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23 January 2019

## STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

### Online Platform for Human Rights and Business QUESTIONNAIRE TO THE MEMBER STATES

#### Introduction

It is recalled that, with a view to sharing examples of plans and practices for the national implementation of (i) the United Nations Guiding Principles on Business and Human Rights, and (ii) the Recommendation CM/Rec (2016)3 of the Committee of Ministers to member States on human rights and business, such plans and practices should be included in a shared information system accessible to the public. A dedicated platform has been created for this purpose.

In order to get the Platform started, we kindly ask you to answer this questionnaire before Monday **8 April 2019** end of business. The responses to this questionnaire can be submitted:

- a) by email to the Secretariat [douglas.maxwell@coe.int](mailto:douglas.maxwell@coe.int) with copy to [DGI-CDDH@coe.int](mailto:DGI-CDDH@coe.int)  
or
- b) by uploading a file to the Council of Europe online platform for Human Rights and Business, see instructions below.

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## Instructions

1. This Questionnaire contains two parts:
  - Part 1 focuses on National Action Plans (NAPs) on business and human rights and their development process;
  - Part 2 focuses on practices and measures implementing (i) the United Nations Guiding Principles on Business and Human Rights (UNGPs) and (ii) Recommendation CM/Rec (2016)3 of the Committee of Ministers to the member States on human rights and business.
2. The Secretariat may have additional questions regarding the information submitted, therefore please provide contact details for the appropriate contact person(s).

*Contact Person(s):*

3. **For access to the participants page of the Online Platform for Human Rights and Business:**
  - Create an account at <http://help.elearning.ext.coe.int/> (click “login” then “create account”) and provide an email address.
  - Send notice of the email address used to the Secretariat ([douglas.maxwell@coe.int](mailto:douglas.maxwell@coe.int) with, [DGI-CDDH@coe.int](mailto:DGI-CDDH@coe.int) et [stephanie.denton@coe.int](mailto:stephanie.denton@coe.int) in copy).
  - The Secretariat will then use the provided email address to add the account to the Online Platform for Human Rights and Business participants page.
  - Once added to the participants page, the page will be accessible in the “My courses” banner at the top of the user’s account page.
  - To download/upload the questionnaire file click on the heading “January 2019 Questionnaire” and follow the instructions.
4. This participant’s page is not open to the public, and submissions of this questionnaire will not be accessible by other users. However, this page will operate as a **shared working space**, moderated by the Secretariat, and will be the source of future activities (such as surveys, project updates, further requests for information, forum discussions) and serve as a platform where users may engage with one another and so some information may be accessible or viewable by other users depending on the activity.
5. Multiple accounts can be created for different respondents/contact persons involved in the submission of this questionnaire in order to provide individual access to the platform; or respondents may prefer to have one account with shared login information between them. For each account created please inform the Secretariat of the email address used and the contact person(s) associated with the account.

## Part 1

### National Action Plans on Business and Human Rights

#### Introduction

Pursuant to CM Rec (2016)3, member States have been advised to develop **National Action Plans (NAPs)** on Business and Human Rights.<sup>1</sup>

The following aims to gather an overview of such NAPs, including good practices in their development process, with a view to sharing such plans and practice on the public webpage of the Council of Europe's online platform for Human Rights and Business.<sup>2</sup>

#### A. NAP Overview

Please complete the table below. Bullet points or brief paragraphs are welcome, or if relevant, a hyperlink to an existing document.

The table below is an example template of how the "NAP Overview" will be displayed on the public webpage for the Council of Europe's Online Platform for Human Rights and Business.

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

If NAPs are being developed at regional or local levels within the State then information on these is also welcome; if necessary a separate submission for each NAP is acceptable.

