# Annual report



THE OCEDS GUIDELINES FOR MULTINATIONAL ENTERPRISES

1

THE NATIONAL CONTACT POINT FOR RESPONSIBLE BUSINESS CONDUCT NORWAY

(

## BUILD BACK BETTER

### Contents

Building back better after the pandemic?	4
The OECD's unique guidelines	6
Due Diligence Guidance for Responsible	
Business Conduct	8
National Contact Points	10
This is Norway's National Contact Point	12



Promoting the OECD Guidelines and	
providing guidance to businesses	13
Due diligence is an investment	16
Survey reveals major shortcomings	18
The turbulent year of 2020	22
Responsible business conduct in the coronavirus crisis	24
Consistent advice from the state is necessary	26
The National Contact Point is a voice that	
is listened to when policy is designed	28
The National Contact Point system:	32
An important driver for responsible business conduct	32



Handling specific instances	38
Groundbreaking climate change complaint	40
Ten groundbreaking specific instances	42
Complaints from a to z	44
·	



International cooperation	48
All good things come in threes	50

# Building back better after the pandemic?

How will Norwegian enterprises make a comeback as competitive players in the international market when the coronavirus pandemic loosens its grip? They will have to be at the forefront of responsible business conduct.

Everyone is using the hashtag *#Buildbackbetter*. This slogan refers to the need for actions and changes that enhance the ability of businesses to withstand new crises. Moreover, *#Buildbackbetter* also entails a transition to a greener economy.

To the OECD, *#Buildbackbetter* means that the post-pandemic economic recovery must comprise more than merely going back to 'business as usual'. It requires investments and shifts in attitudes that can increase society's ability to withstand the ramifications of new crises. The measures need to ensure jobs and better living conditions and reduce inequality.

The plans for such a revival must contribute to reducing greenhouse gas emissions and combat loss of biodiversity. They must also promote sustainable supply chains, including by increasing support for the circular economy.

This requires a long-term perspective on the part of both the authorities and businesses.

The pandemic has made the OECD Guidelines for Responsible Business Conduct even more important for business and industry. It is essential to base business activities on these guidelines to build back better after the pandemic, and Norway's National Contact Point is there to help. The year 2020 marked the twentieth anniversary of the National Contact Point system – the OECD Guidelines' unique grievance mechanism. The system has led to some extraordinary results. The ING case from the Dutch NCP is an important example (see page 40). The final statement highlights the expectation set out in the Guidelines that businesses set tangible goals to manage their impact on climate change, in accordance with the Paris Agreement. The international bank ING accepted this and now manages its loan portfolio in accordance with this goal. The case demonstrates that the NCPs can also play an important role when it comes to the climate.

When the pandemic loosens its grip, Norwegian business and industry must be prepared to meet a market that places new demands on them. The requirements for responsible business conduct will, not least, become more formalised in hard law.

The Norwegian Government is working on the Ethics Information Committee's proposal for a new act relating to transparency in the supply chain and the duty to acquire knowledge and perform due diligence – a proposal the NCP endorses.



Several countries in our most important markets have implemented binding legislation requiring businesses to demonstrate responsible business conduct, respect human rights, worker's rights and trade union rights, and avoid causing harm to the environment.

For Norwegian businesses, it is particularly important that the EU has come far in its legislative process. When the EU due diligence legislation is in place, it will apply to all businesses in what continues to be our most important market. The EU Sustainable Finance Taxonomy project is also an important driver in this respect. Under the classification system, measures are required to be in line with the EU's environmental targets, and businesses must comply with minimum requirements for social standards, such as the OECD Guidelines, the UN Guiding Principles and the ILO core conventions.

'When the pandemic loosens its grip, Norwegian business and industry must be prepared to meet a market that places new demands on them' To succeed in their business endeavours in international markets, Norwegian businesses must be at the forefront of responsible business conduct. That is not the case today. In 2020, Norway's NCP and Amnesty published reports showing that the situation was less than satisfactory when it comes to knowledge and implementation of the OECD Guidelines for Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights. Major efforts are required on the part of both governments and the business sector to ensure that Norwegian businesses are able to compete after the coronavirus pandemic.

Frode Elgesem Chair of Norway's NCP



5

## The OECD's unique guidelines

The OECD Guidelines for Multinational Enterprises are the most extensive and best established of all international mechanisms promoting responsible business conduct.



### Sustainable development

A main objective of the OECD Guidelines is for the business sector to contribute to sustainable development. A company that is not aware of its responsibilities can, at worst, contribute to violations of human rights and trade union rights, environmental destruction, corruption or a negative impact on local communities.

The Guidelines and due diligence help businesses to prevent negative impacts and harm to people, society or the environment, and to remedy any harm caused, thus helping to achieve the UN Sustainable Development Goals.

### A clear expectation

The Guidelines are the OECD countries' recommendations for the business sector, and there is a clear expectation on the part of the authorities that they are implemented.

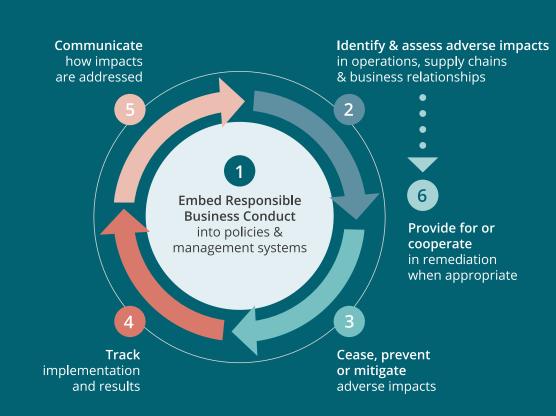
### Cover all areas

The OECD Guidelines cover all the important areas that a responsible business needs to address. According to the Guidelines, businesses must:



### Due Diligence Guidance for Responsible Business Conduct

A core element of the OECD Guidelines is that companies are expected to perform due diligence to avoid causing harm to people, the environment and society. Businesses should map, prevent and adress negative impacts that may be associated with their operations, supply chain and business relationships, and communicate what measures they have in place to address these impacts. In short, you need to understand the risks you are associated with, address them to prevent harm and report what you do.



### The due diligence model

The model illustrates how due dilligence is a continuous process troughout the company's lifetime.



### National Contact Points

The OECD Guidelines for Multinational Enterprises are supported by a unique mechanism: the National Contact Points (NCPs).

The governments of all countries that have adhered to the OECD Guidelines are obliged to establish an NCP.

Their task is to promote the OECD Guidelines for Multinational Enterprises and pertaining Due Diligence Guidance and handle complaints as a non-judicial grievance mechanism. Fifty countries have so far established NCPs.



for Responsible Business Conduct



#### UNIQUE MECHANISM

NCPs for RBC is the only internationally recognised nonjuidicial grievance mechanism for RBC.

NCPs can handle cases relating to companies operating "in and from" their territories.



### THEMES

Since 2011, the 3 most prevalent themes were:

- Human rights (50%)
  General policies of the Guidelines (50%)
- Employment & industrial relations (37%)



#### SUBMITTERS

Since 2011, the primary submitters of cases to NCPs were:

- NGOs (38%)
  - Trade Unions (27%)
  - Individuals (23%)



#### RESULTS

Since 2011, 36% of concluded cases by NCPs resulted in agreement and 33% of all concluded cases resulted in company policy change.



#### GLOBAL REACH

The 50 countries adhering to the Guidelines account for for over 70 per cent of foreign direct investment, which highlights the global reach of NCPs.

Since 2000 NCPs have handled over 500 cases in over 100 countries and territories.



