



Permanent Mission
of the Federal Republic of Germany
to the Office of the United Nations and
to the other International Organizations
Geneva

Ref.: Pol-10

(please quote when answering)

Note No.: 203/2023

Note Verbale

The Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and to the other International Organizations in Geneva presents its compliments to the Office of the High Commissioner of Human Rights and has the honour to refer to the a communication sent by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Working Group on Arbitrary Detention; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism transmitted 28 April 2023, reference UA DEU 2/2023.

The Permanent Mission of the Federal Republic of Germany is pleased to transmit herewith the answer of the Federal Republic of Germany.

The Permanent Mission of Germany to the Office of the United Nations and to the other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.

Geneva, 22 June 2023



To the
Office of the High Commissioner of Human Rights
Palais Wilson
Geneva

Response of the Federal Republic of Germany

to the

Joint Urgent Appeal from Special Procedures - Office of the High Commissioner for Human Rights

Ref.: UA DEU 2/2023

Answer 1.

Germany has no additional information on the allegations raised in the Joint Urgent Appeal. Germany opposes the use of the death penalty under any circumstances. We therefore call for the indicated cases of members of the Howeitat tribe facing execution in light of their protests against forced eviction from the NEOM area to be reversed immediately.

Germany is also deeply concerned by the mentioned allegations with regard to arbitrary detentions, long-term prison sentences, torture and forced displacements. We are aware of similar accusations made by non-governmental human rights organizations as well.

Human rights continue to be an important pillar of Germany's foreign policy. Human rights issues are regularly raised in our bilateral contacts with government representatives, including during Foreign Minister Baerbock's recent visit to Jeddah.

Answer 2.

Respect for human rights plays an important role in foreign trade promotion. In particular projects supported by federal export credit guarantees and investment guarantees must comply with environmental, social and human rights standards. The German government expects companies to respect applicable human rights in their business dealings. Companies are required to follow the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and to fulfil their human rights due diligence obligations in accordance with the German National Action Plan for the Implementation of the UN Guiding Principles on Business and Human Rights (UN Guiding Principles).

The German government has therefore set high standards for project appraisal before granting export credit and investment guarantees. As part of the project appraisal, environmental, social and human rights aspects are closely scrutinized. For example, topics such as occupational safety, health and safety of the population, legality of land acquisition and resettlement, protection of indigenous peoples, protection of cultural heritage, consultation opportunities for affected parties, labor rights (including freedom of assembly, right to union membership, freedom of movement, etc.), protection of minorities and other particularly vulnerable groups, and the existence of a grievance mechanism are examined in depth.

The Federal Ministry for Economic Affairs and Climate Protection and the Federal Ministry of Finance decide in the Interministerial Committee together with the ministries responsible within the Federal Government for international aspects of human rights (Federal Foreign Office and Federal Ministry for Economic Cooperation and Development) whether or not to grant export credit and investment

guarantees. Decisions are made by consensus. An underwriting decision is made when all ministries involved consider that the national and international requirements have been met.

To date, the German Government has not received any applications for export credit and investment guarantees for transactions in connection with The Line. Accordingly, no guarantees have yet been issued. The Federal Government is not aware of any activities of the aforementioned architectural firm "Laboratory for Visionary Architecture" in this context.

Answers 3. / 4.

The legal system of the Federal Republic of Germany contains numerous instruments that are focused primarily on the protection of human rights. They are binding on all enterprises. Where the business operations of an enterprise have an international dimension, procedures for identifying any actual or potential adverse impact on the human rights of people affected by its business activity should be developed and implemented.

Germany has fully transformed into domestic law its obligations to protect human rights under international agreements. This applies, for example, to the prohibitions of child labour and forced labour that are imposed by the ILO core conventions. If companies violate the applicable law in Germany in one of these points, they can be excluded from the award of public contracts. The Federal Government is already implementing a number of measures designed to promote sustainable public procurement by federal, state and local authorities and institutions.

The National Action Plan for Business and Human Rights

Through the National Action Plan for Business and Human Rights (NAP), the Government wishes to contribute to improving the human rights situation worldwide and to giving globalisation a social dimension in accordance with the 2030 Agenda for Sustainable Development.

It identifies thereby the following **core elements of enterprises' due diligence** in the field of human rights:

A **human rights policy statement** to address human rights issues of particular relevance to the enterprise and/or the sector in which it operates, citing the international reference instruments in the field of human rights and to describe the procedure used by the enterprise to exercise human rights due diligence. In particular, this includes the clear assignment of responsibilities within the enterprise, underpinned by the necessary training of staff employed in the relevant divisions.

Procedures for the identification of actual or potential adverse impact on human rights that serve to identify, to prevent or to mitigate potentially adverse effects of corporate activity on human rights. It is not – or not only – a matter of considering risks to the company's own business activity but is primarily about risks to the human rights of those who may be affected by corporate activity, such as employees of the enterprise itself or of other companies in the supply chain, local populations and customers. Contextual circumstances such as the political framework and the presence of vulnerable groups of people (indigenous populations, for instance) should be factored into the analysis. The choice of method and the assessment of risks can be based on the analysts' own research, interviews in-house, in subsidiary enterprises and/or with business partners and input

from external specialists. With the aid of this analysis, enterprises should determine whether an in-depth review is needed. The in-depth review should at least include local dialogue with actually or potentially affected parties and recourse to both internal and external expertise in the field of human rights.

