



REGIONAL BRIEFING

Western Europe

A Challenge to End Business-Related Human Rights Abuses

Business & Human Rights in Western Europe

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Executive summary

In June 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights. These Principles outline for states and companies a set of expectations to protect, respect, and remedy human rights in the context of business. Three years after their endorsement by Western European governments and many companies, what are some of the key achievements in the region, and where do companies and governments continue to fall short in protecting against business-related human rights abuses?¹

The briefing highlights that business-related human rights abuses continue in the region, especially amongst vulnerable groups such as migrant workers, and minorities. Most governments have been slow to develop action plans to implement the Guiding Principles: only three have finalised their plans, despite an invitation in the European Commission's 2011 CSR Strategy for all EU member states to develop such plans by 2012. At the same time, the briefing emphasises the leading role that some companies and governments in the region have taken in the field of business and human rights. The briefing identifies key areas of concern, explores existing progress at addressing them, and suggests recommendations for action.

Despite international standards and national regulation, forced labour and other forms of labour exploitation constitute some of the most egregious abuses in the region. The International Labour Organization estimates that 880,000 workers were engaged in forced labour in Europe in 2012. Most forced labour cases in this briefing involve migrant workers, at the bottom of labour-intensive industries' supply chains. Examples include Chinese migrants in clothing sweatshops in Italy and Spain, African and Eastern European tomato-pickers in Italy and Lithuanians working on a chicken farm in the UK. With a significant immigrant population, there is a pressing need for companies and governments in the region to improve the protection of migrant workers' rights and eliminate labour exploitation throughout supply chains.

Discrimination at work or by companies remains another key issue in the region – the briefing covers examples of discrimination based on ethnicity, race, religion, disability, gender, and sexual orientation. In a time of economic recovery, discrimination in hiring is especially concerning. Studies in France, Germany, the Netherlands, Sweden and the UK have found employers discriminating against job applicants of certain ethnic or religious groups. Companies are recommended to adopt anti-discrimination policies and implement rigorous trainings to help avoid these discriminatory practices.

An emerging concern in recent years is related to internet and communications technology (ICT) firms' involvement in government surveillance programmes infringing on privacy rights. Revelations about the US PRISM programme as well as surveillance by European governments, heightened concerns about governments accessing user data and content without their knowledge. The briefing highlights several lawsuits brought against both companies and governments related to infringement of privacy rights. Some companies have taken the initiative to protect privacy rights through multi-stakeholder initiatives and by calling on governments to reform surveillance, but civil society calls for stronger actions.

Other areas of concern highlighted by the briefing include: health & safety at work; concerns related to private military & security companies including excessive use of force, intimidation and threats; concerns related to extractives; and tax avoidance limiting governments' resources that could be used to tackle poverty and provide social services.

Companies and governments are undertaking various initiatives to address these, and other concerns. Companies have started adopting human rights policies, training their employees on human rights, and some are also undertaking human rights impact assessments to avoid directly or indirectly contributing to human rights abuses. Some are acting on their own while other initiatives span across different companies in an industry, or even across industries. The briefing refers to several of these initiatives, including by the internet & communications technology, tourism, and clothing sectors.

¹ The "Key concerns" section of the briefing focuses on companies' impacts within the region rather than overseas. However, its "Positive steps" and "Access to remedy" sections also provide information on initiatives and regulatory developments that have extraterritorial impact. The briefing is not exhaustive, but focuses on key developments in Western Europe since the adoption of the UN Guiding Principles.

As of April 2014, Denmark, the Netherlands and the UK have published National Action Plans on business and human rights, setting out the governments' roadmap to implement the UN Guiding Principles. Civil society organizations have welcomed these plans, but challenge governments with existing plans to follow-through with them rigorously and for those without, to enact comprehensive and action-oriented plans with concrete legal and regulatory applications. The briefing provides information on other plans in progress and initiatives focused on supporting the development of national action plans.

The European Union (EU) also plays a key role in advancing business and human rights through guidance and regulations. The European Commission issued guidance for the ICT, oil & gas, and recruitment sectors, as well as a guide for small and medium size enterprises on implementing the UN Guiding Principles. Moreover, the briefing provides information on regulatory proposals at various stages of discussions and approval on non-financial reporting requirements, conflict minerals, transparency of payments, and data protection. Civil society has criticised the influence of business lobbying as well as governments weakening some of these proposals. Nevertheless, the regulations would represent important developments if adopted and implemented.

Access to justice for victims remains an area of continued concern in Western Europe. Although EU member states are required to accept jurisdiction for civil claims against defendants domiciled in their territory, victims continue to face obstacles in accessing remedies, especially in relation to abuses committed abroad. These may include limitations to extraterritorial jurisdiction, lack of financial resources or legal aid, corporate influence, as well as other legal and practical obstacles. The briefing highlights recent studies and on-going projects to improve victims' access to judicial and non-judicial remedies in Europe.

Since 2011, 75% of companies based in Western Europe responded when approached by Business & Human Rights Resource Centre about concerns about human rights impacts around the world. Nevertheless, it is concerning that only 64% of companies responded to invitations when the impacts were within Western Europe as opposed to elsewhere in the world. This illustrates the importance of keeping the spotlight on companies' impacts on people in the region. See details of our company response mechanism and the full list of all invitations to respond in the [Annex](#) of this briefing.

The briefing refers to cases in or involving companies headquartered in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and UK. Our [Eastern Europe & Central Asia briefings](#) complement this coverage.

Western European governments and companies headquartered in the region are in a unique position to take the lead on ensuring stronger protections for victims of business-related human rights abuses around the world. Companies based in the region have operations spanning worldwide. Thus any positive steps can have far-reaching impacts. The briefing concludes with [specific recommendations](#) for companies and governments to seize this opportunity and exhibit leadership in business and human rights, including:

- Companies to develop a human rights policy with commitment and leadership from the top; carry out due diligence in supply chains; provide remedy for any human rights abuse.
- Governments to promote human rights at the core of business models by implementing National Action Plans for the UN Guiding Principles; enact regulation to encourage and enforce business respect for human rights; provide guidance to companies; require human rights compliance for all public procurement contracts; ensure access to remedy for victims.
- The European Union to adopt strong regulation to promote human rights including presently on conflict minerals, non-financial reporting, tax avoidance, and data protection; monitor member states compliance; issue further guidance for companies to respect human rights.

