

Irish Human Rights and Equality Commission

**Submission on Ireland's National Action Plan on
Business and Human Rights**

March 2015



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**
Irish Human Rights and Equality Commission

1. Executive Summary

The Irish Human Rights and Equality Commission ('the Commission') welcomes the opportunity to contribute to the consultation by the Department of Foreign Affairs and Trade on its development of a National Action Plan on business and human rights, aimed at implementing the United Nations Guiding Principles on business and human rights. A National Action Plan on business and human rights presents a significant opportunity for ensuring that human rights and equality are embedded in the activities of Irish businesses, both at home and abroad, and for the State to outline how it meets its obligations under international law to protect human rights from being infringed by third parties, including business enterprises. The primary focus of this submission is on the State duty to protect human rights, as set out in Pillar 1 of the Guiding Principles, and the obligation to ensure adequate remedies in the event of breaches of human rights, as addressed in Pillar 3 of the Guiding Principles.

With regard to the State duty to protect, the submission addresses core human rights obligations, including equality and non-discrimination, the enhanced requirements where a State-business nexus exists, and the role of due diligence, public procurement and reporting in this context. The Commission recommends the establishment of a National Committee on Business and Human Rights, comprising representatives from across relevant Government Departments, statutory bodies, civil society and business, with responsibility for overseeing the implementation of the National Action Plan, for monitoring and evaluating progress and for ensuring policy coherence. Ratification by Ireland of a number of key international instruments of relevance in the context of business and human rights is also recommended. The Commission considers that the National Action Plan must include a strong emphasis on equality and non-discrimination, in particular gender equality and the rights of women workers.

The need to ensure adequate remedies for victims is a fundamental aspect of the United Nations Guiding Principles on business and human rights and a key component of a State's human rights obligations. The Commission recommends that the National Action Plan provides clarification as to how Ireland guarantees an effective remedy for human rights harms involving Irish businesses, whether occurring in Ireland or overseas. The Commission also recommends that the Irish Government undertakes a thorough review of existing legislation and the operation of State judicial and non-judicial mechanisms to ensure access to an effective remedy and to identify and address any legal, procedural or practical barriers which may exist.

The Commission welcomes the open and consultative approach adopted by the Department of Foreign Affairs and Trade in its preparation of a National Action Plan on business and human rights and looks forward to the publication of a draft National Action Plan, the Commission intends to use the plan as a guiding document to the Commission in fulfilling its role as monitor of equality and human rights in this context.

2. Introduction

The Irish Human Rights and Equality Commission was established by the Irish Human Rights and Equality Commission Act 2014.¹ The Commission has a statutory remit to protect and promote human rights and equality in the State, to promote a culture of respect for human rights, equality and intercultural understanding and to promote understanding and awareness of the importance of human rights and equality.² The Commission is tasked with reviewing the adequacy and effectiveness of law, policy and practice relating to the protection of human rights and equality and with making recommendations to Government on measures to strengthen, protect and uphold human rights and equality accordingly.³

The Commission welcomes the opportunity to contribute to the consultation by the Department of Foreign Affairs and Trade on its development of a National Action Plan on business and human rights. The Commission supports the statement by the Minister for Foreign Affairs and Trade, Charlie Flanagan T.D, that it is 'important for Ireland's standing internationally and the reputation of Irish companies that we signal our commitment to placing human rights firmly on the business agenda'.⁴ A National Action Plan on business and human rights presents a significant opportunity for ensuring that human rights and equality become embedded in the activities of Irish businesses, at home and abroad, and for the State to address its obligations to protect human rights from being infringed by third parties, including business enterprises.⁵ The National Action Plan on business and human rights is aimed at implementing the United Nations Guiding Principles on business and human rights ('Guiding Principles'),⁶ a policy document unanimously endorsed by the United Nations Human Rights Council in July 2011.⁷ Both the European Commission and the United Nations Human Rights Council have called on States to adopt National Action Plans on business and human rights, in order to give 'effective implementation' to the Guiding Principles.⁸

¹ The Irish Human Rights and Equality Commission Act 2014 merged the former Irish Human Rights Commission and the former Equality Authority into a single enhanced body.

² Section 10(1)(a)-(e) of the 2014 Act.

³ Section 10(2)(b) and Section 10(2)(d) of the 2014 Act.

⁴ Answer to Oireachtas Question by Mr. Charlie Flanagan T.D, Minister for Foreign Affairs and Trade, 26 November 2014, available at:

<https://www.dfa.ie/media/dfa/alldfawebitemedia/ourrolesandpolicies/ourwork/dfatngoforumonhumanrights/Minister-Flanagan-answer-to-parliamentary-question-on-Business-and-Human-Rights.pdf> <last accessed 1 March 2015>.

⁵ See further Irish Centre for Human Rights, Business and Human Rights in Ireland: Context, International Standards and Recommendations, 2012, available at: <http://www.nuigalway.ie/media/intranet/Business-and-Human-Rights-Report.pdf> <last accessed 1 March 2015>.

⁶ Report of the Special Representative of the Secretary-General on the issues of human rights, transnational corporations and other business enterprises, John Ruggie, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 21 March 2011, A/HRC/17/31.

⁷ Human Rights Council, 'Human rights and transnational corporations and other business enterprises', Resolution A/HRC/RES/17/4, 6 July 2011.

⁸ Human Rights Council, 'Human rights and transnational corporations and other business enterprises', Resolution A/HRC/RES/26/22, 15 July 2014, paragraph 2; European Commission, 'A renewed EU strategy 2011-14 for Corporate Social Responsibility', Brussels, 25 November 2011, p. 14 http://ec.europa.eu/enterprise/policies/sustainablebusiness/files/csr/new-csr/act_en.pdf <last accessed 1 March 2015>.

In the context of business and human rights, it is firmly recognised that ‘the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State’.⁹ The important role of national human rights institutions in the context of business and human rights is recognised in the Guiding Principles:

National human rights institutions that comply with the Paris Principles have an important role to play in helping States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, and in providing guidance on human rights also to business enterprises and other non-State actors.¹⁰

The Commission has previously worked with the Human Rights Commission of Sierra Leone, in developing guidelines for monitoring business and human rights.¹¹ The Commission, and the Equality Authority before it, has an established track record in promoting equality and non-discrimination in employment and the provision of goods and services. The Commission has also contributed to the corporate social responsibility initiatives of the Department of Jobs, Enterprise and Innovation.