#### **OECD** countries with National **Contact Points**

Hungary

Iceland

Ireland

Israel

Italy

Japan

Latvia

Mexico

lands

Australia Austria Belgium Canada Chile Colombia Czech Republic Denmark Estonia Finland France Germany Greece

#### Norway Poland Portugal Slovakia Slovenia South Korea Spain Lithuania Sweden Luxembourg Switzerland Turkey The Nether-UK USA **New Zealand**

### Adhering countries with National **Contact Points**

Argentina Brazil Costa Rica Egypt Jordan Kazakhstan Croatia Morocco Peru Romania Tunisia Ukraine Uruguay

#### Observer countries

India China Russia

The map is for guidance only and does not express any position on territorial status or sovereignty. A total of 50 countries have adopted the OECD Guidelines and are therefore obliged to establish a National Contact Point

### This is Norway's National Contact Point

## The National Contact Point for Responsible Business Conduct Norway is an independent, public expert body comprising four members.

The NCP is chaired by Court of Appeal Judge Frode Elgesem. The Members of the NCP are appointed by the Ministry of Foreign Affairs and the Ministry of Trade, Industry and Fisheries, in cooperation with the Ministry of Labour and Social Affairs and the Ministry of Finance. They are appointed on the basis of their professional expertise, and based on proposals from the social partners and civil society, represented by the Confederation of Norwegian Enterprise (NHO), the Confederation of Norwegian Trade Unions (LO) and the Forum for Development and Environment (ForUM). The NCP has a secretariat, which in 2020 had three permanent full-time employees. The secretariat is under the administrative authority of the Ministry of Foreign Affairs, but has a separate budget and operates independently of the Government.

The secretariat and the members engage in extensive promotional activities and provide guidance to Norwegian businesses and other stakeholders on how they can meet the requirements of the OECD Guidelines. The secretariat also prepares the handling of specific instances (complaints).

All OECD countries are obliged to establish a National Contact Point. The way in which the NCPs are organised varies from country to country.

### Members



Frode Elgesem Chair, Judge at Borgarting Court of Appeal

Cathrine Dehli Vice President of Sustainable Business, Cognite



Gro Granden Special adviser LO



Beate Ekeløve-Slydal Political adviser at Amnesty International

### Handling specific instances

#### Njål Høstmælingen Department Director at the Norwegian Institute of Public Health, currently in charge of handling complaints as stand-in for the Chair of the NCP

#### **Ola Mestad**

Professor dr. juris at the University of Oslo, currently in charge of handling complaints as stand-in for the Chair of the NCP

### The secretariat



Cathrine Halsaa Head of Secretariat



Åse Sand Senior Adviser



Kristel Tonstad Policy Director

### The NCP has three main tasks:



### Promoting the OECD Guidelines and providing guidance to businesses

page 14

### Handling specific instances

page 38



### International cooperation

page 48

## 1 Promoting the

### OECD Guidelines and providing guidance to businesses

One of the NCP's most important tasks is to promote the OECD Guidelines for Multinational Enterprises as an effective tool for preventing violations.

The Guidelines are more than just words. They are a practical tool that can prevent Norwegian companies from making the wrong decisions in their interactions with people, society and the environment in other countries.

Norway's NCP carries out extensive information work and provides guidance to Norwegian businesses and other stakeholders on how they can meet the requirements of the OECD Guidelines, including through due diligence courses and sector-specific guidance.





### Due diligence is an investment

Responsible business conduct is not a matter of size. Small, medium-sized and large businesses alike need to address risk, according to Monica Sander.

Text: Marianne Alfsen, Felix Media

She is the fifth generation to spearhead Beer Sten, a company that has made its mark internationally for more than 140 years. In places as diverse as The City Hall quay in Oslo, the old town in Havanna and Montmartre in Paris, you can walk on paving stones produced by this Fredrikstad company, established by Sander's great-great-grandfather in 1879.

The family business is most known for a delivery of granite in 1922 for Gustav Vigeland's masterpiece sculpture The Monolith.

#### Sustainability as a cornerstone

For Beer Sten – which today delivers stone products from India, China, Portugal, Sweden and Norway – responsible business conduct is the very cornerstone of its promise to be 'a safe choice'.

'Demonstrating responsible business conduct is not about whether you are big or small but about values, and, to us, it is standard business practice,' says Sander.

She remembers well the time when 'corporate social responsibility was something businesses put the marketing department to work on alongside day-today operations. That time has passed.

'It is and must be an integrated part of everything we do,' says Sander, and points out that responsible business conduct has been second nature to Beer Sten from early on.

'We didn't go to India without a focus on ethics 30 years ago, but it wasn't professionalised at that point.'

#### Wake-up call

A disturbing media crisis became the start of a more systematic approach. In 2007, a TV documentary claimed that Beer Sten delivered stone produced in India by child labour. That was not the case.

'But we didn't have any documentation to hit back with. Once we did, the media was no longer interested,' explains Sander.

Since then, Beer Sten has established a robust system for evaluating and minimising risk – and documenting what they find and how they address it.

'We found our way through trial and error,' says Sander.

They placed their trust in third party audits to begin with. Today, they have taken greater ownership and triangulate information from many sources, including external and internal auditors, representatives at all levels of the supply chain and local partners.

#### Main challenges

The main challenge in Beer Sten's supply chain is working conditions, particularly in India and China.

'Health, safety and the environment and workers' rights are the most important risk factors,' says Sanders, but stresses that their focus is on the whole scope of risk factors, as defined in the OECD Guidelines.

The situation for labour rights, such as the right to organise and collective bargaining, varies immensely in the countries they operate in. However, the policy is the same, and, according to Sander, it is clearly communicated locally:



'Beer Sten is a small business, but we make efforts to promote workers' rights and use our influence to ensure that our partners do the same. Our code of conduct describes the right to organise and collective bargaining. The code of conduct is communicated both verbally and in writing to all our suppliers and is regularly followed up, including in audits,' says Sander, and adds:

'We have performed risk assessments of where the challenges are greatest, and prioritised efforts in relation to where we have a chance to exert influence and achieve change.'

#### Hands-on approach

At least once a year, they go through their own business activities with a fine-tooth comb based on auditing principles.

They firstly look at the big picture: What are the main challenges in the country? Has anything changed?

The assessment is based, among other things, on country profiles prepared by Ethical Trade Norway, which we are a member of, and risk profiles from the International Trade Union Confederation (ITUC),' explains Sander.

The next step is to evaluate whether the risk they have identified is relevant to the manufacturers. What is the status?

Last, but not least, they prepare an action plan ensuring that the most pressing issues are dealt with first.

The challenge is finding reliable information,' says Sander.

Beer Sten regularly visits all its manufacturers. They talk to representatives of the management as well as everyone from masons to factory workers at all levels.

'It becomes less of a challenge to obtain reliable information when you get to know people,' says Sander.

#### **Closer ties during the pandemic**

When the coronavirus pandemic arose, Beer Sten had to rethink its approach. Surprisingly enough, the outcome was closer ties.

The main challenge was to ensure that no workers compromised on infection control and health during a period of major demand and reduced capacity.

Follow-up trips were replaced by digital meetings.

'This led to even closer dialogue! We talk to our suppliers several times a week and have been in much closer dialogue with people further down the hierarchy. When using digital platforms, anyone in the supply chain can contact me directly about challenges. We request spontaneous tours of the factories via video link. The pandemic affects us all, and has created a sense of unity,' explains Sanders, and concludes:

'Due diligence is an investment, not an expense. It is profitable in a long-term perspective. Having a good system in place does not mean that absolutely everything is fine. No one can guarantee that. But we assess risk and have a system to follow it up, where we make long-term and continuous efforts to improve identified risks. Commitment from the management is crucial and may in fact be easier in a small business like ours.'

