

## EXECUTIVE SUMMARY OF THE UKRAINE COUNTRY RISK ASSESSMENT

The CRA performed on Ukraine has investigated each human right from the Universal Declaration of Human Rights (UDHR) at three levels. First, the rights were investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing social and cultural practices were analysed to identify any inherent human rights violations frequently perpetrated at the societal level. Third, each right was assigned an overall company risk rating, based on the ratings in the formal law and practice categories and the proximity to company operations. The results of the CRA produced the categorisation of 11 human rights as high-risk areas, 7 human rights as medium risk areas and 2 human rights as low-risk areas for companies operating in Ukraine. The following presents the overall results of the CRA, including a short description of each right. The full CRA offers a detailed in-depth description of each right.

### COMPANY RISK

The following 11 rights received a red rating in the Company Risk category in the CRA, which indicates that these human rights constitute high-risk areas for companies operating in Ukraine. A short description of each right follows below.

- Right to Freedom from Discrimination (art. 2)
- Right to Freedom from Forced Labour and Servitude (art. 4)
- Right to Freedom from Torture, Cruel, Inhuman or Degrading Treatment or Punishment (art. 5)
- Right to Own Property (art. 17)
- Right to Take Part in Government (art. 21)
- Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)
- Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)
- Right to an Adequate Standard of Living (art. 22)
- Right to Health (art. 25)
- Right to Food (art. 25)
- Right to Education (art. 26)

*Right to Freedom from Discrimination* (art. 2) is a high risk area for companies operating in Ukraine based on the fact that company proximity to violations of this right is both direct and indirect, and risk ratings for Ukrainian law and practice are both high. The company's main risk area is discrimination in hiring and in the workplace, and with respect to the special property rights of indigenous people. There is a lack of legal recognition of the rights of indigenous persons and other vulnerable minorities, and labour legislation is discriminatory against both women by being overprotective. There is widespread discrimination against women, people living with HIV/AIDS, and the marginalised Roma population. Employment quotas for persons with disabilities are not upheld. Harassment of women in the workplace is widespread. The government does not recognize the Crimean Tatars as an indigenous people, and their special property rights under international law are not respected, placing the company at an increased risk for violation of their rights.

*Right to Freedom from Forced Labour and Servitude* (art. 4) is a high risk area for companies operating in Ukraine due to the close proximity between labour, and possibly forced labour, and company operations. Forced and child labour is reported in Ukraine where almost 500,000 child labourers work in agriculture, markets, and illegal mines. Travel agencies and recruitment agencies are often involved in the trafficking of persons, particularly women, out of Ukraine.

*Right to Freedom from Torture, Cruel, Inhuman or Degrading Treatment or Punishment* (art. 5) is rated high because of the proximity of violations of this right to company activities. Sexual harassment of women in workplaces is widespread, it has been reported that approximately 50% of Ukrainian women suffer sexual harassment at work. Torture is also a widespread problem, but this issue usually falls outside the scope of company activities.



*Right to Own Property* (art. 17) is categorised as a high risk area for companies since companies' proximity to violations is very direct, and Ukraine's law and practice are both rated high risk. Companies that seek to rent or purchase property risk that the property they are interested in is subject to claims by persons from whom it was confiscated during Soviet times. During that period, owners were often forcibly resettled or, as the Crimean Tatars, sent into exile, but no general policy of restitution or compensation of property to individuals has been developed or implemented. Even now, Roma are under a constant threat of expulsion from their homes due to their frequent lack of residence permits, and in some cases local communities have simply forced Roma from their settlements. Ukraine's privatisation process has also been seriously undermined by corruption, and land generally has been severely damaged by pollution.

*Right to Take Part in Government* (art. 21) is rated a high risk area for companies operation in Ukraine because many company activities have a close proximity to governance and government services. Ukraine has a serious corruption problem that undermines the right to take part in, and to peacefully change, government. Corruption during processes of privatization and sale of other property is often hidden by the authorities' classification of related information as confidential. Payment for government services that should be free, or excessive payments for such services, is also demanded by government officials.

*Right to Peaceful Assembly and Freedom of Association* (art. 20 and 23) is a high risk area due to the direct violations of the right to peaceful assembly and freedom of association, since there is a close proximity between company activities, and labour, trade unions, and associations. Ukraine's practice in this area is rated high risk, particularly in the ability to form associations, and because there have been many incidents of harassment, monitoring and interference with associations and trade unions. Trade unions have experienced problems in registration, and these and other obstacles have rendered the process of collective bargaining challenging, in many instances.

*Right to Work and Just and Favourable Conditions of Work* (art. 23, 24 and 25) is rated high risk, because the proximity of company activities to implementation of the right to work and to just and favourable conditions at work is so direct. Gender discrimination is widespread in employment, women suffer from sexual harassment, and occupational health and safety standards are in general low. The Ukrainian informal sector is estimated to be one and a half times the size of the formal sector, and workers in the informal sector do not benefit from Ukrainian law, in particular minimum wage and occupational health and safety standards. Both legal and illegal coal mines have unacceptable occupational health and safety standards.

*Right to an Adequate Standard of Living* (art. 22) is a high risk area for companies, due to the proximity between implementation of the right and the company's payment policy. Ukraine has a large informal sector in Ukraine which is not covered by legal protections. Furthermore, the ability to have an adequate standard of living is limited by the fact that the official subsistence living standard is higher than the minimum wage, and social security benefits such as pension do not meet the minimum subsistence level. In addition employers avoid taxation and payment into pension, social security and other benefits by paying their employees the official minimum wage, and providing additional cash unofficially on the side.

