Biznes a prawa człowieka

Reakcja UE na działalność gospodarczą, która może mieć negatywny wpływ na przestrzeganie praw człowieka na świecie.

Działalność gospodarcza jest siłą napędową gospodarki; przyczynia się do rozwoju gospodarczego i społecznego poprzez tworzenie miejsc pracy oraz dostarczanie towarów i usług. Jednocześnie może jednak mieć niekorzystny wpływ na przestrzeganie praw człowieka, w tym tych dotyczących ochrony środowiska, a także aspektów pracowniczych i społecznych.

Poprzez swoje działania i zaniechania przedsiębiorstwa mogą negatywnie wpływać na poszanowanie wszelkich uznanych na arenie międzynarodowej praw człowieka – zarówno bezpośrednio, jak i za pośrednictwem podmiotów znajdujących się w ich łańcuchach dostaw. Dotyczy to między innymi:

praw obywatelskich i politycznych,
praw gospodarczych i kulturalnych,
równości i niedyskryminacji,
praw dziecka,
wolności słowa,
ochrony danych,
prawa do rzetelnego procesu,
praw w zakresie ochrony środowiska i zrównoważonego rozwoju,
praw pracowniczych,
praw zdrowotnych,
praw ochrony konsumentów.

Aby zapobiec negatywnemu wpływowi przedsiębiorstw na prawa człowieka i zapewnić, by wpływ ten był pozytywny, Organizacja Narodów Zjednoczonych (ONZ), Międzynarodowa Organizacja Pracy (MOP) oraz Organizacja Współpracy Gospodarczej i Rozwoju (OECD) podjęły się określenia globalnych oczekiwań dotyczących odpowiedzialnego prowadzenia działalności gospodarczej.

W szczególności:

Wytyczne ONZ dotyczące biznesu i praw człowieka z 2011 r. są pierwszym globalnie uznanym zestawem norm w zakresie zapobiegania zagrożeniom dla praw człowieka związanym z działalnością przedsiębiorstw i radzenia sobie z takimi zagrożeniami.

W przyjętych w 1976 r. i zaktualizowanych w 2011 r. Wytycznych OECD dla przedsiębiorstw międzynarodowych zawarto rozdział poświęcony prawom człowieka, zgodny ze wspomnianymi wytycznymi ONZ.

W 2017 r. zaktualizowano Trójstronną deklarację zasad dotyczących przedsiębiorstw wielonarodowych i polityki społecznej Międzynarodowej Organizacji Pracy (deklaracja MNE), zawierając w niej nowe normy dotyczące warunków pracy oraz odniesienia do wytycznych ONZ i do Agendy na rzecz zrównoważonego rozwoju 2030.

W **2016 r.** Rada Europy przyjęła zalecenie w sprawie praw człowieka i przedsiębiorstw, poświęcone zapewnianiu dostępu do środków prawnych i podkreślające szczególne potrzeby pracowników, dzieci, ludności tubylczej i obrońców praw człowieka w tym zakresie.

Ponadto w wytycznych ONZ dotyczących biznesu i praw człowieka przewidziano, że państwa powinny podjąć odpowiednie kroki w celu zapewnienia osobom dotkniętym nadużyciami związanymi z działalnością przedsiębiorstw dostępu do skutecznego środka prawnego. Można to osiągnąć m.in. za pomocą środków sądowych, administracyjnych czy ustawodawczych. Zgodnie z wytycznymi ONZ przedsiębiorstwa, które poprzez swoją działalność spowodowały szkody w zakresie praw człowieka lub przyczyniły się do ich powstania, powinny zastosować właściwe środki naprawcze.

Reakcja ze strony UE:

Karta praw podstawowych Unii Europejskiej zawiera szereg odpowiednich przepisów, w tym przepisy dotyczące:

zakazu niewolnictwa i pracy przymusowej (art. 5),
wolności prowadzenia działalności gospodarczej (art. 16),
niedyskryminacji (art. 21),
praw dziecka (art. 24),
należytych i sprawiedliwych warunków pracy (art. 31),
zakazu pracy dzieci (art. 32),
ochrony zdrowia (art. 35),
ochrony środowiska (art. 37),
ochrony konsumentów (art. 38),
prawa do skutecznego środka prawnego i dostępu do bezstronnego sądu (art. 47).

W reakcji na naruszenia praw człowieka związane z działalnością przedsiębiorstw Unia podjęła następujące działania:

2011 r. – Strategia UE podkreślająca zaangażowanie na rzecz wdrożenia wytycznych ONZ dotyczących biznesu i praw człowieka;
2015 r. – sprawozdanie Komisji z postępów we wdrażaniu wytycznych ONZ dotyczących biznesu i praw człowieka;
2017 r. – w sprawozdaniu Agencji Praw Podstawowych zaleca się stworzenie przeglądu wszystkich środków prawnych, który byłby napisany jasnym językiem i adresowany do ogółu społeczeństwa;
2019 r. –
przegląd postępów Komisji w zakresie społecznej odpowiedzialności przedsiębiorstw, odpowiedzialnego prowadzenia działalności gospodarczej oraz biznesu i praw człowieka
(SWD (2019)143);
2019 r. –
sprawozdanie szczegółowe Agencji Praw Podstawowych na temat zgłoszonych na terenie UE związanych z biznesem naruszeń praw człowieka i na temat dostępnych środków zaradczych

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Ostatnia aktualizacja: 28/07/2020

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Business and human rights - Czechia

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Victims of business related human rights violations are granted protection at the level of ordinary courts.

Persons whose rights have been violated can seek protection in either civil proceedings or criminal proceedings before ordinary courts; if relevant, subsequently before the Constitutional Court.

In case of violations of a civil nature, you can usually defend yourself by bringing an action for performance, via which the claimant can demand the performance of any legal obligation. Typically, the claimant can demand that the defendant give something to the claimant, that the defendant do something, that the defendant cease and desist from illegal conduct, or that the defendant tolerate certain conduct. The claimant can also seek the performance of the obligation to provide compensation for pecuniary or non-pecuniary damage caused by the defendant’s culpable conduct.

Where rights have been violated by an act possessing the features of a crime, as a means of defence a criminal complaint can be lodged with any police authority, with a prosecutor’s office or, orally, with a court. Further to the criminal complaint, the prosecutor can bring an action before a court, which then decides on guilt and punishment. In making its decisions the court is independent and only bound by law.

Where the victim has suffered damage to health or pecuniary or non-pecuniary damage due to the offence, or the offender has gained enrichment through the offence at the expense of the victim, the victim can move for the court to impose on the defendant, in its convicting judgment, the obligation to compensate financially the pecuniary or non-pecuniary damage suffered by the victim due to the offence (this is known as the adhesion procedure). [1] The victim must do so not later than before evidence taking during the trial or, at the very latest, during the first hearing on the agreement on guilt and punishment if such an agreement has been reached.

The victim of a human rights violation (referred to as the injured party) has no right to appeal against the court’s judgment on grounds of claiming that the operative part (i.e. the decision itself) in the judgment is inaccurate. Nevertheless, the victim can appeal against the judgment’s decision on financial compensation for pecuniary or non-pecuniary damage or that on the surrender of unjustified enrichment on the grounds of such decision being inaccurate, if the victim has raised such claim.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Cases of gross human rights violations are treated as offences under the Criminal Code. When the court determines the sentence it also takes into consideration the nature and gravity of the offences in addition to the offender’s situation and the victim’s interests protected by law. In general, the Criminal Code lays down more severe punishments and sentences for certain offences, classified therein, that possess a higher level of gravity for society. Such gravity may consist in rather serious danger to or harm to the victim of the offence, in the manner of committing the offence, or in a particular motive. The above may include the intentional commission of an offence or an offence committed by gross negligence, repetitive offending, gaining a considerable benefit or a benefit of a large scale by committing the offence, or causing grievous bodily harm or death.

The Criminal Code contains a separate Title on environmental offences. Besides the fundamental facts constituting these offences, the Criminal Code also lays down certain qualified facts, which reflect a heavier gravity of the offences for society, and prescribes more severe punishments for them. The punishments may even include a prison sentence in the case of natural persons and the dissolution of the entity in the case of legal persons.

The above applies *mutatis mutandis* to labour exploitation. The Criminal Code does not contain the term ‘labour exploitation’ but slavery and serfdom [2], forced labour and other forms of exploitation [3], which are treated as the offence of trafficking in human beings, can be subsumed under this term. It can also mean particularly exploitative working conditions [4], which are one of the fundamental features of the facts constituting the offence of illegal employment of foreign nationals. Certain qualified facts, the existence of which in a case attracts more severe punishments, are also laid down for these offences.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

In general, the answer to Question 1 applies. Czech authorities primarily have the competence to deal with cases that have occurred in the Czech Republic, unless EU law or international treaties lay down otherwise.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

Under some of his competences, the Ombudsman can provide support and protection to victims of business related human rights violations. This includes, in particular, providing assistance to EU citizens, investigating complaints about state administration bodies, and providing cooperation and guidance to victims of discrimination. As regards the provision of assistance to EU citizens, all EU citizens can resort to the Ombudsman with applications for assistance in matters concerning their rights as employees and EU citizens. As part of this activity, the Ombudsman provides EU citizens with information about their rights, about the authorities they should contact, and about the steps they can take. The Ombudsman also provides guidance in cases of suspicion of discrimination on grounds of citizenship and in cases of the filing of motions for instituting proceedings on grounds of discrimination. The Ombudsman can communicate with the authorities having a similar role in other EU member states. In addition to the Ombudsman, victims of business related human rights violations can approach the Czech SOLVIT centre. The SOLVIT centre investigates complaints in cases where a public authority of an EU member state fails to proceed in line with European law and is damaging rights of persons [both citizens and businesses].

The Ombudsman also investigates complaints against the state administration bodies that are competent to oversee privately-held entities’ performance of obligations (typically inspection and supervisory authorities). However, the Ombudsman cannot examine these privately-held entities’ activities as such. Equally importantly, the Ombudsman is authorised as the national body for equal treatment and protection against discrimination. In this respect, the Ombudsman provides cooperation and guidance to victims of discrimination.

The Czech Republic also has national supervisory institutions in each sector of state administration. As a rule, these institutions accept suggestions and complaints from the public. Should they conduct a check and find a breach of the legislation they can impose, in particular, the obligation to remedy the situation, and they can levy fines in case of more serious breaches. These institutions include, without limitation, bodies of Česká obchodní inspekce [the Czech Trade Inspection Authority] covering the provision of goods and services, Státní zemědělská a potravinářská inspekce [the Czech Agriculture and Food Inspection Authority] and Státní veterinární správa [the State Veterinary Administration] for foodstuffs, and regional public health centres for cosmetic

products and articles intended to come into contact with food. Furthermore, in respect of labour relations, it is Státní úřad inspekce práce [the State Labour Inspection Office] and regional labour inspection offices; in respect of the environment, Česká inspekce životního prostředí [the Czech Environment Inspection Office] can be contacted. The territorial competence of these institutions is usually limited to the Czech Republic.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

Czech law does not impose any obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities, or the obligation to monitor these activities. The Czech government has therefore at least recommended to businesses to consider implementing their own in-house due diligence mechanisms for identifying and eliminating human rights risks. [5] The involvement of the stakeholder groups – the employees and the public directly concerned – should be a required part thereof. However, this government recommendation is not legally binding.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Where a person seeks protection of their rights as a party to civil proceedings they can apply to the court for the appointment of a legal representative. The court appoints a legal representative provided that the party meets the conditions for exemption from the court fees where the appointment of a representative is necessary for protecting the party's interests. At the same time, the court only appoints a solicitor if the protection of the party's interests requires so (in particular in more complicated proceedings), or in case of appointing a representative for proceedings in which representation by a solicitor (notary) is obligatory.

In criminal proceedings, victims of crime are provided with specialist assistance, which includes psychological counselling, social advice, legal aid, provision of legal information, and restorative programmes. The victim also has the right of access to information about the case in which they have become the victim of an offence. As regards legal aid, this includes, without limitation, representation in proceedings before courts and other authorities, provision of legal advice, the drafting of documents, and the preparation of legal analyses.

The victim who has suffered grievous bodily harm caused by an intentional offence and the survivor of a victim whose death was caused by the offence can apply for legal assistance provided free of charge or for a reduced charge. The court affords legal assistance provided free of charge or for a reduced charge if the victim/survivor proves to be lacking the funds for paying the costs incurred in the appointment of an attorney. The court also makes the same decision where the victim/survivor has claimed compensation for damage and representation by an attorney is evidently not superfluous. In addition to the above, free legal aid is provided, on the basis of an application, to particularly vulnerable victims, who include the following: children, very old individuals and disabled individuals, and victims of offences specified in the law, including victims of human trafficking. The above individuals have the right to free specialist assistance in general and also enjoy additional special rights such as the right to the prevention of their contact with the offender and the right to protection when being examined or when filing a submission.

Persons who are in a dispute with a person living or having their registered office outside the Czech Republic, and who lack the funds for paying the costs of the court proceedings, can apply for legal aid in cross-border disputes under Directive on legal aid in cross-border disputes. Such legal aid covers pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings, legal assistance in bringing a case before a court and representation in court and assistance with or exemption from the costs of proceedings.

Individuals who are not EU citizens and do not live in the EU but have become victims of human rights violations related to their business in the Czech Republic have access to legal aid under the same conditions as citizens of the Czech Republic.

[1] Section 43(3) of Act No 141/1961 on criminal proceedings (Code of Criminal Procedure)

[2] Section 168(1) and (2)(d) of the Criminal Code (human trafficking)

[3] Section 168(1) and (2)(e) of the Criminal Code (human trafficking)

[4] Section 342(1) of the Criminal Code (illegal employment of foreign nationals)

[5] National action plan for business and human rights for the period 2017–2022 [*Národní akční plán pro byznys a lidská práva na období 2017–2022]*, page 30

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Business and human rights - Denmark

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Judicial protection against human rights violations is enshrined in the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and the Constitutional Act of the Kingdom of Denmark (*Danmarks Riges Grundlov*). No distinction is made between business related and non-business related human rights violations.

The European Convention on Human Rights

The European Convention on Human Rights was transposed into Danish law by Act No 285 of 29 April 1992. According to Danish case-law, public authorities may be liable to pay compensation for any infringement of the European Convention on Human Rights in respect of financial or non-financial damages. This liability is objective according to Danish case-law, and the general principles of Danish compensation law also apply.

The Charter of Fundamental Rights of the European Union

All Danish authorities must respect the Charter of Fundamental Rights of the European Union when they implement EU law. The Danish courts must also provide the requisite access to justice in order to safeguard the effective protection of rights in areas subject to EU law. This includes the Charter of Fundamental Rights of the European Union.

The Constitutional Act of the Kingdom of Denmark

Chapters VII and VIII of the Danish Constitution contain a number of freedoms and human rights. The personal freedoms involve protection of personal liberty (§ 71), the home and privacy (§ 72), the right of property (§ 73), freedom of religion, and the right not to be discriminated against (§ 67, § 68 and § 70). The political freedoms relate to freedom of speech (§ 77), freedom of association (§ 78), and freedom of assembly (§ 79). The Constitution also includes a right to free and equal access to trade (§ 74), the right to public assistance (§ 75), and the right to free elementary education and freedom of school choice (§ 76).

In § 73 of the Constitution, a legal basis is laid down for the right to full compensation for expropriation, which is paid out in respect of the financial loss suffered as a result of expropriation.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

There are no specific rules for gross human rights violations, either nationally or internationally. The principle of proportionality does, however, play a role in assessing human rights violations, including the grossness of a violation. Judicial protection against human rights violations is enshrined in the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and the Constitutional Act of the Kingdom of Denmark.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

Essentially, all private individuals in Denmark can bring a case before the national courts. This applies both to EU citizens and non-EU citizens. Further information about guidance for bringing a case before the courts is available at https://domstol.dk.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

The national human rights institute in Denmark, the Danish Institute for Human Rights (*Institut for Menneskerettigheder*), aims to promote and protect human rights, including among other things advising the Danish Parliament (*Folketinget*), the Danish Government, other public authorities and private stakeholders about human rights and managing information about human rights. The Danish Institute for Human Rights may also help victims of discrimination to have their discrimination appeals processed, paying due consideration to the rights of the victims, associations, organisations and other legal persons.

The Danish Parliamentary Ombudsman essentially only deals with complaints about public administration.

