

“¿QUIÉN DEBE A QUIÉN?” (WHO OWES WHOM?) CAMPAIGN POSITION ON THE BILLS TO REFORM “FAD” AND “CESCE”



¿Quién debe a quién? Campaign – www.quiendebeaquien.org

On December 7, 2006 the law to regulate the management of Foreign Debt (“Ley Reguladora de la Gestión de la Deuda Externa (38/2006)”) came into force. In the articles of this law a mandate was made for the Government to reform the two main mechanisms that generate foreign debt owed to the Spanish State, namely, the loans of the Aid for Development Fund (“FAD” in its Spanish acronym) and the defaults of the export loans insured by the “CESCE”, the Spanish Company of Insurance of Export Loans (Export Credit Agency). With almost a two year delay, the Spanish Government has submitted to the Parliament two bills that attempt to fulfill the mandate to reform “FAD” and “CESCE”: the law for the Development Promotion Fund (“FONPRODE” by its Spanish acronym) and the law for the Reform of the System of Financial Support for Internationalizing Spanish Companies. The latter bill includes the creation of the Fund for Company Internationalization (“FIEM” by its Spanish acronym) and the reform of the “CESCE”.

During these last years several civil society organizations have tirelessly demanded and worked towards the reform of “FAD” and “CESCE”. They have as well denounced the lack of transparency and the poor quality of the various processes creating foreign debt, and their impacts in the peoples of the Global South. Civil society organizations were not invited to participate in drawing up the bills. Moreover, these bills assign them a reduced role and little chance to monitor the future actions by “FONPRODE”, “FIEM” and “CESCE”. All this means a step backwards in the practice of the democratic participation required to assure the proper use of public funds.

We, at the “¿Quién debe a quién?” campaign, propose the following document, based on our demands and concerns, which we believe crucial in order to end the problems caused by foreign debt and to revert the situation that the peoples of the South suffer. We would like our demands to be taken into account in the bills that are now being processed by the Spanish Parliament.

In case you had any questions or if you need any clarification regarding this document, please contact us at quiendebeaquien.estatal@gmail.com.

ON THE DEVELOPMENT PROMOTION FUND (“FONPRODE”) BILL

1. This bill should include the audit of all “FAD” loans issued so far by the Spanish Government to lower income countries. The bill should also provide for the implementation of instruments to audit those debts which will be generated by mechanisms such as “FONPRODE”. Finally, the bill should foresee the cancellation of those credits declared illegitimate after the auditing process and the accountability of those responsible.

For “¿Quién debe a Quién?” the possibility of auditing the debt is one of the main demands that should be included in the “FONPRODE” bill. Regrettably, this demand is not yet included in the bill. We consider that audits are a truly efficient tool for democratic control; they would allow people to know the origin of foreign debts and would set the foundations for the cancellation or the rejection of all those debts deemed illegitimate. Illegitimate debts are those that proceed from loans that threaten the dignity of people, jeopardize human, economic, social and cultural rights or violate internationally acknowledged principles of law. It is important to remark that no evaluation of this sort has been carried out by Spain so far. It is not irrelevant that even the United Nations independent foreign debt and human right expert, Mr. Cephas Lumina, advises governments to audit all the debt they claim from other countries, with the purpose of knowing its real origin concerning legality and legitimacy. From our viewpoint, this process should be carried out jointly by the civil societies in the North and the South and by the parliaments of the countries involved. It is precisely now that “FAD” loans are going to be replaced by new instruments such as the “FONPRODE” fund, when we must guarantee the possibility of evaluating each and every “FAD” loan claimed by the Spanish Government. If not, and if the “FAD” assets, liabilities, balances, capital, interests and accrued and paid commissions are transferred to the new “FONPRODE”, as the bill states as of now, we risk losing the track of the loans at the origin of these debts.

On the other hand, while these loans are audited, we demand the Government to declare a moratorium of all the debt owed by South countries to the Spanish Government. Acting like this we would honor the request by the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) of a unilateral moratorium of the

payment of foreign debt (both capital and interests), having in account the difficult situation that many indebted countries presently suffer.

