

STEERING COMMITTEE FOR HUMAN RIGHTS

(CDDH)

Online Platform on Human Rights and Business

Information provided by the Secretariat

Introduction

Following confirmation of a forthcoming voluntary contribution towards the Online Platform on Human Rights and Business, initial activities are underway.

The present document provides an update on the current developments concerning the following four aspects:

- (I) State of the preparation of the questionnaires aimed at obtaining information to include in the Platform
- (II) State of the technical construction of the Platform;
- (III) Information of the HELP course on Human Rights and Business;
- (IV) Involvement of ENNHRI and other non-state entities
- (V) Preparation of a Workshop / Seminar in 2019.

I. QUESTIONNAIRES

1. Two draft questionnaires have been developed by the Secretariat and have been sent for input and comments to the *European Network of National Human Rights Institutions* (ENNHRI), the *Danish Institute of Human Rights*, the *European Coalition for Corporate Justice* and the *Fundamental Rights Agency* (FRA):
 - (i) The questionnaire dealing with **National Action Plans** aims to gather sufficient information to present a brief summary of a State's National Action Plan and its

development process, alongside promoting the sharing of practical advice gained by those involved in it. The table to be filled out is also indicative of how the information will be gathered and presented on the website.

- (ii) The **implementation** questionnaire covers a broad range of topics, but tries not to overburden respondents. Those replying to the questionnaire should be able to submit a selection of their chosen implementation practices to be featured on the website, provided they are sufficiently detailed, relevant and meet the criteria listed in the questionnaire.
2. The responses to both these questionnaires will be reviewed by the Secretariat who will then select, edit and harmonise the responses to feature on the website in a presentable format.
 3. Supplementary information may also be provided by observers to the CDDH and National Human Rights Institutions, which will either be incorporated to the main information presented, or feature under separate headings depending on what is most suitable.
 4. Once finalised, the questionnaires will be distributed to the CDDH members and replies would be expected by the end of March 2019.

II. PLATFORM TECHNICAL DEVELOPMENT

5. The internal procedures have been commenced with the Council of Europe Department of Internet Technology (DIT) regarding the design of a website in which to display the results of the questionnaire process, alongside other relevant information.
6. DIT has indicated the possibility of using primarily standard IT software solutions; however, a budget has been set aside in case more specialised tools are required.
7. The HELP Platform can be used to facilitate the submission of the Questionnaires. A dedicated "HELP page/space" is being created that will host the questionnaires, which can be downloaded and uploaded once completed. This space will also feature the current HELP course on Business and Human rights, relevant documents and resources related to Business and Human rights; and in the future it may host surveys, a forum for respondents to discuss relevant issues, and be a workspace for hosting supplementary surveys or online questionnaires.
8. States are free to circulate the questionnaires internally in whichever manner facilitates the best responses; however, each State/CDDH representative will be able to access the HELP Platform and to later upload the completed questionnaires. In the future, this account can be used by national agents to access any additional resources or to submit further information. For this, each State/CDDH representative that has not yet a HELP account would be able to open one at <http://help.elearning.ext.coe.int/>

III. THE HELP COURSE

9. Given the broad scope of the project, it was agreed with the HELP unit to prioritise the information Platform with the present funds. However, recognising the distinct value of the HELP programme, this decision is also accompanied with the intention that the HELP course be updated as soon as feasibly possible and with a view to its

roll out in multiple Member States. To this end, States interested in this element of the project are invited to consider a voluntary contribution for the update of the course, and for national adaptations and launch events at national level.

IV. INVOLVEMENT OF ENNHRI AND OTHER NON-STATE ENTITIES

10. In its previous meeting, the CDDH considered the participation of ENNHRI and other institutions, and of private companies.
11. The Secretariat has liaised with relevant contacts within ENNHRI and they have expressed their support for the work and are willing to assist. ENNHRI and a number of other actors have been invited to contribute their input to the questionnaires, and some comments have already been received. As to their further involvement, discussions are on-going. Potential involvement can include:
 - (i) responses by NHRIs to the questionnaires;
 - (ii) and the provision of additional information and guidance to feature in the Platform and in the updated HELP course.
12. Regarding private companies/business entities, at the present stage the State responses are being prioritised; however, the involvement of private companies is also being considered.
13. A questionnaire or survey can be designed and circulated, although further work is required to ensure the best distribution method and to ensure that only suitable responses are featured on the Platform.

V. WORKSHOP/SEMINAR

14. Provided sufficient information is submitted in time to the Platform, a half day workshop or seminar could take place following the 91st CDDH meeting in June 2019 or at a suitable date.
15. The event could include discussions based on the data collected, expert interventions providing Business and Human Rights guidance and implementation advice, and offer an opportunity to consider future activities of the Platform, in particular those promoting peer to peer learning.

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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.

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.

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

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

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

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

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

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

Country A

NAP

Implementation Developments

Contact Details

NHRI information

NAP Summary Table

Nap Link

Nap Learning Lessons

Pillar I

Pillar II

Pillar III

Additional Protections

Case Law

List by NATIONAL ACTION PLAN

NAP Page

NAP Country list

NAP learning Lessons

Link to DIHR NAP resource page