**Project Title**: Pre-inception phase: Business and Human Rights (BHR) in Ukraine - Accelerating sustainable and equitable development through implementation of the UN Guiding Principles on Business and Human Rights (UNGPs)

**Project Number: XXXXXX**

**Implementing Partner: UNDP Ukraine**

**Start Date:** 01.06.2021 **End Date:** 31.12.2021

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| **Brief Description** |
| Similar to other Eastern European states outside the EU, Ukraine continues to face significant depopulation, as millions of citizens migrate in search for decent jobs and improved living conditions. Because of these dynamics, the population of Ukraine is projected to drop from 43.7 million in 2020 to 35.2 million in 2050 – a 19.5 percent decline. Stepping-up the UN Guiding Principles on Business and Human Rights (UNGPs) and responsible business conduct can help address this problem and accelerate sustainable and equitable development.  With this pre-inception project UNDP wants to properly inform the implementation of a larger 5-year project designed to step up the implementation of the UNGPs. As the EU and foreign investors are furthering the implementation of the UNGPs and moving towards mandatory human rights due diligence procedures, it is of utmost important that the Government of Ukraine and the corporate sector in Ukraine to undertake and accelerate a transformation towards responsible business conduct. The project is vital for a long-term strategic BHR project in Ukraine. It will provide the necessary evidence based key findings, recommendations and options to consider, which will be of key importance to tailor the design and intervention logic of a long-term business and human rights project. Data will be gathered through stakeholder consultations, key-informant interviews and focus group discussions. Desk research of legislation, policies and practices, as well as capacity assessments, sector and market analyses will be carried out, thus establishing up-to-date baselines for monitoring and evaluation. UNDP will apply a multi-stakeholder approach to ensure a strong local ownership, relevance and sustainability of future interventions leaving no one behind. |

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| **Contributing Outcome (UNDAF/CPD, RPD or GPD):**  UNDAF Outcome 1.1. By 2022, all women and men, especially young people, equally benefit from an enabling environment that includes labour market, access to decent jobs and economic opportunities;  Outcome 3. By 2022, women and men, girls and boys participate in decision-making and enjoy human rights, gender equality, effective, transparent and non-discriminatory public services  **Indicative Output(s) with a gender marker**  Output 1.2. National institutions, systems, laws and policies advance the equitable realisation of human rights, especially among vulnerable groups;  **Gender marker:** GEN 2 |  | **Total resources required:** | USD 112’320.00 | |
| **Total resources allocated:** |  | |
| **UNDP:** | USD 112’320.00 |
| **Donor:** |  |
| **Government:** |  |
| **In-Kind:** |  |
| **Unfunded:** |  | |

Agreed by (signatures):

|  |  |
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| **Main Government Beneficiary** | **UNDP Ukraine** |
| Ministry of Justice of Ukraine;  Ministry of Economic Development, Trade and Agriculture of Ukraine; and the Office of the Ombudsperson (OO) | **Dafina Gercheva**  UNDP Ukraine Deputy Resident Representative |
| Date: | Date: |

# Development challenge and background

Ukraine’s transition to a developed market economy is facing serious political, economic, and security challenges. This is holding back investors and the development of a dynamic, private sector led economy which is able to provide decent work for its people and increase socio-economic welfare. A World Bank (WB) Ukraine Growth Study identifies key constraints, such as low domestic savings rate, low foreign direct investment, demographic characteristics and outward migration. To achieve faster and lasting growth, there is a need for structural policy reforms and more inclusive policies that distribute economic growth dividends fairly across society by creating access to opportunities for all. Economic growth is only sustainable if it doesn’t leave vulnerable groups behind. According to this study, the current model is not sustainable and falls short of this goal

