Ministry of Economic Development and Technology

Ministry of Development Funds and Regional Policy

GUIDEBOOK FOR ENTERPRISES

on the application of the minimum safeguards of the EU Taxonomy

under Article 18 of the Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment

December 2024

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Introduction

The Guidebook for enterprises on the application of the minimum safeguards of the EU Taxonomy (hereinafter: Guidebook) was designed for the entrepreneurs obliged to comply with the requirements laid down in the Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment (hereinafter: EU Taxonomy). The Guidebook aims at supporting the enterprises in applying the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (hereinafter: OECD Guidelines) and the UN Guiding Principles on Business and Human Rights (hereinafter: UN Guiding Principles) and implementing the principles of responsible business conduct and due diligence procedures.

Given that the Report of the EU Platform on Sustainable Finance[1] was published in 2022 and does not account for, among others: the update of the OECD Guidelines with effect from 8 June 2023, the Convention of the International Labour Organisation (ILO) on the Occupational Safety and Health included into the canon of the fundamental ILO conventions in 2022 and does not refer to implementation of due diligence processes, this Guidebook explains the requirements for the entrepreneurs and the measures to be taken by the entrepreneurs to comply with these requirements and acts as a basic educational material to be developed in the future.

Owing to the general nature of the Guidebook's content, no checklists were applied. The checklists may act as an effective tool only when they precisely refer to a specific organizational and sectoral context of an enterprise concerned. Therefore, it is difficult to develop universal checklists. The Guidebook contains the supplemental questions and tools to be used by the entrepreneurs implementing the due diligence processes. The Guidebook contains also no content that enables conducting the enterprise's assessment, building on "compliance" or "non-compliance" with the criteria. The Guidebook describes the potential challenges for the entrepreneurs, when adhering to the OECD Guidelines and UN Guiding Principles, in the context of conducting and implementing due diligence processes. **It should also be noted that the Guidebook contains the examples and guides adequate to the context of conducting business in Poland rather than constitutes an interpretation of law.**

The Guidebook consists of five parts. The first part presents the requirements for the entrepreneurs related to ensuring minimum safeguards by applying the principles of responsible business conduct and implementing due diligence processes, in particular human rights due diligence. To this end, the aspects related to adherence to the OECD Guidelines and UN Guiding Principles as well as implementing the individual due diligence process stages were explained.

[1] In October 2022, the EU Platform on Sustainable Finance prepared the report on request of the European Commission (Final Report on Minimum Safeguards, October 2022) to provide guidance on how to apply Article 18 of the EU Taxonomy on minimum safeguards.

The second part describes the due diligence implementation process and the accompanying challenges on the example of a fictious “WNĘTRZE MARZEŃ.PL” company.

The third part addresses the key aspects of tracking the effectiveness of activities for responsible business conduct, including respecting human rights.

The following part of the Guidebook contains the information bases and links to the educational materials and organisational tools, which may be applied by the enterprises. This part lists also the links to the organisations which may provide important information in the process of identifying the risk of abuses and irregularities, risks related to human rights and other areas of responsible business conduct, in particular with regard to the supply chain.

The list of frequently asked questions is provided in the last part of the present Guidebook.

Entrepreneurs may use this Guidebook as an aid in adapting their business models to both the OECD and UN Guiding Principles recommendations and to the expectations of the stakeholders, including the investors, local communities and non-governmental organisations.

Through recent observation of the enterprises’ approach to sustainability reporting, it should be noted that the efforts made by the enterprises have frequently focused on collecting data for the purposes of the expected reporting indicators. It must be emphasized however that the expectations of the EU legislator head in a different direction. Organisational changes in conducting business compliant with the requirements of the international standards, such as the OECD Guidelines and UN Guiding Principles, should attract the interest of the companies’ management boards. The reports reflecting the enterprises’ progress in implementing the standards and thus taking measures aimed at green and just transition shall bring us information on the effects of these changes in future.

This publication is drawn up within the framework of the Minimum Safeguards Working Group, which has been operating since February 2024 as part of the Working Group on the Application of the EU Taxonomy under the auspices of the Ministry of Economic Development and Technology[2] in cooperation with the Ministry of Development Funds and Regional Policy.

The publication constitutes the work of many authors. It is prepared *pro publico bono* by the Working Group under the editorship of Joanna Szymonek (Faculty of Management and Social Communication, Jagiellonian University), co-founder of the Polish Institute for Human Rights and Business.

We extend our special gratitude to: Jacqueline Kacprzak (Ministry of Development Funds and Regional Policy), Danuta Kędzierska (TÜV SÜD Polska Sp. z o.o.), Karolina Grosicka (POLSIF), Bartosz Kwiatkowski (Frank Bold Foundation), Monika Porębska (Cementownia Warta S.A.), Joanna Osińska (EkoStrageGia-partners in ESG) and Agnieszka Muszyńska-Szymczak (mBank S.A.).

Coordination: Izabela Małek (Ministry of Economic Development and Technology).

[2] For more information on the Working Group see: https://www.gov.pl/web/rozwoj-technologia/grupa-robocza-ds-stosowania- taksonomii-ue

Glossary

ESG

The main areas of an organization's activities within which they are guided by the principles of sustainable development - environmental, social and governance.

Stakeholders

Any definable grouping or individual (for example: customers, suppliers, employees, institutions, natural environment), which may affect an enterprise or is affected by the operations of an enterprise (organisation) by means of its strategy, products, manufacturing processes and services, management systems and procedures. Taking into account the needs, expectations and opinions of the stakeholders forms a key element of responsible business conduct.

OECD National Contact Point for Responsible Business Conduct (OECD NCP)

A non-judicial grievance mechanism. The key task of the OECD National Contact Points for Responsible Business Conduct is popularisation of the OECD standards on responsible business conduct (RBC) and examining notifications of alleged breaches of OECD Guidelines for Multinational Enterprises by enterprises. The OECD National Contract Points are currently operating in 52 countries: 38 OECD Member States and 14 non-OECD Member States[3], however adhering to the OECD Guidelines. In Poland, OECD NCP has been operating since 1998, currently within the structure of the Ministry of Development Funds and Regional Policy.

Value chain

A full range of activities, resources and relationships related to the enterprise's business model and the external environment in which it operates. It encompasses the activities, resources and relationships the enterprise uses and relies on to create its products or services from conception to delivery, consumption and end-of-life (human resources, activities, resources and relationships along the supply, marketing and distribution channels, such as materials and service sourcing and product and service sale and delivery and the financing, geographical, geopolitical and regulatory environments in which the undertaking operates). The value chain includes its upstream and downstream actors from the enterprise. The upstream actors (e.g., suppliers) provide products or services that are used in the development of the undertaking's own products or services. The downstream actors of the value chain (e.g., distributors, customers) receive or use products or services from the enterprise. An enterprise may have more than one value chain, in particular when it is a group of companies operating in various sectors.

[3] As of 20 December 2024 https://www.gov.pl/web/fundusze-regiony/oecd-national-contact-point-for-responsible-business-conduct

Supply chain
Refers to the actors in the upstream value chain, with which the enterprise maintains direct relationships (defined as suppliers), providing products or services, which are used in the development and production of the enterprise's own products or services and the actors, with which the undertaking maintains indirect business relationships (lower tier suppliers).

Minimum safeguards
Pursuant to Article 18(1) of the EU Taxonomy, these include internal regulations, e.g. policies, procedures, instructions or codes implemented by an undertaking that is carrying out an economic activity, to ensure the alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the *Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work* and the *International Bill of Human Rights*. Minimum safeguards constitute one of the criteria determining whether or not an activity complies with the EU Taxonomy[4] (Article 3 of the EU Taxonomy).

Due diligence
A process, within which the enterprises identify the actual and potential adverse impacts arising (or which may arise) in their own operations, prevent, mitigate, retain responsibility and account for how they address these impacts. Due diligence process is described further later in this Guidebook.

Adverse impacts / contributing to adverse impacts
Any adverse change to the society, economy or environment caused by an enterprise, resulting in total or in part from the future or current activities, omissions and decisions on the part of the enterprise. The adverse impacts may: (1) arise from own operations of the enterprise or (2) arise in effect of a business relationship e.g. with a supplier or customer (direct impact) or (3) arise in effect of the enterprise operations in the value chain, where there is no direct business relationship (indirect impact). The risk of their occurrence arises when the enterprises may have adverse impact e.g. in the area of respecting human rights (now or in future). To mitigate the risk of such adverse impacts, the enterprises should align with the recommendations laid down in the OECD Guidelines and UN Guiding Principles.

EU Platform on Sustainable Finance, PSF
An advisory body of the European Commission (hereinafter: Commission), constituted in accordance with the horizontal rules of the Commission on the expert groups (its role, composition and tasks are laid down in Article 20 of the EU Taxonomy). The main objective of the Platform is to advise the Commission on the tasks and topics related to further development of the EU Taxonomy and to support the Commission on technical preparation of the delegated acts to implement the EU Taxonomy. The Platform performs also the advisory and analytical function in developing the EU Sustainable Finance Framework.

[4] Pursuant to Article 18(1) of the Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment (so called EU Taxonomy).

Anti-competitive practices
Any activities infringing the competition law and antitrust rules, which prohibit: establishing hard core cartels, other anti-competitive arrangements, abusing market power or dominance, acquiring market power or dominance by means other than efficient performance, substantial lessening of competition or the significant impeding of effective competition through mergers or acquisitions.

Human rights and freedoms
Result from inherent dignity of the human person, are guaranteed without regard to gender, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. One may not waive these rights and freedoms.
The fundamental document on human rights is the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948. The rights listed in the Declaration of Human Rights are codified in the international pacts and conventions forming the international human rights protection system, as well as in national legislation. Human rights are addressed among others in Chapter II of the Constitution of the Republic of Poland.

Multinational enterprises
The OECD Guidelines do not provide a definition of a multinational enterprise. When determining, whether an enterprise meets the criteria of a multinational enterprise, the following should be taken into account: international nature of an enterprise's structure or activities and its commercial form, purpose, or activities[5].

These enterprises operate in all sectors of the economy. A multinational enterprise may include a private entity, State Treasury company and an enterprise with a mixed ownership structure.

The degree of autonomy of the individual entities of an international enterprise may vary. One or more of the entities of the enterprise should exercise a significant influence over the activities of other entities. The OECD Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, all entities within the multinational enterprise are expected to contribute to the implementation of the OECD Guidelines.

Business relationship
Covers the relationships the undertaking has with business partners, entities in its value chain (e.g. suppliers, subcontractors, shares in *joint venture* companies or investments) and any other non-State or State entity directly linked to its business operations, products or services.

[5] OECD Guidelines, 2023 edition, Chapter I "Concepts and Principles", point 4.

Rightsholders / persons, whose rights may be affected

Since the term “rightsholder” is not used in the Polish language, the Polish translation applied the term “persons, whose rights may be affected” (OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, p. 47, as well as footnote 11 in the Polish version of the document Due Diligence for Responsible Corporate Lending and Securities Underwriting, Ministry of Development Funds and Regional Policy, 2021).

Reprisals

According to the OECD Guidelines, 2023 edition, the reprisals include retaliatory or discriminatory actions that are intended to censor, intimidate, harm or silence critics such as threats, reputational smears, slurs, harassment, intimidation, surveillance, strategic lawsuits against public participation, attempts to criminalise lawful activities, physical attacks and killings.

Whistleblowers / persons reporting potential irregularities

Pursuant to Article 4 of the Act of 14 June 2024 on the protection of whistleblowers, a whistleblower is a natural person who reports or publicly discloses information on breaches acquired in the context of his or her work-related activities, including: a worker; temporary worker; a person performing work on the basis other than the employment relationship, including under the civil-law agreement; entrepreneur; proxy, shareholder or partner; member of a body of a legal person or organizational unit without legal personality; a person performing work under the supervision and management of a contractor, subcontractor or supplier; intern; volunteer; trainee; officer in the meaning of Article 1(1) of the Act of 18 February 1994 on retirement benefits for officers of the Police, Internal Security Agency, Foreign Intelligence Agency, Military Counter-Intelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, Border Guard, Marshall's Guard, National Security Service, State Fire Service, Customs and Fiscal Service, Prison Service and their families; a soldier in the meaning of Article 2(39) of the Act of 11 March 2022 on the Defence of the Homeland. A whistleblower is also a natural person referred to above, if it reports or publicly discloses information on breaches acquired in the context of his or her work-related activities prior to establishing the employment relationship or any other legal relationship constituting the basis for providing work or services, or performing a function in or for a legal entity, or service in a legal entity or upon their termination.

Impact

Any positive or adverse change to the society, economy or environment caused by an enterprise, resulting in total or in part from the future or current activities, omissions and decisions on an enterprise.

EU Taxonomy

Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088. It establishes the classification system for economic activities for determining, whether an economic activity is environmentally sustainable.

List of abbreviations

CSDDD
Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.

CSRD
Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting.

ILO Declaration
Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work.

DNSH
The principle of “do no significant harm” referred to in Articles 3 and 17 of the EU Taxonomy is one of the conditions to qualify an activity as environmentally sustainable.
The conditions for fulfilling this principle are provided in detail in the relevant EU Taxonomy delegated acts, containing the technical screening criteria. The DNSH principle is also included in SFDR, however with different meaning and conditions. The scope of DNSH principle in SFDR is much broader and covers both environmental and social aspects. This principle is referred to in Article 18(2) of the EU Taxonomy (for more details see chapter “Principle of “Do no significant harm” (DNSH) according to SFDR as the condition for applying minimum safeguards”).

ESRS
European Sustainability Reporting Standards. The standards are mandatory for all companies subject to CSRD. For the listed SMEs, the European Financial Reporting Advisory Group (EFRAG) elaborates the recommendations for the European Commission in the form of LSME standard (European Sustainability Reporting Standard for listed SMEs), and the Voluntary European Sustainability Reporting Standard (VSME) for the remaining non-listed SMEs.

OECD NCP
OECD National Contact Point for Responsible Business Conduct.

ICESCR
International Covenant on Economic, Social and Cultural Rights.

ICCPR
International Covenant on Civil and Political Rights.

OECD
Organisation for Economic Cooperation and Development.

PAI (*principal adverse impacts*)
Principal adverse impacts of investment decisions in the meaning of SFDR.

ESG/SR Report
A publication presenting the management, implementation of the organisation's strategy with consideration to the environmental, social and governance (defined ESG data) and sustainable development (SD) aspects. The Report, which is elaborated on an annual basis, contains the policies, goals, strategies and review of core outcomes, with the year-to-year comparison option. It may be also subject to an external audit.

RBC
Responsible Business Conduct.

SFDR
Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector.

EU
European Union.

OECD Guidelines
OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.

UN Guiding Principles
UN Guiding Principles on Business and Human Rights.

Part I

Requirements for enterprises with a view to ensuring minimum safeguards under the EU Taxonomy

Legal basis of minimum safeguards

Article 3 of the EU Taxonomy identifies the criteria for establishing the degree to which an investment is environmentally sustainable and qualify an economic activity as environmentally sustainable. One of the criteria is ensuring that business activity is carried out in compliance with the **minimum safeguards** laid down in Article 18(1) of the EU Taxonomy.

Box 1. Legal basis of minimum safeguards in the EU Taxonomy Regulation

REGULATION (EU) 2020/852 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 18 June 2020
on the establishment of a framework to facilitate sustainable investment,
and amending Regulation (EU) 2019/2088

ARTICLE 3
Criteria for environmentally sustainable economic activities

For the purposes of establishing the degree to which an investment is environmentally sustainable, an economic activity shall qualify as environmentally sustainable where that economic activity:

a) contributes substantially to one or more of the environmental objectives set out in Article 9 in accordance with Articles 10 to 16;
b) does not significantly harm any of the environmental objectives set out in Article 9 in accordance with Article 17;
c) is carried out in compliance with the minimum safeguards laid down in Article 18; and
d) complies with technical screening criteria that have been established by the Commission in accordance with Article 10(3), 11(3), 12(2), 13(2), 14(2) or 15(2).

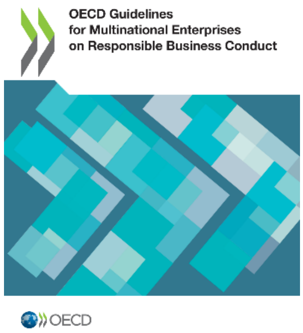
ARTICLE 18
Minimum safeguards

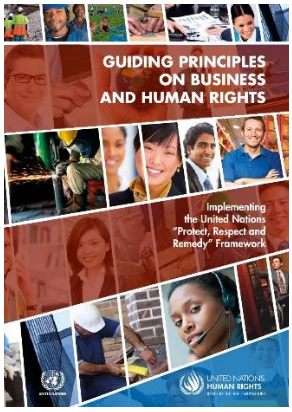
1. The minimum safeguards referred to in point (c) of Article 3 shall be procedures implemented by an undertaking that is carrying out an economic activity to ensure the alignment with the **OECD Guidelines for Multinational Enterprises** and the **UN Guiding Principles on Business and Human Rights**, including the principles and rights set out in the eight fundamental conventions identified in the **Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work** and the **International Bill of Human Rights**.
2. When implementing the procedures referred to in paragraph 1 of this Article, undertakings shall adhere to the principle of ‘do no significant harm’ referred to in point (17) of Article 2 of Regulation (EU) 2019/2088.

The term “minimum safeguards” defines the procedures implemented by an enterprise that is carrying out economic activity to ensure alignment with the two international standards of responsible business conduct:

OECD Guidelines for Multinational Enterprises
(OECD Guidelines)

UN Guiding Principles on Business and Human Rights
(UN Guiding Principles)





In addition, Article 18(1) sets out in particular the procedures aimed at ensuring the alignment with:

- the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work (ILO Declaration)[6] and
- rights contained in the **International Bill of Human Rights**.

