

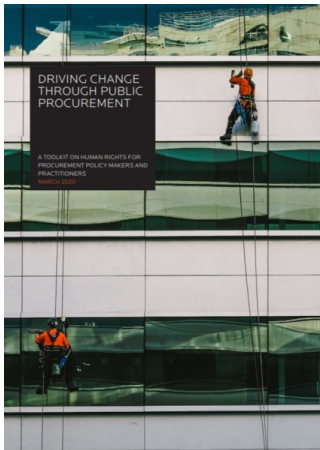


# National Action Plans on Business and Human Rights

## Public procurement

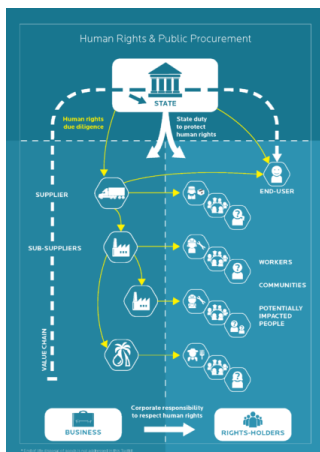
 [globalnaps.org/issue/public-procurement](https://globalnaps.org/issue/public-procurement)

November 3, 2017



Public procurement refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from businesses. In Organisation for Economic Co-operation and Development (OECD) states, public procurement contracts account for 12% of GDP on average and is a substantial component of the overall economy. Public procurement can be the single most important source of revenue in some sectors, including health and research-related industries, construction and transportation. Public procurement, therefore, has the potential to influence global supply chains in a positive or negative way. Businesses contracted by government

departments or public authorities, and, in particular, those which carry out service delivery to the general public, may make decisions or take actions that impact on the human rights of individuals.



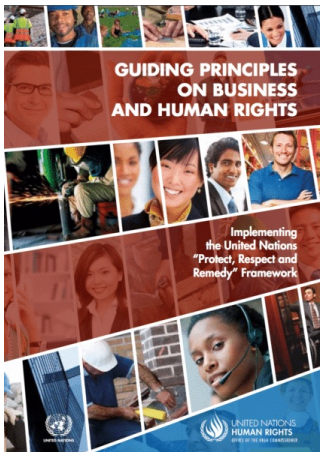
Government departments and other public authorities and institutions that purchase goods and services can take measures to prevent human rights abuses being perpetrated by those they are procuring from by ensuring that human rights protections are included within provisions and clauses of tender-related documentation and resulting contracts. Such human rights protections can decrease the likelihood of human rights abuses from occurring and so reduce the risk (both reputation and financial) of those procuring goods and services benefiting from, and/ or being linked to, human rights violations and abuses.

The 2030 Agenda for Sustainable Development highlights in Target 12.7 that to ensure sustainable consumption and production patterns that states should “Promote public procurement practices that are sustainable, in accordance with national policies and priorities”.

The UN Guiding Principles (UNGPs) on Business and Human Rights afford special attention to the state’s role when it acts as a commercial actor. Guiding Principle 6 provides that “States should promote respect for human rights by business enterprises

with which they conduct commercial transactions.”

- Read less



Commentary to Guiding Principle 6 specifies:

“States conduct a variety of commercial transactions with business enterprises, not least through their procurement activities. This provides States – individually and collectively – with unique opportunities to promote awareness of and respect for human rights by those enterprises, including through the terms of contracts, with due regard to States’ relevant obligations under national and international law.”

Contracting out of public services is also specifically addressed by the UNGPs. Guiding Principle 5 provides that “States should exercise adequate oversight in order to meet their international human rights obligations when they contract with or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.” Commentary on Guiding Principle 5 notes that:

“States do not relinquish their international human rights obligations when they privatise the delivery of services that may impact upon the enjoyment of human rights. Failure by a State to ensure that business enterprises performing such services operate in a manner consistent with the State’s human rights obligations may entail... legal consequences for the state itself. As a necessary step, the relevant service contracts or enabling legislation should clarify the State’s expectations that these enterprises respect human rights. States should ensure that they can effectively oversee the enterprises’ activities, including through the provision of adequate independent monitoring and accountability mechanisms.”

While highlighting the state’s responsibilities, the UNGPs note that all businesses have a responsibility to respect human rights, which applies irrespective of their size, sector or state of operation, and which extends to their business relationships, including their supply chain. This means that public authorities can look beyond the impact of public procurement on the human rights of people in their home jurisdiction.

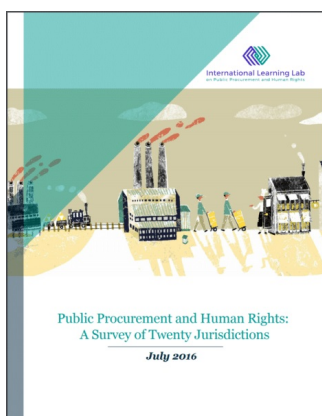


Public Procurement  
and  
Human Rights  
in Northern Ireland



Part of the difficulty in ensuring that human rights are integrated into public procurement processes can be the lack of sufficient knowledge and specific skills around human rights on the side of public procurement officers. The International Learning Lab on Public Procurement and Human Rights has been attempting to address this through the sharing good practice and the development of tools and guidance to increase the capacity of local and national procurement agencies to integrate human rights into their purchasing practices. National Human Rights Institutions (NHRIs) in some jurisdictions, such as Northern Ireland, have also developed material and guidance on the topic. The Danish

Institute for Human Rights has published a toolkit on public procurement and human rights.



Advancements in the area of public procurement and human rights includes the EU Directive 2014/24/EU of 2014 which includes measures to allow procurers to use public procurement to further common societal goals and new routes to remedy for victims. Legalisation has been introduced in some EU member states, such as Poland's Public Procurement Law which allows procurers to take of social and environmental protections, to implement this directive. Other legislative measures include those undertaken in the UK; the Public Services (Social Value) Act 2012 (England & Wales) and the Procurement Reform (Scotland) Act 2014 allow for

economic, social, and environmental improvements through public procurement. In Denmark, the Procurement Act, Act No. 1564 of 15 December 2015, which entered into force on 1 January 2016, paved the way for the state and municipalities to be able to integrate social and environmental considerations into their procurement exercises.

Constitutional protection for human rights within public procurement can be found in the South African where the Constitution allows organs of the State to implement a preferential procurement policy in the allocation of contracts for the protection and advancement of persons that were previously disadvantaged by unfair discrimination. Section 217(3) provides for legislation that will prescribe a framework within which the policy must be implemented. As a result, the Preferential Procurement Policy Framework Act (PPPFA) and the regulations published under it (PPPFA Regulations) establish requirements regarding black economic empowerment (BEE) and local production and content.

Other measures include those introduced by Norway which developed a Socially Responsible Public Procurement (SRPP) Guide, with the aim to help public organisations integrate and mainstream SRPP criteria in the procurement process.

Norway further developed a Supplier self-assessment questionnaire goal of to ensure that the supplier's socially responsible supply chain management system meets the requirements of the social contract performance clauses.

In 2017 the new Public Procurement Law in Spain was passed. This law established a wider range of possibilities in including human rights concerns in public procurement and includes more social aspects compared to its predecessor, but it does not allow for complete exclusion of businesses responsible for human rights abuses from public procurement procedures. Following on from this, Novact, Servei Civil Internacional de Catalunya and Nexes jointly with Tornos Abogados, developed a Guide on Public Procurement Responsible with Human Rights (in Catalan).

