ENNHRI
European Network of National Human Rights Institutions

UNITED NATIONS HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

A human rights-based approach to COVID-19 economic response and recovery

Protecting jobs, SMEs, and workers, including in the context of national recovery and resilience plans

Checklist for European National Human Rights Institutions

About

This checklist is an outcome of a capacity building activity organised by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in partnership with the European Network of National Human Rights Institutions (ENNHRI), in November 2021.

It provides a non-exhaustive list of potential actions, tools, and resources that can assist National Human Rights Institutions (NHRIs) in applying a human rights-based approach to protecting workers, jobs and SMEs, including in the context of national recovery and resilience plans.

While the checklist focuses solely on this area, it can also serve as an inspiration when working towards a human rights-based recovery in other areas featured in recovery and resilience plans. They include education, healthcare, social protection and other areas of economic and social rights. Equally, it can be complemented by other relevant resources (from ENNHRI, OHCHR and others). These are listed in the final part of the guide.

The document is based on the Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19 developed by OHCHR, the United Nations Development Programme (UNDP), and the United Nations Sustainable Development Group (UNSDG) in 2020.

Title

A human rights-based approach to COVID-19 economic response and recovery - protecting jobs, SMEs and workers, including in the context of national recovery and resilience plans: A checklist for European National Human Rights Institutions

Acknowledgement

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Objective

This document aims to offer a tool that National Human Rights Institutions (NHRIs) can use to guide their work when it comes to the jobs and livelihood crisis caused or exacerbated by COVID-19.

The checklist* is one of the outcomes of the capacity strengthening activity organised by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in partnership with the European Network of National Human Rights Institutions (ENNHRI), in November 2021. The event titled "Applying a Human Rights-Based Analysis to COVID-19 National Recovery and Resilience Plans; In focus: Economic Response and Recovery – Protecting Jobs, SMEs, and the Informal Sector Workers" identified a gap in NHRIs' capacity to address this issue.

The basis of this document is the Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19. This was co-authored by OHCHR, the United Nations Development Programme (UNDP), and the United Nations Development Cooperation Office (UN DCO) as the secretariat for the United Nations Sustainable Development Group (UNSDG). The overarching framework for both documents is the UN framework for the immediate socio-economic response to COVID-19.**

NHRIs have a mandate to work towards the implementation of all human rights, including economic and social rights. Through their broad human rights mandate and variety of functions, NHRIs play an essential role in advancing the enjoyment of economic and social rights in Europe. Advising on policies that impact on economic and social rights, NHRIs are well placed to support a human rights-based approach to recovery.

This document builds on previous work of ENNHRI, OHCHR and European NHRIs in strengthening their role when protecting and promoting economic and social rights. It should be read in conjunction with other tools and resources in this area listed at its end.

This document has been prepared by OHCHR in partnership with ENNHRI.

* This checklist has been designed as a non-exhaustive list of potential actions, tools, and resources that can assist NHRIs in applying a human rights-based approach to protecting workers, jobs and SMEs, including in the context of national recovery and resilience plans.

** While primarily a tool for UN Country Teams, the "Minimum requirements checklist for integrating gender equality in the implementation of the UN Framework for the Socioeconomic Response to COVID-19" developed by the Interagency Network on Women and Gender Equality can also provide further guidance.

Overview

As noted in the UN framework for the immediate socio-economic response to COVID-19, the pandemic has plunged the world economy into a recession with historic levels of unemployment and deprivation and reversed progress in achieving the 2030 Agenda for Sustainable Development.

To address the socio-economic impact of the COVID-19 pandemic, European governments have been developing national response and recovery plans.

- In EU countries, the EU Recovery and Resilience Facility and offers funding to Member States to implement their COVID-19 National Recovery and Resilience Plans (NRRPs), which should be implemented by 2026.
- In many non-EU countries, recovery and resilience plans have also taken shape. Across the UNECE region, we can see that their aim is to mitigate the economic and social impact of the pandemic and make economies and societies more sustainable and resilient.

This document will help NHRIs answer the following questions:

- How can governments protect the jobs and incomes of workers in the most vulnerable situations, including those working in micro, small and medium-sized enterprises (SMEs), the self-employed, daily wage earners, and migrant workers within this context?
- How can this be done in a way that advances gender equality and socio-economic equality, both of which faced major setbacks in the context of COVID-19?
- In ensuring sustainable recovery, how can governments maintain the focus on leaving no one behind, based on human rights norms and standards, when developing and implementing COVID-19 response and recovery plans?
- What role can NHRIs play in ensuring human rights, including gender equality, are integrated in response and recovery plans?

National recovery and resilience plans constitute an emerging area of engagement for NHRIs.