It should be emphasized that the ILO Declaration and the International Bill of Human Rights are the documents deriving from the sources of law identified in the (UN Guiding Principle 12) and in the OECD Guidelines (OECD Guidelines, 2023 edition, Chapter IV “Human Rights”, Commentary on Chapter IV “Human Rights”, point 44). Therefore, the documents referred to above shall be discussed further in this Guidebook for **OECD Guidelines** and **UN Guiding Principles** separately – with a view that **both documents refer to the ILO Declaration and the fundamental ILO conventions specified therein and to the International Bill of Human Rights.**

[6] In 2022, the ILO Declaration on Fundamental Principles and Rights at Work was amended. The list of fundamental ILO conventions was extended to include safe and healthy working environment, thus the list of fundamental ILO conventions contains **ten rather than eight ILO Conventions.**

Eight fundamental ILO conventions are also provided for in the Corporate Sustainability Due Diligence Directive (CSDDD) adopted on 24 May 2024. Given that not all Member States (including Poland) have ratified these two conventions on safe and healthy working environment, recital (32) indicates that the Commission should be empowered to adopt delegated acts in order to amend the Annex to CSDDD, once ratified by all Member States, to the ILO Occupational Safety and Health Convention, 1981 (No 155), and the ILO Promotional Framework for Occupational Safety and Health, 2006 (No 187).

OECD Guidelines for Multinational Enterprises

The OECD Guidelines are the oldest international standard on responsible business conduct – they were adopted by the Organisation for Economic Cooperation and Development (OECD) in 1976. At present, they exist in 52 countries – all OECD Member States (38 states, including Poland) and 14 non-OECD Member States, which are however Adherents to the OECD Guidelines[7].

OECD Guidelines are the recommendations for multinational enterprises formulated by the governments of the Adherents to the OECD Guidelines on the responsible business principles and practices. It should be emphasized that OECD applies the term *responsible business conduct* (RBC) for responsible approach to business activity.

The exact definition of multinational enterprises is not required for the purposes of the OECD Guidelines. OECD Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the Guidelines[8].

Since their adoption in 1976, the OECD Guidelines have been updated several times. A significant update took place in 2011, when a substantive chapter on human rights was added to the OECD Guidelines, the term of risk-based due diligence was introduced and the scope of application of the OECD Guidelines was extended to cover the supply chain and other business relationships.

On 8 June 2023, the OECD Council adopted a subsequent update of the OECD Guidelines at Ministerial Level, full title of which is now: **OECD Guidelines for Multinational Enterprises on Responsible Business Conduct** (OECD Guidelines, 2023 edition)[9].

The text of the OECD Guidelines is aligned with the existing regulations on responsible business conduct in the EU, including the EU Taxonomy and the following directives: CSRD (on corporate sustainable reporting) and CSDDD (on human rights and environmental due diligence). The binding 2023 version of the OECD Guidelines still consists of eleven chapters, whereas two chapters have their titles and substantive scope changed. This applies to Chapter VII “Combating Bribery and Other Forms of Corruption” and Chapter IX “Science, Technology and Innovation”. The substantive chapters of the OECD Guidelines are presented in Box 2 and in the text below.

[7] As of 20 December 2024.

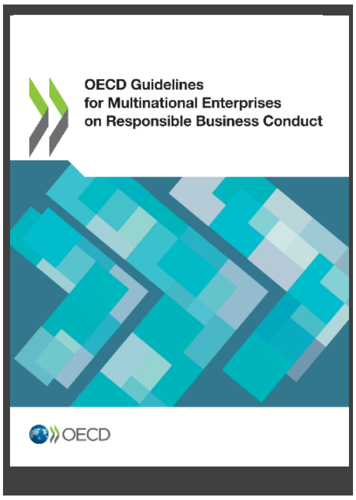
[8] OECD Guidelines, 2023 edition, Chapter I “Concepts and Principles”.

[9] The updating process encompassed the representatives of 51 Adherents to the OECD Guidelines and representatives of business, trade unions, non-governmental organisations and academics. Consultations with business community represented by the Trade Union Advisory Committee (TUAC) and civil society organisations represented by OECD Watch played a significant role.

A new requirement introduced in the 2023 OECD Guidelines is to ensure safe and healthy working environment by the enterprises to the at-risk persons and groups raising concerns regarding the enterprise's operations. In connection with the above, **the enterprises should refrain from reprisals** and take the actions to prevent the reprisals against any persons or groups, which may raise concerns regarding actual or potential adverse impacts associated with the enterprise's operations, products or services.

Enterprises should take steps to create a space where concerns about adverse impacts related to their activities or the activities of entities with which they have a business relationship can be safely expressed. Refraining from the use of reprisals and taking steps to prevent such use are important for protecting civic space and for preventing harm to groups and individuals who seek to or do investigate, express or report such concerns[10].

Box 2. Chapters of OECD Guidelines, 2023 edition



Chapter I "Concepts and Principles"

Chapter II "General Policies"

Chapter III "Disclosure"

Chapter IV "Human Rights"

Chapter V "Employment and Industrial Relations"

Chapter VI "Environment"

Chapter VII "Combating Bribery and Other Forms of Corruption"

Chapter VIII "Consumer Interests"

Chapter IX "Science, Technology and Innovation"

Chapter X "Competition"

Chapter XI "Taxation"

The structure of each chapter of the OECD Guidelines, except for Chapter I "Concepts and Principles" is similar: the first part of the chapter contains the expectations on enterprises presented as a numbered list, while the other part entitled "Commentary on Chapter (...)" contains detailed explanations on these expectations.

[10] OECD Guidelines, 2023 edition, Chapter II "General Policies", Part A, point 10 and Commentary to Chapter II "General Policies" point 14.

Chapter I “Concepts and Principles”

The Chapter defines the concepts and standards, which create a context for all recommendations presented in the following chapters of the OECD Guidelines. It explains the legal status of OECD Guidelines and the essential obligation of the enterprises i.e. obeying domestic laws. The factors to be considered when identifying whether an enterprise is a multinational enterprise (point 4) and the role of Adherents to the OECD Guidelines, are explained.

Chapter II “General Policies”

The Chapter contains 17 detailed recommendations on what the enterprises should fully take into account in their operations, and one recommendation on engaging by the enterprises in private or multi-stakeholder initiatives and social dialogue on responsible business conduct. Commentary on Chapter II “General Policies” contains references to the principles of corporate governance, transparency and integrity in lobbying, explanation of the term “business relationship” and very detailed explanations on due diligence process.

Chapter III “Disclosure”

Enterprises should operate in a transparent manner and communicate information on its operations to the public. This shall ensure better understanding of the enterprises’ operations and their relations with the society, environment and climate by various groups of stakeholders. They should disclose information on all material matters, which can reasonably be expected to significantly influence an investor’s assessment of an enterprise’s value. It is also of vital importance that the enterprises communicate reliable information on the implemented due diligence processes and impacts of their operations, products and services on people, the environment and climate. This recommendation calls for disclosing information in two areas: information on the enterprise, including the financial situation, performance, ownership and governance of the enterprise as well as information on responsible business conduct, including the social and environmental matters and related due diligence processes. Enterprises should disclose information in accordance with the internally recognised standards and consider the information disclosure policies applicable in the countries, in which they operate as well as refrain from publication of insufficient or unclear information.

Chapter IV "Human Rights"

Enterprises can have a positive or negative impact on respect for human rights through their operation. Enterprises should avoid causing or contributing to adverse human rights impacts. If business operations may cause adverse human rights impacts, enterprises must counteract such impacts. They should prevent and mitigate adverse human rights impacts also when these adverse impacts result from business relationships, to which these enterprises are directly linked. This Chapter represents an accurate reflection of the UN Guiding Principles. Commentary on this chapter indicates that enterprises should take into account the internationally recognised human rights expressed in the International Bill of Human Rights as well as the principles and rights laid down in the ILO Declaration.

Chapter V "Employment and Industrial Relations"

Enterprises should follow the recommendations contained in this chapter, taking into account the applicable law, regulations and prevailing labour relations and employment practices as well as applicable international labour standards. Enterprises should avoid any unlawful employment and industrial relations practices and respect the right of workers to establish or join trade unions and representative organisations and the right of collective bargaining. Enterprises should take effective measures to abolish child labour and eliminate all forms of forced labour, follow the principle of equality of treatment and provide a safe and healthy working environment. This Chapter is fully compliant with the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work.

Chapter VI "Environment"

Enterprises play a key role in advancing sustainable economies and can contribute to delivering an effective and progressive response to global, regional and local environmental challenges, including the urgent threat of climate change. This chapter sets out expectations on how enterprises should avoid and address adverse environmental impacts and contribute to reaching the goals of climate change mitigation and adaptation. Enterprises should in particular, among others, establish and maintain a system of environmental management appropriate to the enterprise associated with the operations, products and services of the enterprise over their full life cycle, including by carrying out risk-based due diligence. Enterprises should implement due diligence processes to counteract adverse environmental impacts associated with an enterprise's operations and using products or services. Adverse environmental impacts of the enterprises may include also: threats to biodiversity, degradation of land, marine and freshwater ecosystems, deforestation, air, water and soil pollution and mismanagement of waste, including hazardous substances. Enterprises must ensure that their greenhouse gas emissions and impact on carbon sinks are consistent with internationally agreed global temperature goals. They should adequately assess social impacts of their operations in context of environmental management and take into account the protection of public health and safety as well as animal welfare.

Chapter VII "Combating Bribery and Other Forms of Corruption"

Corruption is damaging to democratic institutions and the governance of corporations. It discourages investment and distorts international competitive conditions. As such, enterprises' implementation of effective anticorruption measures is an important contribution to the avoidance of other adverse impacts covered by the OECD Guidelines. Enterprises should not engage in any act of bribery or other forms of corruption. The terms "bribery" and "other forms of corruption" should be interpreted consistently with the Commentary to Chapter VII "Combating Bribery and Other Forms of Corruption". Propriety, integrity and transparency in both the public and private domains are key concepts in the fight against bribery and other forms of corruption.

Chapter VIII "Consumer Interests"

When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the quality and reliability of the goods and services that they provide. They should provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions. Any product and environmental or social claims that enterprises make should be based on adequate evidence and, as applicable, proper tests and verification. Consumer satisfaction and related consumer interest protection constitute a fundamental basis for the successful development of an enterprise. This Chapter draws on the recommendations of the OECD Committee on Consumer Policy and of other international organisations.

Chapter IX "Science, Technology and Innovation"

Technology has a profound impact on the matters covered by the OECD Guidelines, including sustainable development, respect for human rights, economic development, the quality of democracy or social cohesion. Scientific research and technological innovation have driven productivity in all sectors. Therefore, enterprises should contribute to development of local and national innovative capacity. In particular, enterprises should carry out due diligence also with respect to actual and potential adverse impacts related to science, technology and innovation. In this field, enterprises should observe the recommendations contained in the OECD Guidelines, comply with applicable national laws and requirements, including privacy and data protection requirements and export control regulations. This chapter emphasizes the need for applying due diligence to development, financing, sale, licensing, trade and use of technology, including gathering and using data.

Chapter X “Competition”

Enterprises should carry out their activities in a manner consistent with all applicable competition laws and regulations, taking into account the competition laws of all jurisdictions in which the enterprises’ activities may have anti-competitive effects. Enterprises should refrain from entering into or carrying out anti-competitive agreements among competitors, which may affect efficient operation of both domestic and international markets. In addition, enterprises should cooperate with investigating competition authorities by, among others, providing exhaustive information on request of such authorities. Enterprises should also promote employee awareness of the importance of compliance with all applicable competition laws and regulations.

Chapter XI “Taxation”

It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities. Tax transparency supports the integrity of a country’s tax system and is an important way of ensuring and demonstrating that enterprises comply with the letter and spirit of tax laws. Corporate boards should adopt tax risk management strategies to ensure that the financial, regulatory and reputational risks associated with taxation are fully identified and evaluated. Tax risk management strategy could cover, among others, appropriate tax policy principles, establishment of the internal tax control principles or ensuring proper information flow to the board.

Role of OECD National Contact Points for RBC

The 2023 update of the OECD Guidelines introduced also the amendments to their Part II, which refers to the implementation procedures aimed at ensuring effective operation of the OECD National Contact Points for Responsible Business Conduct (OECD NCPs).

Following the OECD Guidelines, each OECD NCP operates based on the criteria identified in the OECD Guidelines: **visible, accessible, transparent, accountable, impartial and equitable, predictable** and **compatible with the OECD Guidelines**.

OECD NCPs examine the notifications of alleged breaches of the OECD Guidelines by enterprises. The role of OECD NCP is to provide support to the parties to the proceedings (Notifier and Enterprise) in finding a satisfactory solution. While handling the cases, OECD NCP seeks to strengthen the RBC standards with the understanding that a responsible enterprise contributes to economic, environmental and social progress, seeks to respect human rights and protect the environment, engages in dialogue with the stakeholders and fairly communicates on its operations.

On 15 April 2024, Polish OECD NPC updated the Conduct Procedure before the Polish OECD NPC and the notification form of an alleged breach of the OECD Guidelines. The updated procedure and notification form comply with the OECD Guidelines, 2023 edition. The procedure describes: rules of conducting procedure before the OECD NPC, information on what a notification may be related to, indicative time frame for procedure. In addition, the procedure contains a detailed description of the individual stages of the procedure before the OECD NCP. The notification of an alleged breach of the OECD Guidelines should be submitted electronically, sent to kpk.oecd@mfipr.gov.pl.

The procedure before the OECD NCP covers four stages. The total duration of these stages should not exceed **12 months**. If the OECD NCP is conducting the procedure from several different countries, it covers **five stages**. The total duration of these stages should not exceed **14 months.**

STAGE I
Coordination – in a situation in which the case is handled by the NCPs from multiple countries, the coordination stage includes appointing a lead OECD NCP and the supporting OECD NCPs.

STAGE II
Initial assessment – covers the initial analysis of the case, the decision to proceed (or not proceed) with the case, the preparation of an Initial Assessment, and the proposal of conducting *good offices* between the parties.

STAGE III

Good offices – this stage involves assistance provided by the OECD NCP to the parties involved in discussions aimed at finding a mutually satisfactory resolution to the specific instances indicated in the notification.

STAGE IV

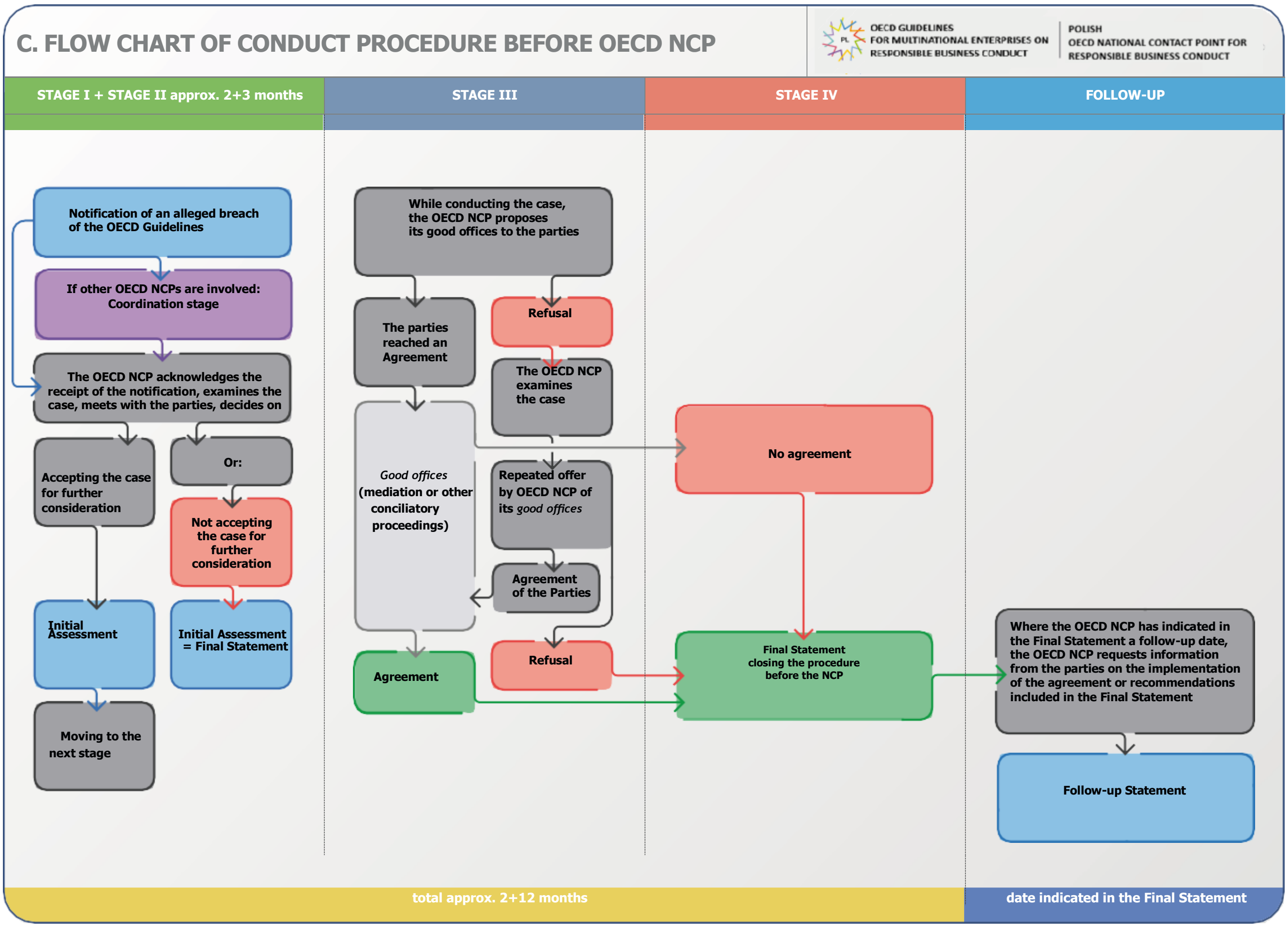
Closing of the procedure – the development and publication of the Final Statement regarding the case.