Sustainable public procurement has become an important issue in Japan. The Japanese government has committed to contributing to the Sustainable Development Goals (SDGs) that includes “Promoting public procurement practice that are sustainable” in the target 7 of Goal 12. The Tokyo Organizing Committee for Olympic and Paralympic Games (TOCOG) has announced its respect for the UNGPs and developed a sustainable sourcing code for goods and services to be procured for the 2020 games based on the UNGPs. The TOCOG has established a Grievance Mechanism, which will receive reports of non-compliance with the sourcing code and respond with a view to resolving reported cases promptly in a fair and transparent manner. The CSO Network Japan decided to conduct a baseline study of major municipal governments to see how sustainable public procurement is being implemented in each municipality, with a summary of the results available here.

The French public procurement code (Ordinance 2018-1074) entered into force on April 1, 2019; it integrates public procurement and concession contract rules into a single code. The new code is an opportunity for all stakeholders in public procurement processes (mainly, granting authorities, contracting entities and economic operators) to have a better understanding of the rules that apply to them.

## **Public procurement relates to the following Sustainable Development Goals:**

---



---

### **Action point 4**

---

#### **Promote existing qualitative initiatives on human rights and social responsibility**

Promouvoir les initiatives qualitatives existantes relatives aux droits de l'Homme et à la responsabilité sociétale

The Flemish Government presents its three-year funding project with the ILO “Private and Public Procurement and the Social Economy, South Africa” (for an amount of € 1,735,926 €). Flanders intends to support the social economy and businesses so that they make better use of the regulatory framework for procurement of their goods and services. The project aims at:

- Re-evaluating, among stakeholders, the role of public and private procurement as a stimulus for job creation in the social economy.
- Enabling and stimulating an environment for public and private procurement by social enterprises.
- Offer better assistance to social enterprises, for aspiring, beginning and established entrepreneurs.

## Action point 13

---

### **Strengthen and monitor the respect for human rights in public procurement**

#### *Renforcer et contrôler le respect des droits de l'Homme dans les marchés publics*

This is the main action point on public procurement, and covers specific plans for the federal governments as well as all three Belgian regions.

The federal government engagements include:

- An examination by the Working Group on Sustainable Public Procurement of the Interdepartmental Commission for Sustainable Development on how to strengthen and optimize the integration of respect for human rights into the purchasing policy of the public authorities. This will include stakeholder consultations.
- The transposition of the EU public procurement directives (Directives 2014/24/EU and 2014/25/EU). Monitoring activities will pay particular attention to the application of award criteria, in particular to the application of price as the sole award criterion.
- The government will analyze the best way to verify and monitor compliance with the criteria set out in the procurement procedure for products and services in several sensitive sectors, some of which are produced in so-called “risk” countries, in order to ensure that the requirements relating to respect for human rights set out in the specifications have been complied with. Existing best practice in European countries will be used as sources of inspiration.
- The Working Group on Sustainable Public Procurement analyzed various case studies on monitoring compliance with ILO clauses and human rights in supply chains in order to test, through pilot projects, whether such an initiative is feasible in Belgium. Implementation and follow-up of this initiative will be carried out in cooperation with the relevant federal, regional and local administrations.

The Wallonia engagements include:

- As participant of the Working Group on Sustainable Public Procurement the public service of Wallonia will also be part of above-mentioned research with the aim of identifying optimization processes for the integration of human rights in public procurement policy.
- Moreover, the Wallonia and Bruxelles regions have established a portal for public procurement in 2009. A series of tools have been developed and/or gathered into the portal to favour the inclusion of environmental, social and ethical criteria in public procurement.
- In 2013, the government of Wallonia decided to set up a purchasing policy on sustainable public procurement, in which Wallonian contracting entities are invited to register for their purchases of supplies, services and works.
- Reflections and workshops are conducted to strengthen the environmental, social and ethical clauses in public procurement relating to certain product categories. This includes human rights.
- By the end of 2016 the public procurement plan will be renewed for the period 2017-2019 and will include several actions to make purchases more sustainable in Wallonia.
- Additionally, Wallonia will organize a competition to promoting public procurement contracts that incorporate ambitious environmental, social and/or ethical criteria, rewarding public purchasers and companies that have concluded such contracts.

The government of Bruxelles' engagements include:

In 2014, the region adopted an order on the inclusion of environmental and ethical clauses in public procurement by regional and local authorities. The aim of including such ethical clauses is the respect for the fundamental rights of persons or social impartiality. Within each contracting authority there shall also be appointed at least one contact person responsible for ensuring the implementation of this order; the implementation of which shall be assessed every 3 years.

The Flemish engagements include:

- In 2016, the 2016-2020 Plan on Flemish Public Procurement was approved, a plan that emphasizes innovation, sustainability, reduction of human rights violations in supply chains, professionalization and access of SMEs.



- Pilot projects (related to plan mentioned above) in this context the political fields of “Employment and Social Economy” and “Chancellery and Public Governance” will, together with the buyers of the various contracting authorities, monitor the credibility of the supporting documents (concerning the respect for human rights, etc.) and the respect for ILO core Conventions. This is necessary in order to verify that the human rights criteria included in the conditions are also effectively complied with. In this respect, the Flemish Authority will concentrate primarily on the procurement of textile products.
- Support buyers in the integration of social criteria in public procurement contracts. It especially includes diversity, accessibility, and the inclusion of people from vulnerable groups. The pilot project aims at giving a practical benchmark instrument to buyers, which can be used systematically in each part of the public contract.

[Read more about Belgium](#)



## Pillar 1: The State Duty to Protect Human Rights

---

### Strand 5: Public Contracts (page 42-44)

---

During activities with citizens' participation, it was repeatedly said, as highlighted by the Guiding Principles, that the State must lead by example and include human rights standards in the purchase of goods and services. Thus, the State not only integrates these standards in their own operations, but it also influences the actions and mechanisms of business enterprises celebrating contracts with the State.

#### **Action Point 5.1**

- The Chilean System of Public Purchases, (Chilecompra), has the mission to facilitate the contracting of goods and services by the State through a public market web platform, in the different purchase procedures. Chilecompra will:
  - o Incorporate an “Integrity Agreement” clause,\* where the supplier bounds himself/herself to respect human rights in accordance with the Guiding Principles. Through the integrity agreement, suppliers commit, inter alia, to act with transparency, probity and truthfulness regarding the information and details submitted in the tender papers. This clause will be included in all terms and conditions of the Framework Agreement, and use thereof will be encouraged in the terms and conditions of public tenders. For the correct understanding of this clause, Chilecompra will train suppliers in its contents, including the issues of business and human rights.

- Assess the possibility to gather, through a relevant guideline, recommendations for buyers aimed at safeguarding the respect for human rights in the process of acquiring goods and services.
- Carry out initiatives allowing to strengthen the information tool of the public purchase system. This will be made possible by adhering to SEGPRES Open Government Plan, under the commitment to create a set of Guidelines and a Policy of open data promoting and developing the use of open data in public purchase procedures to strengthen transparency of the Chilean System of Public Purchases and foster probity and efficiency in this area.
- Strengthen the inclusion of sustainability considerations in public purchase procedures, specifically through the following:
  - Development of a joint project with the Ministry for the Environment aimed at drafting policies for institutional purchases that take sustainability aspects into consideration.
  - Framework agreements including sustainability considerations relevant for the industry.
  - Online shop of the framework agreement including identifiable sustainability seals.
  - An Action Plan aimed at encouraging the participation of women in the system of public purchasing, through certain actions including a campaign to encourage the use of the Sello Empresa Mujer seal developed in 2016, which identifies companies that are owned or led by women; an intensive work with purchaser to encourage the use of the Sello Empresa Mujer seal as a criterion in their purchases; training workshops for women that supply the State.
  - Commitment with the initiative “She Trades” led by the United Nations, which seeks to link business women with the marketplace, thus strengthening the economic actor role of women.

