

# Global Justice Clinic

## Strengthening Stakeholder Engagement in the EU Corporate Sustainability Due Diligence Directive

The proposal for a Directive on corporate sustainability due diligence, adopted by the Commission on 23 February 2022, represents an important step forward for human rights protection in global value chains. As it stands, however, the proposed text **neglects a key element for effective due diligence: engagement with rights-holders**, particularly in the Global South. The draft provisions on stakeholder engagement are too fragmented, vague and weak. They do not adequately reflect the current state of international human rights law and international guidelines. This summary thus pinpoints weaknesses in the current draft and makes recommendations for **strengthening the provisions on stakeholder engagement** in the final text of the Directive. Key recommendations include the adoption of a rights-holder centered approach, improving the definition of stakeholders, laying down principles for their engagement, removing vague language and making engagement mandatory throughout all phases of the due diligence process.

Key **weaknesses** are:

- The draft Directive does not sufficiently recognize the **agency and perspectives of rights-holders** - whom the Directive ultimately aims to protect -, when defining its aims and subject-matter in the recitals and Art. 1.
- The **definition of stakeholders** in Art. 3 is too **vague** and does not adequately differentiate between stakeholders in general and rights-holders in particular.
- The text **lacks a systematic approach** to stakeholder engagement across different stages of the due diligence process. In particular, it fails to stipulate principles for stakeholder identification and prioritization, it lacks requirements for their meaningful engagement, and it does not adequately address **marginalized groups** and the barriers for engagement they face.
- The proposed **provisions on stakeholder engagement** in Art. 6(4), 8(3) and 9(2) are too **fragmented and vague**, requiring engagement only “where relevant” and thus creating legal uncertainty for stakeholders and businesses alike. Art. 10 fails to recognize the important role of stakeholders in monitoring.

Key **recommendations** are:

- Adopt a rights-holder centered approach throughout the Directive **and emphasize the agency of rights holders** in the recitals as well as in the general provisions on subject matter and due diligence (Art. 1, 4).
- Specify the definition of stakeholders in Art. 3 and **identify rights-holders as a distinct category of stakeholders**, distinguish between **potentially or actually affected rights-holders**, and other types of stakeholders that legitimately represent rights-holders, such as trade unions, NGOs and human rights/environmental defenders.
- Include **a provision with general principles for stakeholder engagement** applicable to all phases of the due diligence process; these principles should include 1) adequate identification and prioritization of stakeholders and rights-holders; 2) informed, timely, ongoing and meaningful engagement; 3) non-discrimination and proactive removal of barriers to engagement for marginalized and vulnerable groups; 4) safety, security and confidentiality; 5) documentation and clear internal responsibilities.
- **Remove vague language** limiting stakeholder engagement (“where relevant”) from Articles 6(4) and 8(3) and **make engagement mandatory in all phases of the due diligence process**, including engagement with affected rights-holders when remediating actual adverse impacts; also remove limiting language from Art. 9(2) and allow complaints by NGOs regardless of whether they are active in the respective value chain or not; also require stakeholder engagement in monitoring under Art. 10.

This summary will be complemented by a forthcoming policy paper with in-depth analysis and specific language for redrafting relevant provisions. It is based on research and expert consultations conducted by public policy professionals from the Global South enrolled at the Willy Brandt School of Public Policy at Erfurt University. It is published by the Global Justice Clinic at Erfurt University in cooperation with the German Institute for Human Rights and Luxembourg University. For more information, please visit the Clinic’s website [here](#) or e-mail [michael.riegner@uni-erfurt.de](mailto:michael.riegner@uni-erfurt.de).