

ENNHRI submission in response to Council of Europe Steering Committee for Human Rights (CDDH) draft report on the implementation of the Recommendation CM/Rec(2016)3 on Human Rights and Business

As state-mandated bodies, independent of government, with a broad human rights mandate, National Human Rights Institutions (NHRIs) are a key player in the protection and the promotion of human rights, democracy and the rule of law in Europe. The [Edinburgh Declaration](#) sets out collective commitments of NHRIs to engage proactively with corporate human rights responsibility and abuses, including with reference to the UN Guiding Principles on Business and Human Rights.

European NHRIs, through their ENNHRI [Working Group on Business and Human Rights](#) (BHR), have initiated a multitude of actions connected to the activities of European companies. These have ranged from investigations of abuses in specific sectors and analyses of legal and policy frameworks to the development of guidance and tools for businesses, governments, public buyers and rightsholders.

This ENNHRI submission follows [previous intense engagement](#) of the ENNHRI Working Group on BHR to advance the dissemination and implementation of the [Recommendation CM/Rec\(2016\)3 on Human Rights and Business](#), including: co-hosting (with the Danish Government) a major international multi-stakeholder workshop on the adoption of Recommendation CM/Rec(2016)3; co-hosting (together with the Scottish Government) an international multi-stakeholder workshop on National Action Plans (NAPs) in Europe in 2018; and contributing to the Council of Europe online platform on business and human rights, including facilitating NHRI responses to the 2019 questionnaire circulated by the Council of Europe.

This ENNHRI submission comes in response to the [draft report on the implementation of the Recommendation CM/Rec\(2016\)3 on Human Rights and Business](#), CDDH(2021)13 of 7 June 2021. ENNHRI welcomes the review into the implementation of the Recommendation. There are two issues that we wish to address in particular in this submission.

1. Ensure inclusive stakeholder consultation on the Review of Implementation of CM/Rec(2016)3

While ENNHRI recognises the various initiatives undertaken since 2016 to foster the implementation and dissemination of the Recommendation, stakeholders - including civil society and business - have not been asked to submit up-to-date information on the review of the implementation of the Recommendation within their respective States since the Recommendation's adoption five years ago. At the same time, ENNHRI notes that information from Member States on the implementation of the Recommendation remains very limited, and it is concerning that Member States are not prioritising the Recommendation more.

ENNHRI notes that the [2016 workshop](#) on the implementation of the Recommendation concluded that: "At minimum, the Council of Europe should host a preparatory meeting for stakeholders ahead of the five-year review of implementation provided for in the Recommendation."

In line with CM/Rec(2016)3, [CM/Del/Dec\(2019\)129/2](#), and [CM/Rec\(2021\)1](#), ENNHRI calls on the Council of Europe to ensure meaningful participation of relevant stakeholders - including NHRIs, civil society and business - in the review of the implementation of the Recommendation and the identification of the priorities for next steps. This could take the form of a meeting with all relevant stakeholders and/or a call for information from all relevant stakeholders.

2. Update the draft report on the Review of Implementation of CM/Rec(2016)3 to accurately reflect ongoing challenges

Serious human rights problems still exist in Europe, including human trafficking and modern slavery, abuses of basic workers' rights linked to freedom of association and other minimum conditions of employment, abuses of privacy in technological contexts, workplace discrimination and discrimination in services, as well as ongoing serious environmental abuses and supply chain issues.

As such, there are large gaps in the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs) in the member States of the Council of Europe. The national implementation of UNGPs was a key element of the Recommendation, and the draft report neither sufficiently recognises these ongoing abuses and violations, nor the need for increased human rights due diligence measures to address them.

The draft report concludes that “almost all states” have NAPs. This is not entirely accurate, as only 19 of 47 States in the Council of Europe have adopted NAPs. Furthermore, in several of these 19 States, the NAPs have reached the end of their lifespan either without an update, or with no processes underway to adopt up-to-date ones.

The draft report notes that “the information provided on these NAPs is detailed and clear.” However, the information on the Council of Europe Online Platform for Human Rights and Business is limited, especially in relation to NAP implementation.

The draft report notes that “the concept of corporate due diligence is increasingly recognised and implemented with respect to human rights and social standards”. While there is some recognition of human rights due diligence by corporate actors, there is little evidence of its full implementation in practice.

The draft report notes that “[t]he role of NHRIs in some member States should be highlighted. They provide expertise and offer advice to victims of human rights violations on possible remedies. NHRIs can also investigate complaints, offer conciliation services and make recommendations to the authorities on adaptations of legislation and administrative practices.” The mandate of NHRIs in the Council of Europe varies considerably and not all have a complaints-handling mandate. ENNHRI members would welcome the possibility to highlight the breadth of their work on business and human rights to the Council of Europe.

ENNHRI calls on the Council of Europe to amend the draft report to ensure it accurately reflects the current state of implementation of the Recommendation and ongoing challenges for human rights, and to further integrate current information from all relevant stakeholders - including member States, NHRIs, civil society and business - before it is submitted to the Committee of Ministers.

About ENNHRI

ENNHRI is the European Network of National Human Rights Institutions. We bring together over 40 National Human Rights Institutions (NHRIs) to enhance the promotion and protection of human rights in Europe. Our network provides a platform for collaboration and solidarity in addressing human rights challenges and a common voice for NHRIs at the European level.

