

# 2021

Annual report



**THE OCEDs GUIDELINES**  
FOR MULTINATIONAL  
ENTERPRISES

THE NATIONAL CONTACT POINT  
FOR RESPONSIBLE BUSINESS  
CONDUCT NORWAY

‘Norwegian businesses need to step up their responsible business conduct to keep up with the international competition.’

Frode Elgesem  
*Chair of Norway's NCP*

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# The year the spotlight was turned on

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The new Transparency Act has made Norway's National Contact Point for Responsible Business Conduct more relevant than ever.

The National Contact Point (NCP) is an impartial and independent expert body, appointed by the Norwegian authorities. The NCP is tasked with supporting the government in their work to promoting the OECD Guidelines for Responsible Business Conduct, handling complaints against companies and contributing to a well-functioning national contact point system by working closely with the National Contact Points of other countries and the OECD Secretariat. These are extensive, important and meaningful tasks.

The OECD Guidelines are the most comprehensive set of recommendations addressed by governments on responsible business conduct. They reflect good practice for all enterprises – not just multinational enterprises. Complying with the OECD Guidelines will enable businesses to make substantial positive contributions to economic, environmental and social progress across the world. Promoting the Guidelines is thus not only an international commitment the Government has undertaken, but absolutely vital to steering business in a more sustainable direction.

In 2021 – in the midst of the pandemic – the work on fostering more responsible business conduct received a long-sought-after helping hand. The new Norwegian Transparency Act places a legal obligation on enterprises of a certain size to perform due diligence in accordance with the OECD Guidelines.

The objective of the Act is to promote enterprises' respect for fundamental human rights and decent working conditions – both in global supply chains and in enterprises here in Norway.

The NCP welcomes the new Act. We are convinced it will put the necessary pressure on Norwegian enterprises to familiarise themselves with the Guidelines' expectations to carry out due diligence, and to make active efforts to implement them in their organisations. This is a welcome development! Firstly, because Norwegian enterprises also have supply chains where human rights and trade union rights are violated, and where the working conditions are unacceptable. Secondly, because many industries here in Norway also need to improve their practices. Thirdly, Norwegian enterprises clearly need to step up their responsible business conduct to keep up with the international competition.

We are already seeing the 'spotlight effect' of the Transparency Act, which increases the need for guidance on responsible business conduct. We look forward to a good, long-term collaboration with the Norwegian Consumer Authority, which is the supervisory and advisory body for the Act. The demand for guidance, courses and tools to assist enterprises in achieving full compliance with the Act increased in 2021. This demand is not about to wane.



'We are already seeing the "spotlight effect" of the Transparency Act, which increases the need for guidance on responsible business conduct.'

The OECD Guidelines also cover a lot more than human rights and decent working conditions. They clarify expectations of business in other areas as well, such as disclosure, the environment, climate and anti-corruption. The guidance we provide will continue to cover these areas. The EU's work on sustainability is also significant to the work we do. For example, the social safeguards of the EU taxonomy – or classification system – for sustainable economic activity make reference to the OECD Guidelines.

In 2021, the NCP has handled more complaints than ever. The complaints are often complex and require a high professional standard and efficient handling. The Secretariat has considerable experience and expertise in handling complaints, and our new Policy Director has also made a strong contribution in this area. We have also recruited highly-qualified mediators to facilitate the dialogue between the parties, among other things through an informal cooperation with the National Mediator of Norway. We expect more complaints to be submitted in the years to come.

The OECD Guidelines and Commentaries were last updated in 2011, and updates are now needed to ensure that they address today's challenges and possibilities in terms of the contribution businesses can make to economic, environmental and social progress. This concerns topics such as the climate

and digitalisation. More must also be done to strengthen individual countries' National Contact Points, to enable them to work in a more uniform manner. There is too much difference between the National Contact Points at present. The OECD is under way with this work. Norway's NCP also provides support to the Norwegian authorities in connection with this important process, and will continue to do so.

The NCP looks forward to 2022 being an exciting year.



**Frode Elgesem**  
*Chair of Norway's NCP*

# The OECD's unique guidelines

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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 goal of the OECD Guidelines is that the business sector should 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 adverse 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 governments that they are implemented.



# 50

governments have  
adhered to the  
Guidelines

# Cover all areas

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



Respect human rights



Safeguard consumer interests by fair marketing practices



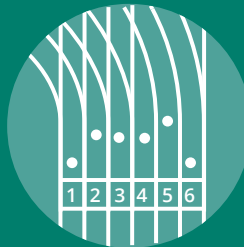
Protect the environment



Contribute to technology transfer and enhance the host countries' innovation capacity



