter) *and* several international instruments for responsible business conduct[50]. However, following the conclusion of the

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[47] On the contrary, Annex X(2)(b) of the EU Battery Regulation *outlines* labour rights and industrial relations, including: i) occupational health and safety, ii) child labour, iii) forced labour, iv) discrimination, and v) trade union freedoms.

[48] During the legislative process of the Regulation some members of the European Parliaments proposed to include reference to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. However, these two amendments did not pass. See Amendment 20 to the European Parliament's Committee on Industry, Research and Energy (ITRE) final report on the proposal of the CRMR (A9-0260/2023), adopted on 7 September 2023, A9-0260/20; Amendment 21 to the European Parliament's Committee on Industry, Research and Energy (ITRE) final report on the proposal of the CRMR (A9-0260/2023), adopted on 7 September 2023, A9-0260/21.

[49] Annex X(3) of the Battery Regulation refers to the following international instruments (covering the risks established in point 2): a) the Ten Principles of the United Nations Global Compact; b) the UNEP Guidelines for Social Life Cycle Assessment of Products; c) the Convention on Biological Diversity, in particular Decision COP VIII/28 – Voluntary guidelines on Biodiversity-Inclusive impact assessment; d) the UN Paris Agreement; e) the eight fundamental ILO Conventions as defined under the ILO Declaration on Fundamental Principles and Rights at Work; f) any other international environmental conventions that are binding upon the Union or its Member States; g) the ILO Declaration on Fundamental Principles and Rights at Work; h) the International Bill of Human Rights, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

[50] See Commission's proposal, Annex III(4); Council's position, Annex III(4); European Parliament's position, Annex III(4).

interinstitutional negotiations in November 2023, the sustainability provisions were amended, including the criteria for assessing whether projects meet the ESG standards. As a result, the final text of the CRMR stipulates that, for projects located *within the Union*, ESG criteria are fulfilled if the project is assessed in line *solely* with relevant Union or national law. By contrast, for projects located *outside* the Union to meet ESG standards, they must be assessed in line with *both* the applicable national legislation and various international soft-law instruments, as outlined in the next subsection. This creates a *two-tier system* that is inconsistent with Recital 16 of the CRMR, which explicitly states that Strategic Projects – both within and outside the Union – should adhere to the *same* level of social and environmental sustainability. This discrepancy will be demonstrated in the following subsection. Consequently, this subsection analyses whether existing Union and national legislation is sufficient to comprehensively assess and address ESG risks for projects located within the Union.

Moreover, it should be noted that the exact scope of the Commission's assessment for "strategic" designation, as described in Annex III(5) of the CRMR, is clarified in the Commission's Guide for Applicants. It states that the compliance of an EU project with the sustainability requirements can be demonstrated by proceeding as follows: under a first step, the promoter must very briefly describe the obligations under national and EU law covering the different aspects of sustainability; under a second step, promoters must describe how they have met (or plan to meet) these requirement; to support the information provided, promoters may refer to any document (*e.g.*, permits, the summary of an environmental impact assessment report) or relevant certifications to substantiate their compliance. With respect to the latter, the Commission's Guide for Applicants specifies that certification by an international certification scheme is, in itself, not sufficient to demonstrate compliance with the sustainability criteria set out in Article 6(1)(c) of the CRMR. However, such certifications can be used as *supporting evidence* to the information provided in the application form[51].

3.1.1. *Environmental Sustainability*

Starting from environmental sustainability, it must be highlighted that a huge body of EU environmental legislation addresses the environmental risk category analysed above. In this respect, reference should be made to the EIA Directive[52]; the Habitats and Birds Directives[53]; the Water Framework Directive[54]; the Industrial Emissions Directive[55]; the

[51] Commission's Guidance for Applicants, p. 27.

[52] Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, in OJ L 124, 25.4.2014, p. 1 *et seq.*, hereinafter EIA Directive.

[53] Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, in OJ L 206, 22.7.1992, p. 7 *et seq.*, hereinafter Habitats Directive. See also Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (Codified version), in OJ L 20, 26.1.2010, p. 7 *et seq.*, hereinafter Birds Directive.

[54] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, in OJ L 327, 22.12.2000, p. 1 *et seq.*, hereinafter Water Framework Directive.

[55] Directive (EU) 2024/1785 of the European Parliament and of the Council of 24 April 2024 amending Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC on the landfill of waste, in OJ L, 5.7.2024, p. 1 *et seq.*, hereinafter the Industrial Emission Directive.

Seveso III Directive[56]; the Extractive Waste Directive[57]; the Waste Framework Directive[58]; the Waste Electrical and Electronic Equipment Directive[59]; the End-of Life Vehicles Directive[60]; and the Aarhus Regulation,[61] among others. However, under the CRMR, Strategic Projects located within the Union benefit from several advantages, including a *fast-tracked* permit-granting process and *priority* status. Beginning with the former, the key elements envisaged in the CRMR relevant for this study are: i) shortening the projects' licensing procedures; and ii) accelerating the Environmental Impact Assessment (hereinafter EIA) procedure and coordinating assessment procedures set out in the relevant EU legislation[62], as follows.

With regard to the permit-granting process, processing times currently vary considerably – ranging from just 11 months in Portugal to three years in Sweden and up to five years in Poland[63]. The CRMR stipulates that the permit-granted process must not exceed 27 months for Union's Strategic Projects involving extraction and 15 months for those projects involving only processing or recycling[64]. Notably, this time limitation does neither include (administrative and court) appeal procedures nor the time taken by the promoter to prepare the EIA report under the EIA Directive, as explained shortly[65]. This will increase predictability for project promoters, enabling them to contribute to the EU supply security; however, it is worth noting that the CRMR will not diminish the much longer time period (on average, over 15 years) required for discovery, exploration and feasibility studies of raw materials[66].

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56 Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, in OJ L 197, 24.7.2012, p. 1 *et seq.*, hereinafter the Seveso III Directive.

57 Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC, in OJ L 102, 11.4.2006, p. 15 *et seq.*

58 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, in OJ L 312, 22.11.2008, p. 3 *et seq.*, hereinafter the Waste Framework Directive.

59 Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (recast), in OJ L 197, 24.7.2012, p. 38 *et seq.*

60 Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles, in OJ L 269, 21.10.2000, p. 34 *et seq.*

61 Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, in OJ L 264, 25.9.2006, p. 13 *et seq.*, as amended by Regulation (EU) 2021/1767 of the European Parliament and the Council of 6 October 2021, in OJ L 356, 8.10.2021, p. 1 *et seq.*

62 All exceptions discussed below operate under the caveat of the Union's international obligations. The requirement to explore the transboundary significant adverse impacts of a project under the 1991 Espoo Convention (UNECE Convention on environmental impact assessment in a transboundary context) and its 2003 Protocol on Strategic Environmental Assessment still applies. Equally, the 1998 Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Aarhus Convention) requirements should be respected; see CRMR, Article 14.

63 M. ERICSSON, O. LÖF, *Comparative analysis of the mining legislation in certain countries: Suggestions for Estonia*, May 2021, pp. 9, 12 and 23.

64 CRMR, Article 11(1). Projects that were already undergoing permit-granting processes or that concern extensions of existing projects are subject to shorter times: 24 months for Strategic Projects involving extraction, and 12 months for Strategic Projects involving only processing or recycling; Article 11(2). Extensions of up to six months for extraction and three months for processing and recycling projects may be granted exceptionally if the nature, complexity, location, or size of the Strategic Project so require; Article 11(4).

65 CRMR, Article 11(10) and (3).

66 On this aspect, see F. FINDEISEN, Y. WERNERT, *Meeting the costs of resilience: The EU's Critical Raw Materials Strategy must go the extra kilometer*, June 2023, Policy Brief Jacques Delors Center, p. 6; B. TRÖSTER, S.

