

ENNHRI statement to the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

The European Network of National Human Rights Institutions, ENNHRI has been actively following developments in the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights since its establishment. In 2018, ENNHRI made a statement commenting on the 'Zero Draft' of the proposed treaty on business and human rights and intervened in discussion of the First Revised Draft in 2019 as well as published a statement on EU and its Member State's involvement in 2020.

ENNHRI believes that a treaty on business and human rights will make a significant contribution to addressing the current governance and protection gaps and to strengthening the prevention of business-related human rights violations while also improving access to remedy for victims of such violations, wherever they are.

The third revised draft

ENNHRI welcomes the recognition, in the third revised draft, of the contribution as well as the complementary role of the UN Guiding Principles on Business and Human Rights. The treaty should indeed build on the established international consensus. This means that the contents of the treaty must not lag behind those of the UNGP. At the same time, it should go beyond the UNGP where necessary to fill gaps. This is particularly the case regarding pillar three of the UNGP on access to remedy, as pointed out by the UN Working Group on Business and Human Rights in its tacking stock report of the first decade (see also ENNHRI's contribution).

Despite remaining shortcomings, the third revised draft is a good basis for further intergovernmental negotiations. By focusing on the prevention of human rights violations and access to effective remedies for those affected, it is well suited to close human rights protection gaps, especially in transnational supply chains.

In light of the multiplication of domestic legislation on human rights due diligence as well as the promise of a mandatory human rights European Union legislation, the process to negotiate a legally binding instrument provides a unique opportunity to ensure harmony among obligations in that field and to create a global level playing field able to harness globalization.

The EU involvement

ENNHRI believes that it is time for a substantial involvement of the EU and its Member States. A more substantive involvement of the European Union would involve decisive countries of origin of large transnational companies, enhance the tractive power of the process and help bring the negotiations to the next step.

This involvement should be coherent with EU existing regulation, policy positions and future actions, as recalled by [ENNHRI's previous statement](#), and can be led in parallel, both with a high level of ambition.

ENNHRI recommends that:

- The EU and its Member States agree on a joint approach and participate in the drafting of a treaty on Business and Human Rights, in accordance with the division of competences between the EU and its Member States;
- The EU and its Member States agree, as soon as possible, on a formal negotiating mandate for the European Commission to help shape the negotiation process;
- The EU and its Member States put their extensive political and diplomatic competencies to use and actively participate in the drafting process during the next sessions of the Open-ended intergovernmental working group, as well as in the intersessional work, by volunteering to be part of the group of "Friends of the Chair".

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.