

CDDH(2018)20
22 Novembre 2018

COMITÉ DIRECTEUR POUR LES DROITS DE L'HOMME (CDDH)

Plateforme en ligne sur les droits de l'Homme et les entreprises

Information fournie par le Secrétariat

Introduction

Suite à la confirmation d'une prochaine contribution volontaire à la plateforme en ligne sur les droits de l'homme et les entreprises, des activités initiales sont en cours.

Le présent document fournit une mise à jour des développements en cours concernant les quatre aspects suivants:

- (I) Etat de préparation des questionnaires visant à obtenir des informations à inclure sur la plate-forme ;
- (II) Etat de la construction technique de la plate-forme ;
- (III) Information sur le cours HELP sur les droits de l'homme et les entreprises ;
- (IV) Implication de ENNHRI et d'autres entités non-étatiques ;
- (V) Préparation d'un atelier / séminaire en 2019.

I. QUESTIONNAIRES

1. Le secrétariat a élaboré deux projets de questionnaires qui ont été envoyés à le Réseau européen des institutions nationales des droits de l'homme (ENNHRI), à l'Institut danois des droits de l'homme, le « *European Coalition for Corporate Justice* », et à l'Agence des droits fondamentaux :
 - (i) Le questionnaire relatif aux **Plans d'Action Nationaux (PAN)** vise à rassembler suffisamment d'informations pour présenter un bref résumé du PAN d'un État et de son processus de développement, tout en encourageant le partage des conseils pratiques obtenus par les personnes

impliquées dans ce développement. Le tableau à renseigner indique également comment l'information sera présentée sur le site.

- (ii) Le questionnaire **de mise en œuvre** couvre un large éventail de sujets mais essaye de ne pas accabler les personnes interrogées. Celles qui y répondent devraient être en mesure de soumettre une sélection des pratiques de mise en œuvre qu'elles ont choisies pour figurer sur le site Web, à condition qu'elles soient suffisamment détaillées, pertinentes et qu'elles répondent aux critères énumérés dans le questionnaire.
- 2. Les réponses à ces deux questionnaires seront examinées par le Secrétariat qui sélectionnera, révisera et harmonisera ensuite les réponses qui figureront sur le site Web dans un format suffisamment présentable.
- 3. Des informations supplémentaires peuvent également être fournies par des observateurs auprès du CDDH et des Institutions nationales des droits de l'homme. Celles-ci seront soit intégrées aux informations principales présentées, soit présentées sous des rubriques distinctes en fonction de ce qui convient le mieux.
- 4. Une fois finalisés, les questionnaires seront distribués aux membres du CDDH. Des réponses sont attendues d'ici la fin du mois de mars 2019.

II. DEVELOPPEMENT TECHNIQUE DE LA PLATEFORME

- 5. Des démarches internes ont été engagées avec le Département de la technologie de l'Internet (DIT) concernant la conception d'un site Web permettant d'afficher les résultats du processus de questionnaire, ainsi que d'autres informations pertinentes.
- 6. La DIT a indiqué la possibilité d'utiliser principalement des solutions logicielles informatiques standard. Cependant, un budget a été prévu au cas où des outils plus spécialisés seraient nécessaires.
- 7. La plateforme HELP peut être utilisée afin de faciliter la soumission des questionnaires. Un «espace de cours» dédié est en cours de création. Il pourra héberger les questionnaires, qui peuvent être téléchargés une fois complétés. Cet espace présentera également l'actuel cours HELP sur les droits de l'homme et les entreprises, les documents pertinents et les ressources relatives aux droits de l'homme et les entreprises. A l'avenir, cet espace pourra héberger des enquêtes, un forum permettant aux personnes interrogées de discuter de questions pertinentes, et constituer un espace de travail pour l'hébergement d'enquêtes supplémentaires ou de questionnaires en ligne.
- 8. Les Etats sont libres de distribuer les questionnaires en interne de la manière qui leur permet d'obtenir les meilleures réponses. Toutefois, un compte HELP sera créé pour chaque représentant des Etats / CDDH afin d'accéder à la plateforme HELP et de télécharger ultérieurement les questionnaires complétés. À l'avenir, les agents nationaux pourront utiliser ce compte afin d'accéder à des ressources supplémentaires ou pour soumettre des informations supplémentaires. Pour cela, chaque représentant d'État / CDDH qui n'a pas encore de compte HELP pourrait en ouvrir un à l'adresse suivante : <http://help.elearning.ext.coe.int/>

III. LE COURS HELP

9. Compte tenu de l'ampleur du projet, il a été convenu avec l'unité HELP de hiérarchiser la plate-forme d'information avec les fonds actuels. Toutefois, reconnaissant la valeur distincte du programme HELP, cette décision est également accompagnée de l'intention de mettre à jour le cours HELP dès que possible et dans la perspective de son déploiement dans plusieurs États membres. À cette fin, les États intéressés par cet élément de projet sont invités à envisager une contribution volontaire pour l'actualisation du cours et les adaptations nationales.

