

**ITALIAN NATIONAL ACTION PLAN  
ON  
BUSINESS AND HUMAN RIGHTS**

**2016-2021**

## **FOREWORD BY THE MINISTER OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION, THE HON. PAOLO GENTILONI**

I am pleased to present the first Italian National Action Plan on Business and Human Rights.

The Plan for 2016-2021 is the final achievement of a multi-faceted activity of the Inter-ministerial Committee for Human Rights (CIDU) in line with the implementation of the “Guiding Principles on Business and Human Rights” unanimously endorsed by the UN Human Rights Council in 2011.

An *ad hoc* working group has been established, coordinated by CIDU and composed of representatives of several ministries and institutions, for the elaboration of the present Plan. Its contents have also emerged from wide consultations with experts, business representatives, trade unions and non-governmental organizations.

In a spirit of sharing, the Plan has also been published online for public consultation from July 27 to September 10, which has allowed to enrich its contents with comments received from civil society and many other actors who had the opportunity to individually contribute.

The Plan is an instrument to move towards the new needs of interaction between human rights and the economic dimension, in line with the “UN Guiding Principles on Business and Human Rights”. This approach, which has received new force with the UN Agenda 2030 for Sustainable Development, sees Italy in the forefront as country committed to give its own contribution. In the framework of the Plan, promotion and respect for human rights - with particular consideration to the most vulnerable groups - are primary vehicles to rebalance the distortions and inefficiencies produced within the economic and productive contexts that have proved not to be efficient in this regard.

So far, Italy is one of the 9 countries to have developed a National Action Plan on Business and Human Rights. This is the evidence of the commitment of the Italian Government to promote specific actions aimed at stimulating effective implementation of human rights in the international *fora*. Within the Plan, the actions foreseen provide also for the rationalization of the domestic legal framework and are further aimed at raising the awareness of business world, tackling issues such as ‘caporalato’ and any other form of workers exploitation. Such actions are framed also in the context of migration flows governance and policies.

It is a noteworthy challenge, which requires also a change of cultural nature. For this reason, I strongly hope that the presentation of the present Plan will be the first step of a faster journey in the long and fundamental path of promotion of human rights.

**Rome, December 1<sup>st</sup>, 2016**

## INDEX

<b>GLOSSARY</b>	<b>p. 4</b>
<b>I. STATEMENT OF COMMITMENT</b>	<b>p. 5</b>
<b>II. BACKGROUND AND CONTEXT</b>	<b>p. 6</b>
a) INTRODUCTION	p. 6
b) ITALY AND THE GUIDING PRINCIPLES	p. 6
c) NATIONAL PRIORITIES	p. 7
d) BUSINESS, HUMAN RIGHTS AND CORPORATE SOCIAL RESPONSIBILITY	p. 8
<b>III. GOVERNMENT'S EXPECTATIONS TOWARDS BUSINESS</b>	<b>p. 9</b>
<b>IV. GOVERNMENT RESPONSES: CURRENT ACTIVITIES AND FUTURE COMMITMENTS</b>	<b>p. 10</b>
a) FOUNDATIONAL PRINCIPLES	p. 10
b) OPERATIONAL PRINCIPLES	p. 13
<b>V. UPDATE, MONITORING AND DISSEMINATION OF THE PLAN</b>	<b>p. 30</b>

## **GLOSSARY**

BHR Business and Human Rights

CoE Council of Europe

CICS Inter-ministerial Committee on Development Cooperation

CSO Civil Society Organization

CSR Corporate Social Responsibility

EU European Union

GC Global Compact

HR Human Rights

LGBTI Lesbian, Gay, Bisexual, Transgender/Transsexual, Intersex

NAP National Action Plan

NCP (OECD) National Contact Point

NGO Non-Governmental Organization

OECD Organization for the Economic Co-operation and Development

OHCHR Office of the High Commissioner for Human Rights

RBC Responsible Business Conduct

SOE State Owned Enterprises

SDG Sustainable Development Goals

UN United Nations

UNHRC United Nations Human Rights Council

UNGPs United Nations Guiding Principles on Business and Human Rights

UNWG United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises

WG Working Group

## I. STATEMENT OF COMMITMENT

The adoption of the UN Guiding Principles on Business and Human Rights has reaffirmed that economic growth cannot lead to greater equity, widespread well-being and increased social justice, without coherent government political actions and strong commitments on behalf of social partners and business enterprises. The present Plan is meant to be an instrument of the commitments and efforts of the Government for the adoption of political and legislative measures at national, regional and international level in order to ensure the respect of human rights within economic activities.

Italy is therefore committed to promote and carry out key-actions to provide that, within the domestic legislative, institutional and operational framework regulating economic activities, human rights are conceived as a priority so that the eventual adverse impact of business on these rights is properly addressed.

This approach, in line with Italy's important actions in this sense, will reflect also in Italy's external action, by encouraging and favouring the adoption of adequate measures to foster respect of human rights in business activities at regional and international level.

To protect human rights, Italy undertakes to:

- Continue to protect, promote universal respect for, and observance of, all human rights, fundamental freedoms and non-discrimination principles, with special attention to the rights of most vulnerable groups, such as women, children, disabled, LGBTI people, migrants and asylum seekers, and persons belonging to ethnic and religious minorities;
- Coordinate the implementation of the present NAP with the 17 Goals of the UN Agenda 2030 for Sustainable Development and engage for a stronger national adherence to human rights and sustainable development in its three dimension - economic, social and environmental – in line with the Sustainable Development Goals (especially SDG number 5,8,10,16,17);
- Reinforce, cooperate with and develop industrial relations between social partners and multi-stakeholders initiatives to achieve better implementation of human rights in the conduction of economic activities, in specific business sectors and along the entire supply chain;
- Encourage companies, also in view of the updating of the National Strategy for Sustainable Development, in line with the commitments undertaken with the Agenda 2030 and the role that the private sector will be called to play in its implementation, to voluntarily commit themselves at national, regional and international level to prevent and redress potential human rights adverse impacts; and to realize the goal of a decent work for all, as set out in SDG 8 (*decent work and economic growth*); and to enhance the use of indicators of quality, sustainable development, equality and gender.

## II. BACKGROUND AND CONTEXT

### A. INTRODUCTION

In 2011 the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs), representing the operational instrument of the “Respect, Protect and Remedy Framework” for Business and Human Rights.<sup>1</sup> The UNGPs (in line with the Framework) rest on three pillars:

<b>1) STATE DUTY TO PROTECT:</b>	The obligation of the State to protect human rights violation by third parties through appropriate policies, regulations and adjudication;
<b>2) BUSINESS RESPONSIBILITY TO RESPECT:</b>	The responsibility of business to not harm and to respect human rights, that means acting with due diligence to avoid infringement of human rights;
<b>3) ACCESS TO REMEDY:</b>	The need to guarantee greater access to an independent and effective remedy in case of human rights abuse, both at judicial and non-judicial level;

The UNGPs have been well received among States and Regional Organizations: the European Union called member states to develop Action Plans to address and support their implementation at national level and the UN Human Rights Council followed by requesting the same.