2. We consider that the “FONPRODE” fund must, once and for all, focus on untied donations for countries with a lower income than Spain’s, since “FONPRODE” is an instrument for foreign aid. Thus “¿Quién debe a quién?” believes that our government should avoid the use of loans to countries with lower income. Also, we believe that all “FONPRODE” operations should be untied. This should especially include war and catastrophic situations, contrary to what the bill currently states.

The present wording of the “FONPRODE” bill eliminates, in principle, tied loans, but it still allows untied loans (which are counted as foreign aid) even when dealing with Heavily Indebted Poor Countries (HIPC) (see Article 2.2). On the other hand, the “FONPRODE” fund allows tied aid (whether this tied aid consists of loans or donations is not clear in the bill) when ‘the urgent implementation of aid is justified by war or catastrophic situations which require swifter action’ (see Article 2.3).

3. We consider that no public funds should be given to Multilateral Financial Institutions. This includes the contributions considered in the “FONPRODE” bill and also the funds from the former “Foreign Aid Fund for Multilateral Financial Institutions and for the administration of Foreign Debt” (“FIDE” by its Spanish acronym), which from now on would be administered by the Ministry of Treasury. “¿Quién debe a quién?” thinks that Multilateral Financial Institutions are responsible for imposing economic policies and law and institutional reforms on countries in the South and for forcing them to get into debt. All this has caused serious impacts on the economies and on the human rights of peoples in the Global South.

Despite all this, the “FONPRODE” law foresees contributions to “Sector and Theme Funds in Multilateral Financial Institutions, devoted to the satisfaction of basic social needs of developing countries regarding health, education, drinking water access and drainage systems, gender, and agriculture, rural development and food security; contributions to programs and funds to evaluate the impact on the sectors mentioned above and contributions to multidonor funds administered by Multilateral Financial Institutions and devoted to specific post-conflict or fragile countries” (see Article 2.1.e).

4. We call for the existence of mechanisms of public control and evaluation that verify that the points mentioned above are really fulfilled, as well as for the commitment to carry out evaluations before and after (ex ante and ex post) each project funded by Foreign Aid.

In the “FONPRODE” bill there is a section devoted to project monitoring; evaluation and control (see Articles 11 and 12). In any case, an explanation on how and under what criteria this tracking will be carried out is missing. On the other hand, although Article 11 says the evaluation and control system will be established by the Master Plan for Spanish Cooperation, it has not been possible to apply these criteria so far, mainly due to the lack of transparency of the information regarding the handling of the former funds for development, the “FAD” funds. This new law foresees no improvement in this concern.

In the same direction, Article 12 on parliamentary control should be much more explicit in guaranteeing the access to information about transactions, approved and made, companies which are awarded funds, and productive sectors receiving financing from “FONPRODE”. Also Article 12 should be more explicit in guaranteeing the information about the course of transactions in progress, their amounts, the countries of destination and the conditions of the transactions, authorized by the Cabinet, which are paid for by this “FONPRODE”.

Despite what the bill says, we believe that control and evaluation mechanisms foreseen for “FONPRODE” are very limited and unclear. Therefore, according to us, the details given on this topic are not sufficient and the lack of references on the transparency of the administration, evaluation and control of “FONPRODE” is dangerous. At this point we demand the Parliament to be the one responsible for controlling, evaluating and even approving the suitability of a loan, via an adhoc committee which, at least, should consist of the same proportion of members from civil society (Development NGOs and experts) as of members of Parliament. This committee should regularly make public a list of those companies causing negative impacts (environmental, economic, cultural and social) on the people of the South. These companies would no longer qualify to receive public funds.

5. We believe that “FONPRODE” must be administered solely and independently by the Ministry of Foreign Affairs and Cooperation, since we hold the view that cooperation towards development should be far away from any kind of financial or credit management related to the administration of these funds. Therefore we deem the role of the Ministry of Treasury totally unnecessary for the administration of “FONPRODE”.