Protect labour rights



Ensure competition in accordance with laws and regulations



Combat bribery and corruption



Pay tax in accordance with laws and regulations



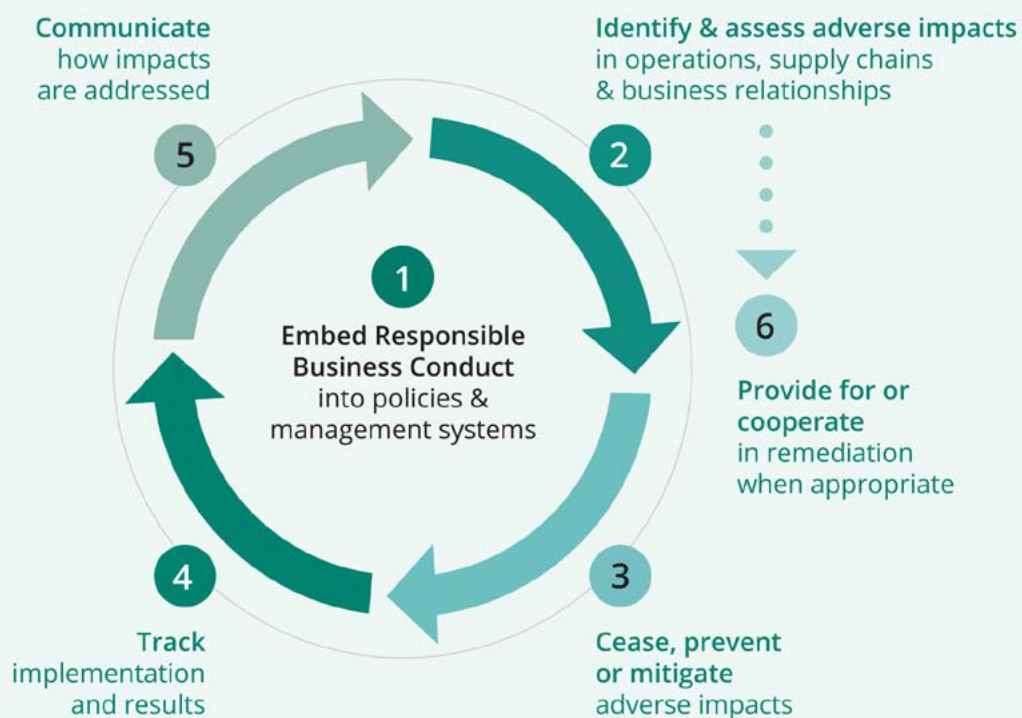
Be transparent in their operations

# Due Diligence Guidance for Responsible Business Conduct

A core element of the OECD Guidelines is that companies are expected to carry out due diligence to avoid causing harm to people, society and the environment.

Businesses should map, prevent and address adverse 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, they need to understand the risks they are associated with, address them and provide information about what they do.

Figure: The due diligence model



The model illustrates how due diligence is a continuous process throughout a company's lifetime.

10  
years



Ten years ago the OECD Guidelines for Multi-national Enterprises were established as the most comprehensive international standard to ensure responsible business conduct.

The Guidelines are a practical tool which can help Norwegian businesses to prevent harm on people, society and the environment.

**Frode Elgesem**

*Chair of Norway's NCP*



IMPORTANT ANNIVERSARY: In 2021, the OECD celebrated the tenth anniversary of the revision of the OECD Guidelines.



'The OECD Guidelines are an indispensable tool for businesses in terms of responsible conduct. They set out enterprises' responsibility to respect human rights in the due diligence process.'

Cathrine Halsaa  
*Head of the NCP Secretariat*

# 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 adhere to the OECD Guidelines are obliged to establish an NCP.

They are tasked with promoting the OECD Guidelines for Multinational Enterprises and handling complaints. Fifty countries have so far established NCPs. The way in which the NCPs are organised varies from country to country.



## UNIQUE MECHANISM

The NCP system is the only recognised non-judicial grievance mechanism for responsible business conduct.

The NCPs can handle complaints concerning companies operating in or from their territory.



## AREAS

Since 2011, most complaints have concerned the following areas:

- Human rights (50%)
- General policies (49%)
- Employment and industrial relations (labour rights) (37%)



## COMPLAINANTS

Since 2011, most complaints have been submitted by:

- Civil society organisations (38%)
- Civil society organisations (38%)
- Civil society organisations (38%)



## RESULTS

Since 2011, 36% of complaints handled by the NCPs have led to an agreement,

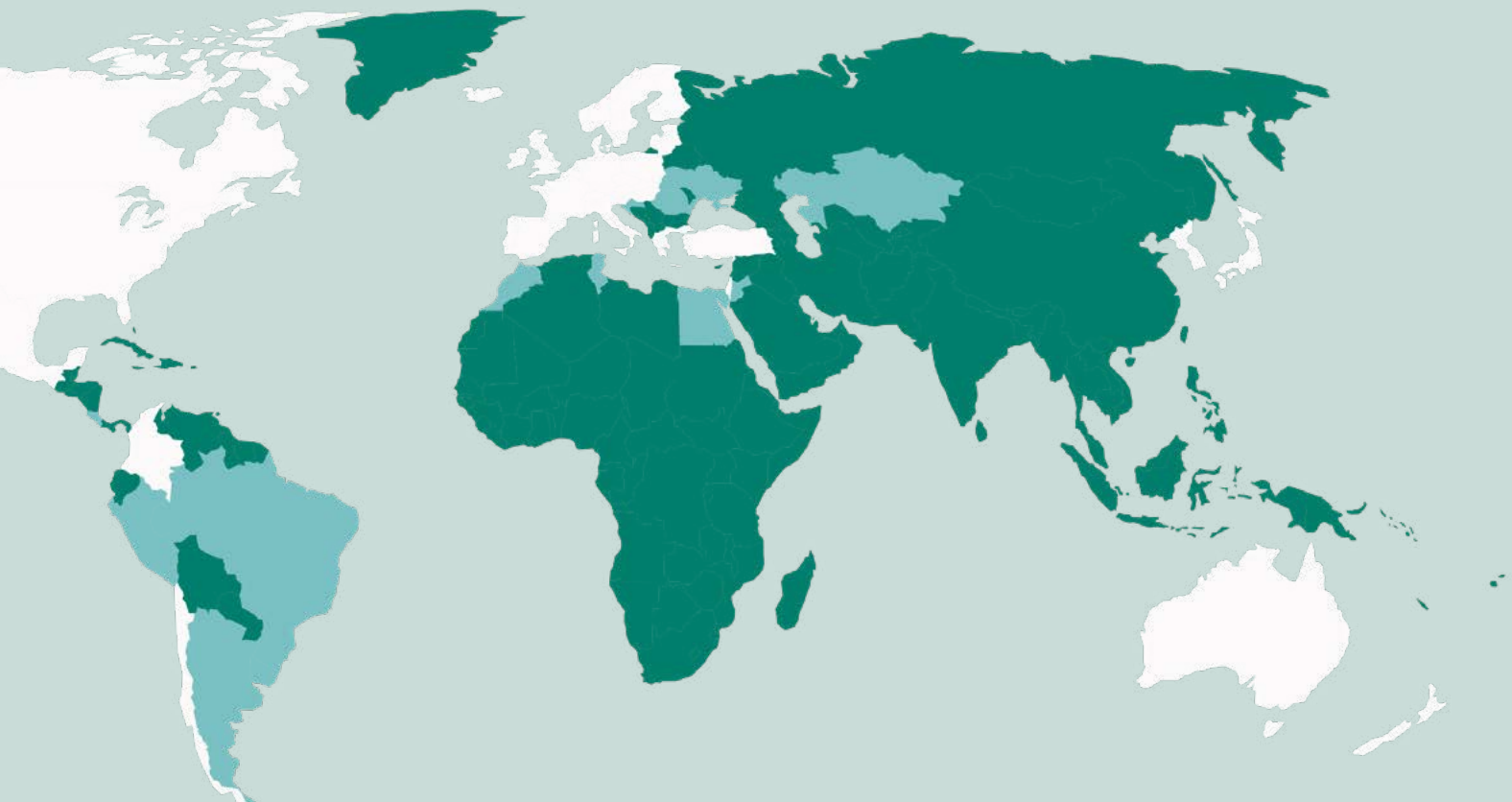
while 33% of the complaints have led to a change in the company policy.