### Survey reveals major shortcomings

### Less than half of Norwegian enterprises perform due diligence, and knowledge of the OECD Guidelines is low. That was revealed in the NCP's survey of businesses launched in 2020.

'The results show that voluntary measures are not sufficient to ensure that Norwegian companies comply with the OECD Guidelines and meet the government's expectations of due diligence,' says Chair of Norway's NCP Frode Elgesem.

Just 50 per cent of business leaders state that their company has mapped the risk of negative impacts. The actual figure is likely to be somewhat lower, since more than half have conducted 'other assessments' that do not fall under the OECD's definition. Only 16 per cent state that they have conducted risk assessments in line with the OECD Due Diligence Guidelines.

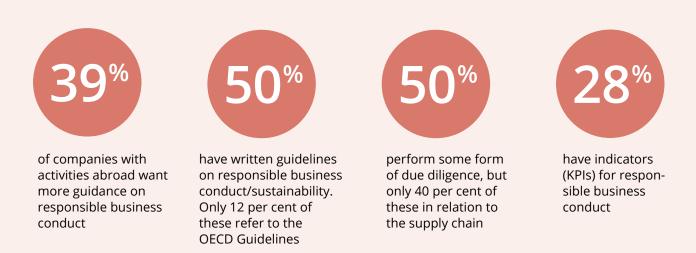
'Most businesses map too few risk factors,' says Elgesem.

Mapping of risks associated with climate, the environment and labour rights were most covered, while only a few businesses map factors like corruption and human rights. Just 28 per cent have indicators (KPIs) for responsible business conduct.

'It is also a major weakness that most of the businesses that do map risk only look at their own activities. Just four out of ten map risk in the supply chain, as required by the OECD Guidelines,' says Elgesem.

Knowledge of the OECD Guidelines in general is low. Only three out of ten leaders of businesses with international operations have heard of them. Of these, seven per cent say they have familiarised themselves with the Guidelines, while just two per cent say they are well familiar with them.

'The survey shows that the business sector has a great need for guidance on due diligence. It is therefore important that the Norwegian authorities strengthen their efforts,' says Elgesem.



### Knowledge of the OECD Guidelines and the NCP

The sample comprised 600 leaders of Norwegian businesses. Of these, 253 work internationally, i.e. owners, investments, production, export, import or import via agents outside Norway. The survey was conducted by Sentio.

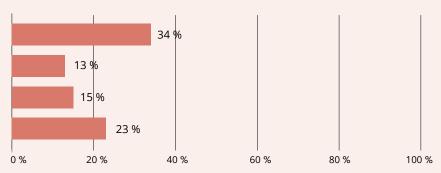
### The whole sample

The OECD Guidelines for Multinational Enterprises

The Norwegian National Contact Point

OECD Due Diligence Guidance for RBC

ILO Core Conventions



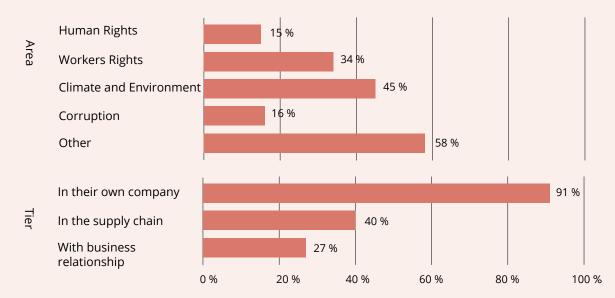
Percentage that reply: • Know them well • Have some knowledge • Have only heard about them/it

### Companies with business activities abroad

Percentage	Know them well	Have some knowledge	Have only heard about them/it	Have not heard about them/it
The OECD Guidelines for Multinational Enterprises	2	7	30	61
The Norwegian National Contact Point	1	2	11	86
OECD Due Diligence Guidance for RBC	2	5	8	85
ILO Core Conventions	3	7	14	76

### Due diligence

In which areas have the businesses that perform due diligence mapped risk?



Seminar on responsible business conduct:

## Are Norwegian businesses at the forefront?

The NCP's survey of businesses was launched with a seminar at the House of Literature on 23 June 2020, which was also streamed. The seminar was organised in cooperation with Amnesty International Norway, which presented its own business survey.







'It's worrying that just seven per cent of the surveyed business leaders are familiar with the OECD Guidelines. This shows that the Government has work to do when it comes to clearly expressing its expectations of responsible business conduct to Norwegian companies. The fact that 45 per cent of the companies need more knowledge in order to map risk relating to people, society and the environment also shows that we have a fair way to go.'

Iselin Nybø, Minister of Trade and Industry

'The fact that just 28 per cent have indicators for following up work relating to the environment and social factors shows that Norwegian businesses still have a long way to go. We need to roll up our sleeves and keep up with developments!'

Cathrine Dehli, Vice President of Sustainable Business, Cognite, and member of the NCP

'Amnesty's business survey shows that close to half of all companies report having problems keeping track of the supply chain. They are nonetheless very self-confident and state that there is little risk of them violating human rights.'

Beate Slydal, Poltical Advisor, Amnesty International Norway



'Due diligence is something you have to do, including in the supply chain. The survey shows a lack of knowledge. The authorities need to provide better guidance and make clearer expectations of responsible business conduct.'

Julie Lødrup, First Secretary, Norwegian Confederation of Trade Unions (LO)



'Businesses are operating in an increasingly complex reality and take responsible business conduct seriously, but the survey shows that there is still some way to go.'

Tore Myhre, Head of the International Department, Confederation of Norwegian Enterprise (NHO)



'Hydro employs the OECD due diligence model actively. It is a useful method to map and handle risk. We cannot fully control the supply chain, but we can conduct risk mapping.'

The general attitude has been that Norwegian business and industry is top of the class. This survey shows that Norwegian businesses

face the same challenges as other international players.'

Amalie Hilde Tofte, International Adviser, Industri Energi

Elise Must, Head of CSR, Norsk Hydro



There is a need for better understanding of what due diligence actually implies. All companies have human rights risks. The more we go into it, the more we discover and the more difficult it gets. Still, we have to demystify how to conduct due diligence.'

Sidsela Nyebak, VP Head of Corporate Responsibility & Sustainability, Statkraft



The State as owner sets clear expectations in its ownership dialogue in compliance with the OECD Guidelines and the UNGP, and of performing due diligence. Transparency is important, which is why we have reported on this in the annual ownership report.'

Muriel Bjørseth Hansen, Senior Sustainability Adviser, Ownership Department, Ministry of Trade, Industry and Fisheries



### The turbulent year of 2020

The NCP has focused on maintaining and strengthening its role as adviser and driving force in this challenging year. The Government expects responsible business conduct – even in times of crisis.

One of the NCP's main tasks is to guide Norwegian businesses on responsible business conduct. In a normal year, we do this by way of extensive external activities – seminars, courses, meetings and travels.

The coronavirus crisis is the very litmus test of a business's due diligence work in that it is a new risk

factor with sudden and widespread ramifications, challenging all areas covered by the OECD Guidelines. As a result, the demand for guidance has increased. The NCP has therefore made substantial efforts to restructure our work and provide advice and guidance digitally.

In the course of the year, the NCP was invited to a number of joint digital meetings with business representatives and provided continuous guidance to individual companies. The NCP also organised several webinars.

### Include RBC requirements in stimulus packages

The Government must ensure that the coronavirus crisis does not set back the sustainability agenda, and instead use this opportunity to give it a significant boost by including responsible business conduct requirements in its stimulus packages.

That was the message of a letter sent to the Government in May 2020 in which the NCP requested that clearer expectations be made of stimulus package recipients. The NCP also believes that there should be consequences for support recipients that do not comply with responsible business conduct principles as described in the OECD Guidelines.

