DiliCHANCE

successful due diligence in mineral supply chains

Remediation as an Essential Step in Due Diligence

Michel Riemersma

Funded by the European Union

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Health and Digital Executive Agency. Neither the European Union nor the granting authority can be held responsible for them. Grant Agreement number: 101177460

The DiliCHANCE project

The Challenge

The European Union perceives due diligence as crucial to its economic and sustainability goals. It is needed to secure critical raw materials, support the green and digital transition, and promote sustainable practices that reduce societal and environmental harm.

for more details please visit

www.DiliCHANCE.eu

Our Approach

DiliCHANCE improves due diligence in mineral value chains and responsible business conduct by (a) raising awareness and knowledge of human rights and environmental due diligence (HREDD) among corporate actors, (b) identifying gaps in HREDD implementation in policy and industry, (c) enhancing due diligence operations with better tools and new solutions, and (d) promoting multi-stakeholder engagement and capacity building.

Imprint

Date: February 2026 | version 1 | Michel Riemersma, Solidaridad Europe

Work package 1.2 |

Dissemination level: public

Overview

1. Introduction

„At the end of the day, as human beings we are all seeking dignity as the basis for wellbeing. Without access to remedy, victims continue to suffer. We know we have achieved remedy when dignity is restored. Let that be front of mind as we dive into this subject, and going forward.“

Estelle Levin-Nally, Levin Sources[1]

THERE IS A REMEDY GAP IN THE MINING SECTOR. Companies have the duty to provide remedy to affected stakeholders under the OECD Guidelines Step 6. But in the mining sector, it turns out that this duty is often neglected. Findings from the DiliCHANCE consortium show that remedy remains the weakest element of corporate due-diligence policies. Few companies consult affected people and if they do, this consultation does not often lead to remediation. This gap has tangible human consequences as human rights violations are not remediated.[2]

This Deep-Dive uncovers the topic of remediation in the mining sector. In this report, it is explained what remedy is, what responsibilities companies in the supply chain have, why it is of importance and what the current status of implementation is. And most importantly: how can companies start closing the remedy gap.

1.1. What is remedy? Restoring human dignity

Every day, people around the world face situations where their basic human rights are violated. According to the United Nations, "An adverse human rights impact occurs when an action removes or reduces the ability of an individual to enjoy his or her human rights".[3] When these impacts occur, they should be subject to remediation. **Remedy describes the process and the outcome that seek to restore human dignity**. The focus on process means that remedy should be stakeholder-driven; the focus on outcomes seeks to counteract, or make good, the negative impact.

[1] Estelle Levin-Nally, *Advancing Stakeholder Engagement and Remedy in the Mining Sector*, online: www.levinsources.com/assets/pages/Advancing-Stakeholder-Engagement-and-Remedy-in-the-Mining-Sector.pdf

[2] Ben Ellis (July 2025), *Deep-Dive Baseline and gap analysis of companies' due diligence policies*, online: www.dilichance.eu/en/deep-dives/how-companies-address-dd-in-their-sustainability-reports

[3] United Nations Environment Programme Finance Initiative, *Remedy*, online: www.unepfi.org/humanrightstoolkit/remedy/

As described by the United Nations Environment Programme,[4] remedy can take many forms, including:

- **Apology** (including acknowledgement of harm done)
- **Restitution** (restoring someone or something to its former condition prior to the harm or impact)
- **Rehabilitation** (facilitating someone's recovery from harm, which may include medical or psychological care as well as legal and social services
- **Compensation** (including both monetary and non-monetary forms)
- **Sanction** (including contractual sanctions and penalties)
- **Guarantees of non-repetition** (including specific measures, mitigants, and activities to ensure that human rights abuses do not re-occur).

1.2. What is the role of businesses in providing remedy?

While due diligence aims to prevent adverse impact, even responsible companies can sometimes cause or contribute to harm.[5] In those moments, remedy becomes essential. The OECD standards on responsible business expect businesses and investors to establish or co-operate in effective grievance mechanisms that are accessible to impacted stakeholders. In the 6 step due diligence process recommended in the OECD Guidance on Responsible Business Conduct,[6] this sixth step has a special place. As illustrated in Figure 1, 'Provide for or cooperate in remediation' is placed outside the cartwheel of continuous improvement. This placement reflects the fact that only when the due diligence process has gone wrong, step 6 comes into play.

