

To: Türkiye National Contact Point & OECD Centre for Responsible Business Conduct
From: OECD Watch
Date: 2 October 2023
Re: OECD Watch submission to the 2023 Peer Review of NCP Türkiye

OECD Watch welcomes NCP Türkiye Republic's willingness to undergo a peer review to improve the NCP's 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 Türkiye, the Türkiye government, and the peer reviewers to [OECD Watch's most recent evaluation of NCP Türkiye](#).¹ As our evaluation shows, aspects of the NCP's organisational structure, communications, and procedures do not meet civil society's expectations for NCPs. This submission includes recommendations in relation to these issues.

NCP Türkiye's organisation

Stakeholder advisory body and stakeholder involvement in the NCP: It is unclear whether NCP Türkiye has a stakeholder advisory body. The NCP's 2018 report to the OECD referred to a stakeholder advisory body, but no additional information (in English) is available on the NCP's website. The NCP should clarify whether such a body is in place, as well as its roles and responsibilities. If the NCP has a stakeholder advisory body, details of this body should be publicly available on its website. OECD Watch recommends for NCP stakeholder advisory bodies to involve all three stakeholder groups (trade unions, businesses, and NGOs), to be consulted at least twice a year, and for representatives of all three groups to be involved in the NCP's governance and decision-making. This structure best aligns with the updated Commentary on the Procedures for NCPs, which emphasises the importance of stakeholder involvement in NCPs – "Regardless of the structure governments have chosen for their NCP, they are encouraged to establish multi-stakeholder advisory or oversight bodies where useful to assist NCPs in their tasks." Having such a body would improve the NCP's accessibility, accountability, and visibility.

Location in bureaucracy: The NCP is located at the Ministry of Industry and Technology at the General Directorate of Investment Incentives and Foreign Investment. This is not in line with civil society's expectations that NCPs not be housed in government ministries relating to economics, trade, and investment. This is important to ensure NCPs' accessibility and accountability to their stakeholders and there being no real or perceived conflict of interest.

NCP structure: OECD Watch understands that the NCP has an individualised single ministry decision-making framework through which complaints are handled by government officials. This significantly limits the actual or perceived independence and expertise of the NCP. To enhance their accessibility and accountability, OECD Watch recommends that all NCPs incorporate diverse and relevant government departments, have a multipartite structure, or have an independent expert structure, and that complaints are strictly handled by (these) non-governmental independent experts. Further, at present the NCP's structure is unclear, and OECD Watch recommends for this information to be more clearly stated on its website, in Turkish as well as in English.

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

NCP Türkiye's communication

OECD Watch welcomes NCP Türkiye's comprehensive online database including documents on due diligence, domestic reporting, NCP functions, its complaint database, and final statements. However, NCP Türkiye's promotional activities have been lacking in the past. OECD Watch recommends for the NCP to enhance its promotional activities in order to achieve this important element of its dual mandate.

Promotional plan: The NCP has not developed a promotional plan, or otherwise this plan has not been published on its website. OECD Watch recommends that all NCPs develop and publish a promotional plan in order to fulfill their promotional mandates, and also so that upcoming activities and events are visible and accessible to all stakeholders.

Promotional events: According to its website, the NCP has not organised any promotional events. OECD Watch strongly recommends that the NCP (co-) organise at least one promotional event annually on the OECD Guidelines attended by business, union, and civil society stakeholder groups. Engaging in promotional activities increases NCPs' accessibility, visibility, and subsequently their accountability.

Promotional materials: The NCP's website includes links to various OECD webpages promoting the OECD Due Diligence Guidance for Responsible Business Conduct. OECD Watch recommends for the NCP's website to include explanatory material on the OECD Due Diligence Guidance and due diligence generally, including in Turkish, since this information is indispensable for MNE's and the NCP's stakeholders understanding of the OECD Guidelines and the responsibilities of Türkiye businesses and MNEs operating in Türkiye.

NCP Türkiye's procedures

Confidentiality rules: The NCP's Specific Instance Review Procedure does not give specific information on the NCP's confidentiality rules, stating that "the whole review process will be held in confidentiality" and "during the specific instance review process, in order to encourage open discussions among the parties, the parties decide on the terms of the confidentiality of the procedure and on how information to be disclosed to the public. But in principle, the Turkish NCP take necessary steps to keep sensitive information confidential in its process." This is unclear and should be clarified by the NCP in a revised version of its Procedure. OECD Watch recommends that NCPs maintain transparency generally, but encourages confidentiality over: (a) the personal identities of parties for security/privacy reasons (b) legitimately sensitive business information (c) documents shared and discussions had during the good offices stage. It is important to also note that principles 6 and 7 of the updated Procedures for NCPs in the 2023 Guidelines emphasise the importance of transparency by NCPs during the complaint process and reaffirm that confidentiality should only be allowed over the points stated in (a), (b), and (c) above. Relevantly, the Commentary on the Procedures for NCPs in the Guidelines state:

"Transparency is an important criterion with respect to its contribution to the other core effectiveness criteria, and in gaining the confidence of stakeholders, parties to specific instances and the general public. Thus, as a general principle and subject to applicable law, the activities of the NCP will be transparent. ... Nonetheless in specific instances, the NCP may establish confidentiality of certain aspects of the proceedings, consistent with Section I.C.6.-7. of the Procedures and related Commentary."

Transparency is essential for the effective functioning of NCPs. As such, OECD Watch urges the Türkiye NCP to revise its Specific Instance Review Procedure in line with the updated Guidelines.

Determinations: The Specific Instance Review Procedure does not mention determinations. In line with the updated Guidelines, OECD Watch strongly recommends for the NCP to explicitly include in its Procedure that the NCP may set out its views in its final statement on whether an MNE has observed the Guidelines. Determinations are useful as they clarify the at times vague standards in the Guidelines and enable MNEs to understand and comply with the Guidelines. Determinations increase MNEs' accountability and can also represent a form of remedy for complainants in terms of public validation of their experiences and concerns.

Follow-up monitoring: The NCP has not conducted follow-up monitoring on any specific instance it has handled, or otherwise has not reported on any follow-up it has conducted. For example, in *LSD vs. Tosyaly Holding*, the NCP said that it would follow-up on the results of dialogue between the parties and potentially open its good offices, but such follow-up has not taken place or has not been reported on. In line with the updated Guidelines, OECD Watch recommends that all NCPs engage in follow-up monitoring of recommendations made in their final statements and agreements reached between parties in specific instance processes. The updated Guidelines emphasise the importance of NCP follow-up of relevant recommendations and agreements and the publication of follow-up statements.

Contact details

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

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