



Federal Ministry
of Labour and Social Affairs

SECTOR DIALOGUE
Automotive Industry



**Respecting human rights
along global supply and
value chains of Germany's
automotive industry**

**Guideline
for the core element**

**Grievance
mechanism**



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1. Introduction to the guidelines

Context

Protecting human rights is a duty of the state. This duty cannot be transferred to any other social actors. Business enterprises also have a responsibility to respect human rights. This means they must be aware of the impact of their activities on human rights, and establish due diligence processes in order to prevent, mitigate or compensate for any adverse impacts.

Against this background, the German Federal Government adopted the National Action Plan for Business and Human Rights (NAP) on 21 December 2016. The NAP is based on the United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles), which the United Nations Human Rights Council adopted by consensus in 2011, thus creating an internationally recognised framework for human rights due diligence. In accordance with the content of the UN Guiding Principles, the NAP sets out the duty of the state to protect human rights and the responsibility of enterprises to respect human rights in their global supply and value chains.

Germany’s Federal Government has established ‘sector dialogues’ to support enterprises operating in sectors with particularly high human rights risks. The dialogues are implemented by the Federal Ministry of Labour and Social Affairs (BMAS). The goal of the dialogues is to help enterprises find appropriate ways of implementing the five core elements of human rights due diligence and therefore contribute to the improvement of the human rights situation.

The five core elements are:

- human rights policy statement
- procedures for the identification of actual or potential adverse impacts on human rights
- measures to ward off potential adverse impacts and to review the effectiveness of these measures
- reporting
- grievance mechanism

In addition, from 2023 onwards, the German Supply Chain Act (Lieferkettensorgfaltspflichtengesetz, LkSG) requires certain enterprises to take appropriate action to observe human rights and environmental due diligence obligations in their supply chains.¹ As there is a great deal of overlap between the LkSG and the NAP, the sector dialogues also offer meaningful support to help enterprises meet the requirements of the Supply Chain Act.

As a key industry in the German economy, at its production sites around the world, and together with a network of suppliers, the automotive sector contributes to employment, training and economic development. Over half of the value added within the sector is generated by suppliers – from the extraction of raw materials and manufacture of inputs through to component assembly and the production of entire vehicles. At the same time, the situation in the automotive sector’s globally dispersed supply and value chains poses significant human rights risks in many areas. This is particularly the case in upstream processes. Furthermore, human rights violations and corruption are more likely to occur in states where the rule of

¹ The German Supply Chain Act came into force on 1 January 2023. All enterprises based in Germany with at least 3,000 employees, regardless of their legal form, and all enterprises with a branch in Germany and at least 3,000 employees in the country, are now required to fulfil certain human rights and environmental due diligence obligations. Within affiliated enterprises, the figure for the parent company includes the total number of workers employed at all the group’s companies in Germany and any employees currently on international secondments. From 1 January 2024, the threshold will fall to 1,000 employees. Small and medium-sized enterprises (SMEs) will also be affected indirectly, since enterprises subject to the LkSG will impose their own due diligence obligations on their suppliers.

law is lacking, institutions are weak, and poverty is endemic. Human rights risks that may arise in such countries include damage to the health or safety of workers and local people, discrimination, restrictions on freedom of association and violations of indigenous peoples’ rights. The responsibility of the German automotive industry to design sustainable global supply and value chains and to respect human rights is therefore of great importance.

Why is there a Sector Dialogue Automotive Industry?

Enterprises in the automotive industry maintain close links with their consumers. As such, the increasingly stringent requirements surrounding sustainability performance and human rights due diligence go beyond large manufacturers and suppliers of the automotive industry. Increasingly, small and medium-sized enterprises (SMEs) must also rise to the challenge of developing responsible supply and value chains – from the extraction of raw materials to the final product and eventual disposal.

In this context, implementing human rights due diligence can be seen as a learning journey, an individual and ongoing process that each enterprise will need to monitor regularly and keep on improving.

Furthermore, the challenges involved are often complex and diverse, reflecting the highly interwoven nature of supply and value chains. Many vehicle manufacturers and suppliers are already actively engaged in the field of human rights, either as individual enterprises or through national and international initiatives. A joint sectoral approach and industry-wide co-operation can have an even greater impact given the structural similarities between supply and value chains. This is why industry actors representing enterprises, business associations and unions have come together with civil society organisations and the Federal Ministry of Labour and Social Affairs (BMAS) to establish a sector dialogue for respecting human rights along global supply and value chains of Germany’s automotive industry.

The goal of the Sector Dialogue is to contribute to the improvement of the human rights situation along the industry’s global supply and value chains. It focuses on the responsibility of enterprises to respect human rights. The five core elements described in the NAP

support enterprises in implementing human rights due diligence in their business activities and integrating it into their operational management processes. With this goal in mind, the members of the Sector Dialogue have produced a series of guidelines for implementing the five NAP core elements. In this context, the guidelines are designed to act as both a point of reference and a toolbox for enterprises.

How do the guidelines differ from other advice?

The guidelines for the five NAP core elements of human rights due diligence differ in key areas from previous advice and therefore provide significant additional value.

- The guidelines form a collection of self-contained and structurally identical manuals that fully address the NAP requirements.
- The purpose of the NAP is to set out the UN Guiding Principles on Business and Human Rights from an implementation perspective. The guidelines reference the UN Guiding Principles and therefore contribute significantly to the implementation of the wider international framework, whose goals are explicitly recognised by all members of the Sector Dialogue.
- The guidelines include concrete references to the requirements of the Supply Chain Act (LkSG). This will help enterprises that fall under the scope of the law to meet their statutory obligations at the same time. In certain areas, the guidelines go beyond the above-mentioned policy frameworks and regulatory requirements.
- Other relevant guidance has been incorporated into the guidelines alongside examples of current business practice. The guidelines take into account the characteristics of both large enterprises and SMEs.
- With the help of the guidelines, users can review their progress towards fulfilling the NAP requirements (e.g. through checklists). In this way, they create transparency and verifiability for enterprises and their stakeholders and can demonstrate the progress made towards implementation.
- The guidelines – or parts of them – can also be used by your enterprise for training courses or as training resources.

Members of the Sector Dialogue have spent roughly two years drawing up the guidelines in a multi-stakeholder process. The strength of the guidelines lies in the wealth of knowledge and experience of individual members, and as such they have been broadly welcomed among the Sector Dialogue’s various stakeholder groups.

How are the guidelines structured?

This document focuses on the core element ‘Grievance mechanism’ and

- summarises the key points in the guideline at a glance (section 2);
- clearly explains the NAP requirements for this core element and cites which parts of the LkSG apply to risk analysis (section 3);
- sets out practical and industry-specific steps to integrate the NAP requirements into business management processes (section 4);
- shows how progress towards implementation can be reviewed and made transparent in business practice (section 5);
- lists further information and sources of additional reading (sections 6.1 and 6.4);
- compares the NAP and LkSG requirements side by side in a table, with references to the implementation steps in the guideline (section 6.2);
- contains a glossary of relevant terms used in the field of human rights due diligence as well as selected definitions from the LkSG and the explanatory memorandum to the LkSG (section 6.3).

2. Core element ‘Grievance mechanism’ – the key points at a glance

Grievance mechanisms are a key tool that will help you fulfil your enterprise’s due diligence obligations. Formal grievance procedures allow individuals and groups to submit information or complaints about the impact of an enterprise’s business activities across its value chain and to seek remedy. Grievance mechanisms thus serve to identify (potential) adverse human rights impacts at an early stage, take preventive measures and provide remedy.

This guideline will help you implement the NAP due diligence processes for the core element ‘Grievance mechanism’ step by step.

The guideline proposes the following steps:

1. Explain the benefits of grievance mechanisms in your communications. Within your enterprise, this will create greater acceptance and awareness, both of which are crucial to effective collaboration across departments.
2. Establish and maintain a proactive and continuous dialogue at every stage with (potential) users and other stakeholders, e.g. civil society actors. This should cover the design, structure, development and operation of your grievance mechanisms, the arrangements for reviewing their effectiveness, and the question of how you should use the resulting information.
3. Identify possible concerns and potential grievance mechanism users through your risk analysis.
4. Conduct a baseline assessment to identify and review existing processes that can be used for your grievance mechanisms. You will need to assess whether these processes meet the needs and reflect the concerns of your previously defined potential users. Make sure that you identify any gaps that need to be filled.
5. In addition to this baseline assessment, review your existing grievance mechanism processes to determine whether they meet the effectiveness criteria set out in the UN Guiding Principles.
6. Once you have conducted a baseline assessment and reviewed the effectiveness of your existing procedures, fill any gaps that have been identified by systematically developing and expanding your grievance mechanisms.
7. Analyse the information provided by your grievance mechanisms, e.g. to identify any trends or patterns, and keep them under constant review to ensure that they remain effective.
8. Use the information provided by your grievance mechanisms to help you make continuous improvements to your grievance management system and to other human rights due diligence processes, e.g. preventive/remedial action and risk analysis.
9. You may also choose to join external grievance mechanisms, although you should ensure that they fulfil the requirements of the NAP and the UN Guiding Principles. This may be appropriate, for example, if you face similar human rights challenges in your global supply and value chains as other enterprises, or if a joint approach would enable you to create new ways of dealing with grievances. Alternatively, you can join external mechanisms as a way of supplementing your own processes. On the basis of UN Guiding Principle 30, for example, members of the Sector Dialogue Automotive Industry decided to create a cross-company grievance mechanism to be piloted in Mexico.

To help you implement these steps efficiently, the guideline offers examples of good practice from the automotive and other sectors, as well as advice on where you can find additional information. It also highlights the LkSG requirements for grievance

mechanisms and explains which steps in the guideline are designed to help you meet them. Finally, the guideline includes a checklist (see below, section 5) that you can use to assess your progress towards implementing the NAP’s human rights due diligence requirements.

Links to the guidelines for the other NAP core elements

Grievance mechanisms are closely linked to other elements of human rights due diligence. For example, the potential users and concerns that you will need to address through your grievance mechanisms should be identified during your risk analysis. Grievance mechanisms are also crucial when it comes to establishing, implementing and monitoring any remedial measures. At the same time, along with other sources of information, they can help you decide on preventive measures (see the guideline for the core element ‘Measures and effectiveness tracking’). You should also use the information obtained through your grievance mechanisms and your analyses of trends and patterns when conducting future analyses of human rights risks (see the guideline for the core element ‘Risk analysis’) and include it in your reporting (see the guideline for the core element ‘Reporting’).

3. What are the requirements that grievance mechanisms must meet?

Grievance mechanisms play a key role in fulfilling human rights due diligence obligations. The corresponding procedure enables individuals and groups to submit complaints and access effective remedy in response to actual or potential adverse human rights impacts caused by an enterprise. As such, grievance mechanisms exist alongside the various legal channels and any other official and unofficial mechanisms outside the judicial system. They can help you not only to quickly detect and immediately respond to any abuses, and ideally prevent any further escalation, but also to remedy any damage resulting from your activities on the basis of your enterprise’s causal contribution. Finally, grievance mechanisms can help you to recognise systemic problems and modify your existing practices accordingly. The NAP² imposes the following requirements on enterprises:.³

Set up or actively participate in grievance mechanisms

- A.** Establish your own grievance mechanism and/or play an active role in external procedures (e.g. at trade association level).
- B.** Use grievance mechanisms to identify actual or potential adverse impacts at an early stage.
- C.** Structure your mechanisms differently depending on the target group.
- D.** Where appropriate, consult the target groups when designing your grievance mechanisms to ensure that the mechanisms are structured in a way that meets the needs of each target group and that they are effectively designed.
- E.** Consider setting up additional contact points for submitting grievances anonymously.

When setting up, using and operating grievance mechanisms, make sure that they fulfil the effectiveness criteria

- F.** The mechanisms must ensure a fair, equitable and predictable grievance procedure.
- G.** The mechanisms must be accessible to all (potentially) affected groups, e.g. by removing any linguistic or technical barriers and keeping the procedure for submitting information as simple as possible.
- H.** The mechanisms should permit as much transparency as possible when dealing with those involved.
- I.** The mechanisms must comply with international human rights standards, e.g. the International Covenant on Civil and Political Rights (Civil Covenant), the International Covenant on Economic, Social and Cultural Rights (Social Covenant) and the UN Guiding Principles.

Keep your grievance mechanisms under review

- J.** Check that existing grievance mechanisms within your enterprise or in its operating environment comply with the NAP requirements for the core element ‘Grievance mechanism’.
- K.** Review your grievance mechanisms at regular intervals to ensure that they remain effective.

² See Federal Government (2016) National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights, pages 9 and 21.

³ Note: The glossary in section 6.3 includes the exact text from the National Action Plan for Business and Human Rights setting out requirements for the core element ‘Grievance mechanism’.

What requirements does the Supply Chain Act (LkSG) impose on enterprises with regard to setting up a grievance procedure?⁴

Pursuant to section 8 (1) sentences 1 and 6 LkSG, enterprises must establish an ‘**appropriate internal complaints procedure**’ or ‘participate in an appropriate **external complaints procedure**, provided it meets the following criteria’. According to the Federal Government’s explanatory memorandum, an enterprise may, for example, consider joining a cross-company grievance mechanism established by an industry association.

Scope

As stated in section 8 (1) sentence 2 and section 9 (1) LkSG, the complaints procedure must allow people to ‘report human rights and environment-related **risks** as well as **violations** of human rights-related or environment-related obligations that have arisen as a result of the economic actions of an enterprise **in its own business area or of a direct supplier**’ or ‘that have arisen due to the economic actions of an **indirect supplier**’.

Design

Section 8 (1) sentence 3 and section 10 (1) LkSG stipulate that ‘**Receipt** of the reported information must be **confirmed** to the person having reported the information’ and ‘must be ... documented within the enterprise’. Section 8 (1) sentences 4 and 5 LkSG specify that ‘The persons entrusted by the enterprise with the implementation of the procedure must **discuss the facts with the persons having reported the information**. They may offer a **procedure for amicable settlement**.’

Pursuant to section 5 (4) sentence 2, section 6 (5) sentence 2 and section 7 (4) sentence 2 LkSG, ‘Findings from the processing of reports according to section 8 (1) are to be taken into account’ when performing a **risk analysis** (section 5) and when reviewing the effectiveness of **preventive measures** (section 6) and **remedial actions** (section 7).

Section 10 (1) LkSG states that ‘The fulfilment of the due diligence obligations pursuant to section 3 [i.e. including the complaints procedure under section 8 and 9 (1) LkSG] must be continuously **documented** within the enterprise’ and that ‘The documentation must be kept for at least seven years from its creation.’ As stated in section 10 (2) LkSG, ‘The enterprise must prepare an annual **report** on the fulfilment of its due diligence obligations in the previous financial year [i.e. including the complaints procedure, see sections 8 and 9 (1)] and make it publicly available free of charge on the enterprise’s website no later than four months after the end of the financial year for a period of seven years.’ Section 10 (2) sentence 2 no. 2 stipulates that this report must, among other information, clearly set out which measures the enterprise has taken in response to complaints received through its grievance mechanism in accordance with sections 8 or 9 (1) LkSG.

Section 8 (2) to (4) LkSG sets out key criteria that the complaints procedure must fulfil to ensure that it is both effective and impartial. According to the Federal Government’s explanatory memorandum, the grievance mechanism’s **target groups** should be **consulted** when designing the procedure.

- The enterprise must ‘establish **rules of procedure** in text form’ [section 8 (2) LkSG]. According to the Federal Government’s explanatory memorandum, these rules of procedure must specify a foreseeable **time frame** and must clearly set out the types of **processes** available. Publication of the information should serve to raise awareness of the complaints procedure and therefore promote its use by affected groups or individuals.
- According to section 8 (3) LkSG, ‘The persons entrusted by the enterprise with the conduct of the proceedings must offer a guarantee of **impartiality**; in particular, they must be **independent** and **not bound by instructions**. They are **bound to secrecy**.’

⁴ Note: The glossary in section 6.3 of this guideline includes definitions of key terms used in the LkSG. Section 6.2 compares the NAP and LkSG requirements side by side in a table with references to the steps recommended in the guideline.

- Section 8 (4) sentence 1 stipulates that ‘The enterprise must make **clear and comprehensible information on accessibility and responsibility and on the implementation** of the complaints procedure publicly available in an appropriate manner.’ According to the Federal Government’s explanatory memorandum, this includes a duty to ensure that the procedure is **transparent**, i.e. through regular communications explaining to users how their information is treated, in order to build trust in the effectiveness of the procedure.
- Section 8 (4) sentence 2 LkSG continues: ‘The complaints procedure must be **accessible** to potential parties involved, must maintain **confidentiality of identity** and must ensure effective protection against disadvantage or punishment as a result of a complaint.’ The Federal Government’s explanatory memorandum clarifies that access to, and use of, the grievance mechanism can be assured, for example, through the provision of **barrier-free** websites, complaint forms and email addresses. Enterprises should provide adequate **support** to counter any access barriers, e.g. lack of knowledge of the mechanism; language; the ability to read or write; cost; location; and fear of reprisals. It is also important to ensure that grievance mechanism users are **not disadvantaged** in any way. To this end, in accordance with the Federal Government’s explanatory memorandum, the associated data must be protected, and the identity of users must remain confidential.

