

# ACTIVITY REPORT – 2021

\*Sherpa



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# EDITO



20 years ago, Sherpa began a long fight against the most powerful organisations of the globalised economy, to support their victims in their quest for justice.

Today, the fight continues. Better armed, more influential in the making of the law, better at dissimulating their fairwashing manoeuvres, more mobilised when it comes to fleeing justice, the giants of globalisation mobilise ever more impressive means to organise and extend their impunity.

Sherpa has responded this year with ever more innovative litigation. Despite the absurd inequality of resources, Sherpa has engaged in a fight to have textile companies exploiting Uyghurs condemned, to sanction TotalEnergies' environmental impact on climate change, to recognise Lafarge's liability in financing the Islamic State Organisation and to return to the despoiled populations, namely the Syrian, Guinean-Ecuadorian, and Lebanese, their ill-gotten assets taken by their regimes.

At the same time, our advocacy messages hit the nail on the head, contributing to the conception of an ambitious European duty of vigilance, enabling the duty of vigilance to be maintained in France before the civil courts, and participating in a large-scale transcription of the directive on the protection of whistleblowers. Beyond these issues, this year we have published a new handbook of proposals to regulate multinationals, in which we have compiled, reviewed and updated all our combats.

20 years ago, Mireille Delmas-Marty, who accompanied and supported Sherpa's fight before passing away at the beginning of 2022, was wondering: "Globalisation may be heralding the birth of a common law for humanity. Will we be able to make it happen, and more importantly, in what form?" We have been fighting for the past 20 years for this common law to be human, protective and ecological. We will continue to do so, with your support, for the next 20 years.

Franceline Lepany — President and Sandra Cossart — Director

# COMPELLING MULTINATIONALS TO RESPECT HUMAN AND ENVIRONMENTAL RIGHTS

The fight against impunity for economic actors requires the development of a legal framework that guarantees social and environmental justice in a globalised context.

Sherpa denounces the loopholes of the existing law, which encourages companies to transfer the human rights and environmental offenses generated by their activities to countries where these rights are not respected, while claiming to be ethical and sustainable.

Sherpa's actions aim to strengthen the civil and criminal liability of parent companies and instructing companies when it comes to human rights, social and environmental abuses that result from their value chains. These strengthened corporate obligations must be accompanied by reforms to facilitate access to justice for foreign victims and enable them to claim their rights.

Aware that these legal changes can only take place if civil society reclaims the "law-making" process, currently monopolised by private actors, Sherpa is working to counteract the influence strategies of multinationals and corporate capture.

## Strengthening the civil liability of multinationals to facilitate compensation for victims

**Sherpa continues to work to strengthen the civil liability of companies and thus facilitate access to compensation for victims of human rights and environmental violations.**

After having long advocated for the adoption of a law on the duty of vigilance for parent companies and instructing companies, which was promulgated in March 2017, Sherpa is working to ensure the effective implementation of its provisions, including before the courts, to raise awareness among its partners so that they take up the issue, and to bring about the adoption of binding legislation at European and international levels.

### Implementation of the duty of vigilance law

#### DUTY OF VIGILANCE RADAR

The duty of vigilance radar ([www.plan-vigilance.org](http://www.plan-vigilance.org)), an initiative launched by Sherpa and CCFD-Terre Solidaire in 2019, aims to contribute to the monitoring of the implementation of the duty of vigilance, by publishing a non-exhaustive list of companies subject to the law and compiling their vigilance plans and a follow-up of ongoing cases.

For the 2021 edition, our organisations contacted all the companies identified that had still not published a vigilance plan four years after the adoption of the law.

After analysing the justifications put forward by these companies, our organisations published a report in July 2021.

This work exposed both the lack of transparency relating to groups of companies, the loopholes in the criteria for applying the law, and the position of many companies, which perceive the duty of vigilance as an administrative formality that they could apply as they please.





## JURISDICTION OF THE JUDICIAL COURT

The first legal actions initiated on the basis of the provisions of the duty of vigilance law, including our litigation against TotalEnergies and Casino, were confronted with objections of lack of jurisdiction raised by the companies. These companies have asked the courts to refer these disputes to the commercial courts, which are special courts composed of business leaders elected by their peers and responsible for settling disputes between merchants or commercial companies. In the face of unfavourable case law in the litigation brought by Friends of the Earth against TotalEnergies, which was upheld on appeal in 2020, Sherpa has defended the jurisdiction of the judicial court, both in its own cases and by supporting the insertion of a provision to this effect in the Code of judicial organisation.

Sherpa won a first victory on 21 February 2021 in the climate litigation against TotalEnergies: the Nanterre judicial court recognised the plaintiffs' right to choose between the commercial court and the judicial court in view of the subject matter and purpose of the duty of vigilance. This decision was confirmed on appeal on 18 November 2021, this time on the basis of the exclusive jurisdiction of the judicial court in matters of ecological damage.

At the same time, the jurisdiction of the Paris judicial court was definitively enshrined in the law for Confidence in the judicial institution adopted on 22 December 2021. Thanks to the mobilisation of Sherpa and many civil society organisations, the members of parliament opposed the attempt of some senators to transfer this litigation to the commercial courts.

## CASINO - BRAZIL, COLOMBIA

**LEGAL BASIS:** Provisions of the law on duty of vigilance (L. 225-102-4 and L. 225-102-5 of the Commercial Code), articles 1240 and 1241 of the Civil Code

**PARTNERS:** Canopée, Commission Pastorale de la Terre, Envol Vert, France Nature Environnement, Mighty Earth, Notre Affaire à Tous, Amnesty International, and the indigenous representative organisations COIAB, FEPIPA, FEPOIMT and OPIAC

### → FACTS

Cattle ranching is the main cause of deforestation in South America, especially in Brazil and Colombia. This activity also has consequences in terms of human rights, as cattle farms encroach on the territories of indigenous populations and frequently use forced labour.

The Casino Group is the leader retailer in Brazil through its subsidiary GPA and in Colombia through Grupo Exitó. 46% of the group's worldwide sales is made in the South American market.

In June 2020, based on samples of beef sold in Casino supermarkets in Brazil, Envol Vert identified several farms responsible for deforestation and indigenous land grabbing in the group's beef supply chain.

### → SHERPA'S WORK

On 21 September 2020, the coalition of associations and organisations representing indigenous peoples put Casino on formal notice to exclude beef derived from deforestation, forced labour and violation of indigenous peoples' rights from its supply chain.

In December 2020, Casino replied, arguing that the vigilance measures implemented by the group were satisfactory in light of the minimal obligation provided for by the law, and that its duty of vigilance stopped at its direct suppliers.

In March 2021, the eleven organisations took Casino to court for failure to meet its duty of vigilance. They accuse the company of not having implemented the necessary preventive measures to prevent beef from farms that have contributed to the deforestation of the Amazon rainforest, appropriated indigenous territories and used forced labour, be sold by its subsidiaries. The organisations seek from Casino to comply with its legal obligations and to compensate indigenous organisations for the damages incurred as a result of deforestation and violation of their lands.

In support of the lawsuit, Sherpa and its partners produced a report prepared by the Centre for Climate Crime Analysis (CCCA), which analysed the supply chain of three JBS slaughterhouses supplying Casino subsidiaries with beef. The report identifies no less than 592 farms that have illegally contributed to the deforestation in the states of Para, Rondônia and Mato Grosso. Amnesty International also intervened in the proceedings in July 2021.

In July 2021, Casino raised several procedural exceptions, including asking the judge to send the case back to the commercial court.

## BEYOND THE DUTY OF VIGILANCE, TOWARDS AN ADAPTED CIVIL LIABILITY REGIME

In order to pursue its reflections on the reform of the extra-contractual civil liability regime, Sherpa has also contributed to the Oxford University Bonavero Institute's comparative law work on civil liability and human rights. This research will be published in 2022.

## Advocating for a European duty of vigilance

The progress made by the French law on due diligence cannot be achieved if it remains isolated.

In April 2020, following the mobilisation of many European civil society organisations, Didier Reynders, European Commissioner for Justice, announced that a draft European legislation on the duty of vigilance would emerge.

In 2021, to strengthen this movement in which Sherpa has played a key role, the association shared its experience of mobilisation around the law on the duty of vigilance, made known the content of this law, and testified about its implementation in order to nourish the future European legislation:

- publication of a document of recommendations alongside the organisations of the Forum Citoyen for CSR,
- submission of a response to the European Commission's consultation, drawing lessons from the litigations initiated by the association,
- advocacy for the adoption by the European Parliament of the report by MEP Lara Wolters on the duty of vigilance and corporate liability,
- writing and distribution of a note of research and positioning: "Creation of a supervisory authority on the duty of vigilance: a good idea gone wrong", published in April 2021,
- contribution to the report "Tirées d'affaires? Le lobbying des multinationales contre une législation européenne sur le devoir de vigilance", published in June 2021,
- contribution to the conference and report "Suing Goliath", published in September 2021,

- advocacy for the adoption by the National Assembly of a resolution calling on France to include the duty of vigilance among the priorities of the French Presidency of the Council of the European Union in 2022.

These activities have highlighted the importance of cross-cutting regulation combining the creation of new obligations applicable to companies with mechanisms for civil and criminal liability, in contrast to sector-based regulations that only prescribe transparency or compliance measures controlled by administrative authorities.

Some of these activities have been carried out through the European Coalition for Corporate Justice (ECCJ), a Brussels-based organisation that coordinates actions of national coalitions on these issues. Sherpa has been a member of ECCJ's Steering group since its creation and has contributed considerably to the various works of ECCJ's legal working group, including those concerning the content of a future European directive on the duty of vigilance.



## Reparation conditioned on effective access to evidence

After highlighting in 2020 the flaws in the evidence access mechanism provided by Article 145 of the Code of Civil Procedure, Sherpa continued its fight before the courts to be authorized to have access to relevant documents to obtain compensation for environmental damage in the Democratic Republic of Congo.

## PERENCO - DEMOCRATIC REPUBLIC OF CONGO

**LEGAL BASIS:** Measures of instruction in futurum and provisions on reparation of ecological damage  
**PARTNER:** Friends of the Earth France

### → FACTS

Perenco is the sole oil operator in the Democratic Republic of Congo (DRC). Numerous reports, some of which come from official authorities, denounce the environmental damage that would have been caused by the oil company's activities. The group is particularly opaque about its structure and management. Presenting itself as a French company in the DRC, Perenco S.A. denies any involvement.

### → SHERPA'S WORK

Sherpa and Friends of the Earth France have been willing to take legal action to determine Perenco's responsibility for the pollution they have denounced, and to obtain compensation if applicable. Given the opacity of the operations and corporate structure of the oil company, they initiated an action using a specific tool (Article 145 of the French Code of Civil Procedure) to obtain more evidence of the link between Perenco France and the companies operating locally in DRC.

In 2019, Sherpa and Friends of the Earth France were authorised to have evidence seized from the premises of Perenco France, but the company refused to execute the decision. They renewed their request but were rejected at first instance and on appeal on grounds of the jurisdiction of the French judges and the law applicable in the event of international litigation.

In 2021, they took this fight to the highest judicial jurisdiction by filing an appeal in cassation, so that access to evidence, and to justice, would not be made even more difficult because of a restrictive interpretation of certain rules of international procedure.

Meanwhile, alongside Friends of the Earth and Lawyers Without Borders, the NGOs have publicly questioned Perenco on its opacity and have asked the company to comply with the regulations on extra-financial performance reporting.

## Capacity building

Convinced that sharing experiences can help prevent and fight economic crimes, Sherpa has developed support, expertise sharing, awareness raising and training activities with its partners.

With the experience of the legal caravans organised by the association between 2012 and 2014 in six West African countries, Sherpa has started a new project in 2021, with 4 partners: RSE-et-PED France, RSE Benin, RSE-et-PED Togo and La Lumière (Senegal).