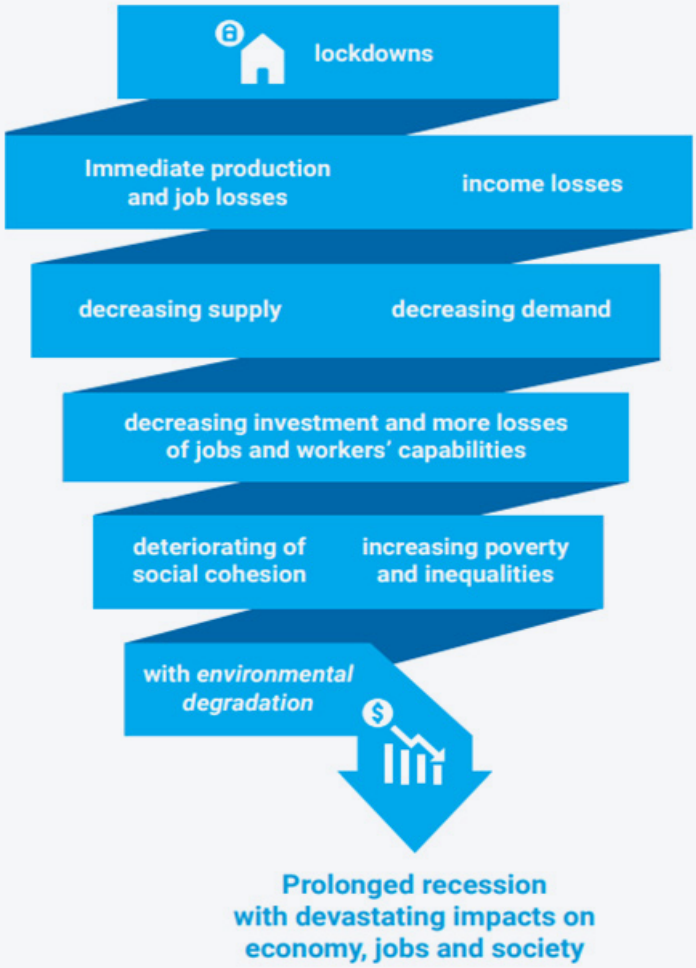
The Paris Principles give NHRIs a mandate to protect and promote human rights. Within this context, NHRIs are well placed to advise governments on how to ensure that the implementation of national recovery and resilience plans (in relation to economic recovery) is underpinned by human rights, including gender and other forms of equality.

NHRIs can monitor whether all recovery efforts actually strive to leave no one behind and prioritise those who are most marginalised. They can also advise authorities on how to strengthen these aspects.

Given their monitoring function, including data collection, NHRIs can alert governments to the potential adverse impacts of these plans on specific groups and issues. They can provide guidance on making progress while fully respecting human rights norms and standards, and ensuring interventions are tailored to empower and assist those people who have been marginalised the most.

Figure 1

Negative employment spiral*



Additional considerations

- Decreasing supply generally leads to increasing prices of essential items, such as food and fuel (impacting most on those worst off in society)
- Decreasing demand and investment lead to job losses – not all sectors are affected in the same way
- There is increasing demand for ICT access in order to maintain work, benefit from job opportunities, access to vocational education and training, and claim social benefits. This exacerbates the 'digital divide' and digital barriers to access.

* Source: Policy brief: The world of work and COVID-19

PART I

Who is most at risk of being left behind?

All societies include people who are marginalised and face human rights violations and abuse for a variety of reasons, some of which reflect entrenched and often intersecting forms of discrimination, exclusion, inequality, and political divides. COVID-19 response efforts need to identify people who may be at risk of being missed or further excluded.

NHRIs are well placed to assist in identifying those people. They support the flow of accessible information to these groups, engage in relevant policymaking that seeks tailored solutions, and provide feedback to authorities on the impact of measures on communities.

NHRIs should undertake a quick but comprehensive mapping of groups and sectors, including male- and female-dominated sectors:

- on which the pandemic has had or is still having the most negative impact;
- whose vulnerability to socio-economic marginalisation and/or discrimination increased, including through loss of income, livelihoods and decent employment opportunities, and due to deteriorating working conditions.

While doing this, be mindful that some of these could be population groups not seen as particularly marginalised and disadvantaged prior to the pandemic. Make sure to apply a gender analysis throughout the mapping exercise as well.

The questions below are ones to use to guide your mapping.

1. Have you considered whether and how the impact of COVID-19 increased vulnerability of the following workers*:

- essential workers
- workers at the frontline of COVID-19 responses
- workers in the informal economy
- migrant workers, especially those in an irregular situation
- workers in non-traditional forms of employment (i.e., gig economy workers, freelance workers, self-employed workers, platform-based workers)
- owners and employees of SMEs
- rural workers and owners of small farms
- persons employed in the following sectors, particularly at the lower level of hierarchy:
  - persons employed in agriculture, fishery, and forestry
  - persons employed in the arts, entertainment, and recreation
  - persons employed in manufacturing
  - persons employed in wholesale and retail
  - persons employed in food service
  - persons employed in the tourism and hospitality sector
  - persons employed in the transport sector
  - persons employed in construction
  - sex workers

* This non-exhaustive list is inspired in part by the sectoral perspective of workers at risk as set out in the policy brief The World of Work and COVID-19, and includes a focus on workers employed in the sectors most heavily impacted by the pandemic.

2. Have you considered what intersecting forms of discrimination are particularly pertinent to the COVID-19 context in the area of jobs and decent work, and can result in increasing the vulnerability of persons belonging to the above groups?