[4] United Nations Environment Programme Finance Initiative, *Remedy*, online: www.unepfi.org/humanrightstoolkit/remedy/

[5] See the Business and Human Rights Resource Centre for such cases: https://www.business-humanrights.org/en/big-issues/natural-resources/

[6] OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, online: www.oecd.org/content/dam/oecd/en/publications/reports/2018/02/oecd-due-diligence-guidance-for-responsible-business-conduct_c669bd57/15f5f4b3-en.pdf

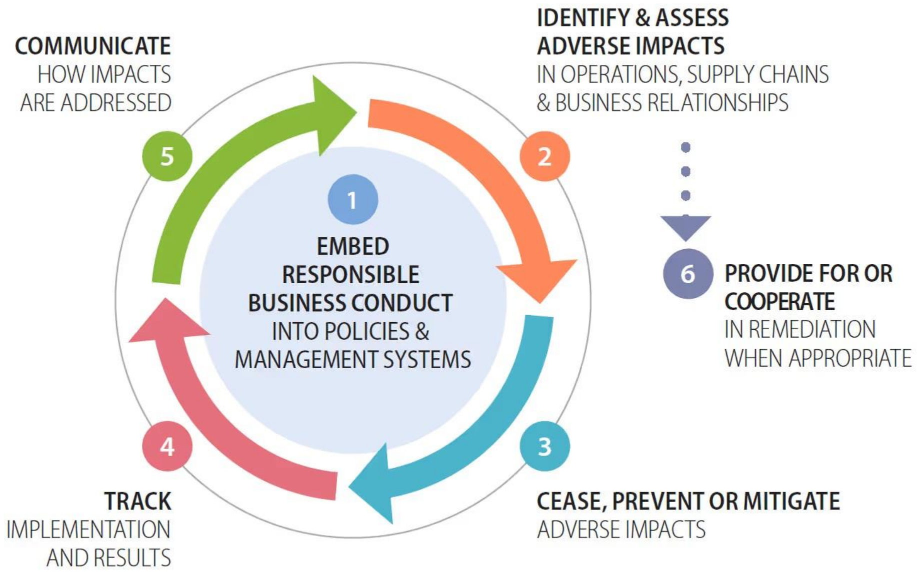

Figure 1: OECD Due diligence process & supporting measures, OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct.

THE INDICATORS FOR STEP 6 ARE:

"6.1 - When the enterprise identifies that it has caused or contributed to actual adverse impacts, address such impacts by providing for or cooperating in their remediation.

6.2 - When appropriate, provide for or cooperate with legitimate remediation mechanisms through which impacted stakeholders and rightsholders can raise complaints and seek to have them addressed with the enterprise. Referral of an alleged impact to a legitimate remediation mechanism may be particularly helpful in situations where there are disagreements on whether the enterprise caused or contributed to adverse impacts, or on the nature and extent of remediation to be provided."[7]

[7] OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, online: www.oecd.org/content/dam/oecd/en/publications/reports/2018/02/oecd-due-diligence-guidance-for-responsible-business-conduct_c669bd57/15f5f4b3-en.pdf

Companies might wonder: Why is remediation important in the mining sector? DiliCHANCE consortium member Levin Sources gives 6 reasons why companies should care about remediation:[8]

"1. It's one of the 3 core pillars of the United Nations Guiding Principles for Business and Human Rights, known as UNGP, which sets out clear guidance to governments, business and other stakeholders on how to support victims of human rights harms to access remedy.

2. As the UNGPs are being domesticated into national and international laws, then it is important for miners to demonstrate conformance with them for compliance purposes but also to meet business partner expectations, especially for European downstream entities and investors.

3. Past harms leave people aggrieved, which affects trust and the willingness to participate in or support company or statutory initiatives. Low trust elevates the likelihood of resistance and conflict and prevents the types of cooperations that can maximize positive impacts for business and society. It is also at the root of permitting delays and refusals in a number of jurisdictions (as evidenced by our work in Chile, for example) and a lack of investment (as shared by investors at Resourcing Tomorrow in December 2025), and as such is a key barrier to scaling minerals production but also to achieving project viability and financing.

4. Equity is a basis for driving sustainable development and without access to remedy, harms are inequitably distributed leading to greater socio-economic inequality, deepening poverty and leaving the promise of minerals-driven prosperity unfulfilled.

5. Company directors have a fiduciary duty to conduct business ethically. Creating harm and not repairing it is unethical.

6. Perhaps most importantly, remedy is a pathway for healing for victims and their families. This has inter-generational ramifications because trauma is inherited both epigenetically and behaviourally. As the descendant of Jewish refugees and married into an Irish family, I see this inherited trauma in action in my own life."