There are separate mechanisms in Denmark for processing cases relating to business related human rights violations, including the Danish courts, the Labour Court (*arbejdsretten*), the National Board of Industrial Injuries (*Arbejdsskadestyrelsen*), the Board of Equal Treatment (*Ligebehandlingsnævnet*), the Mediation and Complaints-Handling Institution for Responsible Business Conduct (*Mæglings- og klageinstitutionen for ansvarlig virksomhedsadfærd*) (MKI), and others. In the labour market, confidential conciliation is sometimes entered into between the parties to cases that may be relevant to human rights.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

Under Danish law, European transnational corporations are not obliged to establish complaint mechanisms or mediation services for violations resulting from their business activities.

Denmark has established by law the Mediation and Complaints-Handling Institution for Responsible Business Conduct (MKI), which works to create a framework for mediation, dialogue, and conflict resolution.

The MKI is Denmark's national OECD contact point, and it has the task of handling complaints about potential irresponsible conduct, among other things, by Danish companies in Denmark and abroad, for example through a company's business relationships, and of offering mediation between the injured party and the party that is the subject of the complaint. The MKI handles complaints and can offer mediation in cases concerning violations of the OECD Guidelines for Multinational Enterprises, including cases concerning human rights, workers' rights, international environmental standards, and corruption.

The MKI publishes annual reports on its work, including complaints that it has processed and any mediation processes. When it handles a complaint, the MKI may also issue public statements that could, for example, include criticism of a company's conduct.

The MKI is an independent institution that has a mandate to examine cases on its own initiative, but it does not supervise the activities of Danish companies.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

People who are victims of a business related human rights violation do not have any specific rights (please see question 1). There are two kinds of State-funded legal aid in Denmark: free proceedings [*fri proces*] and public legal aid [*offentlig retshjælp*]. There is no requirement to be a Danish national or an EU citizen in order to obtain legal aid.

Free proceedings

If the applicant's application for free proceedings is upheld, all of the applicant's costs will be covered by the State. It follows that, among other things, one of the conditions for free proceedings is that the applicant's income does not exceed the income limit laid down in § 325(3)-(5) of the Administration of Justice Act (*retsplejeloven*), and that the applicant does not hold a legal-aid insurance policy or other insurance policy that covers the costs of the case. The income limits are increased every year; please see § 328(2) of the Administration of Justice Act. In 2019, therefore, a single applicant's income may not exceed DKK 329 000; for applicants who are part of a couple, the couple's total income may not exceed DKK 418 000.

In addition to this, another condition is essentially that the applicant must be considered to have reasonable grounds for pursuing the case; please see § 328 (2) of the Administration of Justice Act.

Nevertheless, § 327 of the Administration of Justice Act does list a number of special kinds of case where there is no condition for the applicant to have reasonable grounds for pursuing the case. In such cases, free proceedings must be granted whenever the applicant fulfils the financial conditions laid down in § 325. This will not, however, necessarily mean that the applicant will have his/her case upheld; please see § 327(4).

Public legal aid

There are three steps for legal aid; please see § 323 of the Administration of Justice Act and Executive Order (*bekendtgørelse*) No 1503 of 18 December 2019 on Public Legal Aid with a Lawyer. Everyone is entitled to very basic (and free) verbal advice on legal matters that are important for a dispute, and on the practical and financial options for pursuing a case (step 1).

People who fulfil the financial conditions for free proceedings are also entitled to some free legal aid in the form of advice and the preparation of individual written enquiries, including applications for free proceedings, etc. (step 2). In the event of a dispute where there is considered to be a prospect of the case being closed through conciliation with the additional assistance of a lawyer, the person in question is also entitled to some free legal aid from a lawyer (step 3).

The fee for legal aid from a lawyer at step 2 was DKK 1 040 (including VAT) in 2019. The State pays 75 % of this amount, but the legal-aid applicant pays the rest. The fee for legal aid from a lawyer at step 3 is DKK 2 390 (including VAT). The State and the legal-aid applicant each pay half. The State does, however, pay the full fee for legal aid connected to an application for free proceedings.

Essentially, however, no subsidy may be sought from the State for legal aid at steps 2 and 3 if it is clear from the outset that the case cannot be dealt with within the limits of the amount of DKK 1 040 or DKK 2 390 respectively. Furthermore, a subsidy from State funds for legal aid at steps 2 and 3 only includes fees that are not covered by a legal-aid insurance policy or other kind of insurance policy.

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Business and human rights - Germany

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

a. Civil law

Anyone who considers that their rights have been infringed by the actions of a German undertaking can take legal action against that undertaking before the German civil courts. The court with jurisdiction is in principle the court in whose judicial district the defendant undertaking has its registered office. The registered office of an undertaking is the seat determined by its statutes, the place where it has its headquarters or principal place of business. This international jurisdiction of German courts is derived from Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast Brussels I Regulation). Further information on this Regulation can be found here.

If the defendant undertaking's registered office is not located in the European Union or in a contracting state to the Lugano Convention on jurisdiction and the enforcement of judgments in civil and commercial matters of 30 October 2007, the international jurisdiction of German courts may derive from German rules of civil procedure, in particular the Code of Civil Procedure (*Zivilprozessordnung* – ZPO). For example, under Section 32 ZPO, a case may be brought before a German court if at least part of the tort/delict was committed in Germany. An action is deemed to have been committed both at the place where the person causing the damage acted (*Handlungsort*) and at the place where the legally protected right of the person sustaining the damage was infringed (*Erfolgsort*). These jurisdictions also apply when actions brought by non-EU citizens who are not resident in the European Union.

The national legal order with jurisdiction for claims arising from a tort/delict is determined by Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II Regulation). It provides that normally the applicable law is the law of the country in which the damage occurs, irrespective of the country in which the event giving rise to the damage occurred and irrespective of the country or countries in which the indirect consequences of that event occur (Article 4(1) of the Rome II Regulation). Further information on the applicable law can be found here.

The German rules of civil procedure contain instruments allowing actions brought by different claimants to be dealt with collectively, e.g. the joinder of parties (*Streitgenossenschaft*) (see Section 59 et seq. ZPO). Pursuant to Section 59 ZPO, a number of persons may jointly sue or be sued if they form one legal entity in relation to the subject-matter of the dispute or if they have a right or obligation based on the same factual or legal ground.

In 2018, Germany introduced the application for a test-case declaratory judgment (*Musterfeststellungsklage*) for cases in which the rights of a large number of consumers have been infringed by an action of an undertaking. Specially qualified consumer protection associations may, under certain conditions, lodge an application for a test-case declaratory judgment seeking a court ruling on key issues of fact and law on which the claims of all the consumers are based. An application for a test-case declaratory judgment blocks the time-barring of the individual claims of the consumers entered in the register of applications (the consumers can therefore await the outcome of the application for a test-case declaratory judgment without risking a loss of rights). Consumers can enter their claims in the register of applications free of charge. The declaratory judgment (on the key issues of fact and law) is binding on both the undertaking and the consumers entered in the register. After a declaratory judgment in favour of the consumers, an undertaking will probably be prepared to pay compensation voluntarily. If the undertaking does not pay voluntarily, the consumers entered in the register of applications can enforce their claims in court or out of court on the basis of the test-case declaratory judgment.

b. Law on administrative offences

Under the Act on Administrative Offences (*Gesetz über Ordnungswidrigkeiten*), fines of up to EUR 10 million can be imposed on undertakings if, for example, a member of an undertaking's management commits a criminal offence. This also applies to business-related human rights violations. A higher fine may be imposed if it also serves to cream off the economic advantage that the undertaking obtained from the offence.

The German Government's coalition agreement for the 19th legislative period makes provision for reform of the law governing penalties on undertakings. Implementation is in the preparatory stage.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

German law on non-contractual liability does not contain any specific rules concerning gross violations of human rights. However, if a gross violation of human rights causes a violation of a legally protected individual right, general non-contractual liability may come into play. For example, under Section 823(1) of the Civil Code (*Bürgerliches Gesetzbuch*), a person who, intentionally or negligently, harms the life or limb, health, freedom, property or any other right of another person unlawfully is liable to pay damages. Where harm is caused to life or limb, health, freedom, property or any other right, it is not only the person who directly caused the harm who is liable, but also anyone who did not take the necessary and reasonable steps to prevent harm to third parties, if that person has created a source of risk (*Verkehrssicherungspflicht*).

Moreover, in the area of private environmental liability law, there are special strict liability offences for when legally protected rights of individuals are infringed, such as Section 1 et seq. of the Environmental Liability Act (*Umwelthaftungsgesetz*), Section 25 et seq. of the Atomic Energy Act (*Atomgesetz*), Section 32 et seq. of the Genetic Engineering Act (*Gentechnikgesetz*) and Section 89 of the Water Management Act (*Wasserhaushaltsgesetz*).

From the point of view of criminal law, gross violations of human rights are also covered by general criminal offences. Serious forms of labour exploitation are made punishable offences by, for example, Section 233 of the Criminal Code (*Strafgesetzbuch* – StGB) (trafficking of human beings for labour exploitation). In order to maintain decent living conditions, especially for future generations, the environment is also protected under criminal law. In this regard, the provisions of the Criminal Code (Section 324 et seq. StGB) include, as primary criminal law (*Kernstrafrecht*) in Germany, comprehensive protection of water, air and soil as essential elements of the environment. This fundamental protection is supplemented by various provisions of secondary criminal law (*Nebenstrafrecht*) and also provides protection for flora and fauna. At the same time, the extensive requirements of EU law are taken into account in order to be in keeping with environmental protection as a cross-border task.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

Anyone who considers that their rights have been infringed by the actions of a German undertaking can take legal action against that undertaking before the German civil courts. The court with jurisdiction is in principle the court in whose judicial district the defendant undertaking has its registered office. The registered office of an undertaking is the seat determined by its statutes, the place where it has its headquarters or principal place of business. This international jurisdiction of German courts is derived from Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December

2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast Brussels I Regulation). Further information on this regulation can be found here.
If the defendant undertaking's registered office is not located in the European Union or in a contracting state to the Lugano Convention on jurisdiction and the enforcement of judgments in civil and commercial matters of 30 October 2007, the international jurisdiction of German courts may derive from German rules of civil procedure, in particular the Code of Civil Procedure (*Zivilprozessordnung* – ZPO). For example, under Section 32 ZPO, a case may be brought before a German court if at least part of the tort/delict was committed in Germany. An action is deemed to have been committed both at the place where the person causing the damage acted (*Handlungsort*) and at the place where the legally protected right of the person sustaining the damage was infringed (*Erfolgsort*). These jurisdictions also apply to actions brought by non-EU citizens who are not resident in the European Union.
The national legal order with jurisdiction for claims arising from a tort/delict is determined by Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II Regulation). It provides that normally the applicable law is the law of the country in which the damage occurs, irrespective of the country in which the event giving rise to the damage occurred and irrespective of the country or countries in which the indirect consequences of that event occur (Article 4(1) of the Rome II Regulation). Further information on the applicable law can be found here.
Further information can be found here.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

Germany's National Contact Point for the OECD Guidelines for Multinational Enterprises (NCP) acts as an out-of-court complaints body. It is based in the Federal Ministry of Economics and Energy and has the task of promoting awareness and effective implementation of the OECD Guidelines. Anyone who can plausibly demonstrate a legitimate interest is able to lodge a complaint with the NCP regarding possible infringements of the OECD Guidelines by a multinational enterprise. The NCP examines the complaints received and, if they are accepted, offers its support to the parties involved in the matter in the form of a conciliation or mediation procedure in order to help them reach agreement on contentious issues. The NCP is responsible for, amongst other things, complaints regarding insufficient respect for human rights and insufficient consideration of human rights in the exercise of corporate due diligence, as defined in the OECD Guidelines. The revised 2011 version of the OECD Guidelines, which include specific recommendations with regard to respect for human rights by undertakings, is expressly based on the United Nations Guiding Principles on Business and Human Rights.
The NCP coordinates its activities and decisions in consultation with the Interministerial Committee (IMC) for the OECD Guidelines. Seven further Federal Ministries are represented in this IMC. The Working Group on the OECD Guidelines provides a further forum for exchange. The members of the Working Group include, in addition to representatives of all the Federal Ministries brought together in the IMC for the OECD Guidelines, representatives of business associations, trade unions and non-governmental organisations.
Further information on the complaint procedure before the NCP (including information on complaints received and the action taken on them) is available online on the website of the German NCP, which can be found here.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

In the '2016-2020 National Action Plan for Business and Human Rights' (NAP), the Federal Government laid down the expectation that all undertakings are to appropriately integrate human rights due diligence processes into their business activities in Germany and around the world, i.e. also outside the EU. This expectation is not a legal provision. The NAP defines human rights due diligence on the basis of five core elements, one of which is the setting up of a complaint mechanism by undertakings.
In that context, the NAP stresses the important role that non-governmental complaint mechanisms can play and encourages enterprises to participate in or set up such mechanisms. The NAP imposes a number of requirements on the setting up and functioning of non-governmental complaint mechanisms. For example, the complaint mechanism should be structured differently according to the target group. When setting up new mechanisms and making use of existing ones, care should be taken to ensure that they guarantee a fair, balanced and predictable procedure that is accessible to anyone who is potentially affected. The procedure should allow for as much transparency as possible vis-à-vis the parties involved and should be in line with international human rights standards. A number of German undertakings have already set up internal or sectoral complaint mechanisms to enable their employees and people outside the undertaking to claim human rights violations.
The Federal Government is scrutinising the implementation status of human rights due diligence by undertakings by means of a survey conducted annually from 2018 to 2020 in accordance with scientific standards. This survey will provide empirical findings on whether enterprises with more than 500 employees have set up complaint mechanisms and whether those mechanisms are fulfilling their function. The results of the NAP monitoring are also important for the Federal Government's discussion on follow-up measures to the current NAP. If the NAP monitoring shows that fewer than 50% of the undertakings concerned meet the NAP requirements in relation to corporate due diligence, the Federal Government will, according to the NAP, consider taking further steps, including legislative measures. The coalition agreement of the current Federal Government also stipulates that, depending on the outcome of a comprehensive and effective review of the NAP, the Federal Government may take legislative action and lend its support to EU-wide regulation.
The members of the multi-stakeholder Partnership for Sustainable Textiles attach great importance to ensuring effective complaint mechanisms along global value and supply chains. For this reason, information and examples of best practice from various members are exchanged within the framework of the complaint mechanisms expert group. Furthermore, the textiles Partnership has entered into cooperation with the Fair Wear Foundation, which is active in the area of complaint mechanisms in seven textile-producing countries.
German development cooperation is currently supporting projects to improve working conditions in the textile sector in Bangladesh, Myanmar and Pakistan. The activities under the projects also include the development and implementation of strategies for effective complaint mechanisms.
As part of the human rights approach of the Federal Ministry of Economic Cooperation and Development, the governmental organisations implementing Germany's development cooperation initiatives have introduced complaint mechanisms: Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), as a state-owned undertaking, and KfW Entwicklungsbank as promotional bank and public-law institution, have been setting up human rights complaint mechanisms since 2013. They were followed in 2017 by two higher federal authorities: the Federal Institute for Geosciences and Natural Resources (Bundesanstalt für Geowissenschaften und Rohstoffe – BGR) and the National Metrology Institute (Physikalisch-Technische Bundesanstalt – PTB).
The complaint mechanisms are publicly accessible and also deal with complaints relating to activities outside the European Union. On request, the GIZ, KfW, BGF and PTB provide the Ministry with information on complaints received.
Deutsche Investitions- und Entwicklungsgesellschaft mbH (DEG), a subsidiary of KfW, also set up its own complaint mechanism in 2014.

