

## **Questionnaire**

### **by the UN Working Group on Business and Human Rights**

#### **“Connecting the business & human rights and anti-corruption agendas”**

Germany welcomes the efforts by the OHCHR and the UN Working Group to connect the business & human rights and anti-corruption agendas and appreciates the opportunity to share experiences and provide comments to questions 7, 8, 9 and 10.

*7. Are there areas where there should be greater policy alignment, in terms of seeking reforms, that will benefit both the business and human rights and anti-corruption agendas such as in areas including public procurement, whistleblower protection, beneficial ownership reform, conflict of interest legislation for public officials and legislators, etc.*

Public procurement as well as whistleblower protection raise issues of both human rights protection and anti-corruption policy and might therefore be areas where policy alignment might benefit both agendas.

In the area of public procurement, the 2014 EU Public Procurement Directives enable contracting authorities to take into account human rights at all stages of the procurement process when awarding a contract. In case of a conviction for corruption or fraud as well as for other white collar crimes, the economic operator concerned must be excluded from the procurement procedure. This being said, it would certainly be helpful to raise awareness of the existing possibilities under procurement law to address human rights and corruption in an effective manner.

In the area of whistleblower protection, reforms and tools that will benefit both the business as well as anti-corruption measures are helpful and can be supported in general. However, before implementing new reforms, lessons should be drawn from practical experiences made with already existing tools. For example, within the EU, a new Directive to protect whistleblowers came into force in December 2019 and has to be implemented into national law within two years. Therefore, it is reasonable to wait for first results and feedback from administration and economy after the implementation of the new Directive before further reforms on international level.

*8. How can/should states, private sector and civil society work to better coordinate anti-corruption and business and human rights agendas to prevent harms along both dimensions through collective action, multi-stakeholder platforms.*

In order to cope with the challenges posed by corruption in the private and public sector leading to human rights abuses, all stakeholder groups need to further engage in collective action initiatives on specific issues and sectors. Initiatives supported by the German Government provide evidence that collective action in form of agreements and standards, coalitions, exchange and action platforms and alliances do meaningfully address corruption in relation to business and make a difference for those whose human rights are at stake.

The **Alliance for Integrity** is a business-driven multi-stakeholder initiative between multinational companies, civil society, political organizations and international institutions whose aim is to promote integrity among companies, their business partners and other relevant actors in the economic system. The Alliance for Integrity contributes to better framework conditions by fostering dialogue between the public and private sector. It is currently active in Brazil, India, Indonesia, Mexico, Ghana and the respective regions. Since last year and following a big demand from the local partners, the Alliance for Integrity seeks to integrate a human rights perspective with its main activity of anti-corruption with the aim of generating awareness of the relation of both agendas in the business community and to generate collective ownership of both topics.

The German Government is cooperating with **Transparency International (TI)**, the global coalition against corruption, in various initiatives that address collective action problems and the nexus of businesses, corruption, and human rights violations. The biennial International Anti-Corruption Conference (IACC) provides a platform for actors from all actor groups to come together, reflect on urgent common issues and engage in dialogue and action planning.

The German Government supports the **Extractive Industries Transparency Initiative (EITI)** which is the global standard to promote the open and accountable management of extractive resources. EITI is a high-profile example of collective action, as it tackles a shared global problem that cannot be addressed by just one or a small number of actors. The EITI standard requires the disclosure of information along the extractive industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public. In each of the 53 implementing countries, the EITI is supported by a coalition of government, companies, and civil society.

For the future, modern formats for initiating and facilitating collective action via **innovations and digitalization** need to be explored.

*9. What role should international financial institutions, and investors play in exerting leverage to ensure both prevention of corruption but also business respect for human rights?*

Germany supports a stronger anchoring of human rights and anti-corruption measures in the regulatory and operational frameworks of International Financial Institutions (IFIs). Germany sees an important role for IFIs in supporting rule of law and good governance practices. The internal processes of IFIs need to ensure strict processes including risk management and compliance systems to prevent and detect corruption related to operational activities and safeguard taxpayers' funds. IFIs should always assess implications their investments have on human rights as well as corruption.

The UN Guiding Principles on Business and Human Rights (UNGPs) state that the failure to enforce anti-bribery laws could negatively affect the state duty to protect human rights. Moreover, they note that access to remedy must not be prevented by corruption. Therefore, Germany encourages IFIs to continuously refine their safeguard systems to adapt them to the requirements of the UNGPs.

In addition, Germany is continuing its financial support of the **World Bank**'s Human Rights and Development Trust Fund" (HRDTF) (former "Nordic Trust Fund"). The HRDTF is mandated to increase and strengthen the understanding and application of human rights principles in the World Bank Group's work.

The **International Monetary Fund** (IMF) regularly assesses aspects of corruption and the design and effectiveness of countermeasures in its country surveillance. Also in the context of lending programs, the IMF integrates conditionality aiming at combating corruption as needed.

*10. How can United Nations bodies such as OHCHR and the UN Office on Drugs and Crime, work more closely together to address the human rights impacts of corruption?*

Both offices should stick to their original competencies but bear in mind the interdependencies of the anti-corruption and the business & human rights agendas. One of the negative consequences of corruption can be the misallocation of state budgets, which might negatively impact on the opportunities to implement economic, social and cultural human rights. Moreover, corruption has – at least in an indirect manner - negative consequences for the realization of human rights and OHCHR as well as UNODC should stress the importance that protecting human rights can have for the anti-corruption agenda. On the other hand, granting political and civil human rights such as freedom of expression and freedom of the press might support the fight against corruption.