## GLOBAL COVERAGE

The 50 countries adhering to the Guidelines account for over 70% of foreign direct investments, which highlights the global reach of the National Contact Points.

Since 2000, the NCPs have handled more than 500 specific instances, related to business activities in more than 100 countries.



### OECD countries with National Contact Points

Australia	Hungary	Poland
Austria	Iceland	Portugal
Belgium	Ireland	Slovakia
Canada	Israel	Slovenia
Chile	Italy	South Korea
Colombia	Japan	Spain
Czech Republic	Latvia	Sweden
Denmark	Lithuania	Switzerland
Estonia	Luxembourg	Turkey
Finland	Mexico	UK
France	The Netherlands	USA
Germany	New Zealand	
Greece	Norway	

### Adhering countries with National Contact Points

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

### Observer countries

China  
 India  
 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

Norway's National Contact Point for Responsible Business Conduct 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 Inclusion, 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 2021 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 expectations in the OECD Guidelines. The secretariat also supports the handling of specific instances.

## Members



**Frode Elgesem**  
Chair, judge at Borgarting Court of Appeal



**Cathrine Dehli**  
Head of Product and Sustainability, Celsia



**Gro Granden**  
Special Adviser, LO



**Beate Ekeløve-Slydal**  
Political Adviser, Amnesty International

## Handling of 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:

**1** Promoting the OECD Guidelines and providing guidance to businesses

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**2** Handling specific instances

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**3** International cooperation

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# 1

## Promoting the OECD Guidelines and providing guidance to businesses

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One of the NCP's most important tasks is to promote the OECD's Guidelines for Multi-national Enterprises as an effective tool for preventing adverse impacts.

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

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



# The Transparency Act:

## A game changer for responsible business conduct

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With the introduction of the Transparency Act, Norway will have legislation that requires enterprises to carry out due diligence in line with the OECD Guidelines. This is both necessary and important.

The Transparency Act was adopted by the Norwegian parliament, the Storting, in June 2021 and will enter into force on 1 July 2022. It will apply to larger enterprises that offer goods and services in Norway.

The objective of the Act is to promote respect for human rights and decent working conditions in connection with the production of goods and the provision of services. The Act shall also ensure access to information about how the enterprises address this responsibility.

### Established principles

The Transparency Act is based on established principles and guidelines drawn up by the UN and the OECD. The UN Guiding Principles on Business and Human Rights were adopted in 2011. The OECD Guidelines were updated in line with these principles that year. The guidelines set out by the UN and the OECD set forth that enterprises shall follow up human rights in their own activities and through business relationships by means of due diligence.

### Due diligence requirement

The Transparency Act requires enterprises to carry out due diligence. This means that they shall identify and assess the risk of causing, contributing to or

being directly linked to adverse impacts on fundamental human rights and decent working conditions. Measures must be implemented and followed up. The enterprise shall communicate with its stakeholders and ensure or cooperate on remediation and compensation where required. The work must be embedded in the enterprise's management and governance systems.

The due diligence requirement set out in the Act is closely aligned with the recommendations in the OECD Due Diligence Guidance for Responsible Business Conduct (2018). This is not a checklist, but rather a method and work that must be done continuously.

However, there are also some differences between the requirements set out in the Transparency Act and in the OECD Guidelines. The Transparency Act only applies to fundamental human rights and decent working conditions, while the OECD Guidelines also cover expectations of the enterprises with respect to the environment, anti-corruption, tax and other factors. The information duties set out in the Transparency Act are based on the duty to carry out due diligence. They are more detailed than the expectations on disclosure in the OECD Guidelines.

### Too few follow the Guidelines

Part of the background for the introduction of binding legislation is that too few enterprises have followed the recommendations in the OECD Guidelines. The NCP conducted a survey of this in 2019, as discussed in the preparatory works to the Act. A majority of companies do not carry out due diligence with



‘Part of the background for the introduction of binding legislation is that too few enterprises have followed the recommendations in the OECD Guidelines.’

Kristel Tonstad  
Policy Director, NCP

respect to human rights, particularly further down the supply chain. Other countries have similar experiences, and a number of states have therefore introduced new legal requirements. The EU has presented a proposal for a directive on corporate sustainability due diligence, in addition to the sustainable finance taxonomy and the proposal for new reporting requirements on corporate sustainability

The Transparency Act will apply to large and medium-sized enterprises and thereby sets a lower threshold than the corresponding regulations in other countries. This may become a competitive advantage for Norwegian enterprises. The Transparency Act makes it clear that due diligence should be risk-based and proportionate. The key to success lies in recognising the opportunities that come with securing a good foundation for and follow-up of efforts with respect to human rights and decent

working conditions within the enterprise and in relation to business partners and supply chains.

#### Game changer

There is no doubt that the Transparency Act is a game changer with respect to efforts to realise responsible business conduct. There has been a great deal of interest in the OECD Guidelines and the development of legislation in this area. The NCP and the secretariat have given talks at a number of events for specific industries, financial institutions, law firms and academia in 2021. We contribute where we can to spread knowledge and provide guidance on the OECD Guidelines and due diligence.