The following out-of-court dispute resolution mechanisms are available in Germany (for procedures before the National Contact Point for the OECD Guidelines for Multinational Enterprises, see Question 4):
In mediation proceedings, a third party is called in solely for the purpose of mediating in the dispute; he or she does not have any decision-making power. Mediation is an easily accessible conflict resolution method that is not in principle associated with a specific area. It can therefore be applied in all areas in which conflicts may arise.
Germany also offers the possibility of dispute resolution, in which a third party presents the parties with a (non-binding) proposal for a decision. A special form of dispute resolution for consumer contracts is governed by the Act on alternative dispute resolution in consumer matters (*Gesetz über die alternative Streitbeilegung in Verbrauchersachen* – VSBG). This act provides consumers with a convenient and free method of dispute resolution; it also provides undertakings with a mechanism for handling consumer complaints in a way that improves their image and helps to avoid litigation.
There is also the possibility of recourse to (out-of-court) arbitration, if the parties agree to it.
Further information on the possibilities for mediation can be found here.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

German law on civil procedure contains various mechanisms to facilitate access to German civil courts. For example, claimants can apply for legal aid if they cannot afford to pay the costs of the proceedings (Section 114 et seq. ZPO). After the claimant's personal and financial circumstances and the prospects of success of the case have been examined, the court costs and lawyers' fees are covered in part or in full depending on the claimant's need, provided that the action does not appear to be vexatious. Foreign natural persons can also apply for legal aid for court actions in Germany. Legal persons with a registered office in the EU – e.g. victims' associations – can receive legal aid under the conditions laid down in the German Code of Civil Procedure.
Directive 2002/8/EC aims to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

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Business and human rights - Greece

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

In accordance with Article 8 of Law 4443/2016, «1. In the case of failure to comply with the principle of equal treatment in the context of administrative action, in addition to judicial protection, injured parties are also provided protection under Articles 24 to 27 of the Code of Administrative Procedure (Law 2690/1999, Series I, No 45). 2. The termination of the relationship in the context of which the violation was committed does not rule out protection from the violation of the principle of equal treatment. 3. Legal entities, associations or organisations, including social partners and trade unions, which aim – *inter alia* – to ensure compliance with the principle of equal treatment irrespective of race, colour, national or ethnic origin, descent, religious or other convictions, disability or chronic illness, age, family or social status, sexual orientation, gender identity or gender characteristics, may represent injured parties before the courts and before any administrative authority or body, provided that the party concerned has previously given consent by means of a notarial document, where required, or a private document, with authentication of the signature affixed thereto'.
Furthermore, pursuant to Article 11 entitled 'Penalties' of the same law, «1. Any person who, when selling goods or providing services, violates the prohibition under this law of discrimination based on race, colour, national or ethnic origin, descent, religious or other convictions, disability or chronic illness, age, family or social status, sexual orientation, gender identity or gender characteristics, is punished by a term of imprisonment between six (6) months and three (3) years and a fine between one thousand (1 000) and five thousand (5 000) euros. The acts referred to in this paragraph are prosecuted ex officio. 2. Any discrimination – in contravention of the provisions of this Part – based on race, colour, national or ethnic origin, descent, religious or other convictions, disability or chronic illness, age, family or social status, sexual orientation, gender identity or gender characteristics, by a person acting as an employer at any stage of access to labour and employment, upon the entry into or refusal to enter into an employment relationship, or during the term, validity, progress or termination thereof, constitutes a violation of labour law, in which case the Greek Labour Inspectorate (SEPE) imposes administrative penalties under Article 24 of Law 3996/2011 (Series I, No 170)'.
Lastly, in the case of violation of the principle of equal treatment based on race, colour, national or ethnic origin, descent, religious or other convictions, disability or chronic illness, age, family or social status, sexual orientation, gender identity or gender characteristics, the opposing party or administrative authority bears the burden of proving to the court that there were no circumstances constituting a violation of this principle. The injured party is also protected against dismissal or adverse treatment in general in reaction to a complaint or request for legal protection.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Based on Article 78(i) of Law 4052/2012 'particularly exploitative working conditions are working conditions, including those resulting from gender-based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers, and which, for example, affects workers' health and safety, and which offends against human dignity'. In accordance with Article 89(3), 'in the case of illegal employment of an unaccompanied minor who is a third-country national, the competent public prosecution service takes all necessary steps to determine their identity and nationality, and to establish if they are unaccompanied. It makes every possible effort to promptly locate their family and immediately takes the necessary measures to ensure their legal representation and, if required, their representation in criminal proceedings. The competent public prosecutor for minors or, where there is none, the competent public prosecutor at the Court of First Instance may – if the minor's family has not been located or if the public prosecutor finds that under the current circumstances repatriation does not serve the minor's interests – order that every appropriate measure be taken to ensure protection of the minor until a decision is issued by the court, to which the public prosecutor must submit a request within thirty days, on the appointment of a guardian, in accordance with the provisions of Articles 1532, 1534 and 1592 of the Civil Code. 4. Suitable living conditions are afforded to these persons if they lack adequate resources and if it is deemed necessary by the competent public prosecutor at the Court of First Instance. 5. The competent public prosecution services, judicial authorities and police authorities have the responsibility, as a matter of priority, to protect and safeguard the aforementioned victims, in accordance with the relevant provisions, to provide translation and interpreting services to these persons if they do not speak Greek, to inform them of their legal rights and of the services available to them, and of any necessary legal aid available to them'.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

This possibility is not available.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

This possibility is not available.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

Greece does not impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Based on Article 78(i) of Law 4052/2012 'particularly exploitative working conditions are working conditions, including those resulting from gender-based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers, and which, for example, affects workers' health and safety, and which offends against human dignity'. In accordance with Article 89(3), 'in the case of illegal employment of an unaccompanied minor who is a third-country national, the competent public prosecution service takes all necessary steps to determine their identity and nationality, and to establish if they are unaccompanied. It makes every possible effort to promptly locate their family and immediately takes the necessary measures to ensure their legal representation and, if required, their representation in criminal proceedings. The competent public prosecutor for minors or, where there is none, the competent public prosecutor at the Court of First Instance, may – if the minor's family has not been located or if the public prosecutor finds that under the current circumstances repatriation does not serve the minor's interests – order that every appropriate measure be taken to ensure protection of the minor until a decision is issued by the court, to which the public prosecutor must submit a request within thirty days, on the appointment of a guardian, in accordance with the provisions of Articles 1532, 1534 and 1592 of the Civil Code. 4. Suitable living conditions are afforded to these persons if they lack adequate resources and if it is deemed necessary by the competent first instance public prosecutor. 5. The competent public prosecution services, judicial authorities and police authorities have the responsibility, as a matter of priority, to protect and safeguard the aforementioned victims, in accordance with the relevant provisions, to provide translation and interpreting services to these persons if they do not speak Greek, to inform them of their legal rights and of the services available to them, and of any necessary legal aid available to them'.

The provisions of Law 3226/2004 allow for legal aid to be made available to low-income citizens of EU Member States, as well as to low-income third-country nationals and stateless persons if they are legally domiciled or habitually resident in the EU. Legal aid cannot be provided to third-country nationals and stateless persons if they are not legally domiciled or habitually resident in the EU.

The provision of legal aid means exemption from the obligation to pay part or all of the expenses for the proceedings and, if specifically requested, the appointment of a lawyer, notary and bailiff, under orders to defend the beneficiary, represent them in court and provide them with the assistance needed in order for the necessary actions to be carried out.

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Business and human rights - Spain

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

In Spain, access to judicial redress for human rights violations is available before civil, criminal, administrative and labour courts.

The Law on Civil Procedure (*Ley de Enjuiciamiento Civil*) sets out the obligation to provide certain entitlements; legal rights and circumstances; precautionary measures, and all other types of protection expressly provided for by the law that can affect this kind of abuse.

The Law on Criminal Procedure (*Ley de Enjuiciamiento Criminal*) sets out the judicial mechanisms and remedies that can be used during criminal proceedings. The Criminal Code (*Código Penal*) specifically provides for the criminal liability of legal persons (Article 31 bis *et seq.*) and sets out various crimes that may involve business-related human rights abuses, such as crimes against workers' rights or against public health, environmental crimes, terrorist financing, and so on.

In relation to administrative measures, Law 39/2015 of 1 October 2015 on the common administrative procedure applicable to public administrations and Law 40/2015 of 1 October 2015 on the legal system applicable to the public sector lay down general rules on the disciplinary procedures and State liability of government bodies. These rules are implemented by specific laws on business-related abuses (for example, Law 26/2007 of 23 October 2007 on environmental liability). The remedies set out in Law 29/1998 of 13 July 1998 on administrative judicial review apply in judicial proceedings.

In the sphere of labour, Law 36/2011 of 10 October 2011 regulating the labour courts sets out the judicial procedure applicable to cases where a worker or trade union alleges violations of the right to freedom of association, the right to strike or other fundamental rights and public freedoms, including the prohibition of discriminatory treatment and harassment.

Spanish procedural law establishes the means of redress available for the purpose of obtaining compensation in cases where the actions of a corporation have led to a human rights violation. Article 116 of the Law on Criminal Procedure and Article 116 of the Criminal Code provide that a person who is criminally responsible for a crime is also civilly liable for the crime if the latter results in damage or injury. In the case of legal persons, their criminal liability entails civil liability under the provisions established, jointly and severally with the natural persons sentenced for the same offences.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Yes, the Spanish Criminal Code sets out the human rights violations that constitute criminal offences.

In the sphere of environment, the Criminal Code has a section on 'crimes related to land-use and urban planning, the protection of historical heritage and the environment'. The section criminalises various types of conduct: construction in green zones or areas of ecological interest (Article 319), the emission and transport of waste, discharge, noise, mining or quarrying and so on that may cause substantial harm to air, soil or water quality, or to animals or plants (Articles 325 *et seq.*). These acts are punishable by prison sentences, fines or debarment from certain professions or public offices. The Criminal Code also gives judges and courts the power to order the adoption, at the perpetrator's expense, of the measures necessary to restore the ecological balance disturbed by the act, along with any other precautionary measure required to protect the assets safeguarded by the aforementioned section (Article 339).

Crimes against workers are regulated by Title XV of Book II of the Criminal Code (Articles 311 to 318 of the Criminal Code). The following are punishable by fines or prison sentences: imposition of working conditions or forms of Social Security affiliation that harm, withdraw or restrict workers' rights as recognised

in legal provisions, collective agreements or individual contracts (Article 311); simultaneous employment of various workers without registering them with the appropriate Social Security scheme, or without obtaining the relevant work permit (Article 311), or the employment of third-country nationals or children without a work permit (Article 311 bis); illegal trafficking of workers, or recruitment by deception or under false pretences (Article 312); deception, simulating an employment contract to encourage a person to emigrate (Article 313); serious discrimination in public or private employment against any person based on their ideology, religion or beliefs, ethnicity, race or nation of origin, sex, sexual orientation, family circumstances, illness or disability, status as a legal representative or trade union official, relations with other workers in the company, or use of any official language within the Spanish state (Article 314); restriction of freedom of association and the right to strike (Article 315); violation of occupational risk prevention standards, endangering workers' lives, health or physical integrity (Article 316).

If the crime is committed by a legal person, the punishment applies to the directors or persons in charge of the service and also to those persons who had knowledge of the crime and could have taken remedial action but failed to do so.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

Organic Law 6/1985 of 1 July 1985 on the judiciary contains rules that determine the necessary link between a particular act and Spain to establish the jurisdiction of Spanish courts.

In civil and commercial matters, the said law provides that Spanish courts are competent to hear all claims made on Spanish territory in accordance with the provisions of the international treaties and conventions to which Spain is party, European Union regulations and Spanish law (Article 21). Where the claimant does not live in Spain, the Spanish courts have jurisdiction in the following cases (Article 22 quinquies):

In matters of contractual obligations, where the obligation to which the claim relates has been fulfilled or must be fulfilled in Spain.

In matters of extra-contractual obligations, where the harmful act took place on Spanish territory.

In claims related to the activity of a commercial branch, agency or establishment, where it lies on Spanish territory.

In matters relating to contracts entered into by consumers, they can file a claim in Spain if their usual place of residence or that of the other party is on Spanish territory. The other party can only file a claim in Spain if the consumer's usual place of residence is on Spanish territory.

In criminal law, courts can hear cases concerning crimes and offences committed on Spanish territory or on board Spanish vessels or aircraft, without prejudice to the provisions of international treaties to which Spain is a party. Spanish courts also have jurisdiction over crimes committed outside national territory where those held criminally responsible are Spanish or third-country nationals who acquired Spanish nationality subsequent to perpetration of the offence, subject to certain requirements (Article 23).

In labour matters, the Spanish courts have jurisdiction in the following cases (Article 25):

1.º In the sphere of the rights and obligations deriving from employment contracts, where the services have been rendered in Spain or the contract was signed on Spanish territory; when the claimant is domiciled in Spain or has an agency, branch, delegation or any other type of representation in Spain; when the worker and the employer are Spanish nationals, regardless of where the services were rendered or contract signed; in the case of contracts for employment on board ships where the contract derives from an offer received in Spain by a Spanish worker.

2.º In the sphere of reviewing compliance with the law of collective labour agreements signed in Spain and of claims deriving from collective labour disputes taking place on Spanish territory.

3.º In social security claims made against Spanish entities or entities that have their registered address, agency, delegation or any other representation in Spain.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

In Spain, the Ombudsman (*Defensor del Pueblo*) is the Office of the High Commissioner of the Spanish Parliament (*Alto Comisionado de las Cortes Generales*), responsible for defending the fundamental rights and public freedoms of citizens by supervising the activity of Spanish government bodies.

Any citizen can request the Ombudsman to take action (which is free of charge) to investigate any alleged irregular act by Spanish government bodies or their agents. The Ombudsman can also intervene of its own motion in cases that come to its knowledge even if no complaint has been made. However, its powers do not extend to the activity of multinational corporations outside the European Union.

The Ombudsman reports to the Spanish Parliament by means of an annual report, and can also publish dedicated reports on matters it considers serious, urgent, or worthy of special attention.

More information on this can be found here.

Labour inspection in Spain is the responsibility of the Labour and Social Security Inspectorate (*Inspección de Trabajo y Seguridad Social*), which reports to the Ministry of Labour, Migration and Social Security (*Ministerio de Trabajo, Migraciones y Seguridad Social*). The administrative powers vested in the Labour and Social Security Inspectorate enable it to monitor compliance with labour regulations and impose the relevant responsibilities, provide advice, and engage in conciliation, mediation and arbitration in labour matters where appropriate.

Anyone who becomes aware of acts that might constitute an infringement in matters falling within the remit of the labour inspectorate (issues related to labour, occupational health and safety, social security, employment, and so on) can call on its services. Complaints can be raised in person (at provincial Labour and Social Security inspectorates); electronically, via the website of the Ministry of Labour, Migration and Social Security; or by post.

More information here.

Environmental inspections are the responsibility of Spain's regional governments, which take action when required to punish conduct that constitutes an infringement in this sphere. Law 26/2007 of 23 October 2007 on environmental liability establishes an obligation on the part of operators engaged in economic activities to remedy any damage caused to the environment. In cases where such activity constitutes a crime, the criminal law referred to in Answer 2 applies. In such cases, the rules set out above relating to compensation and civil liability claims also apply.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

This kind of dispute cannot be resolved by the Spanish civil and commercial mediation system described in Law 5/2012 of 6 July 2012 on mediation in civil and commercial matters, since that regulation excludes from its scope disputes involving rights that are not disposable (Article 2).

The Decision of 1 September 2017 of the Secretariat of State for Foreign Affairs on the publication of the National Action Plan on Business and Human Rights (published in the Official State Gazette on 14 September 2017) is relevant in this respect. The Plan discusses the need to establish effective measures to protect human rights in the business world and regulate judicial, extra-judicial and administrative mechanisms to provide redress where such rights have been violated.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Article 119 of the Spanish Constitution recognises the right to legal aid where provided for by the law and in all cases where a claimant can prove that they have insufficient resources to take legal action. This constitutional right is implemented in Law 1/1996 of 10 January 1996 on free legal aid. Victims of human rights abuses committed by companies can benefit from legal aid provided their financial resources do not exceed the threshold set in Law 1/1996. This threshold was raised following the amendment of Law 1/1996 in 2015. It also takes into account certain personal circumstances of the applicant, such as family responsibilities, with the aim of increasing the potential number of beneficiaries of legal aid. The aid provided includes legal defence by professional legal representatives, legal assistance, and information from any available extra-judicial resource.

Law 1/1996 also regulates the granting of free legal aid in cross-border legal proceedings. Natural persons who are citizens of the European Union or third-country nationals legally resident in an EU Member State can benefit from the aid.

It is granted only in civil or commercial disputes, and in extra-judicial proceedings in civil or commercial disputes where the law obliges the parties to undertake the proceedings or the court in question chooses to embark on such proceedings.

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Business and human rights - Croatia

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Victims of human rights violations may seek judicial protection:

in civil proceedings, in which they may be awarded compensation for damages, either material or non-material (non-material in case of personality rights violations [1]);

in criminal proceedings, in which an injured party may lodge a claim for damages suffered as a result of the crime committed.

