HRC/WG on elaborating a legally binding instrument on transnational corporations and human rights – 6th session

October 26, 2020

 The German Institute for Human Rights is pleased to participate in the 6th session of the open ended intergovernmental working group on elaborating a legally binding instrument on transnational corporations and human rights. I speak on behalf of the Global Alliance of National Human Rights Institutions Working Group on Business and Human Rights, which is composed by the National Human Rights Institutions (NHRIs) from Portugal, Philippines, India, Morocco, Malawi, Ecuador and Bolivia as voting members, as well as Denmark, France, Northern-Ireland, Australia and Peru as observing members, chaired by the German Institute for Human Rights.

We want to draw attention to the role of NHRIs for the national implementation of a future legally binding instrument on business and human rights.

According to the United Nations Paris Principles, NHRIs are national entities that are financed by the State, but act independently. Our autonomy is regularly reviewed by an UN-level accreditation system: the Sub-Committee on Accreditation ([SCA](https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/default.aspx)).

NHRIs have the mandate to protect human rights, including in the context of business activities. Many NHRIs can receive, investigate and resolve complaints, mediate conflicts and monitor the implementation of and compliance with international human rights instruments in their respective countries. NHRIs also have a mandate to promote human rights, through education, outreach, publications, training and capacity building, as well as advising and assisting their respective government as well as local and supranational authorities. NHRIs are already actively engaged in such activities in the context of corporate impacts on human rights. The United Nations Guiding Principles on Business and Human Rights call on NHRIs to provide guidance on human rights to States, business enterprises and other non-State actors. Promoting and protecting human rights domestically, but being connected with sister institutions worldwide, NHRIs harbour the potential to also monitor human rights impacts of cross-border business activities along value and supply chains. They may also handle complaints of a transnational nature and can help rights-holders access effective remedy in such cases through using their different mandate areas. Therefore, we welcome that NHRIs are now explicitly mentioned in article 13.2. of the second revised draft legally binding instrument in the context of international cooperation.

However, the role of NHRIs in the context of a binding instrument is not yet sufficiently discussed. Given the above-mentioned characteristics, NHRIs are well suited to serve as the national implementation mechanism of the proposed binding treaty as well as to monitor implementation and compliance. This is especially true for NHRIs that are accredited with an A-Status through the SCA and enjoy a high degree of independence. We note that the draft Optional Protocol presented during the IV the session of the Inter-governmental Working Group is not part of the Programme of Work. However, we find the issue of implementation and monitoring highly relevant. Therefore, we recommend that A-Status National Human Rights Institutions, when equipped with the necessary mandates, are considered as the National Implementation Mechanism to the treaty. States should provide the resources to fulfil this mandate and function.

We also want to highlight the fact that many NHRIs cover the mandate to handle individual complaints and/or serve as the National Preventive Mechanism as enshrined in the Optional Protocol to the Convention Against Torture. In addition, NHRIs are frequently mandated to monitor the implementation of conventions, such as Convention on the Rights of Persons with Disabilities.

Of course, it is crucial that States empower their NHRIs to fulfill their mandate, through both financial and personnel resources and by revising their mandate, where necessary – this should be reflected in Article 13.2. as well.

 Finally, we call on all States to actively participate in the negotiations through written and verbal contributions.

 Thank you very much.