

To: Latvia National Contact Point & OECD Centre for Responsible Business Conduct
From: OECD Watch
Date: 13 February 2023
Re: OECD Watch submission to the 2023 Peer Review of NCP Latvia

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

NCP Latvia's procedures

Complainant anonymity: The NCP's rules of procedure do not explicitly state that the NCP can keep the identities of individual complainants confidential, they only mention sensitive business information. OECD Watch encourages NCPs to allow complainants to withhold their identities from MNEs for security reasons.

Confidentiality rules: The NCP's rules of procedure imply that the existence of a specific instance will be confidential until the NCP issues its initial assessment. This does not accord with OECD Watch recommendation for NCPs to maintain transparency generally, but to allow for confidentiality only over: (a) the personal identities of parties for security/privacy reasons, (b) legitimately sensitive business information, and (c) documents shared and discussions had during the good offices stage. We recommend the NCP's rules of procedure be amended accordingly.

Issuance of recommendations and determinations: The NCP's rules of procedure do not commit the NCP to making determinations (or decisions) of (non-)compliance with the Guidelines, but do permit the NCP to make recommendations to the parties on how to handle the case further in accordance with the Guidelines. OECD Watch encourages the NCP to issue recommendations in future, final statements on how MNEs can correctly and completely implement the standards in the Guidelines and/or remedy their adverse impacts. The NCP should also consistently issue determinations on MNEs' (non-)compliance with the Guidelines. Determinations are useful as they clarify the often-vague standards in the Guidelines and enable MNEs to understand and comply with the Guidelines. Both determinations and recommendations increase MNEs' accountability and can also represent a form of remedy for complainants in terms of public validation of their experiences and concerns.

Consequences for MNEs refusing to engage in good faith in NCP processes: OECD Watch recommends that all NCPs be permitted in their rules of procedure to request consequences from their respective governments, where this doesn't already exist, for poor faith of MNEs in specific instance processes. However, there is no indication that the Latvian government has committed to apply any such consequences, nor that NCP Latvia has requested its government to do so.

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

NCP Latvia's communication

Website: NCP Latvia's website generally complies with the requirements in the OECD Guidelines and OECD Watch's recommendations. The website is in both Latvian and English, and key information is included, such as on the Guidelines, due diligence, and specific instances handled by the NCP, as well as the NCP's contact information. Certain improvements could be made, however. For example, the NCP's website does not include any annual reports of NCP Latvia beyond 2019. Publication of these reports would strengthen the NCP's accountability and visibility to all stakeholders, including civil society.

Promotional events: In the past, NCP Latvia has organised annual promotional events on the OECD Guidelines attended by business, trade unions, and civil society stakeholder groups. For example, in 2018, NCP Latvia helped organise an Award Ceremony aimed at evaluating business responsibility, at which all stakeholder groups were present. Also, in 2018, NCP Latvia alongside Nordic NCPs participated in an OECD Watch workshop in Utrecht, the Netherlands on the effective use of the OECD Guidelines NCP system. Since then, however, based on the NCP's website, it does not appear that the NCP has participated in other promotional events. We strongly encourage NCP Latvia to engage with all of its stakeholders, including civil society and OECD Watch, in the future. Promotion of MNEs' alignment with the OECD Guidelines is the first of NCPs' dual mandate, and OECD Watch encourages NCP Latvia to increase its promotional activities in the future. Doing so is necessary to improve the NCP's accessibility and visibility.

Rules of procedure: While NCP Latvia's website is available in both Latvian and English, the NCP's rules of procedure for specific instance handling are only in Latvian. This significantly decreases the accessibility and visibility of the NCP, as well as its perceived or actual impartiality and predictability. OECD Watch strongly encourages the NCP to publish its rules of procedure in English to meet the expectations in Part II of the OECD Guidelines.

NCP Latvia's organisation

Expertise: NCP Latvia has a multipartite decision-making structure composed of representatives of government ministries, business associations, trade unions and one independent expert. They have official decision-making authority through consensus. This follows OECD Watch's recommendations for stakeholder involvement in NCPs and greatly increases the accountability of the NCP.

Contact details

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

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