STAGE V

Monitoring (*follow-up*) – In cases where monitoring of the case is possible, the OECD NCP typically, one year after the publication of the Final Statement, contacts the parties to obtain information regarding the implementation of the agreement reached during the procedure or the implementation of the recommendations included in the Final Statement.

In order to transparently illustrate the individual stages of the procedure before OECD NCP, also a flow chart was included in the procedure (Figure 1).

Figure 1. Stages of procedure before Polish OECD NCP



Source: Polish OECD NCP website: https://www.gov.pl/web/fundusze-regiony/documents

Where appropriate and relevant to the resolution of the case, the OECD NCP may also present in the Final Statement its position on whether the company has adhered to the OECD Guidelines.

In addition, the OECD NPC tasks include disseminating the OECD Guidelines and raising awareness on the OECD Guidelines, including promoting the remaining responsible business conduct standards developed by the OECD. When implementing this task, OECD NCP organises the promotional events (conferences, meetings, webinars), translates the OECD documents on responsible business conducts into Polish and administers a website, where it publishes information on promoting the RBC standards and on the procedures conducted by OECD NCP.

OECD NCP pays special attention to protecting confidentiality of business information, such as trade secrets, and other data as well as interests of the parties to the procedure, maintaining full confidentiality of meetings and discussions with the parties to the procedure. The principle of confidentiality applies to both parties concerned and the OECD NCP. Details of the procedure before the OECD NCP may not be distributed to the public in any way, without the consent of the parties and the OECD NCP, subject to the stipulations specified in the procedure.

The OECD National Contact Points for Responsible Business Conduct constitute a specific type of **non-judicial grievance mechanisms.** The role of OECD NCP is seeking a solution of the specific instance indicated in the notification to OECD NCP that will be satisfactory to both parties of the procedure. This is the purpose of *good offices*, i.e. joint discussions between the parties with the support of OECD NCP. Thus, the procedures before OECD NCP aim at no stigmatisation of the enterprises or creating so called list of enterprises not adhering to the OECD Guidelines. Although there is no such list in any of these 52 countries, there are OECD NCP websites publishing information on the procedures conducted by OECD NCPs and their outcomes.

It is expected that the parties to the procedures before OECD NPC engage in them voluntarily and in good faith. Good faith engagement in this context means responding in a timely fashion, maintaining confidentiality where appropriate and consistent with the OECD NCP’s case-handling procedures, refraining from misrepresenting the issues and the process, notably in public communications, and from threatening or taking reprisals against parties involved in the procedure, or against the NCP itself, and genuinely engaging in the proceedings with a view to finding a Guidelines-compatible solution to the issues raised[11].

The result of procedure before OECD may include agreement or partial agreement between the parties or no agreement on specific instances indicated in the notification to OECD NCP. In practice, this usually translates to recommendations addressed to the enterprises on continuing business in line with the OECD Guidelines.

[11] OECD Guidelines, 2023 edition, Part II “Implementation Procedures of the OECD Guidelines for Multinational Enterprises”, Commentaries on the Implementation Procedures, point 26.

Due diligence in responsible business conduct

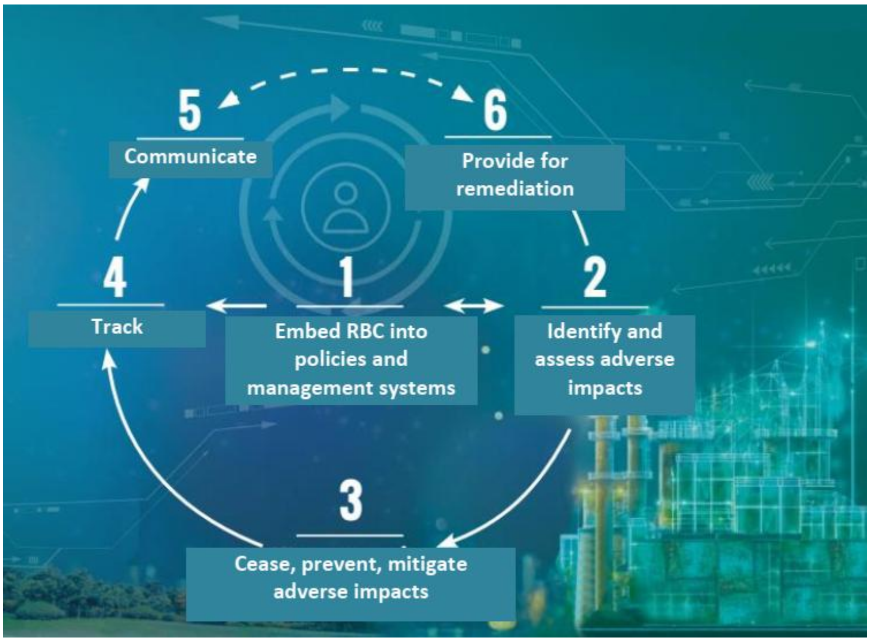
Due diligence in the meaning of OECD is a risk-based process and is **of fundamental importance for responsible business conduct**[12].

Amendments to the 2023 OECD Guidelines indicate the need to apply due diligence to all areas of the enterprises' operations, including in context of combating bribery and other forms of corruption or in the area of development, financing, sale, licensing, trade and use of technology, including gathering and using data. OECD Guidelines emphasize the need to apply enhanced due diligence in context of armed conflict or heightened risk of abuses, including international humanitarian law.

The process of ensuring due diligence is described in detail in the **OECD Due Diligence Guidance for Responsible Business Conduct** (2018). The document consists of two parts: first one describes the individual due diligence steps, while the second presents the list of questions, which could be potentially asked by any entrepreneur with regard to due diligence, along with respective answers. Key information on the individual due diligence steps is presented below. Implementation of all due diligence steps may be supported by an assessment of an independent expert entity and using new technologies to support the supply chain management, among others in prioritisation of risk areas, mapping the actions, suppliers and impact assessment, risk monitoring or determination of remedial actions.

[12] OECD Guidelines, 2023 edition, Chapter II "General Policies", points 11-13 and Commentary on Chapter II "General Policies", points 15 – 16.

Figure 2. Due diligence steps and supporting measures



Source: elaboration of the Ministry of Development Funds and Regional Policy (MDFRP).

Step 1.

Embed responsible business conduct into policies and management systems[13]

To this end, the enterprise should:

1.1 **Devise, adopt and disseminate a combination of policies on RBC issues that articulate the enterprise's commitments to the principles and standards contained in the OECD Guidelines and its plans for implementing due diligence, which will be relevant for the enterprise's own operations, its supply chain and other business relationships.**

These policies can include the following elements:

- Description of the enterprise's approach to due diligence, including how due diligence processes are incorporated in the enterprise's operations;
- Code of conduct describing the principles to be followed in the enterprise and its subsidiaries, as well as in direct and indirect business relationships.

The policies should be updated as they evolve and as the new types of risk with regard to the operations, supply chain and other business relationships emerge.

[13] Source: OECD Due Diligence Guidance for Responsible Business Conduct (2018), pp. 22-24.

1.2 Embed the enterprise's policies on RBC issues into management systems.

The enterprise's policy should be embedded into management systems so that it is implemented as part of the regular business processes, taking into account the autonomy and legal structure of its bodies.

It should be stressed that RBC can be embedded in many different manners.

This action should be associated with assigning oversight and responsibilities of the individual organisational units of the enterprise, responsibilities and rights at all organisational levels, provided that responsibility for adopting and implementing the RBC policy should rest upon senior management representatives. Effective knowledge management aimed at providing the employees with competences necessary to understand the RBC policies plays an important role.

The policy on RBC issues should be effectively communicated to all stakeholders.
Depending on the enterprise's size and organisational culture, the following measures may be helpful: functional group meetings, awareness-raising activities, e.g. at the regular production meetings or days dedicated to, e.g. sustainable development or occupational health and safety. In any case, engagement of senior management representatives is the key. This could be done for example by creating cross functional groups or committees to share information and decision-making about risks, and including business units that can impact the observance of the RBC policies in decision-making process.

1.3 Incorporate RBC expectations and policies into engagement with suppliers and other business relationships.

This stage requires development and implementation of risk-based pre-qualification processes on due diligence for suppliers and other business relationships. To develop and maintain sustainable and resilient supply chain, its stakeholders should be assessed with a view to ESG risk, business continuity, cybersecurity, compliance with legal regulations or financial risks. Assessment should be followed by risk monitoring and implementation of relevant remedial actions.

Suppliers and other business relationships should be informed on key policy aspects. Since understanding the enterprise-specific processes is of particular significance at this stage, trainings may be required.

Step 2.

Identify and assess adverse impacts associated with the enterprise's operations, including in the supply chain or business relationships[14]

Measures taken in this step require the enterprise to:

2.1 Carry out a broad scoping exercise to identify all areas of the business, across its operations and relationships, including in its supply chains, where RBC risks are most likely to be present and most significant.

Relevant elements include, among others, information about sectoral, geographic, product and enterprise risk factors, including known risks the enterprise has faced or is likely to face. The scoping exercise should enable the enterprise to carry out an initial prioritisation of the most significant risk areas for further assessment.

This stage provides for creating a preliminary, high-level picture of the enterprise's areas of operation and types of business relationships to understand what information will be relevant to gather. For enterprises characterised by less diversified operations, in particular smaller enterprises, the scoping exercise may not be necessary before the stage of identifying and establishing the priorities for specific impacts.

2.2 Carry out assessment of prioritised operations, suppliers and other business relationships in order to identify and assess specific adverse impacts (both actual and potential).

This stage requires developing the map of the enterprise's operations, suppliers and other business relationships, including associated supply chains, relevant to the prioritised risk.

The next step is to develop a catalogue of RBC standards and issues applicable to the risk being assessed, including relevant provisions from the OECD Guidelines.

This stage includes also assessing the nature and extent of the potential adverse impacts.

2.3 Assess the enterprise's involvement with the actual or potential adverse impacts. Specifically, assess whether the enterprise: caused (or would cause) the adverse impact; or contributed (or would contribute) to the adverse impact; or whether the adverse impact is (or would be) directly linked to its operations, products or services by a business relationship.

This stage involves consultations with business partners, stakeholders and developing expert opinions.

[14] OECD Due Diligence Guidance…, pp. 25–28.

2.4 Drawing from the information obtained on actual and potential adverse impacts, where necessary, the aim is to prioritise the most significant risks. Prioritisation will be relevant where it is not possible to address all potential and actual adverse impacts immediately. Once the most significant impacts are identified and dealt with, the enterprise should move on to address less significant impacts.

The established hierarchy of priorities enables gaining knowledge on the potential adverse impacts, which may be addressed immediately, and assessing the extent, to which business relationships are responsible for the potential adverse impacts.

Step 3.

Cease, prevent or mitigate adverse impacts[15]

To this end, the enterprise should:

3.1 Stop activities that are causing or contributing to adverse impacts. To this end, develop and implement plans that will help prevent and mitigate potential (future) adverse impacts.

This step involves creating a roadmap for how to stop the activities causing or contributing to adverse impacts, provides for the need to update the enterprise's policies to provide guidance on how to avoid and address the adverse impacts in the future.

3.2 Develop and implement plans to seek to prevent or mitigate actual or potential adverse impacts which are directly linked to the enterprise's operations, products or services by business partners (relationships). Appropriate responses to risk associated with business relationships may at times include:

- **continuation of the relationship throughout the course of risk mitigation efforts,**
- **temporary suspension of the relationship while pursuing ongoing risk mitigation or**
- **disengagement with the business relationship either after failed attempts at mitigation, or where the enterprise deems mitigation not feasible, or because of the severity of the adverse impact. A decision to disengage should take into account potential social and economic adverse impacts.**

When developing the plans, the enterprise should cooperate with business partners and use leverage to prevent adverse impacts or risks to the greatest possible extent.

Providing the necessary support to business partners, sharing knowledge and experience are also of importance.

[15] OECD Due Diligence Guidance…, pp. 29-31.

Step 4.

Track implementation and results of step 3[16]

To this end, the enterprise should:

4.1 Track the implementation and effectiveness of the enterprise's due diligence activities, i.e. its measures to identify, prevent, mitigate and, where appropriate, support remediation of impacts, including with business relationships. Enterprise should use the lessons learned from tracking to improve these processes in the future.

This stage should involve periodic reviews or audits of the outcomes achieved as well as periodic assessments of business relationships and verifying the risk mitigation measures or preventing or mitigating adverse impacts. Consulting and engaging the impacted or potentially impacted rightsholders, including workers, workers' representatives and trade unions should be sought.

Step 5.

Communicate how impacts are addressed[17]

To this end, the enterprise should:

5.1 Communicate externally relevant information on due diligence policies, processes, activities conducted to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities.

Publicly report relevant information on due diligence processes, with due regard for commercial confidentiality and other competitive or security concerns, e.g. through the enterprise's annual, sustainability or corporate responsibility reports, ESG reports or other appropriate forms of disclosure.

[16] OECD Due Diligence Guidance…, p. 32.

[17] OECD Due Diligence Guidance…, p. 33.

Step 6.

Provide for or cooperate in remediation when appropriate[18]

To this end, the enterprise should:

6.1 When the enterprise identifies that it has caused or contributed to actual adverse impacts, address such impacts by providing for their remediation or cooperating therein.

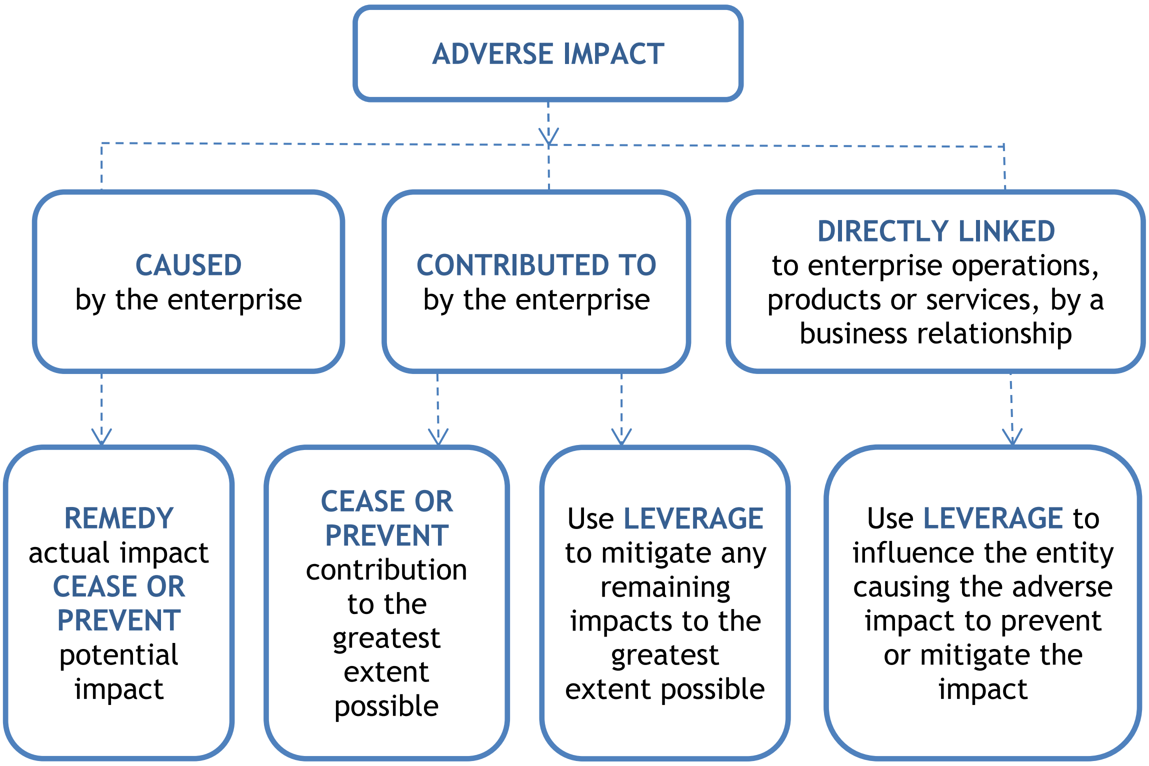
It is important to seek to restore the affected person or persons to the situation they would be in, had the adverse impact not occurred (where possible) and enable remediation that is proportionate to the significance and scale of the adverse impact. A similar approach should be applied to environment and climate issues, with particular focus on the events in mining, agriculture, tourism, forestry and fishery.

6.2 When appropriate, provide for or cooperate with legitimate remediation mechanisms through which impacted stakeholders and rightsholders can raise complaints and seek to have them addressed with the enterprise. Referral of an alleged impact to a legitimate remediation mechanism may be particularly helpful in situations where there are disagreements on whether the enterprise caused or contributed to adverse impacts, or on the nature and extent of remediation to be provided.

Enterprise should cooperate with judicial or non-judicial mechanisms, among others if a specific instance is submitted to an NCP or through initiatives that provide other types of grievance mechanisms involving the conduct of the enterprise.

[18] OECD Due Diligence Guidance…, pp. 34–36.

Figure 3. Distinction of adverse impacts which may arise from the enterprise's operation



Source: OECD Due Diligence Guidance for Responsible Business Conduct (2018), p. 72.

UN Guiding Principles on Business and Human Rights

In June 2021, the UN Human Rights Council adopted unanimously the UN Guiding Principles on Business and Human Rights, constituting an important step of the international community towards reducing the business-related risk of human rights abuses. At the same time, the UN Guiding Principles have had and continue to have an impact on the other documents of international organisations and regulations on respecting human rights by business enterprises[19].

UN Guiding Principles consist of **31 principles structured into three groups,** called the **three-pillar framework**:
Pillar I. State Duty to Protect Human Rights.
Pillar II. The Corporate Responsibility to Respect Human Rights.
Pillar III. Access to Remedy.