Article 1 of the Civil Procedure Act (*Zakon o parničnom postupku*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia) Nos 53/91, 91/92, 112 /99, 129/00, 88/01, 117/03, 88/05, 2/07, 96/08, 84/08, 123/08, 57/11, 25/13, 89/14, and 70/19) provides for that Act to regulate the procedural rules under which courts hear and deliberate in proceedings concerning fundamental human and citizen rights and obligations, personal and family relations of citizens, as well as labour, commercial, property and other civil law proceedings, unless deliberating on some of these under the rules of some other procedure is laid down by law. Furthermore, Article 185 of the Civil Procedure Act provides for civil proceedings to be initiated by filing action.

In employment-related proceedings, particularly when setting time limits and scheduling hearings, the court always pays special attention to the necessity of resolving employment disputes urgently.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Article 43 of the Criminal Procedure Act (*Zakon o kaznenom postupku*, NN Nos 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, and 126/19) provides a general catalogue of the rights of all victims of crime (the right to support services for victims of crime, the right to effective psychological and other expert assistance and support of the authorities, organisations or institutions providing assistance to victims of crime under the law, the right to protection from intimidation and retaliation, the right to protection of the victim's dignity while being interviewed as a witness, the right to be heard without undue delay after filing a criminal complaint, and the right for any further hearings to be carried out only to the extent necessary for criminal proceedings, the right to be accompanied by a trusted person during actions in which the victim is a participant, the right to have medical procedures kept to a minimum and carried out only where strictly necessary for the criminal proceedings, the right to file a motion for prosecution and private action under the provisions of the Criminal Code (*Kazneni zakon*), the right to participate in criminal proceedings as an injured party, the right to be informed of a dismissal of the criminal complaint and of the fact that the public prosecutor (*državni odvjetnik*) has desisted from criminal prosecution, and the right to take over criminal prosecution from the public prosecutor, the right to be notified by the public prosecutor of any actions taken on account of the victim's criminal complaint and to lodge a complaint with a higher public prosecutor, the right to be notified, upon request and without undue delay, of the suspension of the defendant's custody or pre-trial detention and escape, and of the convict's release from serving a prison sentence, as well as of any measures undertaken to protect the victim, the right to be informed, upon request, of any final decision terminating the criminal proceedings and other rights laid down by law).

Article 44 of the Criminal Procedure Act lays down special rights of the victims of human trafficking (which may be committed for the purpose of exploiting someone's work through forced labour or servitude) who, in addition to the rights provided for in Article 43 of the Act, are also entitled to free consultation before being interviewed and to a free representative at the state's expense; to be questioned at the police or the public prosecutor's office (*državno odvjetništvo*) by a person of the same sex, and, if possible, by that same person if the interview is repeated; to not reply to questions that are not related to the crime and concern the victim's private life; to request to be interviewed by audio-visual means; to personal data protection; and to request the exclusion of the public from the proceedings.

Article 43a [of the Criminal Procedure Act] and the Rules on the methods of individual victim assessment (*Pravilnik o načinu provedbe pojedinačne procjene žrtve*, NN No 106/17, hereinafter: the Rules) lay down the procedure of individual victim assessment to determine the need for special protective measures in relation to the victim of a crime, and if such need is found to be necessary, to determine which special protective measures (including procedural protective measures, such as special questioning methods, the use of communication technologies to avoid visual contact with the perpetrator, the exclusion of the public from the proceedings, the questioning by a person of the same sex and, if possible, by that same person if the interview is repeated, being accompanied by a trusted person, personal data protection) should be applied, facilitating free consultation at the state's expense, and other measures provided under the law). The fact that serious crimes include, but are not limited to, *inter alia*, human trafficking and organised crime is taken into account, so they include environmental crimes if committed as part of a criminal association.

The protection of the rights of victims in the Republic of Croatia is guaranteed by criminal justice legislation, as well as by the Croatian Constitution (*Ustav Republike Hrvatske*), and their observance is guaranteed by national courts. Once all legal remedies available at the national level have been exhausted, victims may initiate proceedings before the European Court of Human Rights in Strasbourg as a last resort if they believe that one of their fundamental rights guaranteed by the European Convention on Human Rights has been violated at the national level.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

Under Article 27 of the Civil Procedure Act, Croatian courts have jurisdiction to adjudicate in disputes with an international dimensions when such jurisdiction is explicitly laid down by law or by an international treaty.

With regard to jurisdiction in civil and commercial matters, the Private International Law Act (*Zakon o međunarodnom privatnom pravu*, NN No 101/17) expressly provides for the application of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (hereinafter: the Brussels I Regulation) within its scope and extends its application to situations concerning third countries.
According to the basic rule on jurisdiction of the Brussels I Regulation included in Article 4, persons domiciled in a Member State, whatever their nationality, are to be sued in the courts of their domicile. Article 63 provides for the domicile of legal persons to be their statutory seat, central administration or principal place of business.
Situations in which a defendant may be sued in a Member State other than that in which they are domiciled are set out in Articles 7-9 (special jurisdiction). Therefore, jurisdiction in non-contractual relations is regulated by Article 7(2), determining that a person domiciled in a Member State may be sued in another Member State in matters relating to tort, delict or quasi-delict, in the courts of the place where a harmful event has occurred or might occur.
Furthermore, Article 58 of the Private International Law Act provides for the necessary jurisdiction as follows: If the application of the provisions of that Act or other Croatian laws or international treaties in force in Croatia does not confer jurisdiction with regard to a defendant domiciled in a non-EU Member State, and if the proceedings cannot be or cannot reasonably be expected to be conducted abroad, Croatian courts have jurisdiction where the subject matter of the proceedings has a sufficient connection with Croatia to make it appropriate to conduct the proceedings in Croatia.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

Under the Ombudsman Act (*Zakon o pučkom pravobranitelju*), the Croatian ombudsman is responsible for considering only the complaints about existing violations of laws and irregularities in the work of national authorities, local and regional self-government units and legal persons with public authority, which consequently means that an investigation of complaints related to violations of laws in the private sector is not allowed. Moreover, under Article 20, anyone who believes that their constitutional or legal rights and freedoms to be threatened or violated as a result of unlawful or irregular conduct by these authorities may bring an action before a competent court. Consequently, a person wishing to lodge a complaint with the Office of the Ombudsman (*Ured pučkog pravobranitelja*) does not have to be an EU citizen, but a precondition for the Ombudsman to address the complaint is that one (or more) of the authorities have committed a human rights violation. However, since the Office of the Ombudsman in Croatia often receives complaints related to the private sector, citizens' experiences and complaints are used both in annual reports and through participation in legal proceedings to advocate for specific measures, without which it would not be possible to achieve a higher degree of law enforcement and citizen protection.
On the other hand, the Anti-Discrimination Act (*Zakon o suzbijanju diskriminacije*) is applicable to the conduct of all national authorities, local and regional self-government units, legal persons with public authority, and to the conduct of all legal and natural persons, especially in the areas of labour and working conditions, access to self-employment and dependent activities, including selection criteria, as well as conditions for recruitment and promotion; access to all types of vocational guidance, professional training, and retraining; education, science and sports; social security, including social welfare; pension and health insurance; judiciary and administration, public information and the media; access to and provision of goods and services; membership of and activities in trade unions, civil society organisations, political parties or any other type of organisation, and participation in cultural and artistic creation.
Furthermore, the Office of the Ombudsman, as the central anti-discrimination authority, receives reports by all natural and legal persons and examines individual reports, so it may issue legally non-binding recommendations, opinions, proposals and warnings to address discrimination and protect the rights of the person discriminated against. It may also take part in judicial proceedings as an intervener on the part of the person complaining of discrimination, or may bring a joint legal action for protection against discrimination if it proves the probability that the defendant's conduct has violated the right to equal treatment of a large number of persons because of their connection to the rights and values recognised by the Act (race or ethnicity, skin colour, sex, language, religion, political or other belief, national or social background, property, trade union membership, education, social status, marital or family status, age, health condition, disability, genetic heritage, gender identity or expression, or sexual orientation). Also, the person authorised to lodge a complaint of discrimination with the Ombudsman does not have to be an EU citizen.
The new Whistle Blower Protection Act (*Zakon o zaštiti prijavitelja nepravilnosti*), in force since 1 July 2019, provides for whistle blowers to contact the Ombudsman seeking protection of their rights if a whistle blower shows the probability that they are or might be a victim of harmful events for reporting irregularities. Under that Act, a person wishing to lodge a complaint does not have to be an EU citizen, and the Ombudsman may take action to protect the whistle blower coming from the public or the private sector (Note: the Act defines the 'whistle blower' as *a person who is aware of and has reported irregularities related to the performance of work for the employer, for example violations of laws, regulations, rules, codes of ethics or conduct, or internal acts of companies).* It should be emphasised that the performance of work, in addition to employment, also includes volunteer work, work based on temporary service contracts, student jobs, etc. Also, a whistle blower may be a person who participated in recruitment procedures as a candidate.
In addition, as part of responsible business conduct – that is, the protection of human rights, especially labour rights, and environmental protection, the Republic of Croatia, as an acceding country to the OECD Investment Committee, as an impartial supervisory working body, is required to implement the following guidelines: providing information on responsible business conduct on the website; processing queries; mediation in resolving problems resulting from possible irresponsible business conduct and communication with stakeholders to avoid litigation.
Furthermore, Croatia has established a State Inspectorate (*Državni inspektorat*), comprising competent divisions and services (such as the Occupational Safety and Health Supervision Division and the Employment Supervision Division).
More information regarding the scope of work and competences of the State Inspectorate or the abovementioned sectors/divisions can be found at the following links:
Contacts
Occupational Safety and Health Supervision Division
Employment Supervision Division

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

Croatia does not impose any mandatory mediation schemes addressing business-related human rights violations. For consumer disputes between consumers and traders, mediation is regulated by the Act on Alternative Consumer Dispute Resolution (*Zakon o alternativnom rješavanju potrošačkih sporova*, NN Nos 121/16 and 32/19) transposing EU directives and regulation on consumer dispute resolution. For human rights protection issues and other rights-related disputes, mediation can be proposed before one of the mediation centres in Croatia, where a dispute can be settled based on the interests of the parties.
Please consult relevant subpages to find more information on:

Mediation in Member States
Find a mediator
Alternative consumer dispute resolution
Mediation centres
Under the Consumer Protection Act (*Zakon o zaštiti potrošača*), the trader is required to provide the consumer with an opportunity to submit a written complaint by post, fax or e-mail.
Under the State Inspectorate Act (*Zakon o državnom inspektoratu*), petitions including the details of the reporting person (name, surname and home address) and indicating conduct which is contrary to regulations may be used as a basis for inspection.
For employees of multinational companies, the Labour Act (*Zakon o radu*) requires an employer with at least twenty employees must appoint a person who is, along with the employer, tasked with receiving and resolving complaints related to the protection of the workers' dignity.
These activities are monitored by the State Inspectorate.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

A victim seeking remedy for a business-related human rights violation has the same rights as other victims in criminal proceedings. Please consult the European e-Justice Portal to find more information:
Rights of victims of crime in criminal proceedings
Compensation to victims of crime
Under the Free Legal Aid Act (*Zakon o besplatnoj pravnoj pomoći*), the right to free legal aid is granted to:
Croatian citizens;
children who are not Croatian nationals but find themselves in Croatia unaccompanied by an adult responsible by law;
foreigners with temporary residence subject to reciprocity, and foreigners with permanent residence;
foreigners under temporary protection;
foreigners residing illegally and foreigners on a short stay, in the proceedings deciding on expulsion or return;
asylum seekers, persons with asylum status and foreigners with subsidiary protection status and their family members residing legally in Croatia, in the proceedings in which legal assistance is not provided to them under a special law.
The Free Legal Aid Act (NN Nos 143/13 and 98/19) regulates the conditions and the procedure in which less-advantaged persons may exercise their right to legal consultation and access to the courts and other public law bodies in civil and administrative matters.
The Free Legal Aid Act provides for the beneficiaries of free legal aid, other than Croatian citizens, to include:
children who are not Croatian nationals but find themselves in Croatia unaccompanied by an adult responsible by law;
foreigners with temporary residence subject to reciprocity, and foreigners with permanent residence;
foreigners under temporary protection;
foreigners residing illegally and foreigners on a short stay, in the proceedings deciding on expulsion or return;
asylum seekers, persons with asylum status and foreigners with subsidiary protection status and their family members residing legally in Croatia, in the proceedings in which legal assistance is not provided to them under a special law.
The beneficiaries of free legal aid may exercise the right to primary and/or secondary legal aid under the conditions laid down by law.
Primary legal aid covers general legal information, legal advice, submissions to public bodies, the European Court of Human Rights and international organisations in accordance with international treaties and internal rules of procedure, representation in proceedings before public bodies, and legal assistance in out-of-court dispute settlements. It is provided by administrative bodies in the counties and in the City of Zagreb (*Grad Zagreb*) by authorised associations and legal clinics, and it may be provided for any legal matter. The procedure for the exercise of primary legal aid is initiated by contacting directly a primary legal aid provider, which will determine in its discretion whether the requirements for primary legal aid have been met.
Secondary legal aid covers legal advice, submissions in the proceedings for the protection of workers' rights before the employer, submissions and representation in litigation, and legal assistance in amicable dispute settlement. Secondary legal aid is provided by attorneys. Secondary legal aid also covers exemption from payment of litigation costs and court fees.
For secondary legal aid to be granted in the form of submissions and representation in litigation and exemption from payment of court fees, the applicant's financial circumstances must meet the requirements laid down by the Free Legal Aid Act, namely that the total monthly income of the applicants and members of their household does not exceed the tax base amount per member (HRK 3,326.00) and that the total value of assets owned by the applicants and members of their household does not exceed 60 tax base amounts (HRK 199,560.00).
In addition to complying with the financial requirements, secondary legal aid needs to be applied for in one of the following types of procedures relating to:
rights *in rem*, except in land-registry proceedings;
employment relations;
family relations, except in proceedings regarding divorce by mutual consent if the spouses have no common or adopted underage children or children of age under their parental care;
enforcement and security proceedings regarding forced collection or securing of claims arising from the proceedings in which legal aid may be granted under the provisions of the Free Legal Aid Act;
amicable dispute settlement;
by way of exception, in all other administrative and civil judicial proceedings when such need arises from specific life circumstances of the applicants and their household members, in accordance with the fundamental purpose of the Free Legal Aid Act.
The procedure for the grant of secondary legal aid is initiated by applying to the competent administrative body of the county or of the City of Zagreb. The application is submitted in a standard form, including the consent of the applicants and their household members to the accessing of all data on their total income and assets and the applicant's confirmation that the information provided is accurate and complete.
In the procedure for the grant of secondary legal aid to an applicant who meets the legal requirements for exercising the right to secondary legal aid, the competent authority will issue a decision granting secondary legal aid, indicating the type and scope of the legal aid granted. The grant of secondary legal aid refers to full or partial security for the payment of secondary legal aid costs, depending on the amount of the total monthly income of the applicants and their household members. The decision granting secondary legal aid also specifies the lawyer who will provide secondary legal aid.
If the applicant does not meet the requirements for the grant of the right to secondary legal aid, a decision rejecting the application will be issued. The decision rejecting the application may be subject to appeal by the applicant to the Ministry of Justice (*Ministarstvo pravosuđa*). Administrative proceedings may be initiated against the decision of the Ministry of Justice rejecting the appeal.

If the beneficiary of free legal aid is the losing party, that is, unsuccessful in the proceedings for which secondary legal aid has been granted, they are not required to reimburse the costs of legal aid. However, its grant does not mean that the beneficiary of secondary legal aid who is the losing party will be exempt from payment of litigation costs incurred by the opposing party, which will be decided by the court in accordance with the rules governing judicial proceedings.

Free legal aid may also be granted in cross-border disputes. The Free Legal Aid Act defines cross-border disputes as those in which an applicant for legal aid is domiciled or resident in a Member State of the European Union, other than the Member State of the court, or the one in which the judicial decision is to be enforced.

Legal aid in cross-border disputes is granted in civil and commercial matters, mediation proceedings, out-of-court settlements, the enforcement of public instruments and legal advice in such proceedings. The provisions on legal aid in cross-border disputes do not apply in taxation, customs and other administrative proceedings.

Legal aid applicants in cross-border disputes will be granted legal aid if they meet the requirements set out in the Free Legal Aid Act. By way of exception, legal aid may be granted to applicants who do not meet the requirements for the grant of legal aid set out in the Free Legal Aid Act if they prove to be unable to pay the cost of the proceedings due to the incommensurate living costs in the Member State of domicile or habitual residence and living costs in Croatia.