Increased vulnerability could be the consequence of their*:

- living situation (for instance residing in sub-standard settlements or remote areas)
- living in low-income households or households with a high level of indebtedness
- inability to use public transport (for instance if they live in remote areas not/rarely covered by public transport or if the cost of transport is prohibitive)
- living or working in circumstances that make it impossible to physically distance
- inability to access COVID-19 testing, treatment, or vaccination (could also be a consequence of employers' violations of workers' rights)
- inability to work remotely**
- inability to benefit from formal or informal education
- inability to access social protection, including unemployment benefits, paid sick leave and family leave
- inability to overcome language, administrative or technological barriers when trying to access specific COVID-19 financial assistance
- obligation to undertake unpaid care work and inability to have support from public and private social services (for instance preventing seeking new employment)

* This list of direct causes of vulnerability is not exhaustive but rather illustrative and should be tailored to the specific country context based on historical and ongoing analysis of the human rights situation by NHRIs.

** Consideration should be given on how best to protect the rights of those workers who cannot perform their jobs remotely.

- facing poor occupational health and safety at their workplace (for instance lack of Personal Protective Equipment)
- lack of or inadequate access to water and sanitation (at their place of work or residence)
- lack of or inadequate access to internet
- inability to access financial and productive resources
- heightened risks of exposure to violence at the workplace and at home and denial of bodily autonomy, including access to sexual and reproductive services

In addition, have you considered whether increased vulnerability is the consequence of systemic discrimination based on:

- age
- gender
- sexual orientation and gender identity
- disability
- health status
- race/ethnicity
- migration/refugee status
- form of employment (as it directly impacts on working and dismissal conditions as well as access to social security benefits)

3. Have you considered the impact of COVID-19 on population groups your NHRI historically identified as the most vulnerable or marginalised in your country or in a particular region of the country? Are there different impacts on women, men, and people with diverse genders within these groups?

Such groups could be:

- national, ethnic or religious minorities
- indigenous peoples
- migrants (including those in an irregular situation), refugees, asylum seekers, internally displaced persons, stateless persons
- older persons
- persons with disabilities
- persons experiencing homelessness
- LGBTIQ+ people
- children and youth
- persons living in conflict areas
- those affected by extreme poverty or experiencing food insecurity*

* For detailed checklists and further resources please refer to the Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19, Section A: Mapping those most at risk of being left behind. For guidance on specific vulnerable groups and COVID-19 consult OHCHR COVID-19 guidance.

Never forget: The more exact the identification of population groups most impacted by the pandemic, the more tailored and effective recommendations your NHRI can make. These will help to ensure no one is left behind in COVID-19 response and recovery and that the most vulnerable are prioritised in the implementation of measures aiming to alleviate the socio-economic impact of the pandemic.

Remember

Even if your NHRI has defined accurately and in detail those people who are the most marginalised and disadvantaged in your country, the pandemic could have created new vulnerabilities or pushed specific members of marginalised groups further back. Therefore, NHRIs are advised to undertake mapping of vulnerabilities that is specific to COVID-19 and its socio-economic impacts.

PART II

Applying a human rights-based and gender responsive approach to economic response and recovery in national recovery and resilience plans

To leave no one behind, the response to and recovery from the global pandemic need to be human-centred, inclusive, sustainable, and resilient. Systematically applying a human rights-based* and gender-responsive approach** is vital to building back better.

For EU Member States, the Recovery and Resilience Facility, which aims to mitigate the economic and social impact of the pandemic, is structured around six pillars:

- a green transition;
- digital transformation;
- economic cohesion, productivity and competitiveness;
- social and territorial cohesion;
- health, economic, social and institutional resilience; and
- policies for the next generation

EU Member States' progress in implementing their national recovery and resilience plans (NRRPs) is displayed through the Recovery and Resilience Scoreboard.

The majority of non-EU countries have also developed national COVID-19 recovery and resilience plans, strategies or policies.

NHRIs can contribute by strengthening the human rights-based approach to these plans and monitoring and reporting on the impact that implementation has on those who are furthest behind and most vulnerable. Additionally, NHRIs can contribute by helping authorities frame their response within national efforts to promote, protect, and fulfil human rights and accelerate the achievement of the 2030 Agenda and its sustainable development goals.

* A human rights-based approach is a conceptual framework focused on promoting and protecting human rights. Based on international human rights standards, it puts human rights and corresponding state obligations at the heart of policy. NHRIs can use it as a tool to empower the most vulnerable people to participate in decision-making processes and hold duty-bearers accountable. Read more here.
** Gender responsiveness refers to outcomes that reflect an understanding of gender roles and inequalities and which make an effort to encourage equal participation and equal and fair distribution of benefits. Gender responsiveness is accomplished through gender analysis and gender inclusiveness. Read more here.

