

Helsinki, 28th of November 2022.

Subject: Ensuring an effective Corporate Sustainability Due Diligence Directive

To: Minister of Employment and Economic Affairs (MEEA/ TEM)

Dear Ms. Tuula Haatainen,

The Corporate Sustainability Due Diligence Directive (CSDDD) has the potential to be a win-win for citizens, companies, States and the planet. If robust, these rules will protect human rights, the environment and climate; contribute to a resilient economy by improving quality of life for workers and those that depend on business; prevent economic and climate crises; and enable social and economic justice.

[Half a million citizens, civil society organizations and trade unions](#) expect a strong Directive that ensures companies respect human rights and the environment and take decisive climate action. But the window of opportunity is closing.

As the Council is [scheduled](#) to reach a General Approach at this Thursday's COMPET meeting, we welcome Member States' efforts to act quickly and commend the outstanding leadership of the Czech Presidency on delivering a workable text. However, rather than living up to your commitments under existing international standards and strengthening the European Commission proposal, some of the provisions under discussion in the Council instead dramatically weaken the text. Over [200 civil society organizations have been clear on the essential elements](#) the Directive must contain. We are concerned that the direction the Council is taking is detrimental to people and the planet.

We are asking you to support a more constructive initial position of the Council, by using your vote this 1st of December in favor of a General Approach that:

- Ensures the Directive covers the full value chain including downstream impacts and the full coverage of the financial sector;
- Expands, not curtails, the scope of rights and impacts covered by the Directive, including ensuring due diligence for climate impacts and concrete transition plans;
- Strengthens access to justice provisions and addresses barriers to justice often faced by claimants in business-related human rights and environmental cases.

On these three points, we provide more detail and ask action as follows:

- **Value chain scope and inclusion of the financial sector:**

Limiting due diligence requirements to supply chains, upstream activities only or the newly introduced concept of the "chain of activities", would leave out downstream activities that are tied to some of the most severe impacts. We ask you to ensure the Directive includes full value chain coverage, independent of whether business operations are subject to the export license regime. Anything less would curtail companies' ability to address their true actual

and potential impacts. This Directive should be fit to hold companies that produce [weapons](#), [pharmaceuticals](#), [pesticides](#), [surveillance software](#) or [chemicals](#) accountable for those downstream impacts.

This also applies to the financial sector, which plays a pivotal role in channeling capital towards more sustainable activities and which is the backbone of economic and developmental activities globally. Therefore, the exclusion of many types of financial services, large institutional funds and asset managers from the new definition of "chain of activities" is unacceptable. This, the exclusion of business partners in the chain of the company receiving financial services, and the multiple other exemptions carved out exclusively for the financial sector would not only cripple its effectiveness, it would also have significant implications for people and the planet, contradict the basic principles in the [OECD guidance](#) and [NCP jurisprudence](#) and waste the leverage they exercise over other industries and business activities.

- **Material scope and climate:**

Changing the definition of 'human rights impact' and drastically cutting the annex specifying human rights conventions threatens to significantly limit the protection of human rights and the environment.

We ask you to reject any proposal that narrows the scope of rights and impacts that fall under the scope of future legislation. To prevent a further erosion of the already inadequate list proposed by the Commission, Member States must instead ensure that the full spectrum of human rights, the environment and the climate are adequately encompassed. A due diligence obligation not covering all human rights would fall short of the [UN Guiding Principles](#).

We also ask you to ensure that companies are obligated to conduct due diligence on their climate impacts, and that all companies must have a credible plan to align with the Paris Agreement to limit global warming to 1.5 degrees. Only last week, the [UN high-level expert group](#) warned that corporate climate commitments, including transition plans, risk becoming a mere greenwashing tool if not based on clear criteria. Such a plan should include emission reduction targets for the short-, medium- and long-term, cover the entire value chain as well as scope 1, 2 and 3 emissions and not rely on offsetting. The future costs to business stemming from loss and damage from climate breakdown will far outweigh those needed to mitigate climate change now.

- **Access to justice:**

The Council itself — in its [2020 conclusions on decent work](#) — called on the Commission to **actively make use** of the EU Fundamental Rights Agency (FRA)'s recommendations on the implementation of Pillar III of the UNGPs. Yet, the compromise text completely ignores repeated recommendations on access to justice in business and human rights matters. In

[2017](#), [2020](#) and [2022](#) the FRA, together with the European Law Institute, recommended that access to justice measures — such as time limitations, reversal of the burden of proof, collective redress and enhanced victim standing — be included. These now need to be reflected in Article 22. Such improvements would enable Member States to fulfill their international obligations under Pillar III of the UNGPs to improve access to justice for victims of corporate harm.

We welcome the fact that the draft compromise text clarifies that a company causing damage through a failure to comply with its due diligence obligations shall be jointly and severally liable with other contributors, and that victims shall have the right to full compensation. However, to make this effective in practice, Article 22 should clarify that companies are also liable for damage caused by entities that they control, and that, where it is established that an adverse impact has led to damage, it is up to the company to show that it has met its obligations under the Directive. Article 22.4 should also specify that the civil liability rules under the Directive neither exclude nor limit companies' civil liability under other Union or national rules.

Other major barriers to justice often faced by claimants in business-related human rights and environmental cases remain unaddressed, including; a fair distribution of the burden of proof, limitation periods, collective redress mechanisms, third party representative actions, sufficient time-limits, and accompanying measures to provide support to claimants.

We have a range of other concerns, which we have laid out in previous correspondence, meetings and public outreach. We are at your disposal for more detailed proposals or other exchanges. Thank you for your consideration of this urgent request by citizens and rights-holders.

Sincerely,

1. ActionAid France
2. ActionAid International
3. Amis de la Terre France / Friends of the Earth France
4. Amnesty International
5. Anti-Slavery International
6. Business & Human Rights Resource Centre
7. Centre national de coopération au développement (CNCD-11.11.11)
8. CIDSE
9. Clean Clothes Campaign
10. Clean Clothes Kampagne Österreich
11. ECONOMY FOR THE COMMON GOOD

12. Environmental Justice Foundation
13. Estonian Green Movement - FoE Estonia
14. EU-LAT Network
15. European Center for Constitutional and Human Rights
16. European Coalition for Corporate Justice
17. European Environmental Bureau
18. Fair Finance International
19. Fair Trade Advocacy Office
20. Fairtrade International
21. FIDH - International Federation for human rights
22. Finnwatch
23. Focus Association for Sustainable Development
24. ForumCiv
25. Frank Bold
26. Friends of the Earth Europe
27. Friends of the Earth Netherlands/Milieudefensie
28. Front Line Defenders
29. Fundación Alboan
30. GLOBAL 2000 - Friends of the Earth Austria
31. Global Witness
32. Human Rights Watch
33. Initiative pour un devoir de vigilance
34. IUCN National Committee of The Netherlands
35. Swedish Society for Nature Conservation
36. NOAH- Friends of the Earth Denmark
37. Oxfam
38. Plataforma por Empresas Responsables
39. Polish Institute for Human Rights and Business
40. Rainforest Alliance

41. ShareAction
42. Südwind
43. Swedwatch
44. Transport & Environment
45. Treaty Alliance Austria
46. Trócaire
47. Women in Informal Employment: Globalizing and Organizing
48. World Benchmarking Alliance
49. World Fair Trade Organization Europe
50. Zavod za pravično trgovino, 3MUHE



**JUSTICE IS
EVERYBODY'S
BUSINESS.**