In view of the Commission’s remit, the primary focus of this submission is on the State’s duty to protect human rights, as set out in Pillar 1 of the Guiding Principles, and its attendant obligation to ensure adequate remedies in the event of breaches of human rights, as addressed in Pillar 3 of the Guiding Principles. Section 3 of this submission provides an overview of the legal and policy context with regard to business and human rights. The State’s duty to protect is addressed in Section 4, which addresses core obligations, equality and non-discrimination, the State-business nexus, due diligence, procurement and reporting. The Commission considers it appropriate to address its recommendations to legal and policy measures that the State should take in order to meet its human rights obligations in this context, and while welcoming the enunciation of a corporate responsibility to respect human rights under Pillar 2 of the Guiding Principles, the Commission is of the view that the State, acting through its relevant Government Departments and agencies, must ensure the necessary legal and policy framework is in place and that sufficient guidance is provided to business enterprises in order to ensure that they meet their responsibility. The Commission makes a number of recommendations relating to remedies in Section 5, in particular, that a thorough review of existing legislation and mechanisms be undertaken in order to ensure that in the event of human rights violations, that victims of business-related human rights have access to remedy in Ireland.

⁹ Human Rights Council, ‘Human rights and transnational corporations and other business enterprises’, Resolution A/HRC/RES/26/22, 15 July 2014.

¹⁰ UN Guiding Principles on business and human rights, pp. 8-9.

¹¹ Human Rights Commission of Sierra Leone, ‘Guidelines for Monitoring Business and Human Rights in Sierra Leone’, 2013, available at: http://www.humanrights.dk/files/media/dokumenter/tools/sierra_leone_business_human_rights_guidelines_2013.pdf <last accessed 1 March 2015>.

Section 6 provides some concluding observations and lists the Commission’s recommendations to the Irish Government for the National Action Plan on business and human rights.

3. Legal and Policy Context

In the spirit of the 2014 legislation, the Commission encourages the government to ensure not only the development of the National Action Plan on human rights and business, but to commit to its implementation. The Commission welcomes this first step taken by Government through the development of a National Action Plan on business and human rights, although it is regrettable that an overarching national plan on human rights is not already in place to which this specific business and human rights plan could cohere. Ireland has a strong record of adherence to international human rights treaties, being a long-standing party to the core United Nations human rights treaties, as well as the European Convention on Human Rights.¹² In addition, Ireland is a party to a number of other international treaties which are of particular relevance in the context of business and human rights, including the eight fundamental conventions of the International Labour Organisation.¹³ The Irish Government has expressed its strong support for the International Labour Organisation’s ‘Decent Work Agenda’, with support provided through Irish Aid.¹⁴ Ireland has also adhered to the *Guidelines for Multinational Enterprises* prepared by the Organisation of Economic Cooperation and Development.¹⁵ Key policy statements from the Department of Foreign Affairs and Trade have affirmed Ireland’s commitment to the United Nations Guiding Principles on business and human rights,¹⁶ including an assurance that Irish development policy will be ‘guided by the UN policy framework for better managing business and human rights challenges’.¹⁷ In this context of business and human rights, the Commission notes that Ireland has not yet ratified the International

¹² Including the International Covenant on Civil and Political Rights, signed 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, ratified by Ireland 8 December 1989; International Covenant on Economic, Social and Cultural Rights, signed 16 December 1966, entered into force 3 January 1976, ratified by Ireland, 8 December 1989; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed 10 December 1984, entered into force, 26 June 1987, 1465 UNTS 85, ratified by Ireland, 11 April 2002; Convention for the Elimination of All Forms of Discrimination against Women, signed 18 December 1979, entered into force, 3 September 1981, 1249 UNTS 13, ratified by Ireland 23 December 1985; Convention for the Elimination of Racial Discrimination, signed 7 March 1966, entered into force, 4 January 1969, 660 UNTS 195, ratified by Ireland 29 December 2000; Convention on the Rights of the Child, signed 20 November 1989, entered into force, 2 September 1999, 1577 UNTS 3, ratified by Ireland 28 September 1992; European Convention on the Protection of Human Rights and Fundamental Freedoms, signed 4 November 1950, entered into force 3 September 1953, CETS 5, ratified by Ireland 25 February 1953.

¹³ Forced Labour Convention, 1930 (No. 29), ratified by Ireland 2 March 1931; Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified by Ireland, 4 June 1955; Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified by Ireland, 4 June 1955; Equal Remuneration Convention, 1951 (No. 100), ratified by Ireland, 18 December 1974, Abolition of Forced Labour Convention, 1957 (No. 105), ratified by Ireland, 11 June 1958, Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratified by Ireland, 22 April 1999; Minimum Age Convention, 1973 (No. 138), ratified by Ireland, 22 June 1978; Worst Forms of Child Labour Convention, 1999 (No. 182), ratified by Ireland, 20 December 1999. The full list of Ireland’s ratification of ILO treaties is available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102901 <last accessed 1 March 2015>.

¹⁴ See Department of Jobs, Enterprise and Innovation, ‘Address by Minister Sean Sherlock at the Edward Phelan Lecture in the Royal College of Surgeons on Thursday 14 February 2013’, available at: <http://www.djei.ie/press/2013/20130214b.htm> <last accessed 1 March 2015>.

¹⁵ See <http://www.oecd.org/investment/mne/oecdguidelinesformultinationalenterpriseslinks.htm> <last accessed 1 March 2015>.

¹⁶ Department of Foreign Affairs and Trade, *The Global Island; Ireland’s Foreign Policy for a Changing World*, 2015, p. 35.

¹⁷ Government of Ireland, *One World, One Future – Ireland’s Policy for International Development*, 2013, p. 21.