Reviewing effectiveness

Pursuant to section 8 (5) LkSG, ‘The **effectiveness** of the complaints procedure must be reviewed at least **once a year** and on an **ad hoc basis** if the enterprise must expect a significantly changed or significantly expanded risk situation in its own business area or at the direct supplier, for example due to the introduction of new products, projects or a new business field.’ The Federal Government’s explanatory memorandum clarifies that the enterprise may need to conduct such an analysis in response to or in anticipation of changes in the business environment. Section 8 (5) LkSG also stipulates that ‘The measures must be repeated without undue delay if necessary.’

How are selected terms described in the LkSG and the explanatory memorandum?

The complaints procedure must be **appropriate**. Pursuant to section 3 (2) LkSG, the appropriateness of actions to fulfil due diligence obligations depends on:

1. ‘the nature and extent of the enterprise’s business activities,
2. the ability of the enterprise to influence the party directly responsible for a human rights or environment-related risk or the violation of a human rights-related or environment-related obligation,
3. the severity of the violation that can typically be expected, the reversibility of the violation, and the probability of the occurrence of a violation of a human rights-related or an environment-related obligation as well as
4. the nature of the causal contribution of the enterprise to the human rights or environment-related risk or to the violation of a human rights-related or environment-related obligation.’

According to the Federal Government’s explanatory memorandum, all the due diligence obligations covered by the Act are subject to the general principle that the scale of the efforts that can reasonably be expected of an enterprise to prevent or end a violation should reflect its ability to exert influence, the likelihood and severity of the anticipated violation of a protected legal position and the extent of the enterprise’s causal contribution to the violation. The greater the vulnerability of products and production sites associated with a business activity to human rights risks, the more important it is to monitor the supply chain.



Damage to the environment can also lead to violations of human rights

Inevitably, the activities of enterprises and their relationships with other businesses through supply and value chains also involve impacts on the environment that may lead directly or indirectly to human rights risks as well as adverse human rights impacts. In this context, the actions of enterprises and any related environmental damage may also create human rights risks and may have an adverse impact on human rights both directly and indirectly. Air, water and soil pollution, for example, can threaten the livelihoods of local populations. If an enterprise extracts too much groundwater in a region already suffering from water shortages, for instance, it may violate the right to an adequate standard of living. Equally, the mishandling of hazardous waste may lead to human rights violations if it creates a danger to human health. Furthermore, any deliberate destruction of culturally and

ritually important sites may constitute a violation of human rights, as it limits the right of people to take part in cultural life. It follows that preventive and remedial measures must also take account, at least implicitly, of any environmental damage that could have an adverse impact on human rights and that was therefore identified in the risk analysis.

With regard to environment-related obligations, the LkSG contains a number of explicit prohibitions: causing any harmful soil change, water pollution, air pollution, harmful noise emission or excessive water consumption; the manufacture, use and treatment of mercury; the production and use of persistent organic pollutants; the handling, collection, storage and disposal of waste in a manner that is not environmentally sound; and exports and imports of hazardous waste.



4. How can your enterprise implement the requirements step by step?

The term ‘grievance mechanism’ refers to any routine procedure that allows people to present complaints and to seek remedy concerning human rights risks or (potential) adverse human rights impacts caused by enterprises. Grievance mechanisms, especially those established at an operational level outside the judicial system, can act as an early point of contact for (potentially) affected persons, enabling them to express their concerns and draw attention to problems that may arise across your enterprise’s supply and value chain due to its business activities or relationships.

By identifying potential users and areas of concern, you will be able to review the effectiveness of your existing mechanisms and to develop them as required. In addition, you can establish new grievance mechanisms to help you make ongoing improvements to your enterprise’s human rights due diligence processes. In response to (potential) adverse human rights impacts, the purpose of your grievance mechanisms is to take appropriate preventive and remedial actions in a manner that reflects the severity of the violation, your enterprise’s contribution to the underlying cause and your ability to exert influence (see also step 3).



Examples of state grievance mechanisms and channels

The most important official grievance procedures are the (criminal and civil) courts, national human rights institutions, national contact points (as per the OECD Guidelines for Multinational Enterprises), ombudspersons and government-run complaints offices.

Examples of non-state grievance mechanisms and channels

Other grievance mechanisms outside those established or run by the state include local neighbourhood forums, stakeholder dialogues, unions and works councils. Additional channels for submitting grievances may take the form of a whistleblower system or simply an email/postal address or a fax/phone number through which anyone can report a complaint, either to the enterprise itself or to an outside body (e.g. an industry association, NGO or multi-stakeholder initiative).

‘Worth listening’ guide



‘Worth listening: Understanding and Implementing Human Rights Grievance Management’, by the UN Global Compact Network Germany, is a concise guide to creating a grievance management system. It is one of the main sources used to develop this guideline.

4.1 Step 1 – Recognise the benefits of grievance mechanisms

Grievance mechanisms are an effective way of identifying risks, responding at an early stage to any abuses and adapting your own processes accordingly. They can act as an early warning system, allowing enterprises to improve their risk management and take preventive action.

Grievance mechanisms should avoid adverse impacts on (potentially) affected persons and facilitate remediation. They also give your enterprise an opportunity for more effective dialogue with (potentially) affected groups and other stakeholders. Bear in mind that your target groups will often be in a precarious and vulnerable situation (e.g. dependency on their employer, unsafe working conditions and lack of awareness of rights among communities in the surrounding area). These power imbalances should be factored in right from the start when you design your grievance mechanisms so that (potentially) affected persons are able to use them effectively.

A supportive corporate culture and cooperation between departments are also crucial. You will need to build and maintain awareness and acceptance of your mechanisms within your enterprise at an early stage. Your managers and all other employees understand why the grievance management system is important, how it works and what benefits it offers.

Engaging constructively with grievances offers many benefits to your enterprise:⁵

- **Preventing and minimising damage to (potentially) affected groups:** By identifying abuses at an early stage, you can either prevent actual and potential human rights violations before any damage is caused or limit the extent of any damage.
- **An early warning system for your enterprise:** By identifying abuses and taking the corresponding mitigation and prevention measures at an early stage, you can avoid business risks (operational, financial, legal and reputational) more effectively. By dealing proactively with grievances, you can address concerns and offer immediate remedy. This approach can prevent grievances from escalating over time into serious conflicts that could lead to more severe human rights violations, legal proceedings and both business and reputational damage. This also applies to environmental damage and corruption, both of which can have adverse human rights impacts.
- **Compliance with external requirements:** By taking action to address abuses that your enterprise causes or to which it contributes, you can ensure that you are compliant with statutory and regulatory requirements, industry standards and codes of conduct. The same actions will also help you to better meet the often complex and differing expectations of stakeholders (e.g. employees, business partners, investors, civil society, trade unions and rights holders).
- **Trust-building:** Effective grievance management and open dialogue with (potentially) affected groups and their representatives send out an important signal. They allow your enterprise to demonstrate that it takes the concerns of (potentially) affected groups and individuals seriously. In this way, as well as gaining public trust, you can improve relations and strengthen communications with your internal and external stakeholders.

⁵ See Business & Human Rights Resource Centre and Ergon Associates, ‘Beschwerdemechanismen in Unternehmen. Menschenrechtliche Beschwerden effektiv managen und wirksam Abhilfe schaffen’ (corporate grievance mechanisms: effective management and remediation of human rights grievances), in German (2016), p. 3, and Shift, ‘Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights’ (2014), p. 7.

- **Ongoing development:** By continuously evaluating the results of your grievance mechanism, you can help to assess the effectiveness of your enterprise’s due diligence processes (including, for example, the success of your preventive measures) and create the foundation for an active learning culture.

4.2 Step 2 – Actively engage your stakeholders through exchange and dialogue

If you consult potential users on the design and operation of your grievance mechanisms, you will not only raise awareness and build trust but also contribute to the ongoing development of your mechanisms on the basis of concrete practice and to the monitoring of their effectiveness. Accordingly, this dialogue should not be seen as a separate step but as a continuous process that keeps your stakeholders, including civil society groups and rights holders, fully involved at all times in the entire grievance procedure.

Early and systematic action to involve (potential) users:

- increases trust among stakeholders and can therefore help to ensure that they actually use your grievance mechanism;
- helps you to identify risks and possible concerns and use that information to determine where specific improvements are needed, e.g. for certain groups of (potential) users (see step 3);
- supports your efforts to establish and refine the mechanisms, address power imbalances and raise awareness of your grievance procedures (see step 6);
- is a prerequisite for jointly identifying solutions through dialogue-based complaints procedures (see step 7);
- helps you review the effectiveness of your grievance mechanisms by generating feedback through your exchange with stakeholders in relation to eight key effectiveness criteria (see step 5);
- supports your efforts to collaborate with other enterprises (see step 8);
- helps you manage other human rights due diligence processes such as risk analysis (see the guideline for the core element ‘Risk analysis’).

How can you integrate stakeholders into your grievance mechanisms?

You can integrate (potential) users, their legitimate representatives and other stakeholders (e.g. human rights experts and civil society organisations) into your grievance mechanisms through discussions, surveys, consultations, workshops and other forms of dialogue. Make sure that you consider context-specific factors, e.g. the political situation, particularly vulnerable groups and sociocultural factors such as language and illiteracy rates. Grievance mechanisms must offer explicit protection for complainants and take account of the risks to which they are exposed in their local context. To this end, you should consider establishing anonymous reporting processes (see step 5). By way of support, you can also draw on outside expertise, e.g. from academic institutions, civil society organisations and government agencies.



What are the key points to consider when engaging with stakeholders?

Input from (potentially) affected groups or individuals can provide extremely valuable insights and crucial new information to help you develop appropriate grievance mechanisms and remedial actions. Where it makes sense to do so, depending on what is appropriate given the size of your enterprise and its human rights risk profile, you should consult those affected by your activities, especially vulnerable groups (or their legitimate representatives).

However, reaching out to those groups often presents a significant challenge. This can be particularly difficult if there is no direct contact, if those groups fear reprisals, or if dialogue is hampered by linguistic, cultural or gender-specific barriers. To engage effectively with rights holders, you will therefore need to recognise and address any communication barriers and power imbalances and any other obstacles that you can think of. If necessary, you must protect the identity of those who may be at risk.

Alternatively, if you are unable to engage directly with user groups, you can obtain feedback through other stakeholders (e.g. civil society organisations

or human rights experts). This route is more likely to prove necessary in the case of smaller enterprises with fewer contacts and resources and less influence. As part of your wider efforts to implement human rights due diligence processes, the German Federal Government's [Business & Human Rights Helpdesk](#) can advise on establishing suitable contacts, e.g. with NGOs, local business representatives and potentially affected groups.

In terms of practical advice, especially for SMEs, it is worth noting that smaller enterprises in particular have more limited financial and human resources and often find it challenging to establish direct formal contact with external stakeholders. SMEs can strengthen dialogue with potential users of their grievance mechanisms by publishing contact information on their website and, for example, by pooling their resources with other enterprises in order to develop joint measures. It is also advisable to draw on information from external human rights experts, civil society organisations and government bodies on specific challenges linked to grievance mechanisms and to use it as the basis for reviewing your enterprise's own grievance mechanisms.



4.3 Step 3 – Identify possible grievance issues and potential users based on your risk analysis

The views and needs of persons, communities and groups (potentially) affected by your activities should be your primary focus when designing grievance mechanisms. It follows that you need to identify (potential) grievance issues and user groups before you can set up and expand your complaints procedures.

Identify possible grievance issues

Potential and actual human rights violations at any point in your entire value chain that your enterprise causes, or to which it contributes or is linked through its activities, should be identified through your risk analysis (see the guideline for the core element ‘Risk analysis’).

Users should be able to report not only direct human rights concerns but also cases of corruption and any environmental risks and damage that may contribute to human rights violations. Generally speaking, however, given the enormous range of human rights impacts that can occur, it will be impossible to map all potential issues in advance. You should therefore ensure that your grievance mechanisms can accommodate new forms of (potential) human rights issues (see step 6).

Typical examples of grievance issues



- HR issues (working hours, wages, salaries, company social benefits, discrimination, harassment)
- Workplace health and safety issues (slips, trips, injuries, fire, hazardous substances, working environment, physical/mental stress)
- Environmental problems (air/water pollution, soil contamination, noise/light/smell pollution) that are caused by your own factories or those in your supply and value chain and that can lead to adverse human rights impacts
- Issues linked to the use of your products (data protection, emissions, pollutants, product safety)
- Corruption linked to your procurement, production and sales activities
- Reported violations of a code of conduct
- Unlawful forced resettlement in surrounding communities due to the economic activities of a supplier

What are good sources to identify potential grievances?



- The potential and actual adverse impacts identified during your risk analysis
- Grievance issues identified through your existing procedures
- Reports from other enterprises, sector initiatives and civil society organisations, as well as media reports and studies



Corruption and breaches of human rights due diligence obligations

The fight against corruption and bribery plays an important role in wider efforts to respect human rights. As shown in various studies, for example by Transparency International, human rights violations and corruption occur more frequently in states where, for example, the rule of law is lacking, institutions are weak, and poverty is endemic. Potential human rights risks in such countries include damage to the health or safety of workers and the local population, discrimination, restrictions on freedom of association and violations of indigenous peoples' rights.

With regard to human rights due diligence processes, it is recommended that enterprises observe the following:

- As part of their human rights risk analysis, enterprises should be aware that corruption and bribery can be an indication of human rights violations.
- When developing rules and processes designed to ensure respect for human rights, you should consider measures to fight corruption and bribery as a cross-cutting task.

- Enterprises should integrate anti-corruption measures into their business processes and impose anti-corruption requirements right across their supply chains. If you have not yet established processes of this kind at your enterprise, the expansion of your existing due diligence processes provides a good reason to do so and an opportunity to harness synergies.
- With regard to implementation, the recommended approach involves close collaboration between the compliance department and the various divisions and departments responsible for observing human rights.

Some examples of further reading on this subject: [Corruption as a Violation of International Human Rights](#), research paper by Prof. Dr Anne Peters, in European Journal of International Law, Volume 29, Issue 4, November 2018, Pages 1251–1287, Published: 14 February 2019; [Integrating Human Rights in the Anti-Corruption Agenda](#), a study by the International Council on Human Rights Policy in collaboration with Transparency International, 2010; [Corruption and Human Rights: Making the Connection](#), a study by the International Council on Human Rights Policy in collaboration with Transparency International, 2009.

Identify the (potential) users

Complainants may be groups or persons affected by (potential) adverse human rights impacts, their authorised representatives or persons with information about (potential) adverse impacts in the areas covered by the grievance mechanism. In order to identify (potentially) affected groups, you should also draw on the results of your human rights risk analysis and the possible grievance issues highlighted during that process. Make sure that you consider the needs of particularly vulnerable groups, such as trade union members, human rights defenders, women and indigenous peoples. In addition, to help you identify (potential) users in the supply and value chain, it is advisable to build a clear picture of the upstream and downstream stages and reach out to actors on the ground (suppliers, local associations, local civil society

organisations or potentially affected groups and their representatives).

Identify the location

To help you design grievance mechanisms that are barrier-free and meet the needs of your target groups, it is essential to develop an understanding of the linguistic, cultural and technical context. For example, someone with limited or no access to the internet, poor literacy skills or no knowledge of English will struggle to use a written complaint form in English that is only available online. Equally, without the involvement of other actors (e.g. local initiatives), your grievance mechanisms may also be more difficult to access for those working in stages of the value chain that are particularly remote from the enterprise. With this in mind, it may be helpful to

allocate (potentially) affected groups to a rough geographical area (e.g. countries, regions) in order to identify specific access barriers. Additionally, it may be useful to locate (potentially) affected groups on the basis of their position in the wider value chain (e.g. at indirect suppliers).

4.4 Step 4 – Conduct a baseline assessment and identify any gaps

Many enterprises have already established a variety of approaches to grievance mechanisms and can build on existing procedures to meet the NAP requirements rather than setting up completely new ones. These often include channels for the enterprise’s own employees, allowing them to submit complaints, for example about workplace discrimination, poor working conditions, ethical concerns and corruption. Such channels can range from informal ad hoc discussions and structured surveys or dialogues through to formal grievance mechanisms. In many cases, dedicated channels have been created for (potentially) affected groups or other whistleblowers outside the enterprise. Contact points that deal with specific issues such as product quality and data protection are also common, although at first sight they may not have any direct connection with human rights.