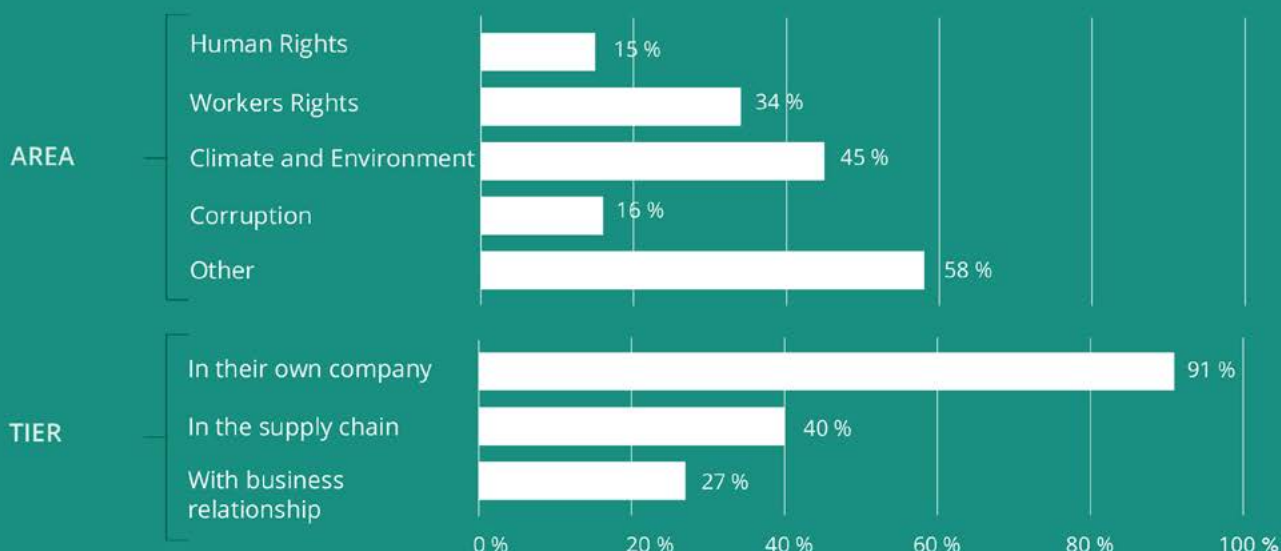
The Consumer Authority is tasked with providing guidance and supervising the Transparency Act. Good cooperation is under way when it comes to contributing to a good understanding of what due diligence in line with the OECD Guidelines entails.



THE TRANSPARENCY ACT:  
The Act will enter into force on 1 July.

# Due diligence

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



**39 %**

of companies with activities abroad want more guidance on responsible business conduct

**50 %**

have adopted written guidelines on responsible business conduct/ sustainability. Only 12% of these refer to the OECD Guidelines

**50 %**

perform some form of due diligence, but only 40% of these in relation to the supply chain

**28 %**

have indicators (KPIs) for responsible business conduct

*SOURCE: The NCP's survey of businesses, 2020: The survey was conducted by Sentio. The sample comprised 600 leaders of Norwegian businesses. Of these, 253 work internationally, i.e. have owners, investments, production, export, import or import via agents outside Norway.*

## New sustainability regulations

The EU Sustainable Finance Taxonomy has received a great deal of attention in the financial industry and business sector in the past year. It provides a classification system for what is required for an economic activity to be classified as sustainable. The activity must make a significant contribution to at least one of the EU's six environmental objectives. It must not harm the other objectives and it must also meet minimum social safeguards. These safeguards refer to, among other things, the OECD Guidelines for Multinational Enterprises. Together with the EU's Sustainable Finance Disclosure Regulation, the framework is being implemented in Norwegian legislation through the Sustainable Finance Act (*Lov om offentliggjøring av bærekraftsinformasjon i finanssektoren og et rammeverk for bærekraftige investeringer* – in Norwegian only).

In 2021, the EU presented a proposal for a new Corporate Sustainability Reporting Directive. The proposed directive is to replace the Non-Financial Reporting Directive, which was incorporated in Section 3-3 C of the Norwegian Accounting Act in 2021. Section 3-3 C of the Accounting Act requires large undertakings to prepare a statement on corporate social responsibility.



There is a lot of interest among businesses, and they are calling for more information about the minimum safeguards in the EU taxonomy. The NCP's expertise is valuable in this context.

Cathrine Dehli  
member of the NCP and Head  
of Product and Sustainability  
in Celsia



## Panel debate on the Transparency Act

What will the Transparency Act mean for businesses? How can businesses prevent the due diligence requirement becoming a costly bureaucratic exercise that does not generate results for the people concerned?

This was the topic of a panel debate during the Arendalsuka event in August 2021. The panel debate was a collaboration between Norway's National Contact Point for Responsible Business Conduct, the Norwegian Bar Association and the Rafto Foundation for Human Rights.

'The Transparency Act is a very important act of law. In practice, it is a human rights act for businesses, because it requires them to be more transparent and to perform due diligence,' said Frode Elgesem during his introduction to the panel debate.

'Getting information and guidance out to businesses on how to comply with the act will be important now. It will apply to between 8,000 and 9,000 Norwegian enterprises. Many of them are doing good work, but there are also many that do not have a good enough understanding of what it entails,' Elgesem pointed out.

**PANEL DEBATE:** From the left: Member of Parliament Jette F Christensen (Labour), Member of Parliament Ola Elvestuen (Liberal), Member of Parliament Tore Storehaug (Christian Democratic), Legal Manager at the Confederation of Norwegian Enterprise (NHO) Halvor Sigurdson, Chair of Norway's NCP Frode Elgesem and Lawyer Else McClimans from the Norwegian Bar Association. Front, back to camera: Moderator Aslak Bonde. Nina Schefte, Head of Social Responsibility at Hydro, was also on the panel.



Photo: Henrik Skjervestad/Advokatbladet



Launch of the  
NCP's annual  
report



# Fruitful dialogue meeting

'If Norwegian businesses are to succeed in international markets, they must lead the way when it comes to responsible business conduct,' said Chair of the NCP, Frode Elgesem, when he opened the dialogue meeting on 26 April 2021.



DIALOGUE MEETING AND LAUNCH: The dialogue meeting with launch of the annual report is an important arena for feedback to the Norwegian National Contact Point. Photo: Thorbjørn Helin

In connection with the launch of its annual report, the NCP invites stakeholders from the business sector, employer and employee organisations and civil society to an annual dialogue meeting. Two panel debates provided important input on relevant topics.

