



Permanent Mission of Italy  
UN - Geneva

N. 5158

**NOTE VERBALE**

The Permanent Mission of Italy to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to transmit herewith Italy's reply to the Joint Communication from Special Procedures AL ITA 2/2024 dated 17 May 2024.

This Permanent Mission would be grateful for kindly confirming receipt of this Note Verbale and of the attached document.

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

Geneva,            - 7 AOUT 2024



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Office of the United Nations  
High Commissioner for Human Rights  
GENEVA

ITALIA



Ministero degli Affari Esteri  
e della Cooperazione Internazionale

COMITATO INTERMINISTERIALE PER I DIRITTI UMANI

***Italy's Reply to UN Joint Communication AL ITA 2/2024***

***Agosto 2024***

## Italy's Reply

Italy renews its commitment to strengthen the open and mutual dialogue with the UN Human Rights Machinery and its bodies and mechanisms to enhance the promotion and protection of human rights. Further to UN Special Rapporteurs' joint communication (AL ITA 2/2024) dated May, 17<sup>th</sup> 2024, the Government of Italy is in a position to provide the following information.

- **2<sup>nd</sup> NAP on BHR 2021-2026**

We recall the reply provided by *Amundi Asset Management SA* (Re: AL OTH 85/2024, dated 16 July 2024), regarding Amundi's group approach towards human rights and responsible investment management, in line with the UN Global Compact principles and the UN Guiding Principles on Business and Human Rights. With reference to UNGPs, Italy has been one of the first countries in the world to adopt a National Action Plan on Business and Human Rights in 2016,<sup>1</sup> now in its second edition for the five-year period 2021-2026, the contents of which are illustrated below.

Through the II National Action Plan for Business and Human Rights (NAP BHR 2021-2026)<sup>2</sup>, Italy wishes to contribute to improving the human rights situation worldwide in accordance with the UN 2030 Agenda for Sustainable Development. In this context, the II NAP BHR aims to be an evolving and increasingly effective functional tool in the light of the 17 Sustainable Development Goals (SDGs) as well as the contextual challenges that arise at the global level.

Within the framework of Italy's ongoing commitment to promote and protect human rights, the second Italian NAP BHR 2021-2026, officially adopted on December 10<sup>th</sup> 2021, intends to strengthen the implementation of the UNGPs through a series of complementary measures, referring in particular to the following points:

- the systematic promotion of BHR issues in all relevant international fora as an integral part of a universal vision of Human Rights, sustainable development, democracy and the *rule of law*. In this context, the application of the UNGPs should therefore also be promoted in relation to the 17 SDGs of the UN 2030 Agenda (in particular SDGs n. 4, 5, 8, 10, 12, 16, 17) and the contents introduced by the UNGPs 10+ project initiated by the relevant *UN Working Group on Business and Human Rights*;
- addressing issues and practices related to the protection of the environment, health, decent work and '*Human Rights Defenders*', also in the face of the new challenges posed by the gig economy and in the context of the *National Recovery and Resilience Plan* (NRRP), in correlation with the challenges of multi-dimensional post-Covid-19 reconstruction;
- the need to study in depth innovative issues related to technological development and artificial intelligence (also in relation to the Declaration of Rights in the Internet adopted by the Italian Parliament on 31 July 2015), in order to highlight their possible impact on the enjoyment of human rights, as well as an adequate action of corporate due diligence, and further innovative issues related to activities promoted by cultural companies with an important impact on the promotion of human rights;
- the commitment to update and improve collective action in relation to multiple human rights issues from the perspective of protecting the '*most vulnerable*' (women and girls, minors, persons

<sup>1</sup> <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-human-rights>

<sup>2</sup> [https://cidu.esteri.it/wp-content/uploads/2023/12/secondo\\_pan\\_bhr\\_en-1.pdf](https://cidu.esteri.it/wp-content/uploads/2023/12/secondo_pan_bhr_en-1.pdf)

with disabilities, LGBTIQ+ persons, migrants and asylum seekers, persons belonging to ethnic and religious minorities, the elderly), with the aim to empower their role and involvement as right-holders, where individual aspects related to business activities may have a significant impact on these categories from a labour and economic point of view.