Identify your existing grievance channels and any gaps in provision

This involves documenting not only the internal channels already in place that enable users to submit reports and complaints but also any external procedures in which your enterprise is involved. You should then allocate each of the (potentially) affected groups and (potential) grievance issues you have identified to these channels. Gaps may arise if people who could be affected by (potential) adverse human rights impacts linked to an enterprise’s activities or business relationships have no access to effective channels that allow them to report abuses or seek remedy, or if the available mechanisms do not address the issues they wish to raise. When performing your baseline assessment, you should draw on the results of your human rights risk analysis (e.g. with regard to the structure and geographical distribution of your value

chain) and on your step 3 findings (potential grievance issues and users).

To identify and locate any gaps, use the following questions to systematically analyse for whom, where and for which issues grievance mechanisms are already in place, and where you need to gradually expand them or set up new mechanisms.


- What existing grievance mechanism structures and processes can you build on?
- What grievance channels have been established?
- Which groups can use these channels?



Typical examples of grievance channels

The following mechanisms may act either as a general channel for all groups to submit information on any subject or may be directed at specific internal or external groups with complaints about specific human rights problems.

- Email address
- Phone hotline
- Online form (website)
- Ombudsperson
- Works council, trade union/employee representatives
- Representation for persons with disabilities
- Equal opportunities officers
- Survey
- Dialogue forum
- Designated contact
- Audit interviews
- Complaints box
- Procedures managed by public bodies, multi-stakeholder initiatives and civil society organisations
- Other multilateral mechanisms




Insight into corporate practice: grievance management within the context of the Rheinmetall Group’s ‘Integrity Line’

The Integrity Line set up by Rheinmetall is an electronic whistleblower system that allows employees and others outside the Group to report questionable actions, specific cases of rule-breaking and potentially improper business practices through the Group’s national websites and by email.

Complaints can be reported in 13 different languages – anonymously, if necessary. Twenty-two incident response committees have been set up to deal with incoming reports. All grievances must be processed in accordance with a management guideline. In addition to the Integrity Line, other channels (a designated ombudsperson and compliance officers) have been established to supplement the enterprise’s grievance mechanisms. The long version of this [good practice example](#) is available online.

assessment (see table on next page). Once you have established a suitable approach, you should conduct this analysis on a regular and ad hoc basis (see below: ‘What are ‘ad hoc triggers?’) to update and refine it.



What are ‘ad hoc’ triggers?

Typical ad hoc triggers for analysing or reviewing your grievance arrangements include establishing a new business activity, expanding into new areas of business, entering a new market, building a factory (in or outside Germany), introducing new products or services, establishing new business relationships and launching new projects. Another example of an ad hoc trigger is if your enterprise must expect a significantly changed or expanded risk situation in its own business area or in its upstream or downstream value chain, e.g. as a result of cultural shifts, emerging social tensions, eruptions of violence, heightened levels of conflict or comparable developments.

You can then match this list of channels against the list of potential grievances and user groups that you identified in step 3. To do this, you will need to check:

- Which (potential) grievance issues cannot be submitted through these channels?
- For which (potentially) affected groups is there no channel through which they can articulate grievances?

This analysis will give you an overview of whether grievance channels are already in place for the groups you have identified, or whether they still need to be established because there are no channels for certain issues or for some user groups. Procedures for reviewing the effectiveness of your channels and identifying any barriers to access are set out in step 5. However, you may choose to include possible initial challenges that you identify as part of your baseline

Illustrative examples of the results of a baseline assessment, i.e. showing grievance categories, user groups, locations, relevant channels and your initial thoughts on potential obstacles to the use of those channels; the list is not intended to be exhaustive:

Grievance category	User groups	Location	Grievance channels	Possible obstacles
Occupational health and safety	Own employees	Germany	Works council, ombudsperson	None identified at this stage
Occupational health and safety	Own employees	Abroad	Online portal	Only available in German and English
Occupational health and safety	Tier 1 supplier employees	Sites in Asia	Audit interviews	Fear of reprisals as no provision for anonymous reporting
Occupational health and safety	Cobalt miners	DR Congo	Dialogue forum	Cultural barriers
Freedom of association	Own employees	Germany	Works council	None identified at this stage
Freedom of association	Own employees	Abroad	Ombudsperson	Channel not known in Russia
Freedom of association	Tier 1 suppliers	China	Hotline	Language barriers, often not known
Corruption	Tier 1 suppliers	Abroad	Ombuds-person’s office	Not known
Environmental damage	Own employees	Sites in and outside Germany	None	No channel
Environmental damage	Tier 1 suppliers	In and outside Germany	None	No channel
Environmental damage	Local community near platinum mine	South Africa	Audit interviews	Targeted selection of interviewees
Water scarcity	Local community near own sites	Mexico	None	No channel
Landgrabbing/ displacement	Indigenous peoples near rubber plantation	Vietnam	Online portal	Not known, no internet access
Unequal pay	Women at tier 1 suppliers	Turkey	Hotline	Channel not known. Women unaware who is being supplied.
Discrimination	People with disabilities in own business area	Sites in and outside Germany	Disabled persons’ representative	No known channel at sites outside Germany

Discrimination	People with disabilities at tier 1 suppliers	Sites in and outside Germany	No in-house channel. Unclear if channels in place at suppliers.	Pending investigation
Discrimination	LGBTQIA+ in own business area	Sites in and outside Germany	Online portal	Often not known outside Germany, fear of reprisals

Identify any missing procedural steps in your existing grievance mechanisms

Review your existing grievance mechanisms to ensure that they cover all the relevant procedural stages that are not only typical but also proven to be effective for an operational grievance mechanism. It may be helpful to begin with a centralised procedure (e.g. grievance hotline) and then review your other channels one at a time. Use the systematic approach detailed in step 7 to conduct these reviews. Outline the sequence of actions for each existing mechanism from both your own perspective and that of the complainant (or use an existing process description) to help you identify any components that may be missing compared with the recommended procedural stages set out below. You can use the results of this analysis not only to identify gaps in the sequence but also to identify potential improvements and refine your existing mechanisms. Equally, you can use the resulting process overview to ensure that sequence of actions in your grievance mechanism is transparent for stakeholders.

Bring together employees with the required expertise from different business areas to conduct your baseline assessment



To help you identify any gaps during your baseline assessment, it is important to bring together employees from different business areas who have the required expertise. Your enterprise's structure and business activities will be the key factors in choosing colleagues for this exercise. In most cases, that expertise will be located in departments such as legal and compliance, purchasing, sales, sustainability/corporate social responsibility (CSR), human resources, occupational health and safety and your codetermination bodies. If your enterprise does not have sufficient in-house expertise in the area of human rights, you will need to draw on outside expertise. This can range from reliable online sources of information and specialist literature through to discussions, e.g. with acknowledged experts, civil society organisations and trade unions.

4.5 Step 5 – Apply the effectiveness criteria

All persons who are exposed to actual or potential adverse impacts in your supply and value chain must be made aware of and trust your grievance mechanisms. This is crucial if they are to use the procedures and derive full benefit from the mechanisms. The eight criteria set out below will help you ensure that your grievance mechanisms are effective.

The eight effectiveness criteria for grievance mechanisms according to the UN Guiding Principles (see UN Guiding Principle 31)

- Legitimate
- Accessible
- Predictable
- Equitable
- Transparent
- Rights-compatible
- Source of continuous learning
- Based on engagement and dialogue

The eight effectiveness criteria are consistent with the NAP requirements, although they are less clearly demarcated in the NAP given its overarching focus on implementing the UN Guiding Principles. When describing the effectiveness criteria for grievance mechanisms, this guideline therefore draws on the consistent specifications and explanations in the UN Guiding Principles.

Review the effectiveness of your grievance mechanisms

Your grievance mechanisms must fulfil the effectiveness criteria in terms of both design and implementation. It follows that you can regard the criteria as a list of objectives. Ineffective grievance mechanisms risk creating a sense of injustice among affected groups if they feel they are not being respected or are powerless in the face of adverse impacts. This impression can sow mistrust in the mechanism and completely negate the potential benefits (see step 1).

You should review the practical effectiveness of your grievance mechanisms regularly (i.e. at least once a year and ad hoc). You can do this using the eight effectiveness criteria. Use the example questions below to help you assess, for example, your grievance procedures, communications and documentation.⁶ The needs and views of (potentially) affected groups, especially the most vulnerable, should be the primary focus when conducting this review. With this in mind, it makes sense to engage (potentially) affected groups actively in the review alongside all those who are involved from within and outside your enterprise (see step 2). Step 7 looks at typical measures that you can implement to make your grievance mechanisms more effective.

Grievance mechanism review questions based on the eight effectiveness criteria set out in UN Guiding Principle 31

Legitimate

Enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.

- Has a formal process with clearly defined responsibilities been established for dealing with grievances?
- Do the individuals who are responsible for processing grievances receive appropriate training?

⁶The questions are derived from a set of improvement measures (for non-state grievance mechanisms) drawn up on the basis of international consensus by the Accountability and Remedy Project of the UN Office of the High Commissioner for Human Rights. See also: UN High Commissioner for Human Rights ‘Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms’ (2020) and CSR Europe ‘Assessing the effectiveness of company grievance mechanisms’ (2013), p. 29.

- Does the procedure ensure that the parties against which grievances are directed cannot interfere in the fair resolution of those grievances and that conflicts of interest are avoided?
- Are rights holders and other relevant stakeholders involved in the design, implementation and ongoing development of the mechanism?
- Have processes and technologies been implemented that guarantee the confidentiality and protection of personal data in the grievance procedure?
- Are complainants given a transparent and understandable explanation of decisions to reject their grievance?
- Are arrangements in place that allow grievances to be submitted anonymously?

Accessible

Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.

- Are there targeted information and outreach activities to raise awareness of the mechanism?
- Are potential users (including highly marginalised and vulnerable groups) aware that the mechanism exists, and do they understand how it works?
- Are measures in place (e.g. targeted information campaigns) that proactively raise awareness of the mechanism and explain how it works?
- Are the specific needs of potential users (including highly marginalised and vulnerable groups) and the challenges they face taken into account by offering a range of access points or grievance channels and removing any relevant barriers to access, for example through support or capacity-building measures (e.g. information materials and advice)?
- Are the procedures adapted to local, social and cultural circumstances and to the needs of target groups?
- Are grievance mechanism staff given appropriate training, e.g. on the cultural and gender sensitivity required when dealing with complainants and on the gender-sensitive handling of grievances?
- Does the mechanism cover all the relevant grievance issues?
- Are the risks of reprisals appropriately assessed and addressed?



What are some examples of barriers to access?

- Lack of awareness of the mechanism or the associated procedure
- Lack of awareness and clarity about issues that can be reported using the grievance mechanism
- Language
- Costs (e.g. phone charges)
- Physical barriers (especially for those with impaired sight, hearing or mobility)
- Ability to read or write
- Local social and cultural circumstances
- Lack of technical communications equipment or poor network coverage
- Fear of punishment, reprisals or other negative consequences
- Distrust of the mechanism (e.g. due to a lack of transparency regarding the process and outcomes)

Predictable

Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.

- Is there a formal procedure with clear roles, responsibilities, processes and processing times?
- Has the enterprise established uniform rules to ensure that grievances are managed consistently?
- Are potential users given information about the entire procedure, including details of responsibilities, time frames and possible outcomes and remedial measures?
- Is information from completed processes presented as an example to help users understand how their grievance will be processed?
- Are potential users told for whom the grievance mechanism is intended and what issues can be submitted through that mechanism?
- Are potential users told what kinds of preventive and remedial measures they can expect and how the implementation of those measures will be monitored?

- Are potential users given information about what point in the process a matter will be referred to official bodies, e.g. to the police in the case of criminal behaviour?
- Are potential users who are at risk of reprisals given clear information about the support they can expect from the enterprise and about the limits of the mechanism?

Equitable

Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.

- Is information relevant to the procedure shared with complainants in an appropriate, clear and understandable form that meets their needs?
- Is support made available to complainants in the form of access to funding or to independent legal/specialist advice and relevant expertise?
- Do the individuals responsible for managing the procedure have the methodological and technical expertise required to advise (potentially) affected persons or groups and to process grievances?
- Are rules (e.g. in a code of conduct) and training arrangements (for those staff responsible for dealing with incoming grievances) in place to ensure that complainants are treated fairly and with the appropriate gender and cultural sensitivity?
- Does the mechanism provide an option for complainants to appeal against the process or the outcome of the grievance procedure?

Transparent

Keeping parties to a grievance informed about its progress and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake.

- Are complainants in the case of an ongoing procedure kept informed about the next steps, decisions and potential solutions as it moves towards a conclusion?
- Are the possible limits of the grievance mechanisms clearly explained?
- Is information about all grievance procedures made publicly available in anonymised form?

- Are statistics, case studies and reports published internally and externally to provide more detailed information about the performance of the grievance mechanism over time?
- Are grievances analysed to identify any broader trends and patterns, and are the results of those analyses published?
- Is the effectiveness of the mechanism reviewed at regular intervals, and are the results of those reviews communicated internally and (possibly) externally?
- If necessary, are arrangements in place to ensure that the dialogue between the parties remains confidential and to protect the identity of individuals?

Rights-compatible

Ensuring that outcomes and remedies accord with internationally recognized human rights.

- Are outcomes and remedial actions examined in order to identify their human rights impacts?
- Are the rights of complainants protected during the grievance procedure?
- Are measures in place to ensure that all proposed solutions and remedial actions are consistent with internationally recognised human rights?
- Are the proposed solutions and remedial actions culturally appropriate, gender-sensitive and designed to meet the needs of the persons affected?
- Are the outcomes and remedial actions appropriately assessed (with due regard for feedback from affected stakeholders) to determine whether they are effective? If necessary, are suitable corrective measures taken?
- Has the enterprise made an explicit commitment to protect potential users of the grievance mechanism from any negative consequences (e.g. reprisals, punishments, revenge), and has it also set out this commitment in external descriptions of the procedure (e.g. with reference to specific protective measures)?
- Are the procedures designed in such a way that complainants are also able to assert their rights through alternative state and non-state grievance mechanisms?
- In the event of a conflict between national law and international human rights standards (e.g. the UN Bill of Human Rights or the ILO Core Labour Standards), is the stricter approach applied?

A source of continuous learning

Drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

- Are grievances documented centrally?
- Are indicators used to rate the effectiveness of the grievance mechanism? For example, conclusions can be drawn about the accessibility of a grievance mechanism by analysing the number of complaints received together with qualitative information (e.g. on measures and access barriers). This example illustrates the importance of additional qualitative information. The fact that an enterprise receives only a small number of grievances through a given mechanism can mean that the human rights situation has improved, but it can also indicate that stakeholders do not trust the grievance mechanism or that it is difficult to access.
- Is the mechanism reviewed at regular intervals to ensure that it is effective, and is it continuously updated on the basis of new information and insights?
- Are the number and frequency of incoming grievances and any trends and patterns regularly analysed, and are the key findings used to inform ongoing development of the enterprise’s human rights due diligence processes, for example its risk analyses?

Based on engagement and dialogue

Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

- Does the enterprise actively involve rights holders and their representatives in the design of its grievance mechanisms?
- Has a formal process been established that allows the enterprise to obtain feedback on the design and performance of its grievance mechanisms through dialogue with users and other stakeholders?
- During the further development process, is attention paid to the needs of users and other stakeholders and to their feedback on the enterprise’s grievance mechanisms?
- Are grievance procedures designed in a way that provides for and responds to dialogue-based, consensual problem-solving?



Examples of measures to address power imbalances between enterprises (or local companies) and rights holders

Power imbalances between enterprises (or local companies) and rights holders can arise in certain situations, e.g. in cases where workers are completely dependent on the employer for their livelihood or have much more limited financial resources, if rights holders have no access to information held by the enterprise, or if the measures established to protect rights holders are inadequate. To counter power imbalances, you may find the following measures helpful when designing your grievance mechanisms.

1. Build and expand capacity, i.e. provide knowledge and expertise to stakeholder groups. The goal here is to enable potential complainants and their representatives in the supply and value chain to use the grievance mechanism, e.g. by:
 - showing local rights holders and suppliers' employees how to use the mechanism through training provided by the enterprise itself or by other stakeholders (e.g. civil society, industry associations);
 - conducting social dialogues to promote good relations between workers, unions and the enterprise's management team as a way of building trust;
 - presenting targeted proposals for collaborative problem-solving in order to bring stakeholders closer together and strengthen trust in the mechanism.
2. Exempt the complainants from procedural costs.
3. Provide an option to submit grievances anonymously.

4. Establish a regional conflict management office to advise and support complainants before, during and after a grievance procedure (e.g. on alternative options for obtaining legal protection).
5. Conduct on-site investigations into the grievance.
6. Ensure protection against the threat or use of violence against complainants and/or others involved in the procedure.
7. Monitor the implementation of agreed preventive and remedial measures.
8. Give due consideration to the vulnerabilities of potential users.
9. Train those managing the grievance procedure to deal with power imbalances.
10. Create options for submitting a collective grievance.
11. Use facilitators who consciously factor in power imbalances.
12. Ensure that the grievance procedure is barrier-free and accessible in multiple languages.
13. Provide targeted support for complainants who are minors, and, if necessary, assign a representative.
14. Protect the information rights of those involved in the procedure.

