

CORPORATIONS DUE DILIGENCE BASED ON A RELIABLE RECORDS MANAGEMENT POLICY; PROPOSALS FOR BETTER ACCESS TO BUSINESS RECORDS REGARDING HUMAN RIGHTS ABUSES

Submitted by the Section on Archives and Human Rights, International Council on Archives
18 October 2021

The International Council on Archives (ICA), an international association created in 1948 to promote the development of archives, with advisory status to UNESCO in the field of archives and documentary heritage, welcomes the opportunity to address the need for corporations to enhance due diligence through a reliable records management policy.

Supporting this initiative, the International Council on Archives, in particular informed by the work of its Section on Archives and Human Rights, is pleased to suggest steps that would provide better access to business records that contain evidence of human rights abuses.

Records provide evidence of actions and transactions, and business records provide vital evidence of business practices. Many business actions impact human rights, from labor relations to environmental impact. When business activities impede or impair human rights, victims must have the capacity to gain access to records that provide the evidence of the human rights violation. Such access is essential for obtaining remedy. In most countries and most industries, innumerable difficulties block the way for victims seeking access to relevant business records.

To address this problem and increase the right of access to business information for victims,

States must:

1. Legislatively require corporations to document their human rights due diligence process, preserve indefinitely the records produced in fulfilling that duty, and make available a clear statement of its access policy.
2. Ensure, in the event of a business ceasing to operate, the protection and safeguarding of the corporate records so that the rights of workers and others, including those persons who believe their human rights were infringed by the corporation, may obtain access to the records.

Corporations must:

1. Document their actions and transactions. Corporations must establish an information management policy, ensuring that all processes that affect human rights are effectively, comprehensively and continuously recorded.
2. Safeguard archives created as a result of business activities, including but not exclusive to those relating to labor policy and relations, exploitation of natural resources, and business relationships.

3. Establish and maintain an effective records management system, with a clear protocol of responsibility, adequately financed, staffed by qualified personnel and placed prominently within the organization.
4. Adopt the principle of transparency. Corporate records must be accessible to any person, providing the access does not compromise industrial or intellectual property rights, commercial confidentiality or other legitimate business interests. The corporation will have an access policy, made available to the public; it will guarantee the accessibility to key documents, which the policy will publicly define. Clear rules for access to evidence and procedures for consulting business archives will be published.
 - a. Victims and those affected by the business practices have the right to know the records management policy, the organization of the archives, and the holdings of the archives. These persons will have access to the records, either personally or through the organizations that represent them in defense of their rights, in order to have effective mechanisms for reparation.
5. Ensure preservation of archives in the event of dissolutions or closure of one line of business.

The International Council on Archives would be pleased to provide any further comment or explanation on our recommendations above.

Our contact for this purpose is Vitor Fonseca, Chair of ICA-SAHR:

vitormowlac@gmail.com

Also contact, Blanca Bazaco, member of the working team on Business, Archives and Human Rights of ICA-SAHR:

blancabazaco@gmail.com

With regards

A handwritten signature in blue ink, appearing to read "David Fricker". The signature is fluid and cursive, with a large initial "D" and "F".

David Fricker
ICA President