

Commissioner Didier Reynders  
European Commissioner for Justice  
Rue de la Loi / Wetstraat 200  
1049 Brussels

5 February 2021

**Re: The importance of including effective grievance redress mechanisms as a due diligence requirement in EU legislation on sustainable corporate governance.**

Dear Commissioner Reynders,

As an international non-profit organization that amplifies the voices of people adversely impacted by internationally financed projects, including in the European Union, [Accountability Counsel](#) applauds the progress towards legislation mandating that businesses and financial institutions give due consideration to their environmental, social, human, and economic impacts. Our experience working with communities impacted by international financial flows has illustrated that financial institutions can safeguard against environmental, social, and economic risk by having an effective accountability process in place.<sup>1</sup> We therefore write to stress that a critical component of due diligence is having effective grievance redress mechanisms (GRMs) in place at the corporate level to prevent and mitigate adverse impacts and externalities, remedy harm where it occurs, and inform institutional learning so that mistakes are not repeated twice.

**RECOMMENDATION: The legislation must require, as a baseline due diligence requirement, institutionalizing individual or shared grievance redress mechanisms to ascertain and respond to any environmental and social risks and harm of business activities. All grievance redress mechanisms must meet the effectiveness criteria under Principle 31 of the UN Guiding Principles on Business and Human Rights (UNGPs).**

Adequate due diligence requires hearing from communities impacted by business activities. By providing a process for direct community feedback related to on-the-ground impacts of business activities, effective GRMs are tools to prevent, mitigate, and remedy unintended environmental and social impacts, and to course-correct business activities at odds with the goals of the European Green Deal. Effective GRMs are foundational to responsible business conduct, as recognized by the UNGPs, the OECD Guidelines for Multinational Enterprises, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, all consulted on with businesses in multiple sectors and endorsed by the European Union.

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<sup>1</sup> Accountability Counsel maintains a database called the *Accountability Console* (available at [www.accountabilityconsole.com](http://www.accountabilityconsole.com)), which includes all publicly available data from every complaint filed to independent accountability mechanisms at major development finance mechanisms and compares policies across these grievance mechanisms to show how they can be best designed to ensure accountability for environmental and social harm.

It is important to recognize that many communities harmed by corporate activity are unable to avail themselves of legal processes not only because fair judicial processes are not universally available but also due to practical barriers, such as cost, time, and security risks. Requiring institutional GRMs is one critical way to respond to this reality, so long as they are sufficiently independent and transparent so that they are not used by businesses as merely tools of public relations, or worse – as tools for cover-up or identifying targets for reprisal. To that end, any attempts to resolve a matter through a GRM should not proscribe or impede other means of accessing justice such as legal proceedings or arbitration.

The necessity of institutional-level GRMs is best illustrated by the experiences of communities who have sought accountability through effective mechanisms. Take for example, [traditional nomadic camel herders in Mongolia](#) who engaged with an accountability mechanism to address a gold mine operation’s adverse impacts to the environment and the community’s livelihood and culture;<sup>2</sup> [Indigenous smallholder farmers and charcoalers in Liberia](#) who relied on a mechanism to raise concerns about a biomass harvesting project that caused serious environmental, economic, and social harm;<sup>3</sup> and [Haitian farming communities](#) displaced by an industrial park who sought dialogue and accountability through a mechanism.<sup>4</sup> Although these communities were able to access effective mechanisms to reach businesses and seek redress, many others impacted by European companies do not yet have the same opportunities.

Notably, the OECD Due Diligence Guidance for Responsible Business Conduct states that businesses should consider information raised through grievance mechanisms as a *practical* action to identify and assess actual and potential adverse impacts. The word “practical” is key, as creating and resourcing a bespoke GRM or jointly subscribing to a sector-wide GRM need not be an onerous task or an undue burden. Many models for effective mechanisms, including shared mechanisms, already exist in the development finance world to guide businesses on how to structure and resource a GRM and report on their activities.

Thank you for your consideration of this recommendation. Effective grievance redress mechanisms are a key component of the “G” in “ESG,” and as such should be a required component of a due diligence framework. We wish you all the best as you advance this important piece of legislation.

Sincerely,



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<sup>2</sup> Case study available at <https://www.accountabilitycounsel.org/client-case/mongolia-south-gobi-mining/#case-story>.

<sup>3</sup> Case study available at <https://www.accountabilitycounsel.org/client-case/liberia-buchanan-renewable-energy/#case-story>.

<sup>4</sup> Case study available at <https://www.accountabilitycounsel.org/client-case/haiti-caracol-industrial-park/#case-story>.