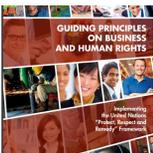


Pillar I

States' existing obligations to respect, protect and fulfill human rights and fundamental freedoms

1



Part I-The State duty to protect human rights. Which is the scope?

Foundational principles:

UNGP 1. States must protect against human rights abuse within their territory and/or jurisdiction.

UNGP 2. States should set out clearly the expectation that businesses domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

Operational principles:

UNGP 3. States should

1. Enforce laws (...) **requiring business enterprises to respect human rights**
2. Ensure that other laws and policies governing (...) businesses **enable businesses' respect for human rights.**
3. **Provide effective guidance** to businesses on how to respect human rights throughout their operations.
4. **Encourage, and (require) businesses to communicate** how they address their human rights impacts.

2

Methodology

Method of assessment

The toolkit on NAPs (2017)
The framework of indicators developed by the High Commissioner on Human Rights (OHCHR)

- **Structural indicators:** *What have states done to address their international human rights obligations?*
- **Process indicators:** *What have states done to comply with the human rights legal framework?*
- **Outcome indicators:** *Which are the results of those legislative and policy measures?*

Methods used

- Legal (and case law) and policy analysis
- e-communication and /or interviews with public entities.

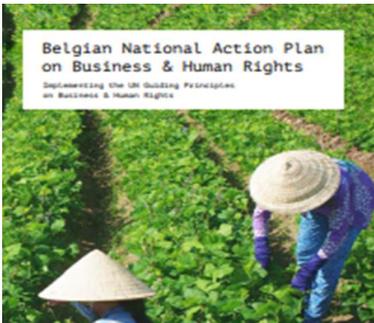
Entities contacted so far

Bio / Credendo / FIT/ Awex / Sofinex / FOD/FPS BZ-AE / OECD NCP / NBB / FSNA / FOD/SPS Justice / IFDD/FIDO / Vlaio Vlaanderen / hub.Brussels / Enabel / BMI-SBI / Agentschap voor Buitenlandse Handel/Agence pour le Commerce Extérieur / Wallonie SPw / Finexpo / SPF Environnement et santé

3

Observation period? 2017 -2020
Why? After the adoption of the NAP

Main sources



International Parameters

- IOs, CoE, EU hard and soft law HR standards
- UNGPs en UN Reporting framework
- Second revised version of draft treaty (2020)
- EU HRDD Draft Directive (proposal of the EP).

Available reports from IOs, CoE, NGOs, EU, UN treaty bodies, national organizations. Academic publications

Stakeholder consultations and position papers

COUP DE PROJECTEUR SUR LE PLAN D'ACTION NATIONAL:
« ENTREPRISES ET DROITS DE L'HOMME »

4

Preliminary recommendations

1. Enforce laws (...) requiring businesses to respect human rights : Mandatory HRDD in value chains ?

- Explore the possibilities to adopt a mandatory due diligence in the terms given by the draft of the EU Directive adapted to the Belgian context, and covering human rights, environmental protection and governance.
- Engage in the negotiation of the UN draft treaty (e.g. multistakeholder consultations and expert groups).

2. Ensure that other laws and policies governing (...) businesses enable businesses' respect for human rights.

- Crucial areas for the UNGPs (NBA template DIHR and ICAR 2017).

5

Table 1: Pillar I Part 1. Main findings related to the implementation of the UNGPs

| Indicator | New binding rules are in place | New policies and processes have been adopted | NAP actions implemented | Actions to protect vulnerable communities have been taken | Actions to increase leverage on the GVCs have been done |
|---|--------------------------------|--|-------------------------|---|---|
| Sector | | | | | |
| Implementation of (a mandatory) due diligence | No | No | No | Partially | Partially |
| Corporate responsibility | Partially | Yes | No | No | No |
| Corporate structures and governance | Partially | Yes | No | No | No |
| Labour, occupational health and safety | Yes | Yes | Yes | Yes | Partially |
| Protection against discrimination | Yes | Yes | No action | Yes | No |
| Environmental protection | Yes | Yes | No action | Yes | No |
| Trade and investment | No | Yes | Partially | No | No |
| Anti-bribery and corruption measures | Yes | Yes | Partially | No | No |
| Consumer protection | Yes | Yes | No action | Yes | Partially |

6

Preliminary recommendations

2. Ensure that other laws and policies enable businesses' respect for human rights (.../...)

Corporate responsibility and accountability.

- Approval of the tort law reform.
- Assessment of whether a RD to this bill or an amendment of the Code of Corporate governance could provide for a mandatory due diligence procedures.
- Assessment on whether human rights and environmental risks can be included in D&O insurance policies to improve victims rights.

Environmental protection

- Ratification of Protocol on Strategic Environmental Assessment to the Espoo Convention.
- Continue efforts to identify and address risks of the most polluting industries, including nitrates.
- Particular attention to sectors with high risks in value chains: agro-fuels, minerals, timber, deep-sea mining.