IV. IMPLICATION DE ENNHRI ET D'AUTRES ENTITES NON-ETATIKUES

10. Lors de sa précédente réunion, le CDDH a examiné la participation de ENNHRI et d'autres agences, ainsi que de sociétés privées.
11. Le Secrétariat a assuré la liaison avec les contacts concernés au sein de ENNHRI et ils ont exprimé leur soutien pour le travail et sont disposés à apporter leur aide. ENNHRI et un certain nombre d'autres acteurs ont été invités à apporter leur contribution aux questionnaires, et quelques commentaires ont déjà été reçus. En ce qui concerne leur implication future, des discussions sont en cours, mais une implication potentielle peut inclure :
 - (i) les réponses des INDH aux questionnaires;
 - (ii) et la transmission d'informations et de conseils supplémentaires pour figurer sur la plate-forme et dans le cours HELP actualisé.
12. En ce qui concerne les entreprises privées et les entités commerciales, les réponses de l'État sont actuellement une priorité. Cependant, la participation des entreprises privées est envisagée
13. Un questionnaire ou une enquête peut potentiellement être conçu et diffusé. Toutefois, des travaux supplémentaires sont nécessaires pour garantir la meilleure méthode de distribution et pour garantir qu'un contrôle suffisant sera mis en place afin de s'assurer que seules les réponses appropriées apparaissent sur la plate-forme.

V. ATELIER/SEMINAIRE

14. Sous réserve que suffisamment d'informations soient soumises à temps à la plate-forme, un atelier ou un séminaire d'une demi-journée pourrait avoir lieu à la suite de la 91^e réunion du CDDH en 2019 ou à une date appropriée.
15. L'événement pourrait inclure des discussions basées sur les données recueillies, des interventions d'experts fournissant une orientation et des conseils de mise en œuvre sur les affaires et les droits de l'homme, et offrir une opportunité d'examiner les activités futures de la plateforme, en particulier celles favorisant l'apprentissage entre pairs.

Cette section est uniquement disponible en anglais

Appendix I

Questionnaire to the member States on National Action Plans

Deadline for reply: ... [date]

The following questionnaire aims to gather an overview of the National Action Plans on business and human rights that is being or has been developed in your State.¹

It contains a particular focus on the National Action Plan drafting/development and review process, alongside highlights of content, and finally a “lessons learnt” section where, based on the experience of drafting and implementing the National Action Plan, what challenges were encountered and how these were tackled. The purpose is:

- (i) to be able to present an informative summary of your State's National Action Plan;
- (ii) to promote the experience gained from the National Action Plan drafting exercise.

I. SUMMARY PAGE OF YOUR NATIONAL ACTION PLAN

Please fill out the table below providing as much information as necessary in a concise manner. Bullet points or brief paragraphs are welcome, or if relevant, a hyperlink to an existing document that adequately covers the answer. The table below is also indicative of how the information will be presented on the website.

If a National Action Plan is currently being drafted please fill out as much as possible depending what is intended or the current progress.

¹ Pursuant to Recommendation (2016) 3 of the Committee of Ministers to member States on human rights and business, Article 4.

[Country] NATIONAL ACTION PLAN Summary Info				
National Action Plan Title				
Dates for Implementation				
Link to National Action Plan				
Drafting Process				
Main Coordinating Body				
Development Timeline and Drafting Milestones	<i>Please give an outline of the drafting process, indicating the main steps and milestones – e.g. Processed commenced, Coordinating authority appointed, major meetings, national baseline assessment process, drafts presented</i>			
Stakeholders involved	Government	NGOs/Civil Society	Private Businesses / Associations	Other
Consultation and Coordination Mechanisms/Methods	<i>Please also indicate what forms of consultation were taken with stakeholders and what level of input they were able to have on the process.</i>			
National Baseline Assessment process	<i>If a National Baseline Assessment was conducted, please indicate the methodology used. If no National Baseline Assessment was conducted, please describe the alternative used.</i>			
Budget Allocated for National Action Plan drafting process	<i>If relevant/known.</i>			
Content:				
Summary of main Business Impacts / Gaps Identified				
Priority Areas of Action:	Pillar I	Pillar II	Pillar III	Other
Sample/Main implementation Actions	<i>Please highlight some example actions that are being taken in relation to the above priority areas.</i>			