1. Key concerns

1.1. Labour rights

Labour exploitation, forced labour and human trafficking continue to be present in Western Europe despite international, regional and national regulations. Although estimates vary and reliable data is scarce, according to the International Labour Organization approximately [880,000 workers](#) are engaged in forced labour in Europe as of 2012. The [Global Slavery Index](#) notes with disappointment that considering the low overall risk for forced labour in Europe compared with other regions, European countries have not eliminated it entirely. The urgency of stronger action was confirmed in an April 2014 [report by the Council of Europe](#), which found that trafficking for labour exploitation is increasing in Europe.

A June 2013 study by Joseph Rowntree Foundation documented [evidence of forced labour](#) in France, Germany, Italy, Ireland, Latvia, the Netherlands, Poland, Spain and Sweden. Although some of the incidents were in the informal sector, the study found that it also contributed to companies' supply chains in the agriculture, cleaning, clothing, construction, food manufacturing and processing, hospitality and pharmaceutical sectors.² The study recommends stronger labour market regulation as well as holding the main contractor responsible for forced labour in its supply chain. A form of [primary contractor responsibility](#) is already in place in several European countries. Some examples of exploitative conditions in the region are outlined below.

Chinese migrants in the Italian region of Prato produce clothing and leather goods for high-fashion brands in [sweatshops](#), many under exploitative conditions and inadequate health & safety standards. In December 2013, a fire in a workshop [killed seven workers](#) who slept in cardboard compartments. In a case in Spain, a major raid in 2009 rescued 450 [Chinese migrants forced to work in sweatshops](#) producing clothing for major clothing companies. In 2011, legal proceedings regarding this case were still underway and similar workshops reportedly still may have been operating in Barcelona.

Investigations into Italy's tomato fields in 2011-2012 revealed that workers from Africa and Eastern Europe harvest tomatoes in conditions akin to slavery. An [Amnesty International report](#) found that migrants, often without legal status, are forced to work 12-14 hour days, with various fees deducted from low wages, while facing threats of violence from gangmasters. According to a [worker interviewed by The Ecologist](#), "[t]he situation in Africa is not so good, but the basis is still respect; not here... here there is no respect". Tomatoes from Italy are exported to various European supermarkets - comments from **Conserve Italia, La Doria, Sainsbury's, Tesco and Waitrose** are available [here](#). In October 2013, the Norwegian and UK chapters of the Ethical Trading Initiative conducted a visit to follow up on an agreement by local industry and unions to establish an ethical code for suppliers. The report from the visit includes [recommendations for members companies](#) considering poor working conditions and anti-union activities.

Poor working conditions have also been documented in [Spain's strawberry farms](#), where primarily Moroccan women are recruited on temporary work permits with little legal protections, leading to abuses of workers' rights. A report by the International Federation of Human Rights outlines [recommendations](#) to the Spanish and Moroccan governments, the EU, as well as companies to avoid these abuses.

Kevin Bales, co-founder of Free the Slaves, estimates 700 individuals are enslaved in Denmark, 600 in Norway and 1200 in Sweden. In February 2014, the first human trafficking trial not involving prostitution in Denmark began, in the case of [nine Romanians allegedly forced to work as cleaners](#). In Sweden, [berry picking has been linked to forced labour](#) of migrant workers. In a 2010 case, Thai workers recruited with deceptive practices by Swedish company **Lomsjö Bär** and a Thai recruitment agency spoke out in protest of working conditions and non-payment of wages. Due to recent legal reforms, fewer migrants from Southeast Asia have been engaged in

² Note: Forced labour is often found in domestic work, but the discussion of this briefing focuses on the formal economy.

berry picking in the country recently, but workers from new EU member states who have come in their place have also reported [deception and poor working conditions](#).

Forced labour and trafficking for labour exploitation has also been reported in the UK in a number of cases. In 2012, 30 Lithuanian workers were discovered to have been working at a chicken farm collecting eggs under debt bondage in Kent, allegedly subjected to [threats, intimidation, physical violence](#). Other cases have been reported in various sectors under the Gangmasters Licensing Authority (agriculture, horticulture, shellfish) as well as in other industries including care, construction and hospitality. UK Home Secretary Theresa May recently emphasised, the need for the *"private sector to play its part"* in tackling trafficking and labour exploitation, in addition to regulation. *"Companies must be confident that they do not conduct business with suppliers involved in trafficking [and labour exploitation],"* she added.

The [UK Modern Slavery Bill](#), currently under discussion, could represent a key development in legislation to tackle trafficking and forced labour. A recent parliamentary committee [report](#) proposed significant changes to ensure that the bill focuses on victims, providing for special provisions for child exploitation and trafficking and calling for companies to report on modern-day slavery in their supply chains in their annual strategic reports. Several companies, including **Amazon, IKEA, Marks & Spencer, Primark, Sainsbury's and Tesco** told the committee they would support legislation on ethical supply chains if not unduly burdensome. Campaigners and investors have [called](#) to strengthen the bill further by including a provision to require more transparency in supply chains from companies. Matt Crossman, of Rathbone Greenbank, said, *"It is in the best interest of business to join the fight against modern slavery. A commitment to [Transparency in Supply Chains] means business reputations are enhanced and long term returns are safeguarded whilst transitioning at risk people out of forced labour and modern slavery."*

Positive steps to improve working conditions in Western Europe include multi-stakeholder initiatives such as the [Staff Wanted Initiative](#) in the hospitality sector, [WellMade](#) in the clothing sector, and [Stronger Together](#) in the UK food sector. The latter is sponsored by companies including **Cooperative, Marks & Spencer, Sainsbury's, Tesco and Waitrose**. Other global initiatives, such as Verite's [fair hiring toolkit](#), and the [Global Business Coalition Against Human Trafficking](#) also involve companies in the region. The Guardian Sustainable Business has recently launched a [section on modern-day slavery](#) to increase awareness about the issue and encourage action by companies and policy makers.

However, more action is needed considering that despite these, and other, initiatives and regulations, forced labour continues in Europe. A number of further examples and resources are available on our UN Guiding Principles Portal's [supply chain](#) and [labour](#) sections.

