

Business and Human Rights Implementation Group

Wednesday 16 January 2019

11am,

Ballroom, Iveagh House

Minutes

1. Welcome by Chair

Ms Breege O'Donoghue, Chair of the Implementation Group, welcomed the Implementation Group and noted that the issues falling under the heading of business and human rights are many and often complicated. She added that this multi-stakeholder group will operate as a forum where issues can be brought to the table to be discussed and debated with a view to identifying appropriate actions and solutions in the Irish context.

2. Opening remarks by **Tánaiste and Minister for Foreign Affairs and Trade, Simon Coveney T.D.**

In his welcoming address to the group the **Tánaiste** stated that the aim of the National Plan on Business and Human Rights is to form a whole of government approach to ensure that human rights are protected and respected both in Ireland and overseas through responsible business practice. The **Tánaiste** emphasised that the success of business is not at odds with compliance with human rights; instead the two are complementary. He added that the National Plan is a living instrument which will have to be updated to reflect the evolution of ideas in this area. Finally, the **Tánaiste** stressed that the promotion of responsible business practice will be a collective endeavour, which will require the different stakeholders represented on the Group, including civil society, Government and crucially, business to become active participants and enter into a constructive dialogue.

3. General debate on the future work of the Implementation Group

Mr Leo McAdams, Enterprise Ireland, went through the areas of work that Enterprise Ireland carry out with their 3,000 members, including their trade missions, noting that in 2018 it was involved in more than 30 missions, including in states like Egypt, Saudi Arabia and other Middle Eastern countries. **Mr McAdams** elaborated on the role of Enterprise Ireland, which is to provide useful information and guidance to companies about issues such as the duty of care, corporate social responsibility (CSR) and respect for human rights.

Mr Tomás Sercovich, Business in the Community Ireland, drew attention to the diverse range of issues falling within the business and human rights agenda and cautioned that the breadth of this area can pose a challenge to business. **Mr Sercovich** took the view that the Business and Human Rights Implementation Group should provide clear guidance for business. He also called for further coherence around structures such as the Implementation Group, the SDG stakeholder forum and other such structures to ensure that there are no conflicting messages.

Ms Deborah Dignam, Department of Business, Enterprise and Innovation, stressed the importance of ensuring the flow of information from the Implementation Group to the Corporate Social Responsibility (CSR) Forum and the SDG Stakeholder Forum.

Dr Shane Darcy, National University of Ireland, Galway, remarked that the role of the Implementation Group should be further clarified, noting that its purpose is to implement the UN Guiding Principles of Business and Human Rights. **Dr Darcy** also emphasised the importance of ensuring that the private sector is actively involved in the group. He suggested that the group look at how it can incentivise businesses to comply with human rights.

Ms Fiona Crowley, Amnesty International Ireland, expressed concern over the soft touch approach to encouraging compliance with human rights. Further, **Ms Crowley** called for the group to consider hardening the approach over the next number of years, noting that due diligence is for all companies not just those that are state-owned or in receipt of state funding.

Ms Niamh Garvey, Trócaire, echoed the call for greater clarity around the role of the group and its monitoring tools.

Mr David Joyce, Irish Congress of Trade Unions, began by welcoming the establishment of the group. He suggested that the Implementation Group look at the promotion of responsible business conduct. **Mr Joyce** also added that although human rights can be good for business, there are certain grey areas where businesses may benefit from avoiding compliance with human rights, which is something that the Implementation Group could explore. Finally, **Mr Joyce** cautioned that there could be a perception that the Plan only applies to countries operating transnationally and the group need to counter that perception.

In response, the Tánaiste remarked that representatives of business should be actively involved in the work of the Group. Furthermore, he added that there is a need to narrow down the approach sector by sector and identify the issues on which the different stakeholders need agree. Finally, he stressed that it is important that through incentives and enforcement, a level playing field is created so that businesses that respect human rights are not disadvantaged.

4. Introduction of draft baseline assessment of the legislative and regulatory framework on business and human rights in Ireland

Mr John Boylan, Department of Foreign Affairs and Trade, presented the draft baseline assessment of the legislative and regulatory framework pertaining to business and human rights. He remarked that study does not make rigid recommendations but is something that can provide guidance to the Group. He noted that it does not focus on access to remedies, as a detailed exploration of this area was outside its scope. Finally, **Mr Boylan** explained that the Department has fact-checked the draft and invited the members of the Group to examine it from their perspective and communicate any errors or observations to the Department within two weeks (by 25 January 2019).

Dr Darcy remarked that the assessment looked comprehensive and that he was pleased that the Department was inviting comments on the draft. He also welcomed the fact that the draft study will be published. Furthermore, he noted that access to remedies is the weakest part of the business and human rights agenda. Finally, he asked for more information on the tendering process.

Mr Boylan went through the tendering process, whereby the Department made an invitation to tender, following which an evaluation group in the Department chose the private consultancy Reganstein. The author of the study is Nóra Ní Loinsigh. Following an initial meeting between the Department and Reganstein to discuss the structure, the consultants were given a three month period to draft the study. The Department did not interfere with the recommendations made in the study and its input was restricted to stylistic issues.

Ms Martina Feeney, Department of Foreign Affairs and Trade, added that the Department insisted on clarity in an effort to ensure that the study will be useful. She also noted that the author used the template of the Danish Institute for Human Rights.

Ms Fiona Crowley noted the recommendations include mandatory human rights due diligence and that Amnesty is looking forward to engaging with them.

Ms Jean O'Mahony, Irish Human Rights and Equality Commission, wished to know what the role of the Group will be in delivering actions and recommendations.

Ms Feeney responded that the Group will be further divided into three sub-groups, one for each pillar of the UN Guiding Principles on Business and Human Rights. The sub-groups will need to decide what action needs to be taken, such as whether more research is needed in certain areas. Furthermore, **Ms Feeney** noted that the study is a guiding tool and that it does not prescribe actions.

5. Any Other Business

Niamh Garvey reiterated the call for clarity on the role of the Group and enquired whether more information on the working methods of the Group and its membership will be circulated.

Ms Feeney responded that the membership list will be circulated as soon as possible and once the members of the Group have consented to having their personal details shared and all nominations have been confirmed. Furthermore, **Ms Feeney** invited the members of the Group to consider whether the membership needs to be extended and propose additional representatives.

Professor John Greary, University College Dublin, suggested that the Group use a single depository where all submissions and related materials can be uploaded and accessed by its members.

Ms Feeney told the Group that the Human Rights Unit will upload the baseline study to the DFAT website and added that a dedicated mailbox will be set up for related communications.

Tomás Sercovich remarked that there are numerous IT tools that could facilitate the Group's communications and exchange of information and that he would be happy to recommend some.

Ms Feeney explained that the Human Rights Unit would be happy to receive suggestions but that the use of IT tools by the Department is subject to strict rules and any such application would be subject to approval by the Department's ICT Unit. HRU will follow up on this issue.

6. Date of next meeting

The date of the next meeting was set for 3 April 2019.