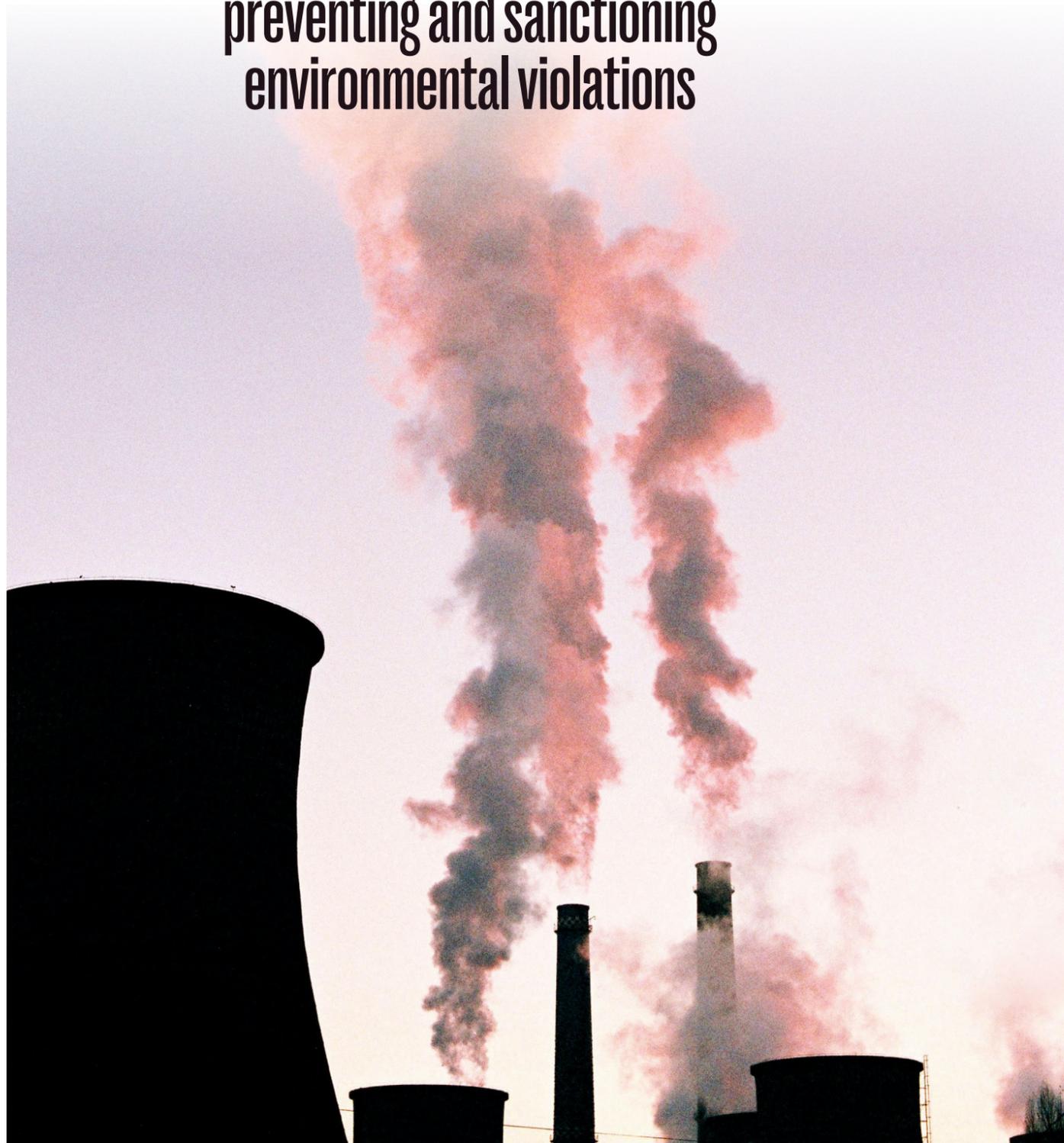
The project "Developing the capacities of civil society in Benin, Togo and Senegal to ensure that companies respect human rights and environmental law, and to enable the implementation of more protective public policies", aims to ensure, through civil society, that companies respect and implement human and environmental rights and duty of care practices. The first few months of the project have helped strengthen collaboration with the various

partners. The first training sessions for civil society organisations in Benin, Togo and Senegal will take place in early 2022.

Meanwhile, Sherpa has participated in numerous webinars, conferences and round tables on its topics of expertise, and accompanied partners in the practice of strategic litigation on specific cases. In particular, Sherpa has been involved in capacity building projects for Turkish organisations (project initiated by the International Commission of Jurists), Brazilian organisations (project initiated by the Climate Litigation Accelerator of New York University and the Instituto Clima e Sociedade), and Latin American organisations (Geneva Academy of Human Rights).



# Characterising, preventing and sanctioning environmental violations



**While the climate crisis is accelerating, as revealed by the Intergovernmental Panel on Climate Change (IPCC) report published in August 2021, and that environmental crime is constantly increasing, Sherpa is pursuing its mission to put an end to the impunity of multinationals responsible for environmental damages and to strengthen the existing legal frameworks for the environmental liability of economic actors.**

Sherpa is involved in innovative litigation against two French oil companies, TotalEnergies for the climate impact of its products and Perenco for pollution in the Democratic Republic of Congo.

→ On the same subject: [Perenco - Democratic Republic of Congo, p.12](#)

## **TOTALENERGIES - FRANCE, INTERNATIONAL**

**LEGAL BASIS:** Provisions of the law on duty of vigilance (Article L. 225-102-4 of the French Commercial Code) and prevention of environmental damage (Article 1252 of the French Civil Code)

**PARTNERS:** Notre Affaire à Tous, Les Eco Maires, France Nature Environnement, ZEA and fourteen territorial authorities

### → FACTS

As an energy major company, TotalEnergies alone is responsible for nearly 0.9% of global greenhouse gas emissions (GHG). The multinational is still not committed to reducing its direct and indirect emissions to limit global warming to 1.5°C, as required by the Paris Agreement, and continues to invest several billion euros per year in fossil fuels.

### → SHERPA'S WORK

In June 2019, alongside fourteen local authorities and four associations, Sherpa issued a formal notice to the multinational to comply with the duty of vigilance law, by taking the necessary steps to commit to a reduction trajectory for its GHG emissions that is compatible with the Paris Agreement. While TotalEnergies' vigilance plan published in March 2019, unlike the previous one, mentioned climate change, the measures announced were clearly insufficient and fell short of the efforts needed to comply with the international targets recognised by the Paris Agreement. This is the first formal notice issued to a company based on the duty of vigilance law.

In January 2020, in the face of TotalEnergies' inaction, organisations and local authorities took the multinational to court on the basis of the duty of vigilance law and Article 1252 of the Civil Code.

In October 2020, TotalEnergies raised a procedural objection: the oil company considered that the Nanterre judicial court did not have jurisdiction and asked for the case to be brought before the commercial court. Sherpa has actively mobilised, both in the litigation discussions and in its advocacy activities, for the jurisdiction of the judicial courts to be recognised and that of the commercial courts to be set aside for disputes arising from the duty of vigilance law.

A first victory was achieved on 11 February 2021, when the Nanterre court rejected TotalEnergies' objection to jurisdiction and confirmed the court's jurisdiction. On 18 November 2021, the Versailles Court of Appeal confirmed the jurisdiction of the civil judge and rejected the company's claim.

On 10 February 2022, the Nanterre judicial tribunal transferred the examination of the appeal against TotalEnergies to the Paris judicial tribunal. After two years of debates on jurisdiction, the court will finally examine the merits of the case and the company's compliance with its climate change obligations.

## Green obligations and environmental damage

In 2021, Sherpa accompanied students of the Master's degree in Business Law of the University of Paris 1 Panthéon-Sorbonne who conducted a study on the legal regime of green bonds issued by companies to finance projects presented as environmentally friendly. More specifically, the study questioned the liability of the issuing company, auditing companies certifying the compliance of the projects and the liability of the financial intermediaries when the projects financed do not respect the eligibility criteria published by the company, or actually damage the environment.

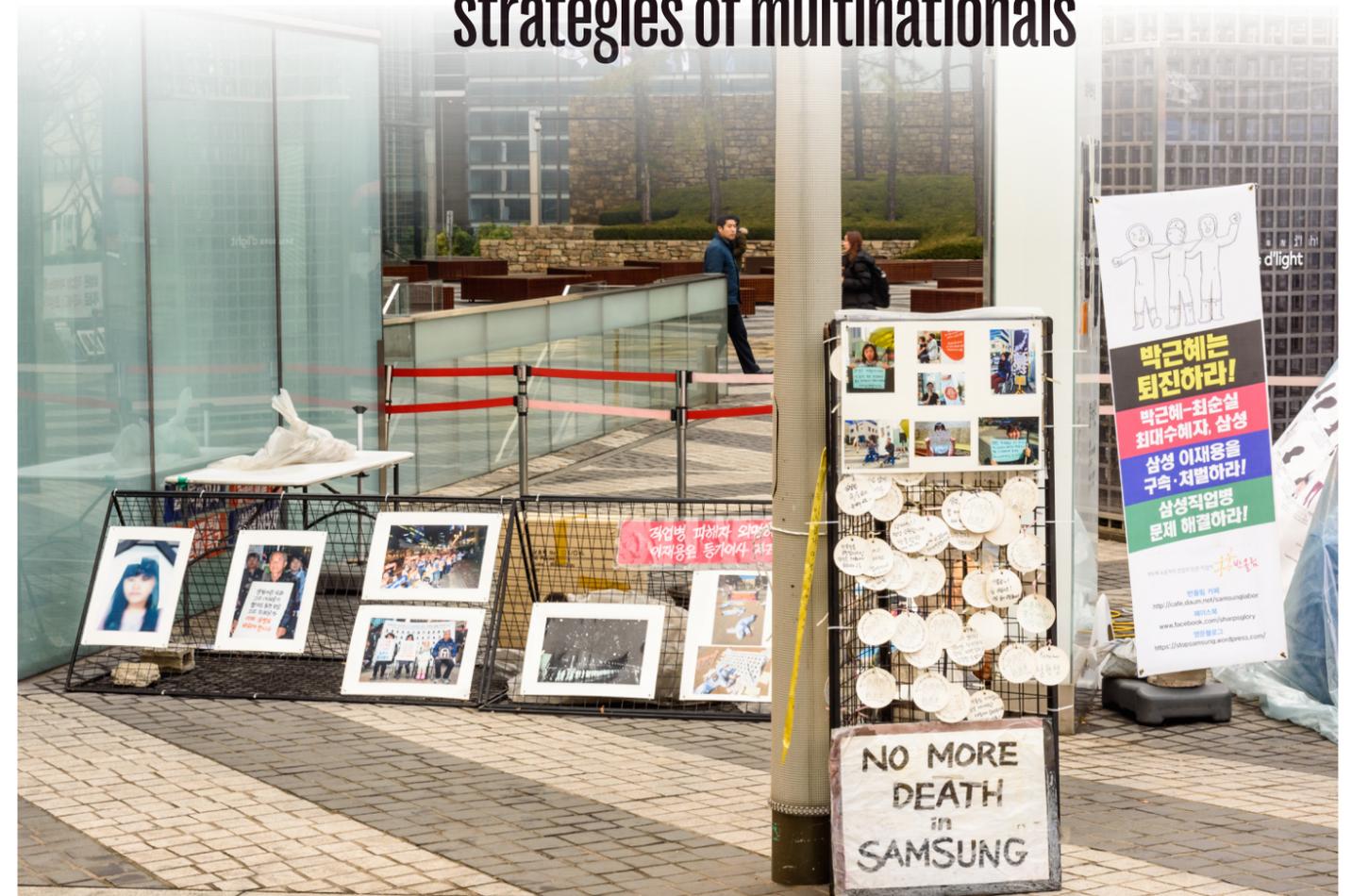
## Developing the criminal liability of multinationals for environmental violations

Within the scope of its legal laboratory, Sherpa is supervising a legal clinic in partnership with the University of Paris Nanterre. The research topic is the criminal liability of multinationals for environmental violations committed abroad.