*Right to Health* (art. 25) is rated a high risk area for companies, due to the close proximity between company activities and occupational health and safety practices, the HIV/AIDS epidemic, and the potential for environmental contamination in many of Ukraine's attractive industries, such as mining, petroleum refinery and transport, and nuclear power. In general occupational health and safety standards are poor, and hundreds of workers die every year due to occupational accidents or diseases. Furthermore, Ukraine's HIV/AIDS epidemic is so widespread that the company will certainly come into contact with the disease and related problems among its employees.

*Right to Food* (art. 25) is a high-risk area, because the direct proximity of company activities to violations of the right. Clean and safe food and water supplies are scarce, and the supply is negatively affected by the widespread contamination of the environment, and the pollution from many of Ukraine's industries. Radioactive contamination remaining from the 1986 meltdown in the Chernobyl power plant is still high in areas used for agriculture and animal husbandry, and in forest foods.



*Right to Education* (art. 26) is a high risk area for companies in Ukraine, because the company risks direct and indirect violations related to the widespread practice of child labour. Companies will also have to be vigilant in monitoring Ukrainian suppliers for the practice of child labour.

## COMPANY RISK

The following 7 rights received a yellow rating in the Company Risk category in the Ukraine CRA which indicates that these human rights constitute medium-risk areas for companies operating in Ukraine. A short description of each right follows below.

- Right to Privacy (art. 12)
- Right to Freedom of Movement (art. 13)
- Right to Family Life (art. 16)
- Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (art. 18 and 19)
- Right to Adequate Housing (art. 25)
- Right to Participate in Cultural Life (art. 26)
- Right to Intellectual Property (art. 26)

*Right to Privacy* (art. 12) is rated medium risk, primarily because company activities will certainly involve some storage of confidential data. The practice of this right in Ukraine is high-risk due to a wide range of violations, including extensive wiretapping, monitoring of persons and organisations by the government, and routine violations of medical confidentiality by public health services. In this context it will be a challenge to companies to keep personnel and medical information confidential.

*Right to Freedom of Movement* (art. 13) is categorized as a medium risk area for companies in Ukraine, primarily because where child labour and forced labour is practiced, violations of the right to freedom of movement are almost certain to take place. The proximity between forced labour and lack of freedom of movement is very close.

*Right to Family Life* (art. 16) is categorized as medium because of the strength of the relationship between the right and company activities, in particular maternity leave benefits. Implementation of maternity leave benefits without underpaying women while they are on maternity leave is critical to the enjoyment of the right to family life. In addition, child labourers' right to a family life is often violated by virtue of their participation in the labour force, and if they do not live with their families.

*Right to Freedom of Opinion, Expression, Thought, Conscience and Religion* (art. 18 and 19) is a medium risk area for companies operating in Ukraine. The company risks being directly or indirectly responsible for violations of this right related to information about its activities. The media is often directly instructed by the authorities regarding what to cover and how to report, and violence and threats against journalists are common, and are often inadequately investigated by the authorities. The public's freedom of information is violated by politicians who classify information as confidential in order to hide corrupt practices, for example illegal sales of property or corrupt privatisation processes.

*Right to Adequate Housing* (art. 25) is a medium risk area for companies operating in Ukraine. Companies that seek to purchase or rent property, particularly in the Crimean Peninsula, risk violating the right to housing of persons whose land was confiscated and not returned to them. Companies who operate in isolated areas, or areas where little housing is available, also experience a higher risk of violation, because they must provide housing for their employees and not cause homelessness among the local population.

*Right to Participate in Cultural Life* (art. 26) is medium risk area for companies operating in Ukraine, because company activities, in particular in hiring, workplace policies, and purchase or use of land, have a direct proximity to employees' and communities' cultural life. There are more than 125 different cultural nationalities in Ukraine. Some ethnic



communities are marginalised, in particular, the Roma, who are not always included in the minority rights, and the Crimean Tatars, who are not recognised as an indigenous people.

*Right to Intellectual Property* (art. 26) is rated medium risk, because company activities are very likely to involve the purchase, use or sale of goods that may be pirated or counterfeited; trademark piracy is common in Ukraine and state authorities may sometimes be involved in the resale of seized products. The Crimean Tatars suffered violation of their cultural property while they were in exile; their traditional and cultural products were destroyed, stolen or misappropriated, and have not been returned to them.

## COMPANY RISK

The following 2 rights received a green rating in the Company Risk category in the Ukraine CRA, which indicates that these human rights constitute low-risk risk areas for companies operating in Ukraine. A short description of each right follows below.

- Right to Life, Liberty and Security of Person (art. 3)
- Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)

*Right to Life, Liberty and Security of Person* (art. 3) is a low risk area because there is generally little connection between the company's activities and violations of this right. It should however be noted that Ukrainian practice is rated high risk based to a great extent on the authorities' practice of violence, arbitrary arrest and detention of citizens, in particular Roma, and the probable involvement of high-ranked politicians and security forces in causing the disappearance and death of journalists and opposition figures.

*Right to Fair Trial and Recognition as a Person before the Law* (art. 6,7,10 and 11) is rated low for companies in spite of the high risk rating of Ukrainian practice since there is no proximity between the right and company activities. The high risk practice rating is due to general violations of this right including e.g. the widespread use of torture and ill-treatment resulting in false confession or self-incrimination, and threats by criminal groups resulting in testimonies being withdrawn or altered. The judicial branch is in general believed to be inefficient and plagued by corruption.

*For specific recommendations on how to minimise these risk areas, please refer to the recommendations in the focal areas or in the particular right.*