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<sup>1</sup> Recommendation CM/Rec (2016)3 of the Committee of Ministers to the member States on human rights and business, Appendix, paragraph 10

<sup>2</sup> CM/Rec (2016)3, Article 4

**NAP Overview Template**

<b>[Insert State Name]</b>				
NAP Title				
Link to NAP				
<b>NAP Drafting Process</b>				
Main Coordinating Authority				
Development Timeline and Drafting Milestones	<i>Please give a short outline of the drafting process, indicating its duration and the main steps/milestones involved in the process.</i>			
List of Stakeholders involved	<b>Government</b>	<b>NHRIs/NGOS/Civil Society</b>	<b>Businesses Entities/Associations</b>	<b>Other</b>
Consultation and Coordination Mechanisms/Methods	<i>Please briefly indicate what forms of consultation and coordination were taken with stakeholders (both internal and external) and what level of input they were able to have on the drafting process.</i>			
National Baseline Assessment (NBA)	<i>Please describe the method used to assess the State's implementation of the UNGPs (and relevant business and human rights frameworks), and so identify the main issues and actions to be addressed by the National Action Plan.</i>			
Budget Allocated for NAP drafting process	<i>If relevant/known</i>			
<b>Summary of NAP Content</b>				

	<b>Pillar I<sup>3</sup></b>	<b>Pillar II</b>	<b>Pillar III</b>	<b>Other</b>
Summary of main challenges identified and priority actions				
Expected Results / Outcomes				
Is a special focus given to vulnerable groups or special interest groups? <sup>4</sup>	<i>Please describe any particular measures or methods that were taken to include a focus on or to involve these groups, both in the drafting of the NAP and as regards to actions contained in the NAP.</i>			
What aspects of the NAP address extraterritorial issues in Business and Human Rights?	<i>i.e. the foreign impact of domestic domiciled businesses, domestic impact of foreign domiciled businesses, extraterritorial jurisdiction issues in remedy procedures, addressing human rights challenges in cross-border supply chains etc.</i>			
<b>NAP Oversight and Follow Up:</b>				
Process for monitoring NAP implementation and review	<i>Please describe what actors, mechanisms, and indicators are involved in monitoring the implementation of the NAP; and what form any review process of the NAP will take at the end of its implementation period.</i>			
Relevant dates for such monitoring or review				

<sup>3</sup> The pillars listed here refer to the structure of the UNGPs: Pillar I – State duty to Protect, Pillar II – Corporate responsibility to Respect, Pillar III – Access to Remedy.

<sup>4</sup> This includes those groups mentioned in the Appendix to the CM/Rec (2016)3: Workers, children, indigenous populations, and human rights defenders.

## **B. Lessons Learned – Challenges and solutions encountered**

The aim of this section is to **gather peer-to-peer advice and expertise** that could be used in the development of a follow up NAP or be valuable for others during their own NAP development. Please use this section to describe any particular challenges and solutions encountered during the NAP development experience, alongside success stories or promising practices arising from the process.

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 between actors throughout the process; ensuring transparency throughout the process; managing resource and time constraints.

### ii) The NBA process

e.g. methods or sources for obtaining adequate/sufficient quantitative and qualitative data, actors involved in the process, addressing the broad scope of the NBA.

### iii) Drafting the actions contained within the NAP

e.g. methods for identifying the actions necessary on a particular issue, deciding on specific or “SMART” actions, methods for assigning responsibility for each action, the relationship between national and local actions and priorities, specific methods for tracking implementation and monitoring progress.

### iv) Any other relevant experiences to share

## Part 2

### Practices and measures implementing the UNGPs and CM/Rec (2016)3

#### Introduction

Pursuant to Recommendation CM/Rec (2016)3 of the Committee of Ministers to member States on human rights and business, Article 3, the following aims to gather information **on practices implementing the Recommendation, and the United Nations Guiding Principles on Business and Human Rights (UNGPs)**, in the State, with a view to publishing a selection of the submitted practices on the public webpage of the Council of Europe's online platform for Human Rights and Business.

There are two sections:

- Section A covers preliminary issues related to the implementation process.
- Section B aims to highlight specific national implementation practices and measures. Questions are asked on the three pillars of the UNGPs, and the additional protections of CM/Rec (2016)3.

**A sample template to aid structure the submission of each practice has been provided**, though additional information on a practice or measure can still be provided.

While there will not be an evaluation of the specific practices or measures submitted in Section B, practices to be published on the webpage would ideally feature some of the following factors:

- The measure can be clearly referenced to the UNGPs or the CM/Rec (2016)3 guidance that is 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.
- 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.