7

Preliminary recommendations

2. Ensure that other laws and policies enable businesses' respect for human rights (.../...)

Labour conditions and human trafficking

- Assessment of the recommendations from Myria, GRECO and the EU regarding the protection of victims of undeclared work and Trafficking human beings.
- RD that allows Myria and other CSOs to act in THB cases.
- Continue efforts to tackle new (atypical) employment: Gig workers.
- Continue with cooperation agreements with other countries where these chains operate
- Structural and coordinated measures to address discrimination in all economic sectors.

8

Preliminary recommendations

2. Ensure that other laws and policies enable businesses' respect for human rights (.../...)

Trade and Investment /consumer rights

- Ratification of the ILO Convention 169 indigenous and Tribal Peoples Convention,
- Support to the UN Declaration on the Rights of Peasants (2018) to the FAO VGGT - Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests.
- Promotion of assessment of clauses of EU trade and investment agreements to assess salient human rights at risk, such as deforestation, land grabbing, and biopiracy.
- Impact assessment on human rights when supporting lawsuits of its businesses against developing countries.
- Impact assessment of products and services of EU companies on consumers in third countries.
- Continue efforts to raise systematic awareness about responsible consumption.

9

Preliminary recommendations

3. Provide effective guidance on how to respect human rights:

- Systematic promotion of the adoption of GFAs.
- Websites, brochures need a permanent update and online availability.
- Systematic dissemination through diplomatic channels for stakeholders outside Belgium and through courts for victims.
- Systematic capacity building of judicial, diplomatic and administrative officers.
E.g. Policies to raise awareness of children's rights in the value chains.

10

Preliminary recommendations

4. Encourage, and (require) businesses (and state agencies) to communicate how they address their human rights impacts.

- A RD to the BCAC: to provide clear guidelines on the content and scope of the NFR, focusing on **salient human rights at risk** in value chains, beyond the materiality assessment.
- Systematic improvement of the **information available to stakeholders**: statistics on crucial areas for human rights.

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Part I-B State-Business nexus Which is the scope?



UNGP 4. States should protect against human rights abuses by **state-owned companies (SOCs), or by private organisations that receive economic support and services from the state by requiring (when appropriate) human rights due diligence.**

UNGP 5. States should oversee that their international human rights obligations are respected when **they contract with, or legislate for, businesses to provide services that may have an impact on human rights.**

UNGP 6. States should promote respect for human rights by **business enterprises with which they conduct commercial transactions.**

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Table 16: Actions in line with UNGPs -Summary

| Sector | Indicator | New binding rules are in place | New policies and processes have been adopted | NAP actions implemented | Actions to protect vulnerable communities have been taken | Actions to increase leverage on the GVCs have been done |
|---|-----------|--------------------------------|--|-------------------------|---|---|
| The state as an economic actor | | | | | | |
| Sustainable public procurement | Partially | Partially | Partially | No | No | |
| State-owned companies (SOC) | Partially | No | No | No | No | |
| Businesses providing services of general interest | Partially | No | No | Yes | No | |
| Responsive financing/support for the internationalisation of businesses | No | No | Partially | No | Partially | |
| Dev. cooperation linked to business | Yes | Partially | Partially | Partially | Yes | |

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Preliminary recommendations

The state as economic actor

- Further empirical analysis on how SPP is being implemented to assess the effectiveness of these measures.
- Adoption of the RD that defines the joint responsibility of contractors and subcontractors of state agencies.
- Recognise social labels and audits that comply with international environmental and human rights standards (and then, mandatory HRDD).
- Structural measures and targeted policies to promote mandatory due diligence for SOCs', in accordance with their size and sectors.

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Preliminary recommendations

Businesses providing services of general interest

- Structural measures or policies to integrate the UNGPs together with the SDGs into the activities of services of general interest.
- Framing the competences of ombudspersons in SGI in human rights terms.
- Guidance for users of entities that provide SGI and social protection to make them more accessible to vulnerable communities.

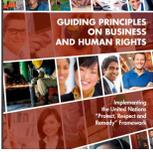
15

Preliminary recommendations

Economic support to businesses and development cooperation linked to businesses

- The CSR and SDG monitoring schemes need to explicitly integrate the UNGPs.
- Permanent monitoring of compliance with human rights, environmental (and good governance) standards.
- The leverage of these state agencies is crucial in the implementation of the UNGPs in value chains: Adoption of structural measures and policies to implement systematic DD and IA procedures (before granting the support, and oversee compliance during the execution of the projects).
- Belgian entities that provide economic support need to implement an OIGM to allow victims and stakeholders to raise concerns of adverse effects caused by Belgian companies and their value chains.