The “FONPRODE” bill foresees these funds to be administered mainly, but not only, by the Ministry of Foreign Affairs and Cooperation. This is so because, in order to administer resources coming from untied loans, an authorization from the Ministry of Treasury will be required. The same happens with the contributions to sector and theme funds established in International Financial Institutions. In this case it is the Second vice Prime Minister and Minister of Treasury (in her role of Governor for Spain of these institutions), who should put her signature on agreements. On the other hand, the Ministry of Treasury will be at the Committee of “FONPRODE”, which is the organism in charge of considering the proposals of financing paid for by this fund. Because of this, the Ministry of Foreign Affairs and Cooperation will not be free to make their own decisions.

ON THE SYSTEM OF FINANCIAL SUPPORT FOR INTERNATIONALIZING SPANISH COMPANIES BILL (FIEM/CESCE)

This bill puts into question the principle of coherence for Development policies. Although the text says that will fulfill such assignment, does not guarantee how it will become possible. In addition, there is an increasing number of investigations that reveal of rigorous way the extent to which Spanish companies have generated social, environmental, cultural and economic negative impacts in the impoverished countries. However, there is no evidence that their presence has contributed to improving the living conditions of these populations. For this reason, we are against the existence of mechanisms such as CESCE, and other funds such as the proposed FIEM.

If these instruments were maintained, from ‘¿Quién debe a quién?’ we consider that the least that should be taken into account are the points mentioned below. Thus, in what respects to the Fund for Company Internationalization (Fondo de Internacionalización de la Empresa – FIEM):

1. We believe that under no circumstances should be FIEM counted as Official Development Aid (ODA) since we understand that all the ODA must be in donation form and untied. Article 14.2 provides for the possibility of including as ODA to “those operations that meet the parameters and directives established by the appropriate Department in the issues of Development Cooperation in agreement with the directives of the Development Aid Committee at the OECD, the Cooperation Plan (Plan Director de Cooperación) and the Annual Plans for International Cooperation, as well other indicative documents of the development cooperation policy”. From ‘¿Quién debe a quién?’ we demand that the bill explicitly prevent the inclusion of FIEM, and the possible renegotiation and/or remission of their assets (Art 8.6) as ODA.

2. We believe that under no circumstances the countries with lower rent than the Spanish one must be provided with loans tied to commercial interests. In any case it should never be provided to Heavily Indebted Poor Countries (HIPC), Least Developed Countries (LDC), Low Income Countries (LIC), Countries with Low Human Development Index, Fragile States (recently definition used by DAC and IBRD), Heavily Indebted Middle-Income Countries. Chapter 2 of the bill which refers to the “Operation of the Fund” stipulates that the financial supporting of FIEM will be mainly provided by “loans, credits and credit lines”. The beneficiaries of the Fund may be “States, Foreign public administrations, regional, provincial and local, Foreign public institutions and Foreign public and private companies”. These beneficiaries must guarantee credit operations by providing sovereign guarantee. This obviously implies increase their external debt.

3. We advocate that there must be an explicit guarantee of compliance with international obligations, pacts and treaties on Human Rights (HR), environment, anti-corruption, rather than just cite the Corporate Social Responsibility, which is not mandatory. In this sense, FIEM must explicitly prohibit the sale of military, police and dual-use equipment.

4. It is essential the existence of mechanisms for control, monitoring and evaluation ex ante and ex post to authorize or not financing for projects in foreign countries, which guarantee transparency and citizen participation in Spain (parliament and civil society) and by affected populations in the investing receptor countries. In this sense, it is necessary a semester report to Parliament through an ad hoc commission in which there will be parity in civil society members and the publication of approved operations, formalized operations, successful tenders, the productive sectors that receive financing by the Fund, and generally, the development of oncoming operations in the period contemplated, and the amount, the country and conditions of authorized operations financed by the Fund. This information should be published on the website of the Industry, Tourism and Trade Ministry.