This project is based on the observation, notably founded on the association's litigation experience, that there are still many obstacles to the possibility of taking legal action in France to penalize French multinationals that are responsible for environmental offenses or crimes abroad. These obstacles are notably linked to the competence of French courts to deal with environmental crimes committed abroad as well as to the nature of environmental criminal law offenses, which remain largely dependent on prescriptions taken by the administration in its control of polluting activities.

Based on evidence-based research, the students work on a legal study aiming at analysing both the obstacles to bringing cases to court in France and the innovative legal tools that can be used in environmental criminal law as part of litigation strategies.

## Fighting the influence strategies of multinationals



**Multinationals have become extremely influential in a number of ways: on public opinion and policy-making, including standard-setting, and even on whether they comply with the standard they are required to meet. Their influence is more or less direct and more or less visible.**

The influence takes place in particular:

- upstream: through media concentration, fairwashing via corporate communication, revolving doors, the comings and goings of senior civil servants between the private and public sectors, sponsorship;

- at the standard-setting stage: lobbying, inviting companies directly to the negotiating table within institutional or informal multilateral bodies (multistakeholderism), which leads to privatisation of the globalisation standards;
- downstream: by developing their own control tools and instruments enabling them to avoid sanctions in case of violation.

## Fighting fairwashing

In 2021, with its partners, Sherpa continued its legal fight against fairwashing based on deceptive commercial practices.

### AUCHAN - BANGLADESH

**LEGAL BASIS:** Deceptive commercial practices

**PARTNERS:** ActionAid France - Peuples Solidaires, Ethique sur l'Etiquette

#### → FACTS

In 2013, the collapse of the Rana Plaza in Bangladesh caused the death of more than 1,000 textile workers, trapped in a weakened building whose cracks were known by management. A tag from the In Extenso brand distributed by Auchan was found in the rubble.

#### → SHERPA'S WORK

Regarding the discrepancy between Auchan's ethical commitments and the working conditions of the employees of its subcontracting companies, Sherpa alongside its partners filed a complaint against the company for deceptive commercial practices.

In 2021, Sherpa continued to play its role in the ongoing inquiry.

### SAMSUNG - CHINA, SOUTH KOREA, VIETNAM

**LEGAL BASIS:** Deceptive commercial practices

**PARTNER:** ActionAid France - Peuples solidaires

#### → FACTS

NGOs, including China Labour Watch, through investigations by undercover workers in the factories, have published reports denouncing numerous violations of fundamental workers' rights in Samsung factories in Asia: child labour, inhumanworking conditions, lack of safety measures, etc.

#### → SHERPA'S WORK

Given the discrepancy between Samsung's ethical commitments and these reports, Sherpa filed a complaint with a claim for criminal indemnification in 2018 against the multinational for deceptive commercial practices.

In 2019, the investigating judge indicted Samsung Electronics France, the French subsidiary of the electronics giant, for deceptive commercial practices.

Samsung argued that NGOs could not file a complaint under consumer law, the law that covers deceptive commercial practices.

In 2021, the investigating chamber accepted Samsung's argument and declared the organisations inadmissible, cancelling certain procedural acts, including the indictment of Samsung. Sherpa and ActionAid appealed to the Cour of cassation to be declared admissible and to allow legal actions on this basis to be opened as widely as possible to associations. The Court's decision is expected in the first half of 2022.

## Stricter control of lobbying

In addition to its work to raise awareness of the reality and scope of lobbying, Sherpa has sent its recommendations to MP Raphaël Gauvainas an extension of his bill aiming at reinforcing the fight against corruption and including provisions relating to the regulation of lobbying; without waiting for the adoption of this bill to be put on the agenda, so that its recommendation could be included as soon as possible in the debates.

## Reporting and fighting the stranglehold of multinationals on multilateral bodies

In a consultation organised by the Organisation for Economic Co-operation and Development (OECD), Sherpa reiterated its defiance of the French National Contact Point (NCP). Sherpa explained the reasons why it is boycotting this non-judicial recourse mechanism that is supposed to promote negotiation and amicable remediation of human rights and environmental violations caused by companies.

The reasons lie in the governance of the NCP: as it is attached to the Ministry of Economy, the NCP lacks neutrality. It is also related to the remediation process it puts in place in practice, which is unfairly biased in favour of companies and hampered by an overly broad interpretation of the confidentiality requirement.

However, Sherpa remains active within the OECD Watch coalition, which supports communities and workers around the world who still fall back on NCPs because of the lack of legal recourse available.

Sherpa also took the opportunity of a consultation organised by the United Nations (UN) Working Group on Business and Human Rights to put forward its vision of corporate capture. It thus expressed its points of view to a high-level body that is itself concerned. More specifically, Sherpa questioned the legitimacy of systematic corporate collaboration and intervention in multilateral bodies such as the UN.



## Making "soft law" binding

Inviting companies to negotiate the content of the regulations and laws applying to their activities in terms of respect for human rights and environment has allowed them to impose a non-binding approach, commonly called "soft law".

Sherpa's experience with soft law instruments and mechanisms has enabled it to observe and confirm their ineffectiveness in providing victims with access to reparation. That is why Sherpa advocates for binding regulations for companies, as opposed to voluntary initiatives, such as codes of conduct, or semi-voluntary initiatives, such as protection agreements negotiated by industry.

In 2021, Sherpa, along with its partners, won a first legal fight to compel Bolloré to respect the commitments it made during the mediation conducted before the French NCP. These commitments included using its influence to remedy the condition of residents and workers in the palm plantations operated by Socapalm in Cameroon.



## BOLLORÉ – CAMEROON

**LEGAL BASIS:** Forced execution of contractual obligations

**PARTNERS:** ReAct, GRAIN, FIAN-Belgium, Pain pour le Prochain, Synaparcam, FODER, SNJP, L'Amicale des Riverains d'Edéa, SATAM union

### → FACTS

Socapalm, the largest palm oil plantation in Cameroon and a subsidiary of the Belgian plantation holding Socfin, a company of the Bolloré Group, is the largest palm oil plantation in Cameroon. Its activities generate numerous tensions with the local communities. Their complaints include allegations of environmental degradation, land deprivation, health risks, undignified working and housing conditions.

### → SHERPA'S WORK

In 2010, Sherpa filed a "specific circumstance" with the French NCP of the OECD, in order to identify and remedy their breaches of the OECD Guidelines for Multinational Enterprises by the companies concerned. A mediation was opened under the French NCP between Sherpa and the Bolloré group, leading in 2013 to the conclusion of an "Action Plan" for the improvement of the living conditions of the communities affected by Socapalm's activities.

As Bolloré has not fulfilled its commitments, Sherpa and its partners took the company to court to force it to implement the Action Plan, as a contract that has not been executed to date.

In 2020, Bolloré raised procedural exceptions, one of which was that the NGOs' action would violate the confidentiality applicable to NCP mediation.

In 2021, the first instance court held that the agreement resulting from a mediation conducted before the French NCP could be produced in court to seek enforcement. Bolloré has appealed, and the decision is expected in 2022.

## Condemning the development of self-regulation and its dangers

Companies have managed to turn regulatory inflation to their advantage by creating an industry for monitoring compliance with the new social and environmental requirements. On the one hand, by taking over the monitoring procedures and, on the other hand, by generating even more profit through this monitoring.

The flaws of the audit system developed by companies have been well documented in recent years. Based on this observation, Sherpa wanted to go a step further by contributing to a study coordinated by the Resource Centre on Business and Human Rights, aiming to identify the grounds that could be mobilised in different judicial systems to engage the responsibility of auditing professionals who have issued defective reports.

Along with many other civil society organisations, Sherpa has also alerted European policy makers about well-established audit deficiencies. More specifically, it has warned that the implementation of an audit or the obtaining of a certification should not be considered as a guarantee of the absence of violations. For the same reasons, the association also stressed the fact that an audit report or certification should not be considered as judicial evidence that would be sufficient in itself to establish that the company's duty of vigilance had been respected. The purpose was to try to prevent self-regulation from taking an undue place in the forthcoming European legislation on a European duty of vigilance, which is currently being discussed.

# Defending workers' rights



**National disparities in workers' protection allow companies to set up systems of labour exploitation aiming to maximize their profit margins.**

Sherpa is working to raise awareness of the systemic nature of the problem and to bring criminal sanctions against these practices.

## VINCI – QATAR

**LEGAL BASIS:** Forced labour, bonded labour, human trafficking, work incompatible with human dignity, deliberate endangerment, unintentional injury, concealment

**PARTNERS:** Comité contre l'esclavage moderne (CCEM)

### → FACTS

Vinci won major infrastructure contracts for the 2022 World Cup in Qatar. It employs thousands of migrants through its Qatari subsidiary (Qatari Diar Vinci Construction), as well as via numerous subcontractors.

### → SHERPA'S WORK

During its field investigations, Sherpa has gathered information revealing inhuman and dangerous working conditions imposed by Vinci through its Qatari subsidiary, including the absence of equipment to protect from the heat, collective accommodation incompatible with human dignity, withholding of passports, etc.

Given these elements, Sherpa filed a complaint against Vinci, alongside the CCEM. Following the complaints filed by Sherpa and the CCEM, a judicial investigation was opened in 2019.

In 2021, Sherpa continued to play its role in the ongoing investigation and provided additional elements to support its complaint.

In parallel, Sherpa participated in the consultation launched by the government to give France the status of a pioneer state in the fight against forced labour. On this occasion, Sherpa highlighted the importance of effective international judicial cooperation to gather evidence, the need to adopt an ambitious duty of vigilance at the European level, and the lack of trust in social audits.

→ On the same subject: [Auchan - Bangladesh, p.18](#)

→ On the same subject: [Samsung - China, South Korea, Vietnam, p.18](#)

# Fighting impunity of companies involved in armed conflicts and international crimes



Historically courts have been reluctant to hold companies accountable for their involvement in even the most serious human rights abuses and have considered that their operation did not constitute a real intention to participate in the main crime.

However, the landmark decision of the Court of cassation in the Lafarge case on the complicity of legal persons in crimes against humanity marks an important turning point for the criminal liability of parent companies in France, and could have repercussions beyond our borders. Similarly, the opening of a judicial investigation for concealment of crimes against humanity, against clothing brands suspected of profiting from crimes committed against Uyghurs in Xinjiang constitutes a first.

These legal victories, obtained under the impetus of Sherpa's work, are further steps towards making multinationals accountable, as they send a strong message: companies whose economic activities fuel armed conflicts and benefit from or participate, directly or indirectly, in the atrocities committed, can be prosecuted before the criminal jurisdictions.

## LAFARGE – SYRIA

**LEGAL BASIS:** In crimes against humanity and war crimes, financing terrorism, deliberate endangerment of others, work incompatible with human dignity

**PARTNER:** European Centre for Constitutional and Human Rights (ECCHR)

### → FACTS

In 2010, Lafarge, now LafargeHolcim, inaugurated a new cement plant located between Raqqa and Manbij in northern Syria. The plant was run by a subsidiary, Lafarge Cement Syria (LCS), owned at 98.7% Lafarge.

As a civil war broke out, Lafarge decided in 2012 to repatriate its foreign employees, while asking the Syrian employees to stay in order to operate the plant. Thus, from 2012 to 2015, Lafarge continued to operate its Syrian factory, despite the embargoes imposed by the European Union, the blacklisting by the UN Security Council of several armed groups and the withdrawal of other multinationals from the region.

In 2013, Daesh, also known as the "Islamic State" organisation, took over northern Syrian territory. Risks for employees' lives increased on the roads surrounding the Lafarge plant. Arrangements worth at least 13 million euros were made between the company and several armed groups in order to maintain activity, in particular by obtaining passes stamped by the jihadist group and the purchase of raw materials necessary for the production and sale of cement. In September 2014, alerted to an imminent attack, the employees fled the factory on their own, just before Daesh took it over, as no evacuation plan had been put in place by the company.

