

Three entry points to implement the German National Action Plan

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Germany's National Action Plan is out. After more than two-years of consultation diverse stakeholder groups ranging from business to civil society and academia, the [German Government adopted its National Action Plan on Business and Human Rights](#) (NAP) on 21 December. This is the [fourth NAP](#) published in December 2016 to implement the UN Guiding Principles on Business and Human Rights (UNGPs) following the US, Swiss and Italian NAPs. So, what are the key elements of the German NAP and how can stakeholders help a bold and rapid implementation?

The German NAP does not fulfil many of the ambitious hopes of civil society, and progressive business alike. Criticism from civil society organisation such as [Germanwatch](#), [Bread for the World](#), [Misereor](#) and other members of the [VENRO and CorA network of German NGOs](#) has been rising since the beginning of the stakeholder consultation process, especially regarding the lack of legally binding measures on corporate accountability for human rights abuses by German businesses both at home and abroad. This is not unique to the German NAP as none of the NAPs published so far single out such mandatory steps, in particular on access to remedy – the 'orphan of the UNGPs'. The German NAP does contain some stronger commitments including for its OECD National Contact Point to undergo a peer-review in 2017. However, it is vague in comparison with other European NAPs on human rights due diligence in public procurement as well as with regard to the duties to respect human rights for state-owned or partly-state-owned enterprises.

Despite its shortcomings, the NAP does include several innovative elements that the German Government, business and civil society can capitalize on to ensure successful implementation in 2017 and beyond:

1. Action-focused engagement with different stakeholder groups: This would build on multi-stakeholder dialogues established in the consultation for the NAP. Throughout the two-year consultation process, prevailing conflict lines between stakeholder groups were pried open, fostering meetings and consensus-building in multi-stakeholder-subgroups. Through facilitation activities, the government can ensure that this dialogue blossoms further to create a better understanding of challenges and opportunities in implementing the UNGPs. The NAP states that an inter-ministerial committee is to be created along with the strengthening of existing sector initiatives such as the [Partnership for Sustainable Textiles](#), the [Roundtable for Human Rights in Tourism](#) and the [Forum for Sustainable Cocoa](#). It also commits to identify other high risk sectors with the need to foster implementation of the UNGPs. The government should ensure that the inter-ministerial committee continues to facilitate on-going dialogue between stakeholder groups but also critically reviews the implementation in-depth to make a real difference for potential victims of corporate misconduct – within Germany and in global supply chains alike. It should also offer support to small and medium enterprises (SMEs) which form a significant proportion

of German industry to enable them to carry out human rights due diligence despite potential limitations on human and financial resources.

2. Mandatory due diligence if business fails to demonstrate action on human rights: The German NAP sets out an ambitious expectation by the government for companies to carry out human rights due diligence. At least 50% of German companies with more than 500 employees should put policies and processes in place to conduct human rights due diligence in their operations by 2020. If this target is not reached by then, the government will examine the introduction of mandatory due diligence. Here, German business has a decisive role to play: the industry now has the chance to prove its good will and dedicated commitment to respect human rights. This could demonstrate either that market actors are able to self-regulate. Or, if proven wrong, further regulatory action will be taken into strong consideration. It is a clever combination of carrot and stick that will also require close monitoring by civil society of progress or lack thereof by business.

3. Internationalise the best of the NAP: Set a level playing field globally by bringing in elements from the NAP to global dialogues including the G20. The NAP articulates the need to build political coherence on business and human rights across nations. The NAP makes reference to the [G7 declaration in Elmau 2015](#) which contains a paragraph on responsible supply chains and highlights the importance of speaking out for sustainable supply chains and due diligence in international fora such as the G20 (which Germany chairs in 2017), the EU, ASEM as well as of close cooperation with the ILO, OECD and UN on the matter. Civil society and business should speak out for responsible business conduct on human rights in the [C20](#) and [B20](#) groups and identify international allies to push the business and human rights agenda in the run-up to the G20 summit under German presidency in July and the German general elections a couple of months later in the fall next year.

These are just a few key entry points for all stakeholder groups to get involved and guarantee a rigid and fast implementation of the UNGPs at the heart of German business. Following a turbulent political year, 2017 will be a time for action to make a difference for the people that could be affected by misconduct on human rights through German business.