

INTERVENTION BY EUROPEAN CIVIL SOCIETY ORGANISATIONS IN THE FRAMEWORK OF THE EU-MEXICO HUMAN RIGHTS DIALOGUE

July 9, 2020

Mr. Gilmore and representatives of the EU,
Ms. Delgado and representatives of Mexico,

The EU-Mexico dialogue comes at a particularly relevant time for the human rights agenda. On the one hand, the COVID19 has intensified the pre-existing threats and challenges for the respect, protection, and promotion of human rights worldwide. On the other hand, regressive reforms aiming at restricting human rights are seeing the light throughout the world and human rights mechanisms are under attack by authoritarian leaders.

In this context, the role of human rights defenders and human rights organisations is more important than ever. Following the last dialogue in 2017, the EU and Mexico “acknowledged the valuable work of human rights defenders and journalists and condemned any aggression that limits their rights to life, physical integrity and freedom.” Today, we would like to take a moment to highlight the risks that our Mexican colleagues still face as a reprisal for their human rights work – specifically by strongly condemning the recent death threats against the organisation of our fellow Mexican colleague intervening in this session: Consorcio Oaxaca.

Nevertheless, we regret that the situation for civil society organisations and journalists in the EU is steadily deteriorating as well.

Just a few days ago, a legislative initiative was tabled in Bulgaria that would seriously contravene international human rights standards on freedom of association, specifically with regards to the right to access international funding [1]. Similar regressive laws were also adopted in Hungary in violation of European law as recently established by the European Court of Justice.

In Europe, human rights defenders face campaigns to discredit them and delegitimise their work by state and non-state actors, which are then echoed by traditional media and social networks. The criminalisation of solidarity continued to be used as a tool to disrupt the work of human rights defenders trying to save lives in the Mediterranean. States focused on preventing migrants from reaching European shores and borders, adopted laws and practices in contradiction to their legal obligations under the Geneva Convention and in violation of international obligations in search and rescue operations. Migrant rights defenders faced smear campaigns and defamation including in Croatia[2], France, Greece[3], Italy[4] and Spain[5].

Journalists around the EU face daily physical, legal and online threats and have to deal with a range of economic and psychological pressures. The European Commission is initiating a range of legislative and policy initiatives to assess press freedom in EU Member States and improve the conditions in which journalists around the bloc operate. Our organisations call for the inclusion of effective and ambitious policy and legislative measures to protect journalists in the EU.

In the area of rule of law, our organisations highlight the critical prison conditions across the EU (Belgium, Italy, Bulgaria, etc.) – which has been accentuated with the COVID context. While prison conditions are mainly a competence of EU Member States, the EU has a necessary role to play in protecting the fundamental rights of persons deprived of liberty in the EU as recognised by the European Parliament, the European Court of Justice as well as the European Commission itself through a Green Paper published in 2011).

In the area of business and human rights, European companies and investors continue to act in contravention to the European Union's human rights obligations as well as to the

commitments recently expressed in the European Green Deal. Despite the current emergency, European extractive activities continue operating. These activities can have very serious repercussions on people's health, particularly in times of pandemics, contributing to the direct spread of the virus and/or negatively impacting their environment. The serious economic crisis that is unfolding creates a risk with regards to the potential expansion of extractive projects, risking a lowering of social, environmental and labour standards, as well as a lack of compliance with the rights of indigenous peoples and local communities to free, prior and informed consent.

The EU has progressed in gender equality, but violence and discrimination persist.[6] Gender-based violence can affect all women, but the risk increases with other factors such as: intersect ethnic origin, advanced age, disability, administrative status or sexual orientation, among others. The EU still does not have any European legislation to address gender-based violence and the Istanbul Convention has not yet been ratified by all Member States.