Regarding the environmental assessments and authorisations of Strategic Projects, it is worth mentioning that raw materials-related projects inherently affect nature in many ways, posing risks to, *inter alia*, the environment, flora, and fauna. Therefore, they may fall under the scope of – respectively – the EIA Directive, the Habitats and Birds Directives, and the Water Framework Directive. Very briefly, the EIA Directive requires Member States to make projects likely to have *significant* effects on the environment, because of their nature, size or location, subject to consent and an assessment by a competent national authority. To obtain development consent, the EIA Directive requires, *inter alia*, the preparation of an environment impact assessment report and the conduct of consultation with relevant authorities, the public and any other Member States affected by the project. The Habitats and Birds Directives require Member States to prevent *significant* negative effects on protected species and habitats in Natura 2000 sites. To that end, raw materials-related projects that are likely to have a significant effect on such a site, must be subject to an appropriate assessment. For its part, the Water Framework Directive establishes a comprehensive legal framework for the protection and improvement of all water bodies across the EU. Projects potentially affecting water bodies, including raw materials projects, need to be subject to rigorous assessment and permitting procedures. Regarding the EIA Directive, the CRMR aims to accelerate the EIA procedure through several key measures. First, it shortens the period for providing a scoping opinion to 30 days[67]. Second, it stipulates that the public consultation period for the EIA report must be no shorter than 30 days and no longer than 85 days[68]. Finally, it limits the evaluation period – the time within which the competent authority must reach a reasoned conclusion on the EIA – to 90 days for Strategic Projects within the Union[69]. In addition, as part of the effort to simplify authorisation procedures, the CRMR envisages that the various assessments under the EIA Directive, Habitats and Birds Directives, Water Framework Directive, Industrial Emissions Directive, Seveso III Directive, and the Waste Framework Directive should be bundled or coordinated whenever possible[70]. This streamlining gives national authorities limited time for critical tasks such as project scoping, risking undermining a Member State's ability to prevent significant harm and leading to further delays later in the permitting process[71]. Additionally, shortening consultation periods in environmental impact assessments reduces opportunities for NGOs

PAPATHEOPHILOU, K. KÜBLBÖCK, *In search of critical raw materials: What will the EU Critical Raw Materials Act achieve?*, May 2024, ÖFSE Research Report 18, p. 21.

[67] CRMR, Article 12(1).

[68] CRMR, Article 12(5). This period may be extended by a further 40 days if the location or complexity of the project requires it.

[69] CRMR, Article 12(3). In exceptional cases, where the nature, complexity, location or size of the proposed projects so require, Member States may extend that time limit by a maximum of 20 days; Article 12(4). As part of the environmental omnibus package, the European Commission proposed in December 2025 a Regulation on speeding-up environmental assessments which – inter alia – fast-tracks permitting for strategic sectors, including projects under the CRMR; see European Commission, Proposal for a Regulation of the European Parliament and of the Council on speeding-up environmental assessments, COM(2025) 984 final, 10.12.2025.

[70] CRMR, Article 12(2). This is not a major novelty; Article 2(3) of the EIA Directive provides for streamlining the assessment procedures related to environmental issues required under various EU directives.

[71] On these aspects, see – *ex multis* – I. PÖLÖNEN, *How to avoid missteps of accelerated EIA and permitting? – Reflections on the proposal for the EU's Critical Raw Material Act*, The Center for Climate Change, Energy and Environmental Law Blog, 11.10.23.

and local communities to participate in permitting procedures. This can lead to a loss of trust and higher public opposition, which ultimately causes significant delays to projects[72].

Regarding the legal status of the Union's Strategic Projects, the CRMR establishes that they shall be considered to be in the «public interest» or «serving public health and safety». Furthermore, they *may* qualify as projects of «overriding public interest» with respect to derogation rules in EU nature protection laws, due to their contribution to the *security* of the Union's supply of SRMs[73]. In this regard, it is worth mentioning that the Habitats, Birds, and Water Framework Directives allow projects to proceed – even if they *adversely* affect the integrity of a Natura 2000 site, protected species, or water bodies – provided certain conditions are met. *One* such condition across all these Directives is that the project must serve the interest of public health and safety[74]. By declaring *all* Union's Strategic Projects to be in public interest or serving public health and safety as *a matter of law*, the CRMR constrains the discretion of competent authorities in applying nature protection laws, and, consequently, automatically fulfills one of the essential criteria for obtaining a derogation[75]. Therefore, by conferring priority status to Union's Strategic Projects based on their contribution to the *security* of the domestic SRMs supply, this legislation *subordinates* biodiversity protection to prevailing economic interests[76]. This occurs despite the fact that sustainability and security of supply are afforded equal weight within the Regulation's overarching objectives.

3.1.2. *Social Sustainability*

With regard to social sustainability, the national and Union laws obliging certain companies to respect human, indigenous peoples', and labour rights – and thus to adopt measures to prevent and mitigate adverse impacts – are rather sparse and weak, as will be briefly addressed below.

At the national level, only two laws currently address *human and labour rights* adverse impacts, particularly through mandatory due diligence: the French Duty of Vigilance Law

[72] The Jadar lithium project in Serbia and various lithium projects in Portugal have experienced recent, intense contestation, driven by environmental concerns and local opposition. Regarding them, see – *ex multis* – J. RAJIĆ et al., *The Jadar Project, Serbia: History, Context and Concerns*, Heinrich-Böll-Stiftung, March 2025; T. EEROLA, K. KOMNITSAS, *Insights on Public Acceptance of Major European Lithium Mine Projects*, in *Mining, Metallurgy & Exploration*, 2025, p. 2663 *et seq.*, p. 2673 *et seq.* It is worth mentioning that Rio Tinto announced a halt to the development of the Jadar project in late 2025, due to slow progress in permitting, intense local opposition, and a shift in company priorities.

[73] CRMR, Art. 10(1) and (2).

[74] See – respectively – Article 6(4) of the Habitats Directive, which stipulates that if the site hosts priority species/habitats the derogation is limited to reasons relating to human health, public safety, or beneficial consequences for the environment, or other imperative reasons of overriding public interest; Article 16(1)(c) of the Habitats Directive, which allows Member States to derogate from strict species protection (*e.g.*, in Articles 12 and 13) in the interests of public health and public safety; Article 9(1)(a) of the Birds Directive, which allows for derogations regarding protected birds, their eggs, nests, and habitats for reasons of public health and safety, particularly in context with air safety or controlling diseases; Article 4(7)(c) of the Water Framework Directive, which allows for new modifications to water bodies that lead to a deterioration in status if those modifications are deemed a sustainable human development activity that serves imperative reasons of public interest, including human health and public safety.

[75] For an analysis of the other conditions which must be met for obtaining a derogation, see D. MARIN et al., *Understanding Strategic Projects Under the CRMA: A Guide to Rights and Processes*, December 2024, pp. 42-46.

