

RE: The European Union Corporate Sustainable Due Diligence Directive

Dear Members of the European Parliament, Representatives of EU Member States on the Council of the European Union, European Commissioner for Justice Mr Didier Reynders, European Commissioner for Internal Market Mr Thierry Breton,

I am writing to you from Honduras regarding the proposed European Union (EU) Corporate Sustainable Due Diligence (CSDD) Directive. As this crucial piece of legislation is being finalised in the coming months ahead, on behalf of the Civic Council of Popular and Indigenous Organisations of Honduras (COPINH), I call on you to ensure that this directive is as robust and effective as possible. In particular, I am greatly concerned about the limited effectiveness of this proposed directive if it doesn't fully include the financial sector, and as such it may fail to prevent brutal corporate human rights abuses, like what my family have experienced.

My mother was murdered for defending the rights of our community, on the orders of a company that was receiving funding from European investors. In our struggle for justice, we demand greater accountability and stronger obligations on European companies and investors to respect human rights. As such, our community and my family are encouraged to learn that the proposed Corporate Sustainability Due Diligence legislation will establish legally binding duties for businesses to respect human rights and the environment. This is a great opportunity for the EU to show leadership in ensuring that companies act responsibly. However, to be meaningful and effective, the legislation needs to include responsibility for a company's entire value chain, enable victims to access justice, and to include all business relationships, including investment relationships.

I am highly concerned that the draft legislation does not fully include the same due diligence obligations for the financial sector as for other companies. Furthermore, what is extremely worrying is the agreed position of EU Member States at the Council of the EU in December 2022 to make inclusion of the financial sector optional for Member States. In the months ahead, as this directive gets closer to a final agreement between the three EU institutions involved, I would be dismayed to see the potential of this legislation weakened even further.

My mother, Berta Cáceres, was born in La Esperanza, Honduras, in 1971 in the territory of the indigenous Lenca people. At the age of 22 she co-founded COPINH, which has the aim of defending the territorial and fundamental rights of the Lenca people at its centre. During the last years of her life, Berta Cáceres was appointed General Coordinator of COPINH, and actively campaigned against concessions granted by Honduran state bodies after the coup d'état in 2009. These illegal concessions enabled the exploitation of communal land in indigenous territories and violated the special rights of indigenous peoples to be consulted in a free, prior and informed manner.

One of the most active struggles was defending the Gualcarque river, where the Honduran company DESA tried to impose the "Agua Zarca" hydro-electric project by force. Following the Honduran State's refusal to listen to the complaints of local people, a road blockade was set up by the community. As this effectively prevented the construction of the project, the company, in alliance with the Honduran State, deployed repression, harassment and violence against the communities, COPINH and especially against Berta Cáceres.

Until the last days of her life, Berta condemned the financing and logistical support provided by European banks and companies to DESA. After my mother's murder in March 2016, these financial and business entities disassociated themselves from the crime. Following the arrests of members of DESA, and their prosecution for their involvement in the crime, the German company, and the Dutch and Finnish banks ultimately withdrew from the project.

The life of Berta Cáceres is irreplaceable. One of the most important indigenous and social leaders of Honduras was vilely murdered, and the Honduran courts have found the president of DESA guilty for co-collaboration in ordering her murder. Together with COPINH, I seek full justice for my mother. Despite knowing that she will not return, I deeply wish that no one else has to live through the pain of such a crime.

The situation in Honduras is not unique, this type of crime can be seen repeatedly across several Latin America countries and in other regions of the world. Therefore, as Lenca people, we support the demand that there should be greater regulation of European companies, banks and investments, to avoid the repetition of abuses like what happened to my mother. European companies must apply the same human rights standards that are applied in Europe when they operate in countries such as Honduras, where the lives of those who defend their territories are seriously threatened.

In our case, had the European investors been obliged by EU law to undertake a meaningful process of assessing human rights risks, they should have assessed that the project was being undertaken without the consent of our indigenous Lenca communities, and as such, not entered into a business relationship with DESA from the outset. If financial actors are exempt from such legislation, further cases of extreme violence against human rights defenders will be failed to be prevented.

Furthermore, it is crucial that the legislation is improved to enable affected communities like ours to access justice. The significant barriers to being practically able to take complex and expensive cases against EU companies remain unaddressed in the draft directive. The directive needs to ensure a fair distribution of the burden of proof, ensure that the limitation periods for bringing liability claims is reasonable, that claimants have recourse to collective redress mechanisms, and that civil society organisations and trade unions are entitled to bring representative actions on behalf of victims.

In your position, you can help ensure that this European legislation aimed at the protection of human rights will be robust and effective enough to prevent the type of case which has affected my family from happening again, and that it also enables access to justice for victims in European courts when abuses still happen.

Sincerely,

Bertha Zúniga Cáceres, General Coordinator

The Civic Council of Popular and Indigenous Organisations of Honduras (COPINH)