Is a special focus given to vulnerable groups?	<i>Please describe any particular measures or methods that were taken to include a focus on vulnerable groups, both in the drafting of the National Action Plan and as regards to actions contained in the National Action Plan</i>
What aspects of the National Action Plan address extraterritorial issues in Business and Human Rights?	<i>i.e the foreign impact of domiciled businesses, domestic impact of foreign domiciled businesses, extraterritorial jurisdiction in remedy procedures, addressing human rights challenges in cross border supply chains etc.</i>
Follow Up:	
Dates for Review/Monitoring of the National Action Plan and its implementation	
Review/Monitoring Indicators and Mechanisms	<i>Please describe what indicators and mechanisms are used in monitoring the implementation of the National Action Plan and what form any review process of the National Action Plan will take at the end of its implementation.</i>

B. Lessons Learned – Challenges and solutions encountered

Please describe any particular challenges that were encountered during the process and what steps were taken to resolve these. Please also feel free to describe any success stories or promising practices arising from the National Action Plan drafting and implementation experience. The aim is to gather a pool of advice or considerations that would be used in the development of a follow up National Action Plan or be valuable for others during their own National Action Plan development. Topics of particular value include experiences learned during the:

i) The Drafting Process: e.g. effective methods for identifying and involving stakeholders, techniques for ensuring horizontal and vertical coordination throughout the process, ensuring transparency throughout the process, managing resource and time constraints.

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ii) The National Baseline Assessment process – e.g. techniques for obtaining adequate/sufficient quantitative and qualitative data, addressing the broad scope of the National Baseline Assessment.

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iii) Implementation plan – e.g. methods for identifying the actions necessary on a particular issue, deciding on specific or SMART action points, assigning responsibility for each action, local/regional vs. National actions and priorities, tracking implementation and monitoring progress.

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iv) Any other relevant experiences to share

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Appendix II

Implementation Questionnaire to the Member States

Deadline for reply: ... [date]

The following questionnaire aims² to gather information on the national implementation practices of Recommendation (2016) 3 of the Committee of Ministers and the United Nations Guiding Principles on Business and Human Rights in your State.

The format of the questionnaire contains two types of questions:

- (i) Section A covers general aspects of implementation to be answered as best seen fit.
- (ii) Section B is designed to highlight implementation practices and measures within the three pillars of the United Nations Guiding Principles, and so provides a sample template for answers. The template is a guide only so if there is additional information to be included on a practice or measure please feel free to do so.

As the scope of Business and Human Rights is rather extensive, at times in Section B a number of sample topics have been presented. While respondents are encouraged to provide as many practices as they see fit, a response is not needed for every listed topic, and should a measure or practice does not fit into any of the listed topics then these are still welcome.

While there will not be an evaluation of the practices submitted, in the interest of sharing only those initiatives and experiences that could inform and motivate actions in other settings and in other Member States, a number of factors will be considered desirable:

- The measure can be clearly referenced to the United Nations Guiding Principles or the CM/Rec guidance that are sought to be implemented;
- The measure is clear in its objectives and is a response to identified gaps or challenges in the field of Business and Human Rights and United Nations Guiding Principles implementation;
- Has a clear responsible implementing authority;
- Includes stakeholder participation;
- Has potential for its impact to be measured quantitatively and/or qualitatively;
- Has been / will be reviewed or monitored to ensure its effective implementation and impact;
- Is relevant and may transfer to other settings and other member States' implementation efforts.

² Pursuant to Recommendation (2016) 3 of the Committee of Ministers to member States on human rights and business, Article 3.

A. General Questions

1. Have the United Nations Guiding Principles and/or the Committee of Ministers Recommendation 2016(3) been disseminated in your State? If yes, please indicate to what authorities and stakeholders, and via what methods.³

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2. If United Nations Guiding Principles and/or the Committee of Ministers Recommendation 2016(3) were translated into your national language(s), please indicate which languages and share any links.⁴

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3. What department or departments have significant responsibility for business and human rights within your government?