[76] In the same sense, see – *ex multis* – C. EHRMANN, S. VESA, *Legal coherence in the European Green Deal: The relationship between the Critical Raw Materials Act and the EU biodiversity law*, in *Journal of Energy & Natural Resources Law*, 5 January 2026, p. 1 *et seq.*, pp. 23-27.

and the German Act on Corporate Due Diligence Obligations in Supply Chains[77]. At the Union level, two pieces of legislation are relevant for our analysis. Firstly, the so-called "Conflict Minerals Regulation" which addresses specifically four raw materials (tin, tungsten, tantalum and gold), *one* of which is defined strategic under the CRMR (tungsten)[78]. However, its provisions are limited to due diligence obligations on – *inter alia* – *very few* EU-based smelters of these materials, with the narrow aim of preventing their sourcing from contributing to armed conflicts and gross human rights violations and abuses[79]. Secondly, and most importantly, emphasis should be placed on the Corporate Sustainability Due Diligence Directive (hereinafter the CSDDD) – adopted in 2024 and revised through the Omnibus I Directive – which outlines broad, cross-sectoral human rights (and environmental) due diligence obligations[80]. The CSDDD was also continually referred to during the legislative process of the CRMR, even though it no longer appears in the final text of this Regulation[81]. For the purposes of this study, focusing on the CSDDD's personal and material scope demonstrates its actual relevance. The personal scope of the CSDDD has been *significantly* narrowed several times. Originally, the Directive was supposed to apply to two types of companies: "large" EU and non-EU companies, and "midcap" EU and non-EU companies in high-impact sectors. The lower thresholds for companies in high-risk sectors, including the *mineral* one, were more than 250 employees and a net worldwide turnover of over EUR 40 million[82]. In the final text adopted in 2024 (after the CRMR came into force), however, this provision was entirely deleted; additionally, the employee and turnover thresholds for "large companies" were increased[83]. The 2024 CSDDD version was expected to apply to around 5,000-6,000 companies, accounting for approximately 0.05% of all companies in the Union. The Omnibus I Directive drastically reduces the corporate scope

[77] Loi n° 2017-399 du 27 Mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, in JORF n° 0074 du 28 mars 2017; for a comment, see – ex *multis* – S. SCHILLER (*sous la dir.*), *Le devoir de vigilance*, Paris, 2019. See also Gesetz über die unternehmerischen Sorgfaltspflichten zur Vermeidung von Menschenrechtsverletzungen in Lieferketten, 16. Juli 2021, in Bundesgesetzblatt I, 2959; for a comment, see – *ex multis* – R. GRABOSCH (Hrsg.), *Das neue Lieferkettensorgfaltspflichtengesetz (LkSG)*, Baden-Baden, 2021.

[78] Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas, in OJ L 130, 19.5.2017, p. 1 *et seq.*

[79] For an analysis, see – *ex multis* – V. GRADO, *The EU "Conflict Minerals Regulation": Potentialities and Limits in the Light of the International Standards on Responsible Sourcing*, in *It. YB. Int. Law*, 2018, p. 235 *et seq.*, pp. 246-249.

[80] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, in OJ L, 5.7.2024, p. 1 *et seq.* (hereinafter the 2024 CSDDD). For a comment, see – *ex multis* – G. HOLLY, *The EU Corporate Sustainability Due Diligence Directive: Maximising Impact Through Transposition and Implementation*, Danish Institute for Human Rights, 2024.

[81] See Commission's proposal, Explanatory Memorandum, p. 6 (which affirms that the proposed Regulation complements the proposal for a Directive on Corporate Sustainability Due Diligence) and Annex III(4); Commission's impact assessment report, pp. 9, 49 and 152; the 2023 Commission's Communication on CRMs, p. 16: European Parliament's position, Annex III(4).

[82] European Commission, Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71 final, p. 26 *et seq.*

[83] Accordingly, in-scope companies in the 2024 version of the Directive were as follows: a) EU companies with more than 1,000 employees and a net worldwide turnover of EUR 450 million or more in the last financial year; b) non-EU companies that generated EUR 450 million or more within the Union; c) companies that did not meet the above thresholds, but were the ultimate parent companies of a group that reached those thresholds; see the 2024 CSDDD, Article 2(1-2).

of the CSDDD, which now applies strictly to: a) EU companies exceeding 5,000 employees and EUR 1.5 billion in net turnover; b) non-EU companies generating over EUR 1.5 billion net turnover within the EU; c) ultimate parent companies of a group that meets these thresholds on a consolidated basis[84]. This would exclude approximately 70% of the companies that fell within the initial scope of the 2024 CSDDD text[85]. Additionally, under the Omnibus I Directive, in-scope companies will not be required to comply with the new measures until July 2029. With regard to the material scope of the Directive (unmodified by the Omnibus I Directive), the 2024 CSDDD text defines "adverse human rights impacts" as those resulting from an *abuse* of *specific* human and labour rights listed in Part I, Section1, of the Annex, as well as other rights derived from the international instruments listed in Part I, Section 2 of the same Annex[86]. Consequently, in light of: a) the limited personal and material scope of both the Conflict Minerals Regulation and the CSDDD; and b) the absence of references to key international instruments on responsible business conduct for projects located within the Union, it appears that *the vast majority* of project promoters are not required to exercise due diligence regarding the adverse human and labour impacts (and risks) of their operations.

As for other social sustainability criteria, Article 6(1)(c) of the CRMR also encompasses «meaningful engagement with local communities» (including indigenous peoples) and «respect of indigenous peoples' rights». As is well known, under international human rights law, indigenous peoples' rights include not only *individual* rights but also *collective* rights, such as the right to (or the principle of) free, prior and informed consent (hereinafter FPIC). Within the EU, the only officially recognised indigenous people are the Sámi, who inhabit the northern parts of Finland and Sweden. In order to be considered "strategic", promoters operating in these two countries must, *inter alia*, *meaningfully engage* with local communities, including indigenous peoples[87]. In this respect, it is worth underlining, firstly, that – unlike international instruments on responsible business conduct to be examined in the following subsection – the Regulation does not contain specific provisions providing a granular definition of "meaningful engagement"[88]. Secondly, the "meaningful engagement" requirement cannot be satisfied *merely* by presenting a plan containing measures designed to facilitate public acceptance of the project, as envisaged in Article 7(1)(d) of the CRMR. Indeed, this plan only needs to «include, *where appropriate*, measures to facilitate the meaning involvement and active participation of affected communities» thereby granting discretion to project promoters regarding whether or not to engage with indigenous peoples[89].

In addition, according to Article 7(1)(j) of the CRMR, promoters of projects located within the Union which risk affecting indigenous peoples must also draw up «a plan

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[84] Directive (EU) 2026/470 of the European Parliament and of the Council of 24 February 2026 amending Directives 2006/43/EC, 2013/34/EU, (EU) 2022/2464 and (EU) 2024/1760 as regards certain corporate sustainability reporting requirements and certain corporate sustainability due diligence requirements, in OJ L, 26.2.2026, p. 1 *et seq.*, pp. 27-28.

[85] DANISH INSTITUTE FOR HUMAN RIGHTS, *Safeguarding the effectiveness of the CSDDD and CSRD following the Omnibus I*, December 2025, p. 4.

[86] For more details, see G. HOLLY, *The EU Corporate Sustainability Due Diligence Directive*, cit., pp. 10-11.

[87] CRMR, Article 6(1)(c).

[88] In the same sense, see E. RIGHETTI, V. RIZOS, *The EU's Quest for Strategic Raw Materials: What Role for Mining and Recycling?*, in *Intereconomics*, 2023, p. 69 *et seq.*, p. 71.

[89] In this respect, see the European Parliament's position which required the presentation of «a plan containing measures *to ensure* the meaningful involvement and active participation of affected communities»; European Parliament's position, Article 6(1)(d), emphasis added. However, the Council *did not* accept this amendment.

containing measures dedicated to a *meaningful consultation* of the affected indigenous peoples about the prevention and minimisation of the adverse impacts on indigenous rights and, where appropriate, fair compensation for those peoples, as well as measures to address the outcomes of the consultation»[90]. Moreover, under Recital 20 of the CRMR and the Commission's Guide for Applicants, where a national law of the country whose territory is concerned by a Strategic Project contains provisions for such consultation the plan may be adjusted accordingly; therefore, this approach takes into account national processes for the consultation of indigenous peoples. However, in this respect it must be highlighted that international human rights bodies have repeatedly found that Finland and Sweden have violated the collective rights of the Sámi people, particularly regarding the principle of FPIC. This is notably due to the granting of land-use permits in the Sámi homeland without adequate consultation or consent. These bodies have also underlined the necessity of taking all measures to prevent similar violations from occurring in the future, including by *modifying* their legislation and policies with regard to environmental, social and cultural impact assessments and acknowledging the right of the Sámi peoples to FPIC[91]. Consequently, the national laws applicable to SRM projects located both within the Union and on indigenous peoples' territories seem *insufficient* to effectively address and assess the potential impacts on the collective rights of those peoples.