### → SHERPA'S WORK

In November 2016, following revelations in the media, Sherpa collected more than 200 documents, including testimonies by eleven former Syrian employees of the plant, and filed a complaint in France against Lafarge and several executives.

In 2018, one year after the judicial inquiry was opened, the company was indicted for complicity in crimes against humanity, violation of an embargo, financing a terrorist enterprise and endangering others' lives. In November 2019, Lafarge's historic indictment for complicity in crimes against humanity was overturned by the Investigating chamber of the Court of Appeal.

On 7 September 2021, the Court of cassation issued a landmark ruling on the complicity of legal persons in crimes against humanity. The Court ruled that Lafarge's indictment for complicity in crimes against humanity had been wrongly cancelled and ordered the case to be referred to the Investigating chamber of the Court of Appeal. The Court clarified the elements constituting complicity of legal persons in crimes against humanity by ruling that the knowing payment of several million dollars to an organisation whose purpose is exclusively criminal is sufficient to characterise complicity, regardless of whether the party concerned is acting in pursuit of a commercial activity. Furthermore, the Court upheld the indictment of Lafarge for financing a terrorist undertaking, holding that it is sufficient that the company had knowledge of the intentions of the recipient of the funds to commit a terrorist act, without requiring that it had the intention to see the funds used for this purpose.

However, the Court of cassation annulled Lafarge's indictment for endangering the lives of others, ruling that the Investigating chamber should have applied the rules of private international law to determine which law was applicable to the employees' employment contracts. The issue will therefore be re-examined in 2022 by the Investigating chamber of the Court of Appeal along with the indictment for complicity in crimes against humanity.

### AN ALARMING RESTRICTION ON ASSOCIATIVE ACTION BEFORE THE CRIMINAL COURTS

This historic victory on complicity in crimes against humanity should not overshadow another aspect of the decision with major consequences for civil action by associations. In November 2019, the Investigating chamber of the Court of Appeal overturned the decision of the investigating judge declaring Sherpa admissible as a civil party. The Court of cassation, adopting a restrictive interpretation of the conditions of admissibility for associations, confirmed Sherpa's inadmissibility.

With this decision, the Court closes the door to associations' action on the general basis of civil action (art. 2 of the Criminal Code), reversing previous case law allowing associations to intervene in case of prejudice to the collective interests they defend. Thus, the possibility of action by associations is drastically reduced: they can only initiate or intervene in public proceedings on the basis of legislative authorizations specific to certain infractions and if they meet the conditions.

This decision is part of a trend to restrict civil society action before the criminal courts, which has already been denounced by many associations. Sherpa is mobilised to combat this trend, emphasising the key role of associative action in a state of law in order to counter the monopoly of the public prosecutor's office on the advisability of prosecutions, particularly in cases involving actors with considerable economic weight and an unavoidably political dimension.

### CLOTHING COMPANIES - CHINA

**LEGAL BASIS:** Concealment of genocide, crimes against humanity, crime of trafficking in human beings in an organised gang, crime of aggravated bonded labour  
**PARTNERS:** Collectif Éthique sur l'étiquette, The European Uyghur Institute

#### → FACTS

The Uyghurs are the target of systemic political violence from the Chinese government, which under the guise of fighting poverty, aims in reality to subject the entire Uyghur people to globalised social control: permanent surveillance, card indexing, intergenerational separation, internment in "re-education" centres and deportations to "prison factories". This policy and the crimes committed against the Uyghurs have been documented by researchers, associations, and international organisations, and no one can ignore the situation.

Many companies are suspected of marketing products made by forced labour of Uyghurs and thus enriching

themselves at the expense of human rights, even though they are quick to display ethical commitments, which are however not binding.

#### → SHERPA'S WORK

On 12 April 2021, Sherpa, its partners and a Uyghur plaintiff filed a complaint before the Paris judicial court against four multinational clothing companies - Inditex France, SMCP, Uniqlo France, and Skechers USA France - suspected of profiting through their commercial links from crimes committed against minorities in the Xinjiang Autonomous Region, in particular the Uyghurs.

A preliminary investigation into the concealment of crimes against humanity was opened in July 2021 and handed over to the Central Office to Fight Crimes against Humanity, Genocide and War crimes. Sherpa is continuing its research into the case.

Sherpa also supports the advocacy efforts of its partners for the recognition of the genocidal nature of the crimes committed against the Uyghurs, and participated in a forum in support of the draft resolution tabled by Uyghur associations in the National Assembly, which was voted on in January 2022.



### OPACITY OF SUPPLY CHAINS IN THE CLOTHING INDUSTRY AS A FACTOR OF IMPUNITY

International brands outsource the production of their goods to foreign subcontractors who use other subcontractors to supply raw materials, such as cotton produced by the Uyghurs.

By selling goods produced by forced labour, companies could therefore be indirectly involved in and benefit from the crimes suffered by these populations, while escaping liability. This is due to the complexity and opacity of supply chains, particularly in the clothing sector, and the difficulty of accessing evidence on the origin of products. By using innovative legal grounds such as concealment of international crimes, Sherpa is working to ensure that economic actors can no longer ignore human rights.

### BNP PARIBAS - RWANDA

**LEGAL BASIS:** Complicity in genocide, crimes against humanity and war crimes

**PARTNERS:** Collectif des Parties Civiles pour le Rwanda (CPCR), Ibuka association France

#### → FACTS

While the genocide of the Tutsis was underway and an arms embargo against Rwanda had been established by the UN Security Council, BNP Paribas bank would have agreed to transfer in June 1994, 1.3 million dollars from an account of its client, the National Bank of Rwanda (BNR), to the Swiss account of Mr Ehlers, a South African arms broker. This transfer would have allowed the purchase of 80 tons of weapons in the Seychelles, which were then flown to Goma in the Democratic Republic of Congo and then to Gisenyi in Rwanda, with the support of Théoneste Bagosora, a Hutu commander later convicted for genocide by the International Criminal Tribunal for Rwanda.

#### → SHERPA'S WORK

In June 2017 Sherpa and its partners filed a complaint as a civil party against BNP Paribas for complicity in genocide, crimes against humanity and war crimes. This is the first complaint on these grounds against a bank.

In September 2017, a judicial inquiry was opened with the appointment of an investigating judge. Sherpa was heard as a civil party. As part of the investigation, the judge unsuccessfully asked the Malian authorities to question Théoneste Bagosora, who is in prison in Mali for genocide. Bagosora died on 25 September 2021.

For the time being, the judicial investigation is still ongoing and Sherpa remains mobilised so that possible responsibilities can be established, in particular by making requests for documents to the magistrates. Sherpa is continuing its advocacy efforts to bring to light the responsibility of financial institutions and investors in armed conflicts, and more broadly in human rights violations.

### FRENCH STATE - YEMEN

**LEGAL BASIS:** Non-compliance with France's international commitments on the export of war materials

**PARTNERS:** Action Sécurité éthique républicaines, Friends of the Earth, Salam for Yemen, Médecins du Monde, Action Contre la Faim

#### → FACTS

The coalition of Arab states led by Saudi Arabia has been conducting a military campaign in Yemen since 2015. Numerous NGO and UN reports demonstrate the commission of war crimes and multiple violations of international humanitarian law by the warring parties, which have contributed to Yemen becoming the scene of the most serious humanitarian crisis to date.

From the beginning of the conflict in 2014, France has granted arms export licenses to Saudi Arabia and the United Arab Emirates. Despite the extent of the consequences on the civilian population, France has maintained these licenses arguing for increased control over the flow of arms to the region. In addition, several reports highlight the presence of French equipment in conflict zones, supporting multiple war crimes.

#### → SHERPA'S WORK

In November 2019, Sherpa and five other associations filed an appeal before the Council of State following the rejection by the Administrative Court of Appeal of Paris of a request to suspend French arms exports to the coalition countries involved in the war in Yemen.

This decision by the Paris Administrative Court of Appeal, adopted in a non-adversarial manner, without a public collegial and public hearing, constitutes a clear setback for the rule of law, as the Court decided that the issuance of licenses authorising arms exports constituted an "act of government", for which no judicial control is possible. Pending a decision by the Council of State, Sherpa and

its partners are exploring new avenues to stop French arms sales and maintenance to countries suspected of committing war crimes and violating international humanitarian law in Yemen. In addition, Sherpa continues its research and advocacy work against the opacity of France's arms sales in order to ensure that its international commitments are respected.

### VOLTALIA - MYANMAR

**LEGAL BASIS:** Complicity in serious violations of international humanitarian law

**PARTNERS:** InfoBurma, Reporters Without Borders, Justice for Myanmar

#### → FACTS

In 2018, a report established serious human rights violations and severe breaches of international humanitarian law committed by the Burmese military between 2011 and 2018. In 2019, a report by the UN Fact Finding Mission on Myanmar revealed the Burmese military's interest in the country's economy.

Among the economic actors linked to the army is Mytel, a telecom operator to which the French company Voltalia indirectly supplied electricity.

#### → SHERPA'S WORK

In 2020, Sherpa and its partners send a public letter asking Voltalia to end its commercial relations with all partners of the Burmese junta, to prevent its activities from facilitating the crimes perpetrated.

In April 2021, after a year of pressure by Sherpa and its partners, Voltalia announced its decision to withdraw from Myanmar. NGOs will ensure that this withdrawal is effective.

### THALÈS – MYANMAR

**LEGAL BASIS:** Complicity in serious violations of international humanitarian law, violations of restrictive measures (embargoes)

**PARTNERS:** InfoBurma, Reporters Without Borders, Justice for Myanmar

#### → FACTS

In 2021, Justice for Myanmar revealed that one of Thales' longstanding partners, the Indian company Bharat Electronics Limited (BEL), was a particularly close supplier of military technology to the Burmese junta.

#### → SHERPA'S WORK

Sherpa and its partners denounced Thales' exports of military technology to this intermediary, a partner of the Burmese junta, noting that these exports were made in violation of restrictive measures imposed by the European Union after the February 2021 coup in Myanmar.

Thales responded by denying any violation of the relevant regulations.

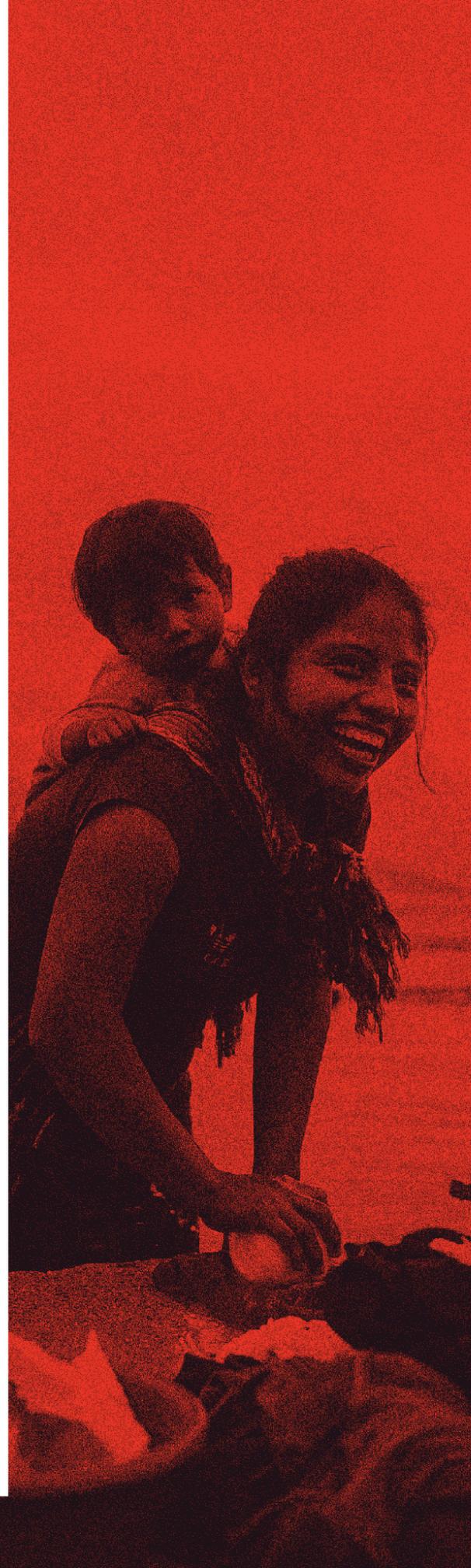
Sherpa and its partners continue their work to determine what legal action could be taken and which sanction could be applied to the breaches of the legislation if necessary.