In Croatia, applicants or the competent authority of the Member State in which they are domiciled or habitually resident (transmitting authority) are to submit the application for legal aid to the Ministry of Justice (receiving authority). Forms and attached documents must be delivered in Croatian. Otherwise, the application will be rejected.

If a dispute in which the applicant requests legal aid is not a cross-border dispute or if the applicant is not entitled to legal aid in cross-border disputes, the Ministry of Justice will issue a decision rejecting the application. Appeals are not permitted against Ministry of Justice decisions, although administrative proceedings may be initiated.

Free legal aid may be granted to persons who are not resident in the European Union, subject to the provisions of bilateral and multilateral international agreements binding on Croatia.

For information on legal aid in Croatia please refer to the website:

Legal aid

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[1] Personality rights: the right to life, physical and mental health, reputation, honour, dignity, name, privacy of personal and family life, freedom, etc.

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Business and human rights - Cyprus

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Pursuant to the provisions of Law 174/1989 on Employer's Liability (Compulsory Insurance), as amended, employees who are victims of business-related human rights violations are entitled to compensation in the case of an accident in the workplace (death or bodily injury) caused by and during their employment, or in the case of an occupational disease caused by their work. That Law requires all employers to take out an insurance policy against liability for a work accident or occupational disease caused to any employee. This requirement also covers the employment of permanent residents in Cyprus, who are employed abroad and to whom an accident or occupational disease has been caused. The Law specifies the minimum coverage amount for each accident or occupational disease per employee (one hundred and sixty thousand euros, EUR 160 000 00), as well as for each case or series of cases resulting from the same operative event (EUR 3 415 000 00), including expenses and interest.

In order to ensure the payment of compensation to an employee, which exceeds the compensation provided for under the Law, a relevant action must be lodged with the court.

During the performance of inspections at employer branches / businesses for checking their compliance with the legislation on safety and health at work, the inspectors from the Department of Labour Inspectorate also check if there is a document certifying compulsory employer's liability insurance.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

See the answer to question 1 above.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

No, access is not provided. Based on the available information and data, as described in the question, there does not appear to be any connection to establish jurisdiction with the Cypriot courts.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

No. Third-country nationals who claim to be victims of human rights violations are afforded the corresponding protection by independent institutions, provided that the violation was committed in Cyprus.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

Regulation (EU) No **524/2013 on online dispute resolution for consumer disputes** requires companies with online stores to provide information on the online dispute resolution platform on their websites.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Access to legal aid is provided to every natural person whose human rights have been violated if the person resides in the territory of the Republic of Cyprus, regardless of whether they are a citizen of the Republic of Cyprus or an EU-citizen.

Which costs will be covered by the legal aid?

Legal aid is provided for:

access to a lawyer,
legal advice and
representation in court.

Do I have access to legal aid under the same conditions if I am not an EU-citizen or I don't live in the EU?

No.

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Business and human rights - Latvia

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Pursuant to Article 1(1) of the Law on civil procedure, each private individual and legal entity has a right to judicial defence of their infringed or contested civil rights or legitimate interests. If the individual believes that they have become a victim of business related human rights violations that infringe their civil rights, the individual may bring a civil claim in a general jurisdiction court.

Pursuant to Article 1635 of the Civil Law, every infringement of rights, every wrongful act per se, which results in damage (also moral damage), gives the victim the right to seek remedy from the perpetrator insofar as they can be blamed for this act. Moral damage denotes physical or psychological suffering caused by the infringement of the victim's non-material rights or non-material benefits resulting from the wrongful acts. The scope of remedy for moral damage shall be established by the court at its discretion, taking account of the gravity and consequences of the moral damage. If the wrongful doing is manifested as a criminal act against the life, health, morality, sexual inviolability, freedom, honour or respect of an individual, or against a family, or a minor, it is assumed that the victim has suffered moral damage as a result of such act. In other cases, the victim must prove moral damage. An act here is to be understood in a wider sense, which includes not only the act, but also failure to act, i.e. omission.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Liability for wrongful acts enshrined in the Civil Law covers any infringement of rights and criminal offence, including gross violation of human rights.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

If neither the defendant nor the claimant have their place of residence or legal address in Latvia, and if the infringement did not occur in Latvia, in all likelihood, Latvian courts will not have jurisdiction over the civil claim.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

The name of the Ombudsman in Latvia is 'tiesībsargs'. The Ombudsman operates in accordance with the aim established by the Ombudsman Law, i.e. promoting the protection of human rights and ensuring that the authority of the state is exercised in a legitimate and expedient manner and in accordance with the principle of good governance.

The Ombudsman may only be involved in resolving issues where State administration authorities infringe human rights of an individual established in the *Satversme* (the Constitution) of the Republic of Latvia and in international documents in the field of human rights when making a decision or, in the case of the legislature, when adopting a legislative act. In the context of exercising the powers of the Ombudsman, an authority is a government administration or a local government authority, or their officials, as well as persons performing tasks delegated by the state administration.

In cases where the individual is a victim of violation of the non-discrimination principle, the Ombudsman may give their assessment and recommendations also to legal entities and private individuals governed by private law.

However, the powers of the Ombudsman do not extend to assessing acts of European transnational corporations outside the EU.

Control and monitoring of the conduct of undertakings with regard to employment relationships falls within the remit of the State Labour Inspectorate.

The conduct of undertakings in the area of the environment is controlled by the State Environmental Service, which is responsible for monitoring compliance with the law in the areas of environmental protection, radiation safety and nuclear safety, as well as the use of natural resources.

If an individual files a claim about a wrongful act with the authority in error, i.e. they are not aware that it is not within the remit of the authority in question to respond with regard to the matter referred to in the individual's claim, in accordance with the provisions of the Law on Submissions, the authority must inform the individual as to the authority competent in the matter, or, where appropriate, forward the claim to the authority competent to examine the claim.

It should be noted, therefore, that the institution of the Ombudsman is an alternative dispute settlement mechanism for the protection of infringed human rights, which is based on the personal authority of the Ombudsman, because recommendations of the Ombudsman are not legally binding. An appeal to the Ombudsman is not considered as instituting appeal proceedings, and the party to the proceedings should take into account the fact that such appeal does not suspend either the validity of the administrative regulation or the deadline for appeal. However, the task of the Ombudsman is to promote public awareness and understanding of human rights, mechanisms for their protection, and the work of the Ombudsman. Therefore, the Ombudsman can advise an individual on the mechanisms for protection of the infringed rights in each individual case.

Every individual who believes that their human rights have been infringed, without prejudice to their nationality, can appeal to the Ombudsman.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

There is no information on legislative acts that impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Eligibility for State-funded legal aid depends on the category of the case and the status of the individual. Legal aid includes legal consultations, drawing-up of procedural documents for the court, and legal aid at the court hearing. An individual who is party to a civil case is exempt from the court costs payable to the national budget, and the court must provide State-funded translation services if the individual does not speak the language of the proceedings.

In civil cases (with exceptions set forth in the law) and in administrative cases where a decision of the family tribunal with regard to the protection of the rights and legal interests of a child is contested, the individual who legally resides in Latvia is entitled to legal aid if they have obtained the status of a low-income person or a person in need from local government social services or if they are in a special situation, i.e. they unexpectedly and for reasons beyond their control find themselves in such circumstances and financial situation that prevents them from ensuring the protection of their rights, or the individual is fully dependent on the State or the local government.
The individual residing in an EU Member State is entitled to legal aid in cross-border disputes in civil cases if their special circumstances and the level of their income prevent them from protecting their rights.
Other individuals (including individuals residing outside the EU) are entitled to legal aid in accordance with international commitments of Latvia and if their special circumstances and the level of their income prevent them from protecting their rights.
In civil cases that individuals pursue on their own or with a lawyer's assistance (i.e. civil cases that fall within the jurisdiction of the Economic Affairs Court stemming from contract law, if the amount of the claim exceeds EUR 150 000, and cases dealing with protection of commercial secrets from illegal acquisition, use and disclosure), the individual is entitled to legal aid if their income does not exceed the minimum monthly wage in Latvia, their financial situation makes them eligible for receiving legal aid, and they have paid the fee for the provision of legal aid.
Legal aid in **administrative cases** is granted by the court (the judge) upon the individual's request, taking into account the complexity of the case and financial situation of the individual.
Legal aid **in criminal proceedings** is granted by the party that pursues the proceedings (the investigator, the prosecutor or the judge). Legal aid is provided upon request to individuals who are eligible to defence and to victims in cases where the law so provides.
Additional information is available on the website of the Judicial Administration:
Infographics - Legal aid provided by the state in various case categories (LV)
Information - State ensured legal aid (EN)
Overview - Legal aid provided by the State (EN)
Legal aid in cross-border disputes (EN)
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Business and human rights - Malta

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Any victim of human rights violations, whether those violations are business-related or not, has the right to take action in court to seek redress and compensation.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

There are no specific rules for gross human rights violations. All cases involving human rights violations are dealt with in the same manner.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

The law is territorial. An individual must have recourse to private international law to determine the lex fori, provided there is no agreement between the parties that prevents the choice of applicable legislation.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

The mandate of Malta's Ombudsman, in accordance with Article 64A of the Constitution and the articles of the Ombudsman Act, is 'to investigate actions taken by or on behalf of the Government, or by such other authority, body or person as may be provided by law (including an authority, body or office established by this Constitution), being actions taken in the exercise of their administrative functions'.
In accordance with Article 12(1) of the Ombudsman Act, the Ombudsman's jurisdiction is limited to investigating complaints concerning:
'(a) the Government, including any government department or other authority of the Government, any Minister or Parliamentary Secretary, any public officer and any member or servant of an authority as aforesaid;
(b) any statutory body, and any partnership or other body in which the Government or any one or more of the said bodies aforesaid or any combination thereof has a controlling interest or over which it has effective control, including any director, member, manager or other officer of such body or partnership or of its controlling body (hereinafter collectively referred to as organisation); and
(c) local councils and any committee thereof, mayors, councillors and members of staff of all local councils.'
The Ombudsman has no specific and formal mandate to investigate cases involving violation of or threats to fundamental rights or to provide redress or promote or protect citizens' fundamental rights.
However, the functions set down in Article 22(1) of the Ombudsman Act are sufficiently broad as to permit that institution to become involved without restrictions in the area of human rights, by:
investigating complaints that have a human rights element;
drawing the attention of the authorities to threats to citizens' rights;
in the event of a violation, contributing to resolving the situation by making recommendations to settle the issue fairly and effectively in order to avoid legal proceedings.
The Ombudsman's jurisdiction extends to all persons who consider that they have been aggrieved regardless of their nationality or origin, provided that person has a personal interest in the substance of the complaint. 'Person' here includes both natural and legal persons.
The authorities or institutions that are subject to the Ombudsman's jurisdiction are required to protect human rights and ensure the enforcement thereof. Consequently, although the Ombudsman's mandate is limited to the Public Authorities, it is possible to take into consideration situations where the victim of a business-related human-rights violation claims that their rights were violated because that public authority or institution failed to provide the person in question with the protection to which they were entitled.

The Ombudsman can investigate any case even if the person making the complaint is not an EU citizen or does not live in the EU, provided the substance of the complaint falls within the Ombudsman's jurisdiction. Moreover, if the substance of the complaint is subject to the jurisdiction of the Ombudsman or of another local or regulatory authority, legal protection is granted to all victims.
Consequently, the Ombudsman's jurisdiction does not depend on the substance of the case or on whether the aggrieved party lives in Malta, but on the alleged failure on the part of the authority that is subject to the Ombudsman's jurisdiction.
Concerning other public services (e.g. employment or environmental) in Malta, there are other public institutions, such as the Department of Industrial and Employment Relations, the Environment and Resources Authority, the Arbiter for Financial Services and the National Commission for the Promotion of Equality. However, the National Commission for the Promotion of Equality, as the national equality body, may only investigate cases of discrimination and sexual harassment that occur in Malta.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

Malta does not impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from business activities. Mediation in Malta takes place in cases in the Family Court or proceedings before the Rent Regulation Board.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

If you are a victim of a crime as specified in Cap 539, Article 2 of the Laws of Malta (Victims of Crime Act) or a victim of domestic violence as specified in Cap 581 of the Laws of Malta (Gender-Based Violence and Domestic Violence Act), you are entitled to legal aid. Once the Court issues an order granting legal aid, you will be eligible to receive legal counsel and to be represented in the Court. The Court costs and lawyer's fees will be covered. If you are not an EU citizen but have status in Malta, you will still be eligible for legal aid. If you are an EU citizen who lives outside the EU, you will still be eligible to be represented in Court in Malta and for legal aid.

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Business and human rights - Austria

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

As in other Member States, international jurisdiction is largely determined by the 'Brussels 1a Regulation' (Regulation No 1215/2012: 'the Regulation'). This enables an action to be brought – particularly where the undertaking (or a branch thereof) has its registered office in Austria – irrespective of where the claimant is domiciled and/or what their nationality is. Other jurisdictions are mentioned in Article 7 of the Regulation. The place where the damaging event occurred or the place where a contractual obligation should have been fulfilled might be relevant.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

The Austrian law on extra-contractual liability does not contain any specific provisions on gross human rights violations. However, if a gross human rights violation results in the violation of an individual right protected by law, general contractual liability may come into consideration. In other words, whoever intentionally or through negligence unlawfully damages the life, health, freedom, property or any other right of another person is liable for damages. Where harm is caused to life or limb, health, freedom, property or any other right, not only the person who caused the harm directly is liable but also anyone who failed to take the necessary and reasonable measures to prevent harm being done to a third party, if that person created a source of risk (*Verkehrssicherungspflicht*).

From the point of view of criminal law, gross violations of human rights are also considered to be general offences.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

See Section 4 below.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

As in other Member States, international jurisdiction is largely determined by the 'Brussels 1a Regulation' (Regulation No 1215/2012). This enables an action to be brought – particularly where the undertaking (or a branch thereof) has its registered office in Austria – irrespective of where the claimant is domiciled and/or their nationality. Other jurisdictions are mentioned in Article 7 of the Regulation. The place where the damaging event occurred or the place where a contractual obligation should have been fulfilled might be relevant.

If the Brussels 1a Regulation or the 2007 Lugano Convention (the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) are not applicable, international jurisdiction is always conferred under Section 27a of the Court Jurisdiction Act (*Jurisdiktionsnorm* – JN) if an Austrian court has territorial jurisdiction. Jurisdiction for the infliction of harm under Section 92a JN is, however, based solely on the place where the harmful conduct took place. However, other jurisdictions could be considered, such as that of the place of perpetration, under Section 88 JN, or the place where the property is situated, under Section 99 JN.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

The granting of legal aid is not linked to having Austrian citizenship or citizenship of the EU.

The aim of legal aid is to enable all litigants to pursue their rights under civil law or to defend their rights before the courts, regardless of their individual financial situation. The costs which arise from pursuing a legal dispute should not constitute an obstacle to enforcing claims or to a person's defence, even if that person lacks sufficient resources of their own. The possibility of granting legal aid is intended to eliminate differences resulting from individuals' financial situation and enable not only the principle of equality but also the right, stemming from Article 6(1) of the EHCR, of free and unhindered access to justice to be upheld, and to ensure everyone has equal access to justice.

However, a party to legal proceedings who is granted legal aid is exempted only provisionally from the obligation to pay their own legal costs. The opposing party does not benefit from this provisional exemption.
The court will grant a party legal aid only if the conduct of the proceedings would otherwise be detrimental to their necessary maintenance. The intended legal action or defence must not be manifestly wanton or futile if there is to be a chance of legal aid being granted.
'Necessary maintenance' means the resources the party requires for a modest standard of living for themself and any family for whose upkeep they are responsible. Necessary maintenance lies in an area between 'essential' and 'appropriate' maintenance. It is between the average statistical income of a person in gainful employment and the minimum subsistence level. For international cases, the circumstances prevailing at the place of residence determine what is necessary for a modest standard of living.
Section 64 of the Austrian Code of Civil Procedure lists the items which may be covered by legal aid.
Under certain conditions, non-Austrian claimants may have to provide a security in accordance with Section 57 of the Code of Civil Procedure, meaning that the defendant must be provided with security for the costs of the proceedings if the defendant so requires. However, many bilateral agreements provide for the exclusion of such security provision. Moreover, an exemption from the provision of security for legal costs is also possible under legal aid (Section 64(1)(2) of the Code of Civil Procedure).
The bilateral agreements concluded by Austria are available on the website of the Ministry of European and International Affairs: Bilaterale Staatsverträge – BMEIA, Außenministerium Österreich.