‘The annual dialogue meeting is important to the NCP, because it provides input and critical feedback from our most important stakeholders. It has direct implications for how we work and what we work on,’ says Elgesem.



## Panel debate 1

### A discussion of due diligence

The background for the panel debate on due diligence during the dialogue meeting was expectations of responsible business conduct in our economic recovery from the coronavirus pandemic, the new Transparency Act and the NCP's survey of businesses.

All photos: Torbjørn Hellin



'Only 30% have heard of the Guidelines, 7% have familiarised themselves with them and a mere 2% say they are very familiar with them. That is shocking to us. It means we have our work cut out.'

Are Tomasgard  
*Confederal Secretary, Confederation of Trade Unions (LO)*



'The Confederation of Norwegian Enterprise (NHO) requires Norwegian enterprises to know how to conduct themselves when they set up business in demanding markets. The OECD Guidelines are important for raising awareness of responsible business conduct. The NCP does an important job of guidance and running courses in responsible business conduct for NHO's members.'

Gjermund Løyning  
*Director of Politics and Public Affairs, NHO*



'Some of our members are probably not aware of the NCP or the grievance mechanism. It is our joint responsibility to raise the profile of the NCP and, not least, to ensure that the grievance mechanism is perceived as relevant to Norwegian organisations.'

Diego Foss  
*Policy Advisor, the Norwegian Forum for Development and Environment*



'Being small is no excuse. We can do as good a job as anyone else when it comes to due diligence.'

Monica Sander  
*Managing Director, Beer Sten*



## Panel debate 2

### A discussion of social safeguards in sustainable finance

The EU's Sustainable Finance Taxonomy was the topic of the second panel debate during the dialogue meeting. Experts discussed and reflected on the significance of the taxonomy, in dialogue with the NCP's new Policy Director.

The taxonomy defines which economic activities are sustainable. A sustainable economic activity must not only meet one of the EU's environmental and climate-related objectives; it must also not do significant harm to the other objectives. Sustainable economic activities must also meet minimum social safeguards in line with, among other things, the OECD Guidelines for Multinational Enterprises. The participants in the panel discussed the social dimension of sustainable finance against this background.



'The opposite of diligent is negligent, and we don't like that in finance. A just transition and "inclusive green growth" are more than mere oratory. They are fundamental preconditions for achieving the transition needed to reduce climate risk.'

Idar Kreutzer  
CEO, Finance Norway



'Climate change has consequences for people, their lives, health and welfare, and is the very core of what human rights seek to protect.'

Jenny Sandvig  
Policy Director, the Norwegian National Human Rights Institution (NIM)



'An enterprise that works in renewables may be seen as a green industry, but if it operates in conflict-affected areas, it may be linked to human rights violations. These issues are connected, and both risks have to be measured.'

Kiran Aziz  
Senior Analyst, KLP



'The more knowledgeable the customer is about risk in their industry, the lower that risk is for us as a bank. It means that they actually address risk and make efforts to reduce it.'

Karoline Bakka Hjertø  
Head of Sustainability, Sparebank 1



NCP: Cathrine Halsaa, Head of the NCP Secretariat, and Åse Sand, Course Coordinator, opening the third and final course session.

## Course in due diligence

# Record numbers signing up for courses

The NCP is the official expert body for promoting and interpreting the OECD Guidelines, and the new Transparency Act has led to increased demand for courses and guidance on responsible business conduct.

Following a year's break during the coronavirus pandemic, the NCP again ran a course in autumn 2021 on responsible business conduct and due diligence. The course was quickly fully subscribed and there is a waiting list for the next course. More than 30 participants from 20 enterprises in different sectors took the course in 2021.

The course NCP runs is unique in both its content and scope. It comprises three full-day seminars over the course of a few months. Apart from the actual course content, the participants have said that they get a lot out of discussions and exchanging experience with the other participants in the course. The participants are also offered three hours of free guidance on top of the sessions, from Ethical Trade Norway.

During the course, the participants gain an understanding of what responsible business conduct is and how it can be implemented in practice. They are given an introduction to international standards,

such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, and the Government's expectations of responsible business conduct, the new Transparency Act and general developments in the field.

To flesh out the theory, the programme always includes representatives from a range of different enterprises. They explain how they work on due diligence in practice, the challenges they face and how they address them.

The participants are also expected to work individually on using the NCP's tool, the RBC Compass. The participants are expected, in consultation with the instructors, to prepare a presentation for the board or management of their own company, and draw up a plan for developing or further developing systems and procedures for risk and due diligence in their organisation.



**GUIDANCE:** The course participants discuss the challenges they face with each other under the guidance of instructors from Ethical Trade Norway.



**CIVIL SOCIETY:** Beate Ekeløve-Slydal, Political Adviser at Amnesty International Norway, gave the introductory talk on how civil society can assist businesses in their work on due diligence.



**EXCHANGING EXPERIENCE:** Exchanging experience is an important and useful part of the NCP's course on responsible business conduct.



Kristin Holter  
*Head of Circular Economy,  
Ruter*

'Ruter was lucky to get a place on the NCP course on responsible business conduct and due diligence. Few organisations know more about the topic than the NCP, and we've also learnt a lot from the interesting talks given by representatives of businesses, organisations and the authorities. The guidance provided during the process was very valuable and useful.'



Johanna Breivik  
*Compliance Manager,  
Entur*

'The course in responsible business conduct has taught us a lot about the OECD Guidelines and particularly about how we can work on due diligence. We have also established a good network and received excellent guidance during the process. We will incorporate what we have learnt into our sustainability work. I strongly recommend this course!'



Giso Heising  
*Supplier Quality Manager,  
Kongsberg Maritime*

'The course combines learning about the OECD Guidelines with insight into how other enterprises work on implementing them. All the presentations, group assignments and discussions in and outside the course provide a unique opportunity to benchmark where KONGSBERG stands and to help us to define our next steps forward.'



OSLO COMPLIANCE FORUM: In November 2021, the NCP attended Oslo Compliance Forum, where representatives from the business sector and the authorities meet to discuss requirements and expectations of Norwegian enterprises. One of the topics this year was 'Greater requirements of responsible business conduct – official and expert perspectives'.