The second Italian NAP BHR updates these issues for a renewed vision, not only in order to consistently and continuously preserve former commitments but also to introduce new voluntary commitments to ensure that the Italian position is in line with the conceptual and executive update of the UNGPs. The structure of the second NAP BHR reflects the model proposed by the *UN Working Group on BHR*: each operational principle is examined by introducing the most relevant actions and interventions (legislative, programmatic, administrative) adopted at the national level, followed by a list of planned measures, to implement at the best the UN Guiding Principles.

The following national priorities of the second NAP BHR are proposed:

1. strengthening of the process to outline a regulatory framework for human rights *due diligence*, in accordance with international standards and developments in the EU, in order to identify, prevent and mitigate risks and manage eventual human rights violations by business companies;
2. the promotion of fundamental rights through business activities both offline and online along the supply chain, at local, national, regional and global level;
3. combating all forms of discrimination in the definition of business companies' strategic priorities in order to guarantee a performance that respects diversity, with particular reference to automated information management mechanisms and digital systems;
4. a collective awareness of the impact that new technologies, especially artificial intelligence, could have on the enjoyment of human rights, while paying attention to the promotion of corporate due diligence processes on human rights within the activities of those companies involved in research and development of new technologies;
5. strengthening of measures to prevent and combat all forms of exploitation in the labour sector, both public and private, inferring vulnerable groups as victims, with particular reference to women, minors, persons with disabilities and LGBTIQ+ people;
6. strengthening of legislative and policy measures relating to the prevention and combating of the phenomenon of '*caporalato*' (especially in the agricultural and construction sectors);
7. the protraction of planning and implementation of supervisory actions and information initiatives for the prevention of offences and the promotion of legality in the field of outsourcing of entrepreneurial activities and subcontracting chains, aimed at guaranteeing adequate protection for workers and effective awareness of their rights;
8. the consolidation of Italy's role in the context of international cooperation processes for human rights-based development, with a view to achieving the sustainable development goals set out in the UN 2030 Agenda <sup>3</sup>;
9. the promotion of protection of the ecosystem and environmental sustainability processes, taking into consideration the impact of business companies' actions on people and communities in the medium and long term.

Moreover, among the key-issues of the second Italian NAP BHR there are the following ones: legality rating; administrative responsibility of business companies; smuggling of migrants and trafficking in human beings; vulnerable categories; environment; children and adolescent rights; the principle of diversity management in the business context; responsible business conduct and *due diligence* in the framework of the United Nations, OECD and European Union; training; public procurement/corruption; internationalisation of business companies.

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<sup>3</sup> See the two *Voluntary National Reviews* of Italy (VNRs, year 2017 and year 2022): <https://hlpf.un.org/countries/italy>.

It is worthy of note that the second Italian NAP BHR incorporates the recommendations received during the third cycle of the *Universal Periodic Review* (UPR), relating to efforts - in terms of policies, legislative and administrative measures - to prevent and manage the risk of companies' involvement in human rights violations in conflict situations. Under the comment on GP 7, the II NAP introduces a chapter dedicated to “*Encouraging respect for human rights by companies in conflict zones*”, proposing 5 voluntary actions (nn. 37-41) to be achieved by 2026.

- **Monitoring mechanism of the 2<sup>nd</sup> NAP on BHR 2021-2026**

The implementation of past and new commitments has been and is attributed to a special coordinating body, the *Working Group on Business and Human Rights* (GLIDU), set up at the *Inter-ministerial Committee for Human Rights* (CIDU)<sup>4</sup>, whose members are representatives of the central Administrations concerned and which convenes for two sessions a year.

The 59 programmatic commitments undertaken in the second NAP BHR for the better implementation of the UNGPs have been put under monitoring through the introduction, appropriate use and updating of adequate indicators, so that they may effectively guide the legislative, regulatory and administrative institutional actions at the domestic level, albeit in open and constructive dialogue with the business world, as well as through the cooperative bilateral and multilateral Italian action.