The current context calls for ambitious human rights policies and we therefore urge the EU and Mexico to use this dialogue as an opportunity to jointly commit to implementing a number of the recommendations issued by civil society organisations including through bilateral political, financial and technical cooperation where appropriate. We urge you above all to seek concrete deliverables to achieve genuine human rights impact for people in the EU, in Mexico and through multilateral engagement at this crucial time.

[1] This follows previous efforts to deregister a human rights organisation, the Bulgarian Helsinki Committee

[2] Human rights organisations working with migrants, on transitional justice or on historic memory are particularly targeted (Center for Peace Studies and "Are You Syrious?") have been called for "informal" questioning to the police

[3] Migrants rights defenders face police harassment, smear campaign and judicial persecution (Sean Binder and Sarah Mardini, human rights defenders working with the European Response Center International; Salam Kamal-Aldeen, co-founder of the NGO Team Humanity). Some face physical attacks or to premises (Chios People's Warehouse NGO, METAdrasi NGO, Efi Latsoudi, head of the NGO Lesbos Solidarity, NGO "One Happy Family")

[4] Several criminal investigations were opened against migrant rights defenders and NGOs involved in search and rescue operations in the Mediterranean Sea (Proactiva Open Arms, Luventa, Sea Watch and Mediterranea Saving Humans) and their ships were seized. Staff was judicially harassed. A case against 25 environmental

rights defenders from the No-TAP movement who have been protesting against the construction of the Trans Adriatic Pipeline (TAP) which will transport gas from Azerbaijan to Italy have been taken to court.

[5] The trial known as "summary 11/13" has brought charges against 47 people including lawyers, therapists, mediators, activists and family members of prisoners defending the rights and providing health and legal assistance to individuals imprisoned in connection with the Basque conflict; Moreover, on 14 October 2019, the Judicial Chamber for Criminal Cases of the Spanish Supreme Court sentenced nine Catalan leaders, including human rights defender Jordi Cuixart, to prison terms of up to 13 years for sedition and other offences, linked to his work protecting the cultural rights of Catalan people. Dr. Iñaki Rivera Beiras, a human rights defender and director of the Observatory of the Penal System and Human Rights (OSPDH) is being criminalised for his work exposing the conditions in jails and denouncing the ill-treatment of inmates in Spanish prisons

[6] One of three women has suffered physical or sexual violence, one of two has suffered sexual harassment and one of ten cyber-bullying

RECOMMENDATIONS BY EUROPEAN CSO IN THE FRAMEWORK OF THE EU-MEXICO HUMAN RIGHTS DIALOGUE

July 10, 2020

As a general recommendation, we call on the EU to take concrete measures to promote a comprehensive policy within the territory of the EU to ensure that respect for human rights at the internal level is coherent with EU's external policy in this area, through measures such as the adoption of an EU internal human rights strategy that addresses in a comprehensive manner every field of competence of the EU.

1. Rule of law

- The COVID19 has shed light on the critical situation of prison systems throughout the world and the urgency to have a global response to ensure the respect of the human rights of persons deprived of liberty. We call on the EU and Mexico to jointly promote at the global level (including at the UN Human Rights Council) an agenda for prison reform which focuses on non-custodial measures and puts the rehabilitation and social integration of persons deprived of liberty at the center. The efforts at the multilateral level should be accompanied by a commitment to implement reforms internally. In the case of the EU we call for a comprehensive action plan that fosters the exchange of best practice among Member States but also ensures the exhaustion of its own field of competence including by adopting common European standards and rules of detention in the framework of a European Prisons Charter to be jointly developed with the Council of Europe, as requested by CSO as well as by the European Parliament in its 2017 Resolution.
- While policing is largely within the competence of the member states, the EU should use all means available to help fight racism and police violence, in particular in connection with the current pandemic. The European Commission can address serious issues around policing by making use of the Racial Equality Directive, which can be interpreted as prohibiting discrimination in the context of law enforcement functions, including crime prevention, investigation and the activities associated with them such as identity checks and stops and searches.

