

To: Estonia National Contact Point & OECD Centre for Responsible Business Conduct
From: OECD Watch
Date: 9 August 2023
Re: OECD Watch submission to the 2023 Peer Review of NCP Estonia

OECD Watch welcomes NCP Estonia's willingness to undergo a peer review to improve its effectiveness in promoting the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (Guidelines) and contributing to resolving irresponsible business conduct by multinational enterprises (MNEs) in specific instances. We appreciate the opportunity to provide input into this peer review.

This submission highlights areas for improvement of particular concern to OECD Watch. We direct NCP Estonia, the Estonian government, and the peer reviewers to [OECD Watch's most recent evaluation of NCP Estonia](#).¹ As our evaluation shows, aspects of the NCP's communication, procedures, and organisational structure should be improved to meet civil society's expectations for NCPs. This submission includes recommendations in relation to these issues.

NCP Estonia's communication

According to the OECD's and OECD Watch's specific instance databases, no cases have been filed by civil society organisations to NCP Estonia.² It is our hope that improvements to the NCP's communication, particularly promotion by the NCP of its dual mandate amongst all stakeholders, as well as to its procedures and organisation, will increase the accessibility and visibility of NCP Estonia. More information and understanding by MNEs (both MNEs headquartered in Estonia as well as foreign MNEs operating in Estonia) and civil society of the NCP's roles may lead to more and better engagement with stakeholders and the future filing of specific instances to the NCP.

Promotional events: In 2022, NCP Estonia conducted three promotional activities, namely an introductory meeting on OECD NCPs' roles, a discussion with responsible business conduct (RBC) experts, and an introduction to the draft EU Due Diligence Directive. All three promotional activities were targeted towards government stakeholders, and as such did not include external stakeholders, including NGOs, trade unions, and businesses. As such, these activities do not meet OECD Watch's recommendation for promotional events to involve representatives from all three external stakeholder groups. In previous years, the Estonian NCP held more inclusive but fewer events. In 2021, the NCP organized a conference that engaged businesses, NGOs, trade unions, and government representatives in discussing RBC. In 2020, the NCP held a meeting attended by stakeholder groups and other government ministries to promote the NCP, introduce the Guidelines, and present the results of its internal study on the best structure and legal basis for NCP Estonia. To optimise its communication, OECD Watch strongly encourages NCP Estonia to: 1) expand its promotional efforts to all stakeholder groups, 2) involve external stakeholders in these activities, 3) hold at least one promotional activity per year, but preferably to increase the number of these activities, particularly to promote the recent updates to the Guidelines, and 4) include promotional plans on its website to enhance the NCP's visibility, which is also an indicator of strong NCP communication.

Promotional materials: Beyond hyperlinks to OECD material, NCP Estonia does not have any publicly accessible promotional materials or resources available on its website. OECD Watch encourages the

¹ OECD Watch's NCP evaluations were last updated in 2021.

² NCP Estonia's annual reports indicate that specific instances have been received from other stakeholders, including businesses.

NCP to produce and promote materials tailored to the activities of Estonian MNEs and MNEs operating in Estonia that are public and accessible to external stakeholders.

NCP Estonia's procedures

Aspects of NCP Estonia's specific instance handling procedures (available on the NCP's homepage) do not align with civil society's expectations for NCPs. OECD Watch recommends the NCP to align (and thereby strengthen) its procedures with OECD Watch's recommendations. This is also to increase prospective complainants' perception of the effectiveness of the NCP.

NCP only handles issues that occurred less than three years ago: The NCP stipulates that it only accepts cases that occurred less than three years ago. This has no basis in the Guidelines, is highly limiting, and poses an obstacle to potential complainants, who may (and often do) pursue other dispute resolution mechanisms before filing a specific instance. NCP Estonia should delete this criterion from its specific instance handling procedure.

Lack of clarity about handling anonymous cases: The information regarding NCP Estonia's approach to anonymous specific instances is unclear. Its website states that anonymous complaints are not accepted, but also that a complainant can seek confidentiality if this is communicated clearly to the NCP. In such cases, the NCP reserves the right to withhold the complainant's identity for security reasons. It is recommended that the NCP clarifies this inconsistency in line with our assumption that while specific instances must identify a complainant (an individual or organisation), the complainant's identity can be anonymised for security reasons.

NCP Estonia's organisation

Stakeholder involvement: NCP Estonia has a single-agency decision-making framework through which specific instances are handled by government officials. This structure does not align with our recommendation for NCPs to have an independent expert structure, whereby complaints are handled by non-governmental independent experts, which improves the accessibility and accountability of NCPs. We recommend that the NCP re-evaluates its structure in line with our recommendations.

Stakeholder advisory body: NCP Estonia does not have a stakeholder advisory body, as recommended by OECD Watch. It is critical for the NCP to establish a stakeholder advisory body including all three stakeholder groups to improve the NCP's accessibility and visibility. Additionally, NCP Estonia could better communicate its institutional structure on its website. OECD Watch therefore recommends that the NCP take measures to ensure clear communication regarding both its procedures and organisational structure.

Contact details

For questions or clarification on this submission, please contact the OECD Watch Secretariat.

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