The monitoring of planned measures takes into account the recommendations provided during the country-visit to Italy (October 2021) as well as in the country-visit report of the *UN Working Group on BHR*, which have been included in the second NAP BHR during its drafting process.

Targeted dialogue with non-institutional stakeholders has been promoted in a consultative manner. This consultative group has been usually conveyed in an open dialogue meeting with the GLIDU and its participants have been invited to propose contributions on the issue representing business associations, trade unions, non-governmental organizations, civil society, human rights defenders, experts in the field and the academic world.

These actors sent their contributions on the occasion of an online assessment e-consultation (*Call for Inputs*) in 2021 and also in the process for the compilation of the second NAP. Those results, completed by contributions from GLIDU, were relevant for assessing the implementation outcomes of the first NAP, and for drafting structure and contents of the second NAP, included its 59 voluntary measures, making it a *living document*, supported by a wide participation of stakeholders.

- **Remedies and redress**

In terms of access to remedies and redress, there are many ways in which a question of human rights may be brought before an Italian court or administrative authority, for example in connection with civil or penal proceedings, such as a claim for compensation, in full respect of art. 24 of the right to defence established in the Italian Constitution, which states that “*Everyone may take legal action to protect his or her legal rights and interests. The defence is an inviolable right at every stage and level of proceedings. The indigent shall be assured, by appropriate institutions, the means to act and defend before every jurisdiction. The law determines the conditions and modalities for the redress of miscarriages of justice and guarantees - in accordance with the principle of equality - the right to legal protection to all individuals under the jurisdiction of the courts, regardless of their nationality*”.

The Italian legal system is in fact equipped with mechanisms that guarantee access to judicial remedies for individuals who consider themselves victims of an infringement of fundamental rights

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<sup>4</sup> <https://cidu.esteri.it/>

perpetrated by a company. Therefore, the issue of the alleged infringement of human rights may constitute grounds for initiating a civil action claiming monetary / non-monetary compensation for damages, or a criminal action eventually entailing condemnation also from the compensation perspective.

It should be noted that civil liability of companies takes up the scheme of the compensatory liability resulting from the injury of a right of others, governed by Articles 1218 and 2043 of the Civil Code. Moreover, Legislative Decree No. 231/2001 has provided the Italian legal system with adequate tools to combat corporate crime in its most sophisticated manifestations, by introducing the possibility of affirming the criminal/administrative liability of legal persons and imposing sanctions for offences committed by those who hold top management positions within the company and for those committed by its employees. A 'binary' system of sanctions is envisaged, which provides for the imposition of monetary and interdictory sanctions.

Within the Italian juridical framework, also several *non-judicial* mechanisms coexist. These are placed side by side to the judicial system and are characterized by structural and operational features that are easier and more accessible as well as less expensive and faster, while granting independence and effectiveness. This category includes the *National Contact Point* (NCP) in charge of promoting the implementation of the *OECD Guidelines for Multinational Enterprises* by Italian companies of all sizes and sectors.

The Italian NCP was established in 2002 by art. 39 of Law No. 273/2002 under the Ministry of Economic Development (now *Ministry of Enterprises and Made in Italy*), whose main role is to further the effectiveness of the *OECD Guidelines for Multinational Enterprises* (Guidelines), a set of non-binding principles and standards for responsible business conduct elaborated by the OECD and directed to multinational enterprises and all companies operating on international markets.

The Italian NCP furthers the *Guidelines* effectiveness also by handling the specific instances submitted by stakeholders alleging that an enterprise's non-observance of the OECD Guidelines causes or risks to cause a negative impact. By offering its good offices, i.e. through mediation and conciliation, the NCP helps the parties find a consensual solution, compliant with the *Guidelines*.<sup>5</sup>

## **CONCLUSION**

We take this opportunity to reiterate our firm willingness to continue cooperating fully with all UN Special Procedures.

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<sup>5</sup> <https://pcnitalia.mise.gov.it/index.php/en/ncp>