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Business and human rights - Portugal

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Redress for business-related human rights violations is available through the courts, namely those with jurisdiction over civil, criminal, administrative and labour matters, taking into account the type of violation concerned. This protection may be in the form of filing an action or complaint with the criminal investigation bodies or the Public Prosecution Service (*Ministério Público*). Under such an action, the defendant may be requested to provide something, do something, refrain from an act contrary to the law or to tolerate a certain act, as well as to repair damages or moral harm suffered as a result of the defendant's behaviour. The Portuguese Criminal Code (*Código Penal*) provides for the liability of legal persons in the case of certain crimes and under certain circumstances.
Civil, criminal, administrative and labour procedural law regulates the procedures for obtaining compensation.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

There is no specific set of national rules for gross human rights violations. However, where such a violation is a crime or an administrative offence, the assessment of the seriousness of a given violation is taken into account when determining the applicable penalty and the duration or amount thereof. This is the case for environmental crimes and severe labour exploitation.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

Under civil law, the rules set out in Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (known as 'Brussels I Recast') and in the Lugano Convention apply.
Under Regulation (EU) No 1215/2012 persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State, and a company (or other legal person) is deemed to be domiciled at the place where it has its statutory seat, central administration or principal place of business. That said, special rules of jurisdiction are provided for in certain matters, particularly in matters relating to tort, delict or quasi-delict, over which the court for the place where the harmful event occurred or may occur has jurisdiction. The Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the Lugano Convention) lays down identical rules.
Where a company is not domiciled in the European Union or in a State party to the Lugano Convention, the international jurisdiction of the Portuguese courts may be derived from Portuguese civil procedural law. This will be the case where the right invoked cannot be enforced except by means of an action brought in a Portuguese court (for instance, because the combination of the international jurisdiction rules of different countries results in there being no court with jurisdiction to hear the dispute) or where it is very difficult for the complainant to bring an action abroad and there is an important personal or real connecting factor between the subject-matter of the dispute and the Portuguese legal system.
Under criminal law, the rules of jurisdiction deriving from the Criminal Code apply. Thus, unless there is an international treaty or convention to the contrary, the general principle in force is that Portuguese criminal law is applicable to acts committed in Portuguese territory, whatever the nationality of the offender, or on board Portuguese vessels or aircraft. That said, unless there is an international treaty or convention to the contrary, Portuguese criminal law may apply to acts committed outside national territory under certain circumstances or when certain crimes are involved. With regard to criminal offences committed outside national territory involving legal persons, Portuguese law only applies when the facts are committed by or against a legal person that has its statutory seat in Portuguese territory, irrespective of whether or not the victim is an EU citizen or lives in the EU.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

Intervention in investigations by the Ombudsman, by equality bodies (the Commission for Equality in Labour and Employment (*Comissão para a Igualdade no Trabalho e no Emprego* - CITE) and the Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e Igualdade de Género* - CIG)), by the Labour Inspectorate and by the Environmental Inspectorate is limited to violations of national laws occurring in Portuguese territory. The fact that a victim of a human rights violation committed by a European transnational company outside the European Union (EU) is not an EU citizen or does not live in the EU is irrelevant for prompting an intervention by these bodies.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

There is no legal obligation for such reports. Nevertheless, within the framework of the OECD Guidelines for Multinational Enterprises, the National Contact Point (NCP) for these Guidelines, coordinated by the Directorate-General for Economic Activities (*Direção-Geral das Atividades Económicas* - DGAE) and

the Agency for Investment and Foreign Trade of Portugal (*Agência para o Investimento e Comércio Externo de Portugal* - AICEP Portugal Global), provides a (non-judicial) mediation and conciliation platform for resolving complaints against companies concerning alleged non-compliance with the Guidelines. Thus, any individual or organisation that considers that the actions or activities of a multinational enterprise are not consistent with the Guidelines can submit a formal complaint to the NCP based in one of the countries where that enterprise operates. More information can be found here, including the NCP's annual reports on implementation of the OECD Guidelines.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

According to Article 67-A of the Criminal Procedure Code (*Código de Processo Penal*):

'*a) "victim" means:*

i) a natural person who has suffered harm, inter alia physical, psychological, emotional or moral harm or damage to property, directly caused by an act or omission in the commission of a crime;

ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;

b) "particularly vulnerable victim" means a victim who is particularly vulnerable as a result, inter alia, of their age, state of health or disability, and the fact that the type, level and duration of victimisation caused harm with serious consequences for their psychological well-being or for the conditions for their social integration;

c) "family members" means the spouse of the victim or the person living in cohabitation with the victim, the victim's direct relatives and siblings, and persons financially dependent on the victim;

d) "child" means any person under the age of 18.'

One of the rights enshrined in the Statute of the Victim, approved by Law No 130/2015 of 4 September 2015, is legal aid, the legal framework of which is set out in Law No 34/2004 of 29 July 2004. As regards legal aid, please visit the relevant European e-Justice Portal page.

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Business and human rights - Romania

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Judicial protection of human rights is provided through national courts, depending on the matter to which the act that has triggered violation of that right relates. Thus, situations may arise, owing to business activities, which result in human rights violations in civil or criminal matters and so, depending on the case particularities and the nature of the act that has led to violation of the right, the injured person may take legal action or file a complaint to the investigation bodies – the police or prosecutor's office.

Such protection may lead to compensation being granted in the form of material and/or non-material damages if the conduct/practices of a business is/are found to have led to violation of human rights.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Various human rights violations in the context of business activities trigger civil, administrative or disciplinary liability.

Environmental crimes are provided for in both the special legislation (e.g. Emergency Order No 195/2005 on environmental protection) and the Criminal Code among crimes against public security (spread of diseases to animals or plants, water contamination, trafficking in toxic products or substances, breach of the regime of nuclear material or other radioactive matter, of explosive materials or restricted explosive precursors etc.).

Serious labour exploitations may be deemed violations of the Criminal Code (crimes such as slavery, trafficking in human beings, child trafficking, subjection to forced or compulsory labour, procuring for prostitution or sexual acts, use of services of an exploited person) or of the criminal rules laid down in the Labour Code.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

A. In civil matters

International civil proceedings are regulated in Book VII of the Code of Civil Procedure, which is the relevant common law and applies to proceedings under private law with cross-border implications, unless otherwise specified in the international treaties to which Romania is a party, under EU law or special laws.

International jurisdiction of Romanian courts under common law is based on the existence of the defendant's principal place of business or, in the absence thereof, of their secondary office or business assets within Romania on the date when the action has been filed.

Moreover, in a choice of court agreement, the parties may agree to choose Romanian courts as having jurisdiction to decide disputes which have arisen in connection with cross-border implications.

With regard to certain actions for material damages, Romanian courts have exclusive jurisdiction, such as disputes with cross-border implications concerning:

property located within Romania;

contracts concluded with consumers having their domicile or habitual residence in Romania, for everyday consumer services for consumers' personal or family use and not related to the consumers' professional activity or business, if:

the provider has received the order in Romania;

the conclusion of the contract has been preceded, in Romania, by an offer or advertisement and the consumer has carried out all the formalities required to conclude the contract.

Also, by derogation from the rules of common law, the claimant may choose the Romanian courts (preferential jurisdiction) for disputes where:

the place where a contractual obligation has arisen or should have been fulfilled, even if only in part, is in Romania;

the place where a legal act from which non-contractual obligations arise was concluded, or where such act produces effects, is in Romania;

the rail or road station or the port or airport of boarding/loading or landing/unloading of passengers or goods transported is in Romania;

the insured property or the place where the insured event has occurred is in Romania.

Romanian courts are also competent to hear:

cases regarding cross-border protection of the intellectual property of a person domiciled in Romania, whether a Romanian citizen or stateless person, subject to a choice of court agreement;

cases between foreigners if they have expressly agreed so and the legal relations concern rights they may have with regard to property or interests of persons from Romania;
cases regarding collisions at sea or of aircraft and cases regarding assistance or rescue of persons or goods on the high seas or in an area falling outside the sovereignty of any State, under particular circumstances;
cases involving civil liability for damage caused by products originating in Romania, **regardless of the victim's nationality, place of accident or place where the damage was caused**.
As regards the foreigner's status in international civil proceedings, natural and legal persons who are foreigners have, under the law, the same procedural rights and obligations before Romanian courts as Romanian citizens and legal persons.
More information can be found here.

B. In criminal matters

Pursuant to Article 9, in conjunction with Article 12 of the Criminal Code, unless otherwise specified in an international treaty to which Romania is a party, the Romanian criminal law is applicable to acts committed outside Romania under the personality principle provided for in criminal law (Article 9 of the Criminal Code), regardless of whether the injured person is a foreign citizen, a Romanian citizen or a stateless person or of whether they are in Romania, if certain conditions have been met: the perpetrator is a Romanian legal person; the sentence provided for under Romanian law with regard to the act committed is imprisonment for life or for more than 10 years (even if the act is not deemed a criminal offence by the law of the State where it has been committed) – where other penalties are provided for, the act must be classified as a criminal offence also under the criminal law of the country where it has been committed (dual criminality) or must have been committed in a place falling outside the jurisdiction of any State. Indictment is subject to prior authorisation by the general prosecutor of the prosecutor's office attached to the court of appeal having territorial jurisdiction over the prosecutor's office first referred to or, where applicable, by the general prosecutor of the prosecutor's office attached to the High Court of Cassation and Justice.
It is noteworthy that the criminal offence is considered as having been committed on the territory of Romania also when the commission, instigation or aiding and abetting have taken place, or the proceeds of crime have been generated, even in part, within that territory or on a vessel flying the Romanian flag or in an aircraft registered in Romania. In these cases, the Romanian criminal law applies under the territoriality principle.
As regards the jurisdiction of criminal courts for criminal offences committed outside the territory of Romania, the Code of Criminal Procedure (Article 42) stipulates that criminal offences committed outside the territory of Romania are tried by courts having jurisdiction over the registered office of the legal person acting as the accused. If the accused has no registered office in Romania, and the criminal offence falls under the jurisdiction of the district court, the case is tried by the District Court of Bucharest District 2 and, in the other cases, by the court with competence according to the matter or to the status of the person being from Bucharest, unless otherwise provided for by law.
For criminal offences with regard to which indictment is contingent on the filing of a prior complaint by the injured person, the prior complaint must be filed within 3 months of the day when the injured person became aware of the act.
More information can be found here, here and here.

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

Pursuant to Article 1(1) of Law No 35 of 13 March 1997 on the organisation and functioning of the Ombudsman [Instituția Avocatul Poporului]: 'The Ombudsman shall aim to safeguard the rights and freedoms of natural persons in their relations with public authorities'; therefore its remit does not cover business related human rights violations.
Consumers' complaints filed against companies within the EU can be taken over by the European Consumer Centre in Romania (ECC Romania) only if those consumers are residents or nationals of an EU Member State (including Norway and Iceland) and if EU legislation is applicable.
The Labour Inspection Authority [Inspecția Muncii], the National Authority for Disabled Persons' Rights, Children and Adoptions [Autoritatea Națională pentru Drepturile Persoanelor cu Dizabilități, Copii și Adopții], the National Agency for Gender Equality [Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați], the National Environmental Guard [Garda Națională de Mediu], the National Authority for Consumer Protection [Autoritatea Națională pentru Protecția Consumatorului], and the National Regulatory and Managing Authority for Communications [Autoritatea Națională pentru Administrare și Reglementare în Comunicații (ANCOM)] are public authorities with no competence in cross-border cases.
Additional information can be found here and here.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

As regards human rights violations resulting from activities carried out by European transnational corporations, no mandatory mediation systems are in place in Romania, however mediation is possible as an option, when chosen by the parties. Therefore, the person whose rights have been violated may avail himself or herself of judicial protection under common law, through a civil or criminal court, depending on the nature of the right violated, or the parties may agree to seek the services of a mediator, whose profession is regulated by Law No 192/2006 on mediation and the organisation of the profession of mediator.
Moreover, Order No 38/2015 on alternative dispute resolution between consumers and traders creates the legal framework for enabling consumers to refer, on a voluntary basis, claims filed against a professional/undertaking to entities applying alternative dispute resolution procedures in an independent, impartial, transparent, effective, expeditious and fair manner in order to ensure a high consumer protection level and the smooth functioning of the market.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Access to legal aid is a right recognised and guaranteed under Romanian law. This right is based on the concept of universal defence and is recognised for all persons, regardless of residence or nationality, on a circumstantial basis, as follows:

I. In civil matters, pursuant to Government Emergency Order No 51/2008 on public legal aid in civil matters:

a) For EU citizens: *in all cases where public legal aid is applied for before courts or other Romanian authorities having judicial powers by any natural person* ***having their domicile or habitual residence in Romania or in another EU Member State*** (Article 2 of Government Emergency Order No 51/2008);
b) For non-EU citizens and stateless persons: *where applications are filed by natural persons who do not have their domicile or habitual residence within the territory of Romania or of another EU Member State, in so far as there is an arrangement between Romania and the State of nationality or of domicile of the applicant, which includes provisions on international access to justice* (Article 21^1 of Government Emergency Order No 51/2008).
Moreover, pursuant to **Article 1084**(2) of the Code of Civil Procedure, *foreign citizens are entitled, in Romanian courts, in international civil proceedings, to exemptions and reductions in taxes and other costs of the proceedings, and to free legal aid to the same extent and under the same conditions as Romanian citizens, subject to reciprocity with the State of nationality or domicile of the applicant.*

Thus, the person who has been the victim of a violation of his or her legitimate rights may apply for legal aid if he or she cannot afford to pay the costs of the proceedings, as provided for in Article 6 of Government Emergency Order No 51/2008 - Public legal aid may be granted in the following forms:
a) *payment of the fees for representation, legal aid and, where applicable, defence by a court-appointed lawyer or lawyer of their choice, for the realisation or protection of a right or legitimate interest in court or for the prevention of a dispute, hereinafter 'aid by a lawyer'*;
b) *payment of the expert, translator or interpreter used in the proceedings, with the consent of the court or authority with judicial powers if such payment is incumbent on the person applying for public legal aid under the law*;
c) *payment of the bailiff's fee*;
d) *exemptions, reductions, instalments or deferrals of payment of legal costs provided for by law, including those due at the enforcement stage*.
Nevertheless, the right to legal aid is not an absolute right and the person applying for legal aid must provide proof for his or her financial situation, attesting to the fact that he or she cannot afford to pay for the services of a lawyer of his or her choice or that he or she cannot bear the costs of proceedings, such as stamp duty, experts' fees, expert's reports, etc. In this respect, Article 16(1) of Government Emergency Order No 51/2008 stipulates that: *public legal aid may be refused when improperly claimed, when its estimated cost is disproportionate compared to the value of the legal matter, and when public legal aid is not applied for in order to safeguard a legitimate interest, or it is applied for in respect of an action which is contrary to public or constitutional order*.
The public legal aid referred to in this Emergency Order is granted in civil, commercial, administrative, labour and social insurance cases, as well as in other matters, except for criminal cases.
In criminal cases, it is mandatory to grant legal aid to the injured person when that person/civil plaintiff is incapacitated or has limited capacity to act (pursuant to Article 93(4) of the Code of Criminal Procedure). Moreover, pursuant to Article 93(5), *when the judicial body deems that, for certain reasons, the injured party, the civil plaintiff ... would be unable to defend themselves, it shall arrange for a court-appointed lawyer*.
Article 29(1)(f) of Government Emergency Order No 80/2013 on court stamp duty, as subsequently amended, provides for an exemption from the payment of the duty for actions and claims, including appeals, whether ordinary or extraordinary, filed with regard to protection of consumer rights, when the natural persons and the consumer protection associations have the capacity of claimants against economic operators who have violated consumers' rights and legitimate interests.
Last but not least, victims of crime benefit from the application of Law No 211/2004 on certain measures to ensure the information, support and protection of victims of crime, which, as inferred from the title of the law, makes provision for the information, support, protection, recognition and assessment measures available to victims of criminal offences, without such measures being contingent on the filing of a complaint to the prosecution bodies.
More information on legal aid in Romania can be found here.
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Business and human rights - Slovakia

In the Slovak Republic, every person has the right to equal treatment when exercising their rights and to protection against discrimination. Businesses must respect the principle of equal treatment, not only in the provision of goods and services, but also in relation to employment, both for job seekers and employees themselves.