1.2. Privacy

Internet and communication technology companies have come under increased pressure to ensure protection of users' privacy rights online in recent years. On a national level, data protection authorities in France and Germany have investigated and [fined firms such as Google](#), arguing that its privacy policy and certain practices were not in line with data protection laws.

The role of governments in online privacy rights abuses was brought into the spotlight following revelations in 2013 about the US PRISM surveillance programme. In July 2013, two French civil society organizations filed a [judicial complaint](#) with a tribunal in Paris over the US programme's impacts in their own country, referring to internet companies reported to have been subjects of government requests for user data. A similar lawsuit followed in [Belgium](#). Most recently, in February 2014, International Liga für Menschenrechte (International League for Human Rights) and other NGOs filed a [lawsuit against Germany, the UK and the US](#) over mass surveillance concerns.

In the UK, a coalition of more than 60 human rights groups raised similar concerns in an [open letter](#) to the UK government in November 2013. The organizations believe that using national

security to suppress media freedom “*will have dangerous consequences for the right to freedom of expression and media freedom in the UK and beyond, creating a hostile and intimidating environment and discouraging those who could reveal uncomfortable truths and hold those in power to account.*” Acknowledging that some surveillance may be necessary for security purposes, the organizations emphasised the importance of demonstrating legitimate purpose.

Seeking accountability from companies, a student group in Ireland [filed complaints](#) under EU data protection law against European subsidiaries of internet, communications & technology (ICT) firms cited in revelations about the PRISM programme. As a response to one of these complaints, the Luxembourg Data Protection Commission held that **Skype** and **Microsoft** have not breached European law. Meanwhile, a complaint against **Yahoo!** is under investigation in Germany and the Irish Data Protection Commissioner will hear a case against **Apple** and **Facebook** in April 2014.

In order to address some of these concerns, companies have joined together in the [Telecommunications Industry Dialogue on Freedom of Expression and Privacy](#) launched in 2013. Members include several major telecommunication providers based in the region, such as **Nokia Solutions Network**, **Orange**, **Telefónica**, **Telenor** and **Vodafone**. The group launched a two-year collaboration with the [Global Network Initiative](#), a larger multi-stakeholder initiative with similar goals. In December 2013, a group of companies, including **AOL**, **Apple**, **Dropbox**, **Facebook**, **Google**, **LinkedIn**, **Microsoft**, **Twitter** and **Yahoo!** have launched a [joint initiative](#) to urge governments to address practices regulating surveillance.

For more information on ICT sector’s impacts on human rights worldwide, see our [briefing on ICTs](#) released in February 2014.

1.3. Health & safety

Workplace health & safety involving fatal tragedies has been the main concern of lawsuits in France against **France Telecom (now Orange)** and **Renault** over [worker suicides between 2006 and 2008](#) allegedly related to workplace pressures. In 2012, company leadership at France Telecom was indicted for workplace bullying, and Renault was found guilty of gross negligence related to these cases. “*France Telecom and its top executives being in criminal proceedings, sends a strong message to the business community,*” says Loïc Lerouge from Université Montesquieu-Bordeaux IV. Although Orange and Renault have put in place measures to improve workplace health & safety, opinions vary on how effective overall business response in France has been to the broader debate on workplace pressures. A series of 10 suicides in 2014 at Orange, that were also claimed to be “[explicitly related](#)” to work, has raised renewed concern about the company’s approach toward emotional wellbeing and mental health.

In a tragic incident in the UK last year, [a 21-year-old intern at Merrill-Lynch \(part of Bank of America\) died suddenly](#) after reportedly working 72 hours straight, prompting the company to “*review working conditions*”. [Recommendations from the review](#) include encouraging junior staff to take time off and closer supervision to monitor hours and work volume. In another incident in the UK, a BBC investigation found that workers at **Amazon** factories face high stress that could cause “[mental and physical illness](#)”. Amazon issued a [statement](#), in which it noted that safety is its “number one priority”.

These, and other similar incidents, illustrate the importance of addressing both physical and mental health issues related to work. In April 2014, the European Union launched a “Healthy Workplaces Manage Stress” campaign to increase awareness about the dangers of work-related stress, including psychological, physical and social impacts. Official partners of the campaign include **Heineken** and **Intel**. Firms such as [Technologia](#) in France specialise in preventing and addressing physical and psychological risks related to work and have assisted France Telecom (Orange) and Renault in tackling these issues.

1.4. Discrimination

Discrimination based on disability, ethnicity, gender, religion, age, and sexual orientation involving companies has been documented widely across the region in the past years. According to an EU-wide survey in 2012, discrimination based on ethnicity is perceived to be the most widespread cause for discrimination (56%), followed by disability (46%) and sexual orientation (46%). Employment discrimination based on age is seen as a problem by 54% of respondents. The following are some examples of discrimination involving businesses including in hiring practices, workplace behaviour, compensation, and against customers.

In an undercover BBC investigation in 2013 in the [UK](#), out of two young male applicants with equivalent resumes, the Muslim applicant received four times fewer interviews than the white applicant. In [France](#), a study conducted by a Stanford University professor found employment discrimination against Muslim job applicants when compared with otherwise identical Christian counterparts. A similar study was undertaken in [Germany](#), where applicants with Turkish names were found to have received fewer call-backs for jobs by 14% overall and 24% in small firms as compared to those with German names. Similar studies have found that Albanians in [Greece](#), persons of Arab origin in [Sweden](#), and those with Antillean, Surinamese and Turkish origin in the [Netherlands](#) face similar discrimination in hiring.

In a 2013 case, a French court fined the owner of a publishing company for posting job advertisements specifying that [individuals of Arab origin need not apply](#). In France, the debate about ban on publically wearing religious symbols has also extended to the private sphere as shown in the case of a recycling company adopting a policy by which [employees would be prohibited from wearing religious symbols](#) in February 2014. In Germany, a court ruled that a [dental practice forbidding a staff member from wearing her headscarf](#) amounted to religious discrimination. Moreover, a 2013 decision by the [European Court of Human Rights](#) against the UK upheld freedom of religion in the case of a **British Airways** employee who was prevented from wearing a cross at work.