### B. ITALY AND THE GUIDING PRINCIPLES

Since the 1st UN Forum on Business and Human Rights - organized in Geneva on 3-5 December 2012 in the framework of the activities of the Human Rights Council - and in line with the commitments undertaken within the UN on the environmental sustainability and the implementation of international norms on labour law developed by ILO, Italy highlighted the need to re-establish the focus on human rights also in business policies and strategies, while outlining also the need for a better coordination among UN and not UN Organizations and Agencies.

In December 2013 Italy presented to the European Commission “The Foundations of the Italian Action Plan on UN Guiding Principles on Business and Human Rights (UNPGs)”. The document sets priorities to protect and promote human rights within the UN and EU systems, to strengthen the relationship between business and human rights and to raise awareness of Italian companies in line with UNGPs in the global value chains perspective. Following the Foundations, Italy has undertaken the drafting of a National Action Plan on business and human rights to ensure the integration and implementation of the UNGPs within national policy and strategy. The development and implementation of such a National Action Plan is fully in line with Action 18 on “Advancing on Business and Human Rights” of the EU Action Plan on Human Rights and Democracy 2015-2019, adopted by the Council of the European Union in July 2015.

---

<sup>1</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

The NAP addresses the adverse impact that business may have on human rights and identifies specific commitments with the aim of effectively integrate UNGPs at national level and business activities. On a wider scope, it also addresses the need of facing the current global challenges with reference to competition and human rights in the context of the international market. Situations such as the distortion of market prices due to the import/export of goods and services from countries or enterprises not compliant with fundamental human rights rules and standards, or the social costs of flows of migrants recruited as illegal workers in the informal economy, have serious economic implications on labour markets and on competition. In most cases, they are leading to a ‘race to the bottom’ damaging enterprises compliant with labour standards and basic human rights and perpetuating the violation of the latter. Yet, at the same time, human rights have the potential to redress market distortions and even add value to business: addressing its impacts on human rights is not only essential to improve their better protection but it also proactively advances them by developing a sound business culture and seizing new opportunities of economic growth within a system of fair competition.

### **C. NATIONAL PRIORITIES**

Business impact on human rights may touch multiple subjects (such as workers, migrants and children) in several ways (discrimination, exploitation, pollution, etc.) and within different contexts of economic activities (agriculture, textile, finance, oil and gas and so on). The impact of business on human rights has indeed the potential to be much widespread and involves almost every aspect of society. An effective National Action Plan requires setting limited targets and actions in accordance with the national context.

With the aim of analysing specific matters related to the Italian context, the NAP mainly focuses on six priorities representing the business and human rights areas that NAP intends to address. The identification and selection of these areas has been made based on the UNGPs gaps analysis conducted in the National Baseline and the Study of University of Sant’Anna. The following priorities will be subject to regular review and update by the Business and Human Rights Steering Group (see par.V):

1. PROMOTING HUMAN RIGHTS DUE DILIGENCE PROCESSES, AIMED AT IDENTIFY, PREVENT AND MITIGATE THE POTENTIAL RISKS, WITH PARTICULAR FOCUS ON SMEs;
2. TACKLING *CAPORALATO* (ESPECIALLY IN THE AGRICULTURAL AND CONSTRUCTION SECTOR) AND OTHER FORMS OF EXPLOITATION, FORCED LABOUR, CHILD LABOUR, SLAVERY AND IRREGULAR WORK, WITH PARTICULAR FOCUS ON MIGRANTS AND VICTIMS OF TRAFFICKING;
3. PROMOTING FUNDAMENTAL LABOUR RIGHTS IN THE INTERNATIONALIZATION PROCESS OF ENTERPRISES WITH PARTICULAR REGARD TO THE GLOBAL PRODUCTIVE PROCESSES;
4. STRENGTHENING THE ROLE OF ITALY IN A HUMAN RIGHTS-BASED INTERNATIONAL DEVELOPMENT COOPERATION;
5. TACKLING DISCRIMINATION AND INEQUALITY AND PROMOTING EQUAL OPPORTUNITIES;
6. PROMOTING ENVIRONMENTAL PROTECTION AND SUSTAINABILITY.

#### **D. BUSINESS, HUMAN RIGHTS AND CORPORATE SOCIAL RESPONSIBILITY**

The Italian Government recognizes the strong interconnection between business and human rights issues and corporate social responsibility, yet clarifies that the two policy areas are object of two different National Action Plans. Corporate social responsibility (CSR) initiatives and practices are indeed developed and elaborated within the competences of the Ministry of Economic Development - which includes also the OECD National Contact Point (NCP) – and the Ministry of Labour and Social Policies, including as well the activity related to responsible business conduct. In this regard, the Italian NCP commissioned to the Scuola Superiore Sant’Anna a research project aimed at examining the adequacy of the Italian regulatory and institutional framework in relation to the UNGPs to provide national enterprises a referral guide for the responsible social management (<http://pcnitalia.mise.gov.it/en/news/item/271-business-and-human-rights-the-italian-case>).

In 2013, in implementing the Communication of the EU Commission in “*A renewed EU strategy 2011-14 for Corporate Social Responsibility*” (COM 2011 681), the Ministry of the Economic Development and the Ministry of Labour and Social Policies have developed, in cooperation with national institutions, stakeholders, social partners and business the “*2012-2014 Italian Action Plan for the implementation of the EU Communication on CSR*”.<sup>2</sup>

In the awaits of the revised EU Communication, there will be elaborated a new Action Plan which will encompass a series of cross-cutting measures and actions that will contribute to creating a more favourable context for the human rights promotion within business activities.

---

<sup>2</sup> Communication of the EU Commission COM(2011) 681 on CSR



### III. GOVERNMENT EXPECTATIONS TOWARDS BUSINESS

The Italian Government recognizes the importance of supporting voluntary approaches of human rights respect and promotion by business as fundamental ways towards the growing of new corporate cultures and strategies inspired by social values and sustainable principles. This is particularly true with reference to Agenda 2030 and to the role that business is called to play in the SDGs implementation.

In line with the principles set out in the II Pillar of the UNGPs, and as recalled by the CoE Recommendation (2016/3), enterprises are called to respect human rights by conducting their economic activities both within national borders and abroad in a manner to prevent and avoid any potential direct or indirect human rights negative impact, internally (both to direct employees and to those involved in the supply chains) and externally (environment, community members, consumers). According to the ‘Responsibility to Respect’, in order to prevent and avoid negative human rights impacts enterprises have to conduct processes aimed at preventing the risk of causing (or contributing to) adverse human rights impact and at adopting specific measures able to mitigate eventual harmful consequences.