\* The Integrity Pact (IP) is a tool proposed by Transparency International against corruption aimed at the bidding companies, with the purpose of reducing corruption and waste in procurement for the public sector. Reducing corruption in procurement enables governments to make more efficient use of taxpayers’ money and limit the pernicious consequences of corruption. In the Chilean case, the integrity pact consists of a clause, within the bidding rules, which establishes the behavioural framework of the State suppliers, collecting a series of commitments to which the bidders and suppliers adjudicated are subject during the validity of a specific framework agreement or tender. Through this clause, suppliers undertake, among other matters, to act with transparency, probity and veracity in the information and background presented in a given proposal. Failure to comply with any of the hypotheses regulated in the aforementioned Covenant implies the sanction of early termination of the framework agreement.

## **Action Point 5.2**



The Ministry of Foreign Affairs will gather information about the criteria used in purchases and tenders carried out by the institution with the purpose of identifying potential gaps and proposing improvement to the system.

### **Action Point 5.3**

The INDH will adopt a human rights and environmental policy for the purchase of goods and services.

### **Action Point 5.4**

The Ministry of Social Development will:

- Organise training, through the Division of Public-Private Cooperation, to be given to the Procurement Department of the Administration and Finance Division of the Under-Secretariat of Social Assessment, about the United Nations Guiding Principles on Business and Human Rights, releasing Chilecompra's guidelines from their direct impact on human rights.
- The National Disability Service will review the operation of Guideline 17 about inclusive public purchases that promote equal opportunities in the public marketplace, with the purpose to improve its enforcement in line with the Guiding Principles.

[Read more about Chile](#)



Colombia

---

Action point 2.1 (p. 12):

*“Within the following year of the Plan being launched, the Working Group will list the basic criteria applicable to decision making in the selection and awarding public procurement processes. They will then assess and analyze, jointly with such State entities with the highest procurement weight, the inclusion of such criteria in their awarding processes.”*

Action point 2.2 (p. 12):

*“The Colombia Compra Eficiente agency will adjust the current public procurement system to comply with such criteria as for respect for human rights, by including them in their objectives and including measures to make sure that suppliers execute the human rights due diligence.”*

Action point 5.2 (p. 16):

*“The State entities with the highest procurement volume will determine and implement due diligence mechanisms in their own procurement processes.”*



---

## **Supply chains and conflict minerals [page 20-21]**

---

“One solution lies in certification schemes proving the origin of raw materials. The certification authority guarantees that workers’ rights have not been infringed during mining or production. These certificates are issued by state and international organisations on the one hand, and private issuers on the other. Current legislation allows the public sector to take into account or to demand this certification in the course of procurement, in which case it is only necessary to comply with the conditions of transparency, equal treatment and non-discrimination. ...

Tasks: ...

In the public sector’s procurement of high-risk products and raw materials, consider giving preference to suppliers participating in recognised certification schemes.

Coordinators: All ministries

Deadline: Running”

---

## **Public procurement [page 22-24]**

---

“Implements Principle 6

In OECD states alone, public procurement accounts for 12% of GDP. Worldwide, public contracts are estimated to be worth more than EUR 1,000 billion. [footnote – <http://ec.europa.eu/trade/policy/accessing-markets/public-procurement/>] On some markets, contracting authorities are so prominent that they can influence standards and practices throughout a sector by flexing their market strength. This is why numerous states have legislated the requirement of certain human rights standards among their suppliers. Other countries enable these standards to be incorporated into contracts. In addition, certain international standards, such as ISO 26000, contain criteria recommended for human rights risk assessments. EU law [Recital 75 of Directive 2014/24/EU and Recital 85 of Directive 2014/25/EU] initially expressly refers to “labelling”, making it possible to incorporate labels and certificates attesting to the environmental, social and human rights properties of products or suppliers into procurement evaluations.

Aspects of human rights protection can be encouraged in public procurement after weighing up the nature of a public contract and the deliverable; specific human rights requirements must reflect these aspects accordingly. In practice, human rights protection requirements can be factored into the conditions for participation in award procedure or into rules for the evaluation of bids and must be verifiable, for example, in

the form of a label. [Section 94 of Act No 134/2016 on public procurement] It is always advisable to reflect these requirements in the contract between the contracting authority and the supplier. The protection of and respect for human rights should also be taken into account in public procurement. In their public procurement, contracting authorities should know how to reflect and evaluate environmental and social requirements and the protection of human rights correctly in relation both to the supplier and, as far as practicable, the supplier's subcontractors. In this respect, guidance should be drawn up for award procedure in accordance with human rights. This guidance should encompass specific practical examples, including model contractual provisions and/or a model tender dossier. The guidance should be accompanied by an overview of international platforms and initiatives sharing experience and information on socially responsible public contracts. This guidance should be preceded by consultations and should be produced in collaboration with business associations.

Current state of play:

- The recitals of the Public Procurement Directive [Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement] expressly provide that, when selecting the most appropriate participant in award procedure, it is not always necessary to limit the assessment to the price. Requirements concerning environmental protection and the support of sustainable development can be set, and social aspects can be incorporated. This forms a framework for the interpretation of Czech law.
- ECJ case-law makes it possible (subject to compliance with the conditions of transparency, non-discrimination and equality) to demand, in public procurement, various certificates and labels attesting to the environmental, social, human rights and other similar impacts of the goods. [Judgment of the EU Court of Justice of 10 May 2012 in *European Commission v Kingdom of the Netherlands* (C-368/10)]
- Under the Public Procurement Act, requirements relating to the environment and social consequences of a public contract may be applied to participants in the award procedure. [Section 37(1)(d) of Act No 134/2016 on public procurement]
- A number of local government authorities are involved in voluntary initiatives for socially responsible public contracts, such as Fairtrade Town.
- Guidance on a responsible approach to public procurement and purchasing is being drawn up.

Tasks:

- Incorporate human rights issues into the guidance that is being drawn up.  
Coordinator: Ministry of Regional Development  
Co-coordinators: Ministry of Labour and Social Affairs, Ministry of Human Rights  
Deadline: 31 December 2017

- Incorporate information on the social and human rights context of public contracts – and on basic opportunities to take these issues into account – into training courses for contracting authorities.  
Coordinator: Ministry of Regional Development  
Deadline: 31 December 2018”

[Read more about Czech Republic](#)



---

## **2. The state duty to protect human rights**

---

### **2.2 Recommendations from the Council for CSR on the state duty to protect [page 10]**

“In November 2011, the Danish Council for CSR started working on recommendations to the Government on how the UNGPs on the state duty to protect could be implemented. The council finished its work in January 2012 where the recommendations were handed over to the Government. Among other initiatives, the Council for CSR recommended that the Danish Government: ...