The first pillar of the UN Guiding Principles (ten principles) takes into account the States' duties to protect against human rights abuses by business enterprises. UN Guiding Principles emphasize that the obligations under the international human rights regulations rest mostly upon the State. Where there is a special connection between the State and the enterprise, the State has more measures available to ensure that the enterprises fulfil their human right commitments. This in turn may justify taking additional measures to ensure protection against human rights abuse by enterprises.

The second pillar of the UN Guiding Principles (fourteen principles) refers directly to the enterprises' operations, indicating that enterprises are responsible for respecting human rights and should respect them through their own operations. Responsibility to respect human rights requires the enterprises to avoid causing or contributing to adverse human rights impacts and to seek to prevent adverse human rights impacts that may be directly linked to the enterprise's operations, products or services and by its business relationships.

Importantly, responsibility to protect human rights applies to all enterprises, regardless of their size, sector, operating context, ownership and structure. In order to meet their responsibility to respect human rights, enterprises should have in place policies and processes ensuring effective due diligence and processes to enable the remediation of any adverse human rights impacts of the enterprise's operations.

[19] UN Guiding Principles have been developed in a long consultation process under the guidance of Professor John Ruggie, UN Secretary-General's Special Representative for Business and Human Rights. According to J. Ruggie: "the adopted recommendations shall provide social organisations and investors with relevant tools to measure the actual progress of enterprises on how their operations affect human lives around the world".

Remedy is referred to in the **third pillar of the UN Guiding Principles (seven principles)**, which describes the activities or measures that should be available to individuals or groups affected by business-related human rights abuses. Under these measures, States should ensure the effective judicial or non-judicial grievance mechanisms concerning business-related human rights abuses. Remedy may include apologies, restitution (restoration of a former state), rehabilitation, financial or non-financial compensation and punitive sanctions, whether criminal or administrative, such as a fine.

It needs to be emphasised that the UN Guiding Principles formulate no new human rights (see: box 4).

Box 3. Principle 12 (UN Guiding Principles)

12. The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International labour Organization's Declaration on Fundamental Principles and Rights at Work.

COMMENTARY ON PRINCIPLE 12:

(…) an authoritative list of the core internationally recognized human rights is contained in the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), coupled with the principles concerning fundamental rights in the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work. These are the benchmarks against which other social actors assess the human rights impacts of business enterprises. The responsibility of business enterprises to respect human rights is distinct from issues of legal liability and enforcement, which remain defined largely by national law provisions in relevant jurisdictions.

Depending on circumstances, business enterprises may need to consider additional standards. For instance, enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. In this connection, United Nations instruments have elaborated further on the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families. Moreover, in situations of armed conflict enterprises should respect the standards of international humanitarian law.

[20] UN Guiding Principles refer to legal status of 2011. As indicated above, the ILO Declaration was amended in 2022, and there are currently ten conventions on the list of fundamental ILO conventions rather than eight.

Table 1. Structure UN Guiding Principles on Business and Human Rights

UN Guiding Principles (31 in total)	State **(Protect)** Principles 1-10		Enterprises **(Respect)** Guiding Principles nos. 14-24		Remedy **(Remediation)** Principles 25-31	
Foundational principles	**Guiding Principles nos. 1, 2**		**Guiding Principles nos. 11, 12, 13, 14, 15**		**Guiding Principle no. 25**	
Operational principles	**Guiding Principles nos. 3-10**		**Guiding Principles nos. 16-24**		**Guiding Principles nos. 26-31**	
	General state regulatory and policy functions	**Guiding Principle no. 3**	Policy commitment	**Guiding Principle no. 16**	State-based judicial mechanisms	**Guiding Principle no. 26**
	The state-business nexus	**Guiding Principles nos. 4, 5, 6**	Human rights due diligence	**Guiding Principles nos. 17, 18, 19, 20, 21**	State-based non-judicial grievance mechanisms	**Guiding Principle no. 27**
	Supporting business respect for human rights in conflict-affected areas	**Guiding Principle no. 7**	Remediation	**Guiding Principle no. 22**	Non-state-based grievance mechanisms	**Guiding Principles nos. 28, 29, 30**
	Ensuring policy coherence	Guiding Principles nos. 8, 9, 10	Issues of context	**Guiding Principles nos. 23, 24**	Effectiveness criteria for non-judicial grievance mechanisms	**Guiding Principle no. 31**

Source: elaboration by Jacqueline Kacprzak.

Human rights due diligence with a view to UN Guiding Principles

Step 1.

A policy commitment to meet enterprise's responsibility to respect human rights

In order to meet their responsibility to respect human rights, UN Guiding Principles recommend the enterprises to have policies and processes in place appropriate to their size and circumstances. In business practice, these should include:
- A policy commitment to meet the responsibility to respect human rights;
- A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- Processes and procedures to enable the remediation of any adverse human rights impacts they cause or to which they contribute[21].

UN Principle no.16 indicates that the basis for embedding their responsibility to respect human rights should be expressing by enterprises their commitment to meet this responsibility through a statement of policy. **Human rights policy** in the enterprise should therefore:
- Be approved at the most senior level of the enterprise;
- Be informed by relevant internal and/or external expertise;
- Stipulate the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
- Be publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
- Be reflected in operational policies and procedures necessary to embed it throughout the enterprise[22].

Due diligence carried out in line with the OECD Guidelines and UN Guiding Principles is recommended to refer to relevant internal and/or external expertise.

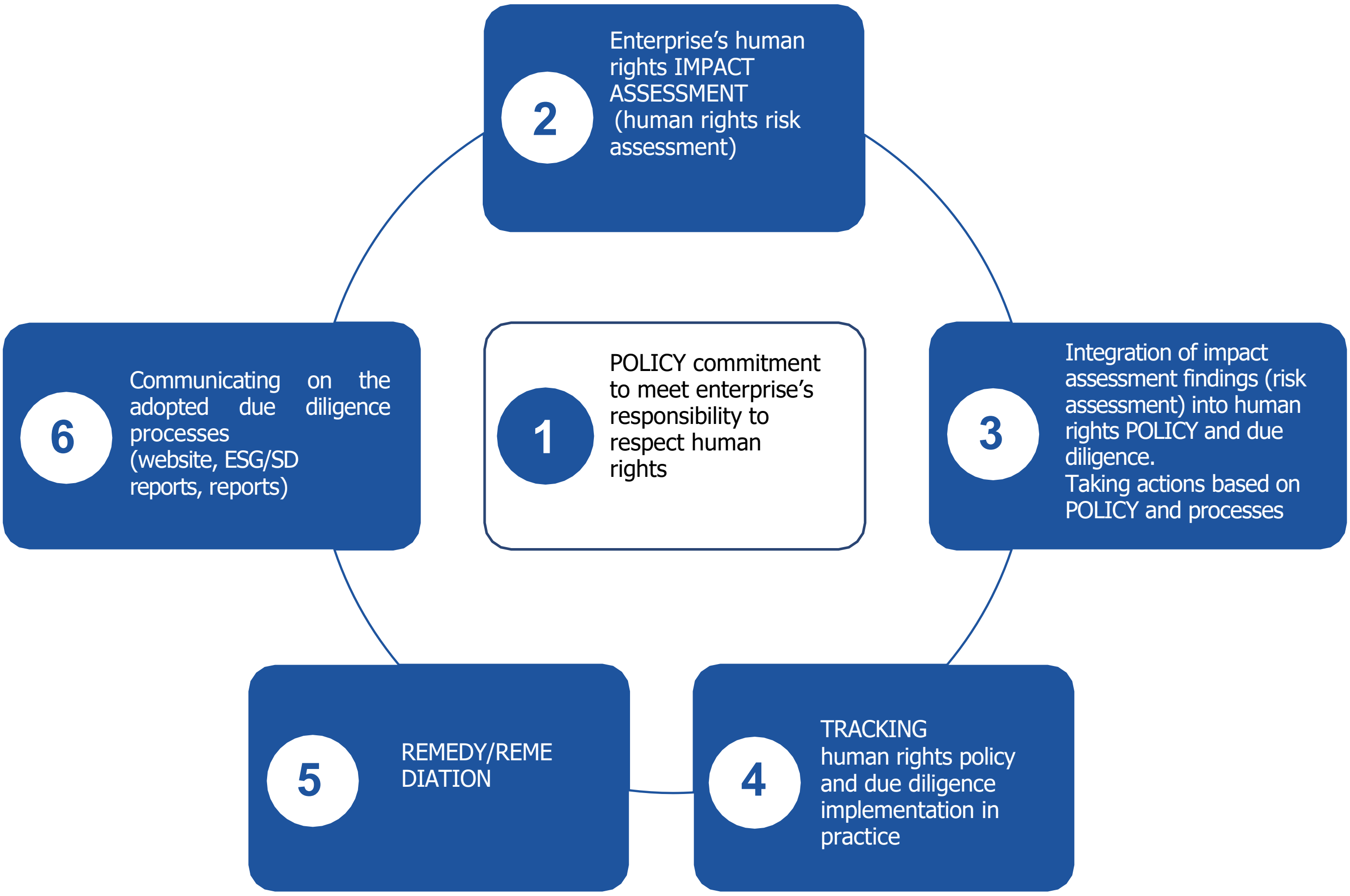
[21] UN Guiding Principles, Guiding Principle no. 15, p. 15-16.

[22] UN Guiding Principles, Guiding Principle no. 16, p. 16-17.

UN Guiding Principle no. 17 indicates that: "In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence"[23].

To illustrate due diligence process in compliance with the recommendations of the OECD Guidelines, the human rights due diligence scheme is presented below.

Figure 4. Human rights due diligence



Source: elaboration by Jacqueline Kacprzak.

Step 2.

Enterprise's human rights impact assessment (human rights risk assessment)

The essential step of human rights due diligence is to identify and assess any actual or potential adverse human rights impacts of the enterprise. To this end, the enterprise should carry out its human rights impact assessment (human rights risk assessment).

[23] UN Guiding Principles, Guiding Principle no. 17, p. 17-19.

Human rights risk assessment is carried out to understand the enterprise's impact on specific individuals or groups, given a specific context of operations. To this end, enterprise should specify:

- Groups of the affected rightsholders;
- Areas of business activity, which may abuse human rights;
- Risk of human rights abuses, which:
  a) may result directly from its activity,
  b) to which enterprise may contribute and
  c) with which it may be directly involved by business relationships associated with its activity, products or services;
- Scale, scope and irremediable character of human rights adverse impacts, which may occur as a result of its activity.

In order to carry out human rights due diligence, enterprise should draw up a **list of human rights relevant to its sector or business.** To create such list, enterprises should refer to the international human rights documents indicated by the UN Guiding Principles as a minimum in Guiding Principle no. 12:

1) International Bill of Human Rights:
   - Universal Declaration of Human Rights;
   - International Covenant on Civil and Political Rights (ICCPR);
   - International Covenant on Economic, Social and Cultural Rights (ICESCR).

2) Fundamental **ILO conventions** listed in the **Declaration on Fundamental Principles and**
3) **Rights at Work**:
   1. Forced labour:
      - Convention no. 29 concerning forced or compulsory labour with the Protocol of 2014 to this convention;
      - Convention no. 105 concerning abolition of forced labour.
   2. Child labour:
      - Convention no. 138 concerning minimum age for admission to employment;
      - Convention no. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour.
   3. Freedom of association:
      - Convention no. 87 concerning freedom of association and protection of the right to organise;
      - Convention no. 98 concerning the right to organise and collective bargaining.
   4. Prohibition of discrimination in employment:
      - Convention no. 100 concerning equal remuneration for men and women workers for work of equal value;
      - Convention no. 111 concerning discrimination in respect of employment and occupation.
   5. Safe and healthy working environment[24]:
      - Convention no. 155 concerning occupational safety and health and the working environment of 1981;
      - Convention no. 187 concerning the promotional framework for occupational safety and health of 2006

[24] The area of safe and healthy working environment was added to the ILO Declaration of Fundamental Principles and Rights at Work in 2022, thus currently there are ten conventions on the list of fundamental ILO conventions, rather than eight.

3) **Other standards and rights for the individuals or groups particularly vulnerable to human rights abuses**, including among others children, women, national or ethnic minorities, religious minorities, persons with disabilities, indigenous people, etc.

Enterprise should indicate the international law documents based on which the list to be subject to its risk assessment was drawn-up. As mentioned above, UN Guiding Principles specify three sources of human rights to be taken into account by enterprises.

When drawing-up the list of human rights for the purposes of human rights risk assessment, the catalogues of rights contained in the ICCPR and ICESCR may be useful.

Box 4.
Catalogue of rights contained in the International Covenant on Civil and Political Rights

- Right to life (Article 6).
- Prohibition of torture or cruel, inhuman or degrading treatment or punishment (Article 7).
- Prohibition of slavery (Article 8(1) and (2).
- Prohibition of forced labour (Article 8(3)).
- Right to liberty and security of person (Article 9).
- Right of humanity of persons deprived of liberty (Article 10).
- Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation (Article 11).
- Right to liberty of movement and freedom to choose residence (Article 12).
- Prohibition of alien expulsion (Article 13).
- Equality before the courts and tribunals (Article 14(1).
- Right to a fair and public hearing by a competent, independent and impartial tribunal (Article 14(1)).
- Right to be presumed innocent until proved guilty (Article 14(2)).
- Rights of an accused person in the proceeding, among others to access to interpreter, trial without undue delay, right to defence (Article 14(3)).
- Prohibition of prosecution for an offence for which a person concerned has already been finally convicted or acquitted (Article 14(7)).
- Prohibition of punishing for any acts, which did not constitute a criminal offence, under national or international law, at the time when they were committed (Article 15).
- Right to recognition everywhere as a person before the law (Article 16).
- Right to privacy – protection of private and family life, home, correspondence and reputation (Article 17).
- Right to freedom of thought, conscience and religion (Article 18).
- Right to hold opinions and freedom of expression – freedom of speech (Article 19).
- Prohibition of propaganda for war (Article 20(1)).
- Prohibition of advocacy of national, racial or religious hatred (Article 20(2)).
- Right to freedom of peaceful assembly (Article 21).

- Right to freedom of association with others, including the right to form and join trade unions for the protection of interests (Article 22).
- Right to marry and to found a family y (Article 23).
- Protection of the rights of the child (Article 24).
- Prohibition of discrimination in public life (Article 25(1)).
- Right to vote and to be elected (Article 25(2)).
- Right of access to public service (Article 25(3)).
- Prohibition of discrimination and right to protection of the law (Article 26).

Box 5.
Catalogue of rights contained in the International Covenant on Economic, Social and Cultural Rights

- Right to work (Article 6).
- Right to just and favourable conditions of work, including to fair wages, safe and healthy working conditions, equal opportunity to be promoted, rest and leisure and paid holidays (Article 7).
- Right to form trade unions and join the trade union (Article 8).
- Right to strike (Article 8(1)(d)).
- Right to social security, including social insurance (Article 9).
- Right to protect family (Article 10).
- Right of adequate standard of living (Article 11).
- Freedom from hunger (Article 11(2)).
- Right to protect physical and mental health (Article 12).
- Right to education (Article 13, Article 14).
- Cultural rights, including right to take part in cultural life, enjoy the benefits of scientific progress and the right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production (Article 15).

Box 6.
Other UN standards concerning the individual or groups particularly vulnerable to human rights abuses

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

The above list of international human rights protection laws does not exclude the enterprises' option to refer to the rights contained in:

- **European Convention on Human Rights** (ratified by Poland in 1993, document of the Council of Europe, not to be confused with the European Union),
- **EU Charter of Fundamental Rights** (2009, rights contained in the Charter cover the rights guaranteed in the Member States of the European Union).

In particular, the EU legislator confirms in recital 35 to the EU Taxonomy Regulation by referring to the EU Charter of Fundamental Rights: "Several of those international standards are enshrined the Charter of Fundamental Rights of the European Union, in particular the prohibition of slavery and forced labour and the principle of non-discrimination. Those minimum safeguards are without prejudice to the application of more stringent requirements related to the environment, health, safety and social sustainability set out in Union law, where applicable".

Referring to the European Convention on Human Rights or the EU Charter of Fundamental Rights may, on one hand, demonstrate awareness of these documents in the enterprise, while at the same time raise expectations associated with interpretation of these rights laid down in the case-law of the European Court of Human Rights or the EU Court of Justice.

Step 3.

Integration of impact assessment findings (risk assessment) into human rights policy and due diligence. Taking actions based on human rights policy and due diligence processes.

The following due diligence steps require the enterprise to integrate the findings from impact assessment (risk assessment) across human rights policy and due diligence and ensure their visibility and reflection in other procedures, codes and regulations of the enterprise[25].

Actions taken by the enterprise should comply with human rights policy and due diligence processes[26].

According to the Commentary on the operational principles of the UN Guiding Principles, human rights due diligence can be included within broader enterprise risk management systems in the enterprise, provided that it goes beyond simply identifying and managing material risks to the enterprise itself, to include risks to rightsholders. Where the enterprise has large numbers of entities in their value chains it may be unreasonably difficult to conduct due diligence for adverse human rights impacts across them all. If so, an enterprise should identify general areas where the risk of adverse human rights impacts is most significant, whether due to certain suppliers' or clients' operating context, the particular operations, products or services involved, or other relevant considerations, and prioritize these for human rights due diligence[27].

[25] UN Guiding Principles, Guiding Principle no. 19, letter (a), p. 20-22.

[26] UN Guiding Principles, Guiding Principle no. 19, letter (b), p. 20-22.

[27] UN Guiding Principles, Part B. Operational Principles, Human rights due diligence, Guiding Principle no. 17, pp. 17-19.

Step 4.

Tracking human rights policy and due diligence in practice

In order to verify whether the identified actual or potential adverse human rights impacts, which may occur through the enterprise's operations, are still possible, or whether the enterprise's activities and implemented procedures enabled their mitigation, enterprises should track the effectiveness of their response. Tracking should be based on appropriate indicators and draw on feedback from both internal and external sources, including affected stakeholders.

Human rights policy should indicate the date of its review (usually after a year – two years from embedding the policy into the operational practice of the enterprise).