On the basis of the results of the analysis, **measures** should be identified and incorporated into business activity. Such measures may, for example, comprise specialised training of particular employees in-house or with suppliers, adaptation of particular management processes, changes in the supply chain and participation in sectoral initiatives. In order for potential or actual impacts to be properly addressed, enterprises should define clearly where competence lies for particular issues and establish the corresponding review mechanisms. Depending on the type of impact, an enterprise itself can initiate remedial measures. To this end, objectives should be formulated and be communicated internally and externally as the relevant measure dictates. With the aid of **effectiveness tracking**, the enterprise should regularly review the efficacy of the measures it has taken and, to this end, engage in dialogue with affected stakeholders.

Enterprises should keep information at their disposal and communicate it, where appropriate, to external recipients in order to demonstrate that they are aware of the actual and potential impact of their corporate activity on human rights and are taking appropriate steps to address the situation. The form in which this information is communicated should be tailored to its recipients. Enterprises whose business activity poses a particularly high risk of adverse impacts should issue regular public reports on that subject. Such reporting may be done in the framework of the company's existing **reporting** format or take the form of separate reports focused on human rights.

For the early identification of (actual or potential) adverse impacts, enterprises should either establish their own **grievance procedures** or play an active part in external procedures. Such procedures may, for example, be established by sectoral associations. The mechanism should be structured to match the target group. Accordingly, the target group should be consulted when the procedure is being devised. When new mechanisms are established as well as when existing mechanisms are used, care should be taken to ensure that they provide a fair, balanced and predictable procedure which is accessible to all those who might be affected (for instance by eliminating linguistic or technical barriers). As an extra measure, consideration should be given to the creation of offices with which complaints can be lodged anonymously. The procedure should provide maximum transparency for all stakeholders and should comply with international human rights standards. Existing complaints offices within an enterprise or its environment should be screened for compliance with the criteria defined above. The grievance mechanism of each enterprise and its whole process of corporate due diligence should be subjected to regular practice-based reviews to assess their effectiveness.

The National Contact Points for the OECD Guidelines were upgraded to become the central grievance mechanism for external trade promotion projects. The detailed procedure for assessing applications for the provision of export credit guarantees, guarantees for direct investments abroad and untied loan guarantees will be further reinforced as regards respect for human rights; this will entail measuring the procedure against the specific requirements set out in the NAP. To this aim, human rights are treated as a separate point in project assessments. The aim is to ensure that enterprises which avail themselves of foreign-trade promotion instruments exercise due diligence. In particular, this includes participation in grievance proceedings initiated against them before the German National Contact Point for the OECD Guidelines for Multinational Enterprises.

Furthermore the National Corporate Social Responsibility (CSR) Forum of the Federal Government, comprising representatives of the political and business communities, trade unions, civil society and academic professions was established and drew up an intersectoral “CSR consensus” paper on corporate responsibility in value and supply chains. The possibility to join the “CSR consensus” is open to all enterprises that operate in Germany. The list of companies that have joined will be updated continuously and made publicly available at www.csr-in-deutschland.de.

In addition, the Federal Government has installed a support and advisory service (www.wirtschaftsentwicklung.de/en/helpdesk-on-business-human-rights/) which advises companies of all sizes on the implementation of human rights due diligence processes.

The Supply Chain Due Diligence Act

The Federal Government reviewed the compliance of enterprises with the principles mentioned in the NAP in 2018 and as the results were not satisfying took further action with the introduction of the Supply Chain Due Diligence Act, which was passed in 2021 and entered into force in the beginning of this year. The act stipulates that companies of a certain size (more than 3.000 employees in Germany, as of 2024 more than 1.000) have to prove that they have properly applied due diligence. This includes:

- Risk management: Companies have to put in place a management system for observing due diligence. It has to clearly define who is responsible for these standards and it has to be made part of day-to-day operations.
- Risk analysis: The companies analyse whether their actions can lead to violations of human rights or environmental standards. They must evaluate and prioritize the identified risks appropriately.
- Measures: Measures are taken to prevent or remedy these issues. The aim is to prevent, reduce or end any violation of human rights and environmental obligations at any point in the supply chain.
- Complaints procedure: Companies are to establish a complaints procedure so that human rights-related or environmental risks or violations can be reported.
- Reporting: Each company publishes a report every year on how it has fulfilled its due diligence obligations. This is made available to the public and to the responsible authorities in Germany.
- Scope: The due diligence obligations apply to businesses’ own operations and to their direct suppliers. They also apply to indirect suppliers when it comes to the complaints procedure and when the company has reliable information that there is a risk of violations.
- Rights of people affected: People who have been affected by human rights violations or environmental damage can be represented at a German court by German non-governmental organisations or trade unions. In cases of human rights violations, it is the law of the country where the violation occurred that applies. In cases of environmental damage, a choice is available. Possible violations can also be reported to the German monitoring authority responsible, the Federal Office of Economics and Export Control (BAFA).
- Monitoring: The monitoring body BAFA checks whether due diligence obligations have been observed. If it finds they have been violated, it can impose hefty penalties or fines.