Encourages responsible public procurement by requiring government contractors to perform due diligence on human rights in relation to the products or services covered by the contract, including regularly supervising the contractual requirements;”

### **2.3 Actions taken**

#### **Promotion of human rights in commercial transactions [page 13]**

“The Government has committed itself to promoting responsibility in public procurement through several initiatives among other:

By publishing a set of common guidelines for responsible procurement in the public sector in collaboration with municipalities and other relevant parties. The guidelines will serve as a practical tool to determine when and how the UNGPs can be applied in connection with public procurement (GP 6). The tool is available in Danish: [www.csr-indkob.dk](http://www.csr-indkob.dk).”

---

## **Appendix 1, GP 6**

---

### **Status in Denmark (initiatives implemented before the UN ratification of the Guiding Principles [page 29])**

“As part of the 2008 national action plan, a requirement that all future joint state supply contracts systematically should embed social responsibility as articulated in the conventions that provide the foundation for the UN Global Compact.

All state procurement officers have access to guidelines for embedding social responsibility.”

### **Initiatives taken or planned as a dedicated measure to implement the UNGPs (after the UN ratification of the Guiding Principles) [page 29]**

“To promote responsibility in public procurement, the Government has developed common public sector guidelines for responsible procurement in collaboration with municipalities and other relevant parties. The guidelines are a practical tool to determine when and how Corporate Social Responsibility can be applied in connection with public procurement. The tool is available in Danish: [www.csr-indkob.dk](http://www.csr-indkob.dk).”

[Read more about Denmark](#)



---

## **Abstract**

“Key aims for the action plan are the legislative report, definition of the due diligence obligation, and the application of social criteria in public procurement.”

## **Government covering note on the UN Guiding Principles on Business and Human Rights National Action Plan**

“Key aims for the action plan are the legislative report, definition of the due diligence obligation, and the application of social criteria in public procurement.”

## **Social criteria in public procurement**

The EU Procurement Directive better allows social issues to be more effectively taken into consideration in public procurement. The possibilities for emphasising quality factors and social responsibility afforded by the Directive are being used in the comprehensive amendment of the Act on Public Contracts. Amendment of the Act on Public Contracts is being carried out under the Ministry of Employment and the Economy in cooperation with stakeholders.

## **Foreword**

“As a state, Finland actively works to ensure that human rights are respected in international arenas. In Finland, the Constitution provides strong protection for the realisation of human rights. The working group has written down objectives for

Finland's international activities, but improvements are also proposed for the state's operations as a public procurer ...”

## **2 The state and companies**

---

### **2.1 The state as an economic operator [page 20-21]**

#### **SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT**

“The value of public procurement in relation to EU gross domestic product is approximately 17 per cent. It is likely that such a large amount includes procurement that may have significant impacts on human rights. In its Resolution on Corporate Social Responsibility, the Finnish Government encourages public procurers to take social aspects into consideration. For the promotion of human rights, the procurement act allows consideration of aspects related to employment, working conditions, the position of vulnerable individuals and corporate social responsibility in connection with public procurement. The Ministry of Employment and the Economy has published a guide to socially responsible procurement, with practical examples gathered from procurement units, explaining how social aspects can be taken into consideration in each stage of the procurement process. In addition, the Ministry maintains the CSRkompassi.fi website (available in Finnish and Swedish, some material also in English), with information and material for taking social aspects into consideration in long production chains related to public procurement.

In connection with the consultations organised by the working group, the idea of a statutory obligation to take social aspects into consideration in public procurement was presented. For instance, there is a federal obligation in the United States to include terms on the prohibition of the worst forms of forced labour and child labour in public procurement. In Finland, procurement legislation is procedural in nature, and it makes no statement on what is procured or on what terms. It provides guidelines for the types of procedures that should be used in order for the procurement process to meet the legal principles related to transparency, non-discrimination and equality. There are approximately 30,000 to 40,000 procurement objects, which means that setting a categorical obligation for all procurement may lead to significant challenges in an individual procurement. A categorical obligation would produce the need to allocate monitoring resources to procurement with only a small risk related to human rights impacts. The third challenge related to the proposal is the functionality of the compelling guiding methods. Some of the state procurement is made through Hansel Ltd., and some directly from agencies and ministries. Except for procurement legislation, the state has no other power to guide municipal procurement.

The Act on Public Contracts is currently being amended on EU directives so that social aspects can be taken into consideration more easily in the future.

As a follow-up measure, the working group proposes that



- references to Section 49 of the Act on Public Contracts and to the Guide to socially responsible procurement be added to the procurement guidelines for ministries; and
  - the responsibility themes in the state procurement manual be updated;
  - in connection with the reform of the public procurement online notification service “Hilma”, a field be added to the sections containing procurement data to indicate whether social aspects have been taken into consideration in the procurement. This would improve statistics related to social procurement and encourage the consideration of social aspects in the future.
  - A report will be made on the product groups that pose the highest risk for human rights violations. The report would increase the awareness related to responsible procurement and help target the consideration of the social aspect for the product groups that pose the highest risk.
  - Finland promotes socially responsible public procurement in the EU by distributing information and experiences of Finnish practices.
- Principal responsible parties: Ministry of Finance, Ministry of Employment and the Economy, schedule by the end of 2015.”

[Read more about Finland](#)



## I- The State’s Obligation to Protect Human Rights

### The National Framework

#### 10. The Reinforcement of Legislation [page 23]

Recent public policies have led France to adopt new legislative measures supporting CSR.

...

Article 13 of the SSE Act seeks to ensure that more public purchases are made from socially responsible businesses (many of which are part of the SSE) and that better use is made of social clauses in procurement contracts. It states that, if a maximum annual procurement amount is exceeded, contracting authorities must adopt schemes promoting socially responsible purchases. This article came into force on 1 February 2015 (Decree of 28 January 2015).

...

#### 11. The Inter-Ministerial Exemplary Administration Action Plan and the National Action Plan for Sustainable Public Procurement [page 25]

On 17 February 2015, the Prime Minister issued instructions concerning the 2015-2020 Inter-ministerial Exemplary Administration Plan, on the basis of which each ministry was requested to draw up its own exemplary administration plan. These plans must outline initiatives to be implemented by 2020 in the fields of energy saving, sustainable mobility, resource consumption, waste reduction and biodiversity preservation. They may also address social and societal impacts as part of their focus on social and environmental responsibility.

### ***Public Procurement Policy***

Under Article 15 of Decree 2016-360 of 25 March 2016, contracting authorities may choose to include general administrative terms and conditions in public contracts. These terms and conditions cover general rather than specific provisions (performance of services, payment, auditing of services, presentation of subcontractors, deadlines, penalties, general conditions, etc.). Article 6 of these terms covers the protection of labour and working conditions, and states that contract holders must respect the working conditions set down in the labour laws and regulations of the country in which workers are hired or, otherwise, ILO's eight fundamental conventions where these have not been incorporated into the country's laws and regulations.

The National Action Plan on Sustainable Public Procurement seeks to help the State, local government and hospitals make sustainable purchases as per Ordinance 2015-899 of 23 July 2015 and Decree 2016-360 of 25 March 2016 on public procurement.

This national action plan encourages those making purchases for the State or local government to introduce social and environmental clauses in public contracts. To this end, it sets specific targets for social and environmental provisions. These targets may be reflected in special requirements in the tender's terms and conditions, specific criteria used to select suppliers' bids and/or performance clauses supporting social and/or environmental progress that are applicable to successful tenders. A register (of public procurement contracts worth over €90,000 with provisions) is kept by France's Economic Observatory for Public Procurement, with the results being published annually.

