

Recommendations to the EU and its Member States

for the protection of human rights related to the activities of companies in Latin America



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The EU-LAT Network is a recognized actor in the European Union, consisting of 40 movements and organizations from 12 European countries. We work towards influencing the transformation of European policies related to Latin America in areas like political dialogue, cooperation and trade.

Over the past few years, the CIFCA and Grupo Sur networks, now merged into the EU-LAT Network, have worked through different actions focusing on the growing impact of European companies in Latin America and, in some cases, on their direct or indirect responsibility in human rights abuses.

The EU-LAT Network recognises that some Latin American and European governments have taken the initiative and made positive progress by formulating a National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights.

In addition to the Guiding Principles, the binding UN Treaty on Business and Human Rights, currently being negotiated, would be a fundamental international human rights mechanism. The Treaty would facilitate the implementation of a specific binding instrument into national legal systems, aimed at preventing damage by transnational corporations and the companies connected to them along their supply chain or global production chain, as well as promoting the legal responsibility of these companies.

**In the context of the
EU-LAC relations, the
EU-LAT Network
recommends that the
European Union and its
Member States:**

- Actively and constructively participate in the negotiations for a binding international treaty, which includes a gender perspective, to ensure the prevention and protection of human rights in the context of transnational corporations and other companies.

- Protect against human rights abuses or crimes committed by companies, including those that operate in third countries, as stipulated in the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.

- Grant the victims access to effective recourse; in the case of serious human rights violations caused by a European transnational company, reminds that in this context, respect for human rights by third countries including the guarantee to effective recourse for people under their jurisdiction, is a fundamental element of the Union's external relations with these countries. States must remove



the barriers that limit or deny access to justice and comprehensive reparation for victims, integrating a gender perspective and promoting access to justice and redress.

- Adopt clear legislation which states that companies established in their territory or jurisdiction must respect human rights in all their operations and in all countries and contexts where they operate, as well as in their trade and investment activities, inside and outside of the Union.
- Ratify and respect fundamental ILO standards and monitor the full respect of the ILO's "decent work" agenda, within the framework of development cooperation policies.
- Become involved in good faith in any follow up on the ILO's general discussion about "decent work in global supply chains" (2016) and take into account the general conclusions of this discussion in its trade policies.
- Prioritise as an immediate action the establishment of mandatory human rights due diligence in the case of State-owned companies, as well as companies controlled by the State and/or benefiting from support and services provided by State agencies or European institutions, as well as in the case of companies supplying goods or services through public contracts. Due diligence procedures must be public and must respect the following criteria: independence, community participation, and transparency. While due diligence procedures are important, it is also essential that companies that comply with these standardised procedures do not automatically escape their legal responsibility. States should ensure that people and communities affected by the activities of transnational corporations and other companies can access justice.
- Be consistent in all internal and external policies, especially with regards to the European Union's



trade policy; all policies must comply with the obligations of international human rights law.

- Apply the OECD guidelines on multinationals and human rights (1976) firmly and without delay, as well as the United Nations Guiding Principles, in all areas of jurisdiction. Create action plans at the same time as participating in the negotiations on the binding Treaty.
- Actively implement the 2005 United Nations Convention against Corruption (UNCAC), at the same time as requiring companies to provide comprehensive accountability, and implement financial monitoring, with the aim of preventing corruption and reducing its negative impact on the comprehensive enjoyment of human rights, on poverty and inequality in society.

**In the context of
the negotiation and
implementation of the EU
Trade Agreements with
Latin America, the EU-LAT
Network recommends
that the European
Commission:**

- Conduct evaluations of the human rights impacts before, during and at the end of the negotiation of new trade and investment treaties, and periodically review them. On the basis of this, incorporate all necessary clauses and human rights safeguards that can mitigate and address the identified risks of impacts on human rights.

Human rights impact evaluations should be carried out with total transparency and with the participation of civil society and affected people, especially those in vulnerable situations and should include a gender analysis to take into account the differential impacts on the rights of women and girls.

- Ensure that European companies and European financial institutions,

which directly or indirectly invest in other countries, adopt measures to comply with international and national human rights protection standards. These measures must be applied taking into account women's legal and social situation, in the knowledge that women's land titles are rarely registered. These means that local support and consultation with men and women from affected communities will be necessary.

