OEIGWG on transnational corporations and other business enterprises with respect to human rights. 2nd session (24-28 October 2016)

Panel VI: Lessons learned and challenges to access to remedy

Intervention by the Netherlands – check against delivery

   Thank you Mr Chair. Mr Chair, let me first of all state again that the Netherlands fully aligns itself with the statements the EU has delivered throughout our deliberations this week. We add the following experiences in our national capacity.

   Mr Chair, access to remedy is the keystone of a functioning business and human rights framework. This third pillar of the Guiding Principles has not seen the progress it needs and deserves; I do not think anybody in this room would argue with that.

   This is why the Netherlands has used its Presidency of the Council of the European Union, in the first half of this year, to push, in particular, the issue of access to remedy. This effort resulted in a clear focus in the EU Council Conclusions which have been already mentioned, including the commitment to explore strengthening access to remedy through EU level legislation.

   The Netherlands also chaired the successful negotiations on the new Council of Europe recommendation on business and human rights, which contains very specific pointers on strengthening access to remedy through criminal, civil, and administrative law. The Netherlands also financially supported the excellent study of the OHCHR on accountability and remedy, which was presented yesterday.

   The avenues for non-judicial remedy should not be neglected, which is why the Netherlands supports a project geared towards improving effectiveness of the OECD National Contact Points.

   At the same time, Mr Chair, we should recognise that this may not be enough. We are convinced that Dutch companies want to avoid abusing human rights at all costs. But even with the best intentions in the world, things can go wrong. And when they do, victims of business-related human rights abuse need, and deserve, access to remedy.

   For this reason, the Netherlands commissioned an in-depth study into the avenues available to such victims to hold Dutch companies liable in court, even when the abuse took place outside the Netherlands. And the word in-depth is appropriate here, as the end product amounted to over 550 pages of documentation. The study assessed how our legal system measures up to the UN Guiding Principles. This could be of interest to others in the room, since we are the only country – as far as my delegation is aware – that has conducted such a comprehensive study to date. We are of course available to share our experiences with colleagues.

   Mr Chair, the study showed that there are already ample possibilities to gain access to justice in the Netherlands when Dutch companies commit abuses abroad, especially in the field of criminal law. Nevertheless, based on the study we announced several measures to strengthen access to remedy in the Netherlands. These measures relate to, among other things, facilitating access to evidence in civil cases, and expanding possibilities for collective redress. These reforms are ongoing.

Thank you for your attention.