

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

October 2021

As state-mandated bodies, independent of government, with a broad human rights mandate, effective, pluralist and independent National Human Rights Institutions (NHRIs) are among the pillars of respect for human rights, the rule of law and democracy. As underlined in the Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions, Council of Europe Members States should explore the ways of developing a stronger role for and meaningful participation of NHRIs and ENNHRI in the Council of Europe for the enhanced promotion and protection of human rights, the rule of law and democracy.

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 and supplements the [ENNHRI submission from August 2021](#) with practical suggestions and information.

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

Recommendation CM/Rec(2016)3 on Human Rights and Business, in the context of national action plans, recognises the importance of stakeholder engagement and urges members states to “seek the expertise and involvement of all stakeholders, including business organisations and enterprises, national human rights institutions, trade unions and nongovernmental organisations.”

The Recommendation further highlights that “[w]ith the participation of all stakeholders, member States should continuously monitor the implementation of their National Action Plans and, periodically evaluate and update them.”

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 strengthen the role and meaningful participation of relevant stakeholders - including NHRIs, civil society such as human rights NGOs, consumer groups etc., trade unions, academia and business, with a view to increasing openness and transparency, in the future steps to review the implementation of the Recommendation and the identification of future priorities and actions. Meaningful participation of stakeholders can be promoted through:

- Actively engaging with all relevant stakeholders, not only member states or stakeholders with Observer status;
- Ensuring transparency in the process by communicating in advance to all relevant stakeholders;
- Taking steps to support stakeholder engagement and build capacity where relevant (e.g. trainings, webinars, information sharing, active dissemination of the Recommendation in advance);
- Developing a process to receive input from all relevant stakeholders (this can include a questionnaire broadly disseminated, but can also include active processes to facilitate a dialogue, for example, in-person workshops and webinars, and providing an opportunity for all relevant stakeholders to provide input on a draft);
- Taking input received from stakeholders into consideration and ensuring that outputs are reflective of the input received;
- Allocating sufficient resources and capacity to the CDDH Secretariat to measures to facilitate stakeholder participation.

Furthermore, relevant stakeholders can be engaged in the design of the methodology and process of the activity at the outset to ensure that it responds to the different situation and needs of stakeholder groups.

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

Noting the issues highlighted in the [August 2021 ENNHRI submission](#), and the European Coalition for Corporate Justice submission, we would like to suggest the following resources could prove useful in ensuring that the draft report on the Review of Implementation of CM/Rec(2016)3 accurately reflects ongoing challenges in member states.

Information on business and human rights from member states, the European Commission, and others international organisations:

- OECD Watch, [State of Remedy 2020](#), June 2021
- The German government, [Final Report of the NAP monitoring process 2018-2020](#), 2020
- The Dutch government, [Evaluation and revision of policy on Responsible Business Conduct](#), 2020
- European Commission, [Study on due diligence requirements through the supply chain](#), January 2020
- European Parliament, [Access to legal remedies for victims of corporate human rights abuses in third countries](#), 2019
- Fundamental Rights Agency, [Business-related human rights abuse reported in the EU and available remedies](#), December 2019
- FN:s vägledande principer för företag och mänskliga rättigheter – utmaningar i statens arbete, 2018
- Fundamental Rights Agency, [Improving access to remedy in the area of business and human rights at the EU level](#), April 2017

Information on business and human rights across Europe:

- European Coalition for Corporate Justice, [Suing Goliath, An analysis of civil proceedings brought against EU companies for human rights abuses and environmental harm in their global operations and value chains, and key recommendations to improve access to judicial remedy](#), September 2021
- Friends of the Earth Europe, European Coalition for Corporate Justice, and Corporate Europe Observatory, [Off the hook? How business lobbies against liability for human rights and environmental abuses](#), June 2021
- European network for central Africa, European NGO Coalition on Conflict Minerals, PAX, [The EU Conflict Minerals Regulation, Implementation at the EU Member State level](#), June 2021
- European Coalition for Corporate Justice, [Map: Corporate accountability legislative progress in Europe](#), June 2021
- European Coalition for Corporate Justice, [Comparative table: Corporate due diligence laws and legislative proposals in Europe](#), June 2021
- Nova BHRE, [ESG Developments](#), 2021
- Nova BHRE, [Business and Human Rights Developments in Southern Europe](#), Blog
- Alliance for Corporate Transparency: [2019 Research Report](#), May 2020
- Corporate Human Rights Benchmark, [Measuring 230 global companies on their human rights performance](#), 2020
- Frank Bold, [Comparing the implementation of the EU Non-Financial Reporting Directive in the UK, Germany, France and Italy](#), November 2017
- Frank Bold, [Compliance and reporting under the EU Non-Financial Reporting Directive, Requirements and opportunities](#) April 2017

Information on business and human rights specific to individual member states:

- www.globalnaps.org
- Research Institute for Work and Society, HIVA-KU Leuven, University of Antwerp, IPIS vzw, [Belgian National Baseline Assessment on Business and Human Rights](#), March 2021
- Trinity College Dublin, [Irish Business and Human Rights: A snapshot of large firms operating in Ireland](#), 2020
- Başak Bağlayan, [A study on potential human rights due diligence legislation in Luxembourg](#), 2021
- Action Solidarité Tiers Monde - ASTM, [Risques d'impacts des activités des entreprises sur les populations dans les pays du Sud, Etudes de cas du Luxembourg](#), 2020

- Commission consultative des Droits de l'Homme du Grand-Duché de Luxembourg, [Entreprises et droits de l'Homme, Prise de position de la Commission consultative des Droits de l'Homme du Grand-Duché de Luxembourg](#), 2019
- The Grand Duchy of Luxembourg, [Mapping the business and human rights landscape in Luxembourg](#), October 2019
- [Initiative pour un devoir de vigilance au Luxembourg](#), 2018
- The Danish Institute for Human Rights, ['Smart Mix' in the Nordics](#), March 2021 (providing an overview of progress in Denmark, Sweden, Norway and Finland)
- The Danish Institute for Human Rights, [Documenting business respect for human rights: A snapshot of Danish companies](#), 2020
- Finland Ministry of Economic Affairs and Employment of Finland, [Status of Human Rights Performance of Finnish Companies \(SIHTI\) Project : Report on the status of human rights performance in Finnish companies](#), March 2021

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.

Co-funded by
the European Union

