

To: Slovak Republic National Contact Point & OECD Centre for Responsible Business Conduct  
From: OECD Watch  
Date: 27 January 2023  
Re: OECD Watch submission to the 2023 Peer Review of NCP Slovak Republic

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

### **NCP Slovak Republic's communication**

*Multilingual website:* Although the website for the Ministry of Economy is available in both Slovak and English, the NCP's website is only available in Slovak. OECD Watch encourages the NCP's website to be in both Slovak and English to improve the NCP's visibility and accessibility.

*OECD Guidelines and NCP-related information on the NCP's website:* NCP Slovak Republic's website lacks much of the information necessary to fulfil its two-part mandate: (1) raising awareness of the Guidelines among all relevant stakeholders and strengthening alignment with the standards by MNEs, and (2) identifying and contributing to resolving irresponsible conduct and adverse impacts related to MNEs' incorrect or incomplete implementation of the standards in specific instances. For example, the website does not comprehensively explain the Guidelines nor the OECD Due Diligence Guidance. Nor does the website provide instructions for potential complainants on how to file specific instances. OECD Watch strongly recommends that the NCP expands the information available on its website to increase the visibility and accessibility of itself, as well as the Guidelines and specific instance process more generally, for the benefit of all stakeholders.

According to the [OECD's specific instance database](#) and [OECD Watch's complaint database](#), no specific instances have been filed to NCP Slovak Republic. It is our hope that improvements to the NCP's communication (as well as procedures and organisation, detailed below) increase the accessibility and visibility of NCP Slovak Republic to all stakeholders. More information and understanding by all stakeholders of the NCP's dual mandate may lead to more and better engagement with stakeholders and the future filing of specific instances to the NCP.

### **NCP Slovak Republic's procedures**

*Confidentiality:* According to Article 13 of the NCP's Rules of Procedure, "All NCP members and invited persons are bound by confidentiality of information they may have learnt during the examination of specific instances". This seems to imply that confidentiality exceeds beyond the good offices stage of a specific instance procedure. OECD Watch recommends that NCPs maintain transparency in specific instance processes generally, but allow for confidentiality only over: (1) the personal identities of

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<sup>1</sup> OECD Watch's NCP evaluations were last updated in 2021.

parties for security/privacy reasons, (2) legitimately sensitive business information, and (3) documents shared and discussions had during the good offices stage.

*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 Slovak Republic government has committed to apply any such consequences, nor that NCP Slovak Republic has requested its government to do so.

*Follow-up monitoring:* OECD Watch recommends that all NCPs engage in follow-up of recommendations made in their final statements and agreements reached between parties in specific instance processes. NCPs should have an explicit commitment in their Rules of Procedures to do so. The Rules of Procedure of NCP Slovak Republic should be revised to include such a commitment.

*Parallel proceedings:* The NCP's Rules of Procedure do not explicitly state that parallel proceedings do not constitute a bar to specific instances meriting further consideration by the NCP. The Commentary on the Implementation Procedures of the Guidelines states that parallel proceedings do not automatically bar specific instances from proceeding. OECD Watch strongly recommends the NCP's Rules of Procedure be revised in line with the Guidelines.

### **NCP Slovak Republic's organisation**

*NCP Structure:* While NCP Slovak Republic is located in the Ministry of Economy and Trade (not recommended by OECD Watch in order to ensure there is no real or perceived conflict of interest), the NCP does have broad expertise, including the involvement of multiple government departments, as well as all three core stakeholder groups (business, trade unions, and NGOs). Stakeholders are involved in the NCP's structure, but do not form part of the NCP's advisory body. OECD Watch strongly recommends that NCPs have multi-stakeholder advisory bodies, which are consulted at least 2 times per year, to encourage accountability of their processes.

### **Contact details**

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

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