Whereas private sector development can contribute to sustainable development, it is well known that unscrupulous business practices often lead to negative impact on human rights. These can for example include forced labour, numerous forms of discrimination, unequal pay or unequal treatment based on race, ethnic origin, colour, sex, national or social origin etc., unsanitary and unsafe working conditions, and little to no social protections. According to official statistics in Ukraine, in 2019 3,46 million people in Ukraine were employed in the informal sector which equals 20,87 per cent of the total number of population in employment, 16,578 million. The State Statistics Service reported that the level of the "shadow" economy in Ukraine in recent years is in the range of 16-19 per cent of the GDP. Persons who are employed in the informal sector are particularly vulnerable to forced labour and human rights exploitation. Many Ukrainians decide to migrate for various reasons including lack of decent job opportunities in Ukraine. Ukraine thus continues to face a significant depopulation as millions of citizens migrate in search of decent jobs and improved living conditions. Because of these dynamics, the population of Ukraine is projected to drop from 43.7 million in 2020 to 35.2 million in 2050, a 19.5 per cent decline. This trend could possibly be reversed by adapting and adhering to the UNGPs on Business and Human Rights. This, together with a set of incentives and policies for people to stay or return to Ukraine, could contribute to furthering the domestic economy.

Attention may need to be paid to the very specific situation of eastern Ukraine, and the conflict-affected areas where adhering to UNGPs in the process of business formation, development and expansion may require an additional examination. Critical infrastructure, access to basic services including access to clean water, healthcare and legal aid are deeply affected in the Donbas region. Heightened risks of business-related human rights abuse and environmental damage / pollution in the conflict affected areas is evident. The risks of catastrophic environmental and pollution damages in the non-government-controlled areas are real including the risks of poisoning the groundwater with knock-on effects into both Ukraine and Russia as mines are left unattended and flooded. It should be noted that, unlike in western Ukraine, the eastern part of the country has had a limited experience in MSME sector development due to historic factors. At the same time, the region is politically unstable due to the ongoing armed conflict, hence the development of the business sector has been additionally impeded. All this may suggest potential predicaments in ensuring that human rights are followed within the growing business, which in a number of sectors, is at its inception phase.

The UN Guiding Principles on Business and Human Rights (UNGPs) defines the duty for the state to protect human rights, in particular from violations related to business operations (Pillar I), the business responsibility to respect human rights, including human rights due diligence (Pillar II) and that both the state and non-state actors should ensure access to remedy and remediation when harm is done (Pillar III). The framework also calls on all governments to develop, enact and update national action plans on business and human rights as part of the state obligation to protect.

There is a growing global trend of governments and companies taking up the UNGPs as minimum standards. The EU and EU Member States are amongst the key drivers towards **mandatory human rights due diligence procedures**. The EU Commission is in the process of introducing a legislative initiative in 2021 on mandatory due diligence for companies[[1]](#footnote-1) and several EU Members States have already introduced mandatory human rights due diligence legislation into their national legal frameworks and have established special access to remedy procedures in cases of business-related human rights violations. The EU policy and practice change will potential “revolutionize” the business models in the EU and beyond. What the private sector and policy makers are starting to realize is that the UNGPs are not just good to implement for moral and ethical reasons: they are also **good for business, and good for the economy**. For example, the UNGPs help companies to identify, prevent and mitigate risks of adverse corporate human rights impacts, including their operational and reputational risks. Recent evidence-based research shows that those companies that adhere to the UNGPs have even been better able to navigate the challenges of the COVID-19 pandemic than those companies that do not.

The recent “EU Action Plan on Human Rights and Democracy 2020-2024” foresees to actively promote and support partner countries’ efforts to implement the UNGPs, including through national action plans and relevant due diligence guidelines; develop tools and training material on business and human rights, responsible business conduct, private/public-sector dialogue and human rights diligence. The project’s actions are going to be effective instruments to implement this part of the EU Action Plan. It is also **at the heart of the cooperation between EU and Ukraine and the Association Agreement between EU and Ukraine**, which provides refers specifically to cooperation in the fields of employment, social policy and equal opportunities (Chapter 21), including on decent work, employment policy, safe and healthy working conditions, social dialogue, social protection, social inclusion, gender equality and non-discrimination (art. 419).