### **A. Preliminary questions**

1. Have the UNGPS and/or the CM/Rec (2016)3 been officially or systematically disseminated within the State?<sup>5</sup> Please indicate to what authorities and stakeholders, and via what methods.<sup>6</sup>

UNGPs:	CM/Rec (2016)3:
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2. Have the UNGPS and/or the CM/Rec (2016)3 been translated into the State's national language(s)? Please indicate which languages and share any links.<sup>7</sup>

UNGPs:	CM/Rec (2016)3:
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3. What department or departments have significant responsibility for business and human rights issues within the government? Of these, is there a particular lead authority?

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4. Pursuant to the CM/Rec (2016)3, Article 1, has there been a review of national legislation and practice to ensure its compliance with the recommendations, principles and further guidance set out in the appendix of CM/Rec (2016)3?<sup>8</sup> If so please briefly describe this process and indicate any relevant findings and actions taken.

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<sup>5</sup> CM/Rec (2016)3, Article 2 ; Appendix paragraph 6

<sup>6</sup> If there are any other relevant frameworks (e.g. OECD, ILO, EU) that have been disseminated or translated then these can also be mentioned.

<sup>7</sup> CM/Rec (2016)3, Appendix paragraph 6

<sup>8</sup> CM/Rec (2016)3, Article 1

## **B. Highlighting national implementation practices**

This section will seek to highlight existing or forthcoming **specific developments, initiatives, practices, and measures** in the State in respect of implementing the UNGPs and CM/Rec (2016)3.

This section has been divided to focus on each of the 3 pillars of the UNGPs and the additional protections of CM/Rec (2016)3.

**A sample answer template has been provided; create a new table for each measure/practice.**

### 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, and submissions can be given for topics not listed. Please attempt to provide at least 3 practices/measures in total for this subsection a).*

- Please describe any **measures that encourage or require respect of human rights by business enterprises throughout their operations.**<sup>9</sup>

This includes those business enterprises:

- operating within the State's territorial jurisdiction;
  - domiciled in the State's jurisdiction in respect of their operations abroad.
- What **effective guidance** is provided by the State to business enterprises on how to respect human rights throughout their operations?<sup>10</sup>
  - What effective **enforcement measures** are there with respect to human rights and business standards?<sup>11</sup>
  - How is **policy coherence** regarding business and human rights ensured across governmental departments, agencies and other State-based institutions (both vertically and horizontally)?<sup>12</sup>
  - How does the State **support third countries** in implementing the UNGPs and other relevant international standards and frameworks?<sup>13</sup>
  - How does the State **co-operate or engage** with other States as regards working towards complementary, consistent and harmonious implementation of the UNGPs and other relevant standards and frameworks?
  - Does the State offer **training** on business and human rights for government officials whose tasks are relevant to the issue of corporate responsibility?<sup>14</sup>

<sup>9</sup> CM/Rec (2016)3, Appendix, paragraph 13; UNGP 3

<sup>10</sup> UNGP 3(c)

<sup>11</sup> CM/Rec (2016)3, Appendix, paragraph 30; UNGP 3(a)

<sup>12</sup> CM/Rec (2016)3, Appendix, paragraph 3; UNGP 8

<sup>13</sup> CM/Rec (2016)3 Appendix, paragraphs 7-8

<b>Measure/Practice</b>	
<b>Title</b>	
<b>Date</b>	
<b>Description</b>	
<b>(Expected) Results</b>	
<b>Responsible Authority (and contact person if applicable)</b>	
<b>Associated UNGP or CM/Rec (2016)3 reference, if applicable</b>	
<b>Further information and links as necessary</b>	

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<sup>14</sup> CM/Rec (2016)3 Appendix, paragraph 29

## b) The State-Business Nexus

Please highlight any practices or measures in the State, including human rights due diligence, that require or encourage the respect of human rights by:<sup>15</sup>

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** (including public procurement).