Gender discrimination continues to be an issue in the region. According to the European Commission, [gender pay gap](#) defined as “the difference between women and men’s hourly wages” in the EU was 16.4% in 2012. An EU study attributes the stagnation of this figure in recent years to “*lack of transparency in pay systems, a lack of legal clarity in the definition of work of equal value, and procedural obstacles*” in access to justice for women. Besides the pay gap, gender discrimination also manifests itself on the basis of pregnancy or maternity. According to a 2013 survey by the French Ombudsman and the ILO, [29% of employees in France report having been subjected to discrimination at work](#). The main reported causes are linked to gender (30%), pregnancy and maternity (19% and 20% respectively).

Discrimination based on sexual orientation and gender identity is also present in the region according to surveys and studies, but individual cases often go unreported due to concerns about reprisals. Studies in [Sweden](#) and Italy have illustrated discrimination in hiring based on sexual orientation. In a 2012 survey, [one in three transgender job applicants](#) said they believe to have been discriminated against as opposed to one in five gay or lesbian applicants. Although protections against sexual orientation discrimination in employment exist in EU regulations, they do not extend to protecting [discrimination based on gender identity](#).

Discrimination against customers occurs on the basis of a variety of factors as well. In January 2012, a [French court fined EasyJet 70,000 EUR](#) in a disability discrimination lawsuit over not allowing unaccompanied wheelchair users to board their flights. [EasyJet’s elimination of discrimination policy](#) says it is committed to “*the responsibility of the equal treatment of all passengers regardless of their personal characteristics or social status.*” A study in Germany found that [one in three customers face discriminatory comments](#) from staff of an establishment they frequent each year, with Turkish customers experiencing the most.

Campaigners have been calling for an end to the “mental health stigma” to protect those facing discrimination in employment based on mental health. 84% of respondents to a [survey by CentreForum](#) think tank said they had stopped or delayed treatment for a mental condition due to fears it may jeopardise a job application. “[Change] requires a whole change in society and some leadership shown within the [business community](#)”, said UK Member of Parliament Gavin Barwell. Some employers have been stepping up to the challenge – in April 2014, major UK companies including **BT, Bupa, RBS, Mars, Procter & Gamble** launched a [70 billion GBP campaign](#) to end the “culture of silence” around mental health in the workplace. More than two dozen companies have signed the [“Time for Change” pledge](#) committing to tackling mental health stigma and discrimination, including **Accenture, Deloitte, Telefonica** and others.

1.5. Concerns related to private, military & security companies

Although private military & security companies’ impacts on human rights are primarily seen in countries with weak governance or conflict zones, there have been reports of impacts of the privatisation of security in Western Europe as well.

In Germany, **Amazon** ended its contract with a private security firm **Hensel European Security Services (Hess)** in 2013 after a documentary reported [intimidation, racist behaviour, and breach of privacy](#) by security personnel. Security staff allegedly harassed temporary foreign Amazon workers, searched their dormitories, and wore a uniform similar to neo-Nazi attire. *“Amazon has a zero tolerance limit for discrimination and intimidation and expects the same of other companies we work with,”* according to a spokesperson. Statements by the security firm are available [here](#) (only in German).

In the UK, **G4S** has been the subject of a number of allegations. In July 2013, Amnesty International released a report documenting reports of [excessive use of force](#) by security personnel in the forced removal of detainees. Allegations include breaking a detainee’s arm, strangling, and other forms of assault – including a case resulting in the [death of an Angolan man, Jimmy Mubenga in 2010](#). In March 2014, Crown Prosecution [charged G4S employees with manslaughter](#) in the latter case, but did not find sufficient evidence to prosecute the company itself.

In 2012, G4S staff at Cedars prison was accused of using [excessive force against a pregnant woman](#) during a forced removal process. The managing director of G4S custodial and detention services said personnel were *“concerned that the woman risked causing herself harm and took the necessary steps to prevent this.”* G4S adopted a [human rights policy](#) in 2013.

The [International Code of Conduct for Private Security Service Providers](#) (ICoC) launched its oversight mechanism in September 2013, based in Switzerland. ICoC is a set of standards for security companies to respect human rights and humanitarian law and is governed by a multi-stakeholder board of companies, governments and civil society. The oversight mechanism is the first of its kind in business and human rights. It will oversee the implementation of the ICoC and provide and support certification, monitoring and complaints resolution. It is especially important for the region as many private security companies are based in Europe, especially in the UK.

1.6. Concerns related to extractives

Oil & gas

“Fracking” – the process of injecting water, sand and chemicals into rock to extract natural or shale gas – remains a hotly debated issue in Europe. In January 2014, the EU released [recommendations](#) for minimum conditions to be met for shale gas extraction considering environmental and health concerns. Critics including environmental groups and local communities continue to be concerned about [potential environmental impacts, water pollution, noise, and risk of earthquakes](#). Meanwhile, [proponents](#) of fracking cite energy independence and European companies’ competitiveness with their US counterparts arguing to lift moratoriums in place in many countries. France has had a ban in place since 2011. German proposals to lift

a moratorium faced [sharp criticisms](#) from civil society as well as the beer industry, which raised concerns about [water contamination](#) as a result of fracking.

In the UK, onshore fracking operations active since 2007 were suspended between June 2011 and April 2012 following minor earthquakes. However, the suspension has recently been lifted and companies including **Cuadrilla Resources** resumed exploration, [causing concerns](#) from environmental activists and local communities. As of 2012, permits for explorations have also been [issued](#) in Austria, Denmark, Portugal, Spain, Sweden, and the Netherlands (prior to a [temporary Dutch moratorium](#), pending research on risks).

Mining

In Greece, an [open-pit gold mine](#) operated by Canadian firm **Eldorado Gold** has caused tensions with the local community in Skouries. Locals' concerns include the impact of these operations on ground water, noting that the mines will require vast deforestation and that the proposed Skouries mine is above the region's main aquifer. Locals also argue that the operations would have negative impacts on traditional economic activities including beekeeping, farming, fishery, forestry and tourism, affecting local peoples' livelihoods. Moreover, they claim not to have been adequately consulted by the company. Protesting community members claim to have been subjected to beatings and violence by local police and company security. We invited Eldorado to respond to these allegations - the response is available [here](#).