Convention on the Protection of the Rights of Migrant Workers and Members of their Families. The rights of migrant workers and their family members are particularly relevant in this context, given the vulnerable situations in which we know they may find themselves and the real risk of exploitation and abuse by business enterprises.¹⁸ Ireland, as a State party to the 1930 Forced Labour Convention, should consider ratification of the 2014 Protocol which requires States to prevent, punish and provide remedies for victims of forced or compulsory labour.¹⁹ The Commission also reiterates its previous recommendation to ratify the UN Convention on the Rights of Persons with Disabilities, as this could enhance existing equality legislation which aims to prevent discrimination by private enterprises against persons with disabilities.²⁰

The Department of Jobs, Enterprise and Innovation has referenced the United Nations Guiding Principles in the recently adopted National Plan on corporate social responsibility, *Good for Business, Good for Community*.²¹ The National Plan on corporate social responsibility can be seen to complement the forthcoming business and human rights plan, and its explicit reference to human rights is to be welcomed:

Ireland has a strong legislative base which supports the protection of human rights, including in the areas of labour law and equality. The Government believes that respect for, and upholding of human rights should be a fundamental part of any company's CSR activities.²²

While Ireland's legal protection of employment rights and its industrial relations framework do serve to provide protection in national laws and mechanisms of the human rights of employees as set out in Ireland's various international treaty commitments, the Commission has concerns in this context, including in relation to the recognition of trade unions, the failure of the Irish Government to fully implement the rights of employees to bargain collectively and the reduced role of Joint Labour Committees. In addition, the increasing precariousness of employment, as exemplified by the growth of zero-hour contracts, emphasises the enduring vulnerability of workers to exploitation in Ireland.²³ The Commission considers that the National Action Plan on business and human rights must include a commitment to ensuring that the protection of the rights of employees in Ireland fully accords with the highest international standards.

¹⁸ Irish Human Rights Commission and National Consultative Commission on Racism and Interculturalism, *Safeguarding the Rights of Migrant Workers and their Families*, April 2004; Migrant Rights Centre of Ireland, *Racism and Migrant Workers in Ireland*, Policy Paper 2010.

¹⁹ P029 – Protocol of 2014 to the Forced Labour Convention, 1930, adopted 11 June 2014.

²⁰ See for example Employment Equality Act (1998), Section 6(2)(g); Convention on the Rights of Persons with Disabilities, entered into force 3 May 2008, 2515 UNTS 3, Article 4(1)(e).

²¹ Department of Jobs, Enterprise and Innovation, *Good for Business, Good for Community*, Ireland's National Plan on Corporate Social Responsibility (2014-2016), p. 7.

²² *Good for Business, Good for Community*, p. 7.

²³ See Esther Lynch, Irish Congress of Trade Unions, 'Regulating for Decent Work; Combatting Unfair Terms in (Zero-Hour) Employment Contracts', May 2014, available at: http://www.ictu.ie/download/pdf/regulating_for_decent_work_final.pdf <last accessed 1 March 2015>.

Voluntary corporate social responsibility initiatives may make a positive contribution to human rights, they are no substitute for the meaningful legal protection of human rights. The Guiding Principles have referred to the interaction of such efforts and corporate respect for human rights:

Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations.²⁴

The Guiding Principles on business and human rights do not require the existence of a ‘business case’ for human rights to be adhered to by companies. While commercial or reputational benefits may accrue for a human rights compliant company, and such incentives may encourage business to respect human rights in certain instances, the approach underpinning the Guiding Principles is that human rights are to be respected by business enterprises at all times, irrespective of any commercial or other advantages that may arise. The European Commission has accepted the limits of a purely voluntary or self-regulating approach to corporate social responsibility, by recognising ‘the need to acknowledge the role that complementary regulation plays in creating an environment more conducive to enterprises voluntarily meeting their social responsibility’.²⁵

In developing a National Plan on business and human rights, the Commission emphasises the importance of a whole-of-Government approach and of ensuring policy coherence across the range of relevant State bodies and Government departments; as the previous Minister for Foreign Affairs and Trade, Eamon Gilmore T.D., acknowledged, the issues addressed in the Guiding Principles ‘span the policy responsibilities of a number of Government Departments and agencies’.²⁶ The Guiding Principles address the need for policy coherence:

States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State’s human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.²⁷

Ireland’s approach to business and human rights needs to be characterised by coherence at an international level, including through Irish Aid and in engagement with machinery of the United Nations, and in its domestic law and policy framework. In order to ensure policy coherence, and to

²⁴ UN Guiding Principles on business and human rights, p. 13.

²⁵ European Commission, *A renewed EU strategy 2011-14 for Corporate Social Responsibility*, Brussels, 25 October 2011, COM(2011) 681 final, p. 5.

²⁶ Tánaiste and Minister for Foreign Affairs and Trade, Written Answer No. 17, 28 March 2013, Dáil Éireann Debate, Vol. 798, No. 2.

²⁷ UN Guiding Principles on business and human rights, p. 11.

maintain a consultative approach, the Commission recommends the establishment of a National Committee on Business and Human Rights, comprising representatives from across relevant Government Departments, statutory bodies, civil society, business and relevant experts. This Committee should be responsible for overseeing the implementation of the National Action Plan on business and human rights, and for monitoring and evaluating progress.

The Commission recommends that in preparing the National Action Plan the Department of Foreign Affairs and Trade give consideration to the guidance provided by the United Nations Working Group on business and human rights.²⁸ The Commission considers that the following recommendations of the UN Working Group should be given consideration in the preparation of Ireland's National Action Plan:

- States should identify and map adverse human rights impacts occurring in the country's territory as well as abroad by companies domiciled in the country;
- States should identify gaps in State and business implementation of the Guiding Principles;
- States should share information and results of assessments and consultations with all interested stakeholders on a regular basis;
- Consultation on a draft National Action Plan should be held with all relevant stakeholders;
- The National Action Plan on business and human rights should be subject to regular review and revision, with specific timeframes included;
- Clear timelines should be provided for the implementation of actions defined in the National Action Plan on business and human rights.

