

Preparing the ground for land rights with an EU supply chain law

Our demands

Access to land and water is essential for human life. Over the last two decades, an increasing number of people around the world have been deprived of their access to these resources. The cultivation of soy and palm oil, for instance, constantly requires new land and large quantities of water, the appropriation of which is often in conflict with rights of local populations. Due to the mass production of food for global supply chains, people lose access to the land they live on and on which they rely for their own food production. Their land has often a high cultural value for local populations.

To protect indigenous peoples, smallholders and their rights in global supply chains, we call on the Members of the European Parliament, the European Commission and political decision-makers on a national level to use their negotiating position and advocate for an EU supply chain law that protects land rights in an effective way. For this, the law must contain the following points:



Respect for land rights of indigenous peoples and smallholders

Land rights, and in particular the rights of indigenous peoples to natural resources, food, self-determination and culture, are listed in the Commission's draft with reference to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). However, the draft does not refer to the ILO Convention 169 and the principle of free, prior and informed consent (FPIC) or the obligation to inform local people about their rights in their native languages. The vulnerable situation of smallholders should also be included in the List of Legal Instruments (Annex) by referring to the UN Declaration on the Rights of Peasants and other People Working in Rural Areas (UNDROP).



Protection of human rights and environmental defenders

All over the world, human rights defenders advocate for land rights. Being committed to protect the rights of people in vulnerable situations, they put themselves at risk. During recent years, more persons than ever before have been attacked and killed in result of their efforts to fight against destructive corporate practices, especially in the global supply chains of meat, soy and palm oil. The directive lacks provisions to implement specific measures for the protection of human rights and environmental defenders against criminalisation and prosecution, such as:

- An explicit reference that defines human rights defenders as relevant stakeholders who must be consulted by companies
- Compulsory measures that protect human rights defenders and other stakeholders, who express their concerns in consultation processes, from negative consequences (grievance mechanisms; independent and impartial investigations; suspension of business relations until remedial action is taken) as part of due diligence obligations
- Extension of legal protection for sources to human rights defenders, as it is also often granted to journalists
- Inclusion of the EU Guidelines on Human Rights Defenders and the UN Declaration on the Protection of Human Rights Defenders in the List of Legal Instruments (Annex).



No due diligence based on audits only

The current draft strongly relies on the use of transfer clauses towards direct suppliers. These clauses encourage companies to oblige their suppliers to comply with codes of conduct and to set up prevention plans. However, in recent years, codes of conduct, private audits and sectoral initiatives have proven to be insufficient to identify and prevent land grabbing and other human rights violations within supply chains. This approach would release European companies, that are on the top of global supply chains, from their due diligence obligations, which contradicts the true purpose of the law. The Directive must therefore contain distinct restrictions that prevent companies from delegating their responsibilities to other actors in the supply chain.



Effective civil liability incl. access to remedies

The draft contains a civil liability provision allowing those affected by human rights violations to take legal action against responsible companies. Unfortunately, the barriers to such claims are extremely high due to the victim's burden of proof, high litigation costs and periods of limitation. To support those affected by violations of their (land) rights, the law should close the following loopholes:

- Reductions in periods of limitation to also allow those affected by long-term consequences to have access to legal proceedings,
- Consideration of fundamentally different financial situations of companies and victims by adjusting the rules on procedural costs accordingly,
- Reversal of the burden of proof if the affected party provides appropriate evidence, i.e. the company must prove that it has fulfilled its due diligence obligations in the respective case.



Participation and transparency by strengthening the Escazú Agreement

Under the Escazú Agreement, some Latin American countries have launched and ratified a ground-breaking regional instrument to protect human rights and the environment. The relevant countries commit themselves to grant the following rights to communities affected by human impact on the environment:

- Access to relevant information
- Participation in decision-making processes in the event of human impact on the environment
- Access to justice
- Protection of human rights and environmental defenders

Following these principles, environmental and land conflicts can be dealt with in an inclusive way. Therefore, the EU should include the Escazú Agreement in the List of Legal Instruments (Annex) referred to in the Supply Chain Act.



Designating the financial industry as a risk sector

Although the EU Commission identifies the agricultural sector as a high-risk sector for human rights and environmental violations, it explicitly excludes the financial sector. However, as the financial sector is closely linked to the agricultural industry and land is increasingly used as an object of investment and speculation, it should - following the recommendations of the OECD - be urgently classified as high-risk, so that financial institutions are also subject to due diligence obligations throughout the duration of their operations. Land investment and the use of land as an object for speculation and profit harm indigenous peoples and smallholders, i.e. those individuals and communities whose livelihoods depend on access to land and water. These groups are regularly subjected to unlawful land evictions and other pressure measures by state and non-state actors around the globe.



Covering the entire supply chain for all types of business activities

The draft directive obliges companies to fulfil due diligence obligations along their entire supply chains. However, the obligations currently only apply to "established business relationships" of companies. Trading on stock exchanges and short-term transactions, which are widespread in the agricultural sector, are thus exempted. This loophole must be closed. To create transparency, companies should be required to record their supply chains and publish relevant information. As the law under the current proposal, with a few exceptions, only applies to EU companies with more than 500 employees and a turnover of more than € 150 M, it only affects 1 % of European companies. Since the agri-food sector also includes many small and medium-sized companies with global supply chains, we demand lower thresholds of more than 10 employees or a turnover of more than € 2 M.

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List of signatories