16



Part I-C Human rights in conflict-affected and high risk areas

Pillar I UNGP 7: Assessing the role of the Belgian state to ensure that companies operating in CAHRAs are not involved with human rights abuses

17

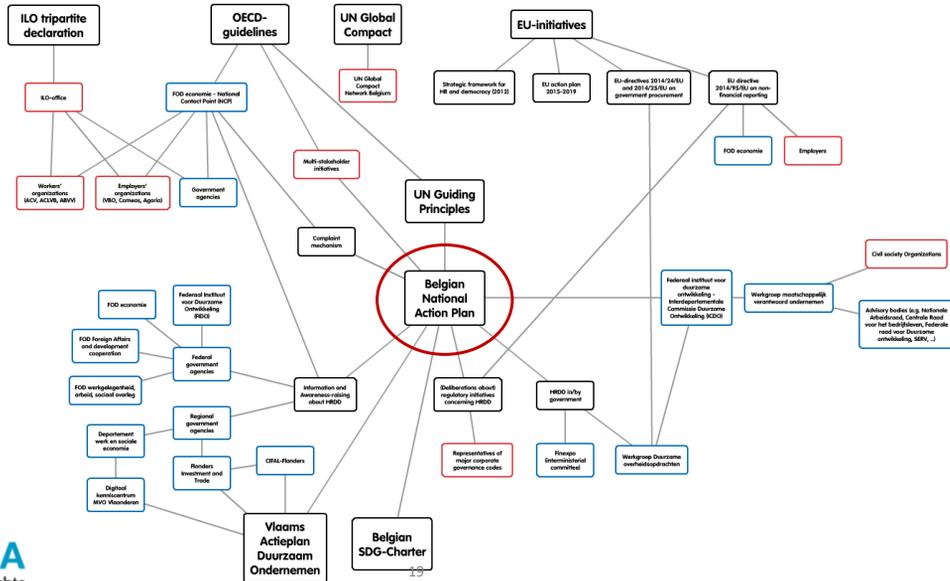
Conclusions UNGP 7

| Status and gaps | Recommendations |
|---|---|
| <ul style="list-style-type: none"> • There is no public policy or guideline on business respect of human rights in CAHRAs • No systematic guidance through embassies is given to businesses about potential “red flags” in conflict settings • State support to sector federations on business conducted in CAHRAs is lacking • In the arms trade sector, HRDD is most often left solely to the arms export control authority, instead of requiring the arms industry to co-conduct their own HRDD. | <ul style="list-style-type: none"> • Belgium should systematically ensure that businesses engage in conflict-sensitive heightened due diligence when operating in conflict-affected areas • The State should support sector federations and companies on the issue of human rights risks in CAHRAs • Embassies in CAHRAs, BIO and Credendo should provide conflict-sensitive advisory services and tools to the private sector to assist them in respecting human rights in conflict-affected regions • All Belgian regions should assist companies to develop or improve their internal compliance programmes to comply with arms export control procedures. |

18

18

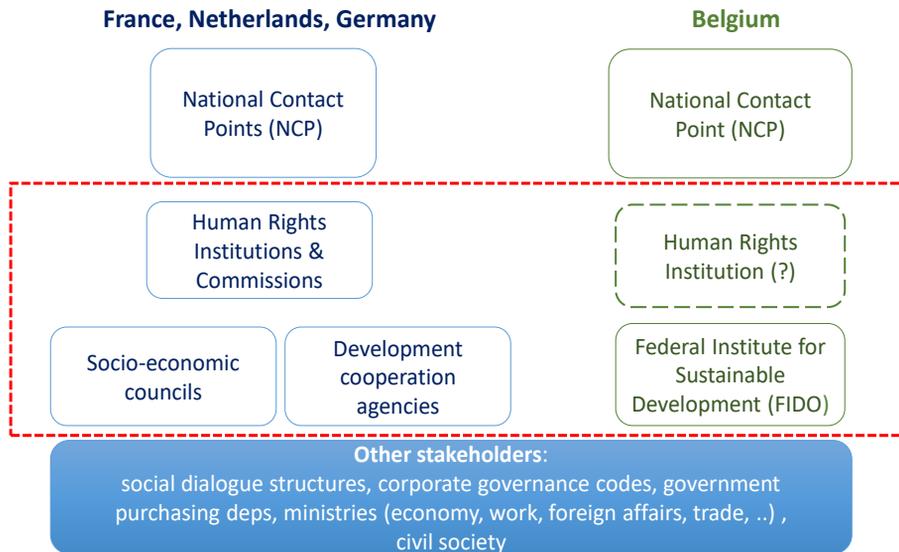
Institutional landscape business & human rights (2018)



Belgian NBA
Business and Human Rights

19

Policy coherence: comparing NAP structures



20

20

Pijler I: Policy coherence

| Status en lacunes | Aanbevelingen |
|---|---|
| <ul style="list-style-type: none"> ➤ FIDO/IFDD and Min of FA have explored the existing policy space ➤ Policy coherence does not feature strongly in the NAP, nor does it allocate clear roles and responsibilities ➤ Awareness & expertise on UNGPs limited to small number of units ➤ Limited efforts to align SDG efforts with UNGP agenda | <ul style="list-style-type: none"> ➤ Need for clear role division, mandate and sufficient resources for governmental agencies to support implementation of UNGPs ➤ More efforts needed to integrate UNGP agenda in SDG policies and actions |

Questions and answers

- Please raise your hand if you have a question or remark
- Be as concise as possible
- Questions / remarks can be asked in your language of preference.

see list of participants ->

