



Représentation permanente du Royaume de Belgique
à Genève

Rue de Moillebeau, 58
1209 GENEVE
T +41 22 730 40 00
F +41 22 730 40 20
E-mail: geneva@diplobel.fed.be
www.diplomatie.be/geneva

Ref : FD /CC 2023/381

La Mission permanente de la Belgique auprès des Nations-Unies et des autres organisations internationales à Genève présente ses compliments au Haut-Commissariat aux droits de l'homme et a l'honneur de se référer au courrier de Mme Beatriz Balbin, Cheffe de Service des procédures spéciales, relatif à la communication conjointe à l'encontre de la Belgique, envoyée par le Groupe de travail sur la question des droits de l'homme et des sociétés transnationales et autres entreprises; le Rapporteur spécial chargé d'examiner la question des obligations relatives aux droits de l'homme se rapportant aux moyens de bénéficier d'un environnement sûr, propre, sain et durable; la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme; le Rapporteur spécial sur les droits des Peuples Autochtones et le Rapporteur spécial sur les droits à l'eau potable et l'assainissement (AL BEL 2/2023) .

La Mission permanente de la Belgique a l'honneur de soumettre en pièce jointe la réponse de la Belgique sur les points soulevés par les rapporteurs spéciaux.

La Mission de la Belgique saurait gré au Haut-Commissariat aux droits de l'homme de bien vouloir en accuser réception.

La Mission permanente de la Belgique auprès des Nations-Unies et des autres organisations internationales à Genève saisit cette opportunité pour renouveler au Haut-Commissariat aux droits de l'homme les assurances de sa haute considération.

Fait à Genève, le 22 décembre 2023



Secrétariat du Haut-Commissariat aux droits de l'homme
registry@ohchr.org

Joint communication from the Special Procedures

Sent by

The Working Group on Business and Human Rights; the Special Rapporteur on human rights and the environment; the Special Rapporteur on human rights defenders, the Special Rapporteur on the rights of Indigenous Peoples, the Special Rapporteur on the right to water and sanitation

REF : AL BEL 2/2023 of 26 October 2023

Belgium comprehends the concerns raised in the AL BEL Communication 2/2023, and attaches great importance to the promotion and the protection of human rights in business conducts.

The Working Group and the various Special Rapporteurs have jointly communicated their concern and are requesting the Belgian authorities to provide answers to a range of questions regarding the facts at hand. The petitioners are particularly concerned about the potential impact on the human rights of the local population as a result of the economic activities linked to the palm oil trade by Peruvian company Ocho Sur P SAC, which a Belgian company purchases products from.

In 2016, legal proceedings against companies within the Peruvian Palm Holdings were initiated in Peru. Subsequently, in May 2022, the indigenous community received a first “Title of Territorial Extension” by the regional office. Currently, there are ongoing proceedings targeting various companies and individuals suspected of committing crimes, directly impacting the indigenous community of Santa Clara de Uchunya and the Peruvian state.

Belgium cannot interfere in the legal proceedings currently conducted within Peru. However, Belgium has developed its own policy to promote and encourage companies within its own territory or under its jurisdiction to uphold and respect human rights. In this respect, the paragraphs below will elaborate on recent Belgian initiatives.

1. Belgium's support for the business & human rights agenda

Belgium has ratified most UN human rights treaties, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, numerous ILO conventions, and the European Convention on Human Rights. Belgium has also recognized all individual complaint procedures, under the UN human rights treaties it has ratified. Belgium supported the UN Human Rights Council resolution on the UN Guiding Principles on Business & Human Rights (UNGPs) in 2011.

Belgium also supports the mandate of the Working Group on Business & Human Rights and actively engages in multilateral efforts to promote responsible business conduct, including the UN Forum on Business and Human Rights.

The Belgian government attaches great importance to the topic of business and human rights. Belgium fully aligns itself with the UNGPs that acknowledge:

- States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- The need for rights and obligations to be matched to appropriate and effective remedies when breached.

These three principles are set out in the UNGPs. As part of the implementation of the UNGPs, Belgium has elaborated its first National Action Plan Business and Human Rights. With this National Action Plan (NAP), the Belgian authorities wish to give concrete expression to their commitment to promoting respect for human rights by business enterprises.

The NAP provides a comprehensive framework for the support that Belgium extends to business enterprises in this respect. Through this strategic plan, the Belgian federal and regional governments seek to encourage Belgian businesses, whether operating domestically or abroad, to actively promote and uphold human rights not only within their own operations but also within the wider scope of their influence. The Belgian authorities are currently in the process of drafting a second action plan.

2. Protection of human rights by companies based on Belgian territory/under Belgian jurisdiction (i.a. through encouraging due diligence processes)

Belgium promotes the respect of human rights by companies based on its territory or under Belgian jurisdiction through various measures and initiatives. In the context of the NAP, various resources were developed to provide Belgian businesses and organizations with additional explanations on how human rights can be integrated into the functioning of businesses and organizations.

A [toolbox](#) on the protection of human rights for businesses and organizations was developed in 2022 on behalf of the Belgian government. The federal government has published an [online manual on due diligence](#) (available in [Dutch](#), [French](#) and [English](#)). It explains the due diligence process in an understandable and practical way for businesses. It provides businesses with a range of user-friendly tools to guide them and their stakeholders in implementing human rights obligations.