Companies are thus expected to: i) establish a human rights policy; ii) set up and implement due diligence processes to identify, assess and prevent any potential human rights risks which could be incurred in across their operations and activities (or business partners or suppliers’); iii) provide for mechanisms of grievance allowing reparation to victims of abuses they may have caused or contributed to, or with which they are directly linked to. In conducting this activity, which allows to foresee and avoid potential negative human right impact on individuals and communities, companies should refer *at a minimum* to internationally recognized human rights, as expressed in the International Bill of Human Rights and those set out in the International Labour Organization’s Declaration on Fundamental Principles and Right at Work and the ILO Tripartite Declaration on Principles concerning Multinational Enterprises and Social Policy. Furthermore, depending on circumstances, companies may want to consider additional international instruments and standards (such as the international humanitarian law in case of conflicts or other UN human rights treaties).

To this framework, it is important to add the need of disclosure of non-financial information (in this regard, Italy is also intervening with the transposition of the EU 95/2014) and the existence of remarkable standards such as the UNGP Reporting Framework, the OECD Guidelines on Multinational Enterprises and the Tripartite ILO Declaration, as well as other recognized European and International frameworks and standards such as Eco-Management and Audit Scheme (EMAS), the UN Global Compact, ISO26000 and the Global Reporting Initiative.

## **IV. GOVERNMENT RESPONSES: CURRENT ACTIVITIES AND FUTURE COMMITMENTS**

### **A. FOUNDATIONAL PRINCIPLES**

#### **Guiding Principle 1**

*States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.*

Italy is fully committed to the protection and promotion of human rights. The Italian Constitution, within the framework of the basic principles of human dignity, equality and solidarity, sets forth several provisions ensuring the right to individual freedom, the right to equal treatment, the right to freedom of conscience and worship, as well as the right to freedom of expression and association, the right to a fair trial, the right to health.

The national legislative and institutional framework is in compliance with the obligations and engagements undertaken within the systems of the United Nations, the European Union, the Council of Europe and the OECD. Italy acknowledges all internationally recognized human rights, as enshrined in the core international and regional documents such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights and the EU Charter of Fundamental Rights; Italy also signed the International Labour Organisation Declaration on Fundamental Principles and Rights at Work and related ILO conventions, and the OECD Declaration on International Investment and Multinational Enterprises. Recently, the Government has ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2015) as well as the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2013).

Italy, in line with its undertakings at International level, recognizes the need of further improvements and commits to fill the legislative gaps still existing with refer to specific human rights protection mechanisms and instruments. To this purpose, the Government will:

- Expedite, in agreement with the Parliament, the process of establishment of an independent National Human Rights Institution in adherence with the 1993 Paris Principles and the approval of the draft law introducing the crime of torture in the Penal Code, in line with the 1984 UN Convention on the prohibition of Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment;
- Conduct a comprehensive overview and monitoring of the implementation in the domestic legal framework of legally binding international and regional human rights instruments and soft law standards, with particular focus on human rights and business;
- Effectively implement the Recommendations received and accepted under the Universal Periodic Review;
- Promote the adoption (or improvement of the existing ones) of fair and ethical labour recruitment procedures by business, both at national and international level, and improve the

implementation of regulations on the role of intermediaries and of the provisions of incentives for regular work contracts and agreements;

- Strengthen mutual cooperation and support to trade union organizations, human rights defenders, non-governmental organizations and civil society, in consideration of their essential role in the promotion and protection of human rights;
- Promote awareness raising and information campaigns on the topic of the relationship between economic activities and human rights, through educational programmes and activities for the youth; in particular, in line with the recently enacted School Reform, education and training programmes on these issues will represent a structural component of all the initiatives of the “School-Work Alternation Project” and will be agreed with Ministry of Education, school staff representatives and students;
- Encourage the growth of a human rights culture through the promotion of art exhibitions and films retrospectives on human rights issues and support cultural initiatives focused on awareness raising on legality, such as the ‘Museo delle Regole’ in Naples;
- With regard to the process of internationalization of Italian enterprises and with the aim of encouraging virtuous behaviour of enterprises the Government is also committed to make support and incentive mechanisms coherent with the objectives of the present Plan, in cooperation with Confindustria, Unioncamere e the network of the Italian bilateral Chambers of Commerce abroad.

#### **Guiding Principle 2**

*States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.*

Enterprises domiciled and/or operating in Italy must respect human rights throughout all their activities: the respect of fundamental human rights is a cornerstone of the economic activities as well, carried out either by public or private companies. Art. 41 of the Italian Constitution, which guarantees the freedom of economic activity, states indeed that it may not be carried out against the fulfilment of social purposes or in a way that may jeopardise or harm fundamental rights and freedoms and human safety.

Italian Government expects then that business enterprises comply with all domestic legislation, which includes - among others - specific provisions regarding the right to form association and trade unions, the right to equal treatment and social security, the protection of the employees, consumers and environment. Economic activities should also be carried out in compliance with all recognized international instruments on human rights, such as the International Bill of Human Rights, the Fundamental ILO Conventions (in this regard, the Government supports projects in the framework of G7 and G20 meetings that are aimed at integrating ILO regulations within the fundamental rights at work), the UNGPs and the OECD Guidelines.

As to OECD, the Italian Government - through its OECD NCP - gives particular attention to due diligence and responsible supply chain management, also through multi-stakeholder initiatives. The Italian Government endorsed the G7 Declaration including the commitments related to sustainable supply chains. On the occasion of the Meeting of the G7 Employment and Development Ministers (Berlin, 12-13 October 2015) the “Action for Fair Production” initiative was approved by Ministers in order to foster sustainable global supply chain management in compliance with the

internationally recognized labour, social, and environmental standards of the United Nations, the OECD and the ILO.

To this purpose, Italy will proactively support the NAP implementation by the private sector through the full development of the human rights dimension by engaging in an on-going dialogue with businesses, trade unions, non-governmental organizations, and representatives of civil society.

## B. OPERATIONAL PRINCIPLES

### General State regulatory and policy functions

#### Guiding Principle 3

*In meeting their duty to protect, States should:*

- a) *Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;*
- b) *Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;*
- c) *Provide effective guidance to business enterprises on how to respect human rights throughout their operations;*
- d) *Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.*

The Italian Government is strongly committed to the protection of human rights and to prevent and redress abuses committed by companies and therefore: i) takes appropriate steps to boost and facilitate the enforcement of laws aimed at requiring the respect of human rights by business; ii) provides effective guidance to business through policy measures and promotion and participation to multi-stakeholder initiatives; iii) encourages enterprises to communicate how they address their human rights impacts and stimulate and disseminate best practices at national and international level.