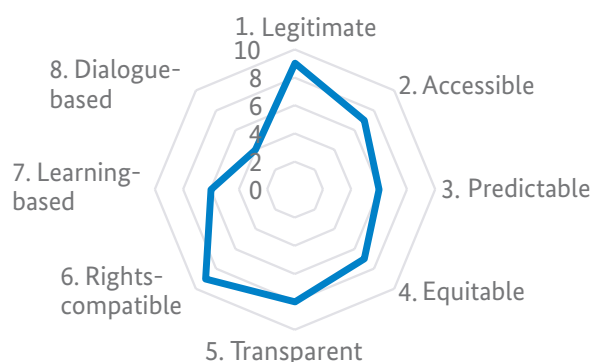
Based on Gläßer et al. (2021), Non-judicial Grievance Mechanisms in Global Supply Chains – Recommendations for Institutionalisation, Implementation and Procedural Design, p. 301 et seq, 401 et seq, 425 et seq



How to recognise where improvements are needed

When it comes to assessing the effectiveness of your grievance mechanisms, there are several tried-and-tested approaches, e.g. effectiveness scales, traffic light systems, Harvey balls and spider diagrams. Diagrams can help you to visualise and quickly identify areas for improvement or to compare a number of mechanisms. As an indicator of the degree to which your mechanisms fulfil the eight effectiveness criteria, you can assign each one a marker such as ‘fully compliant’, ‘partially compliant’ and ‘not compliant’.

Illustrative: Assessing the effectiveness of a grievance mechanism



To supplement the diagram, you could also prepare a table setting out any deficits you have identified in relation to the effectiveness criteria (e.g. access barriers) with a view to addressing and improving them through the ongoing development of your grievance mechanisms. You can also use this table to assign priority levels and specify the order in which you plan to address the deficits (see step 6).

Tools to get started



Another method you can use to review the effectiveness of your grievance mechanisms is the [Management of Complaints Assessment \(MOC-A\) Tool](#) produced by CSR Europe. The tool is designed to help enterprises review their implementation of the eight effectiveness criteria using a checklist of 21 process requirements.

[Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights](#) by Shift (see Annex C: Diagnostic Tool, p. 20) includes a table that provides an easy introduction to conducting a baseline assessment of your grievance management system. This could be particularly helpful for SMEs. The table is based on the practical experience of numerous enterprises. With reference to only a small number of qualitative criteria, it can be used to determine how well-developed an enterprise's grievance management systems are and consequently what further development steps are required.

- **Procedure:** time taken to process grievances (for each stage and the whole procedure); number of grievances abandoned or withdrawn, including reasons (if possible); type and number of support measures used (e.g. translation, ongoing assistance, advice)
- **Completion:** number of completed grievance procedures; type and number of outcomes (e.g. agreed preventive and remedial measures)
- **Overall:** number and frequency of training events (e.g. on procedures and dealing with complainants); number and frequency of stakeholder consultations; type and number of stakeholders (or stakeholder groups) consulted; number and type of any capacity-building measures, including details of the target groups (if applicable)

The data you compile should be disaggregated (e.g. by gender, particularly vulnerable groups, stage in the value chain, grievance issue) and if possible supplemented by the following qualitative data obtained from surveys (e.g. of target groups or local organisations):

- User opinions and satisfaction with regard to awareness and awareness-raising; accessibility, predictability, communication, procedural support, fairness, protection against reprisals, transparency, impartiality and duration
- Opinions of those involved in the procedure with regard to organisational or structural improvements

To help you review the effectiveness of your preventive and remedial measures, it also makes sense to continuously gather data on the following aspects of the procedure:

- Progress made towards implementation of your preventive and remedial measures (e.g. ‘not yet started’, ‘in progress’ or ‘completed’)
- User satisfaction with the outcome of the grievance procedure and with the implementation of remedial actions based on a survey at the end of each procedure and (if possible) a further survey at a later point agreed in the corresponding remedial action plan (e.g. after 6–18 months)

Obtaining qualitative and quantitative data to assess the effectiveness of your grievance mechanisms



You can check whether your grievance mechanisms fulfil the eight effectiveness criteria by asking yourself the questions listed above. It may also be useful to obtain and document quantitative information to make the assessment process easier and more objective.

Here are some examples of relevant data that you may wish to compile:

- **Awareness-raising:** number and type of awareness-raising activities and the corresponding target groups
- **Grievance submissions:** number of grievances received, approved and rejected, including reasons; type and number of grievance channels used; number of anonymous grievances submitted, including reasons if given; number and type of different grievance issues

4.6 Step 6 – Develop and expand your grievance mechanisms

Continuous improvement is a key element of human rights due diligence. Steps 3 to 5 focused on identifying any gaps in your existing grievance mechanisms and reviewing their effectiveness. Step 6 outlines how to close whatever gaps you have identified and address any factors that are making them less effective using a step-by-step approach.

Prioritise and take a step-by-step approach

Neither the NAP nor the UN Guiding Principles expect enterprises to close all the gaps in their grievance mechanisms and eliminate ineffectiveness overnight. These frameworks acknowledge that the resources enterprises can devote to this objective may be limited. You should first aim to close any gaps in areas where the adverse human rights impacts are most severe (see at right: ‘The three severity criteria for human rights impacts’).

It is perfectly feasible to operate more than one grievance mechanism at a time

You may be concerned about how you will cope with a possible influx of grievances if you establish several effective mechanisms. Based on experience, a good mechanism that people know and trust can initially produce more grievances, although in most cases the resulting workload is manageable. Also, the number of grievances you receive should fall if the root causes are systematically and effectively addressed. As you establish a routine, you will also be able to filter out inadmissible grievances more quickly. Remember, however, that all submissions must be reviewed on a case-by-case basis.



The three severity criteria for human rights impacts

The severity of adverse human rights impacts is assessed using the three criteria set out below.

Scale means the degree of impairment, i.e. how much human rights are actually or potentially impaired. In most cases, for example, the impairment of a person’s bodily integrity is greater if that person loses a body part due to inadequate workplace safety precautions than if an excessive workload leads to ill health.

Scope means the number of people that are or could be affected by an adverse impact. If the fire safety precautions at a factory are inadequate, for example, the entire workforce is affected, whereas a lack of protective clothing for handling chemicals will only affect those working in that area.

Irremediability means the extent to which the consequences of adverse impacts cannot be remedied or whether it is possible to restore the situation that existed before the (potential) violation. For example, serious physical injuries causing persistent damage or death cannot be remedied or compensated. The same applies in the case of permanent damage to an ecosystem on which people depend for their livelihood.

For more information and advice on assessing the severity of adverse impacts, see the guideline for the core element ‘Risk analysis’.



Taking children and their rights into consideration

Your grievance mechanisms should also be accessible to adolescent workers and children whose legal rights have been violated. This is particularly important if you have identified risks to the rights of children when conducting your risk analysis and your assessment of potential grievance issues and users.

Child-sensitive grievance mechanisms can give enterprises valuable information about the impact of their business activities on the rights of children and can therefore help to implement systemic, structural measures that protect and promote the rights of children more effectively.

To ensure that children are able to access and benefit from your grievance mechanisms, you can invite child protection specialists, experts on children’s rights, children’s representatives, education-ists, civil society organisations and relevant community actors to provide input at the design stage.

Provided that you take appropriate precautions, it may also make sense to involve children directly in designing your grievance mechanisms and during the corresponding grievance procedures. It is important to bear in mind that children have both the right to be involved in decisions that affect

them and the right to be protected. As such, any direct involvement in grievance procedures should be considered only if it is in their own interest and if their welfare is prioritised in all remedial actions. In some cases, it may be better for children to be represented in a grievance procedure by their parents, guardians or experts in the rights of children. In other cases, direct involvement may allow children to exercise their rights and achieve outcomes that affect them. This can help to build stronger and healthier relationships between children, communities and enterprises.

This section on children and their rights was prepared in collaboration with UNICEF Germany. UNICEF has developed its own step-by-step guidelines to help enterprises implement child-sensitive grievance procedures.

- The [Child Safeguarding and Business](#) tool includes specific recommendations on child protection and for dealing with potentially adverse impacts and grievance procedures.
- The publication [Operational-level grievance mechanisms fit for children](#) offers advice on the design of grievance mechanisms and explains how enterprises can help children to present grievances effectively.

Expand your existing mechanisms

It may make sense and save resources to expand your existing mechanisms initially before setting up any completely new channels. Think carefully about which is the best way of establishing an effective grievance management system. If you decide to expand existing mechanisms, you will need to close any gaps, ensure the procedures are effective and address any weaknesses. You can do this using the model procedure set out in step 7 and the eight effectiveness criteria in step 5. It may be possible to make your existing grievance channels accessible to further potential user groups without incurring undue cost.

Furthermore, call on your key strategic suppliers and business partners (e.g. through contracts or your code of conduct) to set up their own grievance mechanisms and address issues effectively wherever they arise. Where appropriate, use cross-company grievance mechanisms (see step 9), provided that they meet the effectiveness criteria set out in the UN Guiding Principles (and therefore fulfil the NAP requirements).

Set up your mechanisms

You will need to establish new or additional mechanisms if there are none already in place that you can build on, or if you conclude that a single mechanism is not sufficient. This may be the case if an existing mechanism is too narrow and does not cover all relevant issues and users. For guidance on setting up grievance mechanisms, you can refer to the model procedure set out in step 7 and the eight effectiveness criteria in step 5.

When establishing your grievance mechanisms, make sure that you give full consideration to vulnerable and marginalised (population) groups, gender-specific risks and possible access barriers. By providing a range of access channels, you can avoid the need to set up dedicated grievance mechanisms for different groups based on their respective language, specific context and differing concerns. All these channels can then form part of a central mechanism.



Practical advice for SMEs – adapt your grievance mechanisms in line with your resources and exposure to human rights risks

The NAP and the UN Guiding Principles recognise that many small and medium-sized enterprises (SMEs) do not have the same financial and human resources as larger enterprises and that their procedures and structures are generally less formalised. Nevertheless, you are still expected to set up effective grievance mechanisms or join external procedures that meet the NAP requirements. In terms of complexity and scope, any grievance mechanisms you establish in your own enterprise need only be proportionate to your resources. You can therefore prioritise issues and potential user groups on the basis of risk. In this context, the level of risk will depend on the severity of any adverse human rights impacts (see p. 29: ‘The three severity criteria’).

SMEs whose activities are associated with serious risks will need to establish correspondingly appropriate and comprehensive grievance mechanisms. It follows that the grievance mechanisms of small and medium-sized enterprises may well be less complex and costly than those of large enterprises. Equally, it is not expected that SMEs will be able to set up a fully comprehensive grievance mechanism immediately. Instead, your aim should be to develop a credible roadmap for the mechanism’s gradual development and expansion. To this end, you can build on existing internal procedures or use external mechanisms (e.g. operated by industry associations or sector initiatives), provided they meet the effectiveness criteria set out in the UN Guiding Principles (and therefore fulfil the NAP requirements).



A selection of measures to ensure that you meet the needs of vulnerable groups when designing your grievance mechanisms

- Avoid any barriers to access that might prevent some users (e.g. complainants who cannot read or write, those with hearing or visual impairments and those without an internet connection) from presenting grievances. For example, you can establish a series of regional contact points and assign additional staff to support roles. You can also provide translation services for those with insufficient knowledge of the available grievance mechanism languages.
- Train your staff to deal with the concerns of particularly vulnerable groups, e.g. users presenting gender-specific grievances or those who may be traumatised.
- Provide support for minors and affected persons with mental, psychological and physical impairments who may need greater assistance. You should protect their interests and meet their needs.

Based on Gläßer et al. (2021), Non-judicial Grievance Mechanisms in Global Supply Chains – Recommendations for Institutionalisation, Implementation and Procedural Design, p. 427 et seq

4.7 Step 7 – Use the model grievance mechanism as a guide

Operational grievance mechanisms can be divided into individual steps. As a whole, these must fulfil the eight effectiveness criteria in order to function properly. The sequence of actions outlined below can serve as a guide.⁷ However, you should check the proposed structure to ensure that it meets your requirements in each case. You may need to modify it to include alternative processes. In particular, you should be prepared to deal with grievances that may not be submitted, processed and resolved in the usual way. It may often be necessary to choose alternative steps and to respond as the situation demands.

Overall, you must establish a formal written process with a clear time frame for dealing with incoming grievances. The process should allocate clear responsibilities within the enterprise and cover the entire grievance procedure from submission and processing through to regular measurements of its effectiveness. You can use the process description for both internal coordination and external communication purposes.

Establish the internal structures needed to operate an effective grievance management system

If your grievance management system is to function effectively, it is important that your enterprise's senior management team is formally integrated into the process. Simpler arrangements, in which staff report to their senior managers, may be adequate for some SMEs, but more formal internal control and monitoring systems are usually in place for larger enterprises.

In many cases, finding a solution to a grievance requires cooperation between various departments or functions and senior management. Employees in roles that involve processing grievances require appropriate training (e.g. by internal or external human rights specialists, process experts, civil society organisations

⁷See IPIECA ‘Operational Level Grievance Mechanisms: Good Practice Study’ (2012), p. 10–13; DGCN ‘Worth listening. Understanding and Implementing Human Rights Grievance Management’ (2018), p. 37–39; Office of the High Commissioner for Human Rights, ‘The Corporate Responsibility to Respect Human Rights: An Interpretive Guide’ (2012), p. 70 et seq and 75; Hadwiger, F., Hamm, B., Vitols, K., & Wilke, P., ‘Menschenrechte und Unternehmensverantwortung: Handlungsleitfaden für Betriebsräte’, Working Paper Forschungsförderung No. 048, 2017, in German, p. 28 et seq; Office of the High Commissioner, ‘Guiding Principles on Business and Human Rights – Implementing the United Nations Protect, Respect and Remedy Framework, 2011, p. 18.

and government agencies) and will often need to consult their colleagues in the legal department. Equally, those tasked with implementing the grievance procedure must be independent and therefore not bound by instructions. In this respect, the role of senior management is particularly important. It should guarantee this independence and ensure that grievances are addressed and adequately prioritised by the enterprise as a whole. It should also create the corresponding structures and actively support the work of its employees in this area so that grievances can be seen not as a threat but as a constructive and necessary part of the enterprise’s ongoing development.

This means that enterprises need to establish the basic organisational framework required in order to operate a grievance management system. That includes assigning responsibilities, clarifying reporting paths, describing individual roles, specifying decision-making processes, providing resources and building skills (e.g. by training all employees involved in processing grievances). As far as possible, you should also set and transparently communicate clear time frames for each step in the grievance management process.

Grievances do not all have to be processed in the same centralised office. However, the recommended approach is to set up a central coordination unit to administer and analyse grievances you have received and addressed. That will allow you to keep an overview and to identify and respond to possible trends and connections. This unit can also be tasked with compiling the results of your grievance mechanisms and using them for regular internal communication with senior management (especially in the case of grievances involving severe adverse human rights impacts) and for external reporting purposes.

You should also take targeted action to address the structural power imbalances between your enterprise and those who report grievances. This can be achieved by setting up anonymous channels and by arranging support as well as ongoing assistance for complainants. With regard to the concerns of particularly vulnerable groups, it is recommended that enterprises draw up clear guidance on protecting complainants against potential reprisals.⁸

Raise awareness of your grievance mechanisms

Grievance mechanisms can only serve their purpose if potential users and rights holders are aware that they exist. In order to raise this awareness, it is advisable to create a clear picture of your supply and value chain. Confidence-building measures such as training events and workshops for rights holders can also help to increase awareness and use of the mechanism. You should actively facilitate and encourage the reporting of information. Stakeholders are more likely to use a grievance mechanism if they have confidence in the procedure. You can help to build that trust in various ways, e.g. by disclosing (internally and externally) details of the procedure, the corresponding time frames and designated responsibilities, and through other confidence- and capacity-building measures. Enterprises are also advised to communicate their guidance on protecting complainants against reprisals.

When contacting potential users, you should ensure that the information you provide (about how to submit a grievance and how it will be dealt with) meets the needs of the target group, especially with regard to the choice and complexity of language as well as the cultural context. Drawing on the findings of your baseline assessment, you can inform potential users about your grievance mechanisms in various ways (see next page: ‘What media can you use to raise awareness of your grievance mechanisms’).

⁸ Based on Gläßer et al., Non-judicial Grievance Mechanisms in Global Supply Chains – Recommendations for Institutionalisation, Implementation and Procedural Design, p. 429 et seq, 2021.



What media can you use to raise awareness of your grievance mechanisms?

Most importantly, you can raise awareness of your grievance mechanisms through your human rights policy statement and your formal human rights reports (e.g. in your sustainability report). Depending on the target group, you can also use a range of other communication channels.

