Civil society statement on the proposed EU CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE

We, the undersigned civil society organisations and trade unions, welcome the European Commission’s legislative proposal for a directive on Corporate Sustainability Due Diligence. We believe that this is an essential and long-awaited step toward corporate accountability, responsible business conduct and access to justice.

However, it is now urgent to address significant flaws that risk preventing the directive from achieving the positive impact that people, planet and climate urgently need, and that EU citizens, workers and communities affected by corporate abuses worldwide have vocally and publicly demanded.

Therefore, we call upon the European Parliament and EU Member States to improve the proposal where it is lacking, in a gender-responsive manner, whilst building on its key positive elements. This is necessary in order to ensure that the law will effectively prevent corporate harm to human rights, the environment and climate; as well as ensure that victims of corporate abuse have access to effective remedies. We have outlined below our collective views on how to achieve these improvements:

We urge the co-legislators to introduce an effective and robust obligation to prevent and end adverse human rights and environmental impacts across the entire value chain, in a risk-based and proportionate manner. Regrettably, the proposed Directive limits the due diligence obligation to “established business relationships”, which falls behind international standards and risks generating perverse incentives for companies to restructure their value chains in order to avoid their due diligence obligation.

Furthermore, the definitions of adverse human rights and environmental impacts must be broadened to cover all human rights and environmental impacts. In any event, the corresponding annex would need to be more inclusive in order to integrate all the relevant international instruments and should be updated on a regular basis in order to allow for their further development.
The co-legislators must also **strengthen provisions on civil liability and access to justice**. In court, the burden of proof must be on the company, to prove whether it acted appropriately or not. This burden must not be on the claimant who has limited resources and little access to evidence. Companies must also remain liable even when they have sought to verify compliance through industry schemes and third-party audits. Other well-known barriers to justice typical of transnational cases must also be lifted, including the lack of claimants’ access to key information, unreasonable time limitations, and obstacles to collective redress. Independent non-profit organisations with a legitimate interest in representing victims must also be granted the right to act on their behalf.

**Another burning issue is the complete absence of climate due diligence.** Co-legislators must meet the climate emergency with an immediate duty for companies to address climate change risks and impacts in their value chains. Companies must also have concrete obligations to develop and implement an effective transition plan in line with the Paris Agreement, including absolute emission reduction targets for the short, medium and long-term. These obligations must be enforceable through action from public authorities, as well as civil liability.

Whereas international standards apply to all companies, the Commission’s proposal directly excludes approximately 99% of EU companies. The European Parliament and EU Member states must **bring SMEs within the scope** of the proposed Directive. We also consider it unwarranted and unjustifiable for the financial sector to have reduced due diligence obligations and for companies in high-risk sectors to limit their identification process only to the most severe harms. In line with the risk-based approach, we call for all companies to be fully covered by this law.

Furthermore, the proposed directive should grant the perspective of stakeholders the role and weight it deserves and should mandate meaningful consultation with stakeholders informing all stages of due diligence. The due diligence obligation must be strengthened to **include meaningful and ongoing engagement, including mandatory and proactive consultation with workers, trade unions, local community members and other relevant or affected stakeholders**. This engagement must take into consideration the barriers that specific vulnerable groups face. In light of that, the omission of a gender and intersectionality perspective throughout the proposal is another key concern which we share.

Related to this, **the lack of specific references to human rights and environmental defenders is of grave concern**. The proposal fails to offer protection to all human rights and environmental defenders across the world, and only proposes to protect EU-based workers from the risk of retaliation. Protection for people and communities from retaliation and adverse consequences should be strengthened. The rights of Indigenous Peoples to self-determination and for Free, Prior and Informed Consent must also be expressly included and
recognised in the directive.

In all instances where it is necessary to cease a business relationship or business activities, the directive must mandate responsible disengagement by clarifying that companies remain responsible for un-remediated impacts as well as addressing new and additional impacts arising from the disengagement.

Essential value chain transparency and disclosure requirements are also missing in the proposal. We believe that the directive must require companies to map their value chain and business relationships and publish the relevant information.

Worryingly, the proposed directive gives considerable weight to codes of conduct, contractual clauses, third party audits and industry initiatives, which have proven to be insufficient means to identify and address human rights violations and environmental damage. Such means cannot be considered as proof that companies engage in effective and meaningful due diligence. It is also clear that companies’ own purchasing practices generate serious adverse human rights and environmental risks and impacts, therefore companies must be explicitly required to address the risks and adverse impacts of their own purchasing practices.

Finally, the proposal should further clarify the directors’ duty of care and the responsibility to provide oversight of the due diligence process, including transition plans and sustainability targets. Company boards should have a clear obligation to integrate sustainability risks and impacts into the company’s strategy, whilst variable remuneration of directors needs to be strengthened and directly linked to the sustainability performance of companies, particularly on climate.

We are putting forward the above changes in order to ensure that the European Union does not legally mandate a mere tick-box exercise and consolidate a broken system that allows ongoing systematic corporate harm to people, the planet and climate. It is now crucial that co-legislators improve the directive in line with these recommendations.

Co-legislators must implement these changes urgently. We cannot afford to wait until the end of the decade until these provisions become reality, as human rights, environmental and climate harm continues to unfold across the globe.