4. State Duty to Protect

The Commission notes that Ireland's duty to protect human rights in the context of business activities is based on the State's existing legal commitments under the various international human rights treaties to which it is a party, as well as other relevant legal obligations. The UN Committee on Economic, Social and Cultural Rights, for example, has confirmed the obligation of States Parties to the Covenant 'to ensure that all economic, social and cultural rights laid down in the Covenant are fully respected and rights holders adequately protected in the context of corporate activities'.²⁹ The UN Committee on the Rights of the Child has clarified that a State will be responsible for violations of the rights of children by business enterprises 'where it has failed to undertake necessary, appropriate and reasonable measures to prevent and remedy such infringements or otherwise collaborated with

²⁸ United Nations Working Group on business and human rights, *Guidance on National Action Plans on business and human rights*, December 2014.

²⁹ UN Committee on Economic, Social and Cultural Rights, *Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights*, 20 May 2011, E/C.12/2011/1, p. 1.

or tolerated the infringements'.³⁰ The UN Committee on the Elimination of Discrimination Against Women has stated that States parties must 'eliminate discrimination by any public or private actor, which extends to acts of national corporations operating extraterritorially'.³¹ The Guiding Principles clarify the core requirement of the State's duty to protect under Pillar 1:

States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.³²

The Commission considers that Ireland's National Action Plan on business and human rights must address how the Government ensures that both preventative and remedial measures are adequately provided for in order to meet its obligation to protect human rights. In order to seek to prevent violations, the Guiding Principles set out that 'States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations'.³³ The need for remedies is addressed in Section 5.

a. Equality and Non-Discrimination

The Guiding Principles highlight the importance of equality and non-discrimination in the context of business and human rights, emphasising that the Guidelines should be implemented:

[...] in a non-discriminatory manner, with particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized, and with due regard to the different risks that may be faced by women and men.³⁴

In order to meet the State's duty to protect human rights, States are required to ensure that existing laws, such as those relating to anti-discrimination, are adequately enforced and that the necessary guidance is provided to business as to how they should respect human rights.³⁵ In terms of guidance from the State, this should include advice to companies on how to:

³⁰ UN Committee on the Rights of the Child, 'General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights', 15 March 2013, CRC/C/GC/16, p. 9.

³¹ UN Committee on the Elimination of Discrimination Against Women, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, 18 October 2013, p. 3.

³² UN Guiding Principles on business and human rights, p. 6.

³³ UN Guiding Principles on business and human rights, p. 8.

³⁴ UN Guiding Principles on business and human rights, p. 6.

³⁵ UN Guiding Principles on business and human rights, p. 7.

[...] consider effectively issues of gender, vulnerability and/or marginalisation, recognizing the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families.³⁶

Ireland's existing equality legislation should be a cornerstone of the National Action Plan on business and human rights, as it prohibits discrimination in employment and in the provision of goods or services on the grounds of gender, ethnicity, nationality, age, disability, civil status, family status, membership of the Traveller community, sexual orientation or religion.³⁷ Ireland must also uphold its various binding commitments under international and European law concerning equality and non-discrimination in this context; ratification of Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms would strengthen the existing protections against discrimination.³⁸ The Commission recommends that the National Action Plan on business and human rights place particular emphasis on equality and non-discrimination within the State duty to protect and the corporate responsibility to respect human rights.

The Commission considers that the National Action Plan must include a firm commitment to addressing gender equality and the rights of women workers. The UN Convention on the Elimination of All Forms of Discrimination Against Women binds Ireland to 'take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights'.³⁹ The Convention sets out that these rights include the right to work, to enjoy the same employment opportunities, to equal remuneration and treatment, to social security and paid leave, and to protection of health and safety. The Commission also draws attention to the Convention's provisions on discrimination against women on grounds of marriage or maternity, which require States parties to prohibit dismissals on the grounds of pregnancy or maternity leave and to ensure maternity leave with pay without loss of employment, seniority or social security.⁴⁰ Substantive protections can also be found in EU law which is binding on Ireland.⁴¹ The Commission reiterates its concerns regarding gender equality in the workplace, such as with regard to pregnancy discrimination, including maternity related dismissals.⁴² The Commission

³⁶ UN Guiding Principles on business and human rights, p. 7.

³⁷ See Employment Equality Acts 1998-2008; Equal Status Act, 2000.

³⁸ Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed on 4 November 2000, E.T.S. No. 177.

³⁹ UN Convention for the Elimination of All Forms of Discrimination against Women, signed 18 December 1979, entered into force, 3 September 1981, 1249 UNTS 13, ratified by Ireland 23 December 1985, Article 11.

⁴⁰ UN Convention for the Elimination of All Forms of Discrimination against Women, Article 11(2).

⁴¹ See Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Official Journal L 204/23, 26 July 2006.

⁴² See Irish Human Rights and Equality Commission, 'Pregnancy Discrimination in the Workplace: Legal Framework and Review of Legal Decisions 1999 to 2008', 2011; See also Equality Authority and ESRI, 'Gender and the Quality of Work; From Boom to Recession', 2014; Equality Authority and ESRI, 'Workplace Equality in the Recession: The Incidence and Impact of Equality Policies and Flexible Working', 2011.

recommends that the National Action Plan on business and human rights also include a commitment to ensuring gender equality on company boards.⁴³

b. Ensuring Respect for Human Rights throughout Business Operations

The National Action Plan on business and human rights must pay particular attention to the requirement in the Guiding Principles that States set out their expectation that ‘all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations’.⁴⁴ This key component of the State’s duty to protect is of significance for Ireland, given the country’s open market-based and export-oriented economy, which entails a large presence of multinational corporations, as well as substantial operations overseas by Irish companies. The Commission notes that the Irish Government has not, to date, called upon companies domiciled in Ireland to respect human rights in Ireland and throughout their global operations. The National Action Plan should provide the necessary guidance to Irish companies to ensure that they respect human rights in Ireland and understand that they hold transnational responsibility when operating overseas, and that they take measures to avoid negative impacts on human rights in their supply chains, such as trafficking in persons.⁴⁵ The Commission considers that the National Action Plan on business and human rights should clarify the meaning of ‘domicile’ in this context. The UN Committee on Economic, Social and Cultural Rights has stated that States should take steps to ‘prevent human rights contraventions abroad by corporations which have their main seat under their jurisdiction’, but without undermining the sovereignty or diminishing the obligations of the host State under the Covenant.⁴⁶ The Commission would caution against an overly restrictive approach to the meaning of domicile under the National Action Plan, in order that companies who may be incorporated elsewhere but with a significant presence in Ireland are covered in this context. This is necessary, given the nature of global business operations and the ever-growing presence of foreign companies in countries that may have poor human rights records, weak legal systems, or restrictions on media and civil society.⁴⁷

