

Report: Multi-stakeholder Informal consultation on Business and Human Rights -
11/06/2018

The European External Action Service, in collaboration with the European Commission and with the support of the European Instrument for Democracy and Human Rights, organised a consultation with stakeholders on 11 June 2018 regarding EU policies on business and human rights. The main objective was to deepen our engagement vis-à-vis the relevant stakeholders in the field of Business and Human Rights and gather feedback and ideas from stakeholders regarding the EU policy.

On EU best practices and gaps, [REDACTED] (EEAS) [REDACTED] (European Commission) began the day speaking of the EU's action thus far on business and human rights, both in external relations and internal policies. They highlighted amongst others awareness raising on the UN Guiding Principles, support to human rights defenders, work in the framework of the multistakeholders platform on the Sustainable Development Goals, mainstreaming the environmental and social aspects of CSR, the conflict mineral regulation and guidelines on procurement. Heidi Hautala (European Parliament) expressed the importance of internal and external coherence and called for due diligence legislation from the EU. This was echoed by [REDACTED] (Business & Human Rights Resource Centre) who spoke of due diligence and its ability to level the playing field, suggesting EU framework guidelines as an interim. [REDACTED] (CSR Europe) focussed on the need for the business and human rights landscape to speak the language of business and help them to translate into operationally meaningful steps. Discussion focussed around the need for the EU to take more decisive action, either with due diligence legislation or a business and human rights action plan. The use of the Sustainable Development Goals as a communicable vehicle was brought up. Business organisations highlighted the difficulty of creating a level playing field with EU wide legislation and expressed the need to 'know and show' rather than 'name and shame'.

On UN tracks, [REDACTED] (EEAS) introduced the EU action at multilateral level, including its support to the UN working group on business and human rights, active participation in the annual Business and Human Rights forum and support of the OHCHR project on accountability and remedy. The EU is currently reflecting on potential further legal development and participates constructively in the debates around a potential legally binding instrument. [REDACTED] (FIDH) also brought up the idea of an EU action plan, as well as highlighting that a treaty could fill gaps in pre-existing processes, for example by making National Action Plans mandatory. The narrative should put victims at the centre, improving their protection and access to justice. It would have great symbolic effect to establish as a principle of international law that companies should respect human rights. [REDACTED] (IOE) focussed on the positives in that the sphere of business and human rights has greatly advanced since 2002 where due diligence was on no one's agenda, but highlighted the need for capacity building. He highlighted some flaws in the current process discussing a legally binding instrument. [REDACTED] (ITUC) urged the EU to be active, open minded and constructive in the treaty process. [REDACTED] (ICJ) underlined the need for any treaty to build on UN Guiding Principles and use the expertise of the UN Working Group on business and human rights. Discussion focussed around the perceived low level of engagement of the EU so far and its reasoning for this with some suggestions of where the priorities were, including capacity building, strengthening grievance processes and extraterritoriality.

On enhancing partnerships, [REDACTED] (DIHR) spoke about the benefits and challenges of National Action Plans and how the fact that they enhanced partnerships was not to be underestimated as a positive. [REDACTED] (Business Europe) highlighted the need to coordinate internally and argued that partnerships are, and should be, different depending on the issues involved. [REDACTED] (LHR) gave a specific example of a successful partnership and offered insights into what worked, and [REDACTED] (Global Witness) complemented this by talking more generally about multi-stakeholder groups and what makes them effective. Discussion picked up the value of local governments ability to enhance partnerships as well as questions on how marginalised rights holders could be involved. The Council of Europe

announced that they are working on an online platform for sharing good practices on National Action Plans.

On access to remedy, [REDACTED] (FRA) presented the Fundamental Rights Agency's study from 2017 on access to remedy and discussed their current project to stocktake the situation across the 28 member states. [REDACTED] (IPMGSD) spoke about the implications for accessing remedy for those who are not recognised as having rights and the dangerous situations in which they can find themselves. She highlighted specific challenges faced by indigenous peoples and conditions for effective remedies, including the need to respect traditional customary justice systems. Grievance systems should be culturally and gender sensitive. [REDACTED] (Amfori) [REDACTED] (Heineken) reflected on their respective organisations grievance mechanisms, what works well and how companies could be encouraged to take similar actions. The importance of capacity building and strengthening social dialogue was emphasised. During the discussion, participants raised the need to strengthen state based non-judicial mechanisms, like the OECD National Contact Points.

Finally, [REDACTED] (FHIRST) gave closing remarks urging the EU to deal with the elephant in the room, which he identified as the role of corporations. He also highlighted the important role of local governments, who should not be forgotten as key stakeholders on business and human rights. He outlined the components of good due diligence and argued that now was the time for discourse to become action as a race to the top means working from the bottom up.

Many **recommendations for EU policies** and concrete actions were voiced during the day, including:

- The adoption of an EU Business and Human Rights action plan to fill the gaps in the implementation of the UN guiding Principles, enhance policy coherence and steer the work of Member States on national action plans
- Strengthening the work on access to remedy based on recommendations from the Fundamental Rights Agency.
- Working towards an EU mandatory due diligence legislation
- Strengthening the work of EU Delegations who are perceived as having a great potential for inter alia advising companies on risks related to human rights in host countries, advising victims on access to remedy or facilitating multi-stakeholders dialogues
- Making full use of the SDGs as a hook to mainstream business and human rights issues in all relevant policies
- Enhancing peer learning on the national action plans amongst member states and beyond.
- Making more use of all UN tracks to promote business and human rights, e.g. working with partner countries on the implementation of the UN working group recommendations after country visits
- Engaging constructively in the discussions at UN level on a legally binding instrument, focusing on the gaps in the implementation of the UN Guiding Principles, on victim's rights and access to remedy.
- Investing in capacity building on business and human rights with partner countries