#### GP. 3(a)

**“Enforce laws requiring business to respect human rights, assess adequacy, address gaps”;**

Recent policies, legislative initiatives and implementation measures adopted by the Government include:

#### – LEGALITY RATING

The ‘legality rating’ was introduced in 2012 for the promotion of principles of ethical behaviour in business. The Italian Competition Authority (ICA) can issue, on request, a certification of compliance with relevant domestic legislation and of the adoption of good governance initiatives voluntarily adopted by enterprises, which entitles firms to access public funding and easier access to bank credit. One of the main aims of the ‘legality rating’ is to certify the companies’ active compliance with human rights, in particular the adherence to the guidelines provided by the Legislative Decree No. 231 of June 8<sup>th</sup> 2001 on the administrative liabilities of companies and the adoption of corporate social responsibility within their own *modus operandi*. The Decree No. 231 introduces essential provisions regulating the relationship between companies and the stakeholders, sanctioning enterprises that through their managers, company’s officers, subordinates (or third parties acting on behalf of the company), commit specific offences, including environmental crimes, unauthorized handling of information and crimes against the person (as listed in the Universal Declaration of Human Rights), and violate the safety rules in the workplace. The complete list of the companies that have obtained a rating, with their score, is published on the ICA website ([www.agcm.it/rating-di-legalita/elenco.html](http://www.agcm.it/rating-di-legalita/elenco.html));

– **THE ADMINISTRATIVE LIABILITY OF ENTITIES**

Decree 231 of 2001 has introduced the direct liability of legal entities for specific offences (corruption, money laundering, bribery, fraud, etc.) providing for a special form of liability, which is administrative in nature but to be ascertained by a penal judge and according to criminal law procedures. In order to avoid incurring in liability, the entity shall first demonstrate that it has adopted a sound model of organization, management and control; and secondly, that it has established a mechanism/body entrusted with monitoring and supervising the compliance to the model. Law 231 is both preventive and punitive: the list of crimes falling under the application of the law has been extended over the time and it presently includes specific human rights abuses, among others, the practice of mutilation of female genitalia; child prostitution and pornography; trafficking in human beings and slavery. In 2015, new environmental crimes have been included (environmental disaster, environmental pollution, failure to decontaminate, etc.).

– **IRREGULAR WORK AND AGRICULTURAL SECTOR**

The ‘National Action Plan Against Trafficking in and Serious Exploitation of Human Beings’ provides for preventive measures in countries of origin where exploitation and trafficking of migrants in irregular work mostly occurred. Within this framework, a 2014 Decree has established the “Rete del Lavoro Agricolo di Qualità”: a network aimed at countering irregular work in agriculture by connecting companies compliant with specific requirements under labour, social security and fiscal law (such as the application of local and national agricultural sector work agreements). Companies compliant with the requirements under labour, social security and fiscal law may apply for joining the network, and this is rewarded with special incentives. Companies listed in the network receive special benefits, such as being included in a “white list”. This list is taken in consideration by the government enforcement agencies, which prioritize their controls over companies not belonging to the network (the rule does not apply if workers or trade unions representatives ask for intervention or in case of complaints to judicial authority or other administrative authorities). Such reward mechanisms from Public Administration incentivize promising and best practices in the field of countering irregular work in the agricultural sector.

In line with this approach, the Law n. 199 of 29.10.2016 “Disposizioni in materia di contrasto ai fenomeni del lavoro nero, dello sfruttamento del lavoro in agricoltura e di riallineamento retributivo nel settore agricolo” (provisions on countering undeclared labour, labour exploitation in agriculture and wages rebalance in agricultural sector), provides for measures aimed at improving the criminal prosecution of the phenomenon (through the crimes of illicit intermediation and work exploitation) with particular regard to illicit capital accumulation by exploiters and the provision of confiscation of the goods and properties acquired through the exploitation activity. The Law provides for victims’ compensation and the activation of a plan for the treatment of seasonal workers (in particular foreign ones) with the direct involvement and control of Regions on their conditions. The Law is also aimed at controlling the illicit intermediation by favouring the meeting supply and demand of jobs. On this issue a working group (composed of Ministry of Agricultural, Food and Forestry Policies; the Ministry of Labour and Social Policies; the Ministry of Justice; Regions; Industry Associations; Trade Unions and

Civil Society Organizations) signed the experimental Protocol “Contro il caporalato e lo sfruttamento lavorativo in agricoltura. Cura-Legalità-Uscita dal ghetto”.<sup>3</sup>

In line with the goal of countering exploitation in the agricultural sector, the Centre of Politics and Bio economy of CREA (former INEA) within the Ministry of Agricultural, Food and Forestry Policies, and within the National Operational Project “Sicurezza per lo Sviluppo” (Safety for Development), has set up an Immigrants database with the aim of improving monitoring and control activities especially with regard to immigrants and workers recruited through racket and criminality. The tool collects data geographically (33 specific agricultural areas in about 270 municipalities for a total number of 26 productive divisions employing immigrant workers) and by monitoring seasonal work demands, and consequently identifies the manpower needed over the year.

#### – MIGRANTS SMUGGLING AND HUMAN TRAFFICKING

To increase cooperation activities of investigation, intensify financial controls on criminal groups’ profits and ensure punishment for transnational organizations profiting on migrants smuggling and human trafficking, in line with the Legislative Decree 24 of 2014 (transposing the EU Directive 2011/36) on February 2016, the Italian Government has adopted the *National Action Plan Against Trafficking in and Serious Exploitation of Human Beings*. The Plan is aimed at defining measures and strategies of intervention for the countering and prevention of trafficking, as well as at providing for actions of awareness-raising, social prevention, and social integration of victims.

#### – DEVELOPMENT COOPERATION

International Development Cooperation represents for Italy an instrument for creating stable relationships between countries and also a means of human rights and solidarity promotion; in this respect, the “General Rules Governing International Development Cooperation” define a ‘governance architecture’ for the development cooperation system, whose coherence and policy coordination will be ensured by the Inter-ministerial Committee on Development Cooperation (CICS), a task force made up of relevant ministries. The National Council for Development Cooperation has also been established, including the main public and private, profit and non-profit actors in the field of international development cooperation.

#### PLANNED MEASURES

- Conduct a comprehensive study of the Law 231/2001 in order to evaluate potential extension of the scope and application of the administrative liability of legal entities;
- Strengthen the role of the legality rating - primary competence of the Italian Competition Authority – with the aim of taking it into consideration in the elaboration of the ‘rating d’impresa’ - primary competence of the National Anticorruption Authority – with the aim of promoting the respect for human rights in all economic activities;

---

<sup>3</sup> Basilicata, Calabria, Campania, Puglia and Sicilia Regions, Ispettorato nazionale del lavoro, ACLI TERRA, Caritas italiana, Croce Rossa Italiana, Libera, Associazioni, nomi e numeri contro le mafie, Alleanza delle cooperative italiane, Coldiretti, Confagricoltura, CIA, COPAGRI, FLAI CGIL, FAI CISL, UILA UIL.