# GIVING THE VICTIMS OF GLOBALISATION THE RESOURCES TO DEFEND THEMSELVES

Developing countries are estimated to lose at least €750 billion every year due to corruption, embezzlement and tax evasion.

Funds illegally obtained are then transferred and used. It consists of money laundered and concealed, thanks to judicial havens.

These practices hinder social and economic development, divert national and foreign investments from the sectors where they are most needed and thus deprive the population of decent education and health systems. Sherpa takes action against these criminal and human rights abuses in order to give the victims the resources they need to live decently and to defend themselves.



## Tackling the causes of resource deprivation in developing countries

2021 was marked by the OECD's assessment of France's compliance with the OECD anti-corruption Convention. As part of it, Sherpa was able to share its recommendations on the role of civil society in detecting corruption, on the role of the National Financial Prosecutor's Office (NFP) and more generally on the framework of the fight against transnational corruption by insisting on the limits of negotiated justice and on the role of financial intermediaries.

The year was also marked by the adoption by France of an asset's restitution mechanism.

Finally, Sherpa was able to share its expertise on the negative effects of negotiated justice on financial crime as part of advocacy efforts towards MP Raphaël Gauvin, who tabled a bill to reinforce the scope of negotiated justice.

### International corruption

Corruption is the perversion of a decision-making process in order for the corrupting person or organisation to obtain undue advantage through the complacency of certain policy-makers.

It undermines the fundamental principles of good governance, equal access of citizens to markets, jobs and public services on the basis of merit and capacity.

It blurs the concept of "general good", fosters distrust of governments and diverts the wealth that should normally go to the people. The concealment of corrupt schemes, the time it takes to reveal scandals and the difficulty of proving them, fuels the feeling of impunity of political or economic decision-makers.

### NICOLAS SARKOZY AND OTHERS - LIBYA

**LEGAL BASIS:** Passive bribery, illicit financing of an election campaign, concealment of embezzlement of Libyan public funds, criminal association

#### → FACTS

The former Head of State Nicolas Sarkozy is suspected, since an article published in the *Médiapart* journal in April 2012, of having illegally financed his first presidential campaign in 2007 without declaration. Ziad Takkiedinne's statements to the investigating judge in the Karachi case in May 2012 make credible the revelations in the press about the Libyan financing of the campaign.

**→ SHERPA'S WORK**

In April 2013, a judicial inquiry was opened against X on charges of corruption, misuse of corporate assets, forgery, money laundering, concealment and complicity in these offenses. Sherpa filed a civil suit in June 2013. In June 2020, a hearing was held on Sherpa's admissibility and the jurisdiction of the Court of Justice of the Republic, the immunities of the defendants, and the requests for nullity of the proceedings. In September 2020, the Investigating chamber of the Paris Court of Appeal rejected the Sarkozy clan's requests for nullity. It also ruled that Sherpa's civil party application was admissible.

Subsequently, in October 2020, Nicolas Sarkozy was indicted for criminal conspiracy. A few weeks later, Ziad Takieddine declared that there had been no Libyan financing.

Finally, on December 1<sup>st</sup> 2021, the Court of cassation recalled that Sherpa is admissible as long as "there is a strict match between the purpose of its statutes and the offense prosecuted".

**DASSAULT AVIATION - INDIA**

**LEGAL BASIS:** Corruption, granting of undue advantages, influence peddling, complicity in these offenses, as well as concealment of corruption, money laundering, corrupt practices

**→ FACTS**

The facts relate to the conditions under which the Indian partner of the French aircraft manufacturer Dassault, Reliance Defence Ltd a group chaired by Anil Ambani, a close relation of Indian Prime Minister Narendra Modi, was chosen.

In 2007, a call for tender was launched for the renewal of the Indian military air fleet. Dassault won the tender for 126 aircrafts, offering the most financially advantageous bid.

In 2015, it became public knowledge that an arrangement was expected between Dassault and Hindustan Aeronautics Ltd (HAL), an Indian aeronautics company. However, in a surprisingly short period of time and after almost eight years of negotiations between HAL and Dassault, the agreement was completely changed. In April 2015, the Indian Prime Minister announced that the Indian Army would now only acquire 36 aircrafts on a "ready-to-fly" basis and that the operator in India would

no longer be HAL but Reliance, a company owned by someone close to the Indian Prime Minister.

Subsequently, in January 2016, Reliance announced the funding of the movie *Tout là-haut* starring Kev Adams and produced by Julie Gayet, the French President's companion at the time.

**→ SHERPA'S WORK**

In October 2018, an Indian former minister and an anti-corruption lawyer filed a complaint with the New Delhi Central Bureau of Investigation against the Indian Prime Minister Narendra Modi for "abuse of power" and "granting undue advantages".

A few days later, Sherpa filed a complaint against Dassault with the NFP and requested the opening of a preliminary investigation.

Less than a year later, Sherpa contacted the NFP again and sent a note with additional elements supporting the complaint.

Following a dismissal of the case by the NFP in January 2020, Sherpa asked for a copy of the file, a request that remained unanswered. In April 2021, several articles were published by *Médiapart* questioning the NFP and the French Anti-Corruption Agency in the case.

On 22 April 2021, a complaint against X was filed by Sherpa, with a civil claim before the instructing magistrate for corruption, influence peddling, concealment of corruption, favouritism, laundering of corruption and corrupt practices. On 5 July 2021, the Paris judicial court opened a judicial investigation into favouritism and various financial offenses that may have occurred in the context of the sale of the aircrafts.

**Embezzlement****ILL-GOTTEN ASSETS - SYRIA**

**LEGAL BASIS:** Concealment of embezzlement of public funds, corruption, aggravated laundering inorganised crime

**→ FACTS**

A former head of the Republican Guard who was involved in the 1982 massacre in Hama, Rifaat al-Assad, is said to have a fortune estimated at a minimum of 160 million euros, which cannot be explained by his salaries and remuneration received in the context of his political and professional activities known to date. His various properties would be scattered between Paris and Bessancourt in the Val d'Oise.

All or part of these assets are likely to be the product of illicit acts of corruption and embezzlement of public funds. Rifaat al-Assad justifies the origin of his assets by donations from the Saudi royal family.

**→ SHERPA'S WORK**

In July 2011, Sherpa and Transparency International France filed a simple complaint against Rifaat al-Assad and twenty other people to the public prosecutor's office of the inter-regional jurisdiction specialized in the fight against organised financial crime. This first complaint was dismissed a few months later. In September 2013, the two associations filed a second complaint with a civil party status, which led to the opening of a preliminary investigation.

Rifaat al-Assad was indicted in June 2016 on charges of concealment of embezzlement of public funds, money laundering, and concealed work. Numerous properties were seized, worth €90 million. Properties in Spain worth €691 million were also seized.

Only in April 2019, a referral for passive corruption and aggravated laundering in an organised gang, took place. In December 2019, the trial was held before the judicial court of Paris. The NFP requested four years of jail time, a €10 million fine and the confiscation of assets seized during the investigation, including two mansions, a castle and stud farms. In June 2020, he was sentenced by the court to four years imprisonment and confiscation of his assets, in particular for concealed work and aggravated money laundering in an organised gang.

On 24 February 2021, Sherpa also sent a letter to the President of the Republic and to the Grand Chancellor of the Legion of Honour, calling for the immediate withdrawal of the Legion of Honour from Rifaat al-Assad. An op-ed was also published in the newspaper *Libération*.

Rifaat al-Assad's appeal trial took place from 5 to 12 May 2021. The public prosecutor requested the confirmation of the first decision, i.e., the sentencing of Rifaat al-Assad to four years of imprisonment and the confiscation of his real estate in France seized during the investigation. On 9 September 2021, the Court of Appeal upheld the first instance ruling of June 2020.

The defendants immediately announced that they were appealing to the Court of cassation.

# Sanctioning the use of instruments facilitating illicit financial flows and developing the accountability of intermediaries

The deprivation of resources in developing countries is made possible by the action of financial intermediaries and the existence of tax and judicial havens that allow the laundering and concealment of the illicit origin of funds.

Tax and legal havens offer economic actors, both individuals and companies, many services and advantages, such as banking secrecy, tax secrecy, easy company creation and a high degree of opacity, linked to the non-cooperative nature of these jurisdictions.

The setting up of schemes allows economic actors to cover up illegal profits resulting from large-scale corruption and to circumvent tax legislation aiming at the protection of environment and human rights.

The activities of multinationals are largely facilitated by the intervention of intermediaries, legal, financial or tax advisors or social and environmental auditors. Their role in laundering criminal and human rights activities must be combated.

## Money laundering and concealment: intermediaries' liability

### ILL-GOTTEN GAINS - LEBANON

**LEGAL BASIS:** Corruption laundering, embezzlement  
**PARTNER:** Collective Association of Victims of Fraudulent and Criminal Practices in Lebanon

#### → FACTS

Since the mid-1990s, corruption has been intimately linked to the functioning of the Lebanese state. In 2020, the NGO Transparency International, which measures the degree of perception of corruption at the global level, ranked Lebanon 149th out of 180 countries. Favoured by political communitarism and the non-effectiveness of the rule of law, corruption affects all departments of the Lebanese State. The weakness of the Lebanese State does not lie in the absence of laws but in the lack of willingness to apply them.

Furthermore, corruption and the Ponzi scheme set up by the Lebanese banks in accordance with the Central Bank of Lebanon are at the origin of the unprecedented crisis that benefited the political leaders. Various organisations have gathered information about money laundering in connection with the outsourcing of capital during the autumn 2019 crisis. The suspicious conditions for the acquisition of real estate by Lebanese private or public officials were also raised.

It would thus appear that, in part, these officials have held bank assets in France, with French banks and/or foreign banks with activities in France. Illicit investments were facilitated by banks and financial intermediaries who often play an active role in embezzlement and money laundering schemes.

#### → SHERPA'S WORK

On 30 April 2021, Sherpa and the Collective Association of Victims of Fraudulent and Criminal Practices in Lebanon filed a complaint against X before the NFP for fraud laundering, deceptive commercial practices, criminal association, lack of justification of resources, laundering and concealment of bankruptcy, fraud, bribery, illegal taking of interest and embezzlement.

On 7 June 2021, the NFP announced the opening of a preliminary investigation by the Central Directorate of the Judicial Police. A judicial investigation was finally opened at the end of the year. The complaint focuses on the offense of money laundering and the responsibility of financial intermediaries.

The NFP is looking closely at the French subsidiary of Audi Bank, which is alleged to have allowed the transfer of illicit assets of the Lebanese leaders targeted in the complaint. Sherpa and the collective have also launched similar proceedings in Luxembourg in December 2021.

On 14 September 2021, Sherpa recalled in an op-ed the need to put in place sanctions against Lebanese entities involved in the financial crisis that the country is undergoing. This op-ed underlines the need for the European Union to take sanctions against Lebanese leaders as soon as possible, thus allowing the legal proceedings already underway and those to come to prosper and therefore preventing the escape of this capital to uncooperative territories.

Such measures are all the more urgent as financial dematerialization now allows extremely rapid movements of funds and as tax and judicial havens constitute real black holes for illicit financial flows.