Photo, from the left: Lawyer Helen Bogen from Wiersholm; Erik Solheim, President of the Green Belt and Road Institute; Policy Director Kristel Tonstad from the NCP; and Dag Sandham, Head of Section at the Norwegian National Security Authority.

## Promotion activities

# Expertise in demand

Many actors would like to know more about responsible business conduct and due diligence. This has led to a busy year for the NCP.

The Transparency Act has led businesses and other organisations to seek more knowledge. The EU Taxonomy for sustainable activities with minimum social safeguards, based on the OECD Guidelines, has also led many to seek the NCP's expertise.

In 2021, the NCP and the secretariat have given talks at more than 35 high-profile conferences and events for the business sector, ministries, civil society, and to lawyers and the financial industry. This includes a talk at a large conference on the Transparency Act organised by several ministries, where Minister of Trade and Industry Jan Christian Vestre and Minister of Children and Families Kjersti Toppe also gave talks.

Policy Director Kristel Tonstad has been a popular speaker. The topics she has spoken on include the OECD Guidelines, experience from specific instances and relevant regulatory developments.

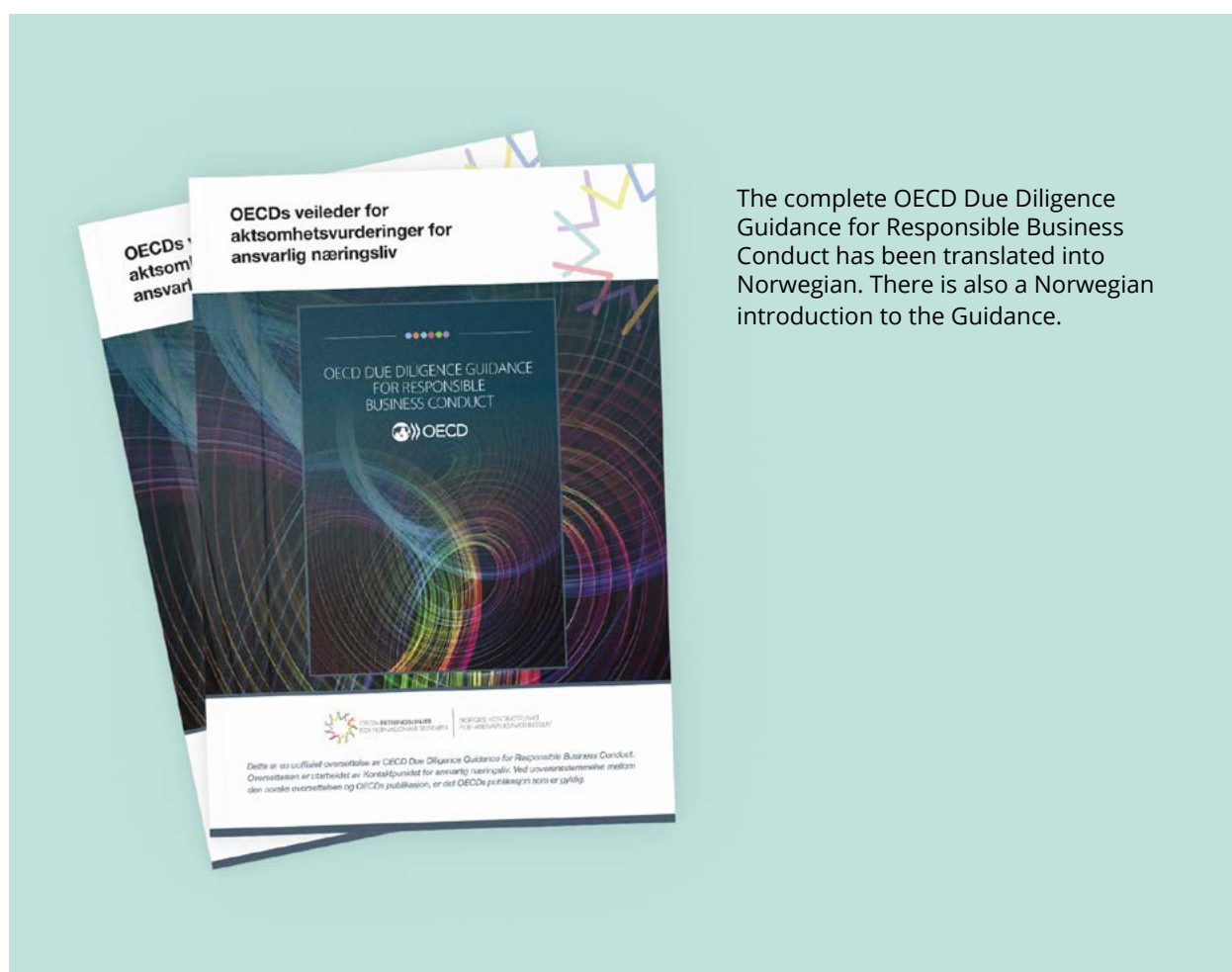
The NCP has cooperated with the Confederation of Norwegian Enterprise (NHO), the Confederation of Norwegian Trade Unions (LO) and Ethical Trade Norway on the course 'Trading with China in a demanding age', contributed to the training of embassy staff and foreign service trainees in the Ministry of Foreign Affairs, given a talk at the Nobel Peace Centre's seminar series Real Business, Bergen Chamber of Commerce and the Rafto Foundation's Future-Proof platform for business and human rights, the Globalisation Conference and a range of other seminars organised by various actors.