- Extend the scope and mandate of the “Rete Lavoro Agricolo di Qualità” to the food mass distribution companies and intermediaries with the aim of promoting the social responsibility of agro-food industry for workers’ exploitation;
- Strengthen the role of labour inspections for tackling and controlling the emersion of irregular work and caporalato;
- Promote the realization of interventions on immigrants’ rights protection in line with the project “villaggio solidale” (as developed in Puglia Region and coordinated by Coldiretti and Focsiv) that has led to the conclusion of regular employment contracts between agriculture industries and immigrants workers in the harvest seasons;
- Further develop coordinating measures in the activities of prevention and control of irregular work and extend the scope and potential of the network of the “Rete Agricola di Qualità” in line with legislation that introduces the administrative liability for work exploitation and illegal intermediation and extends the availability of the compensation fund for victims of trafficking also to victims of caporalato;
- Implement the provisions included in the draft of the II Program of Action on Disability - currently under approval – with particular focus to line of intervention n. 5 “Labour and occupation” and to the dispositions concerning the definition of supporting measures and of a system of incentives for the I and II level collective negotiations on matters of flexibility, part-time and treatment-work-life balance for persons with disabilities or affected by chronic disease or for caregiver workers for persons with serious disabilities;
- Strengthen - also in line with the implementation of art. 25 of the UN Convention of Rights of people with disabilities – respect of fundamental rights of people with disabilities with regard access to medical treatment in hospitals and their quality, through the promotion and dissemination of the “Carta dei diritti delle persone con disabilità in ospedale” realized by the Coop. Sociale Onlus Spes contra Spem in 2010;
- Promote effective implementation of EU Directive 2014/95 on disclosure of non-financial and diversity information by large enterprises and groups;
- Fully implement the provisions of the new Law on Italian Development Cooperation with particular focus on the relationship between the profit and no profit actors and the definition of specific binding guidelines clarifying the role of business and private sector within development cooperation activities and their compliance with human rights;
- Ensuring the full implementation of Law 221/2015 on green economy, including in particular the elaboration of a ‘Green Act’, a reviewed ‘National Sustainable Development Strategy’, a ‘National Plan on Sustainable Consumption and Production’ and the establishment of a ‘Committee on Natural Capital’ to promote environmental sustainability and foster investments in the green economy; these measures will be developed taking into due consideration the development of the relevant European Union frameworks such as the Climate-energy Package 2030 and the Circular Economy Package as well as according to Agenda 2030 and the Paris Agreement;
- Proceed to ratification of the 2014 Protocol to the ILO Forced Labour Convention and its implementation to counter activities of work exploitation and slavery;
- Promote an effective implementation of the Recommendation CM/Rec(2016)3 adopted by the Committee of Ministers of the Council of Europe to Member States on business and human rights;



**GP. 3(b)**

**“Ensure that other laws and policies do not constraint business respect for human rights”;**

#### **PLANNED MEASURES**

- Conduct a systematic review of the existing legal framework for contrasting all illegal forms of labour and labour exploitation in the agriculture, construction, manufacturing and services sectors;
- Conduct a comprehensive review of the existing commercial and civil law to assess and evaluate legislative reform introducing provisions such as the ‘duty of care’ or due diligence for companies;
- Strengthen a comprehensive approach with the participation of all the law enforcement agencies concerned with the aim of better develop a strategy that – by using the operative instruments available – could effectively counter economic and productive activities abusive of human rights;

**GP.  
3(c,d)**

**“Provide effective guidance to business on how to respect human rights *throughout* their operations”;**

**“Encourage or require business enterprises to communicate how they address human rights impact”;**

The Italian Government has reaffirmed its on-going commitment to foster business respect for human rights through activities of promotion and improvement of responsible business conduct in the following fields:

#### **– ENVIRONMENT**

In the field of environment protection, the promotion of high environmental standards by enterprises beyond National and EU legislation is an essential contribution to the respect, promotion and fulfilment of human rights. Particularly relevant in this context are initiatives relating to green economy taken by the Government (Ministry of Environment and Ministry of Economic Development) in partnership with relevant stakeholders (such as national research centres, universities, business enterprises and environmental associations at national and international level) and other international actions undertaken in the field of countering climate change.

## – CHILDREN RIGHTS

With regard to children, the Ministries for Economic Development and Foreign Affairs and International Cooperation supported the launch in June 2015 of the UNICEF *Business Lab Project*. The project is aimed at helping companies identify risks and integrate children rights in their own due diligence and management practices. In line with this approach several actions have been foreseen such as the dissemination of the UNICEF workbook on direct and indirect impact of business activities on children under 18 (*Children are everyone's business*) as well as other relevant publications (*Children's Rights in National Action Plans on Business and Human Rights*, 2015; *Children's Rights in Sustainability Reporting*, 2013; *Children's Rights in Impact Assessment*, 2013).

## – RESPONSIBLE BUSINESS CONDUCT AND OECD DUE DILIGENCE PRACTICES

With reference to the promotion of responsible business conduct, the Italian OECD NCP<sup>4</sup> is committed to implement the OECD Guidelines for Multinational Enterprises by promoting them through an in-depth dialogue with businesses, trade unions, non-governmental organizations, representatives of civil society.

Since the 2011 review of the OECD Guidelines, the NCP developed tools to make international standards operational especially for SMEs such as the “Due Diligence Guidance for SMEs”<sup>5</sup> and activities for awareness raising and pilot projects involving large companies and SMEs with the aim of spurring a proactive responsible supply chain management through training, information and assistance.

Sustainable supply chain is indeed one of the main focus of the NCP action. In 2013, following the Rana Plaza collapse, the “Action Plan for Bangladesh” was launched with the involvement of Italian enterprises in the sector operating in Bangladesh. In this process, the NCP issued the “Report on responsible business conduct in the textile and garment supply chain. Recommendations of the Italian NCP on implementation of the OECD Guidelines for Multinational Enterprises”.<sup>6</sup> Specific recommendations were given with regards to the adherence to the “Accord on Fire and Building Safety” and the participation to the “Rana Plaza Trust Fund” and for future action.

In this respect, the Italian Ministry for Economic Development, together with other six Ministers of EU Countries, signed the “Statement”<sup>7</sup> recommending global companies to contribute generously to the Rana Plaza Donors Trust Fund, set up to compensate victims of the accident in Bangladesh. The Bangladesh case showed the need to switch from a reactive approach to a preventive approach and in this view multi-stakeholders and collective actions are favoured and supported as they are seen more effective to tackle system issues.

