

27 March 2023

## **Statement to the Working Party on Responsible Business Conduct**

I am submitting this Statement in my capacity as United Nations Special Rapporteur on human rights defenders for the attention of the Working Party on Responsible Business Conduct in its dialogue with Stakeholders on the targeted revisions of the OECD Guidelines on MNEs.

As noted in my submission, I am very pleased to see the OECD undertake these targeted revisions, which are both critical and timely. These Guidelines provide an extremely important reference point on the issue of business and human rights and they shape standards and norms in this area.

With this in mind, I am very concerned at proposals to drop specific language on 'human rights defenders' from the targeted revisions. Even since the updates to the Guidelines were published in 2011, our understanding of the extent and nature of the risks faced by human rights defenders who expose or protest business harms has developed considerably. Due to an increase in monitoring and documentation, we now know, for instance, that HRDs working in this sector are among those most at risk of being killed. Since I took up my mandate in May 2020, I have regularly expressed concerns to businesses as to the risks faced by HRDs for defending human rights in the context of business operations.

In that time I have also engaged with the EU and business on the importance of naming human rights defenders in legislation, policies and guidelines. Although the UN Declaration on human rights defenders is 25 years old this year, the concept of 'human rights defender' is still a relatively new one, and simply put, if human rights defenders are not named in legislation, policies or guidelines, they will most likely not be considered when it comes to consultation and due diligence. Yet as highlighted above, there is a significant body of evidence demonstrating how human rights defenders are negatively, and sometimes fatally, impacted by business operations. Furthermore, human rights defenders will be vital partners for OECD member states in monitoring compliance with the Guidelines and thereby ensuring their effectiveness.

This recognition is growing: in the drafting process of the EU directive on corporate sustainability due diligence, the European Council and the European Parliament are both proposing the specific inclusion of human rights defenders in the text. Growing numbers of businesses acknowledge the crucial role played by human rights defenders and have included them in their policies. Most recently, Norges Bank Investment Management, the largest sovereign wealth fund in the world, updated its [Human Rights Expectation Document](#) to include human rights defenders as stakeholders who may be impacted by a company's operations and highlight the need for increased due diligence, including on HRDs, in high risk environments.

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To close, I believe it would be a hugely damaging and regressive step should the targeted revisions not specifically name human rights defenders. The guidelines will risk being out of sync with the EU Directive when it is published, which will be the set the standard for other legislation.

I would also like to highlight that the vast majority of OECD member States have prioritised the security and protection of human rights defenders either through their membership of the EU, which has [guidelines](#) on human rights defenders, and/or through national guidelines or policies on human rights defenders ([USA](#), [Canada](#), [Finland](#), [Ireland](#), [Norway](#), [Switzerland](#), [UK](#)), protection mechanisms for human rights defenders ([Colombia](#), [Mexico](#)), establishment of shelter cities or programmes for human rights defenders at risk ([Costa Rica](#), [Netherlands](#), [France](#), [Germany](#)) or the naming of human rights defenders as Stakeholders in draft Guidelines on Respect for Human Rights in Responsible Supply Chains ([Japan](#)). Given the severe risks facing human rights defenders working in the business context, failing to specifically include human rights defenders in the targeted revisions would clearly run counter to many of these efforts.

Furthermore, when I presented my [report](#) on human rights defenders to the Human Rights Council ten days ago, state after state, most of them from OECD countries, asked me what actions they could take to better protect human rights defenders. Well I am saying to you clearly now, ensuring that human rights defenders are included in these targeted revisions is a concrete step you can take which will, without doubt, contribute towards the increased security and protection of human rights defenders.

Thank you.

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