

The consumer checklist

ON THE UPCOMING EU DUE DILIGENCE LEGISLATION

Consumers are increasingly concerned about the impact their consumption has on the environment and on communities across the world. Many of them want to be sure that their purchasing decisions do not support businesses that operate in violation of basic human rights or harm the environment around the world.

The problem is that the complexity of globally integrated value chains and the lack of binding standards makes it extremely difficult for consumers to select the products that have been produced in an environmental-friendly and socially fair manner. How to be sure that the pair of jeans you are buying has been manufactured by workers whose basic labour rights were respected? How to know for sure that the chocolate spread you enjoy eating at breakfast or that the new furniture you consider buying has not contributed to deforestation in south-east Asia?

A lack of transparency along the supply chain does not only hinder informed choice of already environmentally and socially engaged consumers. It also prevents consumers who are less conscious about their environmental and social impacts to develop greater awareness.

At the same time, all consumers in industrialised countries need to change their lifestyles for a sustainable planet. This means everybody is and must be concerned by the ways how we produce and consume.

A difference could be made by requiring companies who place products on the market, whether based in the EU or exporting products to the EU, to consider, prevent and mitigate possible negative impacts on human rights and the environment. By introducing such rules, consumers would be able to assume that minimum social-ecological criteria have been met by all companies during production. To enable sustainable consumption, regulatory changes are needed that not only make sustainable products the easy choice for consumers, but the only one.

The European Commission is currently considering introducing a regulatory instrument establishing mandatory due diligence criteria for companies operating in the EU. BEUC very much supports this initiative. In this consumer checklist, we outline six principles such a regulation should follow to include consumer needs and expectations.

1

GO BEYOND BETTER INFORMATION

When faced with the problem of social, economic and environmental due diligence, many decision-makers tend to think that the solution is to better inform consumers, for instance through the establishment of new labels. While better consumer information is a no-brainer, it is far from being enough. Furthermore, information currently provided to consumers about the social and environmental impacts of products is often not trustworthy. Therefore, the objective should not be to give consumers the choice between sustainably and unsustainably manufactured products, but to make sure that all companies apply basic environmental and social standards throughout their value chain. Consumers alone do not have the power to rectify, through their purchasing decisions, abuses that companies are responsible for through their choice of production. Sustainability starts at the beginning of the value chain and cannot be corrected by consumption alone.

2

SET LEGALLY BINDING DUE DILIGENCE REQUIREMENTS THAT COVER HUMAN RIGHTS, ENVIRONMENTAL AND CLIMATE IMPACTS OF CORPORATE ACTIVITIES

The upcoming EU legislative initiative should introduce mandatory due diligence requirements for all companies operating or placing products and services on the EU market, including for financial institutions. The requirements must be applicable throughout the entire value chains of products and services and be therefore applicable to business operations inside and outside the EU¹. Particular attention should also be paid to environmental and climate change impacts, for instance by stipulating that companies' strategies are in line with the Paris climate objective of limiting temperature increase to 1.5 degrees Celsius.



3

REQUIRE COMPANIES TO ESTABLISH AND ROLL OUT THOROUGH AND DYNAMIC DUE DILIGENCE STRATEGIES

The new rules should require companies to take steps to identify/address/prevent/mitigate any adverse impacts in their own operations or of a third-party business relationship and to report on these actions. This assessment should comprise a context-specific risk-based approach. It means that companies should carefully assess whether their individual corporate activities, and those of their suppliers, pose human rights and environmental risks and, if so, what measures can be taken to prevent or mitigate them. This due diligence assessment should cover the whole supply chain and be regularly updated to make sure new emerging risks do not remain unanswered. Companies must also integrate human rights and environmental due diligence requirements in contractual relationships.



4

ENSURE TRANSPARENCY AND ACCOUNTABILITY

Companies should make their due diligence reports publicly available, for instance through a public database, to ensure proper scrutiny. These reports should be communicated in their entirety, meaning they should include the above-mentioned specific risk-based analysis as well as the responding strategy. A future EU regulation should set out the governance for reporting to make sure that companies' disclosure is based on common standards. Procedures of consulting and considering comments from stakeholders should be foreseen.

5

PROPERLY ENFORCE DUE DILIGENCE RULES AND GUARANTEE EASY ACCESS TO JUSTICE

Companies should be held liable for harm arising out of their operations. Future EU legislation must therefore foresee a civil liability for companies failing their due diligence obligations, as well as effective administrative fines imposed by public authorities. Victims must have access to justice before courts of the member states and to receive remedy. Additionally, public authorities need to be properly staffed and trained to detect and sanction violations of due diligence obligations, such as the failure to identify/address/prevent/mitigate any adverse impacts in a companies' own operations or of a third-party business relationship.



6

ALWAYS TAKE INTO ACCOUNT THE BROADER 'SUSTAINABILITY PUZZLE' BEYOND DUE DILIGENCE

The future EU legislative initiative on due diligence will be a part of the European Commission's European Green Deal action plan. Although it cannot be the panacea to all human rights and environmental issues in production chains, it has significant potential to bring about improvements compared to today's situation. However, new rules on due diligence will only be one piece of the puzzle and need to be complemented by other ambitious regulations in the field of sustainable products, sustainable food policies, sustainable energy production, sustainable finance, competition law or better consideration of environment and human rights in EU trade negotiations. We need a strong policy mix to achieve the needed systemic change and make sure consumers have access to – and can afford – products and services that are sustainable by design.