Moreover, the European Union is the most important export market for Ukraine and has yet to be fully explored. As the EU legislators, EU investors and clients are furthering the implementation of the UNGP and moving towards mandatory human rights due diligence procedures in 2021, it is of utmost important that Ukraine be seen to be in step with this effort. **Stepping up the UNGPs implementation and responsible business conduct could bring massive benefits for Ukraine** in the form of decent job creation, addressing outward-migration, economic sustainable and equitable growth, improved livelihoods, women’s economic empowerment and reduced inequalities and progress in all SDG indicators. Ignoring this opportunity which will amend the EU foreign investment climate and trade significantly could produce the opposite effects, and further worsening the situation for Ukraine and Ukrainians.

# Strategy and overall approach

The current pre-inception project is considered catalytic for a 5 year UNDP BHR Project (a draft concept note is attached as Annex 1 to this project implementation plan) designed to **accelerate sustainable, equitable economic development and responsible business conduct**, and contributing to addressing one of the very key challenges of Ukraine, namely the profound problem of a massive informal sector, lack of decent job opportunities and as a result a significant shrinking population in search for decent jobs opportunities or a better livelihood outside Ukraine.

This pre-inception project envisages gathering necessary quantitative and qualitative baseline data in order to target the future intervention logic and pilot activities around awareness and capacity development of relevant government institutions, businesses and citizens so they are able to benefit of implementing the UN Guiding Principles on business and human rights and understand fully their roles and responsibilities.

The Project in its pre-inception phase has the following **output***:*

*“Baselines and evidence-based gaps/needs analyses on awareness, capacities of the UNGPs implementation with special attention to sectors and markets barriers and opportunities that are crucial for the investment climate and sustainable development of Ukraine”*

The long-term project will build on the qualitative data collected and the lessons learned up to today from the UN Global Compact and its active network in Ukraine. In this conjunction, the project will raise awareness of the UNGP and showcase how this internationally recognized framework and its principles can complement the Global Compact and how they mutually can reinforce each other. The UNGP is also fully aligned with the Agenda 2030 and its Global Goals, and the project will be framed and aligned with the SDG framework and its relevant indicators.

With regard to the overall **approach**, both this pre-inception project and the long-term BHR project cut across all UNDPs portfolios. Thus, it will be key to explore **synergies** and avoid duplication and coordinate across the UNDP portfolio teams and accelerator lab to harvest the **lessons learned** from relevant projects. In addition, it will be key to coordinate with UN sister agencies incl. ILO, OHCHR, UN Women, IOM and the Government of Ukraine (GoU), the business communities incl. the SMEs, the academia, the CSOs and the development partners to ensure an inclusive multi-stakeholder approach. Finally, both projects should apply a **human rights based approach, gender, decent job creation and environmental lens** throughout its scoping, implementation, monitoring, evaluation and learning phases.

# Expected Outputs and activities

The Project should be considered as a **pre-inception project** to a 5 years project on Business and Human Rights (BHR) in Ukraine.

The overall output and delivery of the project is to assess the awareness and capacity of the stakeholders on the UNGPs and responsible business conduct and gather baseline data and qualitative data which will be vital to inform and tailor a long-term BHR project to become most relevant and effective.

The concrete expected **output** will be:

*“Baselines and evidence-based gaps/needs analyses on awareness, capacities of the UNGPs implementation with special attention to sectors and markets barriers and opportunities that are crucial for the investment climate and sustainable development of Ukraine”*

The foreseen activities are the following:

***Activity 1: Stakeholders' analysis and mapping – identify duty bearers (government and businesses) and right holders to target the awareness raising of the UNGPs***

This activity can be carried by in-house UNDP staff from inception. It will be led by the Democratic Portfolio team but it will be key to coordinate closely across the UNDP other portfolio team, and with other relevant UN Agencies incl. ILO, OHCHR and UN Women as well as key informants outside the UN family, including the UN Global Compact Network to ensure that no key stakeholders are left out of the design.

