

OPEN LETTER TO THE EUROPEAN UNION

Brussels, November 29, 2021

Subject: Urgent request to ensure a gender-responsive and effective legislation on human rights and environmental due diligence (HREDD) and corporate accountability

Dear President of the European Commission Ursula von der Leyen,
Dear Vice-President Vera Jourová,
Dear Commissioner Thierry Breton,
Dear Commissioner Helena Dalli,
Dear Commissioner Didier Reynders,
Dear Members of Parliament,
Dear Council of the European Union Representatives,

November 29, International Women Human Rights Defenders (WHRDs) Day, is a day to pay tribute to the women who defend human rights and the environment across the world. Being at the forefront of the fight against all forms of discrimination and inequality, protecting environmental, land and Indigenous peoples' rights, WHRDs constantly face harassment, imprisonment, stigmatisation, criminalisation and murder in addition to gender-specific forms of violence, and discrimination, including sexual violence. Gender-responsive corporate accountability and due diligence rules are urgently needed to properly address these deep-seated inequalities.

In 2020, 13 % of the 331 human rights defenders killed worldwide were women¹. Most of these killings occurred in the context of business activities, with Latin America being the most affected region². Gender-specific impacts on women happen in all sectors³, from extractives, manufacturing and agriculture to accommodation, food services industry⁴ and the garment sector where women make up 80% of the workforce⁵. Furthermore, 71% of people living in modern slavery are women⁶. Given that gender issues frequently intersect with other grounds for discrimination, many women are further discriminated against based on intersecting identities such as their ethnic origin, age, class, caste, migration status, gender identity and/or other factors⁷.

The European Union has the opportunity to help protect the rights of the nearly 190 million women working in global supply chains through the upcoming Sustainable Corporate Governance (SCG)

¹ Front Line Defenders 2020 Global Analysis:

<https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2020>

² Global Witness 2020 report: <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>

³ ActionAid 'We mean business':

https://actionaid.nl/wp-content/uploads/2020/02/We-Mean-Business-Protecting-Womens-Rights-in-Global-Supply-Chains_ActionAid_March-2020.pdf

⁴ Oxfam, Not in this together: how supermarkets became pandemic winners while women workers are losing out, 2021: <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621194/bp-not-in-this-together-220621-en.pdf?sequence=22>

⁵ Clean Clothes Campaign Fashioning justice paper: <https://cleanclothes.org/news/2021/fashioning-justice>

⁶ Global Estimates of Modern Slavery, ILO, 2017:

https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

⁷ Center for Intersectional Justice 2019 report:

https://www.intersectionaljustice.org/img/intersectionality-report-FINAL_vizq4j.pdf

directive. The Directive should bring an emphasis on gender-responsive due diligence obligations that account for intersectionality and refer to the UN Guidance on Gender Dimensions of the UN Guiding Principles⁸ and the OECD Due Diligence Guidance for Responsible Business Conduct to provide companies with gender-specific guidance. In this context, gender-responsive recommendations in the SCG Directive must:

1. Include reference in the normative scope to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the ILO Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the ILO convention 190 on Violence and Harassment in the world of work.
2. Create a robust liability regime enabling victims to access justice and obtain an effective remedy for example, by reducing time limitations, difficulties to access evidence, risks of negative repercussions, as well as gender inequality, vulnerabilities and marginalisation which can be major practical and procedural barriers obstructing victims' access to effective legal remedies.
3. Cover entire value chains, including semi-formal and informal working schemes as well as unofficial subcontracting and home-based work taking place in particular at the lowest tiers of value chains, as they disproportionately affect women and are one of the root causes of forced labour.
4. Apply to companies of all sizes as sectors where women are hit hardest by gender-specific human rights impacts include many small and medium-sized enterprises (e.g. garment sector).⁹
5. Identify gender-based violence and sexual harassment as severe risks of human rights violations to be prevented, redressed and remedied.
6. Ensure gender-sensitive human rights and environmental impact assessments, including by using disaggregated data (based on sex, ethnicity, age, migration status and others) and outcome indicators to assess the true impact of companies' activities on women, including how they may add to their unpaid care work, and account for the intersectional nature of discrimination. Companies should also track and monitor the implementation and effectiveness of the adopted measures. These results must be made public and used to inform possible changes to the global business operations and human rights and environmental due diligence process.
7. Ensure a gender-responsive approach in stakeholder engagement and alert mechanisms; effective stakeholder engagement must occur without risk of retaliation and with free, timely and informed consent. Stakeholder engagement processes should aim to understand how existing contexts and/or vulnerabilities may create disproportionate impacts for marginalised groups including women and children, migrant workers, homeworkers,

⁸ United Nations, Gender dimensions of the Guiding Principles on Business and Human Rights, 2019 <https://undocs.org/A/HRC/41/43>

⁹ Clean Clothes Campaign Fashioning justice paper: <https://cleanclothes.org/news/2021/fashioning-justice>

temporary workers, indigenous peoples and communities among others. Special attention should be paid to implementing a gender-responsive approach to ensure the safe and equal participation of women in decision-making processes in particular where culture or tradition excludes them from being represented.