In the context of Principle 2 on the corporate responsibility to respect human rights, the Commission recalls that the UN Human Rights Committee asked Ireland in 2013 to provide information ‘on how the Government addresses concerns regarding the activities of private businesses based in the State

⁴³ See for example European Commission, ‘Women in economic decision-making in the EU: Progress Report’, 2012, available at: http://ec.europa.eu/justice/gender-equality/files/women-on-boards_en.pdf <last accessed 1 March 2015>.

⁴⁴ UN Guiding Principles on business and human rights, p. 7.

⁴⁵ See Report of the UN Special Rapporteur on trafficking in persons, especially women and children, A/67/261, 7 August 2012; Social Accountability International and Interchurch Organization for Development Cooperation, The United Nations Guiding Principles on Business and Human Rights; A Six-Step Approach to Supply Chain Implementation Handbook & Toolkit, 2012.

⁴⁶ UN Committee on Economic, Social and Cultural Rights, Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights’, 20 May 2011, E/C.12/2011/1, p. 2.

⁴⁷ See Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, 2011, Article 25(c).

party that may lead to violations of the Covenant outside the territory of the State party'.⁴⁸ When Ireland appeared before the UN Human Rights Committee in 2014 on the occasion of its Fourth Periodic Report under the International Covenant on Civil and Political Rights, specific reference was made to Irish construction companies operating in Qatar – Irish businesses having been encouraged by the Department of Jobs, Enterprise and Innovation to seek business opportunities in advance of the 2022 World Cup.⁴⁹ While the Department of Foreign Affairs and Trade expressed its concern regarding the poor respect of workers human rights in Qatar, it stated that it had not received any information to indicate the Irish companies were involved in the violation of human rights.⁵⁰ The Commission considers that the Guiding Principles require a proactive approach where Irish companies operate in such situations, and that in addition to making it clear to companies that they are expected to respect human rights throughout their operations, the National Action Plan on business and human rights must set out how the State intends to ensure preventive measures are in place in order to meet its human rights obligations in such contexts. It may be useful to consider for instance, the United Kingdom's National Action Plan on business and human rights which highlights the role that embassy staff and its 'Overseas Business Risk' service can play in providing the necessary guidance for business on human rights.⁵¹

The Guiding Principles on business and human rights set out that companies should not undermine States' ability to meet their human rights obligations.⁵² Corporate tax avoidance may deprive countries of the resources necessary to provide social programmes and fulfil their duties under international human rights law.⁵³ The UN Special Rapporteur on Extreme Poverty and Human Rights has interpreted the State's duty to protect under the Guiding Principles as requiring the regulation of business enterprise in order to prevent their engaging in or facilitating tax abuse.⁵⁴ The Commission recommends that the National Action Plan should acknowledge the negative human rights impact of tax avoidance both nationally and globally, and include a commitment by the Irish Government to adopt a human rights based approach to addressing tax avoidance. The Commission notes that the Dutch National Action Plan includes an acknowledgment by the Government of the Netherlands of

⁴⁸ UN Human Rights Committee, 'List of Issues in relation to the fourth periodic report of Ireland under the International Covenant on Civil and Political Rights', 22 November 2013, CCPR/c/IRL/Q/4, at para. 5.

⁴⁹ UN Human Rights Committee, Summary record of the 3078th meeting, 5 September 2014, CCPR/C/SR.3078, at para. 7; Irish Government News Service, 'Minister Jan O'Sullivan welcomes new export contracts and business alliances announced by Irish companies on Enterprise Ireland trade mission to Saudi Arabia and Qatar', 21 October 2011.

⁵⁰ UN Human Rights Committee, Summary record of the 3078th meeting, 5 September 2014, CCPR/C/SR.3078, pp. 6-7.

⁵¹ HM Government, Good for Business; Implementing the UN Guiding Principles on Business and Human Rights, 2013.

⁵² UN Guiding Principles on business and human rights, p. 13.

⁵³ See for example Christian Aid, 'Tax of Life; How Tax Dodging Undermines Irish Support to Poor Nations', 2010, available at: http://www.christianaid.org.uk/Images/Tax_of_Life_Report.pdf <last accessed 1 March 2015>; TASC, 'Tax Injustice; Following the Tax Trail', 2012, available at: http://www.tasc.ie/download/pdf/tasc_tax_injustice.pdf <last accessed 1 March 2015>; Sheila Killian, 'Driving the Getaway Car; Ireland, Tax and Development', Debt and Development Coalition, 2011, available at: <http://communityplatform.ie/uploads/driving%20the%20getaway%20car%20-%20Debt%20and%20Development.pdf> <last accessed 1 March 2015>.

⁵⁴ Report of the UN Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, A/HRC/26/28, 22 May 2014, paragraph 6.