Deficits related to the protection of indigenous peoples' collective rights also characterise EU legislation. In this respect, the 2024 CSDDD text explicitly mentions indigenous peoples only in Recitals 33 and 65 and covers the rights of individuals, grouping, and communities to land and resources, as well as the right not to be deprived of means of subsistence. This includes a prohibition on the unlawful eviction or the taking of land, forests, and waters when acquiring, developing, or otherwise using land and natural resources – including through deforestation – where such use secures a person's livelihood.[92] Therefore, the 2024 CSDDD seems *only* to cover the risk of forced eviction, without taking into account human rights adverse impacts related to involuntary resettlements as well as the principle of FPIC.

In the light of the above analysis, it can be concluded that national and EU laws are *insufficient* to comprehensively assess and effectively address the *social* implications of Strategic Projects located within the Union.

3.1.3. *Governance Sustainability*

The last aspect covered by the social sustainability requirements envisaged in Article 6(1)(c) of the CRMR concerns good governance. For the recognition of a project as "strategic", project promoters must adopt policies and practices aimed at *preventing* and *minimising* risks of adverse impacts on the proper functioning of public administration, including corruption and bribery. Therefore, for projects located within the Union it is

[90] CRMR, Article (7(1)(j), emphasis added.
[91] See, *ex multis*, Committee on Economic, Social and Cultural Rights, *Views adopted by the Committee under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, concerning communications No. 251/2022 and No. 289/2022*, UN Doc. E/C.12/76/D/251/2022, E/C.12/76/D/289/2022, 9 December 2024, p. 14 *et seq.*; Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-fourth and twenty-fifth periodic reports of Sweden*, UN Doc. CERD/C/SWE/CO/24-25, 18 December 2025, p. 13. For other cases see – *ex multis* – C. DIERICKX-VISSCHERS, *Mining the Green Deal: Indigenous Rights and Climate Policy in Multilevel Conflict*, in *Völkerrechtsblog*, 07.11.2025.
[92] See Part I, Section 1, point 16 of the Annex of the 2024 CSDDD.

necessary to verify whether national and EU laws are stringent enough to effectively assess and address corruption/bribery risks. At the national level, laws of the Member States transpose the Council Framework Decision 2003/568/JHA on combating corruption in the private sector[93]. This Framework Decision mandates, *inter alia*, that all EU Member States criminalise active and passive bribery within the private sector; however, it does not oblige companies to prevent or minimise corruption risks. It is therefore not surprising that only three EU Members States (France, Germany and Italy) currently impose legal obligations on larger companies relating to the prevention and detection of corruption[94].

With regard to the Union level, it must be underlined – firstly – that the 2024 CSDDD does not cover "adverse governance impacts". Secondly, the new EU Directive on combating corruption must be taken into account[95]. It introduces a framework that operates on three distinct levels: unifying legal concepts and offences; establishing severe financial and custodial sanctions for both individuals and companies; and mandating reforms within national administrations. However, compliance programmes adopted by legal persons to prevent corruption prior to or *after* the commission of the offences covered by the new Directive may be regarded by competent authorities *solely* as mitigating circumstances[96]. Consequently, national and EU laws *do not comprehensively* address the adverse governance impacts that are expected to be prevented or minimised by promoters of projects located within the Union.

3.2. *Strategic Projects in Third Countries or in Overseas Countries and Territories*

Annex III(5) of the CRMR provides that compliance with the sustainability criteria for projects in third countries or OCTs will be assessed based on applicable *national law* – provided that law offers sufficient assurance. This assessment also takes into account the following *international instruments*: «a) ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; b) OECD Due Diligence Guidance for Responsible Business Conduct, in particular the guidelines related to combatting corruption; c) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas; d) OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, including where referring to the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples; e) OECD Principles of Corporate Governance; f) OECD Guidelines for Multinational Enterprises on

[93] Council of the European Union, Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector, in OJ L 192, 31.7.2003, pp. 54–56.
[94] Loi n° 2016-1691 du 9 décembre 2016 relative à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique, in JORF n° 0287 du 10 décembre 2016; Act on Regulatory Offences in the version published on 19 February 1987 (Federal Law Gazette [Bundesgesetzblatt] I p. 602), last amended by Article 4 of the Act of 17 July 2025 (Federal Law Gazette 2025 I No. 163); Decreto Legislativo 8 giugno 2001, n. 231: Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'articolo 11 della legge 29 settembre 2000, n. 300, in GU n. 140 del 19.06.2001.
[95] Directive (EU) 2026/1021 of the European Parliament and of the Council of 29 April 2026 on combatting corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council, in OJ L, 2026/1021, 11.5.2026, p. 1 *et seq.*
[96] *Ibidem*, Article 16(c), emphasis added.

Responsible Business Conduct; g) UN Guiding Principles on Business and Human Rights; h) IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlements».

The Commission's Guide for Applicants clarifies that for projects outside the Union there are different ways to show compliance with the sustainability criteria. If the applicable legal framework of the country and region where the project is located provides sufficient assurance that the required sustainability criteria are met, the promoter can proceed in a manner similar to the case for EU projects. Another way to demonstrate compliance with the sustainability criteria is by detailing how the relevant international instruments mentioned above address each specific point of the sustainability criteria and how the promoters *implement* what is asked by those instruments. The Commission's Guide for Applicants also envisages that promoters may use a hybrid approach, referring to the national legal framework for certain aspects of sustainability while relying on international instruments for others[97].

In the light of the above, it is clear that if national legal frameworks do not provide sufficient assurance that the required sustainability criteria are met, the standards established by those international instruments become *mandatory* obligations. In this respect, it must also be highlighted that *all* ILO, OECD and UN instruments envisaged in Annex III(5) of the CRMR require business enterprises to undertake a *due diligence process*. As is well known, this process asks companies to: a) embed responsible business conduct into policies and management systems; b) identify and assess actual and potential adverse impacts associated with their operations, products or services; c) cease, prevent and mitigate adverse impacts; d) track implementation and results; e) communicate how impacts are addressed; and f) provide for or cooperate in remediation where appropriate, as established in the 2018 OECD Due Diligence Guidance for Responsible Business Conduct[98].

Like the previous subsection, this one evaluates whether the international instruments envisaged in Annex III(5) of the CRMR comprehensively assess and address ESG impacts and risks associated with projects located in third countries or OCTs.

3.2.1. *Environmental Sustainability*

Starting with environmental sustainability, reference should be made to Chapter VI ("Environment") of the 2023 OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (hereinafter 2023 OECD Guidelines)[99]. This Chapter – firstly – *defines* "adverse environmental impacts" as «significant changes in the environment or biota which have harmful effects on the composition, resilience, productivity or carrying capacity of natural and managed ecosystems, or on the operation of socio-economic systems or on people».[100] Secondly, it provides for a *non-exhaustive* list of adverse environmental impacts that may be associated with business activities. These include: a) climate change; b) biodiversity loss; c) degradation of land, marine and freshwater ecosystems; d) deforestation; e) air, water and soil pollution; and f) mismanagement of waste, including hazardous substances[101]. Thirdly, this Chapter broadly reflects the principles and objectives contained in the Rio Declaration on Environment and Development, in Agenda 21 (within the Rio Declaration)

[97] Commission's Guidance for Applicants, pp. 27-28.
[98] OECD, *OECD Due Diligence Guidance for Responsible Business Conduct*, Paris, 2018.
[99] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, Paris, 2023.
[100] *Ibidem*, para. 68.
[101] *Ibidem*, p. 33.

and the United Nations 2030 Agenda for Sustainable Development. It is also consistent with the UN Framework Convention on Climate Change, the Paris Agreement, the Convention on Biological Diversity, Kunming-Montreal Global Biodiversity Framework, relevant regional conventions on access to information, public participation, and justice in environmental matters, among others[102]. Consequently, this chapter – by defining "adverse environmental impacts" and establishing a non-exhaustive list of adverse environmental impacts and their *associated international instruments* – appears capable of offering adequate protection against environmental risks for projects outside the EU. Moreover, the provisions of this Chapter *do not* allow other public interests to prevail over environmental protection, as is envisaged in the CRMR.