Applying a human rights-based approach/gender/decent job creation and environmental lens will ensure that we leave no one behind.

The analysis will also strive to provide an overview of relevant lessons and practices from other countries on UNGPs implementation and summarize lessons learned to inform the NBA and the long-term project.

**The result of this activity** will be a comprehensive stakeholder analysis and overview which will be presented at a multi-stakeholder meeting and which will be vital to inform the NBA for the design of the future BHR project.

***Activity 2: Mapping and in-depth analyses of challenges and opportunities for the UNGPs implementation in Ukraine***

This activity will be carried out in close collaboration with the Yaroslav Mudry National Law University (NLU) and the Danish Institute for Human Rights (DIHR) who did the first National Baseline Assessment (2019).

Further evidence-based research is considered vital not least due to the current social and economic challenges, in particular caused by the COVID-19 pandemic, legislative and legal practice changes, new BHR developments in the EU Member States etc This applied research and qualitative studies will identify the barriers and opportunities for businesses, sectors, markets, trade and workers in search of decent jobs. The research will complement the NBA (2019) with in-depth applied and qualitative research which will also feed into a future NBA process as part of a National Action Process (NAP).

UNDP will be able to steer the process and support with relevant research and overall guidance whilst ensuring a close collaboration with academia, think-tanks and all relevant stakeholders.

This activity will require:

* 1. Further scoping and drafting the terms of reference (ToRs) and in particular the methods, approach and scope for updated comprehensive qualitative research that will complement the NBA (2019);

The research would *inter alia* need to identify areas needed to strengthen the capacities of duty bearers and right holders to develop and implement a NAP on BHR. It should also provide and assessment of the overall gaps/need for the corporate sector and they may best be assisted through capacity development and tools (e.g. development of business principles, establishing human rights due diligence, non-state grievance business mechanism).

* 1. Qualitative studies:
* One study on BHR lessons learned in Ukraine – building on lessons from the UN Global Compact Network and on lessons from other relevant actors (e.g. OECD National contact point, European business association etc.). This study should also map and synthesize the positive studies and opportunities and explore options on how to build on these for the implementation of the UNGPs.
* One study that will map existing studies and analyze barriers for right holders. Which sectors are likely not to respect human rights due diligence or exploit vulnerable workers and what at the reasons for this? Why are people opting to the work in the informal sector and how can we ensure that rights are also respected in the informal or “grey” sector? Why are some rights holders not able to enter the job market? The study may be able to document some of these questions and inform the long-term project to tailor the awareness raising, capacity development and tools needed. The study could for example focus be on the agricultural sector, the textile sector, the mining sector, and/or the construction sector.
* One sector study that will help identify gaps/needs for enterprises to adhere to responsible business conduct and where there may be particular significant prospects for decent jobs and sustainable growth. This study could for example be sector or market analyses of the ICT sector, the energy and/or the agricultural sectors and present options on how they may be able to scale up their business operations while respecting human rights due diligence and implementing UNGPs. The study could inform and suggest possible pilot interventions for the long-term project which could be scaled up if they contribute to sustainable and equitable growth.
* One study that identifies market and investment opportunities for business enterprises (both larger but also SMEs) that adhere to responsible business conduct. Such an assessment which could have an international trade dimension and look at e.g. the market from the EU and the new and perhaps growing trends on mandatory human rights due diligence. This activity could be very useful for businesses and stimulate and accelerate their implementation of the UNGPs.
  1. Peer review: the research and the all the suggested studies under this process mapping challenges and opportunities of the UNGPs implementation should be subject to peer review. UNDP should draw on its strong in-house capacity (e.g. human rights, women’s economic empowerment, green growth, economic recovery etc.) from across the portfolio teams. In addition, other UN agencies, such as ILO, OHCHR and UN Women and leading academic experts or practitioners should be considered to be part of a peer review group.
  2. The research should be subject to a validation workshop with relevant stakeholders, representing both the government, businesses and civil society.
  3. Presentation of each of the studies before a multi-stakeholder meeting with government, businesses/business associations, and CSOs carefully selected.