The new legal framework for public procurement gives purchasers several ways of addressing social and environmental impacts. Having transposed Article 57 of Directive 2014/24/EU of 26 February 2014 on public procurement, French law now states that public contracts may not be awarded to economic operators that have been found guilty of fraud, corruption or the trafficking or exploitation of human beings (Article 45 of Ordinance 2015-899). Article 59 of Decree 2016-360 obliges public purchasers to reject bids that do not comply with applicable laws, particularly in the social and environmental fields. Transposing Article 69 of the abovementioned directive, the decree also enables purchasers to reject tenders that are abnormally low because they do not respect applicable environmental, social and labour obligations established by French law, European law, collective agreements or by international environmental, social and labour law provisions (Article

53 of the abovementioned ordinance and Article 60 of the abovementioned decree). This also applies to subcontractors (Article 62 of the abovementioned ordinance and Article 133 of the abovementioned decree). Finally, over and above the analysis of tenders, Article 18 of Directive 2014/24 requires Member States to “take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by (...) international environmental, social and labour law provisions.”

#### *Actions Underway [page 26]*

- The State and local government are committed to promoting and respecting the UN Guiding Principles in all of their activities—as lawmakers, employers and producers.
- The State is committed to ensuring that businesses in which it holds shares respect human rights and the environment.
- France ensures that the UN Guiding Principles and other established international texts are respected in public procurement guides, public procurement policies and training for purchasers.

[Read more about France](#)



---

### **Objective 25.2.1: Ensure contradictory mechanism of demonstrating monopoly and oligopoly at any sector and segment of market.**

---

#### *Objective indicators:*

1) Number of projects of legislative acts elaborated with the aim to improve “Law of Georgia on the Conflict of Interests in Public Service” and appropriate normative acts.

#### *Activities:*

A. Legislative data analysis and elaborating projects of appropriate legislative acts.

Responsible agency: The office of the Business Ombudsman of Georgia, Competition Agency.

B. Initiating elaborated projects of legislative acts to the parliament and implementing them.

Responsible agency: Ministry of Economy and sustainable development of Georgia.

2) Document of conducted research; Number of recommendations; Number of elaborated legal acts projects.

Activities:

A. Conducting research with the aim to define work efficiency of dispute reviewing board of State Procurement Agency.

Responsible agency: State Procurement Agency.

B. Improve regulatory legislative base of state procurement.

Responsible agency: State Procurement Agency.

Partnership agencies: Business sector; Global compact Georgia; CIDA.

**Objective 25.16.1: Ensure foreseeing issues of human rights protection in state procurement process, including women strengthening principles, not only at supportive but also obligatory level and mainstream human rights based.**

---

*Objective indicator: Prepared amendments according to the finest international practice.*

Activity: Seeking best international practice about human rights protection issues during state procurement process.

Responsible agency: Human Rights Secretariat of the Administration of the Government; Ministry of Economy and sustainable development of Georgia.

No partnership agency.

[Read more about Georgia](#)



Germany

---

The German NAP includes a specific section on public procurement.

## 1.2 Public procurement [page 21-22]

---

“The total value of public procurement contracts amounts to about €280 billion a year. The federal, state, and local authorities bear particular responsibility in this domain, in that they must discharge the state duty to protect human rights and ensure that the use of public funds does not cause or foster any adverse impact on human rights. By placing greater emphasis on sustainability in their procurement transactions, public authorities not only perform their function as role models but can also wield significant leverage in

increasing the supply of sustainable products. The 2030 Agenda also makes explicit reference to sustainable public procurement as an instrument in the quest for sustainable development.

### **The current situation**

“Germany has fully transformed into domestic law its obligations to protect human rights under international agreements. This applies, for example, to the prohibitions of child labour and forced labour that are imposed by the ILO core conventions. If enterprises break the law in Germany in either of these respects, they can be disqualified from receiving public contracts. The Federal Government is already implementing a number of measures designed to promote sustainable public procurement by federal, state and local authorities and institutions:

- Since 2010, the federal, state and local authorities have been cooperating in the framework of the Alliance for Sustainable Procurement, chaired by the Federal Government. Its purpose is to contribute to a significant increase in the percentage of sustainable goods and services among the purchases made by public bodies. The Alliance enables the main public procuring bodies to share their experience and is intended to contribute to more widespread application of uniform national and international standards by all three tiers of government – federal, state and local.
- Since 2012, the Centre of Excellence for Sustainable Procurement at the Procurement Office of the Federal Ministry of the Interior has been assisting public contracting bodies in applying procurement criteria. The Centre of Excellence is available to assist procurers in situ, for example by providing advice in person or by telephone and by forwarding information material. In 2014, the Centre of Excellence, along with the BITKOM association of German digital goods and service firms, drew up an initial sectoral agreement in the form of a Declaration on Social Sustainability for IT, which provides for adherence to the ILO core labour standards in procurement procedures. Other sectoral agreements on critical product categories are planned.
- Other Federal Government initiatives and support measures are to be found in the Programme of Sustainability Measures, into which Federal Government targets for sustainable procurement have been incorporated.
- “Kompass Nachhaltigkeit” (sustainability compass), an information platform funded by the Federal Government, provides an overview of sustainability standard systems and supplementary requirements and assists public contracting bodies in incorporating a sustainability dimension into their procurement procedures.

- The “Fair Procurement Network“ of municipalities, which is part of the service agency Communities in One World, provides advice to municipalities, among other things, and familiarises local authorities with the issue of sustainable procurement through specialised promoters. An information and dialogue campaign entitled “Deutschland Fairleicht “ informs municipal decision-makers and contracting bodies and raises their awareness of sustainable procurement.

Following the reform of procurement law in 2016, with which three new EU procurement directives were transposed into German law, the new Part IV of the Restraints of Competition Act lays particular emphasis on observance of the law, especially taxation, labour and social legislation (sections 97(3) and 128(1) of the Act). The new legal framework enables procurement bodies to make greater use of public contracting to underpin the pursuit of strategic goals such as social standards, environmental protection and innovation.”

## Measures

- “The Federal Government will examine whether and to what extent binding minimum requirements for the corporate exercise of human rights due diligence can be enshrined in procurement law in a future revision. It will draw up a phased plan indicating how this aim can be achieved.
- The expertise of the Centre of Excellence for Sustainable Procurement in matters of human rights, including the application of the ILO core conventions to procurement procedures, and in the implementation of the UN Guiding Principles will be used to expand the knowledge of procurement staff in the context of training courses.”

## VI. Monitoring [page 41]

---

“The National Action Plan marks the starting point of a process that will be continuously updated and developed. The process will be shaped by the implementation of the measures for which this Plan provides as well as by a comprehensive procedure for monitoring the implementation of these measures by all players.

To this end, the Federal Government is planning, subject to budgetary approval, the immediate execution of the following steps: ...

“The interministerial committee will verify the implementation and coherence of the adopted measures and drive forward the development of the NAP implementation process. The main areas of activity to come under its scrutiny will be the measures relating to the state duty to protect (public procurement, promotion of external trade, etc.) and the fleshing-out of due diligence obligations (chapter III above), including the planned definition of sectoral specifications and the corresponding support services.”