Step 5.

Remedy/Remediation

Enterprise should be prepared for situations, where despite human rights risk assessment, implemented human rights policy and detailed procedures ensuring effective due diligence, human rights are abused through its activity or its subcontractors' activity. This is the case when the pre-developed remediation procedures should be initiated[28]. Detailed access to remediation is described in **UN Guiding Principles nos. 25-31** specified in the third pillar of the UN Guiding Principles.

Step 6.

Communicating on the adopted due diligence processes (website, ESG/SD reports, reports)

Enterprises should be prepared to communicate externally on how they address their adverse human rights impacts, which may occur through their activity. **UN Principle Guideline no. 21** Indicates that the enterprises, whose operations or operating context pose risk of severe human rights impacts, should report formally on how they address them.

[28] UN Guiding Principles, Guiding Principle no. 22, p. 24-25.

Formal reporting by enterprises is expected where risks of severe human rights impacts exist. The reporting should cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights. Such reports should:

- Be of a form and frequency that reflect an enterprise's human rights impacts;
- Be accessible to its intended audiences;
- Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;
- Consider the need to protect the affected rightsholders;
- Secure against the risk of breaching a trade secret.

Principle of “do no significant harm” (DNSH) according to SFDR as the condition for applying minimum safeguards

In Article 18(2) of the EU Taxonomy, the EU legislator refers to the principle of “**do no significant harm”, (DNSH**): “When implementing the procedures referred to in paragraph 1 of this Article, undertakings shall adhere to the principle of ‘do no significant harm’ referred to in point (17) of Article 2 of Regulation (EU) 2019/2088, i.e. SFDR”.

SFDR lays down the rules for financial market participants and financial advisers on transparency with regard to integration of sustainability risks and consideration of adverse sustainability impacts in their processes and provision of sustainability-related information with respect to financial products.

Even though SFDR lays down the rules for financial market participants and financial advisers, referring to the SFDR provision in Article 18(2) of the EU Taxonomy means that **the DNSH principle set out in this Regulation applies to all entities covered by the EU Taxonomy.**

Recital 17 to this Regulation states: “To ensure the coherent and consistent application of this Regulation, **it is necessary to lay down a harmonised definition of ‘sustainable investment’** which provides that the investee companies follow good governance practices and the **precautionary principle of ‘do no significant harm’ is ensured**, so that neither the environmental nor the social objective is significantly harmed”.

Polish language version of Article 2(17) of SFDR indicated in Article 18(2) of the EU Taxonomy does not refer directly to the principle of “do no significant harm”. Full wording of this point is quoted below:

17) „zrównoważona inwestycja” oznacza inwestycję w działalność gospodarczą, która przyczynia się do realizacji celu środowiskowego, na przykład taka, która jest mierzona za pomocą kluczowych wskaźników zasobooszczędności pod kątem zużycia energii, wykorzystywania energii ze źródeł odnawialnych, wykorzystywania surowców, zużycia wody i użytkowania gruntów, generowania odpadów, emisji gazów cieplarnianych lub wpływu na różnorodność biologiczną i gospodarkę o obiegu zamkniętym, lub inwestycję w działalność gospodarczą, która przyczynia się do realizacji celu społecznego, w szczególności inwestycję przyczyniającą się do przeciwdziałania nierównościom lub inwestycję wspierającą spójność społeczną, integrację społeczną i stosunki pracy, lub inwestycję w kapitał ludzki lub w społeczności znajdujące się w niekorzystnej sytuacji pod względem gospodarczym lub społecznym, **o ile takie inwestycje nie naruszają poważnie któregokolwiek z tych celów**, a spółki, w które dokonano inwestycji, stosują dobre praktyki w zakresie zarządzania, w szczególności w odniesieniu do solidnych struktur zarządzania, stosunków pracowniczych, wynagrodzenia dla osób zatrudnionych i przestrzegania przepisów prawa podatkowego.

This principle is “hidden” in the section in bold letters above, which – in context of DNSH principle – is quite awkward translation of the original English version:

17) ‘*sustainable investment’ means an investment in an economic activity that contributes to an environmental objective, as measured, for example, by key resource efficiency indicators on the use of energy, renewable energy, raw materials, water and land, on the production of waste, and greenhouse gas emissions, or on its impact on biodiversity and the circular economy, or an investment in an economic activity that contributes to a social objective, in particular an investment that contributes to tackling inequality or that fosters social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities, provided that such investments* ***do not significantly harm*** *any of those objectives and that the investee companies follow good governance practices, in particular with respect to sound management structures, employee relations, remuneration of staff and tax compliance.*

One should remember at the same time that the scope of the principle of “do no significant harm” provided for in SFDR is not equivalent to the scope of the principle of the same name set out in Article 3(b) and Article 17 of the EU Taxonomy.

The scope of DNSH principle in SFDR is much broader and applies both to environmental and social issues. This principle is breached when an enterprise harms any sustainable investment objective, including both environmental and social objective, through its activities.

In addition, the conceptual scope of DNSH principle is not precisely defined in SFDR. Therefore, the European Commission issued the Delegated Regulation[29] under Article 2a, which – in context of compliance with minimum safeguards of the Taxonomy – contains among others:

1. A requirement to explain, whether an activity causes no significant harm in the meaning of SFDR;
2. An obligation to indicate, whether the enterprise’s activity is aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights;
3. A list of specific PAI indicators (principal adverse impacts of investment decisions) – both environmental and social – supporting the assessment, whether an activity is aligned with this principle and a requirement to indicate how these indicators were met by an enterprise.

[29] Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022 supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the content and presentation of the information in relation to the principle of ‘do no significant harm’, specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, on websites and in periodic reports ((OJ EU L of 2022 no. 196, p. 1 as amended (“SFDR Delegated Regulation”).

In order to meet the requirement set out in Article 18(2) of the EU Taxonomy, an enterprise should:

- Explain, whether its activity causes no significant harm to any sustainable investment objectives, covering the environmental and social objectives;
- Indicate, whether its activity is aligned with all documents consisting in minimum safeguards and listed in Article 18(1) of the EU Taxonomy, in particular with all OECD Guidelines and UN Guiding Principles;
- Verify the list of specific PAI indicators provided for in Table 1 of the SFDR Delegated Regulation, specifying the DNSH principle set out in SFDR, and indicate how these indicators are met by the enterprise;
- Disclose all information confirming the application of DNSH principle in the sustainability reporting.

Summary

Ensuring application of minimum safeguards set out in Article 18(1) of the EU Taxonomy means aligning by enterprises with **all requirements** provided for in the **OECD Guidelines for Multinational Enterprises** and **UN Guiding Principles on Business and Human Rights** in their business practice.

As explained in the part concerning the role of OECD NPCs, failure to observe the OECD Guidelines by an enterprise may result in receiving a notification on an alleged breach of the OECD Guidelines by OECD NPC.

UN Guiding Principles do not provide for a separate complaint mechanism – however it should be noted that OECD Guidelines fully comply with UN Guiding Principles. Therefore, any potential breach of UN Guiding Principles may be reported in the notification on an alleged breach of the OECD Guidelines submitted to OECD NPC, indicating Chapter IV of OECD Guidelines “Human Rights”.

Minimum safeguards set out in Article 18(1) of the EU Taxonomy are the criteria for qualifying an activity as environmentally sustainable equivalent to the other criteria set out in Article 3(a), (b) and (c) of the EU Taxonomy.

In practice, this means that an enterprise’s declaration of conducting business in compliance with the OECD Guidelines and UN Guiding Principles confirms that the enterprise applies **all recommendations** provided for in 11 chapters of the OECD Guidelines, **carries out risk assessments on a regular basis** and **applies due diligence** for the individual areas of activity specified in the OECD Guidelines. This means also that such enterprise applies the terminology used both in the OECD Guidelines and the UN Guiding Principles. For example, this means that an enterprise refers to no other codes or policies drawn-up and applied in its business, for example an anti-mobbing code or code of ethics, to define e.g. human rights policy. Human rights policy in the enterprise should draw on the UN Guiding Principles and be reflected in other policies, codes and regulations of the enterprise, otherwise considering the investment to be an environmentally sustainable investment pursuant to the EU Taxonomy shall not be admissible.

In addition, disclosing a failure to observe the OECD Guidelines or UN Guiding Principles under the sustainability reporting pursuant to CSRD and the accompanying European Sustainability Reporting Standards (co called ESRS) may adversely affect the perception of the enterprise by its stakeholders.

With regard to the above, the enterprises confirming compliance of their business activities with OECD Guidelines and UN Guiding Principles in their Taxonomy disclosures, should be aware of the importance of this declaration and have in place relevant policies and procedures proving the veracity of such statements in practice.

Part II

Case study. Minimum safeguards in business activity on the example of the WNĘTRZE MARZEŃ.PL company

WnętrzeMarzeń.PL sp. o.o. company[30]

WNĘTRZE MARZEŃ. PL is a production plant having its seat in one of the poviat cities in Poland. It belongs to the international group ANN-INTERNATIONAL[31]. The company's core business is the production and sales of home decoration items. The head office implemented the human rights policies and recommended taking relevant measures by the national branches. In view of the fact that the subsidiaries operate in different formal, legal, cultural and socio-economic environments, the assessment at the group's head office level only would be insufficient and primarily ignore indirect risks of abuses or the risks of local abuses and irregularities. The board of the Polish branch was obliged to implement minimum safeguards of the EU Taxonomy. For this purpose, the board appointed the dedicated team composed of the persons responsible for various aspects of enterprise management: Compliance Expert, ESG Director, Purchase Director, PR and Communication Specialist and HR and Labour Relations Director.

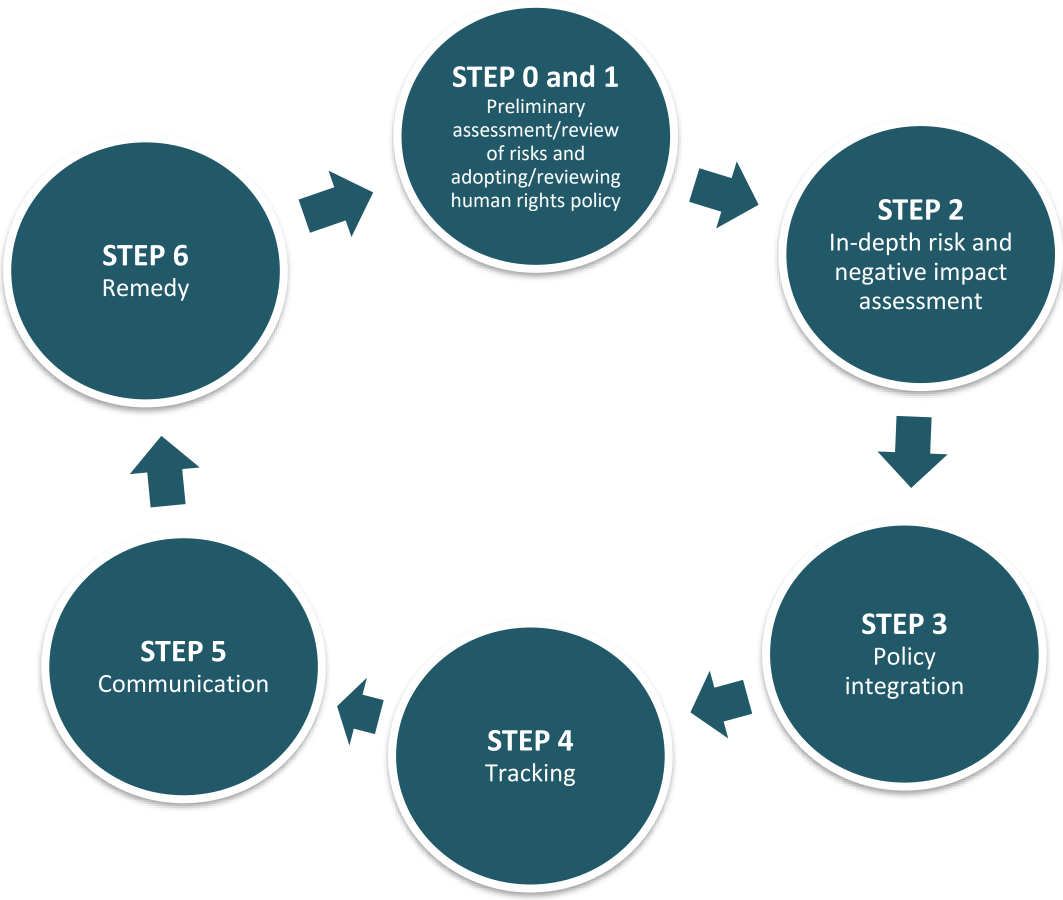
Following the head office's guidance, the team made use of generally available tools to ensure structured works and confidence of the team members that no important step was forgotten:

- OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
- UN Guiding Principles on Business and Human Rights
- Reporting framework compliant with UN Guiding Principles on Business and Human Rights
- OECD Due Diligence Guidance for Responsible Business Conduct

[30] A fictious name of non-existing entity – "Interior of Dreams", used in the Guidebook to illustrate the exemplary operations of enterprises.

[31] A fictious name of non-existing entity – "Interior of Dreams", used in the Guidebook to illustrate the exemplary operations of enterprises.

Figure 5.
Steps to be taken in an enterprise in context of meeting the requirements of minimum safeguards of the EU Taxonomy



Source: elaboration by Joanna Szymonek.

STEP 0

Preliminary diagnosis of risk of negative impact on human rights.

In this step, the team preliminarily reviewed:
- Content of policies on, among others, employment, business relationships and consumers;
- Other legal commitments to entities identified in the preliminary stakeholder mapping;
- Competences enabling identification of the key human rights issues.

This event demonstrated that implementing human rights due diligence shall require training and engagement of more people. The team recommended to the board that there is a need to ensure budget for further activities and amend the employees' contracts by adding duties and therefore - delegate appropriate powers and remuneration reflecting the new scopes of responsibility.

The team gained knowledge on the baseline situation, as a result of which it was found, e.g. that the service purchase policies define no rules for subcontracting, which – in an extreme case – could lead to purchasing, e.g. IT services in the countries commonly considered to be high-risk countries in terms of respecting human rights. At this stage, the areas of the company's negative impact were provisionally identified. The team became aware that the extent of the company's negative impact is broader than identified at the project onset. The need for in-depth assessment of the company's negative impact on human rights was determined.

STEP 1

Adopting human rights policy – answers to the question contained in the Reporting Framework: What does the company say publicly about its commitment to respect human rights?

In this step, the team prepared the statement of commitment to respect human rights by WNĘTRZE MARZEŃ.PL, referring to UN Guiding Principles and OECD Guidelines. Its content draws on the preliminary risk assessment. The board approved the statement and made it public to the employees in the Intranet. At this stage, Communication and PR team proved its support, sending messages to the employees, customers and business relationships, which confirmed the board's intent to initiate due diligence and to cooperate with all stakeholders in its proper performance. One of the first issues addressed by the team was identifying the stakeholders of the WNĘTRZE MARZEŃ.PL company.

STEP 2

Impact assessment - in-depth risk assessment of the company's negative impact on respecting human rights

In this step, the team had to perform w comprehensive impact assessment on respecting human rights and answer the following questions:

- What are the key areas of own activities of the enterprise, where human rights may be abused?
- How does WNĘTRZE MARZEŃ.PL affect its stakeholders?
- Which human rights may be abused in each key area and in the value chain?[32]
- Does the company have any specific policies that address its salient human rights issues and, if so, what are they?
- How does the company identify any changes in the nature of each salient human rights issue over time?[33]

[32] The summary table at https://pihrb.org/wp-content/uploads/2021/09/UNGP_RF-Ramy_spr_z-przewodnikiem_final_www_9.12.2015.pdf is helpful (see Table: Internationally recognized human rights and examples of how business might impact them).

[33] More questions to this section can be found at: https://pihrb.org/wp-content/uploads/2021/09/UNGP_RF-Ramy_spr_z-przewodnikiem_final_www_9.12.2015.pdf

The team made use of the findings from preliminary assessment, based on which the analysis of the entire value chain was deepened: own activities, relations with suppliers, subcontractors and clients. To this end, the team answered the following questions:

1. How does the company affect the stakeholders?
2. What are the key areas, in which the risk of human rights abuses is the highest?
3. Which human rights may be abused in each key area and in what cases?
4. Whose human rights may be abused in each key area and in what cases?

To ensure proper understanding of value chain by the organisation members (not only by the team) and to properly define and understand the risk of negative impact of the WNĘTRZE MARZEŃ.PL company, the team drew up a dedicated diagram indicating how and where the risks of human rights abuses may occur, how to differentiate between the supply chain and value chain and how to understand the chain of activities with a view to the EU Directive on corporate sustainability due diligence (CSDDD) and in context of business activity.

Based on historical data and sales projections, the potential human rights abuses in the construction of new raw-material and finished good warehouses, which are necessary for the delivery of new contracts that the Export Department has been trying to secure for a long time.