All studies within this activity should map and synthetize already existing studies/research (academic and applied research) within this area to avoid duplication and ensure that only relevant studies, research is conducted. All studies should also apply a HRBA, gender, decent jobs creation and environment lens when relevant.

**The result of this activity** will be a number of qualitative studies that will complement the NBA (2019) and feed into a future NBA process with key findings, recommendations and options to consider. Together these studies will be of immense value added to tailor the interventions and piloting areas most effectively in the long-term BHR project.

***Activity 3: A kick-off Theory of Change (ToC) meeting and a Validation ToC workshop***

This activity will be facilitated and guided by UNDP and its Democratic Governance Portfolio team, but also supported by strong in-house expertise across the UNDP portfolios. The BHR Concept Note will also be of useful background guidance. The activity will bring together representatives from all relevant partner organizations and stakeholders to identify and discuss the problems we wish to address without being too optimistic, the pathways, assumptions, risks and the change a future BHR project can contribute with.

This activity could be divided into a kick-off ToC meeting and a final validation ToC workshop.

3.1. A **kick-off ToC meeting** where key stakeholders are invited to discuss the barriers and opportunities related to BHR and explore how we can address the challenges through different innovative pathways applying the UNGPs. The stakeholders will also together identify the assumptions and risks to mitigate and adapt to. An early discussion of the ToC will i) pave the way forward for us to ensure a strong local ownership to the future BHR project, and ii) assist us to fully detect the political will and capacity amongst the stakeholders and possible partners. For example will the Ministry of Justice or the Ministry of Economic Development be able to drive the NAP process in an inclusive and effective manner with support from its management? Finally, iii) by having this meeting after kick-off we will be able to promote BHR further and ensure a meaningful and inclusive dialogue with all stakeholders so no one feel left out, and feel that they can contribute to the design.

3.2. At the end of pre-inception project, we will regather and UNDP will facilitate half-a-day **validation ToC workshop**, for validation of the ToC, the pathways, risks and assumptions based on evidence-based qualitative and quantitative studies, additional findings, recommendation and further options to consider.

For both consultations, it will be important to bring together all relevant key stakeholders and carefully select the participants who be able to contribute best to the exercise.

**The result of this activity** will a be a locally owned theory of change draft and options to consider with regard to the selection of the partners. This will be key to identify a strong anchoring institution that can drive a future multi-stakeholder National Action Plan (NAP) process on business and human rights (as one of the key outputs in the long-term BHR project).

# Management Arrangements

UNDP Ukraine shall be responsible for the overall management of the project, primarily regarding the responsibility for the achievement of the outputs (results), impact and objectives.

The project will be implemented under the UNDP Democratic Governance Portfolio with overall supervision of the Democratic Governance Team Leader. Quality assurance of the project will be provided by the Senior Democracy and Human Rights Advisor. Project monitoring and evaluation as well as communications will be provided within the Democratic Governance Team.

A small team will be running the project, consisting of the following team members:

* Project manager, Human Rights for Ukraine (part-time, 20%) will be responsible for achieving the objectives of the project and ensuring the co-operation and support from the project partners, as well as for managing the implementation of the project. This includes personnel, subcontracts, training, administrative support and financial reporting, and keeping UNDP aware of all relevant factors that could have an impact on the project implementation;
* BHR specialist (SB4/2, 100%) will be responsible of the day-to-day coordination of the project, coordinating with all relevant UNDP staff and relevant stakeholders, drafting of terms of references, setting up events, webinars and ensuring timely and thorough follow-up on all deliverables of the project. The BHR Specialist will liaise closely with the Project Manager throughout the implementation and the Senior Democracy and Human Rights advisor on the quality assurance of inputs and deliverables;
* Senior Democracy and Human Rights Advisor (part-time 50%) will provide technical expertise on BHR and will supervise the team of individual consultants, and play the leading role in overseeing the project implementation, support with organizing the project events and ensuring support to the Project Associate on quality assurance and delivery of successful results;
* Project Associate (part-time, 10%) will be responsible for the smooth administrative management and implementation of the project activities in close collaboration with both the project team and the UNDP Country Office.