'Responsible business conduct is a condition for achieving the Sustainable Development Goals. We are

now in a period of crisis. Business and industry have been hit hard and many Norwegian companies are fighting to survive. In periods of crisis, the principles are more important than ever, since the risk is greater,' explains Frode Elgesem, Chair of Norway's NCP.

The Norwegian Confederation of Trade Unions (LO) and the Forum for Development and Environment endorsed the NCP's request. The Confederation of Norwegian Enterprise (NHO) also expressed its support for the NCP's request that the crisis must not set back the sustainability agenda, and that clear expectations of responsible business conduct are expressed to stimulus package recipients. The NCP's request to the Government was unsuccessful. ´Don't be the person who hands out bonuses to owners while also cutting contracts with suppliers, forcing workers in low-cost countries into destitution.´

Frode Elgesem, Chair of Norway's NCP



#### Webinar:

## Responsible business conduct in the coronavirus crisis

How should a responsible business sector tackle the coronavirus crisis? That was the topic of a digital dialogue meeting organised by the NCP on 30 April 2020.

The webinar was based on the OECD's policy note on COVID-19 and Responsible Business Conduct, published in April 2020 in response to specific concerns about the negative impact of the pandemic on workers' rights, the environment and human rights, and all other risk factors covered by the OECD Guidelines.

The webinar focused on the importance of avoiding mistakes in times of crisis that will have negative

consequences for the company when the market returns to normal operation.

'Companies that comply with the OECD standards for responsible business conduct are better equipped to handle risk and to escalate activities when the crisis ends,' said State Secretary Marianne Hagen of the Ministry of Foreign Affairs when she opened the event.

After Hagen's introduction, Chair of the NCP Frode Elgesem invited representatives of the Confederation of Trade Unions (LO), the Confederation of Norwegian Enterprise (NHO) the Forum for Development and Environment and Scatec Solar to a panel debate.

Around 100 people from the business sector, trade unions, the authorities and civil society followed the webinar.



Photo: Thorbjørn Helir



'This crisis is the perfect test of whether a Norwegian business is viable, an interesting investment object, a reliable business partner and an interesting place to work.'

Frode Elgesem, Chair of Norway's NCP



'We will take a strong stance against businesses that misuse public crisis funding if they do not demonstrate responsible business conduct.'

Are Tomasgård, Confederal Secretary, Confederation of Trade Unions (LO)



'The NHO expects risk to be handled at all times, and in times of crisis more than ever. The OECD Guidelines are necessary in this work.'

Mari Sundli Tveit, Policy Director, Confederation of Norwegian Enterprise (NHO)



'The coronavirus crisis has demonstrated the need to regulate due diligence by law and that voluntary measures are not enough.'

Kathrine Sund-Henriksen, Executive Director, Forum for Development and Environment



'A structured approach to risk-based due diligence is absolutely vital for profitability.'

Roar Haugland, Executive Vice President, Scatec Solar

#### Workshop:

## Consistent advice from the state is necessary

State agencies that provide economic support or services to business can boost responsible business conduct efforts. That was the topic of a digital workshop.

The State contributes billions of kroner through loans, guarantees and grants to Norwegian business and industry. The Action Plan on Business and Human Rights states clearly that businesses that receive support will also receive thorough and consistent advice on responsible business conduct. However, experience has shown that the advice on RBC from the various state agencies that provide economic support or services to business agencies varies. The NCP, in cooperation with the Ministry of Trade, Industry and Fisheries and the Ministry of Foreign Affairs, therefore invited state actors to a workshop on 7–8 December 2020. The participants included key representatives from the Norwegian Export Credit Guarantee Agency GIEK, Export Credit Norway, Norfund, Innovation Norway and a number of foreign service missions from across the world.

Through presentations and dialogue, specific examples and case work, the workshop helped to coordinate the guidance provided by public funding agencies, and to base it on the OECD Guidelines for Responsible Business Conduct.

DIGITAL WORKSHOP: Chair of the NCP Frode Elgesem (middle), led the digital workshop.





'There is a clear expectation on the part of the Government that all Norwegian businesses are familiar with and implement the OECD Guidelines and UN Guiding Principles. That entails the responsibility to perform due diligence to prevent harm to people, society and the environment.'

Lucie Sunde Eidem, State Secretary of the Ministry of Trade, Industry and Fisheries



'The course gave GIEK an opportunity to highlight challenges in our risk and transactionbased due diligence procedures. The exporters' broad expertise emphasises the importance of a concerted effort by the funding agencies to guide and support Norwegian businesses towards good and responsible business conduct outside Norway's national borders.'

*Guro Hagen Kristiansen, Senior Sustainability Adviser, GIEK* 



'The course put me, as a representative of Norway, in a better position to be a constructive team player and challenger in issues concerning responsible business conduct in Angola, a country with significant Norwegian business interests and a multitude of challenges.'

Kikkan Marshall Haugen, Norway's ambassador to Angola

19%

19 % of businesses with activities abroad have received due diligence guidance from the public authorities.

*The NCP's survey of businesses 2020* 

The National Contact Point is a voice that is listened to when policy is designed

In 2020, the NCP provided important input in two public consultation rounds in connection with the proposal for a new act and action plan that will enhance responsible business conduct.

 Proposed new act on transparency in supply chains and the duty to acquire knowledge and perform due diligence

The Ethics Information Committee presented its recommendation on 28 December 2019. The committee proposes a new act that, in practice, requires companies to perform due diligence and to report the risk of human rights violations and measures to minimise this risk, building on the expectations set out in the OECD Guidelines. The goal is, among other things, to contribute to better working conditions and respect for human rights in global supply chains, both in and outside Norway. Norway's NCP submitted its input in spring 2020. The NCP believes the proposed act will be an important step towards more responsible business conduct. The duty to acquire knowledge and provide information, and to perform due diligence, is very much in accordance with well-known, established standards for responsible business conduct, such as the OECD Guidelines, UNGP and ILO's core conventions.

 New national action plan relating to the Sustainable Development Goals

The NCP believes that an SDG action plan and concrete measures must clearly express that responsible business conduct is a prerequisite for sustainability efforts, and must be aligned with the Government's expectations.

The action plan should therefore clearly state that the Government expects Norwegian companies to be familiar with and implement the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, and to perform due diligence to identify the risk of negative impacts on people, society and the environment.



The NCP supports the proposed act on transparency in supply chains and believes it will be an important step in the direction of more responsible business conduct.



The NCP has provided input on a new national action plan relating to the Sustainable Development Goals.

## Increased demand for expertise

Norway's NCP is in demand as an expert body to provide professional advice on responsible business conduct and due diligence.

The proposed act on transparency in supply chains and the duty to acquire knowledge and perform due diligence has led to increased demand for professional advice and the NCP's expertise in the field.

- In 2020, the NCP received many specific enquires from businesses who want to be prepared for what will be required of them by law in relation to due diligence, but also from industry organisations and authorities working on the bill.
- The NCP has provided expert input to the inter-ministerial working group following up the bill, and in several forums that have discussed the implications of the bill and the OECD's due

diligence method, such as the Ministry of Industry, Trade and Fisheries' competence forum.

The NCP has also received a number of enquiries about quality assuring and providing input on public documents that address responsible business conduct. There has been a marked increase in the demand for such guidance, which contributes to providing a uniform message and expectations of responsible business conduct from public sector bodies and other actors. A few examples:

- The NCP has given the introductory talk and contributed professional input for relevant courses for the Foreign Service.
- The NCP has given the introductory talk at Innovation Norway's preparatory meeting for trade and export missions going to Kenya.



IMPORTANT TRANSLATION: In 2020, the secretariat cooperated with the Ministry of Labour and Social Affairs on a translation of the International Labour Organisation's (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (the MNE Declaration). The NCP gave an introductory talk on its work for the Norwegian ILO committee in December.