- For employees: intranet, notices displayed in offices, information events, training courses, sealed and clearly visible complaints boxes, email, letter
- For business partners: email, letter, contracts, code of conduct
- For supplier employees: workshops, print contact details on quality assurance/audit staff business cards during site visits, display notices/pictures on site in relevant languages
- For consumers: print the grievance hotline number on your products
- For the general public: company website, public meetings and discussions with relevant stakeholders
- For members of local communities: leaflets, information brochures (e.g. with cartoon illustrations), local events, cooperation with civil society organisations and local government bodies, confidence-building measures

Accept the grievance

Grievances will be submitted using one of the channels you have set up, e.g. email, phone or complaint form. Make sure that a designated employee (e.g. in a head office administration unit) documents receipt of the grievance internally.

As a general rule, you must ensure that the identity of the complainant remains confidential. In some cases, employees may be concerned about the possible negative consequences of making a complaint, e.g. on their performance appraisal, chances of promotion or wages. Local residents who might wish to raise a

complaint about a (supplier) firm in the area may be afraid of the impact on their reputation and on their relationship with neighbours who see that firm as an important source of income. In some countries, individuals who speak out openly in defence of human rights risk massive reprisals and frequently receive death threats. Murder is not uncommon.

While your enterprise may have no direct links to situations of this kind, you should nevertheless set up additional channels that allow people to submit grievances anonymously. The goal here is to increase safety and confidence and therefore make it more likely that (potentially) affected groups or individuals will use the grievance channel. You can protect the identity of complainants by setting up mechanisms that do not require them to provide personal information in letters, phone calls or forms. Alternatively, you can facilitate anonymity by engaging an independent third party to receive and process grievances or advise complainants that they can choose instead to use an independent cross-company grievance mechanism, assuming that such a mechanism is in place and that you are a member. Make sure that you impose a confidentiality requirement on any independent service provider you engage for this purpose, e.g. an external ombudsperson, independent lawyers engaged by the enterprise or an NGO contact will often also have very good knowledge of the situation on the ground. You should also give complainants the option to appoint a representative at every stage of the procedure (e.g. a trade union or NGO).

Classify and assign incoming grievances

To ensure that grievances are handled in an effective and targeted manner, you should ensure that they are assigned – on the basis of a justified interest – to appropriate individuals in your enterprise, i.e. employees with sufficient expertise and appropriate knowledge of the specific issues involved (see p. 37: ‘Requirements for staff conducting grievance procedures’).

Classify each grievance you receive in terms of its general theme and its severity, then forward it to the responsible internal unit or individual. In order to firmly establish this process, it is important to draw on the findings of your human rights risks analysis to help you identify which themes may arise in the reports submitted by the various (potentially) affected groups through your mechanisms (see step 3).

Make sure that you give top priority to any particularly serious grievances, and, if necessary, inform senior management.

To help you process incoming grievances in a targeted manner, you can establish a clear remit based on the UN Guiding Principles, e.g. by specifying that you will only consider grievances directed against the enterprise itself or against other firms in your value chain. However, grievances must not be rejected immediately simply because at first sight they do not appear to be concerned with human rights. Issues may have only an indirect link to human rights violations (e.g. in cases involving environmental impacts or corruption) but can escalate over time into larger disputes and human rights violations if they are not investigated and resolved. When assessing the reliability of incoming grievances, it is advisable to adopt a flexible approach, at least initially, so that your grievance mechanisms can also function as an early warning system. This way, you can benefit from the knowledge you acquire through dealing with those grievances, and over time you can then introduce or modify admissibility

criteria in a targeted manner. When you assess whether a grievance is legitimate, bear in mind that it can be very difficult and time-consuming for an affected person or group to compile evidence of adverse (human rights) impacts in the lower tiers of an enterprise’s supply and value chain. If you receive a report about links of this nature, you should use your own resources and information to determine whether the grievance is actually linked to your enterprise.

Confirm receipt of the grievance

The unit or individual responsible internally for processing a grievance sends confirmation of receipt to the complainant along with information about the next steps and the anticipated processing time. If a grievance is rejected, e.g. if it fails to meet your admissibility criteria, you must inform the complainant of this and explain the reasons why. Where appropriate, you should allow complainants a right of appeal. If possible, you should also draw attention to alternative grievance mechanisms and channels.

How can you actively protect complainants against reprisals?



As an enterprise, you will need to be proactive and creative in order to reduce the risk of reprisals against complainants and their supporters. Effective measures should be determined on a case-by-case basis and may cover the following areas.

1. Provide an option to submit grievances anonymously and be transparent in the way you deal with contradictory national laws that make it difficult to guarantee anonymity in grievance procedures.
2. Take action against those that threaten or use violence against users of your grievance mechanisms.
3. Obtain trade union support for complainants by referring cases upwards.
4. Define and implement openly available guidance on protecting complainants against reprisals.
5. Be open about any remaining risks to potential users.
6. Offer capacity-building measures, e.g. training programmes.
7. Refer cases to other organisations that can offer protection (e.g. civil society).
8. Treat all sensitive data as confidential.
9. Take protective action against anyone opposing your efforts to resolve grievances (e.g. warning, suspension, exclusion or other temporary measures).
10. Check (as part of your grievance mechanism) whether national laws require you to report a case to the authorities.
11. Extend your protective measures to include those acting in support of complainants (e.g. witnesses and relatives).
12. Provide clear information about any protective measures that you cannot provide (e.g. safe hiding place, personal security).

Based on Gläßer et al., 2021, Non-judicial Grievance Mechanisms in Global Supply Chains – Recommendations for Institutionalisation, Implementation and Procedural Design, p. 162, 167, 250 et seq, 254 and 308

Investigate the grievance

The responsible unit or individual investigates the grievance and determines whether any additional information is needed from the complainant before it can be processed and whether internal or external stakeholders or experts need to be involved (e.g. an internal ombudsperson, the compliance/legal/HR department or external third parties such as trade unions, government bodies or specialist consultants). It is usually helpful to examine available documentation (e.g. external or internal audit reports, inspection records).

Based on previous experience, better results are frequently obtained when grievances are processed on an interdepartmental basis. You should establish a dialogue with the complainant and all other relevant stakeholders in order to investigate the circumstances leading to the grievance. It is essential to gain an understanding of the specific grievance, the associated human rights impacts and the different perspectives of all those involved. You will also need to find out how your enterprise is linked to any adverse impacts so that you can assess the extent to which your activities may have contributed to the underlying causes and how the enterprise can use its influence to specify appropriate remedial measures (see p. 38: ‘Specify remedial actions that reflect your causal contribution and your ability to influence the situation’).

Having conducted an equitable, dialogue-based investigation, you may decide to dismiss a grievance due to a lack of firm evidence, or you may conclude that there is no link to your enterprise or that you have not contributed to the underlying causes of the grievance and cannot influence the situation. In such cases, you should inform the complainant and explain your reasons for not taking further action. Where appropriate, you should introduce an appeal procedure that allows complainants to request that you reconsider the case on the basis of justified objections.



Challenges created by anonymous grievance mechanisms

Anonymous grievance mechanisms can be difficult to manage. For example, creating on-line usernames and passwords or involving third parties can hamper and slow the process of establishing communication and mutual understanding with users. If grievances are submitted anonymously without any contact details, it is difficult to request further information or work with the complainant towards a solution. If there is a way of making contact, you may be able to reassess the need for anonymity over the course of the procedure.



Requirements for staff conducting grievance procedures

Grievance mechanisms will only function effectively if the staff assigned to implement them are very well qualified and meet stringent professional and personal requirements. To this end, regular training should take place. In this context, make sure that you consider the following points.

- **Awareness of the situation of complainants:** Your grievance mechanism staff should have an understanding of the rights of (potential) users and be sensitive to their needs. This includes an awareness of gender perspectives and of the way in which various forms of discrimination can interact. Particular attention should be given to highly vulnerable and marginalised groups.
- **Knowledge of the local culture and language:** Your grievance mechanism staff should be aware of and sensitive to the social, economic and cultural background of affected groups and individuals. If the required linguistic expertise is not available in-house, you will need to obtain the relevant support/translation services.
- **Other specialist knowledge:** Depending on the role, this may include expertise in the areas of economics or human rights, in dealing with trauma or in identifying immediate threats of reprisals.

- **Procedural expertise:** Staff responsible for managing your grievance procedures should be familiar with dialogue-based conflict resolution methods and be trained in mediation and arbitration processes. At the same time, they will require a good understanding of the basic principles of grievance procedures and human rights and of designing effective remedial measures. Crucially, they must also give due consideration to power imbalances in the procedure and ensure that the weaker party receives effective protection.
- **Independence and impartiality:** Your grievance mechanism staff must conduct the procedure independently and impartially. To this end, they must be independent, free to take decisions (i.e. not bound by instructions from a manager) and bound to secrecy.

Based on Gläßer et al., 2021, Non-judicial Grievance Mechanisms in Global Supply Chains – Recommendations for Institutionalisation, Implementation and Procedural Design, based on ARP III, p. 224 et seq, p. 419 et seq, etc.



Specify remedial actions that reflect your causal contribution and your ability to influence the situation

The nature of the appropriate measures you take will depend on your **causal contribution**. The closer you are to an impending violation or to one that has already materialised, and the more you contribute to that violation, the greater your efforts must be to end or at least minimise the (potential) violation.

The nature of the appropriate measures you take in the case of impacts caused by others will depend on your **ability to exert influence**. In the context of human rights due diligence, ‘ability to influence’ refers to the ability of an enterprise to change unlawful practices caused not by the enterprise itself but by a third party.

You must take action if your enterprise has **caused** or **contributed to** a (potentially) adverse impact or risk. The activity causing the adverse impact or your contribution to it must be discontinued. You are also required to provide redress for the violation (or your contribution to the violation) and to prevent or minimise the risk of any recurrence.

If your enterprise is **linked** to the adverse impact, you must use your influence to encourage or oblige the third party causing the violation to stop the adverse impact, provide redress and prevent any recurrence. However, you can also take remedial action yourself. There is a link if (potentially) adverse impacts due to your enterprise’s business relationships are connected to your business activities, products or services.

In reality, it can sometimes be difficult to decide whether your enterprise has contributed to an impact or is simply linked to it. Here are some examples of the questions you must ask to help in your analysis: Has your enterprise enabled, encouraged or motivated the adverse impact? Should your enterprise have known about the adverse impact, or was it actually aware? Has your enterprise initiated preventive measures, and how effective have they been? In other words, if your enterprise could have prevented the adverse impact, then any failure to do so can be regarded as a contribution to the impact.

You will need to seek further clarification if the link is unclear (e.g. in cases where the impact is located in a lower tier of the supply chain) or if you are unsure whether the circumstances point to a contribution or to a link. To this end, you may need to refer the matter to an expert committee, a specialist consultant, internal experts, auditors or stakeholder dialogues.

For more advice on identifying any causal contribution you may have made and on assessing your ability to influence the situation, see step 3 of the guideline for the core element ‘Measures and effectiveness tracking’ and Ruggie, John G., 2017, [Letter to Prof. Dr Roel Nieuwenkamp in the context of the OECD Workshop on Understanding relationships to impact under the OECD Guidelines for Multinational Enterprises: Considering “Cause”, “Contribute” and “Directly Linked”](#).

Find a collaborative solution to the grievance

Based on the results of your investigation, you should either discuss an individual proposal for remedy with the complainant(s) or initiate a joint and open process to find a solution.

Remedy means taking measures to counter (potentially) adverse impacts and risks. In all cases where you are unable to prevent damage from occurring, you must examine the available options for remedy. Wherever possible, this means restoring the situation before the violation of the affected group’s rights occurred or, if complete restoration is impossible, restoring the original situation as closely as possible. According to the UN Guiding Principles, remedy may include apologies, a commitment to introduce appropriate preventive measures and processes, financial or non-financial compensation and in-kind reparations (see next page: ‘Some examples of remedial actions’ and the guideline for the core element ‘Measures and effectiveness tracking’).

You must ensure that your measures address the needs of the complainants and are consistent with international human rights standards. When developing measures, it is helpful to involve your HR and legal departments as well as the works council, especially in the case of grievances submitted by your own workforce.

It may also be helpful to address grievances at local or national level wherever possible. However, grievances that cannot be resolved appropriately at local level must be compiled and processed centrally. In cases involving particularly serious violations (e.g. modern slavery and the worst forms of child labour), it is helpful to seek advice from external human rights experts, civil society organisations and advice centres. Sometimes it may be necessary to involve the relevant authorities, for example if a grievance concerns a third party (e.g. a supplier firm) and potentially involves criminal activity (e.g. modern slavery). In such cases it is important to be transparent about when the matter is referred to a third party and how the complainant will be involved.

To ensure that your remedial measures reflect the views of those affected, you must involve the rights holders in your decisions. In this context, mediation

and dispute resolution approaches can be particularly helpful. Depending on the case and provided that the complainant agrees, you can also set up an arbitration procedure. Mediation and dispute resolution procedures must be conducted by qualified, independent and impartial facilitators (e.g. trained mediators or experts from a regional conflict management office). You may also decide to engage external consultants with relevant expertise in this area.

To ensure that your remedial measures reflect the views of those affected, you must involve the rights holders in your decisions.

Where appropriate, provide an option to appeal

As a general rule, the complainant should be given an option, where appropriate and as part of the standard grievance resolution process, to lodge a reasoned appeal against any decision to reject a grievance, against the proposed solutions, against the remedial actions and against termination of the procedure. The first step in the appeal procedure is to clarify whether the claims are proportionate. In your dialogue with the complainant, you will need to discuss possible solutions, what form of remedy is being sought and what your enterprise is able to offer in principle. The appeal procedure should involve at least one senior manager, a colleague other than the person responsible for the original grievance procedure and, if required, other in-house specialists. There should be an established and properly communicated procedure for conducting appeals (e.g. through an ombudsperson). You can also specify clear criteria that can be used to determine whether an appeal is admissible and how it will be examined.

What can you do if you can’t reach a consensual solution?

In practice, the ways in which grievances are submitted, processed and resolved frequently differ from the standard processes envisaged by the enterprise. You therefore need to be flexible and to engage more fully with the rights holders. It can happen that you are unable to reach a consensual solution to a grievance

through your intended procedure. In such cases, the recommended approach is to engage the services of an independent third party, for example a panel of independent experts. In this context, mediation and dispute resolution procedures can also help the parties to find an appropriate form of remedy. If this approach still fails to bring about an agreement, complainants are free at any time to pursue their case through overarching grievance mechanisms or legal processes. This should be made clear in the information you provide on your grievance procedure.

Implement and monitor remedial measures

Once you have reached agreement on a remedial action plan, you will need to implement and monitor compliance with the agreed remedial actions. In some cases, it may be necessary to make changes in order to address the actual origins of the grievance and remedy the situation as agreed in the plan. Make sure that you keep the complainant informed about such processes. The remedial actions should be monitored (with the involvement of the complainant or representatives of the affected stakeholder groups) by an external body or by an independent internal unit. To ensure that your monitoring system is effective, remedial action plans must specify concrete objectives that include a specific time frame and corresponding measures. You will need to keep a record of successfully completed remedial actions and arrange for the documentation to be checked and approved by management and by the complainants or their representatives. In some cases, you may need to draw on support from external organisations with a local presence, e.g. NGOs, interest groups and state institutions.



Some examples of remedial actions

Depending on the nature, extent or severity of the damage that has been caused, you may need to implement one or more of the following measures:

- apologies and the associated commitment to implement appropriate preventive measures and processes
- financial or non-financial compensation and restitution
- changes to processes and guidelines
- restoration of the original situation
- elimination of any contamination damage and other consequences
- a guarantee or assurance of non-repetition
- a contribution to improvements in the livelihood of the community
- support for local organisations (independent NGOs, foundations, aid organisations)
- rehabilitation and reintegration
- initiation of state-based sanctions against the party causing the violation by reporting the matter to state authorities (sanctions under criminal or administrative law, e.g. fines, imprisonment – to be specified and implemented by state actors)

The steps to be followed when developing and implementing appropriate preventive measures and remedial actions are detailed in the guideline for the NAP core element ‘Measures and effectiveness tracking’.

Double check that the grievance has been resolved and end the procedure

Check with the complainant that the (potentially) affected persons or groups have no other reservations, concerns or justified grievances. If this is the case, end the procedure and evaluate the outcomes together with the involved stakeholders. Use the knowledge you gain in this way to initiate any improvements that may be required to the procedure and forward the grievance issues internally to the corresponding units so that they can be incorporated into your enterprise’s human rights risk analysis.

Where possible, and if useful, you should arrange a further check at a later stage following completion of the procedure to ensure that the solution has been permanently implemented and that the affected groups remain satisfied.

Review the effectiveness of your grievance procedures, eliminate any ineffectiveness and further develop the procedure

As part of your regular schedule of effectiveness reviews, check that your grievance mechanisms fulfil the eight effectiveness criteria in practice, and analyse possible trends and patterns in the outcomes of the grievance procedures. You should use your review findings to further develop your due diligence processes and make them more effective. Communicate the key outcomes internally and externally with due regard for data protection rules and business or trade secrets. The steps to follow when communicating and reporting on due diligence processes are detailed in the guideline for the core element ‘Reporting’.