The team will also supervise and work closely with the consultants and partners to be engaged to organize and implement the project activities.

# Monitoring

In accordance with UNDP’s programming policies and procedures, the project will be monitored through the following monitoring plan:

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| **Monitoring Activity** | **Purpose** | **Frequency** | **Expected Action** |
| **Track results progress** | Progress data against the results indicators in the RRF will be collected and analysed to assess the progress of the project in achieving the agreed outputs. | Regularly | Slower than expected progress will be addressed by project management |
| **Monitor and Manage Risk** | Identify specific risks that may threaten achievement of intended results. Identify and monitor risk management actions using a risk log. This includes monitoring measures and plans that may have been required as per UNDP’s Social and Environmental Standards. | Regularly | Risks are identified by project management and actions are taken to manage risk. The risk log is actively maintained to keep track of identified risks and actions taken. |
| **Learn** | Knowledge, good practices and lessons will be captured regularly, as well as actively sourced from other projects and partners and integrated back into the project. | Regularly | Relevant lessons are captured by the project team and used to inform management decisions. |

# TENTATIVE WORK PLAN & BUDGET

**Period[[2]](#footnote-2):**

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| --- | --- | --- | --- | --- | --- | --- |
| **EXPECTED OUTPUTS** | **PLANNED ACTIVITIES** | **YEAR** | **RESP. P-TY** | **PLANNED BUDGET** | | |
| June 2021 – December 2021 | Funding Source | Budget Description | Amount |
| **Output 1:** Output:  “Baselines and evidence-based gaps/needs analyses on awareness, capacities of the UNGPs implementation with special attention to sectors and markets barriers and opportunities that are crucial for the investment climate and sustainable development of Ukraine.”  *Gender marker: GEN-2* | **Activity 1: Stakeholders' analysis and mapping**  **Activity actions:**  1.1. Stakeholder analysis and mapping (incl. of lessons learned)  1.2. Multi-stakeholder presentation | June 2021 | UNDP | UNDP | 75700 Trainings and Conferences  74200 Audio, Visual, Printing & Translation costs | 13 320 USD |
| **Activity 2:** Mapping and in-depth analyses of challenges and opportunities for the UNGPs identification  **Activity actions:**  2.1. Drafting the ToRs  2.2. Qualitative studies  2.3. Peer review  2.4. Validation workshop  2.5. Presentation of NBA and each of the studies | June, July, 2021  July-Dec 2021  July-Dec 2021  Aug-Dec 2021  Oct-Dec, 2021 | UNDP | UNDP | 71300 Local Consultants  72100 Contractual Services - Company  74200 Audio, Visual, Printing & Translation costs | 60 000 USD |
| **Activity 3:** Activity 3: Kick-off ToC meeting and Validation ToC workshop  **Activity actions:**  3.1 Kick-off ToC meeting  3.2 Validation ToC workshop | June 2021  Dec, 2021 | UNDP | UNDP | 75700 Trainings and Conferences  74200 Audio, Visual, Printing & Translation costs | 14 000 USD |
| **Ensure effective project management** | June 2021 – Dec 2021 | UNDP | UNDP | 71400 Contractual services (staff costs) | 25 000 USD |
| **TOTAL** |  | | | | | **112 320 USD** |

1. https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659299/EPRS\_BRI(2020)659299\_EN.pdf [↑](#footnote-ref-1)
2. Maximum 18 months [↑](#footnote-ref-2)