LEVIN SOURCES

[8] Estelle Levin-Nally, *Advancing Stakeholder Engagement and Remedy in the Mining Sector*, online: www.levinsources.com/assets/pages/Advancing-Stakeholder-Engagement-and-Remedy-in-the-Mining-Sector.pdf

2. How well are companies actually putting remedy into practice?

Understanding what remedy means in theory is only the first step. How this responsibility plays out in reality is something completely different. Do companies genuinely take action when harm occurs? Do their systems work for those most affected? To answer these questions, in 2025, the DiliCHANCE consortium assessed the due diligence policies and reported actions of 21 companies that operate in key industrial sectors, i.e. mining, trading, refining and recycling, mobility, electronics and renewable energy. The study, which was based on the publicly available reports of the companies, showed that the scores on remedy were worse than for other due diligence indicators. Almost no information was found on whether and how companies consult impacted people when determining appropriate remedies.[9]

While many companies acknowledge the importance of having grievance mechanisms in place, there appear to be a lack of detailed public information on how these are monitored, whether vulnerable groups can meaningfully access them, and how companies ensure that the mechanisms function as intended. Similarly, although remediation and corrective action are mentioned in publicly available reports, there is little detail available about how affected individuals are actually restored, what processes are in place to facilitate remediation, and whether these processes are delivering fair and timely outcomes (Figure 2).

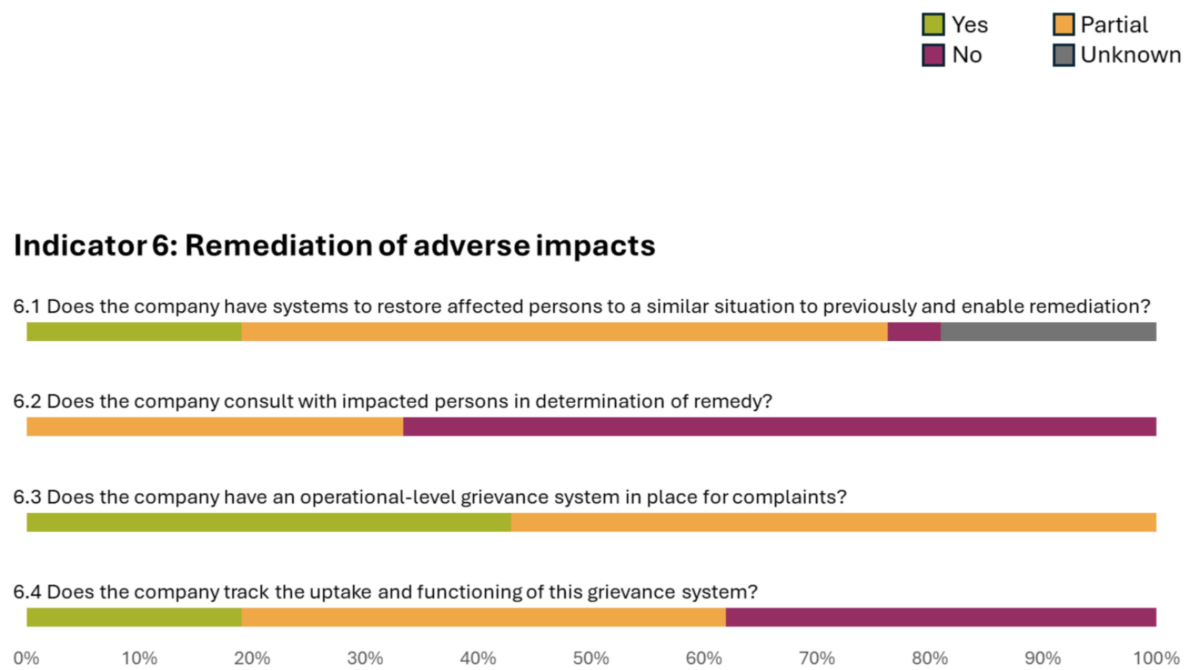

Figure 2: DiliCHANCE assessment of reporting on remediation policies in 21 companies. Results of Indicators 5 and 6 for all companies shown as a % of each response by question.

