

FMO Should Protect Human Rights Defenders

The undersigned civil society organizations (CSOs) from around the world call on the Dutch development bank, FMO, to adopt measures in its Sustainability Policy to prevent and address reprisals against human rights defenders (HRDs) related to the activities it finances.

The need for FMO to strengthen protection for HRDs was poignantly made clear by the murder of Berta Cáceres in March 2016, who for years protested the Agua Zarca hydroelectric project in Honduras, financed by FMO. The Dutch government has prioritized HRDs, recognizing that they are “key driving forces behind change and progress in their countries” and that the international system provides them insufficient protection. The Dutch government and FMO, as its national development bank, have an obligation under international law to respect and protect the rights of those affected by the activities they finance, including those who raise their voices in dissent. In addition, FMO has committed to uphold the UN Guiding Principles on Business and Human Rights, which requires that it and its clients respect internationally recognized human rights in their operations. The best way to protect HRDs is by ensuring that the projects FMO finances have no adverse human rights impacts in the first place. The UN Special Rapporteur on human rights defenders called upon development finance institutions to “integrate a human rights-based approach in their policies [and] condition their funds on such an approach, in consultation with... human rights defenders.” However, in the event that impacts occur, FMO and its clients must be prepared to ensure the safety of HRDs who raise concerns.

In order for FMO to meet its human rights obligations, FMO’s draft Sustainability Policy should be revised to include:

- A zero-tolerance commitment to the killings of and violent acts, threats and intimidation against human rights defenders, as they are defined by the UN Declaration on Human Rights Defenders.

To implement this commitment, FMO should:

- Assess the investment context to determine if the freedoms of expression, assembly, and association are sufficiently ensured such that FMO’s policies can be implemented adequately by its client;
- Require its client to identify potential human rights impacts that the project may cause, contribute to, or exacerbate—in addition to or expressly incorporated within the assessment required by the International Finance Corporation’s Performance Standards, and to work with clients to fully address any potentially adverse human rights impacts;
- Identify and publicly disclose measures FMO and its client will take to prevent and mitigate the risks found by the assessments, including specific actions needed to protect human rights defenders;
- Include in its agreements with its clients clauses requiring them to take all reasonable measures to prevent, investigate and respond to reprisals, failure for which should result in withdrawal and full repayment of investments;
- Develop and institutionalize creative methods to enable people, including marginalized and discriminated against groups, to freely participate in consultations regarding FMO-financed activities and give or withhold their consent, as appropriate, without risk of reprisals;
- Develop a rigorous process for monitoring for threats to or other reprisals against people who express their views about FMO-financed projects;
- Develop an urgent response system to address threats to HRDs who criticize FMO-financed activities and implement—with the consent of the HRDs—protection measures, including communication with local authorities, coordination with Dutch embassies and the Ministry of Foreign Affairs, and/or speaking out publicly in defense of HRDs; and
- Ensure that those communities likely to be affected by a project are aware of and feel safe in approaching FMO’s Independent Complaints Mechanism (ICM) and empower the ICM to examine any instances of retaliation for opposition to the project and/or participation in the mechanism process.

Signatories (in alphabetical order):

1. Accountability Counsel
2. ActionAid Netherlands
3. African Law Foundation
4. Amnesty International
5. Bank Information Center
6. BankTrack
7. Both ENDS
8. Buliisa Initiative for Rural Development Organisation
9. Center for International Environmental Law
10. Center for Justice and International Law
11. Centre for Research on Multinational Corporations (SOMO)
12. Crude Accountability
13. Foundation for the Conservation of the Earth
14. Friends with Environment in Development
15. Front Line Defenders
16. Global Witness
17. Human Rights Watch
18. Inclusive Development International
19. International Accountability Project
20. International Corporate Accountability Roundtable
21. International Federation for Human Rights (FIDH), within the framework of the Observatory for the Protection of Human Rights Defenders
22. International Rivers
23. International Service for Human Rights
24. Jamaa Resource Initiatives
25. Lumiere Synergie pour le Developpement
26. Maryknoll Office for Global Concerns
27. Milieudefensie/Friends of the Earth Netherlands
28. L'Observatoire d'Etudes et d'Appui à la Responsabilité Sociale et Environnementale
29. Oxfam Novib
30. Peace Brigades International
31. Urgewald
32. World Organisation Against torture (OMCT), within the framework of the Observatory for the Protection of Human Rights Defenders