

‘Implementing the UN Guiding Principles on Business and Human Rights’

Allerhand Insitute Conference, PANEL I – State Duty to Protect

Warsaw, Ministry of Economy Conference Hall, 25.01.2013

**Recommendations on National Action Plans on business and human rights  
and methods for baseline surveys**

by

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The contribution focused on national human rights institutions (NHRIs), their role and mandate on business and human rights, and recommendations made by the European Group of NHRIs regarding the development of national plans on implementation of the UN Guiding Principles on Business and Human Rights.

**1. Mandate of NHRIs on business and human rights**

States have been called on since the UN’s 1993 Vienna Declaration on Human Rights to establish national institutions for the promotion and protection of human rights. The UN General Assembly’s 1993 Paris Principles set out criteria for independent, pluralistic NHRIs. Such institutions should have a mandate guaranteed by national legislative or constitutional provisions that empowers it to promote and protect human rights including through: monitoring, investigations, research, legislative advice, reporting to supervisory mechanisms and human rights education. NHRIs may also have the facility to receive and determine complaints regarding specific cases of alleged violations or abuses of human rights. This mandate entails that NHRIs have all of the following as stakeholders: rights-holders, government, civil society, business and international (and regional) bodies.

The International Coordinating Committee (ICC) of NHRIs<sup>1</sup> has approximately 90 members worldwide, of which around two-thirds are accredited to A-status, which means they are assessed as meeting the Paris Principles. NHRIs have also formed four regional networks: the European Group of NHRIs, the Network of African NHRIs, the Asia-Pacific Forum and the Red de Instituciones Nacionales Para la Promocion y Protection de los Derechos Humanos en le Continente Americano.

Poland’s Civil Commissioner for Civil Rights Protection *Rzecznik Praw Obywatelskich*<sup>2</sup> is an A-status accredited institution. Established in 1988, according to its mandate under Polish law the

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<sup>1</sup><http://nhri.ohchr.org/EN/Pages/default.aspx>

<sup>2</sup><http://www.brpo.gov.pl>

Ombudsman has responsibilities including prevention, diagnosis and monitoring of human rights violations.

## **2. Actions of NHRIs on business and human rights**

NHRIs have in recent years embarked on a range of collective actions concerning business and human rights, as well as those taken individually at national level. For example,

- In 2010, the ICC's 10<sup>th</sup> Biennial Conference addressed business and human rights and concluded in the Edinburgh Declaration
- Regional workshops of NHRIs on business and human rights were held in Asia-Pacific, Africa and Americas in 2011 and in Europe in 2010, leading to the Berlin Action Plan on Business and Human Rights<sup>3</sup>
- Since 2009, an ICC Working Group on Business and Human Rights has supported capacity building, dialogue and strategic outreach, and a training programme for NHRIs based on the Paris Principles and UN Guiding Principles will be launched in 2013
- In 2011, the ICC and OECD entered a Memorandum of Understanding to guide cooperation in promoting respect for the OECD Guidelines for MNEs

The UN Guiding Principles on Business and Human Rights recognized the relevance and applicability of the Paris Principles mandate of NHRIs under each of the three pillars of the protect, respect, remedy framework, and this has been affirmed by subsequent resolutions of the UN Human Rights Council and UN General Assembly.

## **3. Berlin Action Plan and national baseline studies on business and human rights**

The 2012 Berlin Action Plan of the European Group of NHRIs sets out various issues and actions for NHRIs individually and collectively in the European context.<sup>4</sup> Amongst these are national baseline surveys to assess the state of implementation of the UN Guiding Principles on Business and Human Rights at national level.

This follows a recommendation to EU Member States included in the European Commission's 2011 White Paper on CSR for the development of national plans on business and human rights by end 2012, and a similar commitment on production of national plans by end 2013 in the EU's Strategic Framework and Action Plan on Human Rights and Democracy.

Some EU Member States have already embarked on production of national plans on human rights and business, including the UK and Netherlands, while most Member States have indicated their intention to produce such plans. A few have however indicated that they will not produce national plans and will rather rely on human rights and business sections in existing CSR national plans (e.g. Denmark).

In its June 2012 Discussion Paper on National Implementation Plans, the European Group of NHRIs sets out recommendations for minimum standards that should be met by EU Member States' national plans on human rights and business. These include:

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<sup>3</sup>

<sup>4</sup> <http://www.humanrights.dk/news/news?doc=21852>

- Having separate human rights and business and CSR plans
- Undertaking a national baseline study and gap analysis against the UN Guiding Principles on Business and Human Rights on which to base a national plan
- Ensuring clear ownership of the national plan within government
- Providing for periodic monitoring and progress monitoring on the basis of verifiable criteria
- Ensuring a participatory process for the development of the plan, including representation of the views of affected rightsholders
- Overall ensuring a process that is transparency and adequately resourced
- All plans should address the UNGPs in full, and EU as well as international standards.

#### **4. Danish Institute for Human Rights – UNGPs National Baseline Study**

DIHR, Denmark's NHRI, is currently developing a national baseline study to assess the extent of implementation of the UN Guiding Principles on Business and Human Rights in the Danish national context, through legislation, policy and performance. As part of its process, DIHR will aim to undertake cross-sector consultation. DIHR further aims to publish the resulting methodology and templates by end May 2013. The Baseline Study will provide the basis for the human rights and business section of DIHR's National Status Report in Human Rights in Denmark.

Long-range issues to consider, with regard to such methodologies and templates, are the need, over time, to move towards cross-EU comparability of data on implementation, and the development of benchmarks for expected performance as well as good practice standards, with reference to key instruments such as the UN Guiding Principles as well as EU regional human rights standards.