



Business and Human Rights: A framework for the EU

Position paper by AI and ECCJ for the COHOM meeting on Business and Human Rights, 11 May 2009

Globalization has brought unprecedented power and influence for corporations, along with jobs and investment returns for millions. But when corporations' activities violate human rights and drive people deeper into poverty, there is often no effective means to hold companies to account or to ensure redress for those affected. States frequently fail to uphold their duty to protect against human rights abuses involving companies due to multiple reasons, including the protection of foreign investment, lack of understanding or capacity, as well as lack of political will. As a result companies may receive profits from operations of other parts of the enterprise or a supplier without exposing itself to any liability for the human rights or environmental consequences of those operations.

In comparison, allegations of human rights abuse are particularly high among the extractive industry. Communities may be forcibly relocated to make way for extractive activities. Pollution or overuse of water resources can damage local communities' access to clean water. Heavy-handed security operations to protect extractive industry sites have been a recurring problem – often in countries or areas already affected by conflict. However, problems can be found in virtually any sector of operation. Complex corporate legal structures and global supply chains makes the allocation of responsibilities challenging.

The current international framework on business and human rights at the UN focuses on the obligations of states to protect human rights. It also highlights the responsibilities of companies to respect them or the “do no harm” principle in the context of economic relations. Finally, it underlines the importance of ensuring effective remedies for victims.

The EU needs to live up to its commitments at the UN and to incorporate this framework at EU level. Action to integrate better corporate accountability measures in all relevant policies is required for meeting the EU's own responsibilities to protect human rights. It is also essential for the success of the EU's commitments to tackling climate change, delivering sustainable development, respecting biodiversity and creating growth and jobs.

The EU as a global actor and an economic bloc is uniquely placed in advancing corporate accountability through providing a level playing field and guiding business to respect human rights. Given the economic clout of European companies operating abroad, the EU is best positioned to take the lead and shape the nature of any future international measures.

Of key importance are the following issues: enhancing the liability of parent companies of multinational enterprises operating in the EU for the human rights and environmental abuses committed by their subsidiaries outside the EU; mandating companies to have duty of care towards human rights and environmental impacts within their sphere of responsibility; develop a mandatory

EU human rights and environmental annual report for companies; and improve access to justice for those affected through procedural changes to legal standing, rules on damages, costs of actions, burden of proof and access to evidence.

A number of concrete actions can be taken by the EU in this direction.

AI and ECCJ call on the Council of the EU:

1. **Council conclusions:** Adopt Council conclusions to reaffirm the duties and responsibilities of the EU institutions, its member states and the MNEs. This would contribute to support the framework on business and human rights currently being discussed at the UN level;
2. **Reinforcing EIB's role in protecting human rights:** the EU and its member states need to ensure that the EIB has effective mechanism to guarantee that it is not supporting projects or activities that will cause human rights harms;
3. **Contribute to operationalise the UN framework at the EU:** the European Commission has announced the development of a study to analyse the current EU and national legal framework applicable to European companies in their operations outside the EU, including the identification of existing gaps. In order to ensure an effective follow-up of the recommendations to the EU to address these gaps, the Council could nominate a representative to the steering committee that will oversee the advancement of the study.
4. **Mandate on Corporate Accountability:** the EU Council should mandate the new European Commission to develop a clear action plan on corporate accountability away from the corporate social responsibility (CSR) debate, in order to follow up on the study recommendations and address the gaps identified through better regulation. The action plan should address the allocation of responsibilities, financial and human resources to be devoted to the issue. It should also pay special attention to including human rights and environmental considerations in all relevant EU policies, for example through the Action Plan on Company Law and Corporate Governance and on the EU justice *acquis* to ensure the proper allocations of liabilities, responsibilities and access to justice.
5. **Transparency and participation:** EU principles of transparency and participation should be applied across the board, so all stakeholders have full access to information and participate in the decision-making process.

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The **European Coalition for Corporate Justice (ECCJ)** is the largest civil society network devoted to corporate accountability within the EU. ECCJ critiques policy development, undertakes research and proposes solutions to ensure better regulation of European companies to protect people and the environment. This growing network of national-level coalitions includes over 250 civil society organisations such as the International Federation of Human Rights (FIDH), the Friends of the Earth Europe network, and national chapters of Oxfam, Greenpeace, Amnesty International and WWF. <http://www.corporatejustice.org/>