List of signatory organisations

International organisations
ActionAid
Action on Smoking and Health
Amnesty International
Anti-Slavery International  
Asia Floor Wage Alliance (AFWA)  
Business & Human Rights Resource Centre (BHRRC)  
CARE International  
CIDSE  
Clean Clothes Campaign  
ClientEarth  
Economy for the Common Good  
Projet Accompagnement Québec-Guatemala (PAQG)  
Fair Finance International  
Fairtrade International  
Fair Trade Advocacy Office  
Front Line Defenders  
Global Witness  
Human Rights Watch  
International Corporate Accountability Roundtable (ICAR)  
International Dalit Solidarity Network  
International Federation for Human Rights (FIDH)  
INSPIR (International Network on Social Protection Rights)  
International Service for Human Rights  
OMCT – World Organisation Against Torture  
Open Society Foundations  
Our Food. Our Future  
Oxfam  
Peace Brigades International (PBI)  
PICUM – Platform for International Cooperation on Undocumented Migrants  
Protection International  
Publish What You Pay  
Rainforest Alliance  
Solidaridad  
SOMO (Centre for Research on Multinational Enterprises)  
Transport & Environment  
United Evangelical Mission  
We Effect  
WeWorld  
Women’s International League for Peace and Freedom  
WWF  

Regional networks  
Advocates for Community Alternatives  
African Resources Watch (AFREWATCH)  
Avocats Sans Frontières (ASF)  
Climate Action Network (CAN) Europe  
Coordinadora Latinoamericana y del Caribe de Pequeños/as Productores/as y Trabajadores/as de Comercio Justo (CLAC)  
Environmental Justice Foundation (EJF)  
EU-LAT Network  
European Center for Constitutional Human Rights (ECCHR)  
European Coalition for Corporate Justice (ECCJ)  
European Environmental Bureau  
European Federation of Public services Unions (EPSU)  
European Trade Union Confederation  
Friends of the Earth Europe  
International Network for Human Economy Asia  
INSPIR Asia  
Red europea de Comités Oscar Romero  
ShareAction  
World Fair Trade Organization - Europe  

National networks and organisations  
11.11.11 - Belgium
Kalikasan People’s Network for the Environment (Kalikasan PNE) - Philippines
Karnataka Garment Workers Union (KOOGU) - India
Labour Behind the Label - UK
Labour Action – Denmark
Les Amis de la Terre – Belgium
Ligue Burundaise des droits de l’homme Iteka – Burundi
Ligue des droits de l’Homme (LDH) - France
MADPET – Malaysians Against Death Penalty and Torture - Malaysia
Magyar Természetvédők Szövetsége - Friends of the Earth Hungary
Mani Tese – Italy
Manos Unidas - Spain
Manushya Foundation – Thailand
Maquila Solidarity Network – Canada
National Garment Workers Federation – Bangladesh
MISEREOR – Germany
MVO Platform - Netherlands
National Garment Workers Federation (NGWF) - Bangladesh
National Trade Union Federation – Pakistan
Naturefriends - Greece
NaZemi – Czechia
NeSoVe – Austria
NOAH Friends of the Earth Denmark - Denmark
Notre Affaire à Tous – Belgium
Novi sindikat (New Trade Union) - Croatia
Observatorio Ciudadano – Chile
OKUP – Bangladesh
Organisation Marocaine Des Droits Humains (OMDH) - Morocco
Plataforma por Empresas Responsables (PER) - Spain
Polskie Stowarzyszenie Sprawiedliwego Handlu - Poland
Polski Instytut Praw Człowieka i Biznesu - Poland
PowerShift e.V. - Germany
Pro Ethical Trade - Finland
Public Eye - Switzerland
Quê Me: Vietnam Committee on Human Rights – Vietnam
Regional Industrial Trade Union (Regionalni industrijski sindikat, RIS) - Croatia
Red de Entidades para el Desarrollo Solidario (REDES) - Spain
Regional Watch for Human Rights (RWHR) - Liberia
Regroupeement pour la Responsabilité Sociale des Entreprises - Canada
Resource Matters - Belgium
Rights and Accountability in Development (RAID) - UK
Schone Kleren Campagne – Netherlands
Setem - Spain
Sherpa – France
Society of Women in Action for Total Empowerment (SWATE) - India
Solidair met Guatemala - Belgium
Solsoc – Belgium
Südwind – Austria
Swedish Society for Nature Conservation (SSNC) - Sweden
Swedwatch – Sweden
Swiss Coalition for Corporate Justice (SCCJ) - Switzerland
SWISSAID – Switzerland
Syrian Center for Media and Freedom of expression (SCM) - Syria
Temiz Giysi Kampanyası - Turkey
Terre des Hommes Schweiz – Switzerland
Tudatos Vásárlók Egyesülete - Hungary
Turkmen.News - Turkmenistan
The All Indonesia Trade Union Confederation (AITU-KSBSI) - Indonesia
The KIOS Foundation - Finland
Trócaire - Ireland
Umanotera, The Slovenian Foundation for Sustainable Development – Slovenia
Unión Sindical de Trabajadores de Guatemala – UNSITRAGUA - Guatemala
vzbv – Verbraucherzentrale Bundesverband - Germany
ver.di, vereinte Dienstleistungsgewerkschaft - Germany
Viva Salud – Belgium
Vredesactie - Belgium
WH4C – Workers Hub For Change - Malaysia
We Social Movements (WSM) – Belgium
Workers Rights Watch – Kenya
World Economy, Ecology and Development (WEED) - Germany
Yokohama Action Research - Japan
Zentrum für Mission und Ökumene - Nordkirche weltweit – Germany