



## **A Challenge to End Business-Related Human Rights Abuses**

### **Business and Human Rights in Western Europe: A Regional Briefing Paper**

**May 2014**

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#### **Executive summary**

In June 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights. These Principles outline for states and companies a set of expectations to protect, respect, and remedy human rights in the context of business. Three years after their endorsement by Western European governments and many companies, what are some of the key achievements in the region, and where do companies and governments continue to fall short in protecting against business-related human rights abuses?<sup>1</sup>

The briefing highlights that business-related human rights abuses continue in the region, especially affecting vulnerable groups such as migrant workers, and minorities. Most governments have been slow to develop action plans to implement the Guiding Principles: only three have finalised their plans, despite an invitation in the European Commission's 2011 CSR Strategy for all EU member states to develop such plans by 2012. At the same time, the briefing emphasises the leading role that some companies and governments in the region have taken in the field of business and human rights. The briefing identifies key areas of concern, explores existing progress at addressing them, and suggests recommendations for action.

Despite international standards and national regulation, forced labour and other forms of labour exploitation constitute some of the most egregious abuses in the region. The International Labour Organization estimates that 880,000 workers were engaged in forced labour in Europe in 2012. Most forced labour cases in this briefing involve migrant workers, at the bottom of labour-intensive industries' supply chains. Examples include Chinese migrants in clothing sweatshops in Italy and Spain, African and Eastern European tomato-pickers in Italy and Lithuanians working on a chicken farm in the UK. With a significant immigrant population, there is a pressing need for companies and governments in the region to improve the protection of migrant workers' rights and eliminate labour exploitation throughout supply chains.

Discrimination at work or by companies remains another key issue in the region – the briefing covers examples of discrimination based on ethnicity, race, religion, disability, gender, and sexual orientation. In a time of economic recovery, discrimination in hiring is especially concerning. Studies in France, Germany, the Netherlands, Sweden and the UK have found employers discriminating against job applicants of certain ethnic or religious groups. Companies are recommended to adopt anti-discrimination policies and implement rigorous trainings to help avoid these discriminatory practices.

An emerging concern in recent years is related to internet and communications technology (ICT) firms' involvement in government surveillance programmes infringing on privacy rights. Revelations about the US PRISM programme as well as surveillance by European governments, heightened concerns about governments accessing user data and content without their knowledge. The briefing highlights several lawsuits brought against both companies and governments related to infringement of privacy rights. Some companies have taken the initiative to protect privacy rights through multi-stakeholder initiatives and by calling on governments to reform surveillance, but civil society calls for stronger actions.

Other areas of concern highlighted by the briefing include: health & safety at work; concerns related to private military & security companies including excessive use of force, intimidation and threats; concerns related to extractives; and tax avoidance limiting governments' resources that could be used to tackle poverty and provide social services.

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<sup>1</sup> The "Key concerns" section of the briefing focuses on companies' impacts within the region rather than overseas. However, its "Positive steps" and "Access to remedy" sections also provide information on initiatives and regulatory developments that have extraterritorial impact. The briefing is not exhaustive, but focuses on key developments in Western Europe since the adoption of the UN Guiding Principles.

Companies and governments are undertaking various initiatives to address these, and other concerns. Companies have started adopting human rights policies, training their employees on human rights, and some are also undertaking human rights impact assessments to avoid directly or indirectly contributing to human rights abuses. Some are acting on their own while other initiatives span across different companies in an industry, or even across industries. The briefing refers to several of these initiatives, including by the internet & communications technology, tourism, and clothing sectors.

As of April 2014, Denmark, the Netherlands and the UK have published National Action Plans on business and human rights, setting out the governments' roadmap to implement the UN Guiding Principles. Civil society organizations have welcomed these plans, but challenge governments with existing plans to follow-through with them rigorously and for those without, to enact comprehensive and action-oriented plans with concrete legal and regulatory applications. The briefing provides information on other plans in progress and initiatives focused on supporting the development of national action plans.

The European Union (EU) also plays a key role in advancing business and human rights through guidance and regulations. The European Commission issued guidance for the ICT, oil & gas, and recruitment sectors, as well as a guide for small and medium size enterprises on implementing the UN Guiding Principles. Moreover, the briefing provides information on regulatory proposals at various stages of discussions and approval on non-financial reporting requirements, conflict minerals, transparency of payments, and data protection. Civil society has criticised the influence of business lobbying as well as governments weakening some of these proposals. Nevertheless, the regulations would represent important developments if adopted and implemented.

Access to justice for victims remains an area of continued concern in Western Europe. Although EU member states are required to accept jurisdiction for civil claims against defendants domiciled in their territory, victims continue to face obstacles in accessing remedies, especially in relation to abuses committed abroad. These may include limitations to extraterritorial jurisdiction, lack of financial resources or legal aid, corporate influence, as well as other legal and practical obstacles. The briefing highlights recent studies and on-going projects to improve victims' access to judicial and non-judicial remedies in Europe.

Since 2011, 75% of companies based in Western Europe responded when approached by Business & Human Rights Resource Centre about concerns about human rights impacts around the world. Nevertheless, it is concerning that only 64% of companies responded to invitations when the impacts were within Western Europe as opposed to elsewhere in the world. This illustrates the importance of keeping the spotlight on companies' impacts on people in the region. See details of our company response mechanism and the full list of all invitations to respond in the [Annex](#) of this briefing.

The briefing refers to cases in or involving companies headquartered in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and UK. Our [Eastern Europe & Central Asia briefings](#) complements this coverage.

Western European governments and companies headquartered in the region are in a unique position to take the lead on ensuring stronger protections for victims of business-related human rights abuses around the world. Companies based in the region have operations spanning worldwide. Thus any positive steps can have far-reaching impacts. The briefing concludes with [specific recommendations](#) for companies and governments to seize this opportunity and exhibit leadership in business and human rights, including:

- Companies to develop a human rights policy with commitment and leadership from the top; carry out due diligence in supply chains; provide remedy for any human rights abuse.
- Governments to promote human rights at the core of business models by implementing National Action Plans for the UN Guiding Principles; enact regulation to encourage and enforce business respect for human rights; provide guidance to companies; require human rights compliance for all public procurement contracts; ensure access to remedy for victims.
- The European Union to adopt strong regulation to promote human rights including presently on conflict minerals, non-financial reporting, tax avoidance, and data protection; monitor member states compliance; issue further guidance for companies to respect human rights.