[9] Ben Ellis (July 2025), *Deep-Dive Baseline and gap analysis of companies' due diligence policies*, online: www.dilichance.eu/en/deep-dives/how-companies-address-dd-in-their-sustainability-reports

For more insights on companies' due diligence policies, please read the DiliCHANCE *Deep-Dive Article and the report on Baseline and gap analysis of companies' due diligence policies*.[10]

The DiliCHANCE assessment aligns with the findings of the Initiative for Global Solidarity and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). In their 2024 study, they analyze "the potentials and limitations of non-state-based non-judicial grievance mechanisms in upholding human rights within the large-scale mining industry – a sector marked by its significant and complex social and environmental footprint".

The researchers identify a remedy gap, based on lack of accessibility, legitimacy, equitability, transparency and dialogue in existing remedy mechanisms. Dr. Heidi Feldt and Susanne Friess:[11]

> ***„Key obstacles include a lack of awareness about the existence and potentials of the different Grievance Mechanisms, alongside financial, technical, linguistic, cultural and gender barriers. Rights holders are usually in the challenging situation having to prove the harms caused by or linked to mining activities. This highly complex task that requires expensive investigations as well as significant financial and technical support – a provision neither adequately met by states nor by Non-Governmental Organisations (NGOs) – which often lack the resources to provide support in the numerous cases".***

Figure 3: Gold mine in Tadó, Colombia. © Solidaridad

[10] Ben Ellis (July 2025), *Deep-Dive Baseline and gap analysis of companies' due diligence policies*, online: www.dilichance.eu/en/deep-dives/how-companies-address-dd-in-their-sustainability-reports

[11] Dr. Heidi Feldt and Susanne Friess (FAKT Consult), May 2024, Exploring the Remedy Gap in the Large-Scale Mining Sector, GIZ

Remedy should not only happen on paper, in promises and commitments, but actually implemented in real life. If complainants must wait for years and work their way through complicated procedures, there is no real remedy. See for example this case in South Africa:

According to the Business and Human Rights Resource Center: “In 2012, a class-action lawsuit was launched against six mining companies, Harmony Gold, Gold Fields, African Rainbow Minerals, Sibanye-Stillwater, AngloGold Ashanti and Anglo American, after miners working for the companies contracted incurable lung diseases, including TB and silicosis. The impacted workers included many migrant workers, including from Lesotho, Eswatini, Botswana, Mozambique, Zimbabwe, and Malawi.”[12]

Compensation process continues in 2025, but delays remain for ex-miners suffering from occupational lung disease, following 2018 settlement with the 6 mining companies.

Seven years after the initial settlement, in July 2025, it was reported that 84% of people lodging claims had still not received compensation.

“Many of these potential claimants are not even aware that Tshiamiso Trust exists because the trust is not on the ground tracing ex-miners and creating awareness. The trust doesn’t seem concerned.”

Head of Justice for Miners, Ziyanda Manjati. Quote from Business and Human Rights Resource Center.[13]

[12] Business and Human Rights Resource Centre (25 July 2025), South Africa: Compensation process continues but delays remain for ex-miners suffering from occupational lung disease, following 2018 settlement with 6 mining cos, online: www.business-humanrights.org/en/latest-news/south-africa-compensation-process-continues-but-delays-remain-for-ex-miners-suffering-from-occupational-lung-disease-following-2018-settlement-with-6-mining-cos/

[13] Business and Human Rights Resource Centre (25 July 2025), South Africa: Compensation process continues but delays remain for ex-miners suffering from occupational lung disease, following 2018 settlement with 6 mining cos, online: www.business-humanrights.org/en/latest-news/south-africa-compensation-process-continues-but-delays-remain-for-ex-miners-suffering-from-occupational-lung-disease-following-2018-settlement-with-6-mining-cos/

3. Mine closure: the final test for remedy

As all good things come to an end, the closure of a mine is at some point inevitable and necessary. This has a major impact on the livelihoods of stakeholders. For workers and communities that economically depend on the income from mining activities, it is important that the mining company includes the human rights impact of mine closure in its due diligence procedure. Closure can mean the loss of income and destabilize a local economy. Closure can have an impact on health, safety, social, environmental, legal, governance and human resources.