## The EU, UN and OECD need to speak the same language

'Green' investments are decisive to achieve the Sustainable Development Goals. But what is green enough to be sustainable? The EU is now devising a common standard.

In 2020, the EU adopted the framework for a taxonomy, containing a set of specific criteria that will make it easier for investors to invest in genuinely sustainable economic activities.

At first glance, the taxonomy only appears to address climate and environmental issues. However, it does

contain minimum social safeguards, which entails ensuring that economic activities are in line with the OECD Guidelines and the UN Guiding Principles for Business and Human Rights.

The EU's definition of what is 'sustainable' therefore encompasses the whole range of risk factors from climate and the environment to human rights, labour rights and matters related to governance. The NCP believes this to be important. The mechanisms intended to regulate the market and define the framework for responsible and sustainable economic activities must speak the same language.

### Criteria for sustainable finance



Taxonomy: Final report of the EU Technical Expert Group on Sustainable Finance

The National Contact Point system:

### An important driver for responsible business conduct

For 20 years, the National Contact Points have contributed to ensuring remedy for victims and safeguarding the rights of workers and vulnerable groups. This system must now be strengthened to meet the future.

In connection with the twentieth anniversary of the National Contact Point system in 2020, the OECD launched a report and a webinar summing up the results and possibilities, strengths and weaknesses of the system.

The report shows that the NCPs have achieved remarkable results in important cases, but also that the system has major challenges,' says Chair of Norway's NCP Frode Elgesem, who was on the panel during the anniversary webinar.

In all, 49 NCPs have handled more than 500 specific instances in more than 100 countries.

According to the Trade Union Advisory Committee (TUAC), which also took part in the webinar, close to three million workers have benefited from the NCPs' decisions. Two of five specific instances concerned the right to organise, and have resulted in agreements – important milestones that could not be achieved any other way.

The Business and Industry Advisory Committee (BIAC) stated that the NCPs are unique because they assist

the parties in finding solutions. When a business participates in a complaints process, it is not proof that they have done anything wrong, but an indication of their commitment to change towards more responsible business conduct.

Despite the many good outcomes, the OECD report underlines that many NCPs do not function sufficiently well.

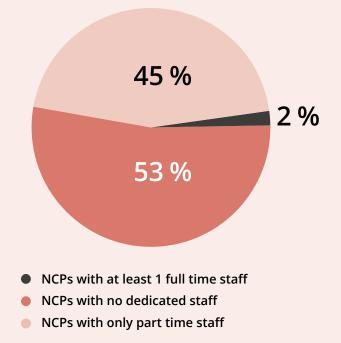
The NCPs should optimally function as an expert body for responsible business conduct. But there is great variation in the NCPs' expertise and resources. This weakens the system and undermines the principles of equitable competitive terms for business,' says Elgesem.

The world has changed dramatically since the system was first launched in 2000. The complaints have become more complex and cover a diversity of topics ranging from human rights and workers' rights, via tax and finance, to climate and the environment.

The support of the NCPs is therefore more important than ever. They can make significant contributions in the years to come to prevent negative impacts on people, climate and the environment and society, thus helping to achieve the Sustainable Development Goals,' Elgesem believes.

In its report, the OECD states that the authorities can and should invest more in the NCPs by securing competent employees, sufficient resources and support.

### NCP staff (2019)





The OECD's twentieth anniversary report can be downloaded from the NCP's website.



RESULTS: 'The report shows that the NCPs have achieved remarkable results in important cases,' says Chair of Norway's NCP Frode Elgesem. (Photo: Fredrik Naumann/Felix Features)

### A well-functioning NCP

Norway's NCP is among the most well-functioning of the National Contact Points, according to an evaluation published by OECD Watch in 2020.

OECD Watch is a global network of civil society organisations with 130 members in 50 countries. OECD Watch informs and advises civil society on how to use the grievance mechanism for breaches of the OECD Guidelines.

In 2020, OECD Watch published a report comparing the 49 NCPs established at that time. It concluded that the majority of the NCPs fulfil their role of promoting the Guidelines, but that many fall short in areas of importance to civil society in specific instances. For example, only a third check whether the agreements between the complainant and the company are followed up in practice, and only a third issue public statements on whether or not a company has breached the Guidelines.

Breaches of the Guidelines only have concrete consequences for the companies in five of the 49 countries surveyed in the report.

Norway's NCP did well in the evaluation. It always makes recommendations in specific instances and issues a statement on whether the companies have complied with the Guidelines. OECD Watch has some suggestions for improvement. Among other things, Norway's NCP will publish its promotional plan going forward, and highlight the possibility of making an anonymous complaint.

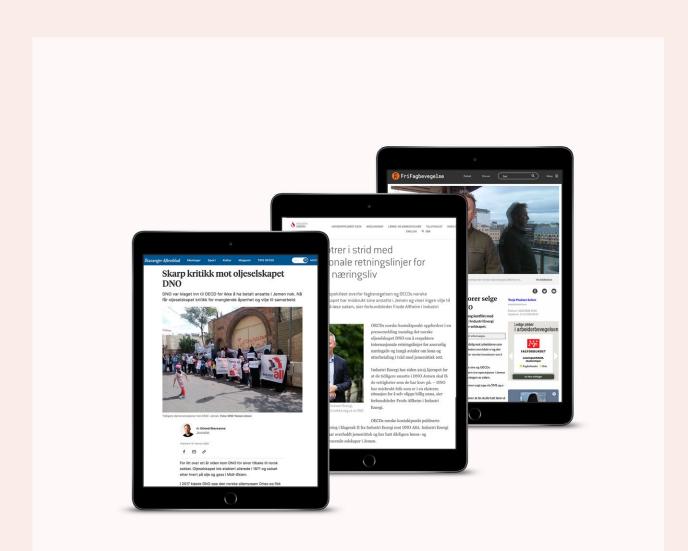
### Information film



In 2020, the NPC produced an information film about the OECD Guidelines, the NCP's work on specific instances and the Government's expectations of responsible business conduct.

### Media coverage

The NCP also works to promote the OECD Guidelines and make decisions concerning Norwegian businesses known by way of traditional media, social media and other channels. In 2020, for example, the NCP's decision in the complaint against DNO received media coverage.



Cuttings: Stavanger Aftenblad, Industri Energi and Fri Fagbevegelse.

## Useful tool for different industries

It can be demanding for companies to familiarise themselves with the recommendations in the OECD Guidelines. The OECD has therefore devised sectoral guidance documents containing specific and practical advice adapted to different sectors. The guidance has been developed in cooperation with key industry actors and represents specific recommendations from the governments of OECD countries. This makes them unique.

The guidance documents focus on stakeholder dialogue and include a special gender perspective. The NCP promotes the guidance documents through seminars and courses.



The complete OECD Due Diligence Guidance for Responsible Business Conduct has been translated into Norwegian. There is also a Norwegian introduction to the Guidance.



OECDs veileder for finanssektoren – bankers utlånsvirksomhet







<complex-block>

OECDs veileder for ansvarlige leverandørkjeder for konfliktmineraler OECDs veileder for ansvarlige leverandørkjeder i landbruksog matvaresektoren OECDs veileder for god interessentdialog med berørte parter i utvinningssektoren

OECD guidance for the financial sector – Due Diligence for Responsible Corporate Lending and Securities Underwriting OECD guidance for the financial sector – Responsible Business Conduct for Institutional Investors OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas OECD-FAO Guidance for Responsible Agricultural Supply Chains

OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector

## 2 Handling specific instances

The OECD National Contact Point system gives individuals, local communities and organisations a grievance mechanism when they believe that multinational enterprises have had a negative impact on people, society or the environment. This makes the OECD Guidelines for Multinational Enterprises unique. No other international instruments have a corresponding grievance mechanism.