[Mining is "the worst predator we have right now,"](#) according to a member of the Saami indigenous community in Sweden. Local communities have been raising concerns that mining for iron ore by Australian, British and Scandinavian companies are affecting their traditional reindeer grazing land. For example, in 2011 [Saami communities](#) claimed that **Beowulf Mining** did not consult the communities about their operations and did not involve them in impact assessments. We invited the company to respond, but it did not do so.

1.7. Tax avoidance

Companies in Western Europe have increasingly come under pressure for not paying their fair share of taxes, either through illegal means, or legal loopholes such as tax havens, transfer pricing and profit shifting. Civil society reports have raised concerns that such practices limit governments' revenue that could be used for social services such as healthcare and education, especially in developing countries. Countries in Europe including Ireland, Luxembourg, the Netherlands, UK and overseas territories have been criticised for tax policies that allow companies to evade taxes. A report by The Centre for Research on Multinational Corporations (SOMO) in July 2013 analysed tax avoidance practice of 8 extractive companies and noted that their "structure allows for profit shifting to low-tax jurisdictions, indicating that the [they] use the Netherlands for tax planning purposes. By actively facilitating and attracting these companies, the Dutch state contributes to the loss of revenue that is economically destructive to poor countries and undermines obligations of these states in protecting and fulfilling human rights." We invited the companies to respond – responses and non-responses are available [here](#).

As reported by the [Irish Examiner](#), the Tax Justice Network estimates that Ireland lost 7.6 billion EUR in taxes in 2011, which corresponds to the amount the government plans to spend on budget cuts in the next years. In a [report](#) to the UN Human Rights Council, UN Independent Expert on Extreme Poverty and Human Rights warned that "many of the cuts provided for in Budget 2012 will damage the effectiveness and accessibility of social protection benefits and public services." Furthermore, it the report recommends that "the State re-evaluate the proposed budgetary adjustments and adopt, in particular, taxation policies that adequately reflect the need to harness all available resources towards the fulfilment of its economic, social and cultural rights obligations." Further analysis of the Irish context is provided [here](#).

Governments and companies have started to address tax avoidance through various initiatives. The July 2013 G20 Summit endorsed an [OECD initiative](#) to halt companies from shifting profits and avoiding taxes and issued a [statement](#) in support of automatic exchange of tax information between countries. Following allegations of failure to pay their fair share of tax in the UK,

[Starbucks](#) committed to paying supplementary taxes in 2013 and 2014. In 2013, [Barclays](#) announced the closure of its controversial “tax avoidance” unit that advised tax avoidance “on an industrial scale”. However, civil society is calling for more concerted action from companies and governments to ensure governments are able to provide adequate social services. The UK Business Secretary has recently [announced](#) an intention to require companies to disclose their owners, in an effort to combat tax avoidance.

See our page on tax avoidance and human rights for more information on concerns and positive initiatives [here](#).

2. Positive steps

2.1. Companies

A number of companies based in the region have taken a leading role in integrating human rights into their policies and practices. This is not an exhaustive list – for more examples, see the [Implementation by companies section on our UNGP Portal](#).

Policies

In Principle 16, the [UN Guiding Principles on Business and Human Rights](#) calls on companies to adopt human rights policy statements as part of their corporate responsibility to respect human rights.

Human rights policy statements have been adopted by a number of companies in the region. The following policies, for example, refer in detail to the Universal Declaration of Human Rights and the UN Guiding Principles: [adidas’ Frequently Asked Questions on human rights](#); [H&M’s human rights policy](#); [Rio Tinto’s revised human rights policy](#), as well as its issue-specific guidance on [human rights](#), [gender](#) and [cultural heritage](#).

Companies have also acted collaboratively to encourage their peers to adopt human rights policies. In 2013, [top law firms in the UK](#) such as **Clifford Chance**, **Freshfields Bruckhaus Deringer**, **Linklaters** and **Herbert Smith Freehills** started to develop stand-alone human rights policies. In October 2013, the Thun Group of Banks (**Barclays**, **BBVA**, **Credit Suisse**, **ING Bank**, **RBS Group**, **UBS**, **UniCredit**) published a discussion paper to [guide firms in the financial sector on due diligence and human rights policy statements](#).

Adopting a human rights policy is an important first step, but as the Guiding Principles say, it should be the “basis” for embedding respect for human rights by companies. It is important for companies to ensure effective follow-through and undertake further steps, including rigorous human rights due diligence.

For further examples and guidance, see our [running list of human rights policy statements](#).

Supply chain

In February 2013, Oxfam published a report on [Unilever’s supply chain](#), focusing on its operations in Vietnam. The report was a result of a two-year research project and made recommendations to the company on improving workers’ livelihoods, and ensuring that human rights standards are met throughout the supply chain. Unilever CEO Paul Polman said: “We agreed that Oxfam could publish the report as a means of stimulating this wider debate and encouraging other companies to follow our lead.”

H&M has faced harsh criticism over working conditions and wages in its factories in Bangladesh and Cambodia. In 2013, it committed to a roadmap to ensure that workers in all of its factories receive a [“fair living wage” by 2018](#). It is embarking on pilot programmes in 2014 in two factories in Bangladesh and one in Cambodia. “*H&M’s initiative to create a wage policy for the suppliers*

in their production countries is an important step to resolve one of the major problems in the textile and clothing industry” said Bengt Johansson, Sweden’s CSR ambassador.

Impact assessment

In December 2013, **Nestlé** published its first [white paper on the implementation of its due diligence programme](#), detailing its experience assessing human rights impacts in seven countries. The report was undertaken in collaboration with the Danish Institute for Human Rights and includes findings from impact assessments in Colombia, Nigeria, Angola, Sri Lanka, Russia, Kazakhstan and Uzbekistan. It is unique in the level of detail it provides on the benefits and challenges of the specific methodology used, from the company’s perspective. “Whereas corporate human rights impact assessments are still a rare best practice, publicly sharing the results takes it one step further,” said Allan Lerberg Jorgensen of the Danish Institute for Human Rights. The impact assessment was [criticised](#) by Blue Planet Project, FIVAS, Food & Water Watch, and Public Services International – Nestlé’s response to the criticisms is available [here](#).

