

Vienna, 18.6.2020

## **Corporate human rights and environmental due diligence**

### **Open letter from the Treaty Alliance Austria**

Dear President von der Leyen,  
dear High Representative Borrell,  
dear Commissioner Reynders,

we, the Treaty Alliance Austria, are an association of organisations committed to the creation of binding rules for corporate responsibility to respect human rights and the environment. The crisis triggered by the Covid-19 pandemic is exacerbating existing social and economic inequalities within the EU and at global level. There is an urgent need now more than ever for binding rules to prevent damage to people and the environment in the context of business activities.

#### **EU legislation on mandatory corporate human rights and environmental due diligence**

The Treaty Alliance Austria welcomes the announcement of a proposal for EU legislation on mandatory corporate due diligence to be presented by the Commission in 2021 according to Commissioner Didier Reynders. We also welcome the announcement of a public consultation.

We are currently in a climate, health and human rights crisis. We are experiencing the vulnerability of supply chains and our dependence on imports. The Treaty Alliance Austria shares the European Parliament's view that corporate human rights and environmental due diligence are necessary conditions in order to prevent and mitigate future crises and ensure sustainable value chains (resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences P9 TA(2020)0054).

The Treaty Alliance Austria welcomes the publication of the “Study on due diligence requirements through the supply chain”. The result: Only one third of the companies surveyed undertake due diligence which takes into account all human rights and environmental impacts. The measures are usually limited to first tier suppliers. These findings show the need to establish binding rules, as voluntary measures are undertaken to only a limited extent.

The Treaty Alliance Austria sent a letter to the Austrian Minister of Economic Affairs Margarete Schramböck demanding the introduction of binding rules for corporate due diligence. We are pleased to bring to the attention of the Commission the [reply](#) of the Austrian Ministry of Economy: "We will contribute constructively at European level to a possible European solution."

#### **Corporate human rights and environmental due diligence - here's how it works**

The UN Guiding Principles on Business and Human Rights describe corporate due diligence in four steps. The Treaty Alliance Austria is of the view that these steps should be legally binding for corporations: 1) risk analysis (identification and assessment of (potential) adverse impacts of corporate activities on human rights and the environment) 2) follow-up measures (define internal corporate responsibilities, end/prevent adverse effects) 3) tracking the effectiveness of the measures taken 4) communication (reporting on the handling of (potentially) adverse impacts of corporate activities). The trade union organisations represented in the company should be involved.

#### **Key elements of EU legislation**

The Treaty Alliance Austria welcomes the key points of the proposal for EU legislation announced by Commissioner Reynders: Businesses will be required to undertake human rights and environmental due diligence. The legislation will be cross-sectoral and will include an enforcement mechanism. The Treaty Alliance Austria is of the view that, in addition to these key points, the announced EU legislation must meet the following requirements:

**Personal and material scope:** EU legislation must be binding on all companies established in an EU Member State as well as on companies placing products on or providing services within the internal market. All internationally recognised human and labour rights as well as environmental and climate standards must be respected.

**Scope of due diligence:** Due diligence must cover the entire supply chain (own company, subsidiaries, subcontractors and suppliers).

**Scope of liability:** Companies must be held liable for damages; both for damages caused by own business activities as well as for damages in the sphere of subsidiaries and of companies with which a business relationship exists; in the latter case provided that there is a direct link to products, services or activities of the own company and due diligence obligations were disregarded.

**Effective remedy for victims:** Victims of human rights violations and environmental damage in the context of business activities must have access to effective remedies. (Fines that go to the public authorities are not a remedy for those affected). EU courts' jurisdiction must be ensured. The burden of proof must be distributed fairly. EU legislation on corporate due diligence must be applied as overriding law alongside the rules of private international law. Limitation periods must not be too short.

**Penalties and sanctions:** In addition to liability for damages EU legislation must provide for administrative and criminal penalties in case of infringements by companies of obligations laid down in EU legislation. Responsibilities of the authorities and control bodies must be defined.

### **Binding UN agreement on business and human rights ("UN Treaty")**

The Treaty Alliance Austria calls on the Commission to promote mandatory corporate human rights and environmental due diligence also at the level of the United Nations. With Resolution 26/9 adopted on July 14, 2014, the UN Human Rights Council established an intergovernmental working group with the mandate to draw up a binding international legal instrument. In October 2020 the sixth round of negotiations will take place in Geneva. The Treaty Alliance Austria calls on the EU to finally enter into negotiations. This requires a mandate by EU Member States. The Treaty Alliance Austria therefore asks the Commission to present a draft mandate. Points of criticism of the EU on the zero draft of the agreement have been taken up and incorporated into the revised draft presented on July 16, 2019.

The Treaty Alliance Austria asks the Commission to take its concerns into account. In the Communication on the European Green Deal the Commission states: "The EU has the collective ability to transform its economy and society to put it on a more sustainable path. It can build on its strengths as a global leader on climate and environmental measures, consumer protection, and workers' rights." We call on the Commission to act swiftly to this end.

Yours sincerely

Treaty Alliance Austria

We, the Treaty Alliance Austria, are an association of organisations committed to the creation of binding rules for corporate responsibility to respect human rights and the environment. Members of the Treaty Alliance Austria are: Global Responsibility, AK EUROPA (Chamber of Labour Austria), Bread for the World, DKA Austria, FAIRTRADE Austria, FIAN, Austrian Trade Union Federation, Network Social Responsibility (NeSoVe) and Südwind.