Bear in mind that all eight effectiveness criteria should be given equal weight when reviewing the effectiveness of your grievance procedures (see step 5), although in practice some are easier than others to assess and implement. If you find that your procedures do not meet one or more of the criteria, you must make improvements. The effectiveness criteria are closely linked and therefore influence each other. For example, greater transparency can also make your grievance mechanisms more accessible. To make them more effective, you can take measures that will allow you to answer ‘yes’ to all the questions for the eight criteria. You can find a list of suggestions at right under the heading ‘Examples of measures to make your grievance mechanisms more effective’. As a general rule, it is definitely advisable to consult your grievance mechanism users when designing these measures. Through this dialogue, as well as receiving feedback on the procedure, you can discuss improvement proposals with them directly (see step 2 on engaging with stakeholders).



Examples of measures to make your grievance mechanisms more effective

- Ensure that potential users know about the existence of the mechanism by involving them early and regularly in its design.
- Increase awareness of the mechanism (see ‘What media can you use to raise awareness of your grievance mechanisms?’).
- Make your procedure more transparent by providing information about the steps involved and the corresponding responsibilities and processing times.
- Make sure that your grievance channels and the information you provide about the mechanism are barrier-free and meet the needs of users (e.g. in different languages, adapted to the cultural and geographical context, understandable by those who cannot read or write, appropriate format for children, gender-sensitive language).
- Establish a number of channels for using your grievance mechanisms (e.g. free hot-line, online form, dialogue format, independent ombudsperson, option to submit grievances through social media channels or by text message).
- Publicly clarify that potential users will be protected from negative consequences of submitting a grievance. Specify possible limits to the protection you can provide.
- Publish an explicit commitment to protect the confidentiality, personal details and privacy of users. Make sure that all these measures are strictly observed.
- Set up anonymous channels to overcome any reservations about the possible adverse consequences of using your grievance mechanisms.
- Offer support to potentially affected groups as a way of mitigating power imbalances. This can take the form of information materials; offers of advice and support; confidence- and capacity-building measures; and guidance on where to obtain financial support.

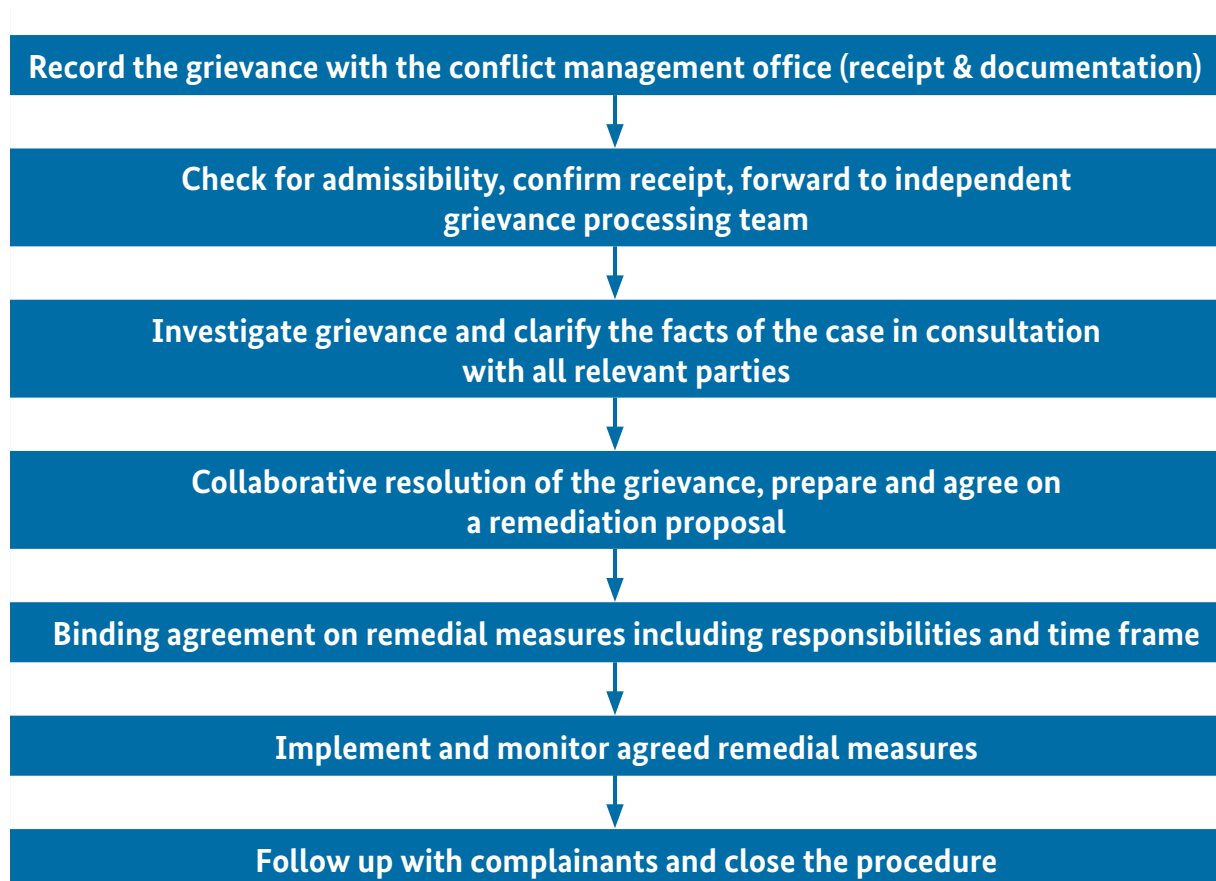
Note: The effectiveness criteria for grievance mechanisms are closely interlinked, and individual measures can therefore have an impact on more than one of the criteria.

The [guide to effective grievance management](#) produced by the Business & Human Rights Helpdesk contains brief and precise suggestions (with practical illustrations) for measures that you can take to ensure compliance with each of the eight effectiveness criteria.

be implemented in the form of work instructions, including detailed process specifications. Your grievance mechanisms must be administered by suitably qualified employees with the required authority, resources and digital solutions. With this in mind, you should specify the corresponding responsibilities, capacities, ambition levels and resources when developing your grievance mechanisms.

Integrate your grievance mechanisms into existing internal processes

Incorporate your newly developed grievance mechanisms into your existing management structures and codes of conduct. They should be embedded in your enterprise and specified as a requirement through an internal directive. At operational level, these can



4.8 Step 8 – Use the lessons learned from your grievance mechanisms to improve your due diligence processes

Grievance mechanisms are an integral part of your enterprise’s due diligence obligations to respect human rights and engage with stakeholders. One of the eight effectiveness criteria is that grievance mechanisms are used as a source of continuous learning. This means that you should apply the information and experience you gain from the procedure in order to improve your grievance mechanisms and other human rights due diligence processes, avoid any future (potentially) adverse impacts and minimise the risk of (potentially) adverse impacts. One particularly effective way of meeting this requirement is to regularly and systematically analyse the number and frequency of the grievances that you receive and process as well as any trends and patterns you identify. It may also be helpful to develop indicators that you can use to assess the performance of your grievance mechanisms over time.

Examine the outcomes of your grievance mechanisms

The first step in analysing the outcomes of your grievance mechanisms is to structure all the information you have compiled about grievances and solutions. Typical categories can be number, issue, affected group, location, severity and type of remedial action (e.g. financial compensation, non-financial reparations and changes to your processes). At this stage, you should also draw on the findings of the effectiveness review you conducted in step 5.

Next, look for trends and patterns in the data, e.g. by answering questions about frequency and correlations (see below under the heading ‘Examples of questions to help you analyse patterns and trends in submitted and resolved grievances’). The purpose of this analysis is to uncover any systemic problems raised by the trends and patterns you record. You should also use the data when conducting risk analyses and developing measures, and to help you draw conclusions about the effectiveness of your grievance

mechanisms and your remedial and preventive measures. For example, if a specific problem keeps arising within the same region or group, it may be a sign that a preventive measure is either not working or has not even been implemented in that area or for that group. A rise in the number of grievances following an incident could indicate that stakeholders have confidence in the mechanism and that it is easily accessible.

Make sure that you also analyse the feedback submitted by users of the grievance mechanisms.

You should proactively gather comments on the experience from those who submit grievances and from those involved in processing and resolving them. At the same time, you should also note whether the rights holders belong to a particularly vulnerable group, as this will help you to find out whether they face any obstacles in using the mechanism. (See also step 2 for more information to support your dialogue with stakeholders.)

Keep updating and improving your due diligence processes

The results of your analysis provide a valuable foundation to help you gain a better understanding of the potential and actual adverse impacts of your enterprise and to keep on improving, updating and expanding your due diligence processes. Possible improvements could include redesigning your preventive measures, taking additional actions, modifying your risk analysis, updating your guidance and policy statement, defining additional due diligence processes and establishing new training formats. For more information on making preventive changes to your enterprise’s human rights observance processes, see the guideline for the core element ‘Measures and effectiveness tracking’. Apply the knowledge gained from your grievance mechanisms to help you design and implement the preventive measures set out in the above guideline.

Use indicators to visualise trends and patterns

In order to more effectively compare trends and patterns over time and communicate (both internally and externally) the progress being made, it may be helpful to present the results of your analysis in the form of indicators. Using these visual representations of progress, you can demonstrate to your external stakeholders that your enterprise is assuming its responsibility to respect human rights. At the same time, indicators allow you to show your internal stakeholders the benefits of dealing proactively with grievances and consequently to build greater acceptance of your grievance mechanisms. Potential indicators include, for example, the number of grievances submitted (by issue, location or group), the average processing time and the number of grievances resolved (by type of remedial action). See also step 5 and in particular the list of suggestions under the heading ‘Obtaining qualitative and quantitative data to assess the effectiveness of your grievance mechanisms’).

However, you should exercise caution with indicators. Users can easily draw the wrong conclusions in the absence of any interpretation to explain positive changes in the indicators. Progress based on indicator measurements is not always matched by improvements in the human rights situation in supply and value chains. For example, an increase in the number of grievances may be due to improvements in access to grievance channels, or it may point to a greater number of (potentially) adverse impacts. With this in mind, you should always provide some context for any changes in your indicator values and link them wherever possible to information from other sources. For more information about measuring effectiveness with the help of indicators, see the guideline ‘Measures and effectiveness tracking’.

Make sure that you fulfil the NAP’s documentation and communication requirements

As well as the design and effectiveness criteria for grievance mechanisms set out in the NAP and the UN Guiding Principles, you must ensure that you fulfil the documentation and communication requirements with regard to the procedures. As part of your regular communication and external reporting arrangements, you are expected to provide information to both

your internal and external stakeholders on the structure of your grievance procedure, the associated processes and responsibilities, all significant outcomes, trends and patterns (for both grievances received and grievances processed), lessons learned, and the corresponding measures you have implemented. Precise explanations of the various implementation steps for the policy statement and for reporting can be found in the guidelines for the core elements ‘Policy statement’ and ‘Reporting’.

As a general rule, when communicating information about your grievance mechanisms, you should consider how to present it in a way that is useful to the target group. Transparent communication can significantly increase confidence in your grievance mechanisms (see step 5). Another crucial factor is the protection of those who submit grievances. Make sure that your communications do not allow others to draw conclusions about the identity of complainants. At the same time, you must protect your own legitimate rights to confidentiality.



Establish how well developed your due diligence processes are

The [Human Rights Capacity Diagnostic](#) is a self-assessment tool on the UN Global Compact Network Germany’s Info Portal. You can use it to help you establish how well developed your own due diligence processes are. With regard to grievance mechanisms, the level 3 questions are roughly in line with the NAP requirements and will therefore point you in the right direction. Enterprises that wish to go beyond the NAP requirements can choose to assess their grievance procedures against the level 4 and 5 criteria. See also the practical advice below under the heading ‘Set up extended grievance mechanisms’.



Examples of questions to help you analyse patterns and trends in submitted and resolved grievances

You can draw on the results of your effectiveness review to establish your grievance mechanisms as a source of continuous learning. However, you should also consider other additional factors.

- Are certain problems more frequent or more concentrated in a particular region?
- Does the number of grievances increase when information emerges about a human rights violation?
- Following an incident, do you receive grievances before the matter is reported in the media?
- Are certain issues linked to more serious (potential) adverse impacts?
- Does the number or severity of grievances change over time?
- Are the concerns of certain groups more strongly linked to particular issues?
- Do you receive a particularly large or small number of grievances from certain groups?
- Does it take roughly the same amount of time to handle all grievances, or do you find there is a correlation between processing time and other categories, e.g. specific issues or severity level?
- What is the ratio between grievances received and grievances resolved/rejected?
- Are some issues linked to legal action more frequently than others?
- How often did grievances lead to internal changes (e.g. new guidance, structures and processes) or to contractual or personnel measures?
- How often were appeals lodged following a decision on a grievance?





Set up extended grievance mechanisms

Effective grievance mechanisms offer you many benefits (see step 1). You may therefore find it rewarding to go beyond the NAP requirements and further develop your procedures by addressing additional aspects. Here are some suggestions:

- Expand the scope of your grievance channels to cover a wide range of issues instead of specific human rights issues.
- Conduct ad hoc reviews of your existing grievance mechanisms whenever there are changes in your risk profile or on the basis of your risk analysis.
- Share tried-and-tested practices and lessons learned from your experience of resolving grievances, e.g. through multi-stakeholder initiatives.
- Proactively develop an internal error culture that encourages employees to discuss problems openly and to share the lessons they learn from those discussions in order to promote a continuous learning process.
- Work with other enterprises, government agencies and civil society organisations to expand the reach and increase the effectiveness of your grievance mechanisms and to harness the available synergies, e.g. through joint training measures, financial support, or by developing information materials for (potentially) affected persons.

4.9 Step 9 – Learn from the Sector Dialogue’s Cross-company Grievance Mechanism (CCGM)

You can also join external grievance mechanisms or use them to supplement your own procedures. Please note, however, that any external mechanisms must fulfil the requirements of the NAP, which is designed with a focus on implementing the UN Guiding Principles. To date, cross-company grievance mechanisms have been set up, for example, by the Fair Labor Association, the Fair Wear Foundation and the Accord on Fire and Building Safety. Setting up a cross-company grievance mechanism that is compliant with the UN Guiding Principles (and therefore with the NAP) may be particularly beneficial in the case of enterprises that face similar human rights challenges in their global supply and value chains, or where a joint approach would open up new and better ways of addressing grievances, e.g. in the lower tiers of the value chain.

By pooling the resources of different enterprises, you can save time and costs and make your grievance procedures more effective. Furthermore, in cases where the (potential) adverse human rights impacts involved are more complex, cross-company grievance mechanisms

are a good way to complement your own procedures and provide an option to escalate grievances that cannot be resolved by your enterprise alone to the satisfaction of the complainant. Cross-company grievance mechanisms can also be more independent and allow complainants to avoid revealing their identity to a specific enterprise.

On the basis of UN Guiding Principle 30, the members of the Sector Dialogue Automotive Industry decided to create a Cross-company Grievance Mechanism (CCGM) to be piloted in Mexico. The basic structures of this mechanism have already been developed and will be updated continuously in consultation with rights holders and local civil society organisations.

The purpose of the CCGM is to help close human rights protection and accountability gaps and, through a joint approach, to improve access to remedy for (potentially) affected groups and proactively avoid potential adverse impacts. The CCGM was set up to deal with complaints of (potentially) adverse impacts associated with any part of the upstream value chains (tier-n) of member enterprises in Mexico and to supplement their respective internal mechanisms. It is therefore intended to help build trust among (potentially) affected persons and to make the grievance management process as a whole more effective.

Brief overview of the CCGM concept



Vision and mission



Scope



Procedural steps and governance



Quality and effectiveness control



Reporting

Building block 1, *Vision and mission*



Background

- Setting up a cross-company grievance mechanism may be particularly beneficial in the case of enterprises that face similar human rights risks, or where a joint approach would open up new ways of addressing risks, e.g. in the lower tiers of the value chain.
- Members decided to develop a concept for Mexico since many enterprises in the automotive sector are represented here, and the human rights risks are classified as high.
- The procedure should be designed in such a way that it can be transferred to other contexts.

Purpose of the CCGM

- To close human rights protection and accountability gaps
- To improve access to remedy for groups or persons affected by violations of human rights or of human rights due diligence obligations in the value chain
- To function as an early warning system, allowing member enterprises to document and address reports of (potential) adverse human rights impacts at an early stage, to identify systemic problems and challenges obstructing efforts to fulfil their human rights due diligence obligations and to adapt their practices accordingly (prevention)
- To operate alongside judicial or non-judicial grievance mechanisms, avoiding any action that could make it more difficult for target groups to access these existing mechanisms

Reference framework

- NAP and UNGP
- The CCGM also covers grievances related to environmental damage and corruption where there is a risk of adverse impacts on human rights.