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4. Pursuant to CM Rec 2016 (3), Article 1, has there been a review of your State's national legislation and practice to ensure its compliance with the recommendations set out in the Recommendation's appendix, principles and further guidance? If so, please describe this process and any relevant findings and action taken.⁵

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B. National implementation practices

This section will seek to present highlights of upcoming developments and measures taken so far by Council of Europe Member States in implementing the United Nations Guiding Principles. Please submit any practices that will be/have been taken in your State in respect of implementing the United Nations Guiding Principles and the CM Rec. A sample answer template has been provided for guidance; simply create a new table for each entry.

Pillar I – The State Duty to Protect

a) General Topics

Due to the broad scope of potential action areas under Pillar I, below is a non-exhaustive list of topics of interest. A submission is not required on each point, but please attempt to provide at least 3 practices/initiatives for this subsection.

³ CM Rec (2016) 3, Articles 2, 6.

⁴ CM Rec (2016) 3, Articles 2, 6.

⁵ CM Rec (2016) 3, Article 1.

1. Please describe any legislation that **creates conditions that are conducive** to the respect for human rights by business enterprises.⁶
2. How is new relevant **legislation evaluated with regard to any impact** on human rights as regards the respect for human rights by Businesses?⁷
3. Please indicate such **measures implemented that encourage or require respect of human rights by business enterprises that are:**⁸
 - operating within your State's territorial jurisdiction;
 - domiciled in your State's jurisdiction to respect human rights throughout their operations abroad.
4. How is **policy coherence** regarding Business and Human Rights ensured across governmental departments, agencies and other State-based institutions (both vertically and horizontally)?⁹
5. How does your State **support third countries** in implementing the United Nations Guiding Principles on Business and Human Rights and other relevant international standards?¹⁰
6. How does your State **cooperate or engage** with other States as regards working towards complementary, consistent and harmonious implementation of the UNGPs at a cross border level?
7. Does your State offer **training** on business and human rights for government officials whose tasks are relevant to the issue of corporate responsibility?¹¹

Measure/Practice	
Title	
Date	
Description	
(Expected) Results	
Responsible Authority (and contact person if applicable)	

⁶ CM Rec (2016) 3, Annex, para. 18; UNGP 3(b).

⁷ CM Rec (2016) 3, Annex, para 18.

⁸ CM Rec (2016) 3, Annex, para 13; UNGP 3.

⁹ UNGP 8.

¹⁰ CM Rec (2016) 3 Annex, paras. 7-8.

¹¹ CM Rec (2016) 3 Annex, para. 29.

Associated UNGP/CM Rec guideline, if applicable	
Further information and links as necessary	

b) The State-Business Nexus

Please highlight any practices or measures that are taken to protect against human rights abuses by:¹²

1. Business enterprises that are **owned or controlled by the State**, or that receive substantial support and services from State agencies?
2. Business enterprises contracted with, or legislated for, to **provide services** that may impact upon the enjoyment of human rights?
3. Business enterprises with which the State **conducts commercial transactions**?

Measure/Practice	
Title	
Date	
Description	
(Expected) Results	
Responsible Authority (and contact person if applicable)	
Associated UNGP/CM Rec guideline, if applicable	
Further information and links as necessary	

Pillar II – The Corporate Responsibility to Respect

¹² CM Rec (2016) 3, Annex, para. 22; UNGPs 4,5,6

1. Does your State have any measures that ensure and encourage **human rights due diligence** for:¹³
 - a. Business enterprises **conducting substantial activities within** your jurisdiction to carry out human rights due diligence in respect of such activities.
 - b. Business enterprises **domiciled within** your jurisdiction to apply human rights due diligence **throughout** their operations.
2. What reporting mechanisms exist in your country that require or encourage business enterprises to report on their human rights performance?
3. Please describe any campaigns, partnerships, trainings, or other collaborative process that are being conducted with business entities in order to inform and support them in fulfilling their corporate responsibility to protect.

Measure/Practice	
Title	
Date	
Description	
(Expected) Results	
Responsible Authority (and contact person if applicable)	
Associated UNGP/CM Rec guideline, if applicable	
Further information and links as necessary	

Pillar III – Access to remedy¹⁴

a) What grievance mechanisms are available?

Please provide a brief overview of the grievance mechanisms available in your State and how they function, in the categories below. Describe how these mechanisms interact as part of a wider system for the remedy of Business related human rights abuses and claims.

- State-run judicial mechanisms

¹³ CM Rec (2016) 3, Annex, paras. 20,21,29; UNGP 17,24.

¹⁴ CM Rec (2016) 3, Annex, paras. 31-57.