Switzerland-based travel company **Kuoni** undertook its first pilot [human rights impact assessment in Kenya](#) in 2012. This pilot led to a set of follow-up measures and a second [full impact assessment on its operations in India](#), published in February 2014. The latter included a [consultation with children](#) as a separate group of stakeholders. “By consulting these key stakeholders, Kuoni is leading the way in understanding adverse impacts and being able to maximise the positive effects of tourist travel”, says Ruchira Gujral of UNICEF India.

Reporting

Shift and Mazars are facilitating a multi-stakeholder process to develop the [Business and Human Rights Reporting and Assurance Frameworks Initiative \(RAFI\)](#) based on the UN Guiding Principles. These frameworks aim to ensure that companies’ reporting on human rights is in line with the UN Guiding Principles. The project announced a collaboration with the Global Reporting Initiatives (GRI) to advance effective human rights reporting by companies. More information about the development process and consultations is available [here](#).

In its approach to advancing human rights, **Unilever** commits to [reporting on its progress](#) in implementing the Guiding Principles in 2015, setting an example of transparency for other companies to follow.

Industry-led and multi-stakeholder initiatives³

In response to the tragic Bangladesh Rana Plaza clothing factory collapse in April 2013, clothing companies, labour unions and civil society organizations launched the [Accord on Fire and Building Safety](#). The Accord is a legally binding agreement among mostly European companies with 150 participants (as of March 2014) to improve and maintain fire and building safety standards at garment factories in Bangladesh, accompanied with inspections and reporting results. The [results of the first set of inspections](#) were released in March 2014. The [Alliance for Bangladesh Worker Safety](#) is a related voluntary initiative primarily by North American firms.

[The Code](#) (of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism) is an example of an industry-led effort to combat sexual exploitation of children in the hospitality industry. It is a multi-stakeholder initiative developed by ECPACT in Sweden and has been operational since 1998 and currently has more than 1,300 participants. The [Roundtable for Human Rights in Tourism](#) is a new multi-stakeholder initiative by companies in German-speaking areas seeking to promote respect for human rights in the industry based on the UN Guiding Principles.

Trainings & courses

³ For information on the International Code of Conduct for Private Security Providers, see the “Concerns related to private military & security companies” section of the briefing on page 7.

A variety of training courses exist for companies to learn about human rights and implementing the UN Guiding Principles, including through local [UN Global Compact](#) networks. For example, see [here](#) for workshops and trainings by the German UN Global Compact Network's business & human rights peer learning group. For a schedule of upcoming events, courses and workshops for companies, see our [UNGP events](#) page.

2.2. Governments

National action plans

The European Commission's [2011 CSR Strategy](#) invited all EU member states to develop national action plans to implement the UN Guiding Principles. In September 2013, the **UK** published its [national action plan](#) on business and human rights. [Commentaries](#) applauded the UK for its leadership as the first country to publish such a plan, but analysis by Amnesty International and others calls for further detail and evidence of proper implementation to ensure improvements on the ground. The **Netherlands** published the English version of its national action plan in February 2014 – MVO Platform provides [detailed analysis](#) of the strengths and weaknesses of the Dutch plan. In March 2014, **Denmark** released its full national action plan and **Italy** issued a document detailing the foundations for an action plan. **Spain** is due to release its plan in the next months. **Switzerland**, **Norway** and others are reportedly in the process of developing their own. Civil society and national human rights institutions in **France** and **Germany** have also given [extensive recommendations](#) to their respective governments urging them to develop plans. A 2014 [report by Misereor and Germanwatch](#), expressed hope that the new German government will follow through on its commitment to address its duties under the UN Guiding Principles. See [here](#) for guidance materials, updates on other action plans, and civil society recommendations to governments.

In order to support the development of such plans, the UN Working Group on business & human rights is dedicating its next report to the UN General Assembly to the topic of national action plans and has launched a [repository of existing national action plans](#). During a recently held [open consultation](#) on the topic, 175 participants discussed strategic elements to be included in plans. A [project launched in August 2013](#) by International Corporate Accountability Roundtable (ICAR) & Danish Institute for Human Rights (DIHR) is developing a toolkit on developing and evaluating national action plans due to be released in July 2014. A separate [project led by the Centre for Applied Legal Studies \(CALS\), Wits University and partners](#) is working on developing a template for national action plans.

Other updates

Besides national action plans, some countries have implemented specific measures aimed at encouraging business respect for human rights. These include non-financial reporting requirements by the **UK** and a [Switzerland's](#) ban on mercenary services provided by Swiss private security contractors. For information on UK legislative initiatives, see page 4 (on modern slavery) page 8 (on tax avoidance).

2.3. EU developments: regulation & guidance⁴

Non-financial reporting

In April 2013, the European Commission adopted a [proposal](#) to enhance transparency of company reporting on social and environmental issues. Existing regulation on reporting on non-financial issues was unclear and ineffective: at the time, less than 10% of European companies disclosed such information. The need for stronger regulation was echoed in an EU-wide public consultation. [According to the EU](#), reporting requirements would bring benefits to businesses through fewer disruptions and better relations with stakeholders, equip investors to make more

⁴ Note: Although this briefing is focused on impacts in Europe, this section refers to regulations aiming to stem European companies' impacts both within Europe and overseas.

informed investment decisions, and give an assurance to society that companies will manage their social & environmental impacts more effectively.

A year later, in April 2014, the European Parliament voted to accept a version of the proposed regulation. The new regulation would require publicly listed European companies with more than 500 employees to disclose policies and risks on human rights, employee-related issues, diversity, and the environment. This new mandatory requirement was [welcomed](#) by the European Coalition on Corporate Justice and its member NGOs as a tool for enhanced transparency and accountability. However, the Coalition expressed disappointment that the scope of the regulation was weakened by member states, including Germany, Poland and the UK. Although there were [several companies](#), including Ikea and Unilever, in favour of the reform, lobbying by the private sector also reportedly contributed to watering down the regulation. The Council's adoption is the last step in order for the regulation to be put in place. For a timeline and commentaries on the various stages of the regulation, see [here](#).