Underlying principles

- The design, implementation, review and ongoing development of the CCGM are consistent with the effectiveness criteria set out in UNGP 31.
- The CCGM acts as a source of continuous learning:
 - a) lessons learned from the mechanism are fed back into member enterprises' own due diligence processes and risk management systems (early warning system)
 - b) continuous development of the CCGM
 - c) engagement and dialogue with other cross-company grievance mechanisms and initiatives to disseminate experiences and further develop good practice
- The legitimate confidentiality interests of complainants, enterprises and other stakeholders involved in the procedure are protected.
- Consideration is given to the later expansion of the CCGM (e.g. to include the wider region or downstream parts of the value chain) based on the initial results of implementation.

Building block 2, Scope



Scope

- The entire upstream value chain (tier n) in Mexico of the CCGM’s member enterprises
- In principle, the CCGM covers all the business activities/units of its member enterprises in Mexico. Building block 3 (see below) sets out exactly how the CCGM works together with the existing grievance mechanisms operated by its member enterprises.
- Building block 3 also describes the process for determining whether there is a link (as defined in the UNGP) between a (potential) adverse impact that has been reported and one of the CCGM’s member enterprises.

Target users

- All (potentially) affected groups or individuals and their representatives (e.g. NGOs, human rights defenders, trade unions) and any persons with information about (potential) adverse human rights impacts that fall within the scope of the CCGM
- There is a particular focus on individuals/groups who may be affected by ‘salient’ human rights issues and on vulnerable/marginalised individuals/groups.

Building block 3, Procedural steps and governance

Building block 3.1, Procedural steps



Fundamental principles

- The CCGM places great importance on the protection of complainants and others involved in the grievance procedure. Member enterprises subscribe to a ‘non-retaliation policy’, which includes a commitment to appropriately assess and address the risk of reprisals.

Submission of grievances

- The CCGM provides a range of access points and channels through which grievances can be submitted.
- The CCGM provides options for rights holders to designate a representative and/or submit grievances anonymously.

Basic admissibility check

- The grievance must concern a potential or actual adverse human rights impact.
- The grievance must be directed at one or more enterprises or projects covered by the CCGM.
If a report about a link between CCGM members and the subject of a grievance is found to justify more detailed examination, the grievance is admitted, and a preliminary investigation into the link is conducted (see below).
- Complainants must either be (potentially) affected themselves by the adverse impacts being addressed or must be authorised to act as representatives of affected groups or persons.
- In the case of grievances that are submitted through the internal mechanisms of a CCGM member enterprise but nevertheless fall within the scope of the CCGM, members can refer complainants to the CCGM and, if requested, help them submit the grievance to the CCGM.

Processing grievances through an internal grievance mechanism

- It is generally advised that grievances related to impacts caused by a member’s own workers and/or factories can be dealt with through that member’s own internal grievance mechanisms, since this route may produce a faster and more efficient solution.
- In such cases, the complainant’s preference will determine whether a grievance is handled by the member enterprise or through the CCGM. As a principle, grievances are not passed on to internal or other mechanisms. However, complainants can be advised that other mechanisms are available and can be offered support to help them submit a grievance using any of the alternatives.
- In consultation with the complainant, the CCGM can offer to forward a grievance anonymously so that it can be processed internally by a member. In such cases, it can then act as an intermediary and a link between the member’s own grievance mechanism and the complainant.
- If it is decided that a grievance initially submitted to the CCGM will be processed through the enterprise’s internal mechanism, the nature of the CCGM’s involvement in dealing with the grievance must be clarified. As a minimum, for reporting purposes, the CCGM must be advised of the outcome of the procedure and of the agreed remedial action plan and its implementation (reporting obligations).
- In principle, the CCGM can also deal with appeals if a grievance cannot be resolved internally by a member. However, such cases will only be considered if the expert panel concludes that the CCGM can add value to the procedure.

Processing grievances through the CCGM

Grievances in upstream value chains (including tier 1) are addressed through the CCGM.

1. Initial investigation

- If necessary, an initial investigation clarifies whether there is a link between the grievance and a member enterprise. CCGM members are obliged to provide any relevant information to identify possible links. All such information is treated as strictly confidential by the CCGM.
- The main objective of the preliminary investigation is to gain a better understanding of the circumstances, possible impacts and different standpoints.
- The outcome of this initial investigation can be a solution (by agreement with those involved) or a decision to initiate a mediation-based dispute resolution procedure or a compliance review.

2. Mediation-based dispute resolution

- Dialogue-based dispute resolution procedures are non-judicial, neutral forums. The procedure involves finding a solution through dialogue. It can only be considered as an option if all parties involved are willing to take part.
- The dispute resolution procedure is facilitated by a panel of suitably qualified experts or by external mediators/arbitrators.
- The goal is to find a jointly agreed solution that each of the parties is prepared to support and implement.
- Complainants can designate representatives or consult supporters.

3. Compliance review

- Alternatively, or if mediation-based dispute resolution is unsuccessful, the expert panel and/or a qualified third party may perform a compliance review.
- The objective here is to verify whether the member enterprise(s) is/are compliant with the human rights due diligence obligations set out in the reference framework.

4. Prevention and remedial action plan

- The next step involves working with the affected group (or persons) and with the relevant enterprises to develop a prevention and remedial action plan based on (or as part of) the grievance procedure.
- Possible types of remedy include, but are not limited to, apologies, restitution, rehabilitation, financial or non-financial compensation, prevention of harm and guarantees of non-recurrence.
- An assessment is also conducted to determine whether (further) preventive measures should be developed that can support feedback with the CCGM members’ human rights management and due diligence processes.

5. Implementing the agreed preventive and remedial measures and concluding the grievance procedure

- The agreed actions are monitored by the expert panel (or a mutually agreed third party) in collaboration with the complainants.
- The grievance procedure is concluded by the expert panel once the prevention and remedial action plan has been fully implemented.

Building block 3.2, Governance/roles



Fundamental principles

- The CCGM governance structure consists of the Mexico Coordination Unit, the Coordination Unit Germany, the expert panel and the multi-stakeholder board.
- The CCGM is designed to ensure that grievances are handled as independently and confidentially as possible.

Mexico Coordination Unit

Responsibilities

- Accept grievances and conduct basic admissibility checks.
- Communicate with and advise complainants.
- Manage stakeholders and maintain dialogue with Mexican organisations (civil society, institutes, business associations, etc.).
- Coordinate and implement information and outreach activities and capacity-building measures.
- Involve and support the expert panel in the processing of grievances.
- Administration (database maintenance, report drafting, etc.)

Coordination Unit Germany

Responsibilities

- Support the Mexico Coordination Unit and the expert panel.
- Administration (database maintenance, report drafting and publication, etc.)
- Budget management
- Overarching analysis of grievances (to identify trends and patterns), regular reports to the multi-stakeholder board and communication of findings to the Sector Dialogue
- Coordination and implementation of quality assurance and effectiveness reviews

Expert panel*Composition*

- The expert panel consists of a pool of initially four independent experts with relevant technical, methodological and local expertise.
- Experts are engaged and paid a fee for processing grievances on a case-by-case basis.

Responsibilities

- Process grievances (extended admissibility checks, initial examination, mediation-based dispute resolution, compliance review).
- Monitor implementation of preventive and remedial actions.
- Engage additional consultants as required (to provide methodological or technical support) in collaboration with the Coordination Unit Germany.

Multi-stakeholder board*Composition*

- Representatives of all Sector Dialogue stakeholder groups and Mexican organisations

Responsibilities

- Appointment of staff and selection of members of the expert panel with the support of the coordination units in Germany and Mexico
- Right to propose overarching analyses of grievance trends and patterns as well as quality assurance and effectiveness tracking measures
- Right to propose the development/amendment of core documents and approval of these
- Approval of the budget
- Acceptance of the regular reports
- Communication and exchange with the Sector Dialogue and other relevant (sector) initiatives and stakeholders

CCGM members*Responsibilities*

- Duty to provide the information required to assess potential links between a grievance and member enterprises
- Support for the expert panel when processing grievances (e.g. provision of information, audits, statements; facilitating site visits; support for local communications and networking)
- Involvement as required in mediation-based dispute resolution procedures, engaging with supplier firms as required
- Implementation of the agreed action plans
- Support for measures to raise awareness of the CCGM (e.g. publication, communication, dissemination of information materials in the supply chain and contractual agreements with suppliers where appropriate, possibly subject to a supplier code of conduct)

Building block 4, *Quality and effectiveness control*



Fundamental principles

- All quality and effectiveness control processes are based on the criteria set out in UNGP 31.
- Continuous involvement of rights holders and other stakeholders
- Continuous, systematic and disaggregated data collection (quantitative and qualitative)

Review of the functioning of the CCGM

- The CCGM is reviewed at two levels to assess how well it operates.
 - a) Are the agreed processes and activities adhered to?
 - b) Are the agreed processes and activities working?
- Relevant disaggregated data are gathered continuously at every stage and from surveys of users and experts involved in the procedure.

Review of whether the objectives have been achieved

- The CCGM is reviewed at two levels to assess whether its objectives have been achieved.
 - a) Effectiveness of preventive and remedial measures: Are preventive and remedial measures implemented (in specific cases), and are affected groups/persons satisfied with implementation? (Impact for the complainants)
 - b) Effectiveness of the CCGM as a learning/early warning system – Do the knowledge and insights gained from the CCGM lead to changes in the enterprise’s operational management and due diligence processes?
- Relevant disaggregated data are gathered continuously from user surveys, information provided by participating enterprises and stakeholder workshops with local organisations.

Evaluation

- The first review should be conducted within two years. This should be followed by further reviews, conducted by independent experts at regular intervals (at least every three years), with the goal of identifying recommendations for changes to the way the CCGM works.
- Grievances should be analysed for signs of broader trends and patterns. This information will help members to identify any systemic problems and modify their practices accordingly.

Building block 5, *Reporting*



Fundamental principles

- The arrangements for publishing reports (e.g. language and format) reflect the needs of target groups.
- It is vitally important to protect complainants. Published reports must not provide any clues as to their identity. The legitimate confidentiality interests of enterprises and other stakeholders involved in the procedure are also protected.
- A publicly accessible (online) database of grievances contains up-to-date key information about all grievances.
- The annual reports provide an overview of all the industry mechanism’s grievance cases and activities during the reporting period.

5. Monitoring your progress towards implementing the requirements

You can use the following list of criteria to check whether you have fully completed the steps and therefore fulfilled the NAP requirements for the core element ‘Grievance mechanism’.

Steps implemented to fulfil the NAP requirements for the core element ‘Grievance mechanism’		Reference to step in the guideline
<input type="checkbox"/>	Potential grievances have been identified.	3
<input type="checkbox"/>	Potential grievance mechanism users have been identified.	3
<input type="checkbox"/>	The locations of potential grievance mechanism users have been identified at country or regional level.	3
<input type="checkbox"/>	Existing grievance mechanisms (or existing processes that can be developed into grievance mechanisms) have been identified.	4
Gaps in existing grievance mechanisms have been identified with regard to		
<input type="checkbox"/>	lack of coverage of certain groups	4
<input type="checkbox"/>	lack of coverage of certain issues	
<input type="checkbox"/>	Existing grievance mechanisms have been checked in practice against the eight effectiveness criteria.	5
<input type="checkbox"/>	Any ineffectiveness, if applicable, has been documented.	
<input type="checkbox"/>	Existing grievance mechanisms have been examined to identify any steps that may be missing for a typical grievance process.	4, 7
<input type="checkbox"/>	Any missing steps, if applicable, have been documented.	
<input type="checkbox"/>	The individuals responsible for the procedures are named in the policy statement.	7, 8
<input type="checkbox"/>	The enterprise has considered setting up anonymous grievance mechanisms.	5, 7

Existing grievance mechanisms have been expanded –		
<input type="checkbox"/>	to cover any relevant groups that were previously excluded, i.e. there is now a grievance channel for all potential users;	
<input type="checkbox"/>	to cover any relevant issues that were previously excluded, i.e. all potential issues can now be brought to the attention of the enterprise;	
<input type="checkbox"/>	by adding any missing process steps (if applicable);	
<input type="checkbox"/>	by eliminating any ineffectiveness, with the result that the grievance mechanisms are now:	
<input type="checkbox"/>	legitimate	
<input type="checkbox"/>	equitable	2, 6
<input type="checkbox"/>	accessible (addressing all access barriers)	
<input type="checkbox"/>	transparent	
<input type="checkbox"/>	predictable	
<input type="checkbox"/>	rights-compatible	
<input type="checkbox"/>	a source of continuous learning	
<input type="checkbox"/>	based on engagement and dialogue.	
<input type="checkbox"/>	The enterprise has set up additional grievance mechanisms, all of which are consistent with the NAP requirements and the eight effectiveness criteria, or has established links to an external grievance mechanism that fulfils the NAP requirements and the eight effectiveness criteria.	6
<input type="checkbox"/>	Potential users have been consulted on the design of the enterprise’s grievance mechanisms.	2, 7
<input type="checkbox"/>	Potential users have been shown how to use the mechanisms as part of a series of confidence-building measures.	
<input type="checkbox"/>	The needs of and challenges faced by particularly vulnerable groups are given special consideration when designing the grievance mechanisms.	2, 3, 6, 7
During the resolution of specific grievances, complainants (or their legitimate representatives) were:		
<input type="checkbox"/>	kept informed about the progress being made;	
<input type="checkbox"/>	involved by the enterprise in efforts to reach an agreement on remedial action;	2, 7
<input type="checkbox"/>	involved by the enterprise when completing the procedure.	
<input type="checkbox"/>	A process has been established to ensure that the effectiveness of the grievance mechanisms is regularly reviewed.	5, 7
<input type="checkbox"/>	Potential users have been actively involved in reviewing effectiveness of the mechanisms.	2, 5, 7
<input type="checkbox"/>	A process has been established to: ensure that patterns and trends in grievances received and processed by the enterprise are regularly analysed;	
<input type="checkbox"/>	use the results of this analysis as a basis for the ongoing development of due diligence processes;	5, 7, 8
<input type="checkbox"/>	communicate the results of the analysis.	

6. Where can you find more information?

6.1 Further information

This guideline is a standalone document covering all the steps that will help your enterprise to completely fulfil the NAP requirements for the core element ‘Grievance mechanism’. Enterprises can also refer to the following helpful materials in order to acquire a deeper understanding of the subject:

- The report [Non-judicial Grievance Mechanisms in Global Supply Chains](#) produced by Gläßer, Pfeiffer, Schmitz and Bond as part of a research project commissioned by the Federal Ministry of Justice and Consumer Protection (BMJV) includes a comprehensive set of recommendations for institutionalisation, implementation and procedural design. As well as highlighting how non-judicial grievance mechanisms help to protect human rights more effectively across global supply chains, it sets out which design factors must be considered at the implementation stage and which methods and practical experiences can be used for the mechanism’s ongoing development.
- [Worth listening: Understanding and Implementing Human Rights Grievance Management](#), by the UN Global Compact Network Germany, is a practical guide (based on the NAP requirements and UN Guiding Principles) to the design and ongoing development of an effective grievance management system.
- The Management of Complaints Assessment (MOC-A) tool can be used to check grievance mechanisms against the eight effectiveness criteria. It is part of a comprehensive work by CSR Europe entitled [Assessing the effectiveness of company grievance mechanisms – CSR Europe’s Management of Complaints Assessment \(MOC-A\) Results](#). This publication includes a checklist and recommendations for checking the effectiveness of grievance mechanisms on the basis of 21 specific process requirements. These are illustrated with practice-based examples of implementation covering all the effectiveness criteria.
- The [SME Due Diligence Compass](#) produced by the Agency for Business and Economic Development’s Business & Human Rights Helpdesk is a concise introduction to analysing and implementing human rights due diligence for SMEs. The Compass includes a [guide](#) to designing efficient grievance mechanisms.
- The [Community Grievance Mechanisms Toolbox](#) produced by IPIECA (an oil and gas industry association) contains a wide range of practical tools (e.g. training materials, guides, templates, and questionnaires) that can help to establish grievance mechanisms for local communities. The approach can also be used in the automotive industry. In this context, it is primarily useful when setting up grievance mechanisms at operational level (e.g. for specific production sites) but is less suited to global mechanisms such as a central compliance hotline.
- [Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms](#), by the Harvard Kennedy School, is a collection of case studies that examines and draws conclusions from the grievance mechanisms of large enterprises.
- [Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights](#), by Shift, is a workshop report that offers insights into the implementation processes of grievance mechanisms at large enterprises. The document can be particularly useful as a source of arguments to overcome internal resistance and as a tool for evaluating the grievance managements systems of suppliers.
- The [webinar ‘Beschwerdemechanismen und Abhilfe’ \(grievance mechanisms and remedy\)](#) produced (in German) by the UN Global Compact Network Germany offers useful advice on implementation and establishing links. It also provides an insight into corporate practice.
- [CSR in Deutschland](#) is an online platform operated by the Federal Ministry of Labour and Social Affairs (BMAS), containing information on the NAP, useful background knowledge and a collection of general and industry-specific guides, advisory services, training courses and practical examples.