- State-run non-judicial mechanisms

- Non-State-run grievance mechanisms

b) Relevant case-law

Please indicate any pertinent cases decided by the above mentioned mechanisms, in particular those decided by the national judicial system. If available, please indicate any data sources that may exist regarding the grievance mechanisms, such as type and number of claims, business sector concerned, claim outcomes etc.

c) Addressing barriers to remedy

Please highlight any measures or developments in your State that have attempted to address barriers to remedy or improve access to remedy.

For examples of current issues that concern Access to Remedy, please see the [recent FRA report](#) on improving access to remedy, alongside Section IV of the CM Recommendation's Annex.

Measure/Practice	
Title	
Date	
Barrier to Address	
Description	
Expected Results	
Responsible Authority (and contact person if applicable)	

Further information and links as necessary	
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APPENDIX III

Draft Webpage map

Welcome Page and Map

**HELP
Resources**

Country Developments

*Private
Company
Submissions*

*NHRI/NGO
Submissions*

Standards

*Toolkits /
Resources*

**By
Country**

Naps

*Implentation
Practices*

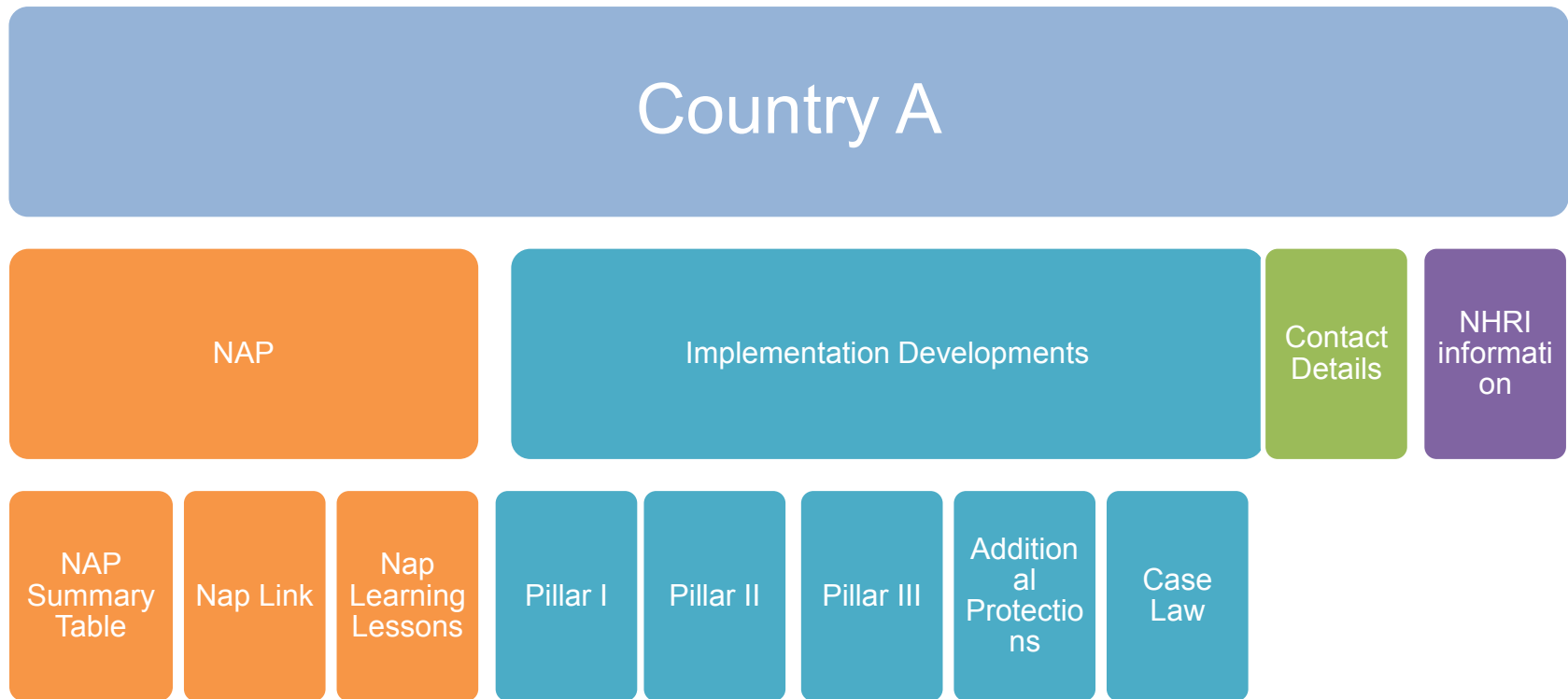
*Case
Law*

CoE

UN

Other

List by Country



List by NATIONAL ACTION PLAN