Norway's NCP handles complaints against Norwegian multinational enterprises concerning allegations of non-compliance with the OECD Guidelines.





# Groundbreaking climate change complaint

The first ever complaint relating to climate change handled by a National Contact Point gave unprecedented results: Commercial banks such as ING must put effort into defining concrete targets and managing their lending portfolios in line with the Paris Agreement.

Text: Marianne Alfsen, Felix Media.

In November 2017, the Dutch National Contact Point (NCP) accepted a complaint lodged by Greenpeace Netherlands, Oxfam Novib, BankTrack and Milieudefensie. The four NGOs claimed that continued investments in fossil fuels by ING were in violation of the OECD Guidelines.

For an international bank with 57,000 employees in 40 countries, priding itself on taking the lead on climate change, the complaint came as an unpleasant surprise.

'Our initial reaction was that the complaint was not fair,' recalls Arnaud Cohen Stuart, Head of Business Ethics at ING.

However, as the process began, a remarkable partnership formed and the final outcome was a leap forward for the Paris Agreement from 2015.

#### The essence of the case

The NGOs claimed that ING 'was falling seriously short' in working towards the Paris Agreement, where states agreed to keep global warming below 2 degrees Celsius, with an ambition to keep it below 1.5 degrees.

The NGOs wanted ING to define a methodology to measure indirect emissions, publish its carbon footprint and set targets for reductions in line with the 1.5 degree goal – in other words, to steer its lending portfolio to align with the Paris Agreement's most ambitious goal. 'But that was impossible, as there was no methodology nor data to measure indirect emissions from our lending portfolio. No one could do it,' says Cohen Stuart.

#### No more coal

The issue had already been on ING's radar for some time. Since 2015, ING has been working with outside parties to develop a methodology to measure and manage the impact of its lending portfolio. In the run-up to the United Nations Climate Change Conference in 2015 (COP21), in order to convey its commitment to being part of the solution in Paris, ING announced it would no longer take on new thermal coal ventures. Two years later, ING upped the ante, actively phasing out thermal coal from their portfolio.

The financial industry has no formal role in the Paris Agreement, as it only targets governments. However, as part of the value chain we do have a role to play,' underlines Cohen Stuart.

#### A positive process

The questions asked by the NGOs were fair to discuss. And indeed we had been discussing with the NGOs the importance of measuring the climate impact of our lending portfolio and our efforts to find a way to do that accurately. We were therefore surprised that the complaint was notified to the NCP,' says Pim Brouwer, Legal Counsel at ING.



Pim Brouwer, Legal Counsel at ING.



Arnaud Cohen Stuart, Head of Business Ethics at ING.

When the NCP offered to facilitate a dialogue, it was never an option to decline to participate in the process.

'As a bank, we are committed to the OECD Guidelines, and we respect the institution of National Contact Points,' Cohen Stuart emphasises.

The initial response was soon replaced by a more constructive approach:

'Emotions do not fuel good discussions, so we decided to consider this an opportunity,' adds Brouwer.

The ING representatives felt they were given room to make their case, explain the realities of the situation and document their commitment to contribute to the Paris Agreement goals. A commitment that was recognised in the final statement by the NCP.

'We were allowed to bring in external experts that we could sharpen our thinking with,' says Brouwer.

According to Brouwer, the attitude at the table quickly turned from adversarial into one that enabled all parties to focus on a common interest in finding solutions.

#### A new scenario

'It is never a bad thing to spend time together and talk. We developed a mutual understanding of what was feasible or not, and better insight into how the NGOs think,' Cohen Stuart says.

Parallel to the NCP process, ING continued its hunt for a methodology. Progress was made. However,

### 'It is never a bad thing to spend time together and talk.'

Arnaud Cohen Stuart

every methodology needs data. Since the International Energy Agency (IEA) only publishes scenarios based on the well below 2 degrees goal, there is no data for the 1.5 degrees goal.

'So, we asked ourselves: Why not lobby jointly,' says Cohen Stuart.

And that was one of the unprecedented outcomes of the process; the NGOs and ING jointly lobbied the Dutch government to ask the IEA to develop the necessary scenarios.

In the spring of 2021, the IEA is expected to publish a 1.5 degree scenario.

'Who knows if indeed our joint effort with the NGOs did trigger the latest developments,' Cohen Stuart says, adding that their request was part of a chorus pushing the same agenda.

The final NCP statement was published in April 2019. Since then, other banks have joined the open source methodology called PACTA, developed by ING and 2° Investing Initiative (2dii).

'By making the methodology open source, we hope to help and inspire other banks to use PACTA and contribute further to its development,' according to Cohen Stuart and Brouwer.

# Ten groundbreaking specific instances

In 2020, the NCP published a compendium containing ten groundbreaking international specific instances. These illustrate the possibilities of the unique grievance mechanism.

The collection was launched on 14 December 2020 to mark the 20th anniversary of the OECD National Contact Points' system. The compendium contains specific instances handled by different NCPs.

'All of the cases selected have led to some form of remedy or compensation for the complainant, or the NCP has made recommendations to the companies on responsible business conduct in line with the Guidelines,' explains Cathrine Dehli, member of the NCP.

One example is the specific instance on the rights of former employees in the Congolese Heineken company Bralima. The Dutch NCP contributed to negotiating an agreement that gave former employees compensation in 2017.

In the specific instance concerning working conditions and trade union rights at facilities related to the FIFA World Cup in Qatar in 2022, the Swiss NCP brought FIFA to the mediation table. The parties entered into an agreement that requires FIFA to respect human rights and establish a complaints mechanism with possibilities for workers to apply for compensatory damages.

'We have seen that the complaints increasingly concern investors, companies, subsidiaries or suppliers and other business relationships across several countries. This means that they also involve more than one NCP,' says Dehli.

The Guidelines recommend that the NCPs collaborate on such complaints. An example is a specific instance from 2012 concerning the South Korean company Posco in India and two investors. Part of the complaint was related to investments made by Norges Bank Investment Management (NBIM), which manages the Government Pension Fund Global.

The final statement issued by Norway's NCP concluded that the OECD Guidelines for Multinational Enterprises also apply to the financial sector and minority shareholders. This triggered a process in the OECD, the outcome of which was the guidance document Responsible Business Conduct for Institutional Investors, published in 2017.

'It is no secret that there is great variation in the way the different NCPs handle specific instances. The cases selected do not therefore give a representative impression of how the grievance mechanism has actually worked, but instead illustrate the possibilities that lie in this unique system,' says Dehli.

#### Results



Outcome of complaints handled by National Contact Points (2011–2019)

The results of the two graphs are cumulative. A case may be reflected in both graphs if it qualifies for both.

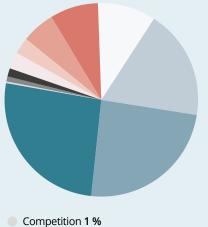


#### **Specific instances**

Specific instances handled by a National Contact Point since 2011 encompass the following topics

#### **Complainants**

Most complaints are submitted by trade unions and organisations (2011–2019):



- Taxation 2 %
- Science and Technology 3 %
   Combating bribery 6 %
- Consumer interests 6 %
- Concepts and principles 12 %
- Disclosure 18 %
- Environment 21 %
- Employment 40 %
- General policies 53 %
- Human rights 57 %

http://mneguidelines.oecd.org/Flyer-OECD-National-Contact-Points.pdf

- Non-governmental organisastions (NGOs) 40 %
- Trade unions 26 %
- Individuals 22 %
  - Multi-stakeholder complaint 6 %
- Others Business, Other interested parties, Government 6 %

'Multi-stakeholder' submission refers to cases submitted by several types of parties jointly (e.g. an NGO and a trade union). Submissions by 'other interested parties' refers to cases submitted by a party that does not qualify under the other categories, such as an indigenous group.