We see this for example in Colombia. The Colombian Constitutional Court's Ruling T-029 of 2025 established an important precedent for fair and responsible mine closure, highlighting the power imbalance between multinational mining corporations and local communities. According to labour union CNV International and The Workers Collective for a Just Energy Transition this case underscores the difficulty for affected stakeholders to hold a company accountable and let it start with remediation. They explain:[14]

> *"Trade unions and community organisations have struggled against corporate dominance in mine closure negotiations for more than four years, demanding a transparent social dialogue among the involved stakeholders and the implementation of measures to mitigate the impact of mine closures. The case underscores the urgent need for European businesses, investors, and policymakers to uphold human rights due diligence (HRDD) in global supply chains and enforce responsible corporate practices within their value chains."*

For integrated mine closure, companies can follow the guidance of the International Council on Mining and Metals (ICMM). The **ICMM Good Practice Guide on Integrated Mine Closure** states that companies should deal with integrated mine closure as "a dynamic and iterative process that considers

[14] The Workers Collective for a Just Energy Transition (2025, 10 February), FALLO DE LA CORTE CONSTITUCIONAL COLOMBIANA EN EL PRIMER CASO DE CIERRE DE MINAS DE CARBÓN EN COLOMBIA PROTEGE LOS DERECHOS DE COMUNIDADES Y TRABAJADORES DESPEDIDOS, online: www.cnvinternationaal.nl/_Resources/Persistent/1/5/f/9/15f90e00002148e48955b3676ac142c66fe02102/Comunicado%20FALLO%20CIERRE%20MINAS.pdf

CNV Internationaal (2025), *Colombia's Constitutional Court has issued a landmark ruling on the closure of coal mines in the country: A Call for Corporate Accountability*, online: www.cnvinternationaal.nl/en/topical/news/historical-judgment-constitutional-court-colombia-closing-mines-of-carbon environmental, social and economic aspects at an early stage of mine development."[15] As with other remediation processes, it is best to start early and have a protocol in place in case you need to act.

4. Where should companies begin on their journey towards good remediation practices?

Closing the remedy gap requires companies to improve their due diligence policies and practices. According to Levin Sources[16] miners, their business partners, and civil-society actors can take several concrete steps to support affected rightsholders and improve access to remedy. The first step isn't just about publicising the existence of a grievance mechanism, but actually educating affected communities on the variety of avenues to justice that exist, whether through the courts, OECD National Contact Points, extra-territorial law firms like Leigh Day that represent victims harmed by businesses where UK jurisdiction applies, standard setters, etc.

Secondly, Levin Sources states that remedy preparedness is crucial. If you don't anticipate what's likely to happen and don't prepare for it, it's likely to be messier and more expensive. Mines are great at emergency preparedness for health and safety issues, but what about the other potential harms like sexual and gender-based violence, community conflict, drinking water contamination?

Ultimately, prevention is better than remedy. If you cut down an old growth forest, replacing it with a plantation is not going to do it! To conclude, it not very surprising that there is remedy gap in the mining sector. It is clear that remediation is not an easy process. However, there are clear recommendations for companies that want to start the process to close gap. Every step towards remediation counts, as without access to remedy, victims continue to suffer.

Figure 4: Miner, Peru. © David Mansell-Moullin / Solidaridad

---

[15] ICMM (2025, 19 February), Integrated Mine Closure: Good Practice Guide, online: www.icmm.com/integrated-mine-closure

[16] Levin Sources, Advancing Stakeholder Engagement and Remedy in the Mining Sector, online: https://www.levinsources.com/assets/pages/Advancing-Stakeholder-Engagement-and-Remedy-in-the-Mining-Sector.pdf

5. Dig Deep

The following should be on your reading and watching list if you want to dig deeper and close the remedy gap.

Access to Remedy in Cases of Business-Related Human Rights Abuse: An Interpretive Guide
Office of the High Commissioner for Human Rights, 2024

What do the EU's new rules on corporate due diligence mean for Sámi rights and mining in Sweden?
SEI working paper, October 2024

Webinars (in English) on Access to Remedy
The Dutch Social Economic Council

YouTube: Workshop: Access to remedy in the extractives sector
The Dutch Social Economic Council, 2020

Rethinking Remedy and Responsibility in the Financial Sector
Shift, David Kovick, May 2019

Tools To Enhance Access to Effective Grievance Mechanisms and Enable Effective Remedy
Shift and the Equator Principles

Access to remedy - practical guidance for companies
Ethical Trading Initiative, 4 February 2019

YouTube: Grievance mechanisms in cooperative and artisanal mines
Electronics Watch, 2 June 2025

OECD/United Nations (2023), *Conflict transformation and the role of responsible artisanal and*

small-scale mining: Supporting peace through supply chain due diligence. OECD Business and Finance Policy Papers, OECD Publishing, Paris, https://doi.org/10.1787/cdbd61d1-en

Coordinated by:
Vienna University of Economics and Business,
Institute for Managing Sustainability
Welthandelsplatz 1A
1020 Vienna, Austria
phone: +43-1-31336-5454
www.DiliCHANCE.eu