# Useful tools 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.



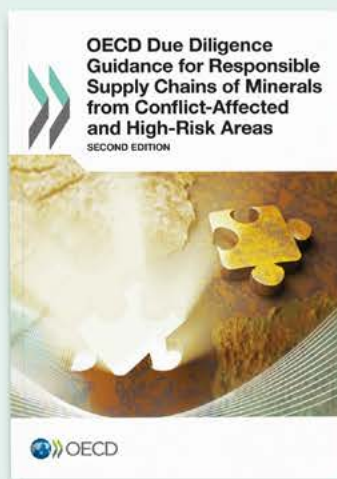
Due Diligence for Responsible Corporate Lending and Securities Underwriting



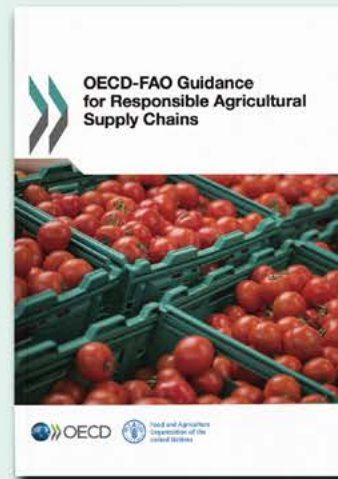
Responsible business conduct for institutional investors



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



Photo: Fredrik Naumann/Felix Features

# New policy director strengthens the NCP

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Kristel Tonstad took up the position in February 2021. Professional and efficient handling of complaints is one of the NCP's most important tasks. Having a leading professional resource person dedicated to handling complaints on behalf of the NCP is therefore very valuable.

The expectations and requirements of responsible business conduct are undergoing rapid development both in Norway and across the world. The OECD Guidelines and due diligence expectations form the basis for numerous sustainability regulations, both nationally and internationally. In 2021, Tonstad has given talks at many high-profile events and helped to consolidate the NCP's reputation as an expert body.

# Media coverage of the NCP

The NCP's work is attracting increasing attention.

## The new Transparency Act

All media coverage of the Transparency Act has made reference to it being based on the OECD Guidelines, and many have mentioned the NCP's advisory role.

In an interview with the newspaper *Vårt Land* in September 2021, acting Minister of Children and Families Olaug Bollestad, responsible for the Transparency Act, said that supervising 9,000 enterprises would be a significant task for the Consumer Authority. She referred to the strong expert communities in place that can assist the Consumer Authority, such as the NCP.

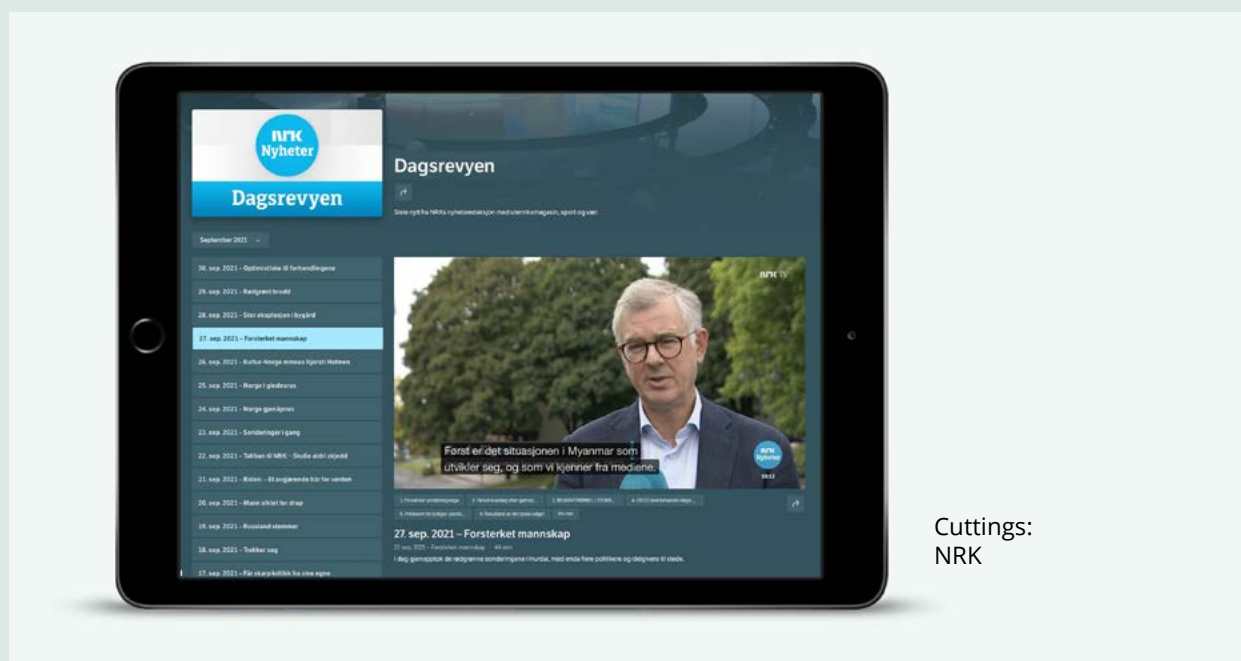
## Telenor's withdrawal from Myanmar

In 2021, Telenor's withdrawal from Myanmar attracted a great deal of media attention. It also led to the Centre for Research on Multinational Corporations

(SOMO) submitting a complaint to the NCP against Telenor on behalf of 474 organisations. They claim that Telenor has failed to observe the OECD Guidelines for Multinational Enterprises with respect to risk-based due diligence, stakeholder dialogue and disclosure in connection with Telenor's sale of its business in the country. The complaint is in process.

Chair of the NCP, Frode Elgesem, was interviewed in September on the news programme NRK Dagsrevyen about the case, and he participated on the radio programme Dagsnytt 18 in October, together with the parties to the case.

The NCP cannot comment on specific instances in process, and has procedures in place for avoiding comment until the cases are concluded. Elgesem therefore participated to discuss the NCP's handling of complaints in general, and not the specific instance concerning Telenor specifically.



# 2

## Handling specific instances

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The OECD National Contact Point system gives individuals, local communities and organisations a grievance mechanism when they believe that enterprises have failed to observe the guidelines for responsible business conduct. This makes the OECD Guidelines unique.

The NCP handles complaints against Norwegian enterprises and enterprises that operate in Norway.

The complaint mechanism is non-judicial. The NCP offers dialogue and mediation between the parties, and the goal of the process is to arrive at a joint solution. The handling of specific instances must be impartial, predictable, fair and in line with the Guidelines. The specific instances are handled in accordance with the procedures set out in the OECD Guidelines.