OECD Database of Specific Instances

## Complaints from a to z

The OECD gives individuals, local communities and organisations a place to turn to when they are concerned about how multinational enterprises are affecting people, society and the environment. In 2020, the NCP handled five specific instances.

## 1

#### Assessment

When a complaint is filed, the NCP first carries out a procedural assessment: Does the complaint concern matters related to the OECD Guidelines? Does the complainant have an interest in the matter or represent the impacted parties? Will handling of the complaint contribute to the purpose of the Guidelines?

#### Guidance

The NCP can provide guidance on how the complaint should be worded and structured and can ask the complainant for more documentation and specification. This includes documenting claims and relating them to the Guidelines.

#### New, unpublished specific instance

In May 2020, Norway's NCP was involved in a new complaint received by another NCP. The complaint involves NCPs and companies in three countries, and targets both a company and its investors.

Norway's NCP has discussed the best way of cooperating on handling the specific instance with the other NCPs involved. The outcome was that part of the case will be transferred to Norway's NCP.

#### Non-judicial system

The grievance mechanism is non-judicial, but the NCP relies on key legal concepts such as the adversarial principle and documentation requirements when handling specific instances.

### 3

#### Response

The company that the complaint concerns is then given an opportunity to respond to the complaint. The response is normally shared with the complainant and published when the complaint is handled.

#### 4

#### Decision

When the statement from the company the complaint concerns has been received, the NCP decides whether the formal criteria are met and accept the specific instance for case handling.

## 5

#### **Publication**

Only now that the specific instance has been accepted for handling will it be made public. At this point, the NCP has not yet considered the content of the specific instance.

#### **Complaints database**

Are you curious about what kinds of complaints are submitted across the world? All specific instances handled by a National Contact Point are logged in an open database:

http://mneguidelines.oecd.org/database/

#### Dialogue

6

One of the first things the NCP does is to offer its 'good offices', and facilitate dialogue. The objective is that the parties, through dialogue and mediation offered by the NCP, are given the tools they need to resolve the conflict themselves. This process also creates a platform for resolving future challenges.



#### Mediation

The NCP offers free mediation services where necessary.

#### The Committee Seeking Justice for Alethankyaw (CSJA) vs Telenor

In 2019, CSJA submitted a complaint concerning Telenor and its subsidiary Telenor Myanmar. The committee claimed that the military had used an inactive telecommunications tower owned and operated by Telenor Myanmar as a lookout post to shoot unarmed civilians from the village Alethankyaw in the state of Rakhine in 2017.

CSJA claims that the company failed to carry out the appropriate level of due diligence to prevent this, and that Telenor has not handled the incident in accordance with the OECD Guidelines. The specific instance also concerns other matters related to land acquisition and a network closure in Myanmar.

The NCP decided to accept the complaint for handling on 28 October 2020. The complainant does not wish to participate in a mediation process and the NCP has offered other types of assistance to both parties, including a third-party investigation of the matter and/or to develop a remit for an investigation report in dialogue with the parties.

The coronavirus situation has prevented travel and meetings in person. The NCP has strived to use digital platforms to achieve the best possible dialogue with the parties under the circumstances.

#### Society for Threatened Peoples Switzerland vs the Swiss BKW Group/Fosen Vind

Norway's NCP has a supporting role in a specific instance being handled by Switzerland's NCP that concerns Norwegian interests.

The organisation the Society for Threatened Peoples Switzerland has submitted a complaint concerning the Swiss BKW Group for its investment in the consortium Nordic Wind Power. The consortium has ownership interests in Fosen Vind, which has established a wind farm in areas grazed by reindeer. This has been met with resistance from Sami reindeer herders.

Switzerland's NCP accepted the case on 12 May 2020. The parties are in dialogue and have started mediation.

The case concerns, among other things, stipulating the amount of compensation, and raises matters of principles about the state's international law commitments relating to indigenous people and the rights of the Sami people.

Norway's NCP is contributing by providing information about the situation in Norway and the ongoing legal proceedings. The claim for compensation concerning Fosen Vind and the Sami reindeer herders will be considered by the Supreme Court of Norway in 2021. Both parties have appealed the Court of Appeal's decision to the Supreme Court. The state has become involved as a third-party intervener to assist Fosen Vind.



#### Joint statement

When the parties reach agreement, the result will be enshrined in a joint statement.



#### **Final statement**

If the parties fail to reach agreement, or one or more of the parties is not willing to engage in mediation, the NCP issues a final statement containing an assessment of whether the Guidelines have been breached and make recommendations for the road ahead. This constitutes a deterrent factor: The public statement is the NCP's possibility to impose sanctions.

#### KTNC Watch and Workers Support Group vs Total E&P Norge, Total, Equinor, TechnipFMC and Samsung Heavy Industries

The complaint was received in 2019 and involves businesses and NCPs in Norway, France, the UK and South Korea.

The complaint was submitted by the two South Korean organisations KTNC Watch and Workers Support Group. The complainants claim that Total E&P Norge, Total, Equinor, TechnipFMC and Samsung Heavy Industries have acted in breach of the OECD Guidelines in connection with a serious incident during the construction of an oil platform for the Martin Linge field on the Norwegian continental shelf.

Norway's NCP is in charge of handling the European part of the complaint on behalf of the Norwegian, French and British NCPs. South Korea's NCP wishes to handle the parts of the complaint that concern the Korean parties itself.

The case is complex in terms of content, the number of parties involved and the involvement of four NCPs.

Norway's NCP announced its decision to handle the specific instance on 13 May 2020. The status at the end of 2020 was that the NCP has offered dialogue and mediation, and that the parties have agreed on a mediator.

The coronavirus situation has prevented travel and meetings in person. The NCP has strived to use digital platforms to achieve the best possible dialogue with the parties under the circumstances.

#### Industri Energi vs DNO

In January 2019, the NCP started its handling of the trade union Industri Energi's complaint against the oil company DNO ASA. The complainant claims that DNO has not complied with Yemeni law concerning pay and working conditions for former employees in Yemen, in violation of the recommendations of the OECD Guidelines.

Due to the challenging situation in Yemen, a country ravaged by civil war, as well as DNO's unwillingness to participate in elucidating the case, the NCP has not succeeded in clarifying whether DNO has acted in breach of national labour law and thereby also the OECD Guidelines.

In its final statement of 10 February 2020, the NCP recommended that DNO in future should:

- respect the grievance mechanism and cooperate with the NCP in good faith
- map what constitutes comparable pay conditions in Yemen, and apply them
- follow up its promise to enter into agreements on pay and back payment in line with Yemeni law.

## 3 International cooperation

The third aspect of the NCP's work is to cooperate and share best practice with the OECD and the 50 other National Contact Points.

For the contact point system to gain trust, it is essential that multinational enterprises are subject to the same requirements and expectations regardless of which OECD country they are based in.

The NCPs are organised differently, however, and their resources and status also vary, which challenges this principle.





## All good things come in threes

If the world is going to 'Build Back Better' after the coronavirus pandemic and achieve the Sustainable Development Goals by 2030, we will need many new jobs. The key is close cooperation between employers, employees and governments. In many countries, however, tripartite cooperation is non-existent and trade unions have been weakened by the pandemic.

Text: Marianne Alfsen, Felix Media.

This is the opinion of Nina Mjøberg of the Norwegian Confederation of Trade Unions (LO), and Henrik Munthe of the Confederation of Norwegian Enterprise (NHO). Both represent Norway in the International Labour Organisation (ILO).