5. It is crucial the existence of sanction legal mechanisms in the cases of HR violation and corruption, for all the actors that would participate at any time in FIEM financed projects, both to apply to corporations as well as to Spanish and foreign administration. Chapter 2 of the bill (article 5) says that in contracts financed by FIEM “the beneficiary will have the obligation, established previous to the authorization of the loan, to subordinate this financing to the fulfilling by the contractor of that established in international agreements in the issues of social responsibility, environment and prevention of corruption norms, subscribed by Spain, in its condition of the financing State of the projects in third countries”. This implies that it should be recipient governments and corporations in the recipient countries who should be accountable for the accomplishment of the rules, but it doesn't imply similar responsibilities for those Spanish corporations whose services would be contracted. Therefore, that proposal implies a total absence of co-responsibility from those corporations, as well as total absence of mechanisms to watch over the fulfillment of the referred rules.

As for the insurances that CESCE issues:

1. We're deeply worried about the non-fulfillment of the compromise to regulate CESCE, as the Third Transitory Disposition of the 38/2006 Law, on the regulation of the Foreign Debt management.
2. We believe it's absolutely necessary to set up audits on the defaults of the export loans insured by the “CESCE”, since there are several cases of commercial debt acquired by other countries that do not fulfill the legitimacy requirements from a social, environmental, commercial and/or political point of view. In the case that illegitimacy evidences should be found, the cancellation of those debts would be required, as well as the recognition of the involved actors' responsibilities.
3. In the case the Government insists in maintaining this instrument, and for the sake of policy coherence with the Spanish State international and national compromises with Human Rights, Development and the Environment defense, at the “¿Quién debe a Quién? Campaign we think it is indispensable, at least, to take into account the following procedures:
 - Transparency and guarantees against corruption: This implies a resolution on the contradiction between the ECO/180/2003 Order - to which CESCE refers in order to maintain the most strict confidentiality on its projects and the data of its clients -, and the right to access information of any given citizen in the country, ruled in the 27/2006 Law. Besides, we believe it's necessary that CESCE is legally required to publish in its webpage all the projects under evaluation and those granted with its support.
 - Exclusion of any support through CESCE insurances for those projects that could allow or imply Human Rights, and economic, cultural and social rights violation. Furthermore, we demand legal actions to guarantee the accountability of all implied actors, and the establishment of legal sanction mechanisms that allow the CESCE accountability in front of legal courts, in those cases where such projects would be approved.
 - Exclusion of any support through CESCE insurance to projects that could imply environmental impacts, generate climate change (ie extractive industries or dams) and/or include nuclear energy.
 - Explicit prohibition of support through CESCE insurances to projects financing military, police or dual use material.
 - Mechanisms that guarantee the real participation of the affected communities in the decision taking process of the environment evaluation processes, the compensation planning and the displacements, should be established.
 - Mechanisms of public participation and control through parliaments, civil society organizations and affected communities are also necessary.

¿Quién debe a quién? Campaign

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ENDORSEMENTS (25 January 2010)
INTERNATIONAL ORGANISATIONS AND NETWORKS

1	11.11.11 Belgica	Belgica	www.11.be
2	ASCOLVENPAZ asociacion por la paz y la integracion latinotinoamericana	Venezuela	
3	Asociacion de Defensa de la Vida, ADEVI	Lima, Peru	www.geocities.com/adeviperu
4	CADTM (Comité pour l'Annulation de la Dette du Tiers Monde)	Belgica	www.cadtm.org
5	CDES (Centro por los Derechos Económicos y Sociales)	Ecuador	www.cdes.org.ec
6	Comité de Defensa de los Derechos del Pueblo	México	http://codepappo.wordpress.com/
7	Comite Oscar Romero de Chile	Chile	www.sicsal.net
8	CRBM (Campagna per la Riforma della Banca Mondiale)	Italia	www.crbm.org
9	Federación Nacional Sindical Unitaria Agraria	Colombia	
10	Jubilee Debt Campaign	Reino Unido	www.jubileedebtcampaign.org.uk
11	Jubilee Scotland	Escocia	www.jubileescotland.org.uk
12	Jubileo 2000 Red Ecuador	Ecuador	WWW:jubileo2000.ec
13	Latindadd	Latinoamérica	www.latindadd.org
14	Les Amis de la Terre / Friends of the Earth	Francia	www.amisdelaterre.org/
15	Movimiento Social Nicaraguense Otro Mundo es Posible	Managua, Nicaragua	http://otromundoesposiblenic.codigosur.net
16	MUCAPRO	Cochabamba, Bolivia	
17	Red Mexicana de Acción frente al Libre comercio	México	www.rmalc.org.mx
18	The Corner House	Reino Unido	www.cornerhouse.org