Belgium has also committed itself to training companies on respecting human rights. To this end, various training courses have already taken place.

Belgium is also committed to several other actions encouraging companies to respect human rights within their processes:

- Better integrate corporate social responsibility into public procurement;
- Fostering responsible management of supply chains with a sectoral approach.

In order to carry out the above actions, the various authorities in Belgium are taking continuous measures.

Furthermore, Belgian legislation is embedded in European legislation, creating a conducive environment for proactive measures that enable companies to achieve sustainability goals while safeguarding and advancing human rights.

Hence it is worth mentioning the draft directive published by the European Commission on February 23, 2022 regarding a proposal on corporate sustainability due diligence. This proposal imposes an obligation on companies to limit and prevent adverse impacts on the environment and human rights in their own operations, in the activities of subsidiaries, and in the operations of business partners. Companies will be held liable and possibly sanctioned if these obligations are not complied with.

This proposal is closely aligned with various EU initiatives, strengthening cross-collaboration. It connects with the recently introduced regulation aimed at reducing deforestation and forest degradation resulting from EU activities, the proposal for banning products made from forced labor within the Union market, and the regulation pertaining to conflict minerals.

Through these concerted efforts, Belgium aims to create an environment where companies operating on Belgian territory or under its jurisdiction are held to a high standard of human rights protection, contributing to the overall promotion and advancement of human rights globally.

3. Belgium's commitments to ensuring that affected individuals have access to effective legal mechanisms (through judicial or non-judicial mechanisms)

States have the duty to protect victims from the negative consequences or abuses in the field of business-related human rights. States should therefore take the appropriate measures to ensure, by judicial, administrative, legislative or other means, that when such abuse occurs in their territory and/or within their jurisdiction, the persons affected have access to effective remediation. This includes the obligation to ensure that access to the State's judicial and non-judicial mechanisms (i.e. effective access to justice) can be found without procedural obstacles.

Belgium has established mechanisms for victims of human rights abuses to seek legal redress. The Belgian legal system enables affected individuals or communities to bring claims against companies that have abused human rights. This reinforces the notion that companies operating in Belgium are accountable for safeguarding human rights within their operations.

There exist several legal procedures and complaints mechanisms in Belgium. To give potential victims a better overview, the federal government is currently working on a free digital tool with a list of all the different possible state-bound (judicial and non-judicial) complaint mechanisms and procedures. Thanks to such a tool, victims can more easily access redress in the event of (business-related) human rights abuses by Belgian or foreign companies. The tool will be available in several languages (Dutch, French, German, English, Spanish, Arabic, Russian). This gives both victims and companies insight into their rights and responsibilities. Also worth mentioning in this regard is the already existing [brochure on access to remedies](#) in Belgium, which contains the main remedies for victims of human rights abuses in Belgium.

Belgium recognizes the importance of ensuring equitable access to legal assistance and aid for all, including vulnerable populations. To address this, Belgium has made significant progress in improving access to legal resources for vulnerable individuals. Recent legislative amendments have resulted in a broader range of people being eligible for legal aid and assistance, thereby enhancing inclusivity and support for those in need.

With the development of these different resources for victims, Belgium wants to ensure that affected individuals have access to effective legal mechanisms, both through judicial and non-judicial mechanisms.

4. Belgium's engagements regarding deforestation in the context of commercial activities

Belgium attaches great importance to the environmental impacts of trade value chains and in terms of deforestation. Since 2003 it fulfils its obligations under the scope of the Forest Law Enforcement Governance and Trade Action Plan to fight global illegal logging and associated trade and reduce its negative economic, environmental, and social impact. The FLEGT-plan resulted in the FLEGT-regulation (2005) that focuses through bilateral Voluntary Partnership Agreements on producer countries, and in the EU Timber regulation (2010) that requires EU operators who place timber products on the EU market to exercise due diligence to minimize the risk of placing illegally harvested timber.

Belgium is also committed to achieve the Sustainable Development Goals under the 2030 Agenda for Sustainable Development adopted in 2015, which include the halting of deforestation (SDG 15.2). In 2016, the Belgian SDG Charter for International Development was initiated to support the principles of sustainable supply chains and human rights due diligence. In relation to this, initiatives were launched including the Beyond Chocolate partnership that aims to make the supply chain for chocolate more sustainable, including the end of cocoa-related deforestation.

In 2020, it has joined the Amsterdam Declarations Partnership – a group of States committed to eliminate deforestation in relation to agricultural commodity (such as oil palm) production and import by 2025.

Belgium has also strongly supported the adoption of the EU Regulation on deforestation-free products. The legislation has entered into force in June 2023 and its main obligations will be fully applicable starting in December 2024. Belgium is currently actively preparing the national implementation of these obligations.

The regulation currently applies to cattle, cocoa, coffee, oil palm, rubber, soya and wood and requires operators to establish and maintain a due-diligence system of procedures and measures to ensure compliance. Information collected will serve the execution of risk assessments including human rights criteria such as the consultation and cooperation with indigenous peoples in countries of production and the existence of claims by indigenous peoples.

In Belgium, the fulfilment of the obligations arising from the regulation will be under the responsibility of the Federal Public Service Health, Food Chain Safety and Environment which, among others, will carry out checks to establish whether operators and traders comply with the regulation.

Penalties for non-compliance laid down under national law will include – but will not be limited to – fines proportionate to the environmental damage and value of the traded items and confiscation of the products and revenues.