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

One of the fundamental rights enshrined in the Constitution of the Slovak Republic is the **right to judicial protection, to pursue one's rights before independent courts, including the Constitutional Court**, or before another authority of the Slovak Republic, if the law so provides.
The right to judicial protection is exercised by means of an application to initiate proceedings. If there is a violation of or threat to a subjective right, the holder of that right, whether a natural person or a legal person, can exercise their right to judicial protection by applying to initiate proceedings, i.e. by bringing an action. Any natural or legal person is entitled to bring an action. The courts must consider any action.
It must be clear from the action **what** the claimant **is seeking, i.e. what form of order or remedy is sought**. In the form of order sought (the petitum), the claimant defines the case which the court is to hear and decide upon. The court cannot award anything other than what is sought in the form of order. Depending on the results of the proceedings, the court may of course award less than that which the claimant is seeking; it can only award more where the law establishes a specific form of settlement between the parties or where the proceedings could have been initiated on the court's own motion.
The victim of a human rights violation in a commercial context therefore has the right to judicial protection, and when bringing the action they specify, in the form of order, the matter that is to be heard and decided on and the compensation that they are seeking as a claimant before the court.
In cases involving an unlawful interference with the honour, dignity, health or privacy of a natural person, their family life, etc., the injured person has the right to seek compensation for non-pecuniary damage in court. The amount of non-pecuniary damage is determined in monetary terms mainly with reference to:
the victim, their life up to that point and the environment in which they live and work;
the seriousness of the damage and the circumstances in which it occurred;
the seriousness of the consequences for the victim's private life;
the seriousness of the consequences for the victim's social standing.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

The Labour Code prohibits discrimination in employment relationships, thereby directly requiring businesses to respect the principle of equal treatment in their pre-contractual and employment relationships. More detailed measures are provided by the Anti-Discrimination Act, which prohibits discrimination in employment and similar legal relationships on grounds of sex, religion or belief, race, nationality or ethnic group, disability, age, sexual orientation, marital status and family status, skin colour, language, political or other beliefs, national or social origin, property, gender or other status, or because of a report of crime or other anti-social activity.
Under the Occupational Safety and Health Act, businesses must supervise safe working conditions, buildings, roads, machinery and technical equipment, working procedures, work organisation, etc., in order to ensure health and safety at work.
The Constitution of the Slovak Republic provides that no-one may be sent for forced labour or forced service.
Offences involving serious violations of human rights, for example against freedom (such as human trafficking, restriction of personal liberty or restriction of freedom of residence), as well as offences involving a danger to the public and against the environment (e.g. illegal waste disposal, unauthorised discharging of pollutants, violations of water and air protection, unauthorised production and handling of ozone-depleting substances and others) are classified under the

Criminal Code as crimes where there is criminal intent, for which this law provides for a maximum term of imprisonment of over five years. Criminal liability for such offences is borne by the perpetrators, who may be natural persons under the Criminal Code or legal persons under the Criminal Liability of Legal Persons Act and the Criminal Code.
It follows from the above that in cases of gross human rights violations, including environmental offences and severe labour exploitation, specific rules apply to the length of the sentence, which will be higher under the Criminal Code in the case of a crime than in the case of a misdemeanour.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

In the case of international law disputes, it must be determined which court will consider and decide on the case, and it is also necessary to determine under which law the facts are to be determined. The Act on International Private and Procedural Law, the purpose of which is to determine which legal system governs civil, commercial, family, labour and other similar relationships with an international element, contains an International Procedural Law part laying down cases where the Slovak courts have jurisdiction, cases where the Slovak courts have exclusive jurisdiction and cases where the parties to the dispute are free to choose the option of a procedure before a Slovak court. It must be emphasised that the Slovak courts always follow Slovak procedural regulations, and if the Slovak judicial authority fails to establish the content of a foreign law within a reasonable period of time or if it would be difficult or impossible to establish the content of a foreign law, Slovak law will be used in the procedure.
In the situation in question, it is usually only the provisions of the Slovak Act on International Private and Procedural Law concerning choice of jurisdiction by mutual agreement that are applied, i.e. both parties to the dispute agree that the case will be heard before the Slovak courts. However, if a jurisdiction agreement would be beneficial to one party only, the party's right to apply to another court remains protected. In matters relating to employment contracts, insurance contracts and consumer contracts, jurisdiction agreements are valid only if they do not preclude the jurisdiction of the courts of the State in which the claimant resides or if they are concluded after the dispute arises.
For more information contact:
National Contact Point for Business and Human Rights (*Národné kontaktné miesto pre podnikanie a ľudské práva*)
Ministry of Justice of the Slovak Republic

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

The Public Defender of Human Rights (Ombudsman) is provided for in the Slovak Constitution. The Slovak Ombudsman is appointed by the National Council of the Slovak Republic and may be approached by natural and legal persons if they believe that their fundamental rights or freedoms have been violated by an action, decision or omission of a public authority. This means that a person who does not live in Slovakia or whose rights and freedoms have not been violated by Slovak public authorities may ask the Slovak Ombudsman for advice, but the Ombudsman will not have legal competence to deal with the issue or to act on the matter.
In Slovakia, the Slovak National Centre for Human Rights (*Slovenské národné stredisko pre ľudské práva*) operates as the national institution for human rights and also as the national anti-discrimination body. The Centre's main task is to ensure respect for human rights and fundamental freedoms, including the principle of equal treatment in the Slovak Republic. It carries out a wide range of activities to fulfil its mission and provides various services in the field of protecting and promoting human rights, whilst cooperating closely with international human rights organisations and institutions. In September 2018, the **Slovak National Centre for Human Rights established the National Contact Point for Business and Human Rights**. In accordance with the legislation governing the activities and functioning of the founding entity, it provides, among other things, legal advice on workplace discrimination (including free representation in legal proceedings) and consultation on the protection of human rights and fundamental freedoms to the widest possible extent – from gender equality issues to environmental protection **but only within Slovakia** (in compliance with the Civil Procedure Code, according to which the general court for a natural person is the court within whose territory the natural person lives, and in compliance with the Act on International Private and Procedural Law).
In the area of environmental protection, Slovakia has the **Slovak Environmental Inspectorate** (*Slovenská inšpekcia životného prostredia*) through which the Ministry of the Environment performs State supervision and imposes penalties on natural persons, businesses and other legal persons in accordance with the Act on the Protection of Nature and the Landscape, and the jurisdiction of which covers the **territory of the Slovak Republic, and therefore violations of this Act would have to take place within the territory of the Slovak Republic**.
The Act on Labour Inspections and on Unlawful Labour and Unlawful Employment regulates the **inspection of work in the territory of the Slovak Republic, which means that violations of this Act would have to take place within the territory of the Slovak Republic**.
It follows from the above that if a person believes that their fundamental human rights and freedoms have been violated but they are not a citizen of a Member State of the European Union and they do not live in the territory of the European Union, they cannot seek effective legal protection from the national authorities that protect fundamental rights and freedoms in the Slovak Republic.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

The Slovak Republic does not oblige European multinational corporations to set up complaint mechanisms, as this obligation is imposed only on authorities of the State and the self-governing territorial units and other bodies of the Slovak Republic in accordance with the Complaints Act. As a Member State of the European Union, the Slovak Republic must implement European legislation.
In Slovakia, multinational companies can contact the National Contact Point for Business and Human Rights, which provides training, consultation and legal advice in this area.
Mediation is a voluntary process that serves to relieve the courts of disputes. In Slovakia, mediation is governed by the Mediation Act and provides for the extra-judicial settlement of disputes in the areas of civil law, family law and commercial obligations and employment relationships, as well as for cross-border disputes arising from similar legal relationships between entities resident or ordinarily resident in a Member State of the European Union. According to the Civil Procedure Code, the court should always seek to reach an amicable settlement. The court may propose that the parties reach settlement through mediation, but it cannot be ordered. Mediation requires the voluntary consent of and an active approach by the parties involved.

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

In Slovakia, the Victims of Crime Act provides the following definition of the term 'victim': particularly vulnerable victims (children, persons over 75 years of age, disabled persons, victims of human trafficking, organised crime, one of the crimes against human dignity, one of the terrorism crimes, victims of crimes

of violence or threats of violence because of their sex, sexual orientation, nationality, race or ethnicity, religion or belief, victims of other crimes exposed to a higher risk of repeated victimisation based on an individual assessment of the victim and their personal characteristics, relationship to the perpetrator or dependence on the offender and the type or nature and circumstances of the offence) for the purposes of proceedings under Slovak law.
Law enforcement authorities (prosecutors and police), courts and entities providing assistance to victims must inform victims of their rights in a simple and understandable way. In particular, they will take account of difficulties in understanding or communicating arising from certain types of disability, linguistic knowledge or a victim's limited ability to express themselves. In criminal proceedings, victims will have the status of a party that reported an offence, an injured party or a witness and have the rights and obligations associated with their status under the Criminal Procedure Code. The law enforcement authorities, the courts and the entities providing assistance to victims carry out individual assessments of victims regarding the seriousness of the crime committed in order to determine whether the victim is particularly vulnerable, with a view to preventing repeated victimisation.
Victims are provided with legal assistance in the form of legal information and legal representation in criminal proceedings and civil proceedings and in claiming damages. Legal assistance is provided to victims by the Centre for Legal Assistance (*Centrum právnej pomoci*) under the conditions and within the scope laid down by the Act on Legal Assistance for Persons in Material Need. The Centre for Legal Assistance provides legal assistance to all natural persons involved in national disputes but, in cross-border disputes, only to natural persons resident or ordinarily resident in the territory of a Member State. Under the terms of an international treaty by which the Slovak Republic is bound or on the basis of a reciprocity declared by the Ministry of Justice of the Slovak Republic, legal assistance is also provided for the purpose of proceedings before a court in the Slovak Republic to nationals of a state which is a party to an international treaty or to persons ordinarily resident in the territory of such a state or to persons where the subject of proceedings in a court of the Slovak Republic is directly related to their previous habitual residence in the territory of the Slovak Republic. Representation by a lawyer (or solicitor) under the Legal Profession Act and the Trading Act is not excluded.
Those who are in material need (their income is less than 1.4 times the subsistence level (in Slovakia) or who are receiving benefits in material need (in Slovakia)), and where the dispute is not manifestly without merit and the value of the dispute exceeds the value of the minimum wage laid down by law, are entitled to free legal assistance from the Centre for Legal Assistance.
Applicants are eligible for legal assistance through the Centre for Legal Assistance with a contribution of 20% of the costs of legal representation if they simultaneously meet the following three conditions: the applicant's income exceeds 1.4 times the subsistence minimum (in Slovakia) and at the same time does not exceed 1.6 times that amount, and they cannot secure legal services with their assets, the dispute is not manifestly without merit, and the value of the dispute exceeds the value of the minimum wage laid down by law. The Centre always assesses compliance with these conditions prior to the provision of legal aid.
In other cases, the victims secure their own lawyer (or solicitor) at their own expense.
The protection of whistleblower rights constitutes a special group. The Whistleblowers Protection Act regulates the conditions for providing protection to persons in an employment relationship in connection with the reporting of crimes or other anti-social activities, the rights and obligations of persons when reporting anti-social activities, and the establishment, status and competence of the Office for the Protection of Whistleblowers (*Úrad na ochranu oznamovateľov protispoločenskej činnosti*).
Whistleblowers may request protection when reporting a serious anti-social activity which constitutes a criminal offence or during criminal proceedings. The request is made to a public prosecutor. If a request for whistleblower protection is made to another public authority, it is forwarded to a public prosecutor without delay. If the prosecutor finds that the whistleblower who requested protection has made a qualified notification, they shall provide protection immediately. Special protection is provided for whistleblowers in order to prevent their victimisation so that the offender cannot victimise the whistleblower through threats, intimidation, coercion or abuses of power, or by taking revenge or otherwise influencing the physical or psychological integrity of the victim.
In cases where the victim is complaining about discrimination, protection is provided under the Anti-Discrimination Act, according to which unjustified measures against a complainant are also regarded as a form of discrimination. In discrimination cases, the Slovak National Centre for Human Rights provides legal advice and may also represent the victim in legal proceedings.
It does not take account of the victim's nationality, but protection can be provided only to victims located within the territory of the Slovak Republic.
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Business and human rights - Sweden

1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

In Sweden, no distinction is made between business-related human rights violations and other types of human rights violations. There are no special regulations in the area of business and human rights. The legal remedies in the Swedish legal system are in line with the international conventions on human rights to which Sweden is a signatory.
Judicial protection against human rights violations is enshrined in the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and the Swedish Constitution.
If you believe that your human rights have been violated, there are various authorities you can turn to, depending on what has occurred.
You may request court proceedings or review by a Swedish review body, or appeal to the national contact point.

Court proceedings

In most cases, you can have your case heard in court, in one way or another. Criminal offences can be taken to court by a prosecutor. If the prosecutor chooses not to prosecute, in some cases you have the option of doing this yourself. Ultimately, you can file a compensation claim against the State.
There are three types of court in Sweden:
the general courts, which comprise district courts (*tingsrätt*), courts of appeal (*hovrätt*) and the Supreme Court (*Högsta domstolen*);
the general administrative courts, i.e. administrative courts (förvaltningsrätt), administrative courts of appeal (*kammarrätt*) and the Supreme Administrative Court (*Högsta förvaltningsdomstolen*);
the special courts that rule on disputes within various special areas, such as the Labour Court (*Arbetsdomstolen*).

Request a review by a Swedish review body

The various ombudsmen review compliance with human rights.
Anyone who believes they or somebody else has been wrongly or unfairly treated by an authority or official in an authority within the State or municipal sector may appeal to the Parliamentary Ombudsman (*Justitieombudsmannen*). The Parliamentary Ombudsman supervises the application of laws and other regulations in public activities.

According to their mandate, the Parliamentary Ombudsman's supervision also covers 'other individuals whose employment or assignment involves the exercise of public authority, in so far as this aspect of their activities is concerned' and 'officials and those employed by public enterprises, while carrying out, on behalf of such an enterprise, activities in which through the agency of the enterprise the Government exercises decisive influence'.
Certain supervisory functions are also exercised by the Chancellor of Justice (*justitiekanslern*), who is appointed by the Government. The duties of the Chancellor of Justice include examining complaints and settling claims for damages directed at the State.
The Office of the Equality Ombudsman (*diskrimineringsombudsmannen*) is a government agency responsible for monitoring compliance with the Discrimination Act. The Ombudsman is required to try, in the first instance, to induce those to whom the Act applies to comply with it voluntarily. However, the Ombudsman may also bring a court action on behalf of an individual who consents to this. Those who violate the Discrimination Act may be found liable to pay compensation for discrimination to the person discriminated against.

Complaining to the national contact point

The OECD's guidelines for multinational companies provide the option to have your case heard through the national contact points (NCPs). The Swedish NCP is a tripartite collaboration between the State, the business sector and trade unions.
The State is represented by the Ministry of Foreign Affairs, which convenes meetings, and other government departments may be invited. The business sector is represented by the Confederation of Swedish Enterprise, the Swedish Trade Federation and the Swedish Federation of Business Owners, while the trade unions are represented by the Swedish Trade Union Confederation, the Swedish Confederation of Professional Associations, Unionen, IF Metall and the Swedish Association of Graduate Engineers. As the guidelines are voluntary, the NCP has no capacity to impose penalties. The main task of the contact point is to encourage companies to follow the guidelines and cooperate to solve problems in individual cases through dialogue and discussion.

The national contact point (NCP) - Regeringen.se

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

There are no specific rules for gross human rights violations, either nationally or internationally. The principle of proportionality does, however, play a role in assessing human rights violations, including the severity of a violation. Judicial protection against human rights violations is enshrined in the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and the Swedish Constitution.

3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?

Conditions for bringing a case before a Swedish court

A basic condition for a foreign individual to be able to bring a case before a Swedish court is for them to be able to establish Swedish jurisdiction, i.e. show that a Swedish court has the jurisdiction to declare the action admissible. The options for this vary in the different cases:
In cases where an individual has had their human rights violated by a Swedish company or its branches abroad, a case against the company in question may in principle always be brought before a court in Sweden.
If the violation has been committed by a Swedish-owned or Swedish-controlled subsidiary with headquarters in a third country (i.e. outside of the EU, Iceland, Norway and Switzerland), a case against the subsidiary may instead only be brought before a court in Sweden under certain conditions.
If the violation has been committed by a Swedish-owned or Swedish-controlled subsidiary with headquarters in another EU country or Iceland, Norway or Switzerland, the possibilities for bringing a case against the subsidiary before a court in Sweden are limited to exceptional scenarios.