'the growing number of international initiatives to promote transparency by means of tax disclosure'.⁵⁵

c. State Owned, Controlled or Supported Businesses

The National Action Plan on business and human rights must address how the Irish Government intends to ensure that State companies and businesses supported by the State respect human rights throughout their operations. The Guiding Principles consider that there are increased requirements on a State where a State-business nexus exists:

States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.⁵⁶

The Commentary to the Guiding Principles explains that 'the closer a business enterprise is to the State, or the more it relies on statutory authority or taxpayer support', the stronger the rationale for ensuring companies respect human rights.⁵⁷ In addition to owning or controlling a number of commercial enterprises,⁵⁸ Ireland provides considerable support and services to Irish and other business enterprises via Government Departments, principally the Department of Jobs, Enterprise and Innovation and the Department of Foreign Affairs and Trade, as well as through agencies such as Enterprise Ireland and IDA Ireland. Resources from the National Pension Reserve Fund have been directed to the Ireland Strategic Investment Fund and will support economic activity in the State by investing in Irish companies.⁵⁹ The development of a National Action Plan on business and human rights provides an opportunity to ensure that respect for human rights is embedded in all Irish based companies, especially those owned or controlled by the State, in receipt of support or services from the State, or in which the State invests or contracts with for products or services.⁶⁰ Consideration should also be given to ensuring that human rights compliance is required by companies licensed to operate in Ireland by the State, such as banks, credit unions and insurance providers, as well as those business enterprises granted licences in the areas of transport and communications, or concessions for oil and gas exploration or other activities with environmental impacts.

⁵⁵ Government of the Netherlands, National Action Plan on Business and Human Rights, December 2013, p. 10.

⁵⁶ UN Guiding Principles on business and human rights, p. 9.

⁵⁷ UN Guiding Principles on business and human rights, p. 9.

⁵⁸ For an overview see Forfás, 'The Role of State Owned Companies: Providing Infrastructure and Supporting Economic Recovery', July 2010, available at: per.gov.ie/wp-content/uploads/Document-6a-30-7-10.pdf <last accessed 1 March 2015>.

⁵⁹ See <http://www.ntma.ie/business-areas/ireland-strategic-investment-fund/> <last accessed 1 March 2015>.

⁶⁰ UN Guiding Principles on business and human rights, p. 10.

d. Due Diligence

The Commission considers that the effective protection of human rights in the context of business requires the State to go beyond merely informing companies of their responsibility to respect human rights. It must also include measures to ensure that human rights compliance is integrated in the activities of State owned or controlled enterprises and a prerequisite for companies wishing to do business with the State or avail of its support, services or investment. The Guiding Principles provide that States should consider requiring due diligence by such companies in order that they 'identify, prevent, mitigate and account for how they address their adverse human rights impacts'.⁶¹ This concept, which is a key component of Pillar 2 on the corporate responsibility to respect, involves companies 'assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed'.⁶² The Commission supports the view of the UN Committee on Economic, Social and Cultural Rights that States 'shall ensure that companies demonstrate due diligence to make certain that they do not impede the enjoyment of the Covenant rights by those who depend on or are negatively affected by their activities'.⁶³ The Danish National Action Plan on business and human rights notes that as part of certain State-business partnerships, companies 'are required and guided to undertake a CSR due diligence covering human rights, workers' rights, environment and anti-corruption and to follow-up with an action plan in order to mitigate adverse impacts of business activities on employees and society at large'.⁶⁴

e. Procurement and Reporting

In preparing a National Action Plan on business and human rights, the State should give serious consideration to how human rights compliance can be an eligibility criterion for Government procurement, investment by the State, participation in trade missions, and for listing on the Irish Stock Exchange. A public procurement policy provides an opportunity for ensuring business respect for human rights across a range of areas, such as equality and labour standards, as well as promoting the rights of disadvantaged groups and other social and environmental goals. The Northern Ireland Human Rights Commission has noted that under the State duty to protect as set out in the Guiding Principles, 'public authorities must ensure human rights are respected wherever they enter commercial transactions with businesses, which includes public procurement and contracting out of public services'.⁶⁵ EU Directive 2014/24 calls upon Member States to bring about the 'appropriate

⁶¹ UN Guiding Principles on business and human rights, p. 15.

⁶² UN Guiding Principles on business and human rights, p. 15.

⁶³ UN Committee on Economic, Social and Cultural Rights, Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights', 20 May 2011, E/C.12/2011/1, p. 2.

⁶⁴ Danish Government, *Danish National Action Plan – Implementation of the UN Guiding Principles on Business and Human Rights*, March 2014, p. 27.

⁶⁵ Northern Ireland Human Rights Commission, 'Public Procurement and Human Rights in Northern Ireland', 2013, p. 7, available at: <http://www.nihrc.org/documents/NIHRC%20Public%20Procurement%20and%20Human%20Rights.pdf> <last accessed 1 March 2015>.

integration of environmental, social and labour requirements into public procurement procedures'.⁶⁶ The Commission recommends that the National Action Plan on business and human rights includes a commitment to ensuring that human rights are embedded in national and local public procurement policy.

The Irish Government should assess the feasibility of making due diligence a mandatory requirement with a legislative underpinning, especially where the State-business nexus is prominent, such as in the context of procurement, or where Irish companies operate in conflict-affected areas or countries with poor human rights records. Consideration should also be given to the development of a programme of monitoring and reporting of human rights compliance by companies, such as by way of a human rights compliance statement in the annual return of all companies. The United Kingdom's National Action Plan on business and human rights notes that the Companies Act requires that company directors report on human rights issues in their annual reports.⁶⁷ In Denmark, there is a requirement in place since 2009 that large companies, including those that are State-owned, must address corporate social responsibility in their annual reports.⁶⁸ In terms of eligibility for Government procurement, the Netherlands National Action Plan on business and human rights notes the Dutch policy that 'companies supplying the government with goods and services are required to respect human rights'.⁶⁹

f. Reporting to United Nations Human Rights Bodies

To meet its obligations under the State duty to protect, the Commission considers that Ireland should include a commitment in the National Action Plan to the systematic incorporation of business and human rights issues in reporting to the United Nations human rights treaty monitoring bodies. This would ensure regular external and independent oversight of Ireland's progress in this context. Given that the State duty to protect under the Guiding Principles is based on existing international human rights law, United Nations human rights treaty bodies have called on States parties to include relevant information on measures taken in their periodic reports.⁷⁰ The UN Committee on the Rights of the Child frequently includes a section on children and the business sector in its Concluding Observations on State parties' reports.⁷¹ The United Nations Human Rights Council has encouraged 'all stakeholders to take into account in their submissions in connection with the universal periodic

⁶⁶ Directive 2014/24/EU of the European Parliament and the Council of 26 February 2014 on public procurement and repealing Directive 2008/14/EC, Official Journal of the European Union, L 94/65 (2014), at para. 37.