Key considerations for applying a human rights-based approach to recovery efforts:

- **The 2030 Agenda for Sustainable Development is the global blueprint for building back better** and for achieving sustainable recovery. All national COVID-19 recovery plans, be they NRRPs or other ones, need to help countries accelerate their progress in achieving sustainable development which is firmly anchored in human rights.
- Human rights obligations of countries as duty-bearers have not been changed or lessened by the pandemic. On the contrary, **respect for human rights** across the spectrum of rights – economic, social, cultural, civil, and political - **is fundamental to the success of the pandemic response and recovery**.
- Several countries in the UNECE region have signed up to the Sustainable Recovery Pledge. They expressed their determination to build back better from the pandemic, with respect for human rights at the heart of recovery efforts and by adopting a human rights-based approach that emphasises individuals and their human rights.
- International human rights mechanisms issued a **wealth of guidance and country advice** on the most pressing human rights challenges emerging from the pandemic. This guidance focuses on disadvantaged and marginalised individuals and groups in recognition of the fact that COVID-19 has amplified discrimination and inequalities.*
- This approach reinforces ILO's four-pillar policy framework for tackling the socio-economic impact of the COVID-19 crisis by stimulating the economy and employment; supporting enterprises, jobs, and incomes; protecting workers in the workplace; and relying on social dialogue for solutions.
- All **businesses have an independent responsibility to respect human rights**, as set out in the UN Guiding Principles on Business and Human Rights. This applies even in times of economic hardship and during a public health crisis, and regardless of whether and how governments are meeting their own obligations.

The questions in this checklist aim to assess whether national COVID-19 recovery and resilience plans consider and provide for adequate measures. It focuses on those who are the most vulnerable to adverse impacts of the pandemic, while looking at the areas of protecting jobs, SMEs, and workers in the informal economy and non-traditional forms of employment.

* The most relevant links are included in the last section of this document.

Remember

Socio-economic impacts of COVID-19 and related measures are not fixed, but fluid and evolving. Therefore, continuous engagement and analysis is needed. This includes "leaving no one behind" (LNOB) analysis and gender analysis. It is important to regularly reassess the situation throughout the recovery period as the short-, medium-, and long-term impact of measures introduced to address the pandemic may create new vulnerabilities. Discontinuation of temporary measures can also create or exacerbate vulnerabilities. Therefore, NHRIs should look at the impact of measures that have been introduced as well as the impact of discontinuing them.

NHRIs are advised to centre their work on people, lives, and livelihoods. They should aim to deliver or assist with assessments and analyses of the impact of COVID-19 and recovery measures on individuals and communities who face persistent and intersecting forms of discrimination and are at risk of falling (further) behind.

While health workers and other care workers are at the frontline of response to the COVID-19 pandemic, many of them are underpaid, working in precarious and unsafe working conditions. Many of them are women.

Recovery measures should include investing in creating quality public services (including creating employment opportunities), with safe and healthy working environments and with equal pay for work of equal value. At the same time, value should be redefined to recognise social contributions. Such measures could stimulate economic recovery while advancing gender equality and could also increase fiscal revenue.*

*According to a recent simulation for eight Organisation for Economic Co-operation and Development (OECD) countries, "investments in a reformed care sector - with better wages and working conditions - would create 40-60 per cent more jobs than the same investments in construction. Depending on the country, between a third and three fifths of any gross spending on the care sector is recouped through additional revenue from taxes and social security contributions—a 'fiscal merit' that is also larger than that of any comparable investment in construction." See: Beyond COVID-19: A feminist plan for sustainability and social justice.

General approach to economic response and recovery*

1. Has the recovery and resilience plan been developed and assessed using a human rights-based approach?

If yes:

Is there a role for the NHRI in monitoring progress and advising on how to maximise its human rights impact, including through its regular work?

If no:

Is there scope for the NHRI to conduct this assessment, engage in advocacy and call for - at a minimum - implementation to be guided by human rights norms and standards as well as the pledge to leave no one behind? NHRIs could start by linking the different pillars of the plans to specific human rights issues (in addition to broader economic issues outlined below).

Is there a possible role for the NHRI in the governmental advisory body or mechanism which has been tasked with monitoring the recovery and resilience plan's implementation, progress and consultation with relevant groups working towards greater participation?

* This type of analysis should always be underpinned by the understanding that states are obligated to make every effort to mobilise the necessary resources to combat COVID-19 in the most equitable manner to avoid imposing a further economic burden on marginalised groups.

2. Do the proposed fiscal and economic reforms address pre-existing inequalities and discrimination that are exacerbating the pandemic's incidence rate and impact?*

If yes:

- Are they taking on board existing NHRI guidance on the best ways to address inequalities in the country?
- What type(s) of inequality are they addressing (income based, territorial, gender based, based on access to specific public services, other)?

If no:

- Are these planned measures directly or indirectly reinforcing pre-existing inequalities?
- What research and advocacy efforts would be needed to help address this?

* Bodies like NHRIs are well positioned to advise on human rights-based and gender-responsive measures that need to be taken to tackle pre-existing inequalities and discrimination as well as their root causes.

3. Does the recovery plan allow for allocating maximum available resources for investments in essential services for all (at the very least meeting the minimum core obligations)?*

Addressing this question calls for:

Analysis of the recovery plan's resource allocation, including:

- whether any resources are earmarked for marginalised and disadvantaged groups, especially those whose vulnerability has increased due to COVID-19 (with due consideration to those individuals and groups identified in the mapping);
- whether due attention is paid to gender-responsiveness in the allocation;
- whether it is adequate when applying a human rights lens (whether the allocations are adequate to deliver on the minimum essential level of economic, social and cultural rights of these groups; whether any retrogressive measures have been taken and, if so, does the justification for such measures meet requirements under international human rights standards?)**

* Minimum core is a concept introduced by the Committee on Economic, Social and Cultural Rights with the aim of ensuring that "the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party." The concept aims to define a floor of socio-economic and cultural rights that must be realised immediately. Minimum core obligations call for everyone to be able to access essential levels of basic social services, including health care, social security, education, water, etc., and live dignified lives. If a State fails to meet these obligations because it does not have the necessary resources, it must demonstrate that it has made every effort to use all available resources to satisfy, as a matter of priority, these core obligations. For further information, consult the following CESCR general comment on the nature of States parties' obligations (paras 10-11), OHCHR (particularly page 16-17), ESCR-net, and World Bank resources. See also CESCR Statement on the coronavirus disease (COVID-19) pandemic and economic, social, and cultural rights (para 14).