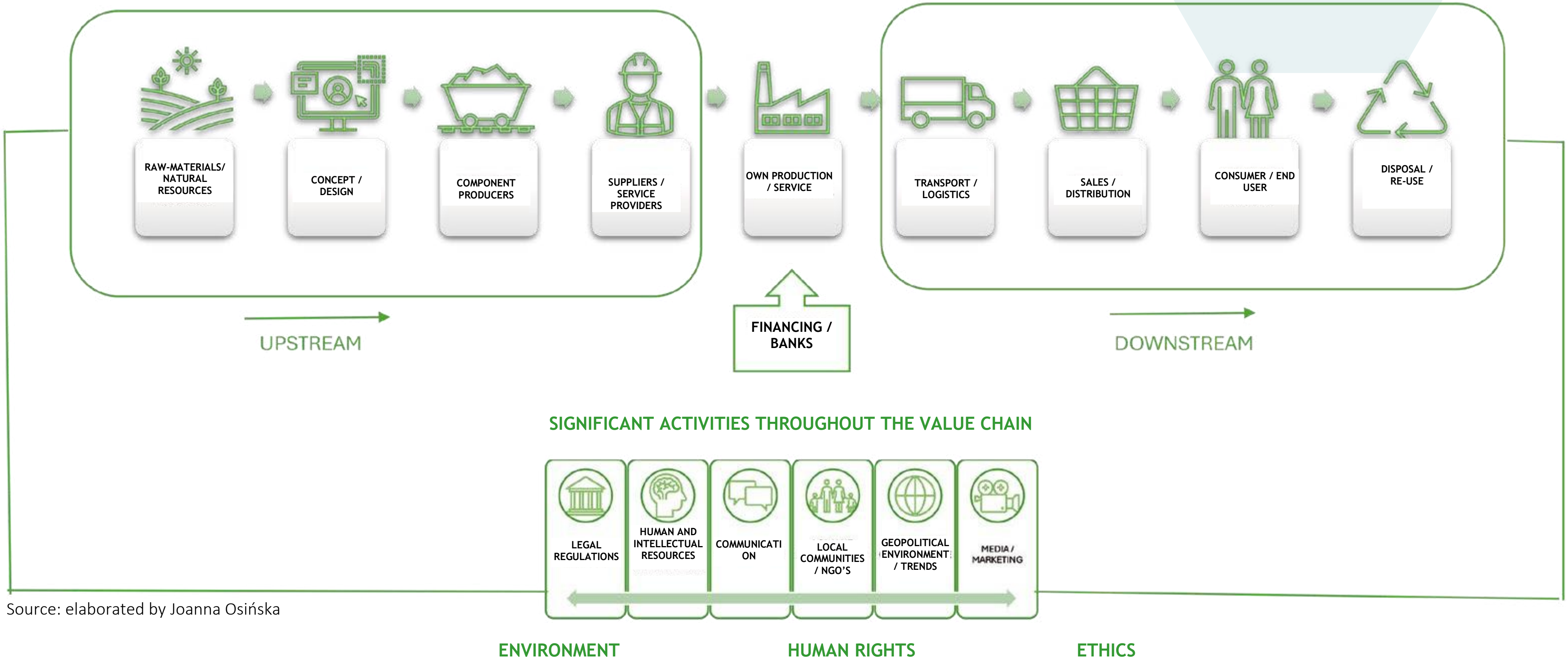
When mapping the stakeholders, the team made use of such sources as the list of qualified suppliers, updated on an annual basis by the Purchase Department in cooperation with the Quality Management System Representative. The materials drawn up by the head office were also used. Although human rights policy of the head office was similar to the statement made by WNĘTRZE MARZEŃ.PL in Poland, the team was aware of the need to align its content with the locally identified risks due to the fact that the political and socio-economic contexts of the corporate head office have varied significantly from the context of the company's operations in Poland.

For example: head office of ANN INTERNATIONAL is located in the country, where collective bargaining has been common, and the percentage rate of foreigners employed in production was twice lower compared to Poland. At the same time, no foreigners have been employed as specialists in Poland. In the production peaks, additional support was provided by temporary workers from the temporary employment agency. Such solutions have not been applied by the head office, which, if needed, subcontracted the main production process to its subsidiaries in several countries in Europe.

The findings from this analysis include a complete list of risks of human rights abuses associated with own activity of the WNĘTRZE MARZEŃ.PL company and its value chain (see this Guidebook, pp. 21–23).

1. Risks occurring only in the value chain:
   - Forced labour;
   - Child labour.

Figure 6. Universal value chain



Source: elaborated by Joanna Osińska

2. Risks occurring in own activities of the company and in the value chain within the following areas:
    - Safe and healthy working environment;
    - Freedom of association, organisation into trade unions and collective bargaining;
    - Equal treatment and non-discrimination;
    - Labour time;
    - Remuneration;
    - Disciplinary sanctions;
    - Personal data protection;
    - Cybersecurity.

The team identified salient human right issues, indicating also whether it has direct impact on this risk (through own activities) or indirect impact (through its value chain). In order to correctly identify risks, the team engaged its internal and external stakeholders.

Indirect risks – in the value chain, indirect employment or to the staff of the cooperating entities of WNĘTRZE MARZEŃ.PL:

- Forced labour risk: 30% of headcount are people employed by the external entities under the temporary employment and labour leasing contracts. The workers employed by these entities were identified among others as the citizens of India, Indonesia, Philippines, Nepal, Ethiopia and Burundi;
- Transport of finished goods to the individual customers was commissioned to the companies from so called freight exchange. The drivers most frequently arriving to the plant included, among others, the citizens of South America.

Direct risks – to own staff employed directly by WNĘTRZE MARZEŃ.PL:

- **Unequal treatment:**
  According to the preliminary calculations of HR Department, the payment gap in production was 10%, while in administration it amounted to 15%. In addition, the temporary agency workers received lower wage compared to own staff of WNĘTRZE MARZEŃ.PL. Moreover, HR Department examined the labour leasing contracts, which have been previously the responsibility of the Deputy Production Director. HR Department noted that labour leasing exposes the company to the risk of non-compliance with law in terms of legality of employment as well as social insurance and tax liabilities.

  Only the last grade students of technical high school were admitted to vocational trainings, despite that the plant had organisational capacity to admit also the lower grade students to learn the profession.

- **Abuse of freedom of association, right to organise into trade unions and collective bargaining:**
  Trade union representatives were left out the consultations of such important issues, as implementing the CCTV policy or temporary labour procedures, and have never been informed on any employee dismissals. There was no information board in the production plant, that could be used by a trade union for communication. Such board was installed in the old production building, which has been used only occasionally for goods packaging.

The team structured the risks by direct and indirect and the risks occurring in own activities of the WNĘTRZE MARZEŃ.PL company, in the supply chain and to the individual and corporate customers. Also the assessment of salient risks with a view to negative impact and risk prioritisation were performed.

The list of human rights, which may be abused, were then compared with the existing corporate policies of WNĘTRZE MARZEŃ.PL. When reviewing the corporate governance policies, the review of policies associated with due diligence with regard to responsible business conduct, e.g. anti-corruption policy was prepared in line with OECD Guidelines.

In addition to document review (policies, procedures, instructions, contracts, lists), numerous consultations with internal stakeholders: the employed, trade unions, management, and external stakeholders: suppliers, service providers, industrial trade unions, industrial associations, local community and certain customers, were conducted.

STEP 3

Integration of human rights policies across the enterprise's operations

One of the first steps taken by enterprises, necessary to prevent and mitigate adverse impacts on human rights, is integrating the enterprise's policies/commitment to respect human rights across its operations.

In this step, in order to integrate the processes and procedures with the adopted human rights policy, the team of WNĘTRZE MARZEŃ.PL sought answers to the following questions:

1. How does the company integrate its findings about each salient human rights issue into its decision-making processes and actions?
2. What happens in case of any conflict between preventing or mitigating the adverse human rights impacts and other business objectives and how are these conflicts handled?

Based on data from the previous activity of the company, the case of subcontracting production of one of the order batches to the country considered by the head office (based on expert analyses drawn on own data acquired from operational practices, various indexes, information bases and external expertise) to be a high-risk country in terms of possible human and environmental rights abuses, was examined. Although the essence of transaction was subcontracting to the third-country entity, the transaction was not identified by the central purchase monitoring system as a prohibited transaction. The then Export Director and their team received high bonus since profitability of the order was higher than if it had been subcontracted in the country, and the customer – satisfied by the timely delivery – placed subsequent orders. The team has also sought answer to the question of what actions were taken to prevent or mitigate the potential adverse impacts associated with significant risks of human rights abuses[34].

At this stage, the WNĘTRZE MARZEŃ.PL team had to answer the questions identified in the previous step. The team decided to start with the risks of human right abuses by WNĘTRZE MARZEŃ.PL as an employer. For example:

- **Discrimination in terms of remuneration**
  The existing policies and wage regulations were reviewed. Job profile and description documents were reviewed with support of the external experts. Wage reports were verified for preliminary market diagnosis. Grade rates were verified, decision-making processes for promotion, including salary increases, were reviewed. Consultations with employees, abused persons, management and trade unions were conducted. Wage survey was planned to counteract future abuses. The plans included amendments to policies, job descriptions, wage regulations, pay structure and evaluation and promotion procedures, as well as to the promotion approval procedures, including salary increases. According to the plans, these amendments will be consulted with the affected employees and trade unions. In order to mitigate adverse impacts on human rights in terms of remuneration, discussions were commenced to level the differences in wages and payment dates.

  Amendments to the contracts with the temporary employment agency and a company offering labour leasing were introduced to ensure their compliance with legal requirements on temporary staff employment. The changes made to own staff wages were also intended to be introduced to remunerations of temporary workers, upon prior consultations with them and their employers.

  These issues – abuses identified above and their handling – were communicated to the staff during a meeting, along with specifying the preliminary schedule of works.

- **Child labour - unequal treatment in terms of trainings and internships**
  Uniform training and internship policy was drawn up. Paid internships were structured according to the rules of cooperation with the employment office, including paid trainings for the vocational school students below 18 years of age. The procedures for cooperation with the schools were prepared and persons responsible for trainee on-boarding, division of tasks and care of juveniles were designated. These changes were communicated to the trade union and during the staff meeting.

- **Freedom of association, right to organise and collective bargaining**
  No policy of (collective) employee relationships, which would refer to collective bargaining and consultation, was identified. Such policy was drawn up with indication on the procedures for consultations and arrangements with trade union organisation. Also the procedures for communication with the board were agreed to enable all employees - both associated and not associated in trade unions - to participate and take the floor during the meetings.

[34] More questions to this section can be found at: https://pihrb.org/wp-content/uploads/2021/09/UNGP_RF-Ramy_spr_z-przewodnikiem_final_www_9.12.2015.pdf

The existing procedures for consultations between the employees and operational management were reviewed. Rules of cooperation between the employer and trade union organisation for the purposes of future cooperation agreement were prepared. It was agreed that the trade union shall be allowed to use the informational board placed at the entrance to the plant.

Considerations covered also the impact of organisation on the external cooperating entities in the supply chain (30% of headcount are employed by the external entities, including the companies offering labour leasing, registered in the Czech Republic and Slovakia).

It turned out that the providers of production-related and warehouse services and *de facto* of the labour leasing service are the enterprises having their seats in the Czech Republic and in Ukraine. Although WNĘTRZE MARZEŃ.PL has a code of procedure for suppliers in place, no adequate provisions that would enable managing this business relationship in a way to meet the requirements on respecting human rights, and primarily ensure compliance with national law with regard to employment of temporary workers, were applied to the Ukrainian company. Works on contract renegotiations were commenced, i.e. the business partner was informed on strategic changes and new provisions were proposed. It was informed that under the new provisions WNĘTRZE MARZEŃ.PL will request insight into the employment documents and policies, and in specific cases even the opportunity to inspect in person or via a partner, e.g. a monitoring institution/auditor. Enterprise should take all efforts to improve due diligence by making use of support in the form of audit carried out by independent expert entities. The supplier did not agree to these changes. Any potential change of supplier is associated with higher costs of services and potential penalty for terminating the contract. The board of WNĘTRZE MARZEŃ. PL was reluctant to increase budgets for the potential penalties or delays associated with a change of supplier.

What should the WNĘTRZEMARZEŃ.PL company do?

- Terminate the cooperation?
- Continue with the existing budget?
- Assess the potential to amend the contract?
- Provide adequate support to the supplier, including educational measures?

Regardless of the path to be chosen, each measure is associated with budget changes, of which the board must be aware.

When implementing the ESG strategy, including respect for human rights, the company must take into account the potential for increased expenses for services/products/semi-products in accordance with the sustainable development strategy goals.

- **Cleaning and security staff**
  Further analyses of documents revealed that the WNĘTRZE MARZEŃ.PL company has no contracts with the entities employing the persons, who provide services to WNĘTRZE MARZEŃ.PL, its customers and employees on a daily basis. These services are provided by the administrator of the building, where WNĘTRZE MARZEŃ.PL operates its main showroom, and who has a signed lease agreement with WNĘTRZE MARZEŃ.PL for an undefined period. The administrator agreed to review the agreement and add the provisions concerning documentation. The cleaning or security staff are the employees at the second level of supply chain.
  The building administrator agreed to talk to the service providers and to present relevant documents and agreements, as well as to make relevant amendments to these agreements. The discussions held by the Purchase Director revealed that the building administrator realised that other lessees may come forward with similar expectations in near future and therefore, although initially reluctant, agreed to settle the cooperation with the service entrepreneurs operating in the administrated facilities.

Do you know, how else the risk in supply chain, other than level 1 risk, can be identified?

- Bring pressure on level 1?
- Provide access to grievance mechanisms and/or irregularity reporting channels?
- Perform an audit?

- **Construction company**
  Since this sector is particularly associated with H&S, forced and child labour risks – the H&S specialists were consulted, in effect of which it was found that the existing procedures for coordination of construction works guarantee safety to neither workers of the construction companies, nor to the WNĘTRZE MARZEŃ.PL employees. It was decided that the persons employed in the construction companies will participate in so called H&S briefings, which have been successfully operating in WNĘTRZE MARZEŃ.PL for a year and significantly contributed to raising awareness of safe work of all staff members, in particular of the company's management.

STEP 4

Tracking effectiveness of efforts and outcomes regarding human rights

In this step, WNĘTRZE MARZEŃ.PL should answer the following questions:
1. How does it know if its efforts to address each salient human rights issue are effective in practice?
2. What specific examples from the reporting period illustrate whether each salient issue is being managed effective?[35]

[35] More questions to this section can be found at: https://pihrb.org/wp-content/uploads/2021/09/UNGP_RF-Ramy_spr_z-przewodnikiem_final_www_9.12.2015.pdf

The WNĘTRZE MARZEŃ.PL team, in consultation with internal and external stakeholders, evaluated the effectiveness of its efforts regarding the individual steps of due diligence. The framework diagnostic questions that have helped to take the evaluation activities and identify the areas of in-depth analyses were developed. Evaluation covered also the following step – remedy. The list of diagnostic questions was prepared to allow the team to assess what the current stage of implementation by WNĘTRZE MARZEŃ.PL is and what outcomes are achieved.

STEP 5

Communication and education on human rights

With support of PR and Communication Department, the WNĘTRZE MARZEŃ.PL team communicated its efforts and outcomes of the individual stages of due diligence both internally: to the employees, trainees, temporary employment agency workers, and externally: to the service provider employees, customers and suppliers and direct neighbours of the production plant and construction of new warehouses. This was done via social media of the company, information boards and by issuing an internal bulletin in paper form to effectively communicate with all employee groups. It turned out that a part of employees prefers to read information on its organisation and its operations, both linked to them directly and on the company's development, new customers or meetings at the industrial fairs. In addition, the progresses in respecting human rights were communicated within close cooperation with the team preparing the ESG/SR report.

STEP 6

Remedy, remediation, grievance mechanism

The grievance mechanism is an important tool to implement the mechanisms mitigating the risk of human rights abuses. It is used to lodge complaints, conduct explanatory proceedings, make changes correcting the WNĘTRZE MARZEŃ.PL operations as well as counteract abuses in future and mitigate the adverse impacts.

Being aware of the need to provide all stakeholders with such tool, the WNĘTRZE MARZEŃ.PL team sought answers to the following questions:
1. Through what means can the company receive complaints or concerns related to the potential human rights abuses?
2. Who may lodge complaints?
3. How does the company know if people feel able and empowered to raise complaints or concerns?
4. How does the company process complaints and assess the effectiveness of outcomes?
5. During the reporting period, what were the trends and patterns in complaints or concerns and their outcomes regarding the complaints on respecting human rights, and what lessons has the company learned?

6. Were these findings integrated as adjusted procedures, revised procedures, new solutions implemented to counteract abuses in future? Was any time frame to integrate and re-evaluate these efforts determined?
7. Did WNĘTRZE MARZEŃ.PL provide or enable remedy for any actual cases of human rights abuses?[36]
8. If implementation of remediation was impossible, did the company communicate this fact?

When analysing the grievance mechanism-related aspects, the policy of reporting irregularities and potential abuses, conducting explanatory proceeding, taking-up remediation and developing the preventive solutions, was reviewed. It was found that:

- No channels to lodge complaints on employee-related issues by a trade union organisation were implemented;
- The role of H&S service and social labour inspector in monitoring of safe working environment was omitted;
- No aspects related to designing and implementing the grievance mechanisms for the employed were consulted with the employees and trade unions, no channels to communicate abuses were made available to the subcontractors and customers;
- No in-depth analysis of the reasons behind complaints lodged via communication channels made available by WNĘTRZE MARZEŃ.PL was performed;
- Lodged complaints, handling them and achieved outcomes were not discussed in communication with the employed persons.

[36] More questions to this section can be found at: https://pihrb.org/wp-content/uploads/2021/09/UNGP_RF-Ramy_spr_z-przewodnikiem_final_www_9.12.2015.pdf

Stakeholder engagement

Each step of human rights due diligence requires engaging the stakeholders[37] to effectively design and implement due diligence for responsible business conduct and human rights. In order to engage the stakeholders, the WNĘTRZE MARZEŃ.PL company should perform their mapping.

The WNĘTRZE MARZEŃ.PL team sought answer to the question: what is its approach to engagement with stakeholders in relation to each salient human rights issue.
The following questions were helpful:

1. How does WNĘTRZE MARZEŃ.PL identify which stakeholders to engage with in relation to significant human rights risks, and when and how to do so?
2. Did WNĘTRZE MARZEŃ.PL prepare the list of stakeholders and assigned them to the individual areas and topics?
3. Which stakeholders has WNĘTRZE MARZEŃ.PL engaged with and why?
4. How have the views of stakeholders influenced the company's understanding of significant human rights risks and/or its approach to addressing it?