3.2.2. *Social Sustainability*

The social sustainability criteria required by Article 6(1)(c) of the CRMR envisage – *inter alia* – the prevention and mitigation of adverse *human and labour* impacts (and risks). These impacts are fully covered by: a) the 2011 UN Guiding Principles on Business and Human Rights (hereinafter UNGPs); b) Chapter IV ("Human Rights") and Chapter V ("Employment and Industrial Relations") of the 2023 OECD Guidelines, and c) the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy[103]. The latter two instruments are in line with the UNGPs, which stipulate that *all* business enterprises are responsible for respecting human rights, meaning that «they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved»[104]. "Adverse human rights impact" is described as «an action that removes or reduces the ability of an individual to enjoy his or her human rights»[105]. The UNGPs also outline that the responsibility of companies to respect human (and labour) rights applies to *all* internationally recognised human rights, understood, at a minimum, as those enshrined in the 1948 Universal Declaration of Human Rights (hereinafter UDHR), the 1966 International Covenant on Civil and Political Rights (hereinafter ICCPR), the 1966 International Covenant on Economic, Social and Cultural Rights (hereinafter ICESCR), coupled with the principles concerning fundamental rights in the ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work[106]. Moreover, the UNGPs emphasise the need for companies to consider additional international instruments and standards in their due diligence, depending on the circumstances. In particular, companies should pay special attention to adverse impacts on individuals who may be at higher risk due to marginalisation, vulnerability or other circumstances, whether acting

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102 *Ibidem*, para. 66.

103 INTERNATIONAL LABOUR ORGANISATION (hereinafter ILO), *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*[4], Geneva, 2022.

104 UN SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON THE ISSUE OF HUMAN RIGHTS AND TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc. A/HRC/17/31, 21 March 2011, UNGP 11.

105 OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, *The Corporate Responsibility to Respect Human Rights: An Interpretative Guide*, UN Doc. HR/PUB/12/02, 2012, p. 5. This guide also defines an "actual human rights impact" as «an adverse impact that has already occurred or is occurring» and a "potential human rights impact" (or a human rights risk) as an «adverse impact that may occur but has not yet done so»; pp. 5 and 7.

106 The 1998 ILO Declaration on Fundamental Principles and Rights at Work was amended in June 2022 to include a safe and healthy working environment as a fifth category of fundamental principles and rights. See ILO, *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*, Geneva, 2022.

individually or as members of certain groups or communities. For example, the UDHR, ICCPR, and ICESCR protect human rights that are highly relevant to assessing adverse impacts in cases of involuntary resettlement – understood as the relocation of a group of people to a new location where they re-establish their habitual residence, lives, and livelihoods[107]. In the light of the above, it is clear that with regard to adverse impacts on human and labour rights, the UNGPs and the 2023 OECD Guidelines possess a *significantly broader* personal and material scope than the CSDDD. As previously analysed, the CSDDD targets only very large companies and addresses specific, listed abuses of human and labour rights.

If projects outside the EU are located in conflict-affected and high-risk areas, project promoters must also assess and address the risks set out in the 2016 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. These risks are: a) contributing to gross human rights violations and serious violations of international humanitarian law; b) direct and indirect support to non-state armed groups; c) support to public or private security force who illegally control mine sites and transportation routes and upstream actors in the supply chain; d) bribery and fraudulent misrepresentation of the origin of minerals; and e) money laundering and taxes, fees and royalties not paid to governments[108].

Social sustainability criteria (required by Article 6(1)(c) of the CRMR) encompass also «meaningful engagement with local communities» (including indigenous peoples) and «respect of indigenous peoples' rights». Considering that half or more of the world's critical raw materials are located on or near indigenous territories[109], taking their rights seriously is crucial to ensure the social sustainability of (strategic) raw materials mining and processing projects. These rights, which are rooted in international human rights law, are mentioned , *inter alia*, in the 2017 OECD Guidelines for Meaningful Stakeholder Engagement in the Extractive Sector (hereinafter OECD Stakeholder Guidance)[110]. In this respect, it is worth mentioning that the European Parliament's position envisaged adding to the list set out in Annex III(4) of the CRMR proposal (which covers *all* projects) «the *principles* of Free, Prior and Informed Consent (FPIC) as established in the United Nation Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007»[111]. However, this amendment was not accepted by the Council, reportedly due to opposition from the Swedish

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[107] Relocation can adversely impact on the following rights (among others): the right to life (as established in Article 3 of the UDHR and 6(1) of the ICCPR); the right to property (as established in Article 17 of the UDHR); the right to an adequate standard of living (including – *inter alia* – adequate food, clothing and housing) (as enshrined in Article 25(1) of the UDHR and Article 11(1) of the ICESCR); the right to freedom of movement and choice of residence (as established in Article 13 of the UDHR and Article 12 of the ICCPR); the right to remedy (as established in Article 8 of the UDHR and Article 2(3) of the ICCPR) and the right to private and family life (as enshrined in Article 12 of the UDHR and Article 17 of the ICCPR). For more details, see L. VAN DER PLOEG, F. VANCLAY, *A human rights based approach to project induced displacement and resettlement*, in *Impact Assessment and Project Appraisal*, 2017, p. 34 *et seq.*, p. 35 *et seq.*; UN SPECIAL RAPPORTEUR ON ADEQUATE HOUSING AS A COMPONENT OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING, AND ON THE RIGHT TO NON-DISCRIMINATION IN THIS CONTEXT, *Resettlement after evictions and displacement: addressing a human rights crisis*, UN Doc. A/HRC/55/53, 25 January 2024, para. 28.

[108] OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas[3]*, Paris, 2016, pp. 20-24.

[109] J.R. OWEN et al., *Energy transition minerals and their intersection with land-connected peoples*, in *Nature Sustainability*, 2023, p. 203 *et seq.*, p. 204.

[110] OECD, *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, Paris, 2017.

[111] European Parliament's position, Annex III(4)(ia), emphasis added.

government. The reference to the OECD Stakeholder Guidance (already included in Annex III(4) of the CRMR proposal) was consequently amended to include the phrase «including where referring to the *principles* set out in the United Nations Declaration on the Rights of Indigenous Peoples»[112]. In light of the above, it is not possible to agree with the view that Annex III(5) of the CRMR refers in its *entirety* to the UN Declaration on the Rights of Indigenous Peoples (hereinafter UNDRIP)[113]. In our assessment, the provision refers only to those principles established in the UNDRIP that are *explicitly incorporated* into the OECD Stakeholder Guidance – most notably the principle of FPIC – as will be analysed below.