⁶⁷ HM Government, Good for Business; Implementing the UN Guiding Principles on Business and Human Rights, 2013.

⁶⁸ Danish Government, Danish National Action Plan – Implementation of the UN Guiding Principles on Business and Human Rights, March 2014, p. 14.

⁶⁹ Government of the Netherlands, National Action Plan on Business and Human Rights, December 2013, p. 5.

⁷⁰ UN Committee on Economic, Social and Cultural Rights, Statement on the obligations of States Parties regarding the corporate sector and economic, social and cultural rights', 20 May 2011, E/C.12/2011/1, p. 2.

⁷¹ See for example Concluding Observations of the UN Committee on the Rights of the Child: Denmark, CRC/C/DNK/CO/4, 4 February 2011, at paras. 29-30; Concluding Observations of the UN Committee on the Rights of the Child: Cuba, CRC/C/CUB/CO/2, 3 August 2011, at paras. 20-21.

review the implementation of the State duty to protect against human rights abuses by third parties, including business enterprises, set out in the Guiding Principles'.⁷² Regular reporting by the State to the United Nations would facilitate further and sustained engagement by civil society, companies and business associations with human rights in the business context. The United Nations human rights treaty bodies can also contribute to ensuring adequate remedies in the event of human rights breaches related to business activities.

5. Access to Remedies

The Guiding Principles on business and human rights emphasise the importance of both preventative and remedial measures in ensuring business respect for human rights. Pillar 3 addresses the need for ensuring adequate remedies where human rights violations occur, provides guidance on the various forms this may take and puts forward several criteria to measures effectiveness. As with the State duty to protect under Pillar 1, the obligations for States under Pillar 3 are drawn from international human rights law which recognises the right to a remedy. The 'foundational principle' is set out in the Guiding Principles as follows:

As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.⁷³

The Commission recommends that the National Action Plan on business and human rights should provide clarification as to how Ireland guarantees an effective remedy if business-related human rights violations occur. As the Commentary to the Guiding Principles notes, the absence of remedies for business-related human rights abuses can render the State duty to protect 'weak or even meaningless'.⁷⁴

The Guiding Principles view State-based judicial and other mechanisms as forming 'the foundation of a wider system of remedy'.⁷⁵ The Commission recommends that the Irish Government undertakes a thorough review of existing legislation and the operation of State judicial and non-judicial mechanisms to ensure access to an effective remedy and to identify and address any potential barriers which may exist. Legal, practical and procedural barriers that may be of particular relevance to Ireland include:

⁷² UN Human Rights Council, 'Contribution of the United Nations system as a whole to the advancement of the business and human rights agenda and the dissemination and implementation of the Guiding Principles on Business and Human Rights', Resolution A/HRC/RES/21/5, 16 October 2012.

⁷³ UN Guiding Principles on business and human rights, p. 22.

⁷⁴ UN Guiding Principles on business and human rights, p. 22.

⁷⁵ UN Guiding Principles on business and human rights, p. 22.

- 'The way in which legal responsibility is attributed among members of a corporate group under domestic criminal and civil laws facilitates the avoidance of appropriate accountability; [...]
- Where certain groups, such as indigenous peoples and migrants, are excluded from the same level of legal protection of their human rights that applies to the wider population [...]
- The costs of bringing claims go beyond being an appropriate deterrent to unmeritorious cases and/or cannot be reduced to reasonable levels through Government support, 'market-based' mechanisms (such as litigation insurance and legal fee structures), or other means; Claimants experience difficulty in securing legal representation, due to a lack of resources or of other incentives for lawyers to advise claimants in this area;
- There are inadequate options for aggregating claims or enabling representative proceedings (such as class actions and other collective action procedures), and this prevents effective remedy for individual claimants;
- State prosecutors lack adequate resources, expertise and support to meet the State's own obligations to investigate individual and business involvement in human rights related crimes'.⁷⁶

The Commission considers that the obligation to ensure adequate access to effective remedy for victims of human rights abuses in which Irish-domiciled companies may be implicated must be applied whether such harms occur domestically or overseas.⁷⁷ The Commentary to the Guiding Principles considers a barrier to adequate remedy exists '[w]here claimants face a denial of justice in a host State and cannot access home State courts regardless of the merits of the claim'.⁷⁸ In view of the transnational nature of many Irish business activities, the Commission strongly recommends that the National Action Plan on business and human rights clarifies the Irish Government's commitment to ensuring a remedy for victims of the activities of Irish companies operating abroad and to addressing any barriers that may exist in this regard.

The Guiding Principles recognise the role that is played by international and regional human rights bodies in ensuring remedies in the event of human rights being violated by business activities.⁷⁹ The Commission welcomes the fact that that Ireland has ratified the Optional Protocols to the UN International Covenant on Civil and Political Rights, the UN Convention on the Rights of the Child, the

⁷⁶ UN Guiding Principles on business and human rights, p. 23.

⁷⁷ See for example UN Human Rights Committee, *Concluding Observations on the sixth periodic report of Germany*, CCPR/C/DEU/CO/6 (2012), at para. 16.

⁷⁸ UN Guiding Principles on business and human rights, p. 23.

⁷⁹ UN Guiding Principles on business and human rights, pp. 22-23.