In Norway, tripartite cooperation – cooperation between the organisations that represent employers, employees and the state – is a cornerstone of society. When the pandemic caused Norway to shut down, the first thing LO and NHO did was call each other. The parties have since worked closely with the Government to plot a course through the crisis. Many countries, however, lack collaborative structures, and relations between the parties are hostile.

#### Trade union rights affected

Trade unions are under pressure, according to the International Trade Union Confederation (ITUC). Key rights such as the right to strike and collective bargaining are becoming increasingly undermined.

'The situation has deteriorated during the coronavirus pandemic. The governments of several countries have exploited the situation to promote measures that affect trade unions. In many countries, the government has not been willing to engage in dialogue with the social partners, which has contributed to less effective handling of the pandemic. Many employees have lost their jobs with no access to welfare schemes or salary compensation,' is Nina Mjøberg's dismal summary.

According to ILO, close to eight out of ten workers on a global basis were affected by the pandemic at the start of 2021.

Work hours corresponding to 255 million full-time jobs were lost in 2020, which in practice reduced working hours and income or led to unemployment for hundreds of millions of people.

#### The informal sector

'The pandemic means that it will take longer to achieve the SDGs because it increases inequality. The elephant in the room is the informal sector, which comprises more than 60 per cent of the world's employees. These workers have no formal rights. The pandemic can push more people into the informal sector,' according to Mjøberg.

'It is therefore essential to facilitate job creation in the formal sector. Decent work, as ILO calls it,' Henrik Munthe adds.



REPRESENTING NORWAY IN THE ILO: Nina Mjøberg is head of LO's international department. Henrik Munthe is an attorney at law in NHO's wage and tariff department, with particular responsibility for international matters. Both represent Norway in the ILO: Mjøberg as member of the Committee on the Application of Standards, which corrects and monitors countries that act in breach of the rules, and Munthe as member of the ILO's Board of Directors. (Photo: Fredrik Naumann/Felix Features)

'National tripartite cooperation is key to creating something lasting,' Mjøberg believes.

LO and NHO have long cooperated with the Government on promoting tripartite solutions in countries such as Vietnam, Ghana, Malawi and Tunisia. Mjøberg describes how LO, for example, has taken NHO representatives to meetings in Malawi to demonstrate cooperation in practice. This has helped to unlock dialogue between the parties.

This work is more important than ever.' Munthe believes.

#### **ILO weakened**

'Cooperation between the social partners at the international level, in ILO, has suffered during the pandemic. The agenda is narrower and possibilities for cooperation are weaker when parties from across the world have to meet on digital platforms. As a consequence, ILO is unable to be as ambitious as it should in a number of areas,' says Munthe.

The annual ILO conference and general meetings were held digitally, and the important informal conversations 'in the corridors' were lost.

'For this reason, difficult questions like whether health, safety and the environment (HSE) should be

part of the core conventions have been postponed,' says Munthe.

Mjøberg adds that the wing-clipped ILO conference makes it easier for countries to violate the ILO conventions in a time where it can be very tempting to circumnavigate the rules.

'It is embarrassing to have to answer to breaches of the convention when the countries meet. There's less pressure when you don't have to stand faceto-face,' Mjøberg believes.

The basic agreement between LO and NHO clearly calls for businesses to base their activities in Norway and abroad on the OECD Guidelines. The ILO core conventions form part of the Guidelines.

It is important that businesses follow up on this request, including during the pandemic,' says Henrik Munthe.

'A consequence of the pandemic is that it will take longer time to achieve the SDGs, because it increases inequality.'

Nina Mjøberg



#### An important network

The 50 National Contact Points support each other and collaborate, among other things through at least two annual OECD NCP network meetings.

The network meetings are an important arena for the NCPs to exchange experience, particularly concerning ongoing specific instances. It is particularly important to ensure better coordination of specific instances concerning matters that involve several countries and territories, with a view to ensuring equal treatment and thus equal competitive terms for business.

Under normal circumstances, the NCPs meet at the OECD's headquarter in Paris, but in 2020, the meetings were held digitally.

The OECD has facilitated digital forums for the exchange of this kind of essential information. The OECD has also developed a number of tools and templates that the NCPs can employ to ensure more equitable handling of specific instances.

Norway's NCP actively contributes input on these tools. The OECD has highlighted Norway NCP's RBC Compass as a useful tool for businesses that seek to comply with the Guidelines.



## Broad participation at the OECD Global Forum

The focus on the coronavirus crisis and responsible business conduct, as well as access to remedy and compensation, drew more than 2,000 people from 130 countries to this year's fully-digital OECD Global Forum.

The forum was held on 19 May and 17 June. The focus of the first day was the coronavirus pandemic and responsible business conduct. The forum brought together leading representatives of the authorities, business and industry, trade unions, civil society, academia and international organisations to discuss how governments can use responsible business conduct standards to tackle the coronavirus crisis and build more robust global supply chains. Chair of Norway's NCP Frode Elgesem participated in a panel debate about non-judicial grievance mechanisms.

In recognition of the twentieth anniversary of the National Contact Point system, the second day was dedicated to the issue of remedy and compensation, and the importance of this in times of crisis. The forum focused on the current landscape of remedy and grievance mechanisms, and how they functionand complement one another. The OECD grievance mechanism in particular was highlighted and debated, both with regard to what has been achieved so far and challenges going forward.



### Lectured for master's students

In autumn 2020, Frode Elgesem gave a lecture about the OECD Guidelines and the National Contact Point as part of the master's degree course 'Business and Human Rights' at the University of Bergen.

The course is a collaboration between the Department of Comparative Politics, the Rafto Foundation and the Institute for Human Rights and Business.

The course looks at the relationship between business activities and human rights violations, and the significance of international standards to enhance respect for and the protection of human rights. The course has participants from across the world and in 2020, lectures were given on Zoom.



#### Cooperation with Lithuania's NCP

Beate Ekeløve-Slydal gave a presentation about Norwegian business leaders' knowledge of and compliance with the OECD Guidelines during a video conference on business and human rights in Vilnius in September 2020. The presentation was based on Norway NCP survey of businesses.

Ekeløve-Slydal was invited by Lithuania's NCP through a network for the Nordic-Baltic NCPs. The NCPs in these regions established a trust-based forum in 2019 to exchange experience and learning, and thus benefit from each other's expertise, including during external events. The purpose of the conference was to promote greater understanding of responsible business conduct among businesses in Lithuania.

'Cooperation between the National Contact Points is useful for the purpose of exchanging experience and learning from one another, which is important to even out differences between the NCPs and ensure equal requirements and expectations of business and industry internationally.' *Beate Ekeløve-Slydal, Norway's NCP* 

'The pandemic has made the OECD Guidelines for Responsible Business Conduct even more important for business and industry. It is essential to base business activities on these guidelines to build back better after the pandemic, and Norway's National Contact Point is there to help.' Frode Elgesem

Published by: The National Contact Point

Contact us: <u>oecdncp@mfa.no</u>

The National Contact Point for Responsible Business Conduct Norway P.O. Box 8114 Dep NO-0032 Oslo, Norway www.responsiblebusiness.no

Public institutions can order extra copies from: The Norwegian Government Security and Service Organisation www.publikasjoner.dep.no

Publication code: E-1002 B/E Design: Anagram Design AS Content development and production: Felix Media AS Cover photo: Getty Images Print: The Norwegian Government Security and Service Organisation Published: March 2021 – print-run: 100

**CONTACT US** The National Contact Point for Responsible Business Conduct Norway Postboks 8114 Dep N–0032 Oslo, Norge www.ansvarlignæringsliv.no