** As stated by the Committee on Economic, Social and Cultural Rights in its general comment No. 3, any deliberately retrogressive measure "would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources" (para. 9)

Budget analysis in parts that are linked to the response plan, understanding:

- what the response plan's allocations are (looking at whether they are extra-budgetary and whether they are made in addition to or instead of resources made available to the relevant sectors or groups through the national budget);
- whether the budget allocations aimed at protecting decent work are increasing or being reduced;
- whether the resource allocations are temporary and what is the relevant timeline and the implications of their withdrawal;
- whether budget allocations prioritise areas closely related to rights such as health, education, and social protection;
- whether budget allocation increases for some areas are done at the expense of other areas closely related to the enjoyment of human rights;
- whether the allocation of resources is well targeted;
- whether possible long term consequences of the resource allocations have been considered (ensuring that they do not cause unintended harm).

Budget analysis beyond the allocations deriving from the response plan, analysing:

- the budgetary impact of the COVID-19 response measures on other sectors;
- whether expenditure is being redirected to increase investments in social, economic, and cultural rights;
- whether resources for health, social protection, education and other basic services are ringfenced;
- whether national inflation (in real terms) and the demographic situation (per capita of the target group) are taken into consideration.

Application of human rights principles to resource allocation and spending, which can be assessed by asking the following questions:

- Does the resource allocation (whether in the national recovery plan or in national or local budgets) follow the principles of transparency and accountability?
- Are the allocated resources all spent according to the designated purposes (is there any corruption involved in the execution of budget)?
- Does the resource allocation follow the principles of non-discrimination and equality, including gender equality?
- Do targeted groups (meaningfully) participate in resource allocation?
- Are the required resources mobilised in an equitable manner (i.e., do the changes introduced to the tax regime have any disproportionately adverse impact on disadvantaged and marginalised individuals and groups)?
- Are the allocated resources disbursed in a timely manner?
- Does the adopted fiscal policy (for example tax relief or mobilising resources through loans) have the potential to impact adversely on the ability of the state to mobilise maximum available resources in the future (for example by deepening the country's indebtedness)?
- Is there space for the NHRI and other human rights and equality bodies to contribute to transparent financial monitoring?
- Is the Court of Auditors (or its equivalent) involved in monitoring the relevant resource allocations?

4. Do the reforms or interventions proposed in the recovery plan enable the state to prevent a disproportionate retrogression of economic, social, and cultural rights?*

This calls for an analysis of whether immediate and mid-term economic relief measures set out in the recovery plans are adequate and able to reach those who need them most. These measures can include**:

- social assistance
- guaranteed paid sick leave
- extended unemployment benefits
- additional measures to address food security
- childcare and education benefits or arrangements
- flexible working arrangements, including parental leave, for both women and men
- stimulus support targeting SMEs
- one-off financial payments or incentives for business owners etc.

* Beyond securing resources, which is tackled in the question immediately above, this question deals with implementation and the ability of the state to maintain or further the level of enjoyment of economic, social, and cultural rights by the entire population and by disadvantaged and marginalised individuals and groups.

** NHRIs can also monitor whether there is a planned withdrawal of these measures and how it will affect identified vulnerable groups.

5. **Are social protection measures gender responsive and do they consider the precarious employment situation of many women (in some cases the majority) in the formal and informal economy?**

6. **Do social protection measures address women's unpaid care work while ensuring that the rights to support and care are fulfilled for those who are entitled to them (such as children, older persons, and persons with disabilities)?**

Remember

Many households within communities that face persistent discrimination and marginalisation have already lost or will lose a significant percentage or even all of their income, including from remittances.

This is especially the case for migrant workers engaging in seasonal agricultural work, as well as people working in the informal sector, the gig economy, the services sector, and in certain manufacturing sub-sectors with decreased consumer demand (for instance the garment and mining industries).

Attention needs to be paid to the specific impacts on women, as they are more likely to be unpaid; on insecure, temporary, and short-term contracts; and concentrated in low-wage, part-time, informal work, and in the service and retail industries.

Protecting jobs and workers, including workers in the informal economy*

1. Does the response plan specify adequate measures to protect jobs, pensions, and other health and social benefits of workers?

Such measures should include self-employed workers, workers in non-traditional forms of employment, workers in the informal economy, and migrant and refugee workers.

2. Are the adverse impacts of COVID-19 responses on employment conditions - such as unfair dismissals and layoffs, reduced working hours and modifications to employment types - being addressed and mitigated?