The OECD Stakeholder Guidance has many merits. Firstly, it differentiates between stakeholders and rights-holders. Stakeholders are persons or groups who have interests that are or could be directly or indirectly affected by a project or a business activity. Where such interests are individual or collective human rights held by individual or groups, including indigenous peoples, stakeholders whose rights are or may be affected can be referred to as rights-holders[114]. Secondly, the OECD Stakeholder Guidance defines "meaningful stakeholder engagement" as an ongoing, two-way communication that is conducted in good faith and responsive to stakeholders' concerns and needs. "Ongoing" means that stakeholder engagement activities continue throughout the lifecycle of an operation and are not a one-off event. "Two-way" engagement means that corporations and stakeholders exchange opinions, share perspectives and listen to alternative viewpoints to reach a mutual understanding. "Good faith" engagement implies that parties interact with a genuine intention to understand the impacts of enterprise activities; it requires honesty and integrity from both the enterprise and the stakeholders. "Responsive" engagement necessitates follow-through on commitments, ensuring that adverse impacts are appropriately addressed and remedied when necessary and that stakeholder views are meaningfully incorporated in project decisions[115]. Thirdly, the OECD Stakeholder Guidance highlights that stakeholder engagement activities should be proportional to the risks and impacts that an extractive operation may cause or contribute to. Consequently, it distinguishes between several modes of engagement, including: informing/reporting, consulting, negotiating, and responding[116]. With particular regard to indigenous peoples, this Guidance – first of all – explicitly recognises them as *holders* of both *individual* and *collective* rights, while emphasising the need for extractive corporations to identify and respect those rights in their activities[117]. Secondly, it places special emphasis on the participatory rights of indigenous peoples, in particular through ongoing, two-way, responsive and good faith stakeholder engagement[118]. Thirdly, and most importantly, it explicitly recognises the principle of *FPIC*, linking it to the *degree of impact* of the enterprise's activity on indigenous peoples' collective rights. Indeed, the OECD Stakeholder Guidance states that *consent* is needed or required when corporations determine that a project proceeding without consent would pose a *significant risk* to rights-holders[119]. It also highlights that in case of relocation (which is known to have *significant negative impacts* and

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112 CRMR, Annex III(5)(d), emphasis added.

113 See, for example, EU RAW MATERIALS COALITION, *Limiting environmental damage, human rights abuses, and Indigenous Peoples' rights violations: Civil society guidelines for the implementation of the Critical Raw Materials Regulation*, February 2024, pp. 24-25.

114 OECD, *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement*, cit., pp. 19-20.

115 *Ibidem*, p. 18. This definition is also included in the 2023 OECD Guidelines, cit., p. 20.

116 *Ibidem*, pp. 62-64.

117 *Ibidem*, Annex 2, p. 93.

118 *Ibidem*, Annex 2, p. 92.

119 *Ibidem*, p. 64, emphasis added.

necessitates FPIC) the project should not proceed if FPIC has not be obtained from indigenous populations. Moreover, according to this Guideline, it will not be necessary to pursue FPIC in contexts where the rights of indigenous peoples are not being impacted, meaning by implication that in contexts where the rights of indigenous peoples are being impacted, it will be necessary to pursue FPIC. Finally, it underlines that if through its due diligence process an enterprise concludes that consent is required to proceed with an activity, and the agreed process has not arrived at consent, activities should not proceed unless FPIC is subsequently forthcoming[120]. In the light of the above, the OECD Stakeholder Guidance appears to adopt the so-called "sliding scale approach" to FPIC; this dictates that as the gravity of a project's expected impacts increases, the requirements for consultation and consent become proportionately more stringent. As is well known, this approach is supported by national and regional case law as well as by legal scholars[121]. Consequently, if projects located in third countries or OCTs have *significant* adverse impacts on indigenous peoples' collective rights – such as involuntary resettlement, substantially interfering with culturally significant activities, or endangering the very survival of the community – project promoters must *obtain* FPIC. If FPIC is not achieved, they should not proceed with the project. In the latter scenario, offering compensation as an alternative to obtaining FPIC would be inconsistent with the OECD Stakeholder Guidance. These conclusions show that the protection of indigenous peoples' collective rights under the OECD Stakeholder Guidance is *more robust* than under national and EU laws. The latter frameworks, as previously analysed, *lack* a clear definition of meaningful stakeholder engagement and, most critically, *do not* stipulate that FPIC must be obtained from indigenous peoples under the specific circumstances outlined above.

3.2.3. *Governance Sustainability*

In order to be eligible for designation as "strategic", project promoters operating outside the EU are also required to prevent and minimise adverse impacts on the functioning of public administration, including through the implementation of anti-bribery and anti-corruption measures. In this respect, Chapter VII ("Combating Bribery and Other Forms of Corruption") of the 2023 OECD Guidelines requires enterprises to develop and adopt measures for adequately preventing, detecting, and addressing «bribery and other forms of corruption». The latter include the «offering, promising or giving» – as well as the «requesting, agreeing to, or accepting» – «of any undue pecuniary or other advantage to public officials or employees of persons or entities with which an enterprise has a business relationship or to their relatives or associates». Corruption may also encompass «trading in influence, embezzlement and misuse of sponsorships and charitable donations»[122]. According to this Chapter the term «bribery and other forms of corruption» should be interpreted consistently with the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in

[120] *Ibidem*, Annex 2, p. 98.
[121] See, *ex multis*, Study of the Expert Mechanism on the Rights of Indigenous Peoples, *Free, prior and informed consent: a human rights-based approach*, UN Doc. A/HRC/39/62, 10 August 2018, para. 35; F. LENZERINI, *Free, Prior and Informed Consent and Indigenous Peoples*, in M. ÅHRÉN et al. (eds.), *The Oxford Handbook of Indigenous Peoples and International Law*, Oxford, 2024, p. 1 *et seq.*, p. 8 *et seq.*
[122] 2023 OECD Guidelines, cit., para. 86.

International Business Transactions, along with other OECD Recommendations adopted in this field[123].

The governance sustainability criteria mentioned in Article 6(1)(c) of the CRMR encompass also good governance. In this respect, the 2023 OECD Principles of Corporate Governance recommend robust corporate governance practices, particularly for listed companies. In particular, corporate governance should: a) promote transparent and fair markets, together with an efficient allocation of economic resources; b) facilitate the exercise of shareholders' rights and ensure the equitable treatment of all shareholders, particularly minority and foreign shareholders; c) facilitate institutional investors' engagement with their investee companies; d) ensure that companies timely and accurately disclose all material matters regarding the financial situation, performance, sustainability, ownership, and governance of the companies; e) ensure the effective monitoring of management by the board and its accountability to the company and the shareholders; f) provide incentives for companies and investors to manage their investments and risks, always considering the sustainability and resilience of the companies[124].

In light of the above, these two OECD instruments are sufficiently robust to effectively prevent and minimise governance risks in third-country projects. This stands in stark contrast to national and EU laws which, as previously discussed, *fail* to provide specific measures to prevent or mitigate governance risks and adverse impacts of Strategic Projects located within the Union.

Considering that *non-EU national legislation* prescribing mandatory human rights and governance due diligence remains scarce and in its infancy, the analysis conducted in this subsection demonstrates that the social and governance standards set out in UN and OECD instruments will play a critical role in assessing the sustainability criteria of projects located in third countries. However, it must be underlined that the CRMR provides *flexibility* by allowing project promoters to use recognised certification schemes to demonstrate compliance with the ESG requirements under relevant legislation and international instruments, as will be analysed in the next subsection.

3.3. *The Function of Certification Schemes in Recognising the Sustainability Dimension of Strategic Projects*

Annex III(6) of the CRMR envisages that project promoters may also attest compliance with the Regulation's sustainability criteria (established in Article 6(1)(c)) by providing evidence that the project concerned is individually certified by one or more schemes recognised by the Commission[125]. It even stipulates that companies that have not yet obtained a certification can be designed as Strategic Projects if they commit to obtain certification from a recognised scheme *in the future*[126]. Therefore, under the CRMR compliance with Union and national law or international instruments on responsible business conduct can be *substituted* by obtaining a certification of a project.

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123 *Ibidem*.

124 OECD, *G20/OECD Principles of Corporate Governance 2023*, Paris, 2023.

125 CRMR, Annex III(6)(a). Article 30 of the CRMR establishes the legal framework and procedure for the Commission to recognise sustainability certification schemes developed by governments, industry associations, and groupings of interested organisations. As of May 2026, no certification schemes had been recognised by the Commission.