Such activities at national level are accompanied by active participation to the OECD proactive Agenda projects, such as the “OECD Sector Project on Responsible Supply Chains in the Textile and Garment Sector” and other EU and international initiatives. Other OECD guidance for due diligence are promoted among companies such as the “OECD-FAO Guidance for Responsible Agricultural Supply Chain” and the OECD

---

<sup>4</sup> <http://pcnitalia.sviluppoeconomico.gov.it/en>

<sup>5</sup> <http://pcnitalia.sviluppoeconomico.gov.it/en/are-you-company/4-ncp-s-tools-for-business>, (2011)

<sup>6</sup> <http://pcnitalia.sviluppoeconomico.gov.it/en/are-you-company/4-ncp-s-tools-for-business>

<sup>7</sup> [http://www.tuac.org/en/public/e-docs/00/00/0E/D8/document\\_news.phtml](http://www.tuac.org/en/public/e-docs/00/00/0E/D8/document_news.phtml)

Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-Risk Areas.

The NCP also takes direct action, cooperating with national and international organisations such as ILO and UNICEF

– **TRAINING ON HUMAN RIGHTS COMPLIANCE**

With regard to communication, training and information on human rights compliance two projects are worth mentioning:

S.O.F.I.I.A.: developed by the Ministry of Agricultural, Food and Forestry Policies, it is aimed at increasing occupational level and fostering inclusion of young citizens of third countries in the job market through support (development and implementation of business plans) and training activities (access to public funding and information, economic and financial management, work health and safety) promoting entrepreneurship in agricultural sector;

AFORIL: provides for training activities for non-EU citizens in their countries of origin in view of their subsequent work inclusion in the Italian agroindustry;

**PLANNED MEASURES**

- Providing guidance to Italian enterprises abroad through the diplomatic and consular network for the dissemination of UNGPs and the SDGs; the Ministry of Foreign Affairs and International Cooperation will develop a strategy to implement this process along actions of advocacy, watchdog activities and match making among enterprises;
- Support and promote the initiatives adopted by the enterprises associations on human rights, such as the recent European project “Global Industrial Relations, Transnational Company Agreements and Corporate Social Responsibility” led by Confindustria, jointly with the German and French business confederations and the Training Centre of the ILO in Turin. The project, that deals with the respect for human rights at global level, focuses on the available instrument for enterprises for a sustainable management of the global supply chain;
- Help disseminating respect of the UNGPs to enterprises investing abroad through an information toolkit for the diplomatic and consular network;
- Support the National Dialogue on Sustainable Finance led by the UNEP Inquiry with the Ministry of Environment, and involving major banks, insurances and institutional investors as well as their associations and policy makers;
- Promote environmental accounting in sustainability reporting and encouraging the adoption of disclosure processes for the assessment and communication of the environmental and carbon footprint of business;
- Strengthen human rights protection and promotion of low-carbon, ecologically sound technologies through climate change international cooperation in line with the OECD Guidelines, the BHR Framework and the Agenda 2030 on Sustainable Development;
- Foster, in cooperation with relevant business association and chambers of commerce, human rights respect among SMEs through the dissemination of toolkits of self-assessment;
- Promote, in line with the G7 Declaration on “Action for Fair Production” and with the

involvement of social partners/trade unions, the contribution to the Vision Zero Fund with the aim of integrating the ILO norms on this matter among the fundamental standards;

- Reaffirm the priority of the elimination of every form of child labour in Italy and with reference to the economic activities of Italian enterprises abroad as provided by the ILO Conventions on this matter; to this purpose, encourage the dissemination among companies of the Italian UNICEF Committee Initiative ‘Business Lab’ aimed at raising the awareness on business impacts on children’s rights and on the need for the inclusion of adequate remedy and mitigation measures;
- Encourage companies in the dissemination of anti-discrimination culture by: i) promoting corporate policies and best practices on inclusivity and Diversity Management also via the institutional support to the adhesion, implementation and assessment of the Carta per le Pari Opportunità e l’Uguaglianza sul Lavoro (corporate voluntary initiative launched by Assolombarda in 2009 - which participates in the European Diversity Charter Platform promoted by the EU Commission GD Justice - with the aim of disseminating in Member States a movement to tackle prejudices and enhance talents in diversity); ii) promoting bodies (such as the Osservatorio Aziendale and the Disability Manager) that will have the aim of promoting the inclusion of workers with disabilities within the workplace, as foreseen in the draft of the II Program of Action on Disability; iii) increasing the awareness within the workplace on the serious issue of sexual abuse and domestic violence; iv) providing incentives for corporate training on inclusion, diversity management, gender balance and gender mainstreaming with specific focus on women empowerment and LGBTI rights.

**With specific regard to the “OECD Guidelines for Multinational Enterprises”, the Government is committed to:**

- Implement the OECD Guidelines for Multinational Enterprises promoting them among businesses with a focus on the HRs dimension, through an in depth dialogue with businesses, trade unions, non-governmental organizations, representatives of civil society;
- Promote common understanding of due diligence among companies and strongly encourage companies to engage in human rights policy and due diligence processes involving the entire supply chain;
- Engage directly with business associations, business and business leaders to convey the governments’ expectations on HRs protections;
- Produce effective guidance for companies (with special focus on SMEs) including at sector level and disseminate Guidance tools developed by the OECD, EU and other international organisations;
- Promote and encourage leading multi-stakeholder initiatives involving both big companies and SMEs for exchange and common action on BHR;
- Promote the international framework agreements developed by the International Trade Unions;
- Promote the culture of Human Rights protection in business action through analysis, cooperation with universities, training activities, etc;
- Participate to initiatives in the context of the OECD, EU and other international *fora* on sustainable supply chains, human rights and due diligence.

## **The State-business nexus**

### **Guiding Principle 4**

*States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.*

### **Guiding Principle 5**

*States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.*

### **Guiding Principle 6**

*States should promote respect for human rights by business enterprises with which they conduct commercial transactions.*

States have particular duties with respect to companies that they own or control and should take additional steps in relation to their duty to protect: states have the means to ensure that policies and regulations respecting human rights are monitored and implemented, and as a matter of coherence, Governments should lead by example by adopting the same behaviours expected from private companies.

Italy is committed to ensure that business enterprises that: i) are owned, controlled by the State; ii) receive support, benefit from services from Government agencies; iii) contract and conduct commercial transactions with the State, operate in full compliance with human rights enshrined in domestic legislation, international regulations and standards, and soft law instruments.

