

THE SPANISH NATIONAL ACTION PLAN: ANALYSIS AND EVALUATION

Prof. Dr. Carmen Márquez Carrasco

University of Seville (Spain)

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Episode 2: Business and Human Rights Developments in Spain

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CONTEXT

- UNGPs adopted 2011
- The operative logic of the UNGPs: Protect, Respect, Remedy
- The UNGPs as frame of reference of the BHRs NAPs supported by IOs, CSOs, NHRIs and business associations
- 2014: Two parallel tracks
 - NAPs to implement GPs
 - OEIGWG international legally binding instrument
- Schism in BHR Community
- Growing consensus = mutually reinforcing
- 24 NAPS published around the world: 16 NAPS adopted by EU Member States
- Spanish NAP: Official State Gazette 14/09/2017, 3 years duration

ANALYSIS OF SPANISH NAP DOES IT FOLLOW BEST PRACTICES?

Process

- Governance and Resources
- Stakeholder Participation
- National Baseline Assessment

Content

- Scope of NAPs
- Content of NAPs
- Priorities of NAPs
- Accountability and Follow Up

ANALYSIS & EVALUATION OF SPANISH NAP

- **POLITICAL WILL OF THE GOVERNMENT OF SPAIN**
 - the premise of the Plan is to promote a proactive framework while maintaining the current system
- **BUDGET**
 - **The Plan includes a common provision indicative** of the level of priority that the Spanish Government attaches to the Plan
- **PREVIOUS BASELINE OR DIAGNOSIS**
 - Plan was not preceded by, nor provides for, a general diagnosis or baseline study. However it does refer to certain partial studies to be drawn up by the Monitoring Commission and other bodies
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ANALYSIS & EVALUATION OF SPANISH NAP

- On the first pillar: the measures envisaged aimed at dissemination, promotion, information, capacity- building and training; there are no State measures concerning the regulation of business behaviour
- The plan does not make any reference to the second pillar of the Guiding Principles
- On the third pillar: the Plan announces reports and studies on civil responsibility and non-judicial grievance mechanisms; no mention is made of any new specific mechanism
- Monitoring Commission: reviews implementation of NAP and propose updates, incl. updated version of Plan

ANALYSIS & EVALUATION OF SPANISH NAP

- **Pillar I**

- no comprehensive assessment made, nor is one envisaged, of compatibility of Spanish legislation with the duties of the State to protect human rights and regarding the sufficiency and alignment of judicial and non-judicial remedies.
- no direct mention of any regulation of business behaviour to ensure compliance and thereby protect people's rights
- no reference is made to the connection between environmental damage and human rights abuses

- **Pillar II**

- The Plan totally disregards the second mainstay (the responsibility of business enterprises to respect human rights). There is not even any clear commitment for public enterprises to set in place due diligence procedures in accordance with the Guiding Principles

- **Pillar III:** no mention of any prescribed measures to eliminate barriers to access to justice nor to extraterritoriality

CONCLUSIONS

- Watered down Plan
- Lack of political will
- Lack of effective implementation of the Spanish NAP
- New developments...??