## **BNP PARIBAS, SOCIÉTÉ GÉNÉRALE, NATIXIS, CIC, RIVAGE INVESTMENT - MALTA**

**LEGAL BASIS:** Aggravated money laundering, complicity in aggravated money laundering, aggravated concealment of corruption

**PARTNER:** Daphne Caruana Galizia Foundation

### **→ FACTS**

On October 16<sup>th</sup> 2017, Maltese journalist Daphne Caruana Galizia was murdered while investigating a corruption scandal involving leading figures in Maltese politics and business. Hardly two months later, French banks, through subsidiaries or branches, and a portfolio management company, granted a loan to Electrogas Malta Limited, the company at the heart of Daphne Caruana Galizia's revelations.

The Maltese police investigation concluded that Electrogas' director and shareholder, Yorgen Fenech, was allegedly one of the instigators of the journalist's murder. The murder allegedly carried out after she revealed potential corruption during the privatization of the Maltese gas sector in favour of Electrogas.

Yorgen Fenech was probably one of the main Maltese beneficiaries of this company. He admitted to the Maltese police last June that Electrogas' contract with the state-owned oil company Enemalta was tainted by corruption.

### **→ SHERPA'S WORK**

In September 2020, Sherpa and the Daphne Caruana Galizia Foundation requested the NFP to open an investigation for aggravated money laundering, corruption, complicity, and aggravated concealment against four French banks and an investment fund in relation to a large-scale loan operation for the benefit of Electrogas in the exploitation of the Maltese gas market. In 2021, a probe was opened and is conducted by the police department in charge of fighting corruption and other financial crimes.

## **BNP PARIBAS - DEMOCRATIC REPUBLIC OF CONGO**

**LEGAL BASIS:** Corruption laundering

**PARTNER:** Public Eye

### **→ FACTS**

In September 2017, Public Eye published an investigation documenting the embezzlement carried out by Gunvor between 2010 and 2012, during the execution of pre-financing contracts concluded by this Geneva firm with the Congolese National Oil Company (SNPC). In exchange for loans to SNPC, Gunvor received over \$2 billion worth of oil. Business introducers hired to obtain this contract benefited from huge commissions that were transferred to Swiss accounts. The Swiss Federal Prosecutor's Office suspects that some of these tens of millions of francs were used to bribe Congolese officials.

To carry out these operations, BNP Paribas granted part of the oil pre-financing to Gunvor. Two-thirds of the sums needed to conclude the pre-financing, amounting to around 500 million francs, were granted by BNP Paribas via its raw materials and energy branch. The loan granted by BNP Paribas to Gunvor was repaid from the profits of the disputed contracts.

### **→ SHERPA'S WORK**

In July 2018, Sherpa and Public Eye reported these facts by letter to the Autorité de contrôle prudentiel et de résolution (ACPR), the authority in charge of supervising banks, particularly with regard to their anti-money laundering system. Following this letter, the ACPR met with Sherpa and its partner. In October 2020, with no news from the ACPR, Sherpa and Public Eye reported these facts to the NFP. In 2021, it is believed that an investigation has been opened.

## **Impact of the use of tax havens on the environment**

In 2018, in a study entitled *Tax havens and global environmental degradation*, economists highlighted the statistical correlations between the use of tax havens and environmental damage. The study reveals that a number of polluting activities are legally incorporated in tax havens, thus escaping the various established protection regimes, including reporting requirements. 68% of the foreign capital invested in the nine largest multinationals associated with the deforestation of the Amazon rainforest between 2000 and 2011 was transferred via tax havens.

In all, €16 billion would have not only escaped the authorities but also allowed the financing of activities that destroy biodiversity. In this context, Sherpa wanted to explore the legal means to make economic actors accountable for the environmental impact of their financing and tax policies.

To this end, Sherpa, in partnership with the Sciences Po Law School Clinic for the academic year 2019 - 2020, has conducted a project entitled: "Tax evasion practices and environmental damage: how to make companies and States accountable". Finalised in June 2020, this first study reviews the benefits and limitations of various legal foundations on these issues.

Following this study, Sherpa has approached several partners in 2021 in order to define a strategy of investigation, legal research and advocacy.

## **Networking**

Sherpa is a member of the *Tax and Legal Haven Platform*, which carries out collective expertise and advocacy work on measures to be taken to reduce financial opacity, effectively combat tax evasion, promote greater regulation of capital mobility, lift banking secrecy and finance development sustainably.



PLATEFORME  
PARADIS FISCAUX  
ET JUDICIAIRES

# Protecting public debate



**Whether it is by carrying out actions for greater corporate accountability, or for better regulation of financial flows throughout the world, Sherpa targets economic actors with significant and multiple resources used to reduce access to information and democratic space in general. Through its programs, Sherpa strives to defend the democratic space.**

## Fighting SLAPP suits

SLAPP (Strategic Litigation against Public Participation) suits are used by companies against human rights defenders, journalists, activists, associations, whistleblowers, etc., when these people denounce their practices.

The purpose of these proceedings is not judicial victory, but censorship, as can be seen from their disproportionate and unbalanced nature. They are often based on almost simultaneous proceedings, in space or time, on several grounds and against multiple defenders. They are accompanied by demands that are excessive in regard to the financial capacities of the persons targeted.

They thus undermine the equality of arms and erode confidence in the judicial institution and its auxiliaries by misusing the ends of justice. Sherpa, which has been the target of these practices on several occasions, created in 2017 in France, alongside few partners, the collective "On Ne Se Taira Pas!" that intends to highlight these practices, support those targeted, and encourage reforms to put an end to gag suits.



Thanks to this experience, Sherpa has been asked several times in 2021 to participate in conferences on the issue and to share its expertise individually or collectively with partners. In March 2021, Sherpa participated in a series of webinars organised by Sciences Citoyennes on the place of law in mobilisations. During the session on "Protecting activism" Sherpa intervened alongside Greenpeace and Reporters Without Borders to explain how to deal with SLAPP suits.

Sherpa has also joined the Coalition Against SLAPPs in Europe (CASE). Officially launched in 2021, this coalition was created in reaction to the murder of journalist Daphne Caruana Galizia, who was the subject of more than forty proceedings at the time of her death.

Bringing together more than 30 organisations, CASE calls on the European institutions to take action against SLAPP suits, including the adoption of a directive. It is also working to strengthen resilience of SLAPP victims through the provision of legal resources. The coalition is also seeking to map the extent of the phenomenon in Europe in order to improve its understanding and visibility in the public debate.



The coalition's website, which went live in March 2021, contains a wealth of content on SLAPP suits and provides access to a legal support network for targeted individuals and organisations.

As an active member of the coalition, Sherpa follows the activities of the legal working group and has participated in 2021 in the elaboration of various contents for the website and the campaigns carried by the coalition. In regards to the advocacy for a European directive, Sherpa participated in the discussions with MEPs from June 2021 ahead of the adoption of the European Parliament's initiative report.

Indeed, in 2021, the coalition's advocacy for a European directive against SLAPP suits paid off. At the level of the Commission, which had announced as early as 2020 its intention to launch an initiative against SLAPP suits (*European Commission, Annual Work Programme for 2021*, 19 October 2020; *Action Plan for European Democracy*, 3 December 2020), Vice-President Vera Jourová confirmed on 3 June 2021 that the initiative could have a legislative part as well as a non-legislative one. It should be presented in April 2022.

In addition, on 11 November 2021, the European Parliament adopted by 444 votes to 48 with 75 abstentions its own initiative report on SLAPP suits (*European Parliament resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the overuse of actions under civil and criminal law to silence journalists, NGOs and civil society (2021/2036-INI)*). It defines SLAPP as "lawsuits that lack any legal basis, are manifestly unfounded, involve an imbalance of powers and an abuse of law or proceedings by the plaintiff making excessive claims" and thus use the judicial process to silence critical voices. The report calls on the Commission to propose a package of legislative and non-legislative measures to address the growing number of SLAPP suits against journalists, NGOs, academics, and civil society in the European Union.

## SLAPP SUITS AGAINST SHERPA - FRANCE

**LEGAL BASIS:** Defamation

### → FACTS

In March 2015, Sherpa filed a complaint for forced labour against entities of the Vinci group in relation to their construction activities in Qatar.

In response to publications concerning the complaint, Vinci filed a defamation suit against Sherpa and two of its employees in April 2015. Vinci also filed a complaint for violation of the presumption of innocence, which was definitively rejected in 2016. The defamation lawsuit is still pending.

Faced with the growing importance of the SLAPP suits in the public debate, the company, which initially asked for hundreds of thousands of euros in damages, dropped its demand in 2018 to a symbolic one euro.

### → SHERPA'S WORK

In 2021, Sherpa obtained to maintain the stay of proceedings previously granted, pending the outcome of the criminal proceedings concerning working conditions on construction sites in Qatar.

## Protecting whistleblowers

Whistleblowers are individuals or organisations that reveal facts that pose a risk to the public interest. In a complex globalised world, dominated by secrecy and opacity of multinationals, these individuals play a key role in bringing to light potential corporate abuses. But their actions usually result in retaliation, through judicial intimidation or other forms of harassment. The financial, professional, and psychological consequences of such retaliation are considerable and sometimes deter their actions.

For Sherpa, legally enshrining the status and protection of whistleblowers is an imperative in order to make companies accountable and allow access to justice by facilitating access to information.

Sherpa is one of the co-founding organisations of the Maison des Lanceurs d'Alerte (MLA), created on October 22<sup>nd</sup> 2018. The MLA works to improve whistleblowers protection in France. It accompanies them on a daily basis and mobilises political decision-makers and public opinion to change legislation in their favour.



In 2021, the MLA played a key role in the transposition in France of the European directive on the protection of whistleblowers adopted in October 2019. This was a real opportunity to overcome the limitations of the French whistleblower protection regime, yet France was lagging in the transposition of the directive, which had to be completed by December 2021.

In June 2021, after several months of work with lawyers and experts on the issue of whistleblowing, the MLA publicly launched its campaign for an ambitious transposition of the directive. The campaign brought together more than 30 organisations around a dozen proposals.

On July 2021, a bill to transpose the European directive on whistleblowers was tabled by MP Sylvain Waserman. After the government triggered the accelerated procedure in October 2021, the text was amended and adopted on first reading by the National Assembly on November 2021, and should be adopted by the Senate in January 2022.

As a member of the Board of Directors, the Bureau and the strategic orientation college of the MLA, Sherpa has actively followed the association's work on this issue throughout 2021. In particular, Sherpa participated in the parliamentary discussion on the bill and especially in the exchanges and hearings conducted by the MPs.

## Facilitating access to information and combating business secrecy

The lack of transparency and access to information about multinationals is a major obstacle to access justice and make companies accountable because it hinders the collection of evidence on their activities. The international activity of companies and their abuses are by definition largely secretive. This is due, on the one hand, to the private aspect of their activities and, on the other hand, to the fact that violations and infringements are kept at a distance within complex value chains. The protection afforded to business secrecy, tax secrecy and banking secrecy also contribute to this opacity. This is why Sherpa is fighting for the consecration and protection of a right of access to information concerning companies.





## **FRENCH NATIONAL METROLOGY AND TESTING LABORATORY, GMED - FRANCE**

**LEGAL BASIS:** Voluntary intervention before the administrative court in support of an appeal against refusal decisions of requests for access to administrative documents (Article R. 632-1 of the Code of Administrative Justice)

### **→ FACTS**

An international collaborative investigation known as "Implant Files", published in November 2018 by more than 250 journalists and 59 news media, highlighted the danger of certain medical implants due to lack of control and traceability of the devices.

As part of this investigation, the French body LNE/G-MED, responsible for issuing the European certificate of conformity (CE) to these products, refused to give the

newspaper *Le Monde* and journalist Stéphane Horel the list of devices that had obtained this CE certificate, and the list of devices that had failed to obtain it.