Italy fully adheres to the principles of enforcement of socially responsible procurement and is engaged in ensuring that the respect for human rights is taken into consideration in all procurement stages. The Italian Anti-Corruption Authority (A.N.AC.) supervises and regulates the entire public procurement market in order to ensure compliance with: i) the principles of legitimacy and transparency; ii) the effective performance of contracts; iii) anti-corruption rules. In this regard A.N.AC. and the Italian Competition Authority signed a MoU in December 2014 to establish new criteria for the assignment of the legality rating to companies. In its procurement guidelines, A.N.AC. advises the contracting authorities to include the legality rating among the criteria used to select the most economically advantageous offer.

Italy has adopted the Legislative decree 19 April 2016, n.50, implementing the EU Directives, introducing a framework of a “socially responsible public procurement policy” and reputational requirements in public procurement awarding. With regard to companies directly or indirectly owned by the State, and following a joint effort with the Minister of Economy and Finance, in 2015 A.N.AC. issued guidelines on: i) public disclosure of corporate decision-making processes on the rotation of managers and executives; ii) establishment of new conflict of interest rules; iii) definition of risk areas and protection of whistle-blowers; iv) respect of the rights of workers involved.

Export Credit Agencies and Investment Insurance Agencies (ECAs) provide government-backed loans, insurance and guarantees to support business enterprises industrial projects abroad, especially with regard to complex and risky environment. The strategic role of these public agencies (SACE and SIMEST) make them more exposed to the risk of being associated or linked with human rights infringement: they both apply the OECD Recommendation on Common Approaches and Environmental Due Diligence and conduct risk analysis on environmental and social impact in their operations.

## PLANNED MEASURES

To achieve the goals set in Principles 4, 5 and 6, and within the overall framework of the implementation of EU directives, the Italian Government will conduct the following activities to be jointly developed and monitored by CIDU and A.N.AC:

- Within the framework of the monitoring mechanism set in the Plan (see par. V) give special attention to due diligence of business enterprises owned or controlled by the State;
- Elaborate within the CIDU the concept of a ‘human rights clause’ to be included as a requirement for competing enterprises in all public model tenders and agreements with business enterprises for the purchase of goods and provision of services, with particular focus on i) enterprises operating abroad; ii) enterprises availing themselves of foreign suppliers; iii) foreign enterprises;
- Strengthen the implementation of socially responsible public procurement rules by adopting a comprehensive framework of reference for bidders coordinated by A.N.AC and covering: anticorruption, non-financial disclosure, supply chain, environment, labour, equal opportunities and non-discrimination.

## Supporting business respect for human rights in conflict-affected areas

### Guiding Principle 7

*Because the risk of gross human rights abuses is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:*

- a) *Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships;*
- b) *Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence;*
- c) *Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation;*
- d) *Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.*

Italy recognizes the importance of respecting human rights especially in conflict-affected areas, whereas the promotion of human rights may yet represent a fundamental mean to guarantee peace and security.

On this basis, Italy can draw on best practices of awareness raising and training activities with regard to conflict minerals, and in particular the gold sector, in line with the OECD due diligence and relevant EU regulation. Furthermore, the Government is involved in the process of elaboration of a EU Regulation “setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict affected and high-risk areas” for a responsible trading strategy from minerals from conflict zones.

### PLANNED MEASURES

- Further promote the knowledge of the OECD due diligence guidance ‘Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones’ and ‘Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas’, encouraging and supporting SMEs to follow as well this guidance tools;
- Include human rights impact of economic activities in the programs and activities of awareness raising and capacity development aimed at the respect of human rights in conflict affected countries and high-risk area to be devised and implemented through specific programmes by the National Agency for International Cooperation;
- Reinforce the action of the Italian Development Cooperation towards gender equality also by supporting women economic empowerment in post conflict countries, in line with the three pillars of the United Nations (peace and security, development, human rights) and the operational and normative framework developed within the UN Security Council Resolution 1325 “Women, Peace and Security”.

## **Ensuring policy coherence**

### **Guiding Principle 8**

*States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.*

Coherence on business and human rights policies and regulations across all competent Government departments and agencies both at national and local level will be ensured through an on-going dialogue, the collaboration amongst all the parties concerned and the activity of coordination among the competent governmental department by CIDU.

### **PLANNED MEASURES**

- Development - with the assistance of CIDU - of training activities on business and human rights for competent government and public officials through the predisposition of e-learning scheme and *ad hoc* seminars which will be tailored on the specific competences of each department/ministry.



### **Guiding Principle 9**

*States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.*

### **Guiding Principle 10**

*States, when acting as members of multilateral institutions that deal with business-related issues, should:*

- a) *Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights;*
- b) *Encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising;*
- c) *Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.*

Italy considers it a priority to promote implementation of existing international tools on human rights in the business sector, also in line with the 2030 Agenda, within multilateral institutions and with regard to the negotiation of international treaties and agreements. States and relevant actors should adopt policies and mobilize resources to advance equitable, human rights-based and sustainable development. Italy acknowledges the link between human rights, sustainable development, and fair business competition and is aware that the lack of respect for human rights is a potential factor of distortion on international markets.

Italy acknowledges the link between human rights and fair competition and will endeavour at the international, bilateral and multilateral level to identify effective solutions to enhance the protection of human rights.

### **PLANNED MEASURES**

- Engage with other States for the establishment of a mechanism of peer review for the existing National Action Plans on Business and Human Rights (in line with EU Council resolution encouraging peer learning on BHR);
- Support initiatives in all relevant *fora* aiming at developing instruments to enhance fair competition for the safeguard and promotion of human rights;
- Advocate for a system of ‘human rights credits’ in international trade through the proposal of introduction of a ‘special duty’ for goods imported from countries and/or produced by enterprises not complying with human rights fundamental standards;
- Continue supporting activities of the UN Global Compact;
- Promote further and wider recourse to due diligence processes and foster exchanges of experiences with partner countries at EU and global level, and with international organizations such as the OECD, ILO, IOM and UNICEF;
- Actively support EU engagement and initiatives of member countries to strengthen responsible management of supply chains and improve labour conditions in line with the G7 “Action for Fair Production” commitment;
- Contribute through the exchange with governments and social partners on best practices and approaches to the general discussion on “Decent work in global supply chain” started in the framework of the 105<sup>th</sup> session of the 2016 International Labour Conference.

#### **Guiding Principle 25**

*As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.*

#### **Guiding Principle 26**

*States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.*

The Italian legal system ensures access to effective remedies to protect against human rights violations occurred within its territory: art. 24 and art.111 of the Italian Constitution guarantee the right to be heard in Court and take judicial action for the protection of his/her own rights and legitimate interests, and right to a fair trial.

As far human rights abuses by business, the Italian government must indeed guarantee that victims of human rights abuses by business may exercise their right to effective remedy. The right to an effective remedy is a human right, which has to be guaranteed by a competent, independent, and impartial authority established by law.

