**Questionnaire regarding Access to Remedy in relation to Business-related Human Rights Abuses**

1. **Does the Constitution or domestic laws of your country recognize the right to an effective remedy for violation of human rights? If yes, please provide details.**

The Danish Constitution does not contain a specific provision recognizing the right to an effective remedy for violation of human rights. However, human rights abuse may in certain cases constitute a violation of provisions of domestic law, *inter alia,* the Danish Criminal Code *(Straffeloven),* and in these cases the Administration of Justice Act *(retsplejeloven)* also applies.

The provisions laid down in the Administration of Justice Act form an essential and important part of the framework on access to judicial remedies in cases regarding human rights issues in business. Denmark keeps these provisions under constant review in order to fulfill international obligations and to ensure that the provisions are adequately applied.

1. **How would you rate on a scale of 1 to 5 (1 being not effective, and 5 being highly effective) the effectiveness of available remedies in your jurisdiction for business-related human rights abuses.**

The Danish Mediation and Complaints Handling institution for Responsible Business Conduct (the Danish OECD National Contact Point) is an example of a non-judicial remedy mechanism. Based on the recent OECD peer review of this institution, the effectiveness is rated 5.

As a result of the adoption of the UN Guiding Principles for Business and Human Rights and to accommodate the right to access to non-judicial remedy, the Danish Government has established a mediation and complaints-handling institution for responsible business conduct which is also the national contact point to the OECD Guidelines for multinational companies. To ensure that a non-judicial remedy has a maximum of legitimacy and authority, the institution was established by Danish law, which was passed through parliament and approved on June 12, 2012.

The purpose of the institution is to investigate cases involving potential adverse impacts by e.g. Danish companies on the OECD Guidelines. The institution focuses on mediation to solve complaints - both on company level and if that is not possible, assisted by the mediation and complaints-handling institution. If mediation is not possible, the institution can initiate an investigation of the matter and based on the result, make a public statement.

The mediation and complaints-handling institution was established in accordance with the international effectiveness criteria for non-judicial mediation and grievance mechanisms as described in the UNGPs (GP 31). The institution can examine complaints involving not only Danish private companies but also public authorities and private organizations, like NGO’s. It can also take up cases on its own initiative, which will allow the institution to be proactive in cases of substantive importance.

The mediation and complaints-handling institution operates in accordance with the core criteria such as:

**Accessibility:** The access to complain is open to all groups or individuals. They can submit a complaint online on the website which is in Danish and English. The institution undertakes a great number of promotional activities to inform about the OECD guidelines and the institution.

**Visibility:** The institution is able to consult with experts and professional mediators to facilitate in cases. The chairman functions as the mediator and holds the overall responsibility for the mediation, including ensuring that the mediation results are in accordance with the OECD guidelines.

The budget allows the institution to organize a substantial number of promotional activities to inform Danish businesses of the OECD guidelines and to create awareness of the possibility to submit cases to organizations and trade unions. The institution has a website which gathers all information on case handling and promotional activities.

**Transparency:** In terms of the case handling the institution has a well-defined case-handling procedure including indicative deadlines and transparency in the case-handling: at each step in the case-handling the institution will make a public statement on the status of the case.

Potential complainants as well as the public can find information about the institution, the complaint procedure and process, which requirements a complaint must fulfill as well as information on responsible business conduct and other relevant links on the website.

The institution as a Danish public institution is subject to the access to information act which allows the public to seek information in a case once the case is finished.

**Accountability:** The institution publishes a statement in each step of the case-handling process so that the public can follow the case-handling closely.

The institution publishes an annual report on the activities of the institution both in terms of cases and in terms of promotional activities.

1. **Please provide information about the types of remedies (e.g., compensation, injunction, criminal prosecution, administrative fine, public apology) available under different domestic laws for business—related human rights abuses.**

The Danish Criminal Code does not contain provisions which specifically criminalize business-related human rights abuses. However, human rights abuse may in certain cases constitute a violation of provisions in the Criminal Code (or other penal provisions). A fine may be imposed on legal persons, including corporations, where so provided in the relevant statute, cf. Section 25 in the Criminal Code. Section 306 in the Criminal Code provides that legal persons may incur criminal liability for violations of the Code.

1. **What steps have been taken (or are being planned for the future) to strengthen access to remedy for victims of business-related human rights abuses subsequent to the endorsement of the UNGPs in June 2011 and the June 2016 report of the OHCHR on “improving accountability and access to remedy for victims of business-related human rights abuse” (A/HRC/32/19)?**

The Danish Mediation and Complaints-Handling Institution for Responsible Business Conduct was established by Danish law, which was passed through parliament and approved on June 18, 2012. The non-judicial institution can examine complaints involving not only Danish private and state-owned companies but also public authorities and private organization, like NGO’s. It can also instigate cases by own initiative, which will allow the institution to be proactive in cases of substantive importance.

For more information about the institution see above (question 2).

1. **If a business enterprise incorporated or domiciled in your jurisdiction caused, contributed to, or was directly linked to human rights abuses overseas, please indicate whether access to remedy mechanisms are available in your jurisdiction to redress such extraterritorial abuses?**

The Mediation and Complaints-Handling Institution for Responsible Business Conduct deals with cases relating to non-compliance of the OECD Guidelines for Multinational Enterprises. The Institution is the OECD’s Contact Point in Denmark and is responsible for raising awareness of what responsible business conduct entails. The non-judicial remedy mechanism can examine complaints involving not only Danish private and state-owned companies but also public authorities and private organizations. It can also instigate cases by own initiative, which will allow the institution to be proactive in cases of substantive importance.

1. **Are rights-holders consulted while establishing or reforming mechanisms aimed at providing remedy for business-related human rights abuses? If so, please provide information as to the processes adopted.**

The Danish Mediation and Complaints-Handling Institution for Responsible Business Conduct was established based on recommendations of the Danish Council for CSR. The council was established in 2008 as part of the first Danish national action plan for CSR. The purpose of the council was to aid, support and inform the Danish government in matters on Danish companies’ social responsibility. The council consisted of 17 members (vice- and president, 13 members, 2 specialists), who represent Danish trade organizations, NGO´s, civil society, local municipalities and trade unions.

1. **Please share information whether the unique experiences and expectations of groups who may be particularly vulnerable to human rights abuses, such as children, women, people with disabilities, migrant workers, and indigenous peoples are taken into account in providing for access to effective remedy for business-related human rights abuses.**

No specific actions have been taken. However, the Danish Mediation and Complaints-Handling Institution can examine complaints from all of the above mentioned groups.

1. **Are civil society organisations and human rights defenders assigned any specific role in your jurisdiction for facilitating access to effective remedy in cases related to business-related human rights abuses? If yes, please provide information.**

The Mediation and Complaints-Handling Institution consists of five members of whom there is both a trade union representative and a NGO representative.

Moreover, civil society organisations, NGO´s, trade unions as well as the Danish Institute for Human Rights (which is Denmark’s National Human Rights Institution and an independent state-funded institution) are all important stakeholders as a part of the Mediation and Complaints-Handling Institutions promotional work.

Other Comments and Suggestions

1. **Please provide any additional comments, suggestions or information which you think may be relevant for the Working Group´s forthcoming report on access to effective remedy for business-related human rights abuses, or for strengthening access to remedy generally.**

It would be appreciated with more focus on and inspiration with regard to the practical possibilities for legislation with extraterritorial effect.