NHRIs are well placed to assess the appropriateness and effectiveness of social protection measures introduced in the recovery plan - including employment services and vocational and technical education for unemployed workers - to alleviate the adverse effects of COVID-19. Factors to assess include the measures' coverage, scope, adequacy, duration, target groups and uptake rates.

Does the recovery plan provide for monitoring labour rights and preventing abuses in the context of the implementation of employment-related COVID-19 responses?

Do effective remedies through both judicial and non-judicial grievance mechanisms exist for employees to address issues that arise from COVID-19 related measures?

What is the impact of the response plan in relation to collective bargaining in terms of fixing wages, reducing working hours, occupational health and safety, etc. (trade union rights)?

NHRIs are well placed to assess the appropriateness of measures adopted to provide workers with a safe working environment, including through their complaints-handling mandate. They are also well placed to denounce a lack of such measures.

* Fiscal stimulus and social protection packages aimed directly at those least able to cope with the crisis are essential to mitigating the devastating consequences of the pandemic. Immediate economic relief measures such as guaranteed paid sick leave, extended unemployment benefits, food distribution, childcare, and universal basic income can help safeguard against the most acute effects of the crisis.

3. Are measures being taken to subsidise wages, provide financial and tax relief*and establish supplementary social security and income protection programmes, and do they cover groups at risk of being left behind?

NHRIs could advocate (if needed) for measures such as waiver of payments due, grants, tax incentives, making credit available, employment-intensive investment, and government procurement with preference given to SMEs, including enterprises owned by women.

4. Are measures being put in place to ensure occupational health and safety of workers, especially those working in high-risk environments?**

* It should be noted that tax relief may have less impact on people living in poverty. Due to their lower level of income and/or because they are working in the informal sector, they may not be paying much income tax, if any at all. Thus, the impact of this type of relief is limited. See for instance relevant guidance by the UN Special Rapporteur on extreme poverty. On the other hand, tax relief for employers (corporates) could be effective as a means for them to keep their employees. In this case, the tax relief should be conditional on keeping employees in their jobs.

** Occupational health and safety of those working during the crisis needs to be assessed and addressed. No one should feel forced to work in conditions that unnecessarily endanger their health because they fear losing a job or a paycheck. Required measures may be linked to adjusting work arrangements (for example promoting telework, staggered working hours and breaks) and work environment (for instance implementing physical distancing), promoting workplace hygiene, identifying and managing suspected COVID-19 cases, access to vaccines, personal protective equipment, and psychosocial support.

5. Do social protection measures targeting workers or those that have lost their jobs:

- facilitate access to health care by reducing out-of-pocket payments for patients?
- provide adequate income support and in-kind transfers, including health, housing, and food aid services, especially for those most marginalised?
- ensure women and men get the support they need with additional care responsibilities (including childcare, care for older persons, support for family members with disabilities), while facilitating more gender-equal distribution of care responsibilities?
- protect workers from disciplinary measures or other penalties for refusing to work without adequate protection?
- provide for employment injury benefits (adequate availability, coverage, scope, duration, etc.)?*

6. In the context of the envisaged social protection measures, does the recovery plan consider:

- measures to identify and support those who are not eligible for social assistance transfers?
- measures to address obstacles in accessing social protection benefits (including physical access issues due to lockdowns)?
- tailoring the measures with a view to filling social protection gaps in the system that have been brought to light by the pandemic?

*This covers both occupational accidents and diseases, which are mostly not covered for workers in precarious employment situations, migrant workers, etc.

7. Does the plan adequately target and reach out to workers in the informal economy, who are more likely to lose their jobs or suffer severe income losses, including by:

- identifying informal workers who are entitled to assistance yet may not be in any government register?
- providing income and food support to individuals and their families (expanding social protection schemes to informal workers not yet covered or, if this is not an option, instituting new mechanisms to offer the necessary income support)?
- compensating the loss of, or reduction in, economic activity?
- reducing and preventing damage to the economic fabric of society and preserving employment?
- basing the plan on disaggregated statistical data of target workers?
- instituting or utilising mechanisms or procedures to directly interact with target workers?
- developing a communication strategy to ensure that the targeted workers are aware of the plans/benefits and the procedures to claim them?

8. Are measures in place to mitigate the negative impact of unemployment and underemployment (including on youth) on the search for decent employment, accessing further education, and unlocking the full potential of people?

9. Is due consideration given to the following aspects of the right to work in the pandemic context and as outlined in the recovery plan:

- accessibility - is the labour market open to everyone under the jurisdiction of the state?
- availability - are specialised services available to assist and support individuals in identifying available employment opportunities?
- acceptability and quality - are the rights of workers to just and favourable conditions of work (in particular safe working conditions), and the rights to form trade unions and to choose and accept work being upheld freely?

10. Does the recovery plan assess whether the pandemic has pushed workers out of formal and into informal employment? Does it identify appropriate responses?

11. Does the recovery plan prepare the ground for accelerating the transition to formal employment for informal workers and sectors? (Economic recovery, while necessary, will not reduce informal employment by itself; suitable public policies are essential in this regard.)

Remember

COVID-19 and related measures have hit the service sector (healthcare, tourism, and related services, hospitality, restaurants, domestic workers) and informal workers the most. Many jobs in the service sector jobs provide workers with low and daily wages and no social protections. They are often held by women, minority and immigrant populations. Wage subsidies or income protection may neither cover income generated through the informal sector nor consider working years or income lost to unpaid care work. Many workers engaged in these jobs have been among the first to lose their source(s) of income.

