

## The International Protection of Human Rights in Transnational Business Activities

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On July 14, 2014 the United Nations Human Rights Council adopted the Resolution 26/9 regulating the activities of transnational corporations and other business enterprises in accordance with the international human rights protection system. The Resolution aimed at establishing the United Nations Open-Ended Intergovernmental Working Group (OEIWG), with the main mandate to elaborate an international legally-binding instrument on the responsibilities of transnational corporations and other business enterprises in the field of human rights. Since the adoption of the Resolution, more than 200 meetings have been held at bilateral and multilateral level, in Geneva and other international fora. From those meetings, the particular dynamism of the process relating to the adoption of the future Convention (or another juridical international binding instrument) has emerged. In this process, significant milestones were the first two sessions of the OEIWG of August 2015 and October 2016, but above all the publication of the “Elements for the draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights”, drafted by the Ecuadorian Presidency of the Working Group, on the basis of Article 3 of the Resolution. Indeed, the document mainly highlights its legal base, which is constituted by the most important legally-binding instruments in the field of international law and human rights, and from which the fundamental principles for the protection of fundamental rights in an entrepreneurial context - identified in the document in the respect of the rights to development, life, sustainable development, work and social security- derive. However, one of the most controversial aspects of the Elements is the decision to submit to the compliance check of the international human rights protection system only those corporations whose activities could be considered as *transnational*. On this point, from the non-paper drafted by the EAAS/Commission at the same time of the Elements in view of the preparation of the OEIWG, significant perplexities emerge just about the notion of *transnational business activities*. Indeed, the non-paper highlights the need to extend the protection of human rights also to business activities of national companies - including small and medium-sized corporations - in accordance with EU legislation and best practices in this domain. After analyzing the above mentioned documents, the research is focused on the implications of their adoption, not only on the international human rights system, but also on the foreign policy choices of the EU Member States. The focus is finally laid on the problematic position the latter will assume in the next OEIWG sessions, above all after the rejection of the Union’s request to include a co-regulation of all companies and a panel on the UN Guiding Principles on Business and Human Rights in the OEIWG session of 2017.