2. HRDs and journalists

- Develop an EU internal HR strategy analogous to the EU Action Plan for HR and democracy for external action, with key commitments to protect and promote the work of EU HRDs and journalists as well as on HRDS from third countries residing in the EU.
- Development by the Commission of a recommendation to establish a regulatory framework designed to protect the freedoms required by NGOs to perform their functions.
- The High Representative HRVP and member states should lead on ensuring Foreign Affairs Council Conclusions annually on HRDs and the state of play of EU and EUMS in their work to protect and promote the work of HRDs in third countries (and within the EU)
- The European Commission will ensure that the Rule of Law Mechanism allows for robust country-specific recommendations to EU Member States allowing for meaningful discussion and long-term assessment of national press freedom concerns. Such recommendations will seek to strengthen Member States' capacity to defend press freedom as well as developing the competency of EU institutions to intervene more effectively to support journalists in Member States.

- Proactively [secure](#) the important role of civil society organisations, human rights defenders and social movements in protecting and promoting human rights within the European Union by: recognising and speaking up for civil society; ensuring an enabling space; monitor/document/analyse challenges facing civil society; protect civil society from attacks; and take legal action to uphold the role of civil society organisations.

3. Business and human rights

- Require European companies and European investment funds, as well as their supply chains, to carry out their activities in third countries in compliance with the necessary health guarantees within the framework of the pandemic, and acting with due diligence towards the rights -to health, to participation, to information, etc.- of local communities. And to act in accordance with the precautionary principle by stopping their activities until due diligence can be guaranteed.
- Request the stop of approving new extractive projects with European capital, or activities extension of existing ones, while the indigenous, afro-descendant and/or peasant communities involved have restricted capacities to exercise their rights of consultation, opposition, allegation, etc.
- Ensure that there are participation mechanisms that guarantee access to information and free, informed and culturally appropriate prior consultation of indigenous peoples, taking into account that their communities often lack adequate access to technology. Invite Mexico state to promote essential consultation mechanisms based on the forms of organization and governance of these peoples.
- Demand that Mexico who is benefiting from EU cooperation and/or its member states increase the transparency of the processes of economic revival, environmental certification and the fight against corruption that they promote. These processes must integrate local monitoring systems to assess risks.

4. Groups in a situation of vulnerability

- Include the gender perspective and the differentiated approach in all the UE external policies and cooperation programmes; finance cooperation programmes and/or projects that include the gender perspective and finance programmes with specific gender objectives.
- Expand the scope and implementation time of programs such as the Spotlight Initiative, ensuring that women's and feminist organizations can address priority situations related to Mexico situation. Adapt the initiative to the consequences of the pandemic and ensure more flexibility to define priorities according to the most urgent needs. Review and evaluate the initiative to make any necessary adjustments for improvement.
- Ensure that the EU and all its member states accede to the Istanbul Convention and that legislation in all EU member states is brought in line with international human rights standards including as regards the definition of rape. Back up these commitments with robust policies and practices to ensure full implementation. Proactively address widespread prejudice, victim blaming and stereotypes and myths around rape, often amongst those tasked with preventing it and enabling victims' access to justice.
- In view of the increase in gender-based violence during lockdown, support, through cooperation programmes, civil society organisations in the region that are assisting

women, and call on Mexico to implement structural measures, ensuring access to justice as well as comprehensive care services for women.

- Include the intersectional discrimination perspective in all EU external policies, programs and projects, taking into account notably indigenous women with disabilities. Ensure that the update of the Guidance Note For EU Staff (in EU Delegations) “Disability - Inclusive Development Cooperation” includes this perspective.
- Uphold legal guarantees for freedom of religion or belief (FoRB) for all; and where other laws apply, for example in indigenous communities governed by the Law of Uses and Customs, practise these in accordance with Mexico’s constitution and its international human rights obligations. Give regular training in mediation and in human rights law, particularly pertaining to FoRB, to government officials at the state and federal levels responsible for religious affairs, to ensure better law enforcement and human rights promotion and protection.