[Read more about Germany](#)



## Section 2: Current legislative and Regulatory Framework

---

### Procurement [page 15]

“Public procurement in Ireland is governed by EU and National law and National Guidelines. The Office of Government Procurement is committed to ensuring that human rights related matters are reflected in public procurement and embedded in national public procurement policy. The EU Treaty principles of equal treatment and non-discrimination, transparency, mutual recognition, proportionality, free movement of goods and services and the right of establishment must be observed in all tenders.

Most recently, the 2014 EU Directives on Public Procurement, which have been transposed into Irish law contain specific provisions excluding tenderers who are guilty of certain human rights infringements from participation in public procurement.

Extensive general guidance on legal procurement requirements is available to public authorities on the Irish portal for public procurement. (Irish Portal for Public Procurement: <http://etenders.gov.ie>)

### Annex 1 – List of additional and ongoing actions to be carried out across Government

---

#### Trade and Investment [page 21]

“14. Under the aegis of the office of Government Procurement, continue to follow good practice on procurement and human rights standards in all Requests for Tenders, in line with EU law.”

[Read more about Ireland](#)

#### State-business nexus

---

[page 21]

... Italy fully adheres to the principles of enforcement of socially responsible procurement and is engaged in ensuring that the respect for human rights is taken into consideration in all procurement stages. The Italian Anti-Corruption Authority (A.N.AC.) supervises and regulates the entire public procurement market in order to ensure compliance with: i) the principles of legitimacy and transparency; ii) the effective performance of contracts; iii) anti-corruption rules. In this regard A.N.AC. and

the Italian Competition Authority signed a MoU in December 2014 to establish new criteria for the assignment of the legality rating to companies. In its procurement guidelines, A.N.AC. advises the contracting authorities to include the legality rating among the criteria used to select the most economically advantageous offer.

Italy has adopted the Legislative decree 19 April 2016, n.50, implementing the EU Directives, introducing a framework of a “socially responsible public procurement policy” and reputational requirements in public procurement awarding. With regard to companies directly or indirectly owned by the State, and following a joint effort with the Minister of Economy and Finance, in 2015 A.N.AC. issued guidelines on: i) public disclosure of corporate decision-making processes on the rotation of managers and executives; ii) establishment of new conflict of interest rules; iii) definition of risk areas and protection of whistle-blowers; iv) respect of the rights of workers involved ...

## Planned measures

---

[page 22]

Strengthen the implementation of socially responsible public procurement rules by adopting a comprehensive framework of reference for bidders coordinated by A.N.AC and covering: anticorruption, non-financial disclosure, supply chain, environment, labour, equal opportunities and non-discrimination.

---

## Italy's Updated NAP

---

### B. OPERATIONAL PRINCIPLES

---

(page 21-22)

[continues from the previous NAP text]

In this regard, the definition of social criteria in all the stages of the procurement stations is made according the “Minimum Environmental Criteria” (CAMs), which have been adopted with Decree of the Ministry pf Environment within the frame of the “Public Consumption Sustainability Action Plan (PAN GPP)” approved with Decree of the Ministry of Environment in cooperation with the Ministers of the Economy, Finance and Economic Development in line with article 1, comma 1126 of Law no. 296/2006 and where CAMs involve products from categories which may be at risk of human rights violation.

The partial revision of the aforementioned Plan was aimed at strengthen the task of pursuing social protection and ethic goals with particular focus to human rights protection and the right to decent work in the supply chain.

The traceability of the supply chain established following the investigation on products according to the Minimum Environmental Criteria which procurement stations are

obliged to include in the all project documentation in line with article 34 of the new Public Procurement Code (Legislative Decree n. 50/2016), may be used also to verify the respect of specific rights related to workers, their wages and other aspects on safety and working conditions also in the supply chain.

Besides the “Guida per l’integrazione degli aspetti sociali negli appalti pubblici” (adopted with Ministerial Decree of 6 June 2012) which gives indications to include social criteria in the contractual activities of public administrations by referring to minimum human rights standard and working conditions (ILO Conventions) in the supply chain of public procurement, specific indications on human rights due diligence have been integrated within the Minimum Environmental Criteria such as those defined with regard to textile products and adopted with Ministerial Decree of 11 January 2017.

[Read more about Italy](#)



Lithuania

---

The Lithuanian NAP makes no reference to public procurement.

[Read more about Lithuania](#)



Luxembourg

---

## **Part III – NAP**

---

### **3. Government’s Response**

---

#### *3.2. A joint work program (pg.31)*

Other measures:

5. Awareness of contracting authorities on human rights in their public procurement procedures.

[Read more about Luxembourg](#)



Netherlands

---

## **2. Current policy [page 9]**

---

“In its letter ‘CSR Pays Off’ the government identifies its tasks in relation to ICSR. They are: ...

to set a good example – by pursuing sustainable procurement policies, for instance.”

### 3.2 Policy coherence [page 17-18]

---

#### Sustainable procurement policy

“Under the social conditions of national sustainable procurement policy, companies supplying the government with goods and services are required to respect human rights. These social conditions have been included in all central government EU contract award procedures since 1 January 2013, and the municipal, provincial and water authorities are being encouraged to apply them, too. Suppliers can fulfil these conditions in various ways – by joining a reliable multi-stakeholder supply chain initiative (quality mark or certification institute) or, if they have any doubts, carrying out a risk analysis.

The consultations showed that sustainable procurement policy is not regarded as effective in implementing social and human rights criteria. Companies are often unaware of risks. Government suppliers should perform a risk analysis to show that they respect human rights in accordance with the UN Guiding Principles. In its 2014 evaluation of the sustainable procurement policy social conditions, the Ministry of the Interior and Kingdom Relations will examine whether this policy is in line with the OECD Guidelines and the UN Guiding Principles, and whether central government policy can also be applied by the municipal, provincial and water authorities.”

[Read more about Netherlands](#)



---

## 2. The State duty to protect human rights

### 2.5 Public procurement [page 25]:

“The sixth principle deals with public procurement:

6. *States should promote respect for human rights by business enterprises with which they conduct commercial transactions.*

Since the UN Guiding Principles and the OECD Guidelines do not distinguish between public-sector and private-sector business conduct, it is important that the state should have high standards. It is not logical to have high expectations of private companies if the state does not set the same expectations for itself. The state is also Norway’s largest purchaser, a fact that was emphasized by companies and organisations in their input to the action plan. For example, in 2013 the public sector purchased goods and services worth NOK 432 billion. The state’s procurement practices should therefore reflect the UN Guiding Principles.

The Government has held a public consultation on a proposed amendment to section 6 of the Procurement Act to include a provision stating that contracting authorities should have adequate procedures for ensuring social responsibility in connection with public procurement. The Agency for Public Management and eGovernment (DIFI) provides guidance on such matters.

**Measure:**

continue the efforts to develop measures to promote respect for international human rights in public contracts.

[Read more about Norway](#)



Poland

---

## Pillar I: The state's duty to protect human rights

---

### **2. Public procurement [page 17-18]:**

On 28 July 2016, an amendment to the Public Procurement Law (PPL) came into force, introducing a number of changes related to the implementation of new EU directives in the field of public procurement in the Polish legal system.<sup>3</sup> One of the objectives of the new regulation is to enable contracting institutions to make better use of public procurement to support social policy objectives, i.e., by introducing a requirement for employment under a contract of employment.