The Committee of Access to Administrative Documents (CADA) confirmed this refusal decision, basing its decision on business secrecy, introduced into French law in July 2018 by transposition of a European directive.

### **→ SHERPA'S WORK**

In November 2018, the newspaper *Le Monde* lodge an appeal against the LNE/G-MED decision before the Paris Administrative Court. Sherpa and some forty other organisations voluntarily intervened in this litigation and joined the requests to annul the refusal decisions to disclose the administrative documents requested from LNE/G-MED.

In October 2020, the administrative court ruled partially in favour of the claimants and ordered the G-MED to communicate within a month the list of medical devices certified and placed on the market.

The judges considered that the refusal to communicate was not justified in this case, in particular because of the contribution of the information at issue to the public debate on a question of general interest. On the other hand, the ruling found in favour of LNE/G-MED on the other requests concerning the list of devices that have been CE certified but not yet put on the market, and the list of products to which the label has been refused, considering that this would "amount to revealing confidential information relating to the manufacturers' commercial strategy".

## **MINISTRY OF ECOLOGICAL TRANSITION - FRANCE**

**LEGAL BASIS:** Appeal for annulment against a refusal to grant access to administrative documents

### **→ SHERPA'S WORK**

In preparation for a study on the relationship between energy transition and mineral extraction and in order to monitor the implementation in France of EU Regulation 2017/821 of 17 May 2017, known as the Conflict Minerals Regulation, Sherpa asked the Ministry of Ecological Transition, the administration in charge of monitoring the Regulation, in November 2019 for the identity of the French companies concerned by the text.

Despite a favourable decision by the CADA, which noted that "the communication of the list of these companies is not, in itself, likely to infringe on business secrecy", the ministry refused to communicate the list of companies concerned, invoking business secrecy and thus blocking access to any information relating to the companies.

The refusal to disclose information of a general nature, which is also essential to the analysis of the risks of human rights violations in the sensitive sector of raw materials exploitation, demonstrates that the "business secrecy" law, far from protecting economic actors, is in fact used as a weapon of massive opacity.

In 2020, Sherpa filed an appeal before the Paris Administrative Court to have the administration communicate the list of companies concerned by the European Regulation, in accordance with the CADA's opinion. The procedure is still ongoing.

## **Facilitating legal action by associations**

The law allows associations to take legal action to defend their statutory purpose, i.e., the causes they aim to defend, whether it be the fight against corruption, the defence of victims of international crimes or the protection of the environment. These legal actions by associations are an indispensable tool for access to justice and the fight against impunity in globalisation. Indeed, it mitigates the discretionary nature of the principle of opportunity of prosecution by the public prosecutor in criminal matters and provides necessary support to victims who do not necessarily have the means to act before the French courts. However, there are increasing restrictions on associations action, particularly in criminal matters, where the Court of cassation has been increasingly strict on these issues since 2017.

Also, since 2018, Sherpa has regularly put forward in the public debate proposals aiming to facilitate legal action by associations defending causes of general interest such as the fight against corruption or the protection of the environment.

In 2021, Sherpa had the opportunity to highlight the difficulties linked to the approval system in corruption cases, by supporting the association Anticor, which, like Sherpa a few months earlier, had difficulties in obtaining the renewal of the ministerial approval that allows it to take legal action.

It also presented an analysis of admissibility problems and its proposals for facilitating legal action by associations, in a hearing conducted by the National Assembly's Flash Mission on the capacity of associations to bring actions.

**→ On the same subject: Lafarge - Syria, p.25**

**→ On the same subject: Samsung - China, South Korea, Vietnam, p.18**

# COMMUNICATIONS AND PUBLICATIONS

Thanks to its supports, Sherpa continues to reach historic milestones battles in the fight against corruption and human rights violations by companies.

The year 2021 was marked by several major media events, including the summons of the Casino group, the decisive vote of the European Parliament on the duty of vigilance, the filing of a historic complaint against four textile giants for forced labour of Uyghurs, followed by the opening of an investigation by the French judiciary for concealment of crimes against humanity, the opening of a judicial inquiry into the Raffles contract, and the confirmation of the conviction of Rifaat al-Assad in the case of ill-gotten assets.

While communication spaces are monopolized by large corporations, Sherpa's media visibility is important, because it allows not only the topics on which its team works to exist, but also the voice of the communities and victims we represent to be heard.

## Sherpa's communications in a few figures

45  
PRESS RELEASES

4  
OP-ED PUBLISHED

f 9 800  
SUBSCRIBERS  
BY DECEMBER 2021

t 12 500  
FOLLOWERS  
BY DECEMBER 2021

in 2 100  
SUBSCRIBERS  
BY DECEMBER 2021

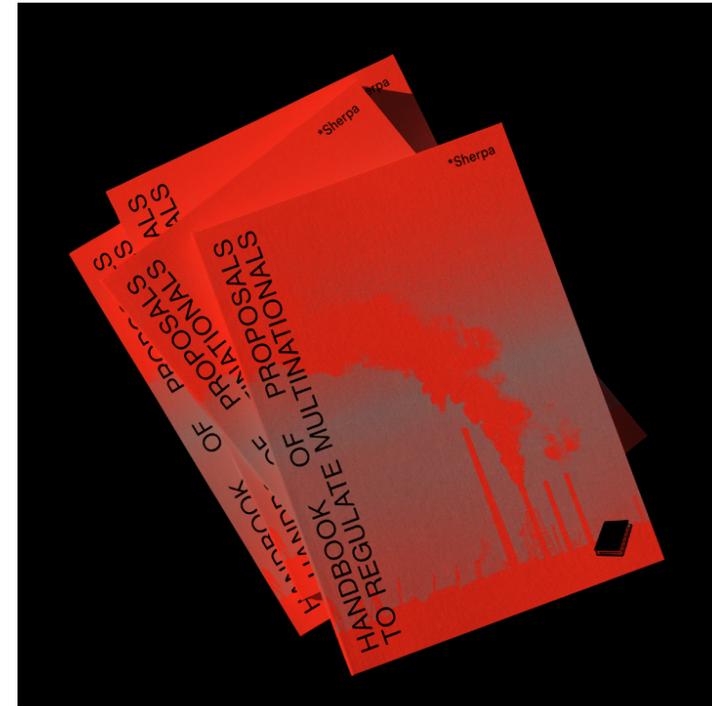
SEVERAL DOZEN  
INTERVIEWS GIVEN

5 NEWSLETTERS  
14,867 SUBSCRIBERS

# 20 years of fighting for a fairer globalisation

The year 2021 marked the 20th anniversary of Sherpa. It was an opportunity to take stock of past actions but above all to reflect on the future. To do so, Sherpa has developed and published several contents throughout the year:

- A series of five video clips presenting the association and its actions through interviews with its teams and partners.
- A new version of the Handbook of proposals to regulate multinationals. Published for the first time in 2010, this version takes stock of the first proposals and presents new avenues for reflection.
- An anniversary event was held on 3 December 2021 in Paris and was also broadcast live on Internet. The evening was organised around a People's Tribunal, where witnesses took the stand to question the legitimacy of Sherpa's action by answering the question: is the fight against economic crimes imperialist?
- A mini site gathering the different contents created in the course of this anniversary year. Each page of the site explores one of the major challenges in the fight against multinational impunity, with a description of the key issues, videos, and summaries of the Handbook of proposals to regulate multinationals. A short video version of the People's Tribunal is also available.



WELCOME TO THE TRIAL OF THE FIGHT AGAINST ECONOMIC CRIMES



SHERPA: WE MUST GO FURTHER!



Illustrations by Tommy Dessine

# Publications and contributions

Sherpa's expertise was regularly sought in 2021, in particular on the issues of ill-gotten assets, the duty of vigilance, and the Lafarge case.

## Publications

### JANUARY 2021

"Les enjeux du renouvellement de l'agrément ministériel", interview with Chanez Mensous, *Politis*

### FEBRUARY 2021

Op-ed, "Le gouvernement à l'épreuve des forces imaginantes du droit", *Ouest-France*

Op-ed, "Pour le retrait immédiat de la Légion d'honneur à Rifaatal-Assad", *Libération*

### MARCH 2021

Lucie Chatelain, "First court decision in the climate litigation against Total: A promising interpretation of the French Duty of Vigilance Law", Business and Human Rights Resource Centre

Op-ed, "Devoir de vigilance : l'impératif d'une directive européenne ambitieuse", *La Croix*

### APRIL 2021

Research and Positioning Paper: "Creating a Duty of Vigilance Supervisory Authority: a good idea gone wrong?"

### JUNE 2021

Sandra Cossart, Mathilde Silvestre, "Four Years Later - the Impact and Potential of the French Law on the duty of vigilance", *Zeitschrift für Menschenrechte*, 2021, n° 1

Call to civil society, "Pour une loi qui défend les lanceurs d'alerte"

"Comment évoluent les entreprises françaises dans les zones de conflits ?", broadcast with Franceline Lepany, *RFI*

### OCTOBER 2021

Op-ed, "Devoir de vigilance des multinationales : ne pas brader les droits humains au tribunal de commerce", *Médiapart*

### NOVEMBER 2021

Lucie Chatelain, "Holding corporations to account for human rights and environmental abuses - The experience of the French duty of vigilance law", *International Labor Brief*, Korean Labour Institute, 2021, Vol 19, No 11

### DECEMBER 2021

Publication of the second edition of the Proposals for Regulating Multinationals

Sandra Cossart, Lucie Chatelain, "Human Rights Litigation against Multinational Companies in France", in Meeran, *Human Right Litigation against Multinationals in Practice*, OUP, 2021

## Contributions

### JANUARY 2021

Tiphaine Beau de Loménie, conférence "Doing Business Right: due diligence as master key to responsible business conduct", *Asser Institute Winter Academy*

Lucie Chatelain, "Corporate due diligence and civil liability", *Nova University of Lisbon*

### FEBRUARY 2021

Sandra Cossart, lecture for students in Master of International Law at the *University of Paris Nanterre*

Sandra Cossart, "Le renouvellement des acteurs et l'activisme judiciaire", Court of cassation

Sandra Cossart, "Corporate Human Rights Due Diligence in Practice", *Bonevero Institute*

Chanez Mensous, "Justice for the Hama massacre - What has been done and why does it still matter?", *Trial International*

Lucie Chatelain, "Enforcement of Labour and Human Rights in Global Supply Chains – The Status Quo and Strategies for the Future", European Center for Constitutional and Human Rights and Friedrich-Ebert-Stiftung

### MARCH 2021

Sandra Cossart, "Les parties prenantes" at Masterclass 21

Laura Bourgeois, "La place du droit dans les mobilisations", "Protéger l'action militante", "Procès-baillons, comment faire face?", *Sciences Sociétés et Démocratie*

### APRIL 2021

Lucie Chatelain, "Legal Action for the Amazon - Indigenous groups and NGO's lawsuit in France v. Casino", *Climate Justice Law Sessions*

### MAY 2021

Lucie Chatelain, presentation of the Casino and TotalEnergies cases brought by Sherpa, in the capacity building sessions for Turkish legal professionals and NGOs organised by the International Commission of Jurists

Lucie Chatelain, "Comparative inputs from Germany and France on administrative liability", intervention at the General Assembly of the European Coalition for Corporate Justice

Lucie Chatelain, "Precedents of mHRDD in Europe", *Raoul Wallenberg Institute*

### JUNE 2021

Lucie Chatelain, "Suing Goliath: The struggle for justice in cases of corporate abuse abroad", European Coalition for Corporate Justice (ECCJ), Friends of the Earth Europe and Responsible Business Conduct working group

Sandra Cossart and Laura Bourgeois, presentation of the Vinci case and the European legislation relating to the duty of vigilance, "Ecole Aubryssonnière", event organised by Manon Aubry MEP

Lucie Chatelain, "Responsabilité de Casino dans la déforestation amazonienne" - Debates on the means of citizen action against the impunity of multinationals.