Summary of activities by WNĘTRZE MARZEŃ.PL

Each due diligence stage ended with an action plan specifying time frame, persons responsible for individual tasks, identification of internal stakeholders to be engaged with by an organisation to implement specific tasks and identification of external organisations to support the enterprise in implementing these tasks, the potential budget, should the corrective actions exceed the existing financing. These activities i.e. the outcomes of individual due diligence stages, were communicated to the board, which made relevant decisions regarding the approval of action plan and budgets, and to the employees and external stakeholders, whose engagement was of importance to implement the corrective actions and remediation.

It should also be noted that the actions taken by WNĘTRZE MARZEŃ.PL covered only the selected area i.e. human rights, while the entity willing to be considered an entity acting in compliance with minimum safeguards, should take such actions across all areas indicated in the OECD Guidelines.

[37] https://www.accountability.org/standards/aa1000-stakeholder-engagement-standard/

Part III

Exemplary diagnostic questions on tracking effectiveness of human rights due diligence

1. Do we have the policies in the areas indicated in the OECD Guidelines and UN Guiding Principles in place?

2. Did policies draw on local conditions? Or were they only translated into local language?

3. Are the policies consulted with the employed persons or employee representatives? Are their comments taken into account?

4. Are the relevant policy procedures developed? Are these procedures consulted with persons responsible for the individual areas of operations, e.g. purchase, trainings, recruitment? Are their comments taken into account?

5. Are the developed policy procedures indicated in the OECD Guidelines and UN Guiding Principles evaluated and validated by the management on a regular basis?

6. Did the entity commission assessment of compliance of the policies, processes and procedures of organisation with the OECD Guidelines and UN Guiding Principles to an independent expert entity?

7. Are any educational activities in this area carried out? To what stakeholder groups are these activities addressed? Is their effectiveness analysed? What are the time intervals for the organised educational activities?

8. Are the employees trained in *compliance*?

9. Is the staff trained in non-discrimination policies and practices?

10. Did the employer provide the employees with relevant education and training in occupational health, safety and environment?

11. What is the number of accidents at work? Did it change compared to the previous reporting period and if so, how? Is any record of accidents at work kept?

12. Does the enterprise have the employee representation, e.g. employee representatives, employee council or trade unions? If not, are there any other solutions enabling dialogue with the employees on issues of importance to them, e.g. safe and healthy working environment?

13. Does the enterprise analyse the reports on irregularities, including within the meaning of the whistleblower protection act?

14. Is any record of irregularities kept? Are the abuses remediated?

15. Are any whistleblower protection measures taken, both in the meaning of the whistleblower protection act and of the persons reporting any other irregularities related to the entity’s business activity? Does the enterprise have an irregularity reporting management system in place?

16. How are the reports and their handling communicated to direct and indirect employees? How are the reports communicated to other stakeholders? What is communicated?

17. Does the enterprise carry out audit of its suppliers/subcontractors on respecting human rights? What are the audit results?

18. Is remediation ensured? Is effectiveness of such remediation verified?

19. Does the enterprise identify all level 1 suppliers? Does the enterprise enter into contracts with these suppliers, which include the provisions obliging them to respect human rights and to report subcontracting?

20. Does the enterprise manage risk in the supply chain? Alone or with any expert, auditor, technology support, etc.?

21. Does the enterprise apply the supplier selection criteria and, if so, which? Does the enterprise develop and update a source database to acquire information on the potential human rights abuses in the supply chain for its own needs?

22. Does the enterprise have human rights due diligence in place?

23. In the analysed period, have there been any binding sentence and/or other administrative sanctions related to human rights issued? If so, what are the consequences of these events?

24. In the analysed period, has the OECD National Contact Point published the Preliminary Assessment, Final Assessment or Tracking Note on any enterprise-related issue?

Part IV

Information and education base

How to use the base?

Information and education base developed for the purposes of this Guidebook contains the links to the websites of institutions keeping informational resources necessary to design, implement and assess the effectiveness of responsible business conduct activities, including with regard to respecting human rights.

Acquiring information on the potential abuse and/or irregularities in the business partners' operations is of importance in the context of cooperation with various entities and associated indirect human rights abuse. In such cases, information base on abuses and irregularities can be helpful. When acquiring information on irregularities and abuses, in particular in the context of human rights, it is recommended to use several sources. Global bases may keep no up-to-date information on each abuse, irregularities reported in the local units/institutions and published on local websites.

Knowledge base: information, useful links, educational materials

	Organisation	What you find there?	How can you use it?
1.	Polish OECD National Contact Point https://www.gov.pl/web/fundusze-regiony/oecd-national-contact-point-for-responsible-business-conduct	Information on OECD NCP operations in Poland and globally, valid versions of the general and sectoral OECD Guidelines, information on cases examined by the Polish OECD NCP, conduct procedure before OECD NPC, notification form of an alleged breach of the OECD Guidelines.	Enterprises may use this information to gain knowledge on how to observe the OECD Guidelines. You may also contact OECD NPC to receive any potential explanations concerning any doubts related to OECD Guidelines. Enterprises may also familiarise themselves with OECD NCP documents on conducting procedure before OECD NPC (Initial Assessments, Final Statements, Follow-up Statements). This will help them understand how to prepare for a potential proceeding before OECD NPC.
2.	OECD Guidelines for Multinational Enterprises - National Contact Points for RBC, https://mneguidelines.oecd.org/ncps/ What are NCPs for RBC? National Contact Points - Organisation for Economic Co-operation and Development (oecd.org) Catalogue of resources available on NCPs for RBCs National Contact Points - Organisation for Economic Co-operation and Development (oecd.org) Database of OECD NCP cases Database of specific instances - Organisation for Economic Cooperation and Development (oecd.org)	Information on OECD NCP operations. Database of OECD NCP cases.	Assessment and analysis of the potential supplier/commercial partner in context of cooperation and development of sustainable value chain, including due diligence implementation.

3.	UN Information Centre in Warsaw https://www.unic.un.org.pl/	Information on the UN operations in Poland and globally, including in context of human rights. Information on what human rights are and what their genesis is, on the activities of international courts and other human rights protection mechanisms.	Enterprises may learn what human rights are and about the role of state in this area – i.e. commitment to apply the international human rights law, covenants, conventions and other documents, including which states committed themselves to comply.
4.	State Labour Inspection (PIP) www.pip.gov.pl	Source of knowledge on labour law, including occupational health and safety. PIP website publishes also free advice on labour law and a toolkit for preparing for an inspection.	Enterprises may be advised on how to comply with labour law in a specific situation.
5.	Office of Competition and Consumer Protection https://uokik.gov.pl/	Information on the Office operations related to the protection of competition and consumer rights in Poland.	Enterprises may use these resources to learn how to effectively protect consumer rights and to avoid any activities that could be considered as infringing the competition rules.
6.	Business Human Rights Resource Centre https://www.business-humanrights.org/en/	The organisation publishes the materials promoting human rights in business.	The subpage contains information on the negative impact on human rights through business activities of enterprises.

7.	International Labour Organization (ILO) https://www.ilo.org/ ILO Helpdesk for Business on International Labour Standards ILO Helpdesk for Business on International Labour Standards | International Labour Organization ILO Declaration on Fundamental Principles and Rights at Work ILO Declaration on Fundamental Principles and Rights at Work | International Labour Organization	Support for business in applying the international labour standards	Contains informational resources, tools for enterprises, examples of good practices. Can be used to design and implement own organisational solutions.

Educational materials and tools for enterprises

	Organisation	What you find there?	How can you use it?
1.	Charters on human rights in business https://pihrb.org/karty-praw-czlowieka/	Graphics on human rights with explanation + information sheets.	Educational nature + information on where to seek help in case of rights abuses, what internal actions should be taken by the enterprise with regard to these rights.
2.	Guidebook – counteracting forced labour https://pihrb.org/wp-content/uploads/2021/09/Poradnik-przeciwdzialanie_pracy_przymusowej-1.pdf	Educational materials on the risks and human rights abuses with regard to forced labour.	Practical tools to implement the policies and procedures for counteracting forced labour.
3.	UN Guiding Principles Reporting Framework on business and human rights https://pihrb.org/wp-content/uploads/2021/09/UNGP_RF-Ramy_spr_z-przewodnikiem_final_www_9.12.2015.pdf	Questions and answers related to reporting on respecting human rights in business.	Self-assessment tool for managing risk of human rights abuses.
4.	Diversity and inclusive culture and anti-discrimination https://pihrb.org/wp-content/uploads/2021/09/ Diversity_Guide-online_spreads-final_01.pdf https://www.ptpa.org.pl/poradnik-antydyskryminacyjny/mobbing/	Guidebook on implementing the tools for diversity, anti-discrimination and anti-mobbing culture, etc.	Technical and diagnostic support on designing organisational anti-discrimination tools.
5.	Occupational health and safety H&S knowledge portal – Central Institute for Labour Protection – National Research Institute (ciop.pl)	Knowledge portal on H&S regulations.	Tools designed for risk assessment, trainings, assessing working environment, informational campaigns.

6.	Occupational health and safety European Agency for Safety & Health at Work - Information, statistics, legislation and risk assessment tools (europa.eu)	Knowledge portal on H&S regulations.	Tools designed for risk assessment, trainings, assessing working environment, informational campaigns.
7.	Health promotion in workplace National Centre for Workplace Health Promotion - Intro (promocjazdrowiawpracy.pl)	Advisory and educational portal.	Educational campaigns for health in workplace.
8.	Human rights in workplace PIP - State Labour Inspection	Knowledge portal on legal employment and safe working environment	Tools designed to educate the employers and employees, e.g. on risk assessment, mobbing prevention.
9.	Biznes.gov.pl Home page | Biznes.gov.pl - Information and service website for entrepreneur	Knowledge portal for employers on conducting business	Tools designed to identify legal requirements, e.g. for environmental protection.

Information bases on potential abuses and irregularities:

HUMAN RIGHTS

	Organisation	What you find there?	How can you use it?
1.	Universal Human Rights Index: https://uhri.ohchr.org/en/about	A set of recommendations issued by the UN institutions and concerning human rights, which can be reviewed among others by country, human rights-related topics, sustainable development goals. It also includes a record of on-going commitments of a country concerned related to human rights.	Enterprises may use these data to identify, which human rights are potentially more frequently abused in a country of their operation.
2.	UN Human Rights Council and Universal Periodic Review https://www.ohchr.org/en/hr-bodies/upr/upr-home https://www.ohchr.org/en/hr-bodies/upr/pl-index (for Poland)	Report published every four years, contains the review of human rights-related situation in all UN Member States in the context of their international commitments. The report contains (for each country) information on the actions taken to respect, promote and protect human rights within the past four years and data on how the international human rights commitments are met.	Enterprises can use this report as an element in assessing the country of the partner, with which they cooperate or consider cooperation in the value chain. In addition, they may check what human rights could potentially be abused in the given country.

3.	OSCE Representative on Freedom of the Media, RFoM https://www.osce.org/media-freedom-and- development	Reports and expert opinions on, among others, regulations and legislation concerning the media; promoting freedom in the Internet; analyses of the on-going issues related to freedom of the media.	Enterprises can use information on how the situation of freedom of the media develops and on the statements and safety of journalists in the OSCE states and familiarise themselves with the related recommendations.
4.	Freedom Online Coalition (FOC)	The group established in 2011 on the Dutch initiative, currently involving 40 states (recently joined by: Cape Verde and Slovenia in 2024). The purpose is to promote freedom of speech and other human rights in digital environment. This purpose is achieved by the Coalition by three types of activities: • Coordination efforts in multilateral fora (primarily UN in Geneva, New York and Vienna and UNESCO in Paris); • Creating global standards (among others by developing and publishing statements and outcomes of thematic works of the working groups); • Cooperation with numerous entities operating within this area (primarily representing civil society and private companies, etc.).	The website provides the enterprises with information and studies related to human rights protection both on and outside the Internet.

5.	National human rights institutions (corresponding to the international minimum standards laid down in the Paris Principles) https://ganhri.org/membership/	Set of materials on: • Respecting human rights in a country concerned and on state activities; • Options to use the domestic institutions as the instruments for the promotion and protection of human rights; • Educational programmes on human rights.	Enterprises can familiarise themselves with recommendations on human rights protection for a country concerned, which are prepared by an independent governmental organisation.
6.	Business Human Rights Resource Centre https://www.business-humanrights.org/en/ companies/	Organisation promoting human rights in business.	The subpage contains information on the negative impact of business activities of enterprises on human rights.
7.	International Trade Union Cooperation www.ituc-csi.org	Promotion, protection of rights and interests of the persons employed by means of international cooperation between the trade unions.	Information on workers' rights and human rights abuses.
8.	Freedom House, Global Freedom Status https://freedomhouse.org/explore-the- map?type=fiw&year=2024	The American non-governmental Freedom House foundation involved in human rights publishes the list of states classified by respecting civil liberties - Freedom in the World – called the “freedom map”, where the individual countries are marked on the world map with separate colours, depending on the governance and its assessment by the organisation's experts (free, partly free, not free). It also assesses the states by quality of state institutions (central, self-governmental and control) and judiciary, media and civil society.	Enterprises can use this classification as an element in assessing the country of the partner, with which they cooperate or consider cooperation in the value chain.

9.	PICUM – Platform for International Cooperation on Undocumented Migrants www.picum.org	A network of organisations involved in respect for human rights, including the migrant workers' rights. Access to knowledge, information.	Helpful in developing organisational policies as well as management and risk identification tools.
10.	ITUC – International Trade Union Confederation https://www.ituc-csi.org/global-rights-index	Presents data on risks associated with human rights abuses in the workplace, including the rights of trade unions in specific countries. In addition, it shows the risks of the potential abuses resulting from the amendments of law, which may weaken the workers' and trade unions' rights as well as civil rights in the monitored countries.	Enterprises can use such data when developing their own human rights due diligence processes to ensure respect for workers' rights, including respect for the employed persons in the value chains.
11.	CIVICUS https://www.civicus.org/index.php/state-of-civil-society-report-2020	International non-governmental organisation which publishes the State of Civil Society Report along with assessment of the environment, in which the non-governmental organisations operate, global management and legislative trends affecting the civil liberties. This organisation publishes also the CIVICUS Monitor – a global tool developed and handled by more than 20 research partners. It tracks changes in civil societies of the countries throughout the world and assesses the state of freedom of civil society.	Enterprises can use this classification as an element in assessing the country of the partner, with which they cooperate or consider cooperation in the value chain. In addition, they can check, what human rights may be abused in a country concerned according to CIVICUS.

12.	Reporters without Borders, World Press Freedom Index – https://rsf.org/en/index	Organisation publishing the annual media freedom index for 180 countries and regions. The assessment includes pluralism, independence of media and safety of journalists.	Enterprises can use this classification as an element in assessing the country of the partner, with which they cooperate or consider cooperation in the value chain.
13.	World Economic Forum – Global Gender Gap Report https://www.weforum.org/publications/global-gender-gap-report-2023/in-full/	This annual report contains the assessment of countries in terms of availability of men and women for various resources and capacities (based on data on economic opportunities, educational attainment, health, political empowerment). The report is one of the tools designed to measure and compare gender equality in the world in a country concerned throughout the years.	Enterprises can use this report as an element supporting gender equality measurements.
14.	Forced labour https://www.walkfree.org/global-slavery-index/ https://www.maplecroft.com/risk-indices/forced- labour-index/	Organisations involved in human rights, aimed at elimination of modern-day slavery.	Set of data and tools on modern-day slavery, among others: reports, guidelines, verification survey.

CORRUPTION

	Organisation	What you find there?	How can you use it?
1.	Transparency International, Corruption Perception Index https://www.transparency.org/en/cpi/2023	The Transparency International Corruption Perception Index (CPI) assesses 180 countries and their territories with a view to establish the presence of corruption in the public sector. The assessment is prepared based on polls and panels implemented across the experts specialising in the assessment of political and economic risk and across business representatives.	Enterprises can use this classification an element in assessing the country of the partner, with which they cooperate or consider cooperation in the value chain.
2.	European Commission, rule of law reports https://commission.europa.eu/strategy-and-policy/ policies/justice-and-fundamental-rights/upholding- rule-law/rule-law/annual-rule-law-cycle/2024-rule- law-report_pl	In the rule of law reports, the European Commission analyses, among others, the anti-corruption framework functioning in each EU Member State, identifying the gaps and issues of concern and developing recommendations.	Enterprises can use this classification as an element in assessing the country of the partner, with which they cooperate or consider cooperation in the value chain.

Part V

Frequently asked questions (FAQ)

Disclosure

1) **How should model disclosure on minimum safeguards under the Taxonomy disclosure look like, taking into account that information on human rights, due diligence and issues covered by the OECD Guidelines and UN Guiding Principles are in principle disclosed in the sustainability reports (pursuant to CSRD)?**

   Pursuant to the EC Notice,[38] in order to confirm compliance with minimum safeguards, it should be demonstrated that enterprise developed and implemented relevant procedures ensuring alignment with OECD Guidelines and UN Guiding Principles. In principle, no model disclosure on minimum safeguards can be presented – as there is no model method to implement OECD Guidelines and UN Guiding Principles that would apply to all enterprises. As laid down in the OECD Guidelines and UN Guiding Principles, each enterprise conducts risk assessments in its business-specific areas, adopts relevant policies, develops relevant procedures drawing on these policies, implements and monitors them, ensures remedies and communicates on the adopted procedures. Notwithstanding the adopted disclosure model, it is vital that each enterprise communicates on the performed due diligence and implemented relevant procedures in a responsible and informed manner.

2) **With a view to comparability of disclosures between the companies, what contextual information should be disclosed apart from completing "Y/N" in the Taxonomy table? What good practices in this area can be listed, e.g. what minimum information should be provided/what references should be made under disclosure?**

   The EU legislator does not expect any examples of good practices – it expects a confirmation that an enterprise applies relevant procedures ensuring alignment with the OECD Guidelines and UN Guiding Principles in its activities.