Recognising the problems of contracting authorities with the practical application of Article 29(3)(a) of the law, and intending to ensure the most effective application of employment requirements under a contract of employment, the Public Procurement Office prepared and published on its website a legal opinion on the application of Article 29(3)(a) PPL. This takes into consideration the position of the Inspector-General for the Protection of Personal Data and, at the same time, provides guidance regarding the ability of contracting authorities to verify the fulfilment by contractors and subcontractors of the requirement of employment under a contract of employment of individuals performing activities in the course of a contract, together with the sample provisions referred to in Article 36(2)(8)(a) of the Public Procurement Law.

According to *Recommendations of the Council of Ministers on the consideration by the government administration of social aspects in public procurement*, the heads of government administration units are obliged to analyse the possibility of applying social clauses in all public procurement proceedings, including in contracts that do not comply with the provisions of the Public Procurement Law.

Successful implementation of social goals through public procurement requires educational activities among public procurement market participants. The Public

Procurement Office carries out educational activities aimed at promoting social issues in public procurement primarily on the basis of the *National Action Plans for Sustainable Public Procurement*. The *National Action Plan for Sustainable Public Procurement 2017-2020* envisages educational activities such as conferences, training, or the preparation of relevant publications.

Plans are in store to identify and issue a catalogue of good practices and to develop model documents. As part of planned educational activities, the Public Procurement Office intends to present to the Polish contracting authorities, among other things, the possibility of including in the procurement procedure public symbols of a social nature based on the criteria of respecting human rights in the production of goods subject to a public contract. With respect to reporting information on sustainable public procurement, the contracting authority will, under the new rules for drawing up annual reports on contracts awarded, include detailed information on social contracts awarded in the new Part VIII of the annual report form (*Contracts to which the provisions of the law taking into account social aspects apply*). This will help obtain comprehensive data on the inclusion of social aspects in public procurement.

[Read more about Poland](#)



Slovenia

---

## **The state's expectations of business enterprises**

---

Several new legal provisions proactively ensure the strengthening of respect for human rights in business, which involves... considering environmental, social and labour law aspects in public procurement. (pg. 7)

## **Principle 2 – States sets expectation for respecting human rights**

---

The Public Procurement Act, entered into force in April 2016, provides for solutions to make public procurement simpler, more flexible and more efficient, and places a greater emphasis on some aspects of social and environmental policies. (pg. 10)

Such amendments introduce principles relating to the environment and social integration, as well as ensuring respect for rights arising from the legislation in force, thus promoting, in the context of public procurement, the social and environmental responsibility of enterprises and helping them to consolidate their standing in the market. (pg. 10)

## **Principle 3d – Planned Measures – Environment**

---

In accordance with the Framework Programme for the Transition to a Green Economy,



the Slovenian Government will focus on further activities for developing and interconnecting green economy policies. The focus will be placed on... green public procurement and green budget reform; sustainable urban development; public sector activities that may serve as models; education and training for the green economy; and green practice in agriculture. (pg. 22)

## **Principle 6 – Commercial transactions between states and businesses**

---

The State may enter business relations with economic operators also through public procurement activities. Public procurement is thus an important tool for pursuing and achieving the objectives of secondary policies, such as environmental, social and sustainable policies. In this vein, the Public Procurement Act, which entered into force on 1 April 2016 and follows the EU law in this field, puts special emphasis on the various aspects of social and environmental policies. (pg. 26)

As one of the fundamental principles of public procurement, the Act includes the horizontal social clause, which requires economic operators, when implementing public contracts, to observe obligations under EU environmental, social and labour law, regulations in force in Member States, collective agreements and international law. (pg. 26)

In the amended Public Procurement Act (ZJN-3A), which took effect on 1 November 2018, when the contracting authority is informed that the court, by a final decision, determines violations of labour, environmental or social law on the part of the contractor or any of the subcontractors, or when the contracting authority is informed that, during the implementation of the contract, the competent state authority determined, on the part of the contractor or any of the subcontractors, at least two violations related to wages, working hours, rest periods, work on the basis of civil-law contracts despite evident elements of employment relationship or illegal employment for which, by a final decision or multiple final decisions, a fine for a minor offence has been imposed. (pg. 26-27)

The Act also specifically stipulates that the contracting authority must take into consideration the principles of socially responsible public procurement by including measures related to social aspects. Social inclusion is also promoted by the possibility of reserved contracts, whereby the contracting authority may reserve the right of participation in public procurement procedures for certain economic operators, e.g. sheltered workshops, job centres and social enterprises employing disadvantaged workers. (pg. 27)

In Slovenia, green public procurement has been mandatory since 2011; the amended Act stipulates in what cases green public procurement is mandatory, which environmental aspects must be taken into consideration by contracting authorities when publishing calls for applications, and which objectives must be achieved by the contracting authority regarding every public contract. (pg. 27)

In public procurement, special attention is also devoted to the subcontracting chain, the transparency of which must be ensured by the main contractor. (pg. 27)

## Principle 6 – Planned Measures

---

Slovenia will promote the achievement of the goals set by labour, social and environmental policies, also through the instrument of public procurement, and strive for accelerated and effective implementation of regulatory provisions. (pg. 28)

Slovenia will implement awareness-raising activities and training in the inclusion of social and environmental aspects in public procurement procedures and will continue to provide a single point of contact, the so-called Helpdesk, which will offer professional assistance to contracting authorities and economic operators participating or interested in public procurement procedures. (pg. 28)

The single point of contact has already been established and has been functional at the Public Procurement Directorate at the Ministry of Public Administration of the Republic of Slovenia since 15 September 2016. (pg. 28-29)

Slovenia will continue to update its structures in the field of green public procurement and keep adapting them to technological advances and the situation in the market. (pg. 29)

[Read more about Slovenia](#)



South Korea

---

## C. Current Status

### 1. Domestic Status [page 3]

---

Revision of 「Procurement Business Act」 and addition of an article promoting corporate social responsibility on January 2016.

\* Article 3-2 (Encouraging Social Responsibility)

The administrator of the Public Procurement Service may reflect social and environmental values such as environment, human rights, labor, employment, fair trade, and consumer protection in the procurement process to encourage corporate social responsibility.

...

### 2. Implementation of the Second NAP [page 4]

---

Promotion of social responsibility, including respect for human rights in managerial activities

– Revision of 「Procurement Business Act」 and addition of an article promoting corporate social responsibility on January 2016.

...

## D. Tasks for the Third NAP

---

### Institutionalization of Human Rights Management

---

#### ***3. Public procurement considering social responsibility [page 5]***

- Revise related institutions and bylaws with newly organized clause in 「Government Procurement Act」 which promotes social responsibility.
- Highly recommend to apply the guidelines which reflects the corporate social responsibility
  - Give additional credit points to companies which are ‘female-disabled friendly companies’ and which offer work-learning dual program following the guidelines of qualification examination on goods purchase(Public Procurement Guidelines).
  - Give additional 10% point on management condition mark when female-disabled friendly companies or social enterprises record construction ratio over 30% according to detailed guidelines of qualification examination on facility construction(Public Procurement guidelines).

[Read more about South Korea](#)



Spain

---

#### Guiding Principle 5

##### **Measure 1**

“The Public Administrations will exercise an adequate supervision of the possible impact on human rights when contracting the services of companies, both within and outside of Spanish territory. This supervision must take into account the criteria of the specialized institutions, in accordance with the application of the Spanish CSR Strategy.”

#### Guiding Principle 6

##### **Measure 1**

“The Government will examine how to apply criteria aligned with the Guiding Principles in relation to Royal Legislative Decree 3/2011, of November 14, which approves the revised text of the Public Sector Contracts Law, the Law 16 24/2011 , of 1

August, of contracts of the public sector in the fields of defense and security, and other regulations in force in the same field..”