Chanez Mensous, webinar "Vers un modèle français de restitution", Transparency International

Sandra Cossart, "Ten Years On: What the UNGPs Mean for the Legal Profession", American Bar Association, International Association for Lawyers, International Bar Association and Oxfam America

### JULY 2021

Sandra Cossart, "Quel changement de modèle proposent les entreprises ? Les réformes européennes en cours peuvent-elles conduire à un capitalisme parties prenantes?", French Institute for International and Strategic Relations

Laura Rousseau and Chanez Mensous, "Asset restitutions in France: What solutions for Syria?", Sherpa

### SEPTEMBER 2021

Lucie Chatelain, "Enforcement of Mandatory Due Diligence: Key Design Considerations for Administrative Supervision - Stakeholder Consultation", Shift and Office of the High Commissioner for Human Rights

### OCTOBER 2021

Sandra Cossart, "Voices from the Litigation Frontlines", Human Trafficking Legal Center

Franceline Lepany and Anna Kiefer, conference on the Lafarge decision by the Court of cassation of 7 September 2021, ARTERRE Association (Law Association on Transnational Liability)

Lucie Chatelain, "Capacity-building module on corporate liability", capacity-building sessions for Brazilian actors on climate litigation, NYU Climate Change Litigation Accelerator and Instituto Clima e Sociedade

Lucie Chatelain, "Responsabilidad ambiental y de DDHH de las empresas comerciales", capacity-building module for Latin American NGOs, Geneva Academy of International Humanitarian Law and Human Rights

### NOVEMBER 2021

Sandra Cossart, "Retour sur le parcours de la loi devoir de vigilance : le rôle de Sherpa", Amnesty International

Lucie Chatelain, round table hearing at the European Affairs Committee of the National Assembly for the information report on the duty of vigilance for instructing companies

Théa Bounfour and Sandra Cossart, "Strategic litigation for agriculture reform", European Climate Foundation

Laura Rousseau, workshop on "Land Use Finance", FILE Foundation

Lucie Chatelain, contribution on the duty of vigilance to the members of the Forum for Responsible Investment

Sandra Cossart, webinar on issues related to the Lafarge case and the prosecution of companies accused of complicity in human rights violations, Leigh Day

Sandra Cossart et Lucie Chatelain, United Nations Forum on Business and Human Rights

### DÉCEMBER 2021

Laura Rousseau, lecture for the International Anti-Corruption Day, University of Strasbourg and GRASCO

Anna Kiefer, presentation of the complaint for concealment of crimes against humanity against clothing brands at the seminar "The Potential Consequences of Doing Business with China for Belgian Companies", European Foundation for Democracy



# TEAM

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Sherpa brings together committed jurists, lawyers and specialists with varied backgrounds and international experience. Sherpa also operates thanks to the commitment of its 11 administrators and the generous support of its volunteers. The Sherpa team would like to thank in particular its six talented and committed interns of 2021: Chloé Rodet, Antoine le Scolan, Héloïse Mauriac, Pauline Labourde, Esther Sebillote, and Lucrece Zamba.

Board of Directors:

**Franceline Lepany**, President  
**Sylvie O'dy**, Treasurer  
**Everyne Serverin**, Secretary  
**Jean Merckaert**, Member  
**Eric Alt**, Member  
**Chantal Cutajar**, Member  
**Laurence Sinopoli**, Member  
**Julia Mello Neiva**, Member  
**Jonathan Kaufman**, Member  
**Gregory Regaignon**, Member

*Sherpa would like to pay a special tribute to **Mireille Delmas-Marty** who passed away in February 2022. She was a member of the Board of Directors for more than 15 years and was an unfailing supporter of Sherpa's work.*



**Franceline Lepany**  
President

After a career in labour law and having held several professional elective offices (CNB, Paris Bar Association), she is now an honorary lawyer. As part of her work with associations, she has also taken an interest in problems relating to trafficking in human beings through sexual exploitation (former president of the association Les Amis du bus des femmes) and labour (member of the Board of Directors of the Committee against Modern Slavery).



**Sandra Cossart**  
Executive Director

Before taking this position, Sandra led Sherpa's Globalisation and Human Rights programme for 8 years. In this capacity, she played a pivotal role in developing the ground breaking duty of vigilance law adopted in France in March 2017. She has simultaneously initiated and participated in the most innovative litigations in the fight against human rights violations by economic actors.

Sandra is an international lawyer and began her career within international organisations, before working for several years in Moscow as head of a European Union cooperation project. She then joined a business law firm, while being active in refugee aid associations. In 2002, she moved to London and developed a consultancy business before joining the Business and Human Rights Resource Centre. After eight years in England, she joined Sherpa in 2010. Sandra is a graduate of Science Po Paris, University of Paris 1 Panthéon-Sorbonne, College of Europe in Bruges, INALCO (in Russian) and the London School of Economics.

Sandra is the author of numerous academic articles, press articles and op-eds, and a lecturer at Science Po Paris.



**Simon Quet**  
Fundraising  
and Administrative Manager

Simon graduated from Sciences Po Lille in 2009 and started working with the NGO Aide et Action on a Franco-Guinean program, in particular on mining industry. He then integrated the Cultural Action and Cooperation Service of the French Embassy in South Sudan, where he was supporting local civil society organisation in developing and implementing development projects during the independence of the country.

In 2012, he joined the humanitarian sector, working mainly on water and food security issues in South Sudan, Irak and Central African Republic. During his last mission in 2016 and 2017, he led Action Against Hunger Emergency Programs in CAR, supporting mainly populations displaced and affected by the ongoing civil war. He joined the Sherpa Team in January 2018 after working abroad for 7 years.



**Laura Rousseau**  
Advocacy and Litigation Manager -  
Illicit financial flows

A legal expert specialized in international and European law, Laura worked in the field of money laundering and terrorism financing prevention for an important public institution for four years. Prior to this experience, she worked as an analyst in the financial security sector for an investment bank and for an energy trading platform. Laura also acquired an extensive criminal litigation experience with a law firm in Paris. Laura joined Sherpa in 2018.



**Chanez Mensous**  
Advocacy and Litigation Officer –  
Fight against corruption

A lawyer specialized in banking and financial law, as well as a PhD candidate in European law, Chanez joined Sherpa as a legal advisor at the illicit financial flows department. After a career of nearly four years in a bank, in an asset management company as well as in international law firms in Paris and Luxembourg, which allowed her to acquire a good understanding and expertise of supervision issues related to banking and finance, she started academic research on European financial law and the financial stability of the EU and teaches European law at the university as well as at Sciences Po Paris. Chanez joined Sherpa in 2019.



**Lucie Chatelain**  
Advocacy and Litigation Manager -  
Civil liability of parent companies

Prior to joining the team, Lucie was an associate in the international arbitration team of a law firm in Paris. She also worked for the United Nations Special Rapporteur on the situation of human rights defenders, while volunteering with several organisations involved in the defence of migrants' rights.

She holds a Master's degree in Economic Law from Sciences Po Paris and a LLM in International Law from the University of Cambridge. She also studied in Brazil and in Ecuador, where she lived for a year.

Lucie joined Sherpa in 2019.



**Laura Bourgeois**  
Advocacy and Litigation  
Officer - Influence strategies  
of multinationals

Before joining Sherpa, Laura practiced business litigation for a few years as a lawyer with the law firm CMS Francis Lefebvre Avocat, focusing amongst other topics on private international law and civil procedure.

In addition, Laura has held a variety of operational and supervisory voluntary positions for Rotaract, and is a member of the University of Berkeley's Research Center for Comparative Equality and Anti-Discrimination Law.

She holds a Master's degree of private international Law from University of Paris X Nanterre, and studied Anglo-American Law in England (London South Bank University), and in California (University of California, Irvine). Laura joined Sherpa in 2020.



**Tiphaine Beau de Loménie**  
Litigation and Advocacy Officer -  
Civic Space

Tiphaine first joined Sherpa between 2016 and 2018, to work on the duty of vigilance law for parent companies and instructing companies. She previously worked for the Permanent Mission of France to the UN in Geneva and assisted companies in their Corporate Social Responsibility initiatives within a consulting firm. She has a Master's degree in Economic Law from Sciences Po Paris and holds the French CAPA. She also studied in the United States, at the UC Berkeley School of Law and lived in India for a year.

It is after an experience as a litigation lawyer in a Parisian law firm that Tiphaine joined Sherpa in September 2020.



**Théa Bounfour**  
Litigation and Advocacy Officer -  
Environment

Prior to joining Sherpa, Théa worked for several years as a lawyer in environmental law.

After a first experience in advising and defending companies on the development of renewable energy projects, she worked on litigation cases, notably before the French Council of State, for environmental protection associations in the fields of air pollution, biofuels, and urban planning. Meanwhile, Théa has taught administrative and environmental law at Sorbonne and Paris II universities and has been involved as a volunteer in environmental protection associations.

She holds a Master II in environmental law from the Universities of Paris 1 and Paris 2 as well as a Certificate of Aptitude for the Legal Profession (CAPA). Théa joined Sherpa in 2021.



**Anna Kiefer**  
Litigation and Advocacy Officer -  
Armed conflicts and international  
crimes

Prior to joining Sherpa, Anna worked at different organisations defending human rights through advocacy and litigation: first in the United States at a research center on the death penalty worldwide, then in India with an NGO fighting bonded labour and trafficking, and lastly in the United Kingdom with a charity providing face-to-face support to refugees and migrants to remove barriers to their integration.

Anna holds law degrees from the University of Cologne (LL.B.), the University of Paris 1 Panthéon-Sorbonne (Master), and Cornell Law School (LL.M.). She is admitted to the New York Bar. Anna speaks fluently English, German and conversational Spanish. Anna joined Sherpa in 2021.



**Kim Aumonier**  
Project Officer – Capacity Building

After graduating in Political Science and Economics (University of Paris I – Panthéon-Sorbonne) and International Relations (University of Paris III – Sorbonne Nouvelle), her studies first led Kim to work on the issue of transitional justice in Latin America.

She then coordinated international solidarity organisations focused on the accompaniment and protection of victims of economic crimes and other human rights violations, in France and Guatemala, before carrying out a mission as a Protection Officer in South Sudan. Within Sherpa, she manages a capacity building project co-constructed with civil society organizations from France and West Africa.

Kim is a French and Brazilian national and speaks French, English, Spanish and Portuguese.

Kim joined Sherpa in 2021.

**Diane Zeegers**  
Communications Officer

A graduate of the University of Paris-Sud in Cultural Heritage Law, Diane began her career in the cultural and digital sector. Her legal skills and her interest in the global functioning of a company gradually led Diane to take an interest in communication and marketing.

Her interest in law, media and digital led her to the management of legal content on the web, within a law firm particularly attached to the referencing of its various websites (SEO/SEA) and to media relations. Diane then worked for a communication agency specialised in law and finance, before joining Sherpa in December 2020 for one year.

*Dorine Planté took over from Diane Zeegers in January 2022 as Communications Officer.*

# BUDGET

## 2021 RESSOURCES

850 691 €

<b>Operational subventions</b>	804 526 €
Private subventions	780 752 €
Public subventions	23 774 €
<b>Donations by individuals</b>	32 814 €
<b>Miscellaneous (benefits, interest, etc.)</b>	13 351 €

## 2021 EXPENDITURES

723 906 €

Programmatic expenditures	618 132 €
Operating expenses	105 774 €

# SUPPORT US

For more than 20 years, Sherpa has been working tirelessly to make the law a tool for a fairer globalisation. In this fight led by Sherpa and its team, your support is essential.

Sherpa pursues, expands, and promotes projects that strengthen economic actors' liability and build a law that better protects the environment, communities, and workers.

It is your donations that allow Sherpa to act and react independently; together we will succeed in shaping a fairer world.

### THANKS

Sherpa warmly thanks its members, donors and foundations who have made its actions and successes in 2021 possible.





\*Sherpa

