

Business and Human Rights in Central and Eastern Europe: perspectives from Ukraine

November 8, 2021

This blog post is based on the intervention of Olena Uvarova in the webinar on Business and Human Rights Developments in Central and Eastern Europe on 12th October organised by the Nova Centre on Business, Human Rights and the Environment and Nova Univerza in Ljubljana.

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Question: What would you say the main priorities of the region are in terms of the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs)?

If we are talking about ideological context, I would say that, first of all, our societies still have post-communist syndrome. It means that free market, freedom of entrepreneurship is considered as something sacramental. Our governments are in the permanent process of deregulation. And any attempt to start conversation about business responsibilities and about “hard law” regulations are perceived as a threat to the capitalist order, which in turn is perceived as a threat to democracy. From this perspective the key priority is to raise awareness.

As a result, business and human rights discussions in the region are very careful discussions about how to make this topic interesting for business. In other words, how to sell human rights to business. How to prove to him that human rights are beneficial. I think this approach is extremely dangerous, especially for our region without a strong tradition to respect human rights. Even those international and national actors who work with the topic mostly try not to discuss this topic in the context of the negative impact of business on human rights. Discussions are predominantly focused on business benefit contexts.

If we are talking in a more specific way, I would say that the key priority is policy coherence. let’s take Ukraine as an example. We have a lot of program documents. I’m willing to bet that no one in the country knows exactly how much. I tried to count a couple of years ago. I counted a hundred and did not continue. So, it’s really hard to say if a national action plan could be an effective tool for Ukraine.

A National Baseline Assessment was published in June 2019. On 24 March 2021, the Business

and Human Rights chapter as part of the National Strategy was adopted by the President of Ukraine. The Action Plan to implement the National Strategy was adopted by the Ukrainian Government in June 2021. But it includes just one action to implement business and human rights (BHR) chapter of the Strategy: to study best practices to implement UNGPs (experts together with civil society organisations and business associations prepared more than 50 proposals but all of them were not included). During the Kharkiv Forum, on 21 of September 2021, the Deputy Minister of Justice Valeriya Kolomiets, when asked about so limited scope of actions on BHR in the Action Plan, responded that the governmental institutions need to be realistic identifying the actions that should be implemented, in particular they should into consideration the issue of lack of funding of such actions. It was also noted that the Ministry of Justice is responsible for human rights policy in general, but it could not be responsible for the BHR policy, and Ukraine needs to indicate the governmental institution responsible for the UNGPs implementation, in particular for the development of the stand-alone National Action Plan (NAP).

A key characteristic of the UNGPs implementation process in Ukraine today is the lack of policy coherence: despite the BHR chapter in the National Strategy for Human Rights, other policy documents, in particular in the economic sphere, are adopted with disregard of the concept of business and human rights; there is no governmental institution responsible for the UNGPs implementation and for policy coherence; business and human rights issues are dealt with by individual representatives of different government bodies (mainly on their personal enthusiasm) who are not decision-makers.

And if we are talking about key challenges in the region that should be reflected in the NAP or any other BHR efforts, we need to pay special attention to state owned companies, to the investors and banks of development impact, positive and negative, extractive industries and other sectors that have major impact on human rights, labour rights, discrimination of vulnerable groups, the role of human rights defenders and trade unions.

Question: What are the main legislative developments in BHR in Ukraine? Could you please provide some examples?

I have a clear illustration of how *de jure* and *de facto* these are two parallel realities. Two weeks ago, in Ukraine the anti-oligarch law was adopted by the parliament. The draft of the law was prepared and proposed by the President of Ukraine. The National Security and Defense Council will form and maintain a register of oligarchs, as well as provide open, round-the-clock access to it. The President of Ukraine is the head of the National Security and Defense Council and actually controls its work. If a person is recognized as an oligarch, he will not be able to financially support political parties directly or through others, as well as participate in the purchase of large-scale privatization. But one week ago, President Zelenskyi and some other persons who are high politicians in Ukraine became the key figurants of Pandora papers. Its again about the factors that cause lack of trust in Ukrainian society.

As positive example, I could talk about the National Contact Point initiative to prepare the business and human rights guide for state-owned enterprises (SOEs), and approve by order of the Ministry of Economy. So, it will be a guide that is obligatory for SOEs.

Suggested citation: O. Uvarova, 'Business and Human Rights in Central and Eastern Europe: perspectives from Ukraine', Nova Centre on Business, Human Rights and the Environment Blog, 8th November 2021.