## **Measure 2**

“The Government will ensure strict respect for human rights by companies in commercial transactions with other companies, establishing the necessary measures so as to: not discriminate against SMEs; respect the provisions of the Treaty of the EU on non-discrimination; equal treatment and transparency: and no administrative charges are to be added to contracting authorities or companies.”

[Read more about Spain](#)



Sweden

---

## **Annex: Measures planned [page 27-28]**

### **Regulations and legislation**

“The EU has adopted new procurement directives: a Directive on public procurement, a Directive on procurement by entities operating in the water, energy, transport and postal services sectors, and a Directive on the award of concession contracts. The recitals of the Directives expressly state that the contracting authorities or entities in their contracts can require suppliers, in the performance of the contract, to comply in substance with the provisions of the basic International Labour Organisation (ILO) Conventions. Such conditions might also be intended to favour the implementation of measures for the promotion of equality of women and men at work, the increased participation of women in the labour market and the reconciliation of work and private life, the protection of the environment or the recruitment of more disadvantaged persons than are required under national legislation. Furthermore, the new directives prescribe that the contracting authorities or entities exclude tenderers who have been found guilty in a definitive judgment of crimes including child labour and other forms of human trafficking in accordance with Directive 2011/36/EU. The Directives are to be transposed into national law by April 2016.”

[Read more about Sweden](#)



Switzerland

---

## **2 National Action Plan on Business and Human Rights 2020-23**

### **2.1 Pillar 1: state duty to protect**

#### **2.1.3 The State-business nexus**

## *Guiding Principle 6*

The federal government is committed to ensuring that the value chains of goods purchased by the public sector are free of human rights abuses. It promotes respect for human rights by business enterprises with which they conduct commercial transactions.

### ***Measure 12: Criteria under the core ILO conventions in public procurement at federal level***

The Federal Council attaches great importance to sustainable public procurement practices. Public procurement practices in Switzerland are governed by the Federal Act on Public Procurement (PPA) and the Ordinance on Public Procurement (PPO). The PPA stipulates that the federal government must, as a minimum, monitor compliance with the core ILO conventions where goods and services are to be supplied abroad. The contracting authority may require bidders to comply with other core international labour standards, provide proof of compliance, and agree to audits.

The Public Procurement Act is currently being revised in line with changes to the WTO Agreement on Government Procurement (GPA) 2012. The PPA (as amended) will include all three pillars of sustainability – economic, environmental and social. Accordingly, the principle of sustainable public procurement will govern the interpretation and implementation of the PPA and the PPO. In its recommendations on sustainable procurement, the Federal Procurement Conference specifically calls for social, environmental and economic factors to be taken into account, including the human rights criteria covered by the core ILO conventions. It also recommends that sustainability criteria be reflected in award procedures.

The federal government will also explore the option of creating a national platform to promote sustainable public procurement practices and facilitate information-sharing between the different levels of government.

<b>Objective</b>	<b>Indicator</b>	<b>Responsibility</b>
Promote sustainable public procurement practices and information-sharing between the different levels of government.	The possibility of creating a national platform for sustainable public procurement was explored.	FDFA [Federal Department of Foreign Affairs], DETEC [Federal Department of the Environment, Transport, Energy and Communications],  EAER [Federal Department of Economic Affairs, Education and Research].

[Read more about Switzerland](#)



United Kingdom

**The UK 2013 NAP** notes that [page 9] “[t]o give effect to the UN Guiding Principles, we have:

(ii) sought and are committed to ensuring that in UK Government procurement human rights related matters are reflected appropriately when purchasing goods, works and services. Under the public procurement rules public bodies may exclude tenderers from bidding for a contract opportunity in certain circumstances, including where there is information showing grave misconduct by a company in the course of its business or profession. Such misconduct might arise in cases where there are breaches of human rights. In addition, UK public bodies are required to have due regard for equality-related issues in their procurement activity.”

**The UK 2016 Updated NAP** highlights the report on “Public Procurement and Human Rights” launched by The Northern Ireland Human Rights Commission. [page 5]

**The UK 2016 Updated NAP**, in the Government Commitments section [page 10], states:

“The Government will do the following to reinforce its implementation of its commitments under Pillar 1 of the UNGPs: (...) Continue to ensure that UK Government procurement rules allow for human rights-related matters to be reflected in the procurement of public goods, works and services, taking into account the 2014 EU Public Procurement Directives and Crown Commercial Service guidance on compliance with wider international obligations when letting public contracts. In addition, UK public bodies are required to have due regard for equality-related issues in their procurement activity.”

**The UK 2016 Updated NAP** further highlights that [page 17]:

“The [Equality and Human Rights] Commission is working with the Institute of Human Rights and Business to publish guidance in early 2016 for UK businesses in the care and private security sectors. The guidance will include an assessment of the main human rights impacts in each sector and practical guidance for managers in areas such as human resources, operational delivery and procurement.”

[Read more about United Kingdom](#)



United States



## Introduction

---

### Organization of the NAP [page 6]

“... the Obama Administration continues to take important steps to strengthen procurement rules to ensure federal purchasing practices reflect U.S. values.”

### Outcome 1.3: Leverage U.S. Government Purchasing Power to Promote High Standards

---

#### New Actions [page 10-11]

“SFTool Social Sustainability Procurement Best Practices: Through the Sustainable Facilities (SF)Tool, the General Services Administration (GSA) makes available recently released content providing best practices for addressing social sustainability impacts, including human rights and labor rights impacts, on high risk procurements. These best practices provide a detailed framework for how social sustainability risks should be assessed by USG procurement personnel at the pre-award and post-award stages of a federal procurement. The SFTool also references associated tools and provides sample contract language that can be used by organizations wanting to address their social sustainability risks on procurements.” – *Implementing Department or Agency: GSA*

“Enhanced Information Sharing Among State and Local Governments on Public Procurement Best Practices: The White House Office of Intergovernmental Affairs (IGA) will coordinate a dialogue among selected state and local government officials and the federal government on ways to better protect human rights in public procurement. State and local governments represent significant purchasing power through procurement policies.” – *Implementing Department or Agency: IGA*

“Compliance with Procurement Regulations: Pursuant to E.O. 13673, DOL and OMB will work with other agencies to designate agency Labor Compliance Advisors who will build greater awareness and understanding of RBC by contractors with whom those agencies do business. For example, a labor compliance advisor could support agency review efforts in the event a contractor, in accordance with requirements of the End Trafficking in Government Contracting Act (22 U.S.C. 7104c), reports a trafficking violation in its supply chain to the government.” – *Implementing Department or Agency: DOL, OMB*

#### Ongoing Commitments and Initiatives [page 11]

““Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor,” (E.O. 13126), signed on June 12, 1999 and in effect since 2001, is intended to ensure that U.S. federal agencies do not procure goods made by forced or indentured child labor. The U.S. government will seek to review the status and effectiveness of implementation of these requirements and take steps to improve implementation, as feasible and appropriate.” – *Implementing Department or Agency: DOL*

## **Annex I: The NAP Process [page 24]**

---

“In addition to the four open dialogues, the U.S. government created a dedicated email address for stakeholder input on the NAP process through which we received written input from a variety of different stakeholders ... Key themes raised by stakeholders included ... promote RBC through U.S. government procurement practices....”

[Read more about United States](#)