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German Supply Chain law: step in the right direction, yet still failing victims

Brussels, Friday 11th June 2021

As a coalition of NGOs working closely on the EU's upcoming proposal Sustainable Corporate Governance Directive, we appreciate that the German supply chain law adopted today will now oblige certain German companies to undertake human rights - and to a limited extent environmental - due diligence.

The German law is also intended to strengthen the rights of those affected by corporate abuses, however it does not live up to this intention and fails to acknowledge the importance of making German companies legally liable through civil procedure for harm occurring to victims in their value chains. It also exempts a large number of companies and has limited value chain coverage. Therefore, such significant shortcomings must be addressed in the upcoming EU law on Sustainable Corporate Governance. The European Parliament, NGOs, trade unions, academics and some businesses are calling for the upcoming EU law to be far more ambitious. This EU legislative framework must ensure civil liability for harm and strengthen access to European courts for victims of corporate human rights and environmental harms in global value chains. The EU law must also cover more companies; all internationally recognised human rights and environmental impacts; as well as the entire value chain.

Despite its limitations, the legislative development in Germany reflects the broader trend [across the EU](#) away from voluntary corporate social responsibility towards legally binding due diligence obligations and improved access to justice for victims. **As the European Commission is shaping its upcoming Sustainable Corporate Governance directive proposal, it must seize this momentum by including [all key elements that NGOs are calling for as necessary for an effective and harmonized EU framework](#).**

Access to justice

Concerning access to justice for victims, the European Parliament has twice in the past eight months [officially called](#) on the Commission to develop [civil liability rules](#) for companies, which extend into their value chains, as a key element of forthcoming EU due diligence legislation. This would be a significant step that goes beyond the German law's provisions on representative actions for NGOs in businesses and human rights judicial claims. In the EU debate there have been additional calls for a fairer distribution of the burden of proof covering all evidentiary elements; the right for victims to choose the applicable law; financial support for victims to enable them to take companies to court; and reasonable time limitations for transnational claims as means to addressing just some of the well-known [barriers to judicial remedy facing victims of corporate abuse](#).

Environmental protection

Whilst German law is very limited with regards to regulating corporate environmental impacts, the European Parliament's proposals cover this to a greater extent. The increasing urgency of the planetary environmental crisis and ongoing climate breakdown, including climate change, obliges the EU [to go much further than the German law](#).

Company Scope

Contrary to the limited scope of the German law, the European Parliament has also called for a more ambitious scope of the EU legislative proposal to all companies, including SMEs in recognition of the key role such business entities will play in the sustainability transition, as well as their impacts on human rights and the environment.

Business Lobbying

The proposal before the German Parliament was notably weaker than a previous (leaked) proposal by the SPD and CSU Ministers and their Ministries in March 2020. The two Ministries had initially proposed a larger scope applying to companies with

more than 500 employees and a provision that would have strengthened civil liability. In view of a broader analysis of business lobbying in the EU context, this development leads us to fear that the most obstructive parts of the business community have gained a strong foothold in the policy-making process. This lobby predominantly comes from business associations, whereas some companies are [voicing their support](#) for legislation which includes enforcement.

NGO Statement on Key Principles of an EU Due Diligence Legislation

NGO Statement on Environmental Due Diligence