With regard to Criminal Law, the Italian legal system generally applies the principle of territoriality as a limit of the efficacy in space of Italian law; however, this principle is subject to exception with regard to the criminal conducts or offences against universal human values such as genocide, slavery, terrorism, etc. In particular, article 7 of the Italian penal code provides for a universal definition stating that for specific offenses the Italian penal law may apply even if the crime is totally committed abroad (outside national boundaries) both by nationals and foreigners. This article, in particular is recalled also with regard the law 231 on the administrative responsibility of entities: art. 4 of law 231 states that in cases falling under art. 7 of criminal code, the enterprise having its headquarter in the state territory is held accountable also in relation to crimes committed abroad, if the state where the offense occurred did not yet proceed against it.

In order to facilitate awareness of the available remedies, improve the efficiency of the judicial system, and better guarantee the right of access to judicial remedy, Italy undertakes to:

#### **PLANNED MEASURES**

- Within the framework of the monitoring mechanism set in the Plan (see par. V) give special attention to the following priorities:
  - Conduct a review of the legal mechanisms and develop a practical and comprehensive toolkit of the remedies available in domestic law;
  - Identify eventual gaps and/or existing barriers jeopardising access to judicial remedy for victims of business-related human rights abuses especially with regard to extraterritorial violations also basing on the relation between parent company and subsidiary;
  - Evaluate the introduction of relevant additional legislative measures to strengthen access to effective remedy both in civil, criminal and administrative law;
- Within the framework of the on-going parliamentary activity of reform of judicial system, raise the awareness on the following priorities: i) remedies against the excessive length of civil proceedings; ii) measures to strengthen special courts for enterprises by extending their

competence to consumer protection-related claims, misleading advertising and unfair competition; iii) special court sections for human rights (especially children rights) and family issues; iv) introduction of criminal provisions against economic crimes, also committed abroad; v) verification of the possibility of introduction of the class action.

- Activate, with the assistance of the CIDU, and also through the collaboration with the Ordine Forense, training courses for judges and lawyers on the legal implications of business and human rights;
- Keep adequate level of funding for legal aid and guarantee its access also to non-national and non-resident claimants, in particular irregular migrants victims of crimes perpetrated by organised criminal network, such as trafficking and smuggling and allow them to denounce crimes irrespectively of their status.

### Guiding Principle 27

*States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.*

As far as Non-judicial remedies are concerned, an important role is played by the specific instances offered by the Italian National Contact Point. As requested by the OECD Guidelines, the OECD NCP manages the “specific instances”<sup>8</sup> through a non-judicial mechanism where the NCP offers good offices when a stakeholder considers that a multinational enterprise has adopted behaviour not compliant with the principles and recommendations set out in the Guidelines.

Italy also supports respect for human rights within the UNEP rights-based approach to environmental protection and sustainable development. Italy has implemented Principle 10 of Rio 1992 ratifying the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

An Italian non-judicial grievance mechanism is the Bank and Financial Arbitrator (ABF) created in 2009 and active since 2010 through its Panels in Milan, Rome and Naples (panels are likely to be established soon in other major towns). In the course of its mandate the ABF has extended the concept of ‘customers’ to cover individuals affected by the action of an intermediary even if the parties were not bound by contract. ABF expanded its functions to deal also with pre-contractual obligations in order to protect individuals claiming that intermediaries violated the obligations of good faith - which bind the parties to adopt fair behavior while negotiating.

### PLANNED MEASURES

- The inclusion of business-related human rights abuses in a special section among the competence of the National Human Rights Independent Institution to be established;
- Improve the visibility and the knowledge of interested parties about the existence of the NCP’s “specific instances” procedures;
- Assess, in line with the G7 “Action for Fair Production” commitments, the performance of the Italian NCP and lead by example, by carrying out an OECD Peer Review of the NCP and hosting peer learning activities;
- Continue ensuring effective implementation of the Aarhus Convention;
- The launch, also through the diplomatic and consular network and with the involvement of Italian Chambers of Commerce abroad, of an awareness raising campaign on non-judicial grievance mechanisms;
- Liaise and support the many Ombudsmen active at national and local level to raise their awareness to protect individuals against human rights abuses by business;
- The extension of the original mandate of the Financial Bank Arbitrator to include human rights-related claims of financial nature (such as mortgage and lending discrimination).

<sup>8</sup> <https://mneguidelines.oecd.org/ncps/italy.htm>

**Guiding Principle 28**

*States should consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms*

**Guiding Principle 30**

*Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available*

**Guiding Principle 31**

*In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:*

- a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance process;*
- b) Accessible [...]*
- c) Predictable [...]*
- d) Equitable [...]*
- e) Transparent [...]*
- f) Right-compatible [...]*
- g) A source of continuous learning [...]*

Italy recognizes that judicial state-based mechanisms are at the core of the State's ability to guarantee the full access to effective remedy against human rights abuses; at the same time, Italy yet acknowledges the need of developing appropriate non-state based grievance mechanisms and to this purpose the Government will encourage civil society organizations, trade unions and business associations to set up and activate grievance mechanisms (such as online network and tools, corporate mechanisms, or multi-stakeholders instruments) to enable the formulation, reception, and evaluation of claims for alleged human rights abuses and the proposals of adequate remedies.

## **V. MONITORING, UPDATE AND DISSEMINATION OF THE PLAN**

The National Action Plan for 2016-2021 on Business and Human Rights will be periodically monitored and reviewed through a process of analysis and consultation with all relevant stakeholders.

To ensure the implementation of the present NAP, the Working Group on Business and Human Rights (in Italian: GLIDU) is established within the CIDU, composed of all the administrations represented in the CIDU.

Such Group will have the task of supervising the progressive implementation of the NAP, coordinating the monitoring activities and proposing modifications and/or revisions of the measures foreseen in the Plan on the base of either the necessity to fine tuning with future governmental policies or with new necessities and thematic priorities that will emerge in the meetings and multi-stakeholder initiatives related to the implementation of the Plan itself.

With the aim of guaranteeing a multi-stakeholder approach, the GLIDU will work jointly with a consultative body composed of all relevant non-institutional stakeholders (business community, trade unions, NGOs, civil society organizations, human rights defenders, individual experts and representatives from academia).

In 2018, the GLIDU will conduct a mid-term review to assess the results achieved and identify the gaps in the actions undertaken to ensure the effective protection and advancement of human rights with regard to economic activities. The analysis will be carried out with special focus on the priorities set in the present Plan and with the aim of addressing future challenges.

In order to raise the awareness on the issue of human rights and business, the National Action Plan on Business and Human Rights will be widely disseminated with particular consideration to business enterprises and actors involved in the processes of internationalization and with the involvement of the diplomatic network, Chambers of Commerce, non-governmental organizations, development cooperation personnel.