- [Business & Human Rights Resource Centre](#) is an online platform providing a wide range of information on human rights issues in relation to business. The site creates transparency and emphasises responsibility by publishing reports on human rights violations as well as company responses. Some of the materials relate specifically to the automotive industry.
- The German Federal Government’s central [CSR information portal](#) also contains links to further implementation support.

The Federal Office for Economic Affairs and Export Control (BAFA) will assess each case individually to determine whether an enterprise is meeting the requirements of the LkSG. In deciding whether the measures taken are appropriate, it will consider the enterprise’s specific business model. BAFA will publish information, aids and recommendations to facilitate compliance with the LkSG.

Section 3 of this guideline sets out both the NAP specifications and the LkSG requirements. The following overview illustrates which steps in the guideline can be used to help fulfil the LkSG obligations.

6.2 Similarities and differences between the NAP and the LkSG

Both the NAP and the LkSG are based on the UN Guiding Principles (2011) as a reference framework. It follows that the steps set out in these guidelines for meeting the NAP requirements will also help you to fulfil the due diligence obligations in the LkSG. Although the fundamental value systems of the two regulatory frameworks are comparable, the rights and obligations they establish are not identical.

One of the key differences between the two regulatory frameworks is that the NAP is voluntary, reflecting a basic expectation of the German Federal Government that enterprises will take appropriate action to fulfil their responsibilities at every point in their supply and value chains. By contrast, the LkSG is mandatory for all enterprises that fall under its scope of application. It obliges them to meet clearly defined due diligence obligations in their own area of business and in their dealings with both direct and indirect suppliers.

This guideline is designed to help enterprises understand and implement generally accepted and appropriate due diligence obligations. With this goal in mind, it covers all the requirements of the NAP core element ‘Grievance mechanism’. Additional references in this guideline to LkSG requirements also draw attention to the due diligence obligations imposed by the legislation. This will help enterprises that fall under the scope of the law to meet their statutory obligations at the same time. In certain areas, the guidelines go beyond the above policy frameworks and regulatory requirements.

Step	Page	Corresponding NAP requirement ⁹	Link to LkSG requirements
1) Recognise the benefits of grievance mechanisms	13	No explicit requirement, merely established good practice	No corresponding legal requirement
2) Actively engage your stakeholders through continuous exchange and dialogue	14	C, D, J, K	Section 4 (Risk management) (4) Section 8 (Complaints procedure) (1) Section 9 (Indirect suppliers) (1)
3) Identify potential users and possible issues based on your risk analysis	16	A, B, C, G, J	Section 8 (Complaints procedure) (1) and (4) Section 9 (Indirect suppliers) (1)
4) Conduct a baseline assessment and identify any gaps	18	A, B, C, G, J, K	Section 8 (Complaints procedure) (1), (3) and (4) Section 9 (Indirect suppliers) (1)
5) Apply the effectiveness criteria	22	A, B, C, F, G, H, I, J, K	Section 8 (Complaints procedure) (5)
6) Develop and expand your grievance mechanisms	29	A, B, C, D, E, F, G, H, I	Section 8 (Complaints procedure) (1) Section 9 (Indirect suppliers) (1)
7) Use the model grievance mechanism as a guide	32	A, B, C, D, E, F, G, H, I	Section 8 (Complaints procedure) (1) Section 9 (Indirect suppliers) (1)
8) Use the lessons learned from your grievance mechanisms to improve your due diligence processes	43	A, B, J, K	Section 8 (Complaints procedure) (5) Section 9 (Indirect suppliers) (1) Section 10 (Documentation and reporting obligation) (2) sentence 2 no. 2
9) Learn from the Sector Dialogue’s Cross-company Grievance Mechanism (CCGM)	46	A, B, C, J	Section 8 (Complaints procedure) (1) sentence 6 in conjunction with section 8 (2) to (5) Section 9 (Indirect suppliers) (1)

⁹The NAP requirements are in alphabetical order as shown in section 3 of this guideline.

6.3 Glossary

Civil society organisations

See ‘Non-governmental organisations (NGOs)’.

Conflict-affected and high-risk areas (CAHRAs)

This term applies to areas currently in a state of armed conflict or a fragile post-conflict setting. It also includes areas affected by weak or absent governance and security, and by widespread and systematic violations of international law and human rights.

Corruption

Criminological research defines corruption as the ‘abuse of a public office, a position in the economic sector or a political mandate in favour of a third party, upon their instigation or one’s own initiative to obtain an advantage for oneself or a third party, with the occurrence or in the expectation of the occurrence of damage to or a disadvantage for the general public (in official or political functions) or for an enterprise (if the offender holds a pertinent position in the economic sector).’

Definitions of terms used in the Supply Chain Act

- In some cases, the LkSG sets out obligations that must be fulfilled annually and, additionally, ‘**on an ad hoc basis**’. In sections 5 (4), 6 (5), 7 (4) and 8 (5) LkSG, the obligation to meet a requirement on an ad hoc basis depends on whether the enterprise should expect a significantly changed or expanded risk situation in that area of its business. By contrast, with regard to the enterprise’s due diligence obligations on the basis of ‘**substantiated knowledge**’ [section 9 (3) LkSG], the requirement applies if the enterprise has actual indications that suggest that a violation of a human rights-related or environment-related obligation at indirect suppliers may be possible. If this is the case, the enterprise must take action on an ad hoc basis.
- Section 3 (1) sentence 1 LkSG states that enterprises must exercise due regard for the human rights and environment-related due diligence obligations set out in that division of the Act which relate to their supply chains, with the aim of preventing or

minimising human rights or environment-related risks or of ending the violation of human rights-related or environment-related obligations. Section 3 (2) LkSG sets out criteria for determining whether actions to fulfil due diligence obligations are appropriate. This depends on:

- the nature and extent of the enterprise’s business activities;
- the ability of the enterprise to influence the party directly responsible for a human rights or environment-related risk, or for the violation of a human rights-related or environment-related obligation;
- the severity of the violation that can typically be expected, the reversibility of the violation, and the probability of the occurrence of a violation of a human rights-related or an environment-related obligation;
- the nature of the causal contribution of the enterprise to the human rights or environment-related risk, or to the violation of a human rights-related or environment-related obligation.

According to the Federal Government’s explanatory memorandum, all the due diligence obligations covered by the Act are subject to the general principle that the scale of the efforts to be made by an enterprise to prevent or end a violation should reflect its ability to exert influence, the likelihood and severity of the anticipated violation of a legal position and the extent of the enterprise’s causal contribution. Equally, the importance of efforts to monitor the supply chain should reflect the degree to which the products and production sites associated with a business activity are vulnerable to human rights risks.

- The term ‘**own business area**’ is defined in section 2 (6) as covering every activity of the company, as a legal entity representing the enterprise, to achieve the business objective. This includes any activity related to the creation and exploitation of products and services, regardless of whether it is carried out at a location in Germany or abroad. In affiliated enterprises, the parent enterprise’s own business area includes a group enterprise if the parent enterprise exercises a decisive influence on the group enterprise.
- The term ‘**direct supplier**’ is defined in section 2 (7) LkSG as any supplier or service provider with which the enterprise has a contractual relationship and whose supplies are required to produce the enterprise’s product or to provide and use the relevant service.

- The term ‘**indirect supplier**’ is defined in section 2 (8) as any enterprise which does not meet the definition for a direct supplier but whose supplies are nevertheless essential to the enterprise’s activities. This includes all suppliers with which your enterprise is linked through contractual relationships, business activities, products or services even if there is no direct contractual relationship.

Excerpt from the NAP for the core element ‘Grievance mechanism’

‘For the early identification of (actual or potential) adverse impacts, enterprises should either establish their own grievance procedures or play an active part in external procedures. Such procedures may, for example, be established by sectoral associations. The mechanism should be structured to match the target group. Accordingly, the target group should be consulted when the procedure is being devised. When new mechanisms are established as well as when existing mechanisms are used, care should be taken to ensure that they provide a fair, balanced and predictable procedure which is accessible to all those who might be affected (for instance by eliminating linguistic or technical barriers). As an extra measure, consideration should be given to the creation of offices with which complaints can be lodged anonymously. The procedure should provide for maximum transparency for all stakeholders and should comply with international human rights standards. Existing complaints offices within an enterprise or its environment should be screened for compliance with the criteria defined above.

The grievance mechanism of each enterprise and its whole process of corporate due diligence should be subjected to regular practice-based reviews to assess their effectiveness.’

Grievance mechanisms

In the context of this series of guidelines, the term grievance mechanism refers to any routine procedure, whether internal or cross-company, that can be used to submit complaints of human rights violations by the enterprise and to seek remedy.

Human rights

Human rights are fundamental rights held by all individuals regardless of any discrimination, e.g. on the

grounds of nationality, place of residence, sex, national or ethnic origin, skin colour, religion, native language or other characteristics. They are brought together in key international standards. The goal of those standards is to ensure that all people worldwide are treated equally and with dignity. Among these rights are those set out in the United Nations International Bill of Human Rights and the fundamental rights established in the ILO’s Core Labour Standards.

Human rights due diligence obligations and processes

Human rights due diligence obligations are those obligations which an enterprise must fulfil in order to satisfy its responsibility to respect human rights in its global supply and value chains. These obligations are specified in particular in the UN Guiding Principles. Human rights due diligence processes constitute a continuous risk management process that enterprises must establish in order to identify, prevent, mitigate and provide redress for adverse human rights impacts and demonstrate accountability for the way they deal with such impacts. The five core elements of the NAP set out the main steps involved in fulfilling human rights due diligence obligations.

Human rights impacts (adverse, severe)

Adverse human rights impacts occur when an enterprise directly or indirectly contributes to a situation in which individuals are prevented from exercising their human rights or restricted in the exercise of those rights. The focus of this concept is on the risk to the individual rather than the risk to the enterprise. However, there is a recognised correlation between the highest levels of risk to human rights and the risk to the enterprise. Adverse human rights impacts are assessed as severe if they meet the criteria for severity in terms of their scale, scope or irremediability. These criteria may be fulfilled whether or not the enterprise is in a position to exert any influence on the situation. The potential severity of human rights impacts is specific to an enterprise’s activities or business relationships and therefore varies between enterprises.

Human rights risks and risk analysis

The term ‘human rights risks’ refers to the potential adverse impacts of an enterprise’s activities on

human rights. They should always be understood as risks to those affected and not primarily as a risk to the enterprise itself. In order to assess such human rights risks, the enterprise should conduct a risk analysis. The purpose of the risk analysis is to identify and assess any actual or potential adverse human rights impacts with which the enterprise may be involved either through its own activities or as a result of its business relationships.

ILO Core Labour Standards

The ILO Core Labour Standards are eight conventions of the International Labour Organization (ILO) that provide a basic framework of global labour and welfare standards. They have the status of international legal instruments and are therefore binding on all states that have ratified them. The eight conventions are: Convention No. 87 – Freedom of Association and Protection of the Right to Organise (1948), Convention No. 98 – Right to Organise and Collective Bargaining (1949), Convention 29 – Forced Labour (1930), Convention 105 – Abolition of Forced Labour (1957), Convention 100 – Equal Remuneration (1951), Convention 111 – Discrimination (Employment and Occupation) (1958), Convention 138 – Minimum Age (1973), and Convention 182 – Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

International human rights reference instruments

International human rights reference instruments are agreements under international law, conventions, regulations, policies, guidelines, standards and other provisions designed to promote CSR in the area of human rights. These documents serve as an important point of reference for a shared understanding of human rights, and an obligation to respect them.

International law

International law is a supranational legal system imposed by states on themselves as subjects of international law. Among the main sources of international law are the United Nations International Bill of Human Rights, bilateral and multilateral agreements under international law, customary international law and court rulings. Enterprises are not subjects of international law and are not directly bound to observe international law agreements. Nevertheless, within

their own context and in accordance with the UN Guiding Principles, they are obliged to respect the human rights specified in international treaties.

Local communities

In the context of human rights due diligence, the term ‘local communities’ is used for communities that are located in close proximity to the sites operated by business enterprises or that are or could be directly impacted by the activities of those sites. Such impacts can be positive (e.g. job creation) or negative (e.g. groundwater pollution). Local communities are not necessarily homogeneous. In most cases there are overlaps with indigenous communities and vulnerable individuals.

Mitigation measures

The term ‘mitigation measures’ refers to all measures that can be taken to reduce the scale of actual adverse human rights impacts or the probability that potential adverse human rights impacts will occur.

National Action Plan for Business and Human Rights (NAP)

The NAP was established by the German Federal Government to implement the UN Guiding Principles. It was adopted by the Federal Cabinet in 2016. This is the first time that the German Federal Government has embedded the responsibilities of German enterprises to respect human rights into an established framework (the Action Plan). In the NAP, the Federal Government sets out its expectation that enterprises must exercise their human rights due diligence obligations and respect human rights at all points in their supply and value chains. The NAP consists of five ‘core elements’: a human rights policy statement; procedures for the identification of actual or potential adverse impacts on human rights; measures to ward off potential adverse impacts and reviews of the effectiveness of these measures; reporting; and a grievance mechanism.

Non-governmental organisations (NGOs)

The term ‘non-governmental organisations’ is used for non-state organisations, institutions, associations, foundations and other private bodies that are not run for profit and whose purpose is to contribute to the

common good in the broadest sense. NGOs may operate locally, regionally, nationally and even internationally. As such, the term includes both local civil society organisations and national and international NGOs. Church-based aid agencies, organisations that form part of the solidarity movement and foundations linked to political parties are also classed as NGOs. NGOs can pursue a wide range of interests. For the purposes of the UN Guiding Principles, enterprises and business associations are not treated as NGOs.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are recommendations by the Organisation for Economic Co-operation and Development (OECD) to states and enterprises. Their purpose is to promote sustainable business activity in global supply and value chains. They include recommendations on transparency, working conditions, the environment, corruption, consumer protection, reporting, technology transfer, competition and taxation.

Preventive measures

Preventive measures are measures designed to ensure that adverse human rights impacts do not occur.

Remedial measures

This term is used to describe both the processes by which actual or imminent adverse human rights impacts are ended and those which are intended to provide redress for those violations. Remedial measures and redress may take various forms, such as ending the violation, an apology, the restoration of rights, rehabilitation, financial or non-financial compensation, follow-up measures (e.g. criminal penalties against individuals or sanctions under administrative law, for example a fine imposed on the enterprise in question), a temporary legal remedy or a guarantee of non-recurrence.

Redress

See ‘Remedial measures’.

Rights holders

This term includes all people irrespective of their personal characteristics. In this series of guidelines it refers mainly to persons and groups who may potentially be affected by human rights violations (‘potentially affected groups/individuals’).

Stakeholders

Stakeholders are individuals or organisations that have actual or potential influence over the activities and decisions of an enterprise or that are or may be influenced by those activities and decisions.

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

The UN Guiding Principles are a framework of 31 principles that set out requirements for political and business actors. As such, they are the first generally recognised reference framework for the human rights obligations of states and the responsibilities of enterprises in global supply and value chains. The UN Guiding Principles are based on three ‘pillars’: the duty of the state to protect human rights, the responsibility of business enterprises to respect human rights, and access to remedy for those affected by human rights violations. The Guiding Principles were adopted in 2011 by the United Nations Human Rights Council.

United Nations human rights treaties

The UN human rights treaties are binding agreements under international law. They apply in those states that have signed and ratified the treaties. The UN’s human rights treaties are listed below: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), Convention on the Rights of Persons with Disabilities (CRPD), International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

United Nations Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948. As a resolution of the General Assembly, it is not legally binding. However, it is regarded as part of customary international law. The Universal Declaration sets out the fundamental rights held by all people regardless of their origin, religion, sex or other characteristics. It forms part of the United Nations International Bill of Human Rights, which also includes the International Covenant on Civil and Political Rights (Civil Covenant), the International Covenant on Economic, Social and Cultural Rights (social Covenant) and their respective Optional Protocols.

Value chain

An enterprise’s value chain comprises all the activities linked to the manufacture, sale, use and disposal of its products or to the delivery of its services. In addition to its business activities, the enterprise’s value chain therefore includes other enterprises with which it has a direct business relationship, enterprises in its direct and indirect upstream supply chain (right up to the procurement of raw materials), its customers and any downstream business partners providing disposal services. Business support functions also form part of the value chain, e.g. investment and financing activities.

The automotive industry’s value chain is characterised by dynamic supplier networks based on reciprocal relationships between suppliers and customers. This means that indirect suppliers in particular can change frequently and in many cases are not known to the procuring enterprise. Furthermore, individual enterprises in the value chain can act simultaneously as each other’s suppliers and customers for different products.

Vulnerable groups

For the purposes of the UN Guiding Principles, vulnerability is a measure of both the extent to which a group is vulnerable to adverse human rights impacts as a result of a business activity, and of how it can overcome those impacts. Accordingly, vulnerable groups may experience adverse human rights impacts not only as a result of a specific business activity, since these impacts can be exacerbated by any existing cultural, social, environmental, political or economic disadvantages affecting those groups.

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