Conflict minerals

Tin, tantalum, tungsten and gold mining has been linked with funding killings, violence, rape, and other human rights abuses in the Democratic Republic of Congo and other conflict zones. Regulation directed at stemming these "conflict minerals" from entering European multinationals' supply chains began in earnest with a public consultation on company reporting on conflict minerals between March and June 2013. In February 2014, the European Parliament's development committee voted in favour of a [report](#), which "[s]tresses that an EU regulation requiring companies using and trading minerals...should...create a legally binding obligation for all upstream...and downstream companies...to undertake supply chain due diligence to identify and mitigate the risk of conflict financing and human rights abuse". Global Witness and other civil society groups [welcomed the report](#) and urged the Commission to follow its recommendations. In March 2014, the [European Commission announced a proposal](#) "setting up an EU system of self-certification for importers of tin, tantalum, tungsten and gold." Civil society was frustrated that the proposal was voluntary in nature, considering the egregious abuses associated with these minerals – see commentaries & analysis [here](#).

Transparency of payments

In June 2013, the European Commission adopted a [regulation](#) requiring extractive companies to disclose payments over 100,000 EUR made to governments on a project-by-project and country-by-country basis. The regulation aims to stem tax avoidance and encourage more equitable redistribution of natural resource revenues to local populations (see our introduction to tax avoidance and human rights [here](#)). According to [Michel Barnier](#), internal market Commissioner, "[l]ocal communities in resource-rich countries will finally be better informed about what their governments are being paid by multinationals for exploiting oil and gas fields, mineral deposits and forests". NGOs, including Transparency International, Publish What You Pay, and Oxfam [welcomed the new regulation, but challenged the EU](#) to include other sectors and include reporting requirements on other information in order to effectively tackle tax avoidance. The Commission will review the regulation in 2015 to consider extending it to other sectors.

Data protection

In January 2012, the EU unveiled a plan to unify its data protection regulation under a single law extending to foreign companies processing data of European residents. Many US-based companies, including Amazon, Apple, Facebook, Google and IBM are reportedly [concerned](#) about how the potential new regulation will affect their financial model in Europe. Meanwhile, privacy rights groups, including Privacy International are [advocating for stronger protections](#). The European Parliament has [confirmed its support](#) for the regulation in March 2014.

Guidance

In June 2013, the EU published [guides on respecting human rights and implementing the UN Guiding Principles](#) for the ICT, oil & gas, and recruitment sectors. The sectors were chosen based on public recommendations of industries for which detailed human rights guidance would add the most value and the guides were developed by the Institute for Human Rights and Business and Shift. The EU also published a [new guide for small and medium enterprises](#), which have received little practical guidance on human rights in the past.

3. Access to remedy

Pillar III of the UN Guiding Principles outlines expectations from governments and companies to provide for appropriate and effective access remedies in case of business-related human rights abuses. These can take the form of both judicial and non-judicial mechanisms. However, such remedy is still not always available in Europe.

A recent [study published by the Access to Judicial Remedy Project](#) documents obstacles to access remedy in Europe for victims of business-related human rights abuses, especially those committed by European firms overseas. The [Brussels I regulation](#) mandates EU courts to accept jurisdiction over lawsuits filed against a defendant domiciled in the states. However, financial, practical and legal obstacles continue to restrict access to European courts. Notable exceptions include recent or on-going cases in Germany against **Danzer** (over alleged complicity in human rights abuses in Dem. Rep. of Congo), in the Netherlands against Shell (over alleged impacts of oil pollution on farmers in the Niger Delta), **Riwal** (over alleged involvement in Israeli war crimes in Palestine), in France against **Vinci** (over alleged social and environmental impacts in Russia), **Amesys** (over alleged complicity in torture in Libya) and **Qosmos** (over alleged complicity in torture in Syria). For more information see our 2013 [Corporate Legal Accountability Annual Briefing](#).

Amnesty International raised concerns about corporate influence as an obstacle to access to remedy in its recent book, "Injustice Incorporated". The book documents a number of ways in which corporate influence can obstruct remedy, including complex corporate structures, issues related to availability of data or information, and corporate-state relationships, among others. The book examines 4 emblematic cases, but another recent example of lobbying surfaced in April 2014, when Amnesty International and the CORE Coalition gained access to UK Government documents that reveal the extent of [Rio Tinto's and Shell's lobbying](#) for UK government support to dismiss human rights lawsuits under the Alien Tort Statute in the US. One of these lawsuits resulted in a ruling restricting the application of the Alien Tort Statute, previously a key means to access remedy for victims of business-related human rights abuses around the world. We invited the companies to respond to the concerns – their responses are provided [here](#).

Non-judicial remedies, such as OECD National Contact Points (NCPs), can also provide access to justice to victims. NCPs are set up by governments to offer mediation platform to help companies and stakeholders implement the OECD Guidelines on Multinational Enterprises. Some NCPs are praised for their achievements – a peer review found the Norwegian NCP to be "highly effective at fulfilling its mandate". However, others are criticised for being ineffective. In June 2013, the Dutch OECD NCP issued a [final statement](#) in a case against Shell over misleading data on oil spills causing harm to local communities in the Niger Delta. Amnesty International and Friends of the Earth were [disappointed in the NCP's decision and reiterated their concerns](#) that Shell's misleading statements about the spills constitutes a breach of the OECD Guidelines. Paul de Clerck of Friends of the Earth Europe said: "Today the NCP failed to speak out against Shell's abuse in Nigeria. It did not assess key evidence provided and thereby let the company off the hook. For the people of the Niger Delta this is yet another failure of justice." We invited both Shell and the Dutch NCP to comment on the criticisms – responses are available [here](#). The [Danish NCP](#) was reformed in 2012 after criticism from civil society – the changes have been welcomed by [experts at OECD Watch](#).

There are various resources and projects underway on improving the effectiveness of both judicial and non-judicial grievance mechanisms in Europe. [ACCESS Facility](#) in the Netherlands has launched a project focusing on improving non-judicial mechanisms and provides a database on grievance mechanisms and case studies on its website. The organization is expected to issue a report on its recent expert meeting to the UN Working Group on business & human rights. Another civil society [project on civil justice](#) aims to disseminate information, build expertise, and enhance civil justice for business-related human rights abuses in Europe. Recent tools include FIDH's [guide for victims and NGOs on recourse mechanisms](#), SOMO's introductory [website on grievance mechanisms](#) for victims of business-related human rights abuses, OECD Watch's [guide for NGOs](#) to file complaints with NCPs.