Protecting micro, small and medium-sized enterprises (SMEs)

1. Have adequate measures been taken to support SMEs? For instance, through:

- financial support in the form of grants, subsidised loans, tax measures (tax deferral, tax moratoria, tax refunds, etc.), grace periods on outstanding loans and debt, rescheduling/ moratoria aimed at overcoming liquidity crunches and avoiding insolvency;
- measures to reduce operating costs, such as waivers or deferred payments for rent or public services like electricity and water;
- employment retention measures such as work-sharing and shorter working weeks, wage subsidies, temporary suspensions of tax payments and social security contributions, and enabling access to various forms of business support conditional on the retention of workers;
- subsidies in the form of reduced rates for mobile calls and internet access that – alongside training – can enable units in the informal economy to experiment with digital tools for business continuity and income generation.

2. Do the recovery plans envision paying specific attention and offering tailored assistance to SMEs owned by women or persons belonging to minority groups?

3. Are SMEs operating in the informal economy eligible for the assistance provided under the response plan? Are there any administrative obstacles that hinder SMEs in the informal economy from benefitting from the plan and, if so, have adequate solutions been found to help address these?

4. Does the recovery plan consider measures such as introducing additional and/or subsidised credit lines that support different sector activities and payroll and loan payments for SMEs in need?

Concrete measures can help:

- ensure liquidity;
- cover basic fixed costs;
- provide credit;
- avoid lay-offs; and
- incentivise innovative changes like workplace adjustments and alternative work modalities.

5. Does the recovery plan consider providing cash flow support by allowing businesses to deduct more losses through increasing loss carry-back amounts, creating immediate tax benefits for SMEs?*

6. The majority of the SME workforce is employed in tourism-related activities. Does the recovery plan have specific provisions to address the challenges this sector, and in particular its SMEs, have been facing?

*Loss carry-forward measures can provide nearly immediate benefits to SMEs that have been harmed because of the pandemic. The most effective government policies geared towards assisting SMEs will be those that are tailored according to the characteristics of SMEs and the economic dynamics that these enterprises face. For further information on this specific aspect, consult here.

7. **Recognising the important role of the private and the public sectors, building a sustainable business environment, and supporting SMEs is key to a recovery process that fosters a social and solidarity economy.**

Does the recovery plan provide for appropriate private sector policies with a specific focus on SMEs and public-private partnerships, focusing on social and environmental sustainability as well as making SMEs more energy and resource efficient?

8. **Does the recovery plan take on board any of the recommendations crafted by the International Chamber of Commerce in its "Save our SMEs" call to action or by a coalition of representative of SMEs in Europe?**

Remember

Many SMEs have either had to close and lay off their staff (often without pay) or are in danger of closing, unable to pay rent and other overhead costs, such as electricity, utilities, salaries, and loans. In the recovery period, the permanent closure of these establishments will impact employment (job creation), poverty and inequality (income generation), and government revenue for the progressive realisation of social and economic rights. Enhanced protection may be warranted for migrant workers and those employees of SMEs that belong to marginalised groups.

FINAL NOTE TO NHRIs:

Reflect the interconnected nature of human rights

This checklist focuses on the protection of workers and jobs within the specific context of COVID-19 economic measures. However, NHRIs should always give due attention to the investments required in economic, social, and cultural rights. Social services - including healthcare, education, and social protection – are particularly relevant in this context, as they have a significant impact on workers' human rights. The principle of non-retrogression is also important in this context*.

Measures adopted under economic response and recovery should go hand in hand with providing the social services required to reduce vulnerabilities outside of the workplace and to build the resilience of groups at risk. They may include female workers, the future workforce (via education of children and youth), and older persons in or seeking employment (via lifelong learning and retraining programmes). These measures are mutually reinforcing and serve to advance all human rights of all workers. At the same time, they also help accelerate progress on realising the vision of the 2030 Agenda for Sustainable Development while building back better.

For guidance on human rights considerations on health, social protection and basic services, please refer to sections D.1 and D.2 of the Checklist for a Human Rights-Based Approach to Socio-Economic Country Responses to COVID-19.

* States must refrain from adopting deliberately retrogressive measures. They must "fully" justify the adoption of policies that decrease people's enjoyment of a right and any such policies must be temporary, necessary, proportionate, and non-discriminatory. At the very least, adopted measures must ensure the protection of minimum core content of rights and the country needs to prove it has considered all other options (including financial alternatives) before their adoption.