NATIONAL NGO COORDINATION SPACES AND NETWORKS

1	Alianza contra la Pobreza	Estado español	www.rebelatecontralapobreza.org
2	Campaña ¿Quién debe a Quién?	Estado español	www.quiendebeaqui.org
3	Coordinadora d'ONG Solidàries de les comarques gironines	Girona	www.solidaritat.org
4	Coordinadora de ONGD de Castilla-La Mancha	Castilla-La Mancha	
5	Coordinadora de ONGD de Navarra	Navarra	www.conqdn Navarra.org
6	Coordinadora de ONGD del Principado de Asturias	Asturies	www.codopa.org
7	Coordinadora de ONGD Euskadi	Euskadi	http://www.ongdeuskadi.org/
8	Coordinadora d'ONG pel desenvolupament la defensa dels Drets humans i la pau de Tarragona	Tarragona	
9	Coordinadora d'ONG+D de les illes Balears	Illes Balears	www.congdib.es
10	Coordinadora d'ONGD i altres Moviments Solidaris de Lleida	Lleida	
11	Coordinadora Galega de ONGDs para o Desenvolvemento	Galicia	
12	Coordinadora ONGD Castilla y León	Castilla y León	www.congdicyl.org
13	Federació Catalana d'ONG per al Desenvolupament	Catalunya	www.fcngd.org
14	Plataforma 07	Estado Español	www.plataforma07.org

NATIONAL AND LOCAL ORGANISATIONS AND NETWORKS

1	A.C. GAIA	Murcia	
2	Acció per un Turisme Responsable	Barcelona	www.turismo-responsable.org
3	ACSUR - Las Segovias	Madrid	http://www.acsur.org
4	ACSUR-Cantabria	Cantabria	www.acsur.org
5	AFRICANDO	Ingenio (Gran Canaria)	www.africando.org
6	ÀGORA Nord – Sud	Catalunya	www.agoranordsud.org
7	Agrupació Progressista per Sant Mateu	Sant Mateu (Castelló)	http://progressant.org/
8	Area de S.I de la APDHA	Estado español	http://www.apdha.org/
9	Asamblea Antimilitarista de Madrid	Madrid	http://laguerranoesunjuego.blogspot.com/
10	Asamblea por la Paz	Siero	
11	ASCKJP (Asociacion Socio Cultural koriki)	Loeches. Madrid. España.	
12	Asociación Asturiana Gaspar García Laviana	Asturias	gaspargarcialaviana.googlepages.com
13	Asociación Ayuda Urgente a África	Benalmádena. Málaga	www.ayuda-africa.org
14	Asociación Bajando al Sur	Madrid	
15	Asociación danza aerea y teatro fisico	Madrid	
16	Attac Catalunya	Cataluña	http://www.attac-catalunya.org/
17	Attac Madrid	Madrid	http://www.attacmadrid.org/
18	Baula Comité Oscar Romero de Santa Margarida de Montbui	Santa Margarida de Montbui	http://baula-cor.blogspot.com/
19	Ben Magec - Ecologistas en Acción	Las Palmas de Gran Canaria	www.benmagec.org
20	Bloque por Asturias	Asturies	www.bloque.as
21	Carmelitas de Vedruna de La Ventilla		
22	CEAR-Euskadi	PAIS VASCO	http://www.cear.es/euskadi/
23	Centre d'Estudis Africans (CEA)	Catalunya	http://www.estudisaficans.org