UN Convention on the Elimination of Discrimination Against Women and the UN Convention Against Torture allowing for individual communications.⁸⁰ Ireland has signed but not yet ratified the Optional Protocol to the UN International Covenant on Economic, Social and Cultural Rights which allows for individual complaints and which recently entered into force.⁸¹ The Commission strongly urges the Irish Government to ratify this Optional Protocol, in order to strengthen access to remedies for victims of human rights violations by business. In view of the precarious situation of certain migrant workers in Ireland, and Irish emigrants overseas, the Commission considers it appropriate that the National Action Plan on business and human rights include a commitment to ratifying the UN International Convention on the Protection of the Rights of Migrant Workers and Members of their Families. The 2014 Protocol to the 1930 Forced Labour Convention should also be ratified to ensure that domestic legislation provides an effective remedy for victims of forced or compulsory labour.⁸²

The Guiding Principles also endorse the role of non-judicial mechanisms, including mediation, as a means of resolving disputes and providing remedy. The role of National Contact Points established under the OECD *Guidelines for Multinational Enterprises* cover 'undertaking promotional activities, handling enquiries and contributing to the resolution of issues that arise relating to the implementation of the Guidelines'.⁸³ Given the incorporation of the United Nations Guiding Principles in the 2011 revision of the OECD Guidelines, the National Contact Point system can contribute to ensuring access to remedy for victims. The Commission notes that the OECD National Contact Point in Ireland, located within the Bilateral Trade Promotion Unit of the Department of Jobs, Enterprise and Innovation, has played a limited role to date, in comparison with other countries.⁸⁴ Public awareness, accessibility, sufficient resourcing and adequate human rights expertise are necessary to ensure the proper functioning of the OECD national contact point system in general, while impartiality, predictability and transparency are key when mediation is undertaken.⁸⁵ Independence of National Contact Points from Government, such as by way of ombudsman status, may assist with improving effectiveness.⁸⁶ In Denmark, the OECD National Contact Point has been given an independent statutory basis, in order to maximise its 'legitimacy and authority', as well as the power to initiate investigations.⁸⁷ The Commission recommends that the Irish Government should include a commitment in the National Action Plan to strengthening the role of the OECD National Contact Point in promoting business respect for human rights and remedy where breaches occur.

⁸⁰ Department of Foreign Affairs and Trade, 'Minister Charlie Flanagan ratifies a key UN Protocol to strengthen the rights of Irish Children', 24 September 2014.

⁸¹ UN News Centre, 'UN lauds new tool enabling individual complaints on economic, social and cultural rights', 6 February 2013.

⁸² P029 – Protocol of 2014 to the Forced Labour Convention, 1930, adopted 11 June 2014.

⁸³ OECD Guidelines for Multinational Enterprises, OECD Publishing 2011, p. 68.

⁸⁴ Irish Centre for Human Rights, *Business and Human Rights in Ireland: Context, International Standards and Recommendations*, 2012, pp. 47-49, available at: <http://www.nuigalway.ie/media/intranet/Business-and-Human-Rights-Report.pdf> <last accessed 1 March 2015>.

⁸⁵ See generally European Center for Constitutional and Human Rights, 'A Comparison of National Contact Points - Best Practices in OECD complaints procedures', November 2011, available at: <http://www.ecchr.de/ecchr-publications/articles/a-comparison-of-national-contact-points-best-practices-in-oecd-complaints-procedures-1333.html> <last accessed 1 March 2015>.

⁸⁶ Hannah Greene, 'Corporate Accountability for Human Rights: Using the OECD Guidelines for Multinational Enterprises as a Tool', *Trócaire Development Review*, 2009, 37, pp. 50-51.

⁸⁷ Danish Government, *Danish National Action Plan*, p. 12.

6. Concluding Comments and Recommendations

The Commission considers the Irish National Action Plan on business and human rights as an important starting point for embedding respect for human rights in the activities of companies domiciled or operating in Ireland. It will also allow for the re-affirmation of Ireland's commitment to meeting its obligations under the State duty to protect human rights as established in international human rights law. The Commission welcomes the opportunity to make a submission to the Department of Foreign Affairs and Trade consultation process and looks forward to the publication of a draft National Action Plan in order to generate further inputs from all stakeholders.

The Commission's recommendations in this submission have focused primarily on actions required by the State under the Guiding Principles to fulfil its obligations in the context of business and human rights. The State plays a preeminent role in ensuring business respect for human rights, given its legislative, executive and judicial authority. In summary, the Irish Human Rights and Equality Commission makes the following key recommendations:

- The establishment of a **National Committee on Business and Human Rights**, with representatives from all relevant Government Departments and agencies, statutory bodies, civil society, business and relevant experts.
- The National Action Plan must have due regard for **existing equality legislation** and include a commitment to ensuring the **protection of the rights of employees** in accordance with the highest international standards.
- The National Action Plan must include a strong commitment to addressing **gender equality and the rights of women workers**, including gender equality on **company boards**.
- The National Action Plan should provide the necessary **guidance to Irish companies** to ensure that they respect human rights in Ireland or when operating overseas, and take measures to avoid negative impacts on human rights in their supply chains.
- The National Action Plan should acknowledge the negative **human rights impact of tax avoidance by companies**, and include a commitment by the Irish Government to adopting an equality and human rights compliant approach to addressing tax avoidance.
- Human rights and equality compliance should be an eligibility criterion for **investment by the State, participation in trade missions, and for listing on the Irish Stock Exchange**.
- The National Action Plan should include a commitment to ensuring that human rights are embedded in **national and local public procurement policy** and the granting of licences for regulated business activities.
- The Irish Government should make **due diligence a mandatory requirement** with a legislative underpinning, especially where the State-business nexus exists or where Irish companies operate in conflict-affected areas or countries with poor human rights records.

- Consideration should also be given to the development of a programme of **monitoring and reporting** of human rights compliance by companies over a certain size, such as those listed on the Stock Exchange, and a **reporting and compliance requirement** for all companies.
- The Irish Government should undertake a thorough **review of existing legislation and the operation of State judicial and non-judicial mechanisms** to ensure access to an effective remedy for victims of business-related human rights abuses and to identify and address any potential barriers which may exist.
- Ireland should include a commitment in the National Action Plan to the systematic incorporation of business and human rights issues in **reporting to the United Nations human rights treaty monitoring bodies**.
- The State should give serious consideration to the **ratification** of the Optional Protocol to the UN International Covenant on Economic, Social and Cultural Rights, the UN International Convention on the Protection of the Rights of Migrant Workers and Members of their Families, the UN Convention on the Rights of Persons with Disabilities and the 2014 Protocol to the Forced Labour Convention.
- The National Action Plan should include a commitment to strengthening the role of the **OECD National Contact Point** in promoting business respect for human rights and access to a remedy where breaches occur.

/ends.