# Complaints from A to Z

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PHASE

1

## Initial assessment

### SPECIFIC INSTANCE

Centre for Research on Multinational Corporations (SOMO), on behalf of 474 civil society organisations in Myanmar, vs. Telenor

When a complaint is filed, the NCP first carries out an initial assessment: Does the complaint concern issues covered by the OECD Guidelines for Multinational Enterprises? Does the complainant have an interest in the matter or represent the impacted parties? Is the complaint documented? Will handling of the complaint contribute to resolving the matter? The NCP can ask the complainant to provide more documentation and clarification.

The company the complaint concerns is then given an opportunity to respond to the complaint, which is normally shared with the complainant. After receiving the company's response, the NCP considers whether the criteria for accepting the complaint for further consideration are fulfilled. The NCP publishes its initial assessment of whether the complaint shall be accepted or not, and why. During this phase, the NCP does not consider whether the company has followed the recommendations set out in the OECD Guidelines.

In July 2021, the NCP received a complaint from the Centre for Research on Multinational Corporations (SOMO) on behalf of 474 civil society organisations in Myanmar. The complainants claim that Telenor ASA has failed to observe the OECD Guidelines with respect to risk-based due diligence, stakeholder dialogue and transparency in their disengagement from Myanmar. The complainants asked for the complaint to be given urgent consideration. In September 2021, the NCP published its decision to accept the specific instance and offer the parties dialogue and mediation.

## FACTS

### Criteria in the initial assessment phase

When the NCP conducts an initial assessment of whether a complaint shall be accepted for further consideration, it must take the following into account:

- the identity of the party concerned and its interest in the matter.
- whether the issue is material and substantial.
- whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance.
- the relevance of applicable law and procedures, including court rulings.
- how similar issues have been, or are being, treated in other domestic or international proceedings.
- whether of the consideration of the specific instance would contribute to the purposes and effectiveness of the Guidelines.

See also the NCP's procedures for handling specific instances for more information.

## FACTS

### How to submit a complaint to the NCP

A complaint should be in writing and set out the factual grounds for the complaint, including a description of the issue, references to relevant provisions in the OECD Guidelines and what the complainant(s) seek to achieve by submitting a complaint.

OECD Watch has developed a dedicated tool to enable potential complainants to check whether the OECD Guidelines are relevant to the issues they seek to raise with a company: OECD Watch Case Check. The tool also provides advice on which parts of the OECD Guidelines may be relevant to the complaint, the documentation that should be enclosed and which National Contact Point the complaint should be submitted to.

**You will find more information and a guiding form for submitting complaints on the NCP's website.**

PHASE  
2

# Mediation or examination

## SPECIFIC INSTANCE

### Four trade unions vs. Norges Bank Investment Management

When the NCP accepts a complaint for further examination, the parties are normally offered dialogue and mediation. The goal is to discuss the issues raised in the complaint and arrive at a solution. The NCP or external mediators may conduct the mediation. If the parties reach agreement, the result will normally be set forth in a joint statement.

If the parties fail to reach agreement, or decline to participate in mediation, the specific instance will be examined by the NCP. Information from the parties and other sources may be used to inform the process. This will give the NCP a basis for considering whether or not the company has followed the recommendations set out in the OECD Guidelines.

The NCP accepted parts of a new complaint for further examination in 2021. The complaint was filed by four trade unions: The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF); the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT-IUF); Service Employees International Union (SEIU) and União Geral dos Trabalhadores (UGT).

The complaint concerns allegations of gender-based violence and harassment at McDonald's, and related due diligence by two institutional investors: APG Asset Management (APG) and Norges Bank Investment Management (NBIM).

Norway's NCP handles the part of the complaint that concerns NBIM. The parties accepted the offer of dialogue and mediation, and mediation was conducted by external experts on behalf of the NCP.

## Database of specific instances

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

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

### SPECIFIC INSTANCE

#### KTNC Watch and Workers Support Team vs. TotalEnergies, TotalEnergies EP Norge, Equinor, Technip Energies and Samsung Heavy Industries

Two South Korean organisations – Korean Transnational Corporations Watch and Samsung Heavy Industries Martin Linge Project Crane Accident Workers Support Team – submitted a complaint in 2019 involving businesses and NCPs in Norway, France, the UK and South Korea.

The complainant claims that TotalEnergies, TotalEnergies EP Norge, Equinor, Technip Energies and Samsung Heavy Industries have failed to observe the OECD Guidelines with respect to due diligence, disclosure of information and human rights.

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.

Norway's NCP accepted the complaint for handling in May 2021, and offered the parties dialogue and mediation with external experts, which they accepted. As the pandemic prevented physical mediation, the NCP has organised online mediation with simultaneous interpreting and technical assistance. The case is complex in terms of content and the number of parties and NCPs involved.

### SPECIFIC INSTANCE

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

The Committee Seeking Justice for Alethankyaw (CSJA) submitted a complaint in 2019 against Telenor and its subsidiary Telenor Myanmar. CSJA claims that the military used an inactive telecommunications tower owned and operated by Telenor Myanmar to shoot unarmed civilians from the village Alethankyaw in Rakhine state in 2017. CSJA claims that the company failed to carry out the appropriate level of due diligence to prevent this. The complaint also concerned other matters related to land acquisition and a network closure in Myanmar.

The NCP decided to accept the complaint for further examination. The complainants declined dialogue or mediation with the company. The NCP has therefore obtained documentation from the parties and other sources. Based on this, the NCP will draw up a final statement that will include any potential recommendations to the company.

PHASE  
3

## Final statement

When a complaint is submitted, the NCP first carries out an initial assessment of whether it should be accepted for further examination:

The final phase in the handling of a specific instance entails the NCP drawing up a final statement.

If the parties reach agreement, the final statement will normally be based on a joint statement or agreement between the parties. If the parties fail to reach agreement and the NCP has examined the specific instance, the final statement will normally include an assessment of whether the company concerned has followed the recommendations set out in the OECD Guidelines. The NCP can issue recommendations to the company in the final statement. The parties may decide to only disclose parts of the agreement. The NCP publishes its final statement.

PHASE  
4

## Follow-up

The NCP offers follow-up of specific instances within one year of conclusion of the case. The NCP currently has no specific instances under follow-up.

FACTS

### Ten groundbreaking specific instances

The NCP's compendium of ten groundbreaking, international specific instances