

Evaluation of the Lithuanian NCP for the 2016 OECD Accession Review of Lithuania 30 August 2016

Introduction

OECD Watch welcomes Lithuania's accession into the OECD. We hope this process helps the Lithuanian government further advance its efforts to meet the legally binding commitments to which all National Contact Points (NCPs) are expected to adhere as outlined in the Council Decision of the OECD Guidelines for Multinational Enterprises. Furthermore, we hope that this process can help the Lithuanian government identify ways in which its NCP can further its effectiveness in advancing the OECD Guidelines and serve as a platform for resolving complaints related to corporate misconduct. OECD Watch would like to express appreciation for the opportunity to provide input into this accession evaluation. Our feedback is primarily based on our observations of the Lithuanian NCP's performance and operations in the core criteria of visibility, accessibility, transparency, and accountability, as well as the guiding principles for handling specific instances: impartial, predictable, equitable, compatible with the Guidelines.

This submission provides recommendations for improving the Lithuanian NCP's performance, in order to advance access to remedy for the communities, civil society organisations and workers who file complaints against corporate breaches of the Guidelines. This submission advances recommendations that we have previously put forward to all NCPs in our 2015 report [Remedy Remains Rare](#) and our 2016 [4 x 10 Plan for why and how to unlock the potential of the OECD Guidelines](#).

Reflection on the NCP's performance on the core criteria

- Regarding visibility, accessibility and predictability, the Lithuanian NCP maintains a website that is only accessible in Lithuanian and appears to have only general information regarding the role of the NCP, as well as the basic procedures followed by the NCP in handling specific instances. It not possible for OECD Watch to verify whether the NCP's bylaws are on the website, whether the Guidelines have been translated into Lithuanian, but this does not appear to be the case. Furthermore, it does not look like the Lithuanian NCP has detailed instructions as to how the NCP

handles complaints and the timelines they use. It is impossible to comment on the procedures for case handling without this information, and it makes the NCP mechanism unpredictable for potential users.

- OECD Watch would like to recommend that NCP make available English-language information regarding its flow chart and how the NCP handles complaints so that non-Lithuanian speakers are also able to file complaints related to the activities of Lithuanian companies.
- Regarding transparency, it is positive that the Lithuanian NCP has provided access to its annual reports to the OECD Investment Committee online, however, it is noted that the 2015 report is not yet available.
- In order to enhance the transparency and accountability of the Lithuanian NCP, all complaints that it receives, as well as its initial and final assessments, should be listed on its website. While no complaints may have yet been received by the NCP, the NCP should dedicate a part of its website for (future) information on all of the specific instances received.

Reflection on the NCP's institutional arrangements

- The Lithuanian NCP has a tripartite structure, which is structured in the Ministry of Economy and is made up of state institutions, business, and trade unions, with an advisory committee of between 4 to 10 experts. OECD Watch is pleased that a wider range of stakeholders is included and would like to encourage the involvement of civil society representatives as well to prevent any possible perceptions of bias.
- OECD Watch also recommends that the Lithuanian NCP develop an independent board charged with oversight of the NCP. This board should be composed of prominent independent individuals, with representatives from civil society organisations, amongst other stakeholder groups.

Reflection on the NCP's information and promotional efforts

- The NCP does not appear to have a promotion and advising function for both companies and civil society, despite this being a requirement for all NCPs. The NCP's promotional plan, as well as any promotional activities that are being carried out, should be regularly posted on the NCPs website to better enable interested stakeholders to participate in these activities. OECD Watch would like to encourage the Lithuanian NCP to fulfil its promotional requirements by doing more to publicise

its services widely and organise stakeholder events, especially amongst companies and in the countries where Lithuanian companies operate. This will allow for greater promotion of the Guidelines, while also leading to improved awareness and adherence to the Guidelines in the operations of Lithuanian companies.

- OECD Watch is concerned that the Lithuanian NCP's lack of promotional activities to date may be a (partial) reason that it has not yet received a single specific instance.

Reflections on the implementation of specific instances

Although the NCP has not yet handled any actual specific instances, in the information available on the Lithuanian NCP's website, it is not clear whether the NCP is willing to carry out its own fact-finding to determine the actual facts of a case, nor whether the NCP is willing to make a clear determinations of whether or not breaches to the Guidelines have been made by a company. OECD Watch's research into 250 specific instance complaints around the world indicates that NCPs that employ these case handling procedures are more effective at resolving the issues raised in specific instances. OECD Watch thus recommends that the Lithuanian NCP clearly indicate that it will employ both procedures (independent fact finding and determinations of breach) when handling specific instances.

Additional recommendations to the Lithuanian government for improving NCP performance

Beyond the abovementioned actions that can be taken directly by the NCP, additional steps that could be taken by the Lithuanian government to help advance its effectiveness in terms of furthering the effectiveness of the Guidelines would include:

- ensuring that sufficient resources are made available to the Lithuanian NCP to undertake all of its work,
- attaching material consequences when the NCP finds companies non-compliant with the Guidelines
- calling on the OECD Working Party on Responsible Business Conduct to revise the *Procedural Guidance* for NCPs and adopt a system of mandatory NCP peer reviews at least once every five years.

Contact details

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

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| OECD Watch secretariat Sarphatistraat 30 1018 GL Amsterdam The Netherlands Ph: +31 20 6391291 info@oecdwatch.org | OECD Watch coordinators: Ms. Ame Trandem, a.trandem@oecdwatch.org Dr. Joseph Wilde-Ramsing, j.wilde@oecdwatch.org Ms. Virginia Sandjojo, v.sandjojo@oecdwatch.org |
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