24	CERAI	Estado español	www.cerai.es
25	Col·lectiu d'Estudis sobre Cooperació	Barcelona	www.portal-dbts.org
26	Col·lectiu RETS (Respostes a les Empreses Transnacionals)	Catalunya	http://collectiurets.wordpress.com
27	Comité Cristiano de Solidaridad con latinoamérica	Pamplona Iruñea	www.herrielizea.com
28	Comité Oscar Romero	Lleida	www.comitesromero.org
29	Comite Oscar Romero de Chile	Santiago de Chile	www.sicsal.net
30	Comité Oscar Romero de Valladolid	Valladolid	www.comitesromero.org
31	Cooperación Social Universitaria	Valencia	
32	Coordinadora Un Altre Món És Possible-Sabadell	Sabadell	
33	Ecologistas en Acción	Madrid	www.ecologistasenaccion.org
34	Ecologistas en Acción Ciudad Real	CIUDAD REAL	
35	Economía Y Gestión	Estado español	www.economiaygestion.net
36	Educació per l'Acció Crítica (EdPAC)	Catalunya	www.edpac.org
37	Enginyeria Sense Fronteres	Catalunya	http://catalunya.isf.es
38	Entrepobles/Entrepueblos/Entrepobos/Herriarte	Estado español	www.pangea.org/epueblos/
39	Federación de Comités de Solidaridad con África Negra	Estado español	http://www.umoya.org
40	Federación SETEM	Estado español	www.setem.org
41	Foro Social de Campo de Criptana	Campo de Criptana	http://www.forosocialcriptana.com
42	Fundación Mundubat-Mundubat Fundazioa	Bilbao	www.mundubat.org
43	Globalizate	Madrid	http://www.globalizate.org
44	Grup Ecologista Les Agulles – Ecologistes en Acció	Baix Llobregat (Barcelona)	www.lesagulles.org
45	IEPALA	Estado español	www.iepala.es
46	IFMSA-Spain		www.ifmsa-spain.org
47	Izquierda Anticapitalista	Estado español	www.anticapitalistas.org
48	Izquierda Unida Alternativa Ciudadana	El Boalo	
49	Los Verdes de Cádiz		
50	MALINCHE. Iniciativa Solidaria con el Pueblo Nicaragüense	Badajoz	www.malinche.org
51	Observatorio de Derechos Humanos – DESC	Catalunya	http://www.descweb.org/
52	Observatorio de la Deuda en la Globalización	Catalunya	www.odg.cat
53	OCSI (Organización de Cooperación y Solidaridad Internacional)	Estado español	www.nodo50.org/ocsi
54	Patas Arriba (Attac-CADTM)	València	http://patasarribavlc.blogspot.com/
55	Paz con Dignidad - OMAL (Observatorio de Multinacionales en América Latina)	Estado español	www.omal.info
56	Plataforma 0,7% Extremadura	Badajoz	
57	Plataforma de Solidaridad con Chiapas de Madrid	Madrid	www.nodo50.org/pchiapas/
58	Radio Ritmo Getafe	Getafe	www.radoritmo.org
59	Red África-Europa Fe y Justicia	Barcelona	www.aefjn.org/
60	Red Solidaria Itaca	Madrid	www.redsolidariaitaca.org
61	Revolta Global-Esquerra Anticapitalista	Catalunya	www.revoltaglobal.cat
62	Sodepaz BALAMIL	Valladolid	http://www.sifredo.com/balamil/paginas/s
63	Soldepaz Pachakuti	Asturias	www.pachakuti.org
64	SOTERMUN	Estado español	www.sotermun.org
65	Unión Universal Desarrollo Solidario	Málaga	www.universalproyecto.org
66	Verdegaia	Galicia	www.verdegaia.org

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