4. Recommendations

Based on the key concerns and developments in this briefing, we propose the following recommendations:

For companies

Pillar II of the UN Guiding Principles outlines the detailed expectations for companies to respect human rights.

- **Develop & implement human rights policy.** The policy should be approved at the most senior level, informed by experts, include human rights expectations of personnel and partners, publicly available, reflected in operations policies and procedures. The policy or corresponding training should ensure that human rights is integrated into the daily responsibilities of relevant staff members throughout the company (ie: procurement, supply chain management, human resources, data protection, legal department, etc.). For further information, see [Guiding Principle 16](#), our page on [examples of human rights policies](#), and our [UN Guiding Principles Portal's](#) page on policies.
- **Undertake human rights due diligence & impact assessments.** Due diligence involves commissioning independent human rights impact assessments throughout supply chains and business relationships and using findings to guide business decisions. For further information, see [Guiding Principles 17-21](#), our page on [due diligence](#), and our page on [impact assessments](#).
- **Report regularly.** Publish regular reports on human rights impact & communicate progress on implementing UN Guiding Principles. For more information, see [Guiding Principle 21](#), [Global Reporting Initiative](#), [Reporting and Assurance Frameworks Initiative](#), and our page on [reporting](#).
- **Remedy human rights abuses.** If abuses do occur, it is important for companies to remedy these by putting in place a non-judicial complaints mechanism. [Guiding Principle 31](#) outlines the criteria for such mechanisms to be effective – see additional tools & guidance [here](#).
- **Engage with peers, civil society, rights-holders.** Engaging with stakeholders can take the form of consulting civil society experts on human rights due diligence, or rights-holders on the impact of a company's operations on their rights. For further information, see [Guiding Principle 18](#) and for more materials on relevant key concepts such as free, prior & informed consent, see [here](#).

For governments

Pillar I of the Guiding Principles outlines the duties of States to protect human rights.

- **Develop and implement a national action plan on business & human rights.** Requested by the EU's 2011 CSR policy, these plans should document steps taken by governments so far and outline concrete plans to implement each aspect of the UN Guiding Principles relevant to States. Existing plans and additional guidance is available [here](#).

- **Enact and enforce regulation.** Legislation and regulatory action are key tools for governments to mandate and encourage business respect for human rights, including requiring due diligence and reporting. For further information, see [Guiding Principle 3](#). A database of existing due diligence regulations is available [here](#) - additional examples and guidance is available [here](#).
- **Provide guidance to companies.** Communicate clear expectations for companies to respect human rights to companies domiciled in and operating on country's territory. Provide additional support to companies that may require such guidance – see guides for small & medium enterprises by the [UK](#) and the [EU](#). See [Guiding Principle 2](#) and additional guidance [here](#).
- **Establish responsible procurement practices.** Require companies to undertake human rights due diligence and implement UN Guiding Principles in order to tender to supply or conduct business with the government. See [Guiding Principles 5-6](#) and additional examples and guidance [here](#).
- **Provide access to remedy.** States ought to provide both judicial and non-judicial forms of remedy to victims of business-related human rights abuses, with extraterritorial application. These are outlined in [Pillar III of the Guiding Principles](#) and include removing barriers to access to the judicial system as well as setting up and maintaining effective non-judicial grievance mechanisms, such as OECD National Contact Points.

For the European Union

- **Propose and adopt strong regulations.** The EU has a number of concrete proposals related to business & human rights pending final negotiations and approval. MEPs, the Commission and the Council should now take this opportunity to ensure that the final versions of these regulations (including conflict minerals, non-financial reporting, tax avoidance and data protection) are strong enough to change business behaviour and have concrete impacts on the ground. See commentaries on the EU conflict minerals proposal [here](#) and the non-financial reporting requirements [here](#).
- **Provide additional guidance for companies.** The EU's guidance on the oil & gas, ICT and recruitment sectors serves to translate the UN Guiding Principles into concrete recommendations for these particular sectors. Further guidance for sectors including agriculture, clothing and construction that have been noted in this briefing as having links to human rights abuses could help catalyse them to tackle challenging human rights issues.
- **Monitor member states' implementation of UN Guiding Principles.** The European Commission called on member states to draft national action plans to implement the UN Guiding Principles. Few action plans have been adopted so far. The EU should further encourage governments to adopt such plans and voice the need to monitor and follow-through on existing plans to ensure impact for rights-holders.

For National Human Rights Institutions and civil society:

- **Document and monitor business-related human rights abuses.** Accurate fact-based documentation is essential to inform change in business behaviour and government actions.
- **Assist rights-holders in accessing remedy.** Help victims of business-related abuses follow through with their complaints in judicial or non-judicial grievance mechanisms. See further guidance on using [non-judicial mechanisms](#) and the [OECD Guidelines](#) specifically.

5. Annex: Company responses

Please see [here](#) for a list of cases in which Business & Human Rights Resource Centre invited companies based in Western Europe to respond to allegations of human rights abuses. An additional list provides responses and non-responses to impacts within Western Europe.

6. About the Resource Centre – follow our work on Western Europe

Business & Human Rights Resource Centre, an independent non-profit organization, provides the leading information hub on business & human rights: www.business-humanrights.org.

The website tracks reports about the human rights impacts (positive & negative) of over 5600 companies in over 180 countries, and provides guidance tools and resources for all those working in this field. Its researchers are based in Brazil, Colombia, Hong Kong, India, Kenya, Lebanon, Myanmar, Senegal, South Africa, UK, Ukraine and USA.

Mission: To encourage companies to respect and promote human rights, and avoid harm to people. It does this by advancing:

- **Transparency** - pursuing, collecting and disseminating to a global audience information about company conduct, positive and negative;
- **Public accountability** - helping civil society get companies to address concerns; seeking responses and drawing attention to each company's response or failure to respond; and
- **Informed decision-making** – providing the leading business & human rights resource and guidance hub, to assist civil society, companies and others.

You can follow our coverage by region and country here:

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Please do not hesitate to get in touch with Eniko Horvath, Western Europe Regional Researcher & Representative about this report at horvath@business-humanrights.org.