<b>Measure/Practice</b>	
<b>Title</b>	
<b>Date</b>	
<b>Description</b>	
<b>(Expected) Results</b>	
<b>Responsible Authority (and contact person if applicable)</b>	
<b>Associated UNGP or CM/Rec (2016)3 reference, if applicable</b>	
<b>Further information and links as necessary</b>	

<sup>15</sup> CM/Rec (2016)3, Appendix, paragraph 22; UNGPs 4,5,6

## II. The Corporate Responsibility to Respect

Please provide information on any practices or measures on the following topics:

1. What measures in the State encourage or require **human rights due diligence** by business entities,<sup>16</sup> in particular for:
  - a. business enterprises **domiciled within** the State's jurisdiction to apply human rights due diligence **throughout** their operations.
  - b. business enterprises **conducting substantial activities within** the State's jurisdiction to carry out human rights due diligence in respect of such activities.
2. What measures in the State encourage or require business enterprises to report on, or communicate, their human rights performance.<sup>17</sup>
3. Please describe any campaigns, partnerships, trainings, or other activities within the State that aim to inform and support business entities in fulfilling their corporate responsibility to respect.<sup>18</sup>

<b>Measure/Practice</b>	
<b>Title</b>	
<b>Date</b>	
<b>Description</b>	
<b>(Expected) Results</b>	
<b>Responsible Authority (and contact person if applicable)</b>	
<b>Associated UNGP or CM/Rec (2016)3 reference, if applicable</b>	
<b>Further information and links as necessary</b>	

<sup>16</sup> CM/Rec (2016)3, Appendix, paragraph 20; UNGP 17

<sup>17</sup> CM/Rec (2016)3, Appendix, paragraph 21; UNGP 3(d)

<sup>18</sup> CM/Rec (2016)3, Appendix, paragraph 28

### III. Access to Remedy

#### 1. What grievance mechanisms are available?<sup>19</sup>

Please provide a brief overview of the grievance mechanisms available in the State in the categories below. If relevant describe how these mechanisms interact as part of a wider system for the remedy of business related human rights abuses and claims.

##### a) State Based Judicial Mechanisms

##### b) State Based Non-Judicial Grievance Mechanisms

##### c) Non-State Based Grievance Mechanisms

#### 2. Relevant Case law

Please indicate any pertinent cases/outcomes decided by the above-mentioned mechanisms, in particular any decided by the national court system.

#### 3. Improving access to Remedy<sup>20</sup>

Please highlight any measures or developments in the State that may **reduce barriers to remedy or improve access to effective remedy** for those affected by business related human rights abuses.

For examples of current issues that concern access to remedy please see the recent [European Union Agency for Fundamental Rights \(FRA\) report<sup>21</sup>](https://fra.europa.eu/en/opinion/2017/business-human-rights) on improving access to remedy.

Measure/Practice	
<b>Title</b>	
<b>Date</b>	
<b>Description</b>	

<sup>19</sup> CM/Rec (2016)3, Appendix, paragraphs 31-54; UNGPs 26-30

<sup>20</sup> CM/Rec (2016)3, Appendix, Section IV; UNGPs 25, 31

<sup>21</sup> <https://fra.europa.eu/en/opinion/2017/business-human-rights>

<b>(Expected) Results</b>	
<b>Responsible Authority (and contact person if applicable)</b>	
<b>Associated UNGP or CM/Rec (2016)3 reference, if applicable</b>	
<b>Further information and links as necessary</b>	

#### IV. Additional Protections of CM/Rec (2016)3

Please provide information on any measures in the context of human rights and business that provide additional or specific protections for:

- Workers<sup>22</sup>
- Children<sup>23</sup>
- Indigenous peoples<sup>24</sup>
- Human Rights defenders<sup>25</sup>

<b>Measure/Practice</b>	
<b>Title</b>	
<b>Date</b>	
<b>Description</b>	
<b>(Expected) Results</b>	
<b>Responsible Authority (and contact person if applicable)</b>	
<b>Associated UNGP or CM/Rec (2016)3 reference, if applicable</b>	
<b>Further information and links as necessary</b>	

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<sup>22</sup> CM/Rec (2016)3, Appendix, Section V

<sup>23</sup> CM/Rec (2016)3, Appendix, Section VI

<sup>24</sup> CM/Rec (2016)3, Appendix, Section VII

<sup>25</sup> CM/Rec (2016)3, Appendix, Section VIII