   As indicated in the answer to the above question: according to the OECD Guidelines and UN Guiding Principles, each enterprise conducts risk assessments in its business-specific areas, adopts relevant policies, develops relevant procedures drawing on these policies, implements and monitors them, ensures remedies and communicates on the adopted procedures.

[38] Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and links to the Sustainable Finance Disclosure Regulation (2023/C 211/01), 16.6.2023, question 3, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=oj:JOC_2023_211_R_0001

3) **Pursuant to the UN Guiding Principle no. 21 communicating on the enterprise's operations can take a variety of forms, including in-person meetings, online dialogues, consultation with affected stakeholders, and formal public reports. What scope of the company's operations should be taken into account when implementing the UN Guiding Principles (broadly understood stakeholder engagement vs. public reporting)?**

UN Guiding Principles refer to all operations of an enterprise, including in its value chains, supply chains and chains of activity, or – generally speaking – in business relationships.

UN Guiding Principle no. 21 formulates recommendations on a step of due diligence, i.e. communication on the adopted due diligence processes. This scope may change in time and e.g. a change referring for example to the procedures for the right to privacy or to decent and safe working environment in place in the enterprise could take place compared to the report for the previous year.

4) **Is it possible to state that reporting in accordance with the applicable Polish laws, among others the Accounting Act transposing CSRD to the Polish law[39] fulfils recommendations of the OECD Guidelines set out in Chapter III "Disclosure"?**

Notwithstanding the prepared report based on the Accounting Act (AA) requirements, the enterprises should read the OECD Guidelines, including recommendations set out in Chapter III "Disclosure" and apply them in their business practice.

Reporting in compliance with the AA sustainability reporting standards fulfils in a sense the OECD Guidelines recommendations contained in this chapter, however to fully confirm adherence of an enterprise' activities with Chapter III of OECD Guidelines "Disclosure", the enterprise should demonstrate that it implements relevant procedures ensuring adherence to recommendations of this Chapter.

4a) What else should the company do in this area?

Enterprises should take into account the established disclosure policies in the countries and sectors in which they operate, and consider the views and informational requirements of partners/shareholders and other relevant stakeholders.

Enterprises should disclose regular, timely, reliable, clear, complete, accurate and comparable information in sufficient detail on all material matters. This information should be disclosed for the entire enterprise, and, where appropriate, along business lines or geographic areas.

OECD Guidelines indicate also that enterprises should have in place disclosure policies tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns. Clause 2 of Chapter III "Disclosure" lists the main areas for which disclosures are expected. Further points and commentary on this chapter describe the expectations on communicating responsible business conduct information.

[39] Act of 6 December 2024 amending the Accounting Act, the Act on Statutory Auditors, Audit Firms and Public Oversight and certain other acts: https://orka.sejm.gov.pl/proc10.nsf/ustawy/726_u.htm

4b) Could the Guidebook contain the exemplary situations suggesting failure to implement OECD Guidelines in this scope?

Specifying the exemplary situations suggesting failure to implement OECD Guidelines for disclosure is impossible – since each enterprise should implement OECD Guidelines in accordance with their recommendations, while the implementation methods can vary depending on sectors, industries, countries of enterprise's operation or of business relationships.

5) Is it possible to provide exemplary indicators/information for the purposes of human rights reporting with reference to the sectors less "associated" with RBC issues, e.g. sectors others than described in the sector-specific OECD Due Diligence Guidance for Responsible Supply Chains?

OECD made no decision on drawing up more detailed guidance for other sectors than extractives, conflict minerals, garment and footwear, agriculture and finance – mostly due to detailed nature of functioning of all remaining sectors.

Providing the exemplary human rights indicators/information is impossible – since each enterprise should identify and assess under due diligence any actual and potential adverse impacts associated with the enterprise's operations, products or services, value chains or business relationships.

In other words, enterprises should answer among others the following questions:

- What international human rights documents should be used as a basis to identify human rights that may be abused through the enterprise's activities?
- In what areas of an enterprise's operations may human rights be abused?
- Whose and which human rights may be abused by individual areas of the enterprise's operations?
- Whether these may be abused by direct operations of an enterprises – or indirectly in supply chains or business relationships?
- Abusing of which human rights may cause very severe adverse impacts and less severe adverse impacts?

Human rights

1) How should human rights in context of enterprise be understood?

UN Guiding Principle no. 12 provides that responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International labour Organization's Declaration on Fundamental Principles and Rights at Work.

Human rights contained in the International Bill of Human Rights cover the civil and political rights as well as economic, social and cultural rights – detailed catalogue of these rights is provided for in the Guidebook, pp. 36-37. The ILO Declaration specifies the fundamental principles and rights at work concerning forced labour, child labour, freedom of association and collective bargaining, discrimination in respect of employment and occupation and – since 2022 – safe and healthy working conditions.

In addition, commentary on UN Guiding Principle no. 12 indicates that enterprises should respect the human rights of individuals or groups or populations at particular risk of human rights abuses, including e.g.: children, women, persons with disabilities, national, ethnic, religious, linguistic and other minorities. To this end, enterprises should take into account the provisions of relevant UN conventions concerning these groups or populations.

Moreover, in situations of armed conflict enterprises should respect the standards of international humanitarian law.

2) What actions should be implemented by an enterprise according to UN Guiding Principles?

Enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they may be involved throughout their operations. To this end, enterprises should conduct due diligence in accordance with the OECD Guidelines. This process is described in detail in the OECD Due Diligence Guidance for Responsible Business Conduct. Due diligence consists of six stages, which are discussed earlier in this Guidebook.

3) What actions should be implemented by an enterprise according to OECD Guidelines?

Chapter II "General Policies" of the OECD Guidelines indicates that enterprises should among others:

- Contribute to economic, environmental and social progress with a view to achieving sustainable development;

- Respect the internationally recognised human rights;
- Encourage local capacity building through close co-operation with the local community;
- Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees;
- Ensure transparency and integrity in lobbying activities;
- Support and uphold good corporate governance principles and develop and apply good corporate governance practices;
- Develop and apply effective self-regulatory practices;
- Promote awareness of and compliance by workers employed by multinational enterprises with respect to company policies through appropriate dissemination of these policies;
- Refrain from discriminatory action;
- Refrain from reprisals;
- Implement due diligence;
- Avoid causing or contributing to adverse impacts on RBC matters;
- Seek to prevent or mitigate adverse impacts;
- Encourage entities with which they have business relationship, to apply RBC principles;
- Engage meaningfully with relevant stakeholders, engage in social dialogue and responsible business initiatives;
- Abstain from any improper involvement in political activities.

In addition, the following chapters of OECD Guidelines describe in detail the measures to be taken by enterprises on disclosure, respecting human rights, employment and industrial relations, environmental impact, combating bribery and other forms of corruption. Further chapters describe the measures to be taken by the enterprises to protect consumer interest, for science, technology and innovation, competition and taxation.

4) What tools should be implemented to verify alignment with minimum safeguards?

The essential verification tool may include assessment of the areas specified in the OECD Guidelines with a view to the policies, risk management systems, due diligence processes developed and implemented in the enterprise, grievance mechanisms in place, planned remediation, when adverse impacts occur, and communication policy for the procedures adopted and implemented in the enterprise.

To confirm with full responsibility that an enterprise has in place and implements relevant procedures to adhere with OECD Guidelines and UN Guiding Principles, one should make sure that the enterprise aligns with national law and implemented relevant procedures and processes in all areas indicated in the OECD Guidelines and conducted risk-based due diligence in specific areas.

5) Which human rights are most frequently associated with business relationships?

Which human rights are most frequently to be abused in business relationships depends on the nature of an enterprise, its size, sector, industry, ownership etc. To this end, due diligence should be conducted, starting from identifying: which and whose human rights may be abused through the enterprise's operations.

6) What internal documents of the organisation can govern its approach to human rights-related matters?

According to UN Guiding Principles, enterprises should have in place human rights policy, which should be reflected in its other policies, codes and regulations. Thus, "Human Rights Policy" should form a separate document, to which e.g. code of ethics, code of procedure for suppliers, work regulations, purchasing policy, employment policy, equal treatment policy, etc. may refer.

7) Does the requirement to approve human rights policy at the most senior level of enterprise mean that it should be approved by the management/supervisory board or meeting of shareholders (in the limited liability companies (z. o.o.), where no supervisory board is established)?

Yes, if it is the most senior level of an enterprise.

8) How should human rights policy of an enterprise be communicated to business partners - - is making this policy available for viewing sufficient, or is training required?

Making human rights policy available for viewing to a business partner may be insufficient due to lack of understanding of human rights by e.g. business partner. It is advised to obtain confirmation from the business partner, whether human rights policy is understandable. Training can be helpful, however a one-time training at a level of a supplier representative may be insufficient. One should take into account that presenting additional expectations to the suppliers may be burdensome to them, both in terms of organisation and finance. It is advised to consider the situation of each supplier, who can already be a signatory of a sectoral initiative for human rights. It needs to be noted that relationships with suppliers should base on partner approach to mitigate the risks of human rights abuses rather than on striving to obtain formal statements at any cost.

Lessons learned from due diligence, clearly indicating the areas of potential negative impact on human rights in business relationship and whose and which human rights may be abused, can be a helpful tool in establishing the forms/methods of communicating human rights policy to business partners. In case of a permanent business partner of an enterprise, it is advised to take into account its knowledge and engagement in identifying and assessing adverse effects of the enterprise's operations on respecting human rights.

9) When does an enterprise abuse human rights?

Enterprise abuses human rights, when its operations (direct or indirect in its supply chains or business relationships) causes adverse impacts on human rights specified in the international law. To understand the essence of human rights "abuse" by an enterprise, it is necessary to know the provisions of fundamental human rights protection instruments set out in the UN Guiding Principle no. 12.

If an enterprise did not consider a certain human right in its human rights due diligence, it does not mean however that such right cannot be abused through the enterprise's operations. According to research[40] by J. Ruggie in 2005–2007, enterprises may cause adverse impacts on a full range of human rights, including civil and political rights as well as economic, social and cultural rights.

10) How should human rights due diligence look like for an enterprise operating in the states with high level of human rights abuses?

In such case, human rights due diligence should be conducted the same way as in other cases, regardless of its implementation context.

The enterprise should however additionally consider information on respecting human rights from the international reports of the organisations or from other sources. Such information should allow the enterprise to make right decisions on the risk of human rights abuses and stability or opportunities to conduct business in a country concerned in compliance with the responsible business conduct standards.

The enterprise should take similar actions in the case of armed conflict – standard due diligence should also take into account the aspects of humanitarian law and heightened human rights diligence in armed conflicts (see Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts)

11) How to document due diligence?

It should be documented to enable tracking this process after a time period defined internally in the organisation (or if needed) and introducing changes resulting from repeated identification and assessment of actual and potential adverse impacts, which can occur/occurred through the enterprise's operations. These may include e.g. statements, surveys. The decision, which tools are considered process-efficient and business-effective, rests upon an enterprise.

[40] A/HRC/8/5/Add.2, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (2008)

12) **Is engaging stakeholders in the enterprise's human rights impact assessment necessary?**

Yes, it is recommended. Both the UN Guiding Principles and OECD Guidelines updated in 2023 emphasize particular importance of consultations with stakeholders in due diligence processes.

13) **How should stakeholders be engaged in the enterprise's impact assessment? How often should it be repeated?**

This issue is explained among others in the OECD Due Diligence Guidance for Responsible Business Conduct, pp. 48–51.

14) **Who are *rightsholders*?**

This term is explained among others in the OECD Due Diligence Guidance for Responsible Business Conduct, p. 47: Since the term rightsholders is not applied in the Polish language, the translation uses the term "persons, whose rights may be affected".

This term is also explained in footnote 11 in the Polish version of document: Due Diligence for Responsible Corporate Lending and Securities Underwriting, p. 26.

Environment

1) **Does this area require assessment and if so, to what extent?**

Naturally – this is one of the chapters of the OECD Guidelines and enterprises should apply relevant procedures and policies to ensure implementation of recommendations set out in this chapter.

Despite the fact that the Platform on Sustainable Finance report (Platform Report) of 2022 does not mention environment as the key area in assessing the enterprise's compliance with minimum safeguards, one should remember that the Platform Report is not an interpretation of the EU law, while the EU Taxonomy Regulation clearly points out the need to adhere to the OECD Guidelines to consider the activity to be compliant with EU Taxonomy. In addition, the Platform Report was published before updating the OECD Guidelines in 2023.

Consumer Interests

1) **Should this area be assessed if an enterprise provides no direct services or offers no products to consumers? If so, to what extent and how?**

   In the process of updating the OECD Guidelines that led to the adoption of their updated version in 2023, it has been argued, among others, that the contemporary perception of consumer interests should take into account the impact of globalisation, digitisation, new technologies and new business models, including digital platforms, peer-to-peer services and other. If an enterprise provides no direct services and offers no products for sales – but forms a part of a supply chain of such producer, it should operate in accordance with the recommendations set out in this chapter.

2) **To what extent does the entrepreneur's compliance with the requirements laid down in the Act of 30 May 2014 on consumer rights lead to alignment with OECD Guidelines in this scope – e.g. in context of information obligation set out in point 2 of Chapter VIII of the OECD Guidelines "Consumer Interests" and Articles 8, 12a and 14 of the Act?**

   OECD Guidelines indicate in point 2 of Chapter I "Concepts and Principles", that obeying domestic laws is the first obligation of enterprises. This does not mean however that meeting the statutory requirements set out in the Act, referred to above, by an entrepreneur fulfils all expectations set out in Chapter VIII "Consumer Interests".

   In other words – the Act on consumer rights is only one among many acts of law governing consumer rights and obligations of the entrepreneurs, adherence to which is expected by the OECD Guidelines in their recommendation to obey the law. Enterprises should further familiarise themselves with the expectations set out in Chapter VIII "Consumer Interests" and make sure that they have relevant procedures in place, allowing to state that it observes the recommendations set out in this chapter.

3) **How is the requirement of providing the consumers with access to fair, easy to use, timely and effective non-judicial dispute resolution and redress mechanisms, without unnecessary cost or burden to be understood? Are there any specific conditions that should be met by the complaint mechanism to comply with this requirement?**

   The recommendation set out in point 3 of Chapter VIII „Consumer Interests" of the OECD Guidelines to provide the consumers with access to fair, easy to use, timely and effective non-judicial dispute resolution and redress mechanisms, without unnecessary cost or burden – is explained in commentary on this chapter, point 99, specifically in the "Recommendation on Consumer Dispute Resolution and Redress". These mechanisms should be designed to be sufficiently accessible and easy to use to enable consumers to elect to conduct the procedure without need for legal representation or assistance as far as possible. Consumers should be provided with clear, comprehensible, and accurate information on the procedure, including the process for initiating a complaint and selecting a dispute resolution mechanism, expected costs and duration of the procedure, possible outcomes, avenues for appeal, and whether the outcome is binding.

These mechanisms should be designed so that they can be used by consumers with only minimal additional information or help (e.g. through the use of standard forms to facilitate the submission of necessary documents). The special needs of disadvantaged or vulnerable consumers should be considered so that they, or their representatives, can access these mechanisms. Dispute resolution and redress mechanisms for consumers acting individually include, but are not limited to: alternative dispute resolution services, including online dispute resolution, by which consumers and businesses engage in an out-of-court process to reach an agreement. Such services may include procedures which lead to the settling of the dispute through the active intervention of a neutral third party, who proposes or imposes a solution or procedures which facilitate the resolution of a consumer dispute by bringing the parties together and assisting them in reaching a solution by common consent. They may also include agency based mechanisms, by which consumers submit their complaint against a business to a public agency for investigation and finding; and/or simplified court procedures for small claims, which offer consumers the opportunity to obtain a judicial determination of their dispute through less formal and expedited procedures than those used in traditional court proceedings. This may include simplified proceedings in separate courts or tribunals of limited jurisdiction or simplified proceedings in the regular courts of first instance.

4) How can entrepreneurs provide information on the environmental or social attributes of products and services?

There are many ways to provide information on the environmental or social attributes of products and services in business practice. General approach to providing information in this area is formulated in the commentary on this chapter, point 97, specifically: any product and environmental or social claims should be based on adequate evidence and, as applicable, proper tests and verification. Given consumers’ growing interest in environmental and social issues and sustainable consumption, information should be provided, as appropriate, on the environmental or social attributes of products and services. This could include information on the energy efficiency and the degree of recyclability, durability, and reparability of products, the sustainability attributes of financial products and services or, for example, in the case of food products, information on agricultural practices or nutritional attributes.

5) Clear communications formed by enterprises - are there any specified criteria for the conditions to be met by “plain language” and are there any related good practices?

Plain language means primarily a language understandable to the recipient. A consumer should be able to understand the purpose of communication, its content and intended results. This refers to grammatical, stylistic and visual layers.

Science, Technology and Innovation

1) **Does this area need to be assessed?**

Naturally – this is one of the chapters of the OECD Guidelines and enterprises should apply relevant procedures and policies to ensure implementation of recommendations set out in this chapter.

Despite that the Platform on Sustainable Finance report (Platform Report) of 2022 does not mention science, technology and innovation as the key area in assessing the enterprise's compliance with minimum safeguards, one should remember that the Platform Report is not an interpretation of the EU law, while the EU Taxonomy Regulation clearly points out at the need to adhere to the OECD Guidelines to consider the activity to be compliant with EU Taxonomy. In addition, the Platform Report was published before updating the OECD Guidelines in 2023.

2) **How should risk-based due diligence with respect to actual and potential adverse impacts related to science, technology and innovation look like?**

Exactly the same as with respect to other areas of the enterprise's operations and as described in the OECD Guidelines in Chapter II "General Policies".

3) **How do these provisions of OECD Guidelines correspond to GDPR[41], e.g. can it be considered that ensuring data protection security has been already specified in GDPR and requires no additional actions?**

Personal data protection audits carried out by a certification body can be used.

[41] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU. L. of 2016 No. 119, p. 1 as amended).

Ministry of Economic Development and Technology

Ministry of Development Funds and Regional Policy