General conditions for Swedish jurisdiction

Swedish courts must examine on their own initiative whether there is Swedish jurisdiction. For a claim to fall under Swedish jurisdiction means that a Swedish court has jurisdiction to deal with and pass judgment on the substance of the case.
In cases where the infringing company (defendant) is domiciled in an EU Member State, the Brussels I Regulation applies. However, the Regulation also contains a number of rules of jurisdiction whose application does not depend on where the defendant is domiciled. If the defendant is domiciled in Iceland, Norway or Switzerland, the Lugano Convention determines the question of jurisdiction. If the defendant is not domiciled within the EU or in a country that is a signatory to the Lugano Convention, the question of jurisdiction is determined through application by analogy of the rules of conflict of jurisdiction set out in Chapter 10 of Sweden's Code of Judicial Procedure, taking into account the basic requirement for there to be a Swedish interest in the administration of justice for a Swedish court to be available.
The domicile of the individual whose rights have been violated is generally not significant for the application of the Brussels I Regulation. However, in some cases, it is required that the plaintiff is domiciled in a Member State or that the circumstance that forms the basis of the jurisdiction is attributable to a Member State.
The determining factor will be that the circumstances that form the basis for jurisdiction must obtain at the time the case is brought before the court.

Governing law

Which country's law is to apply to a claim resulting from a rights violation heard in a Swedish court is determined by the Swedish court applying Swedish international private law. In general, this means that the law in the country where the damage has occurred must apply. If a violation of human rights has taken place outside Sweden, the victim's claim will therefore rarely be subject to Swedish law. This applies regardless of whether the individual has chosen to formulate their claim on contractual (an employment contract) or non-contractual grounds (in the absence of an employment contract). The main reason for this is that the link to Sweden is not sufficiently strong.
Unlike the content of Swedish law, the content of foreign law is a question of fact in Swedish courts. An individual who bases their claim on foreign law must therefore produce evidence to corroborate this, e.g. in the form of an expert statement. This can incur certain costs.
Even where a claim is subject to foreign law, there may be some scope for Swedish courts to apply Swedish law to the extent that there is a question of internationally binding rules or where foreign law conflicts with Swedish public order. However, such emergency procedures are applied very rarely. Pending the establishment of case-law from, e.g. the European Court of Justice and the Swedish courts, it has also not been clarified to what extent a compensation claim concerning a violation of human rights gives rise to the application of these exemption rules, e.g. as a result of deficiencies in the protection of rights in the country where the damage arose.

Practical possibilities of an individual bringing a case before a Swedish court

Provided that there is Swedish jurisdiction and that there is a protected claim that can be enforced (e.g. based on applicable foreign law), accessibility to the Swedish courts is relatively good. Furthermore, the legal possibilities for a foreign individual to act as a party in a Swedish dispute are in principle comparable with what applies to Swedish citizens.
If a foreign individual encounters financial or other practical obstacles to travelling to the relevant court in Sweden, it may be assumed that the court will work to solve this through, e.g. allowing appearance by telephone or video link.

Some foreign citizens who are not domiciled in Sweden and who bring a case against a Swedish legal person in a Swedish court must, on application by the defendant, provide security for the defendant's future legal costs. Which foreign citizens and legal persons are exempt from the obligation to provide security is set out in the *Notice regarding exemptions for foreign plaintiffs in certain cases from providing security for legal costs* of 15 May 2014.
The possibilities for a foreign individual to secure public funding for court and ombudsman fees are limited, at least if the individual is a citizen of a non-EU country. The greatest opportunity for public funding is where a compensation claim is presented as an individual claim in connection with a criminal case. The possibilities of establishing a private funding solution are otherwise largely dependent on the personal financial and social circumstances of the foreign individual.

More information

Memorandum to the Ministry of Foreign Affairs concerning the possibility for an individual to bring a case against a Swedish company in a Swedish court as a result of human rights violations committed outside Sweden. Mannheimer Swartling (2015)

https://docplayer.se/7222881-Promemoria-till-utrikesdepartementet.html

Further information on guidance for bringing a case before the courts is available at https://www.domstol.se/en/

4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

See question 1.

The Swedish Institute for Human Rights does not process individual complaints relating to human rights violations.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

A company's own mechanisms for redress

Companies have a responsibility to ensure that their activities do not violate anybody's human rights and, if a company has caused or contributed to or been linked to doing so, to try to find a way to remedy the situation for the affected person. Such redress may involve apologising, providing financial or non-financial compensation or something else agreed on by the affected person and the company. The situation is more complicated if a company has not contributed to any negative impact, but the impact is directly linked to its activity. In such cases, and if the company has sufficient influence to be able to manage the negative impact, the company should use its influence.
There is no standard model for how a company should best organise its own mechanisms for complaints and redress. Each company must decide for itself what is appropriate based on its specific conditions.
Some benchmarks:
Openness – facilitate a dialogue with those affected by the company's conduct
Negotiations and discussions with employee representatives – often constitute a good basis for effective measures in cases concerning employees
Guidelines for how people within a company can raise the alarm internally on misconduct, how the alarm is to be followed up and how persons that raise the alarm are to be protected
System for handling complaints where people outside the company who feel that they, or others, have been affected or will be affected negatively by the company can make the company aware of the problem in a safe and anonymous way
The government has introduced new legislation on sustainability reporting for large companies, which are more ambitious than the EU's directives, clearer criteria for sustainability in the Public Procurement Act, and stronger legal protection for whistle-blowers.
In December 2016, new legislation on sustainability reporting entered into force. The legislation means that all large companies with more than 250 employees are now obliged to conduct sustainability reporting. As well as information on environmental impact, social conditions, equality and prevention of corruption, the reports, where this is necessary to understand the company's development, position and results, must also contain information about measures for ensuring respect for human rights, including employee rights.
In January 2017, the Riksdag also adopted strict legislation to protect employees who raise the alarm about serious misconduct in their employer's activities ('whistle-blowing'). Under this special protection, employees who are subjected to reprisals by their employer will be entitled to damages.

Public reports

Business and human rights: Tangible flaws and gaps in Swedish law. Report to the Swedish Agency for Public Management. Enact Sustainable Strategies (Enact), a consultancy firm specialised in sustainable business development and responsible entrepreneurship.

Business and human rights: Tangible flaws and gaps in Swedish law. Enact (statskontoret.se)

6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Victims of business-related human rights violations do not have any specific rights (please see question 1).
There is the possibility of obtaining legal aid in accordance with the Legal Aid Act (1996:1619). It is always the court or the Legal Aid Authority (*Rättshjälpsmyndigheten*) that determines whether or not you are entitled to legal aid.
Legal aid generally applies to private persons, i.e. not associations, companies or similar. Exceptionally, a trader or an estate can also obtain legal aid.
Your financial means are based on your calculated annual income before tax. Deduct SEK 15 000 for each child for whom you contribute maintenance, up to a maximum of SEK 75 000. The sum must also be adjusted if you have assets or debts that affect your ability to pay. To receive legal aid, your financial means must not exceed SEK 260 000/year. When you are notified that you are to receive legal aid, you must pay some of the costs yourself. Legal aid is never completely free for adults and the part that you pay yourself is called a legal aid charge. Your legal aid charge can never be higher than the costs of the legal aid.
Legal expenses cover is a form of insurance that in most cases is included in home and contents cover, home and residential cover and leisure home insurance cover. Legal expenses cover means that your insurance can pay part of your costs for a legal practitioner or lawyer. The terms and conditions for legal expenses cover may vary between insurance companies, so it is important that you check the terms and conditions of your insurance cover.
Section 35 of the Legal Aid Ordinance (1997:404) sets out which foreign citizens are to be treated in the same way as Swedish citizens in matters of entitlement to legal aid in accordance with the Legal Aid Act.

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Business and human rights - Scotland

1. What kind of judicial protection do I have in your country as a victim of business-related human rights violations? Does this protection include compensation?

The Scotland Act 1998 requires that all legislation passed by the Scottish Parliament and all acts of members of the Scottish Government be compatible with rights contained in the European Convention on Human Rights (ECHR). The Human Rights Act 1998 makes it unlawful for public authorities in Scotland to act incompatibly with the Convention rights. If human rights breaches do occur, the Scottish courts have the power to hear cases and provide remedies.

The Companies Act 2006 sets out the legal basis on which companies are formed and run. The Crown Office and Procurator Fiscal Service (COPFS) is able to initiate proceedings against Scottish businesses in Scottish courts where there is evidence that an offence has been committed.

The Human Trafficking and Exploitation (Scotland) Act 2015 consolidates and strengthens existing UK criminal law against human trafficking and exploitation, and enhances the status of and support for victims.

The Act contains provisions on the creation of a single offence of human trafficking for all types of exploitation of both adults and children; establishes statutory aggravators of human trafficking for use with other crimes; and reframes the previous standalone offence of slavery, servitude and forced or compulsory labour.

Section 4 of the 2015 Act provides for an offence of slavery, servitude and forced or compulsory labour, which must be interpreted in accordance with Article 4 of the ECHR.

Bodies corporate (for example a company), unincorporated associations and partnerships can be guilty of an offence of human trafficking or an offence under section 4 of the 2015 Act. Section 39 of the 2015 Act provides that relevant individuals within such a body (such as a director) can also be guilty of an offence described above.

As required by the 2015 Act, the Lord Advocate has published instructions for prosecutors about the prosecution of suspected or confirmed victims of the offence of human trafficking and the offence under section 4 (slavery, servitude and forced or compulsory labour). The COPFS continues to apply these instructions to ensure that victims are not prosecuted in relation to offences committed as a consequence thereof.

The Scottish Public Services Ombudsman (SPSO) has a wide remit. It is the final stage for complaints about most devolved public services in Scotland. The SPSO also provides an independent review service for the Scottish Welfare Fund, with the power to overturn and substitute decisions made by councils on Community Care and Crisis Grant applications. The SPSO has a very limited role in compensation. Outcomes are usually in the form of recommendations to the public services being complained about. The powers and duties are set out in the Scottish Public Services Ombudsman Act 2002.

Where an individual believes that their human rights have been breached, they may wish to seek independent legal advice.

2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

The Scottish Land Rights and Responsibilities Statement, published by the Scottish Government as required by the Land Reform (Scotland) Act 2016, sets out six principles to help shape policy around land issues in Scotland. The first of these principles is that: “The overall framework of land rights, responsibilities and public policies should promote, fulfil and respect relevant human rights in relation to land, contribute to public interest and wellbeing, and balance public and private interests. The framework should support sustainable economic development, protect and enhance the environment, help achieve social justice and build a fairer society.”

The 2016 Act requires Scottish Ministers to regularly review the Statement and report to Parliament.

The response to question 1 contains information regarding human trafficking and exploitation.

3. I am a victim of human rights violations resulting from activities of a European transnational corporation which occurred outside the European Union. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? What are the conditions to claim violation of my rights? Where can I find any additional information?

The particular judicial remedies available for a breach of a human right will depend on whether the right is provided for by the common law or in statute.

Section 2 of the Human Trafficking and Exploitation (Scotland) Act 2015 provides for the application of the human trafficking offence to conduct in the United Kingdom and elsewhere, reflecting the fact that human trafficking activity may involve activity that is completely or partly outside Scotland.

The 2015 Act also provides that a UK national, a person who at the time of the offence was habitually resident in Scotland, or a body incorporated under the law of a part of the UK, commits an offence of human exploitation regardless of where the relevant action takes place. Whether or not a person is habitually resident in Scotland will be determined in the light of all the facts and circumstances of the case. Any other person commits the offence of human trafficking only if any part of the relevant action takes place in the UK or the relevant action is taken with a view to a person arriving in or entering into, departing from, or travelling within, the UK.

4. Can Ombudsman Institutions, equality bodies or National Human Rights institutions support victims of business related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen and I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?

The regulatory landscape for business in Scotland is similar in many ways to the rest of the UK and Europe, and a variety of regulators focus on business activities. Their enforcement powers are aimed towards sanctioning the business rather than supporting the victims, however mechanisms would be in place through the police and other government agencies if there is a criminal element related to the activity.

Scotland has two National Human Rights Institutions (NHRIs):

Scottish Human Rights Commission (SHRC)

Equality and Human Rights Commission (EHRC)

The SHRC and EHRC have a shared human rights remit and both play important, though different, roles in promoting and monitoring the implementation of internationally-recognised human rights at the national level. The respective powers of each Commission are described on their websites.

The Scottish Public Services Ombudsman (SPSO) deals with final stage complaints about most devolved public services in Scotland. The Ombudsman is an independent officeholder and, in the exercise of her functions, is not subject to the direction or control of any member of the Scottish Government or Scottish Parliament. The SPSO can consider alleged breaches of human rights as part of its consideration of a complaint. It is unlikely that a European transnational corporation would form one of the listed bodies the SPSO can receive complaints about. The SPSO can look into complaints about services delivered by the private or voluntary sectors if these are delivered on behalf of a body under its jurisdiction.

In addition, section 9 (4) and (5) of the Scottish Public Services Ombudsman Act 2002 covers who can make a complaint to the SPSO. They must be resident in the United Kingdom at the time the complaint was made, or the actions complained about must have taken place while the person was present in the United Kingdom.

5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations apply also to violations that occurred outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?

The UK has established a National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, which are a set of recommendations for responsible business conduct covering, among other things, human rights. Part of the Department for International Trade, the UK NCP is responsible for raising awareness of the OECD Guidelines and for implementing the associated complaints mechanism. If a company is breaching the OECD Guidelines, a complaint may be made to the NCP by any interested party, and this includes its employees or their trade unions, and communities affected by the company's activities. The NCP seeks to mediate an agreement between the parties, but where this is not possible, a determination of whether the company has acted inconsistently with the Guidelines is published and made available for public dissemination. Information about making a complaint can be found on the NCP website.

Other sources of advice and mediation services in the UK include Citizens Advice Bureaux and the Advisory, Conciliation and Arbitration Service.

6. Do I have specific rights if I am a vulnerable victim seeking remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?

Publicly funded legal assistance allows people to take action to uphold their rights or pay for their defence when they could not otherwise afford to do so. There is no requirement to be resident in Scotland when applying for legal assistance under the Legal Aid (Scotland) Act 1986. There are two types of civil legal assistance:

i. Through advice and assistance, a solicitor can provide advice, make enquiries and correspond with others on behalf of a client. Advice and assistance is available for matters of Scots Law (including UK law that applies in Scotland) but generally cannot be used to progress matters in court.

ii. Civil legal aid is available for proceedings before the Scottish courts.

Both types of civil legal assistance are subject to statutory eligibility criteria. Advice and assistance is available subject to financial eligibility criteria. The eligibility criteria for those accessing civil legal aid are consistent and transparent, with applications being subject to statutory tests. The first two tests are applied to the legal merits of the application. It must be shown that there is legal basis for the case for which legal aid is sought ('probable cause') and that it is reasonable to use public funds to support the case. The third test is applied to an applicant's financial circumstances.

More information can be found on the Scottish Legal Aid Board website.

Section 9 of the Human Trafficking and Exploitation (Scotland) Act 2015 empowers Scottish Ministers to specify the period during which adults must be provided with support and assistance, where there are reasonable grounds to believe that they are a victim of an offence of human trafficking and exploitation. Regulations that came into force on 1 April 2018 set this period of support at 90 days and include the provision of support and assistance in connection with (but not limited to):

accommodation
day to day living
medical advice and treatment (including psychological assessment and treatment)
language translation and interpretation
counselling
legal advice
information about other services available to the adult
repatriation

Section 10 of the 2015 Act contains powers for Scottish Ministers to make regulations about the support and assistance which may be provided to an adult who is, or appears to be, a victim of slavery, servitude and forced or compulsory labour. Regulations came into force on 1 April 2018 setting out that the process of determining whether an adult is a victim of such an offence; the support and assistance provided; and that the period for which it is provided should be identical to that for a victim of an offence of human trafficking and exploitation.

The Scottish Government has funding agreements in place with Migrant Help (which supports adult victims of trafficking and exploitation, other than female victims of trafficking for the purposes of commercial sexual exploitation) and the Trafficking Awareness Raising Alliance (which supports female victims of trafficking for the purposes of commercial sexual exploitation). The Anchor Service, which is part of NHS Greater Glasgow and Clyde, is also funded to provide a psychological service to all adult victims of human trafficking and exploitation identified in Scotland.

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