126 According to Annex III(6)(b), promoters must provide sufficient evidence that, when implemented, the project concerned will be able to meet the criteria for recognised certification.

In this regard, it is worth mentioning that during the legislative process of the Regulation, some members of the European Parliament proposed an amendment suggesting that project promoters may *merely* «support» compliance with the sustainability criteria by obtaining certification; however, this amendment was *not* adopted[127]. In the light of the above, it is clear that, within the CRMR, the reliance on recognised certification schemes outsources the Commission's responsibility to evaluate whether proposed projects comply with sustainability criteria to entities that often *lack* robust verification process and transparency. This *sharply contrasts* with the provisions enshrined in both the CSDDD and the Battery Regulation. The latter laws indeed allow for the use of third-party certifications and industry schemes as evidence of due diligence, but stipulate that the *legal responsibility* for ensuring compliance with human rights and environmental standards remains *with* the company[128]. This is because, as amply shown by several studies, certifications *alone* can neither replace a comprehensive assessment of a company's or project's ESG performance nor ensure compliance with regional and national legislation on human rights, environmental standards and anti-corruption measures[129]. In this respect it is worth mentioning that the OECD – which has played a prominent role in developing global standards on responsible business conduct – concluded in a study published in 2022 that participation in even the most rigorous sustainability voluntary initiative «is not a 100% guarantee of the responsible conduct of an individual company. It is only one piece of information that governments should consider within a broader set of risk-based indicators and red flag systems when selecting companies for enforcement checks, and evaluating company performance»[130].

Annex IV of the CRMR outlines substantive, procedural and governance criteria that certification schemes must meet to qualify for recognition. With regard to the substantive criteria, as already mentioned, it outlines – under point 2 – a list of environmental, social and governance risk categories, but *does not* require these substantive standards to align with key international standards on corporate responsible conduct, such as the UNGPs and the 2023 OECD Guidelines[131]. Consequently, the CRMR delegates the authority to certification schemes to define what constitutes, for example, socially responsible practices. Moreover, the principle of FPIC is not included in this list, despite being proposed by some members of the European Parliament during the CRMR's legislative process[132].

As to the procedural and governance criteria that certification schemes must meet, Annex IV(1) requires: a) multi-stakeholder governance, defines as «a formal, meaningful, and substantive role of multiple types of stakeholders, including at least civil society, in the

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127 See Amendment 22 to the European Parliament's Committee on Industry, Research and Energy (ITRE) final report on the proposal of the CRMR (A9-0260/2023), adopted on 7 September 2023, A9-0260/22.

128 See 2024 CSDDD, Recital 52; EU Battery Regulation, Recital 85.

129 See, *ex multis*, R. HEINZ, J. SYDOW, F. ULRICH, *An Examination of Industries Standards in the Raw Materials Sector*, Germanwatch, March 2022; V. FISCHER, *Metallhandel: Der blinde Fleck in der Lieferkette*, PowerShift, Juni 2024; LEAD THE CHARGE, *An Assessment of Third-Party Assurance and Accreditation Schemes in the Minerals, Steel and Aluminum Sectors*, February 2024; S. FITZGERALD et al., *Behind the Schemes: Anticorruption Gaps in Mining Sector Certifications*, Natural Resource Governance Institute, November 2024.

130 OECD, *The role of sustainability initiatives in mandatory due diligence: Background note on Regulatory Developments concerning Due Diligence for Responsible Business Conduct*, Paris, 2022, p. 12.

131 This is confirmed by the fact that the Council's position called for high ESG standards «in line with Union legislation or the international instruments listed in Annex III»; however, this requirement was not included in the final text of the CRMR; see Council's position, p. 132.

132 See Amendment 23 to the European Parliament's Committee on Industry, Research and Energy (ITRE) final report on the proposal of the CRMR (A9-0260/2023), adopted on 7 September 2023, A9-0260/23. This amendment was not accepted.

decision-making of a certification scheme, documented by way of a mandate, terms of reference or other evidence, which confirms or supports the involvement of the multi-stakeholder representatives of that certification scheme»[133]; b) objective verification and monitoring of compliance, based on international, Union or national standards, requirements and procedures and carried out independently from relevant economic operator; c) sufficient requirements and procedures to ensure the competence and independence of the verifiers responsible; and d) an audit-report established at the site level. In the light of those requirements, for a certification scheme to qualify under the CRMR, it must feature a multi-stakeholder governance approach, be evidence-based, and be verified by a qualified third party. However, Annex IV(1) *omits* other well-known "fitness" criteria for certification schemes[134]. Firstly, in relation to the multi-stakeholder governance requirement, although the Regulation envisages multi-stakeholder participation, it *does not* explicitly mandate equal voting rights for NGOs, affected communities, and organised labour alongside industry actors. Such equality is essential to strengthen standards and ensure rigorous scrutiny over audit processes. Secondly, Annex IV(1) *does not* require direct onsite engagement throughout the audit process with local stakeholders, including the local community, civil society, trade unions and rights-holders, which creates the risk of overlooking serious human rights and environmental abuses. Thirdly, the Regulation *does not* require audit reports to be published on an accessible website free of charge, despite this measure having been proposed by some members of the European Parliament during the legislative process[135]. In this respect, it is worth underling that without detailed public reports, it is difficult for external stakeholders to assess the quality of the audit, thereby increasing the risk of unchecked harmful conduct. Lastly, and most importantly, Annex IV(1) *does not* provide for the establishment of a meaningful grievance and remediation mechanism based on the UNGPs. Including such a mechanism to address concerns arising from the standards and assurance system was supported by some members of the European Parliament during the legislative process[136]. This shortcoming may prevent meaningful improvements in company practices and hinder access to remedy for harms caused to rights-holders.

In the light of the above analysis, Annex IV of the CRMR raises several concerns. Firstly, it permits promoters to «attest compliance» with the Regulation's sustainability requirements through certification, although it is well-known that such certification provides no guarantee that a project actually meets human rights or environmental standards. Secondly, the CRMR leaves it to the discretion of certification schemes to define how projects should be implemented in a sustainable way. Lastly, the procedural and governance criteria set out by Annex IV(2) do not guarantee the transparency, accountability, or effective participation of affected communities and other stakeholders in the schemes recognised by the Commission. Consequently, it is highly likely that such schemes will *fail* to adequately protect vulnerable communities and the environment.

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133 CRMR, Article 2(64).

134 For an analysis of the minimum criteria necessary for robust assurance and accreditation processes, see LEAD THE CHARGE, *An Assessment of Third-Party Assurance*, cit., p. 9 *et seq.*

135 See Amendment 24 to the European Parliament's Committee on Industry, Research and Energy (ITRE) final report on the proposal of the CRMR (A9-0260/2023), adopted on 7 September 2023, A9-0260/24. This amendment did not pass.

136 See Amendment 25 to the European Parliament's Committee on Industry, Research and Energy (ITRE) final report on the proposal of the CRMR (A9-0260/2023), adopted on 7 September 2023, A9-0260/25. This amendment did not pass.

4. *Findings on the Inadequate ESG Safeguards of Strategic Partnerships and Projects*

The analysis provided in the preceding sections demonstrates that the two primary instruments established by the CRMR to achieve its 2030 benchmarks *lack* a sufficiently robust sustainability dimension.

As to the EU's Strategic *Partnerships*, these initiatives are envisaged by the Regulation as a "revised" continuation of the partnerships stemming from the 2020 Action Plan, aiming to diversify CRM supply sources. With regard to third countries, the CRMR establishes several criteria for Strategic Partnerships, including the explicit requirement that partner countries establish a regulatory framework to prevent and mitigate adverse ESG impacts. However, these criteria are only framed as elements for a *periodic assessment* by the Board, rather than being established as a *mandatory* prerequisite for the very conclusion of partnerships. Consequently, the Union's diversification strategy entails the risk of partnering with governments that *lack* sufficient ESG standards or, at least, the capacity to enforce them[137]. Regarding Strategic Partnerships with developing and emerging countries in particular, these non-binding agreements seek to integrate the value chains of both parties by promoting "mutual benefits" and cooperating on ESG standards. Yet their effectiveness is limited by *unenforceable* sustainability standards and a *restricted policy space* resulting from EU free trade and investment agreements. This restriction makes it more difficult to achieve core objectives, such as greater local value creation or more stringent ESG requirements.

Turning to Strategic *Projects*, the above analysis shows – firstly – that the sustainability requirements stipulated in Article 6(1)(c) of the CRMR for the recognition by the European Commission encompass a broad range of adverse ESG impacts and risks, although *only* a subset of them is detailed in Annex IV(2) and the Commission's Guide for Applicants. However, *none* of the three ESG risk categories outlined in the Regulation makes an explicit reference to primary international conventions and other instruments concerning human rights, labour rights, indigenous peoples' rights, environmental protection, and good governance. This omission may lead to *less* rigorous and *less* objective ESG assessments.

Secondly, the decision – reached during the inter-institutional negotiations – to limit the scope of the sustainability assessment for EU-based Strategic Projects warrants severe criticism. This assessment is to be conducted exclusively on the basis of the relevant Union or national legislation, presumably under the flawed assumption that these frameworks are the most comprehensive and advanced. This choice has, in fact, established a *two-tier sustainability regime* that distinguishes between *domestic* and *external* Strategic Projects. Although both categories are theoretically expected to meet *equivalent* ESG standards[138], the practical regulatory reality is far different. As the preceding analysis demonstrates, the "domestic regime" (for Projects located *within the EU*) is indeed significantly less stringent than the "external regime" (for Projects located in *third countries and OCTs*). In fact, it must be borne in mind that under Union and national laws: a) biodiversity protection is *subordinated to* economic interests (under the CRMR); b) human and labour rights impacts assessments are *largely voluntary* (due to the limited personal scope of the CSDDD); c) impact assessments

[137] This is confirmed by the 2025 RESourceEU Action Plan, which outlines the Union's intention to conclude partnerships with several countries, including Brazil, the Western Balkans, and North Africa (Southern Neighbourhood).

[138] CRMR, Recital 16.

addressing the collective rights of indigenous peoples are *virtually non-existent* (as seen under Swedish and Finnish national law, as well as within the CSDDD framework); d) meaningful stakeholder engagement is *not defined* (within the CRMR); and e) governance risk assessments are *not* required at all (under both national and Union anti-corruption and anti-bribery laws). On the contrary, the "external regime" (for Projects located in *third countries and OCTs*) is characterised by a *higher* threshold for protection *whenever* local laws are insufficient to meet EU sustainability standards. Indeed, as mentioned, *all* project promoters must: a) *avoid and address* adverse *environmental*, *social* and *governance* impacts; b) *establish* meaningful stakeholder engagement, defined as ongoing, two-way dialogue conducted in good faith and responsive to stakeholder concerns; and also c) *obtain* FPIC if their projects have significant adverse impacts on indigenous peoples' collective rights. This creates a regulatory paradox: while the EU seeks to export high ESG standards through its "Strategic Project" status *abroad*, it maintains a lower substantive threshold for *its own domestic* operations by failing to explicitly integrate these same levels of protection into the primary legislative text applicable to Member States.

A third problematic aspect relates to the poorly designed process for the periodic review aimed to establish whether recognised Strategic Projects (located within or outside the Union) continue to fulfil, *inter alia*, the sustainability criteria established in Article 6(1)(c) of the CRMR. In this respect, it must be mentioned that, according to this Regulation, every two years after the date of recognition as a Strategic Project, project promoters must submit a report to the European Commission containing information on the progress in the implementation of the Strategic Project, particularly as regards the permit-granting process, possible delays, and progress in its financing[139]. In addition, project promoters must also establish and regularly update the undertaking's website or a dedicated project website with information relevant to the local population and to foster public acceptance about the Strategic Project, including at least on the environmental, social and economic impacts and benefits associated with the Strategic Project[140]. Where the Commission finds that a Strategic Project no longer fulfils the assessment criteria laid down in Article 6(1), including the sustainability criteria, it *may* – taking into account the opinion of the Board – withdraw the recognition of a project as "strategic". Before adopting a decision to withdraw recognition, the Commission will however provide the project promoter with reasons for its decision and the project promoter will be given the opportunity to reply (and the Commission shall take into account the project promoter's reply). Projects which are no longer recognised as "strategic" will lose all rights connected to that status under the CRMR.[141] In the light of these provisions, the process for revoking "strategic" status appears discretionary and heavily focused on: a) a "top-down" monitoring approach by the Commission; b) the lack of a formalised, public "appeal to revoke" process for stakeholders; and c) a failure to establish clear criteria and procedures for systematically drawing on relevant national decisions, assessments, and publicly available information. Moreover – and significantly – it remains unclear how the sustainability performance of Strategic Projects will be monitored under this procedure, given that the Commission's monitoring functions (as envisaged in Article 20 of the CRMR) pertain to *supply* risks rather than to *ESG* risks.

A final (and most relevant) problematic aspect of the Strategic Projects framework under the CRMR involves the "delegation of oversight" to private certification schemes.

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[139] CRMR, Article 8(1).
[140] CRMR, Article 8(5).
[141] CRMR, Article 7(11-12).

Unlike the EU Battery Regulation and the CSDDD, this Regulation indeed allows private, voluntary certification schemes to be used to *bypass* compliance with relevant EU and national legislation, as well as international instruments regarding the sustainability criteria established in its Article 6(1)(c). Such a delegation of oversight is legally precarious for several previously discussed reasons, and it also signals a regulatory regression in the raw materials sector when compared to other major EU sustainability frameworks – a shift seemingly driven by the sector's *overriding* economic and strategic significance.

5. *Concluding Remarks*

Despite rhetorically framed as *balancing* economic *and* sustainability interests, the CRMR actually seems rather to *prioritise* economic security and strategic autonomy amidst shifting global dynamics. Indeed, firstly, the sustainability criteria for Strategic Partnerships are merely nominal and lack of implementation mechanisms. Secondly, although the sustainability requirements for Strategic Projects are more clearly defined than those for Strategic Partnerships, they are clearly "bifurcated", with different regimes applying to projects within and outside the EU. As discussed, compared to the "external regime" applicable to Strategic Projects located in third countries and OCTs, the "domestic regime" for EU-based Strategic Projects fails to capture the full spectrum of ESG risks – a limitation that is partly inherent in the very scope and design of EU law. Thirdly – and most alarmingly – both regimes can be bypassed through reliance on private certification schemes, creating a "race to the bottom" or, worse, a "shadow" compliance track.

This approach clearly reveals a *fallacious dichotomy* between sustainability and strategic autonomy, wherein the former is viewed merely as an *encumbrance* to economic security. However, modern supply chain theory demonstrates that sustainability is *not* a secondary concern but a *fundamental pillar of resilience*. In the context of the EU's external raw materials strategy, if Strategic Partnerships fail to deliver tangible benefits for emerging economies – such as local value addition and advanced ESG standards – partner countries are indeed increasingly likely to pivot toward competitors like China, thereby *reinforcing* the EU's dependency on Chinese industrial capacity. Similarly, for EU-based Strategic Projects, the absence of genuine community engagement or the neglect of socio-environmental risks will *inevitably* trigger legal challenges, public opposition, and operational delays. Ultimately, by treating sustainability as an "obstacle" rather than a "strategic asset" that ensures *long-term* supply chain stability, the CRMR risks undermining its overarching objective of securing a "stable and resilient" supply of critical raw materials.