8. Include purchasing practices of companies in the framework of human rights and environmental due diligence processes¹⁰. Profit prioritization at the cost of human rights, labour rights, and environmental harms and irresponsible practices on prices, delivery time or payment terms have impacts on all workers. This disproportionately impacts women in sectors such as the garment industry and agriculture. Unfair purchasing practices have numerous repercussions on workers including their wage levels and drive precarious hiring practices and abusive overtime.

A gender-responsive approach to corporate regulation by the EU will be instrumental to attain the objectives under international commitments like the Sustainable Development Goals and the Beijing Declaration, which made clear roadmaps on the EU's obligation towards advancing women's and girls' rights. Strong political action and alignment with the Gender Equality Strategy and the Gender Action Plan III is urgently needed to address the persistent gender inequalities that prevent many women and girls affected by the activities of European business from leading a safe and prosperous life¹¹.

The SCG Directive must ensure that European companies are compelled to change their own practices and business models, cover the costs of compliance to prevent harms and face the judicial and administrative consequences of failing to do so. It represents a unique opportunity to fight gender inequality and discrimination in global value chains. We call on you to take that step by incorporating these recommendations into the text.

Sincerely,

1. ActionAid International
2. Aktionsgemeinschaft Solidarische Welt e.V. ASW (Germany)
3. ALTSEAN-Burma
4. Anti-Slavery International
5. Arbeitsgemeinschaft der Eine Welt-Landesnetzwerke in Deutschland e.V.
6. Association of Ethical Shareholders Germany
7. Broederlijk Delen (Belgium)
8. Business & Human Rights Resource Centre (BHRRC)
9. CARE International
10. CCFD-Terre Solidaire (France)
11. Christian Initiative Romero (CIR)
12. Clean Clothes Campaign
13. Coordinadora Latinoamericana y del Caribe de Pequeños Productores y Trabajadores de Comercio Justo (CLAC)
14. CorA Network for Corporate Accountability (Germany)
15. Corporate Justice Coalition (UK)

¹⁰Open letter to the European Commission to take action against unfair purchasing practices, 2021: https://cleanclothes.org/file-repository/210715_eu_csos_purchasing_practices_letter_final.pdf/view

¹¹ ECCJ & Anti-Slavery International "what if" 2020 report: http://corporatejustice.org/wp-content/uploads/2021/03/asi_eccj_report_final.pdf

16. Dachverband Entwicklungspolitik Baden-Württemberg, DEAB e.V.(Germany)
17. Entwicklungspolitisches Netzwerk Sachsen ENS (Germany)
18. EU-LAT Network
19. European Center for Constitutional and Human Rights (ECCHR)
20. European Coalition for Corporate Justice (ECCJ)
21. European Network Committees Oscar Romero
22. European Public Service Union (EPSU)
23. Fair Trade Advocacy Office
24. Fairtrade Deutschland e.V.
25. Fairtrade International
26. Fédération internationale pour les Droits Humains / International Federation for Human Rights (FIDH)
27. FEMNET e.V.
28. Friends of the Earth Europe
29. Global Policy Forum Europe
30. Global Witness
31. Human Rights International Corner ETS (Italy)
32. Human Rights Watch
33. INKOTA-netzwerk
34. International Dalit Solidarity Network
35. IUCN National Committee of the Netherlands
36. Justice et Paix (Belgium)
37. New Financial Forum Foundation (Netherlands)
38. Oidhaco: Oficina Internacional de Derechos Humanos Acción Colombia
39. Open Society European Policy Institute
40. OQ Consulting BV (Netherlands/Germany)
41. Our Food. Our Future (OFOF)
42. Oxfam International
43. Pax Christi International
44. PICUM (Platform for International Cooperation on Undocumented Migrants)
45. Polish Institute for Human Rights and Business
46. Rainforest Alliance
47. Réseau France Colombie Solidarités - RFCS (France)
48. ShareAction
49. Südwind (Austria)
50. Swedwatch
51. TERRE DES FEMMES e.V. (Germany)
52. Vamos por la paz - Ensemble pour la paix (France & Colombia)
53. Vredesactie (Belgium)
54. WEED - World Economy, Ecology & Development e.V.
55. Werkstatt Ökonomie (Germany)
56. WeWorld Onlus (Italy)
57. Women Engage for a Common Future - WECF International
58. Women's International League for Peace and Freedom
59. World House, Wetten (Germany)
60. World Organisation Against Torture (OMCT)
61. WSM (Belgium)