- Eliminate the ISDS courts and any other mechanism or regulation included in the trade and investment treaties that violate the principle of States as the first responsible party for guaranteeing human rights.

- Take all necessary measures to guarantee indigenous peoples their right to free, prior and informed consultation in all deliberations, programs, development, trade or investment projects of the European Union and/or its member States that may affect their lands, territories or natural resources, according to the interpretation of International Labour Organisation Convention 169, by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights.

The interpretation of consultation must be authentic and carried out under the principle of good faith. In addition, it is necessary to monitor the chapters on Sustainable Development included in certain agreements between the EU and Latin American regions, to specifically promote the rights of indigenous peoples in the implementation of environmental, labour and social standards by the signatory States.

- Include in EU-Latin America trade agreements a democratic clause that enables any of the parties to

suspend their trade obligations when there are serious human rights violations; establish a permanent human rights committee with the mandate to examine compliance by the parties with their human rights obligations under the agreement; implement a mechanism with the participation of civil society to carry out periodic evaluations of the impact on human rights as well as a mechanism for complaints to be presented to the parties, so that the European Commission can initiate an investigation of the human rights problems that have arisen under the agreement.

It is necessary to mainstream the concept of human rights with a gender approach throughout all the parts of the agreements.

- Establish a record at EU level of all European actors involved in investment agreements related to land in third countries, as a basis for accountability.
- Promote all mechanisms for consultation with civil society that

exist as part of association and/or trade agreements, and promote all existing instruments, or those

currently being negotiated, in favour of the protection and promotion of all human rights by businesses.



**In line with the EU
Guidelines on the
Protection of Human
Rights Defenders,
the EU-LAT Network
recommends that
the European Union
Delegations and Member
State Embassies in Latin
American countries:**

- Proactively monitor and report on the activities of EU companies in other countries, especially when there are indications that they are involved in human rights abuses, and monitor the compliance of EU companies with national legislation and human rights norms. Monitoring reports produced by EU delegations and EU Member States Embassies should be provided to all relevant EU institutions, including the European Parliament (in particular, the Commissions of DROI and AFET), the European External Action Service and the European Commission;





- Follow up on specific cases in which human rights defenders are criminalised in relation to the activities of European companies:

A) Make public and systematic statements about these cases, show visible support for the work of the defenders affected and make visits to the headquarters of the criminalised organisations or movements. (In order to hear first-hand from the people affected, so that relevant decisions can be made)

B) Promote an appropriate environment for women human rights defenders to continue their defence work, given

that they are exposed to greater risks (sexual violence, criminalisation, stigmatisation and harassment) compared to their male colleagues. In relation to this, we urge the inclusion of a more explicit gender perspective in the guidelines on human rights defenders.

C) Observe hearings and trials in cases of defenders who have been prosecuted and/or arbitrarily detained, to verify due process, and visit incarcerated defenders in order to determine and/or demand adequate living conditions and respect for their fundamental rights.

The EU-LAT Network consists of the following organizations and individual members:

11.11.11; ActionAid International; AIETI; ASTM; Broederlijk Delen; CISV; CNCD 11.11.11; Cooperació; Comité Oscar Romero; Diakonia; Entraide et Fraternité; Entrepueblos; FIAN; FIDH; Forum Syd; FOS; Greet Schaumans; Gerard Karlhausen; HIVOS; Honduras delegation; Oxfam IBIS; Svenska Kyrkan; IM; Oxfam Intermón; Justice et Paix; Manitese; Mundubat; OMCT; Oxfam Solidarité; PBI Guatemala; PBI Honduras; PBI México; Protection International; Solidaridad Suecia SAL; SweFor; Terre des Hommes France; TNI; Trócaire; We Effect; WSM.

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The EU-LAT Network is a pluralistic network of European movements and organizations that promote solidarity between the people of Latin America and Europe. The network was founded on October 11, 2017 after two European networks – CIFCA (Copenhagen Initiative for Central America and Mexico) and Grupo Sur – decided to join forces in order to strengthen their advocacy actions to promote participatory European policies, with a gender perspective, that contributes to the comprehensive respect for human rights, democratization and sustainable development in Latin America.



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