Part III: Selection of relevant resources

Written materials and relevant websites

- EU Regulation establishing the Recovery and Resilience Facility*

https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0241&from=EN

- COVID-19 and Human Rights (ENNHRI)

https://ennhri.org/our-work/covid-19/

- Applying a human rights-based approach to poverty reduction and measurement: A guide for National Human Rights Institutions (ENNHRI)

http://ennhri.org/wp-content/uploads/2019/11/Applying-a-Human-Rights-Based-Approach-to-Poverty-Reduction-and-Measurement-A-Guide-for-NHRIs.pdf

- ENNHRI statement – COVID-19 and economic and social rights

https://ennhri.org/statement-covid-19-esr/

- Economic and social rights - practices of NHRIs in Europe (ENNHRI)

https://ennhri.org/esr-in-europe/

- Realising economic and social rights in Europe: Tips and tricks for NHRIs (ENNHRI)

https://ennhri.org/our-work/topics/economic-and-social-rights/webinar-series/

- Migrants' access to economic and social rights: Good practices and challenges of National Human Rights Institutions (ENNHRI)

http://ennhri.org/wp-content/uploads/2019/11/Migrants%E2%80%99-access-to-economic-and-social-rights-Good-Practices-and-challenges-of-NHRIs.pdf

- Aide memoire: NHRIs, Human Rights and COVID-19 (OHCHR)

https://www.ohchr.org/sites/default/files/Documents/Press/HCCOVID19lettertoNHRIs.pdf

- COVID-19 and its human rights dimensions (OHCHR)

https://www.ohchr.org/en/covid-19

* Of most relevance is Annex V, which establishes assessment guidelines for the recovery and resilience facility (pages 40-46).

- Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights by the Committee on Economic, Social and Cultural Rights (E/C.12/2020/1)

https://undocs.org/E/C.12/2020/1

- COVID-19 and Special Procedures (OHCHR)

https://www.ohchr.org/en/special-procedures-human-rights-council/covid-19-and-special-procedures

- OHCHR Economic, Social and Cultural Rights portal

https://www.ohchr.org/en/human-rights/economic-social-cultural-rights

- OHCHR fact sheet on ESCRs

https://www.ohchr.org/sites/default/files/Documents/Issues/ESCR/FAQ_on_ESCR-en.pdf

- COVID-19 and Human Rights Treaty Bodies (OHCHR)

https://www.ohchr.org/en/treaty-bodies/covid-19-and-human-rights-treaty-bodies

- Looking back to look ahead: A rights-based approach to social protection in the post-COVID-19 economic recovery (UN Special Rapporteur on extreme poverty and human rights)

https://www.ohchr.org/sites/default/files/Documents/Issues/Poverty/covid19.pdf

- United Nations System portal on COVID-19 response

www.un.org/coronavirus

- ILO Global call to action for a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient

https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_806092.pdf

- UN DESA economic analysis policy briefs

www.un.org/development/desa/dpad/document_gem/undesa-policy-brief/

- The impact of COVID-19 on the informal economy (ILO)

www.ilo.org/global/about-the-ilo/multimedia/video/institutional-videos/WCMS_744256/lang--en/index.htm

- Minimum requirements checklist for integrating gender equality in the implementation of the UN Framework for the Socioeconomic Response to COVID-19 (IANWGE - UN Inter-Agency Network on Women and Gender Equality)

https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/IANWGE-Minimum-requirements-checklist-for-integrating-gender-equality-in-COVID-19-response-en.pdf

- Beyond COVID-19: A feminist plan for sustainability and social justice (UN Women)

https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Feminist-plan-for-sustainability-and-social-justice-en.pdf

- COVID-19: Guidance to enhance migrant worker protection during the current health crisis (IOM CREST)

https://iris.iom.int/sites/g/files/tmzbdl201/files/documents/IOM-COVID19_Employer_Guidance_V2_Final%28English%29.pdf

- UNECE COVID-19 response

https://unece.org/coronavirus-advisory

- COVID-19 and official statistics (UNECE)

https://statswiki.unece.org/display/COV/Economic+statistics

- Impact of the coronavirus disease (COVID-19) on the realization of economic, social and cultural rights, Report of the Secretary-General (A/HRC/46/43)

https://undocs.org/A/HRC/46/43

- Realizing human rights through government budgets (OHCHR and IBP)

https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingHRThroughGovernmentBudgets.pdf

- Human Rights budget work (Scottish Human Rights Commission)

https://www.scottishhumanrights.com/projects-and-programmes/human-rights-budget-work/

- Human Rights & Economic Recovery from COVID (Center for Economic and Social Rights)

https://cesr.org/sites/default/files/2022/Human_Rights_and_Economic_Recovery_From_COVID.pdf

- Principles for Human Rights in Fiscal Policy (Center for Economic and Social Rights)

www.cesr.org/principles-human-rights-fiscal-policy/

Videos

- Rights-Based Economy: A Roadmap for Action (Center for Economic and Social Rights)

youtu.be/4I8swF4YWvo [Available also with French and Spanish subtitles]

- Human Rights Budget Work: What, Why, How? (Scottish Human Rights Commission)

youtu.be/L5b5MJlpTzw

- SDG 2021 report: SDG 8

youtu.be/HnONofKcBkI

- Webinar Series: Realising economic and social rights in Europe: Tips and tricks for NHRIs (ENNHRI)

https://ennhri.org/our-work/topics/economic-and-social-rights/webinar-series/

Tools

- Universal Human Rights Index (OHCHR)

https://uhri.ohchr.org/

- Human Rights Guide to Sustainable Recovery (DIHR)

www.humanrights.dk/tools/human-rights-guide-sustainable-recovery

- ENNHRI Hub

https://ennhri.org/hub/

- Data on NRRPs: Bruegel Datasets

www.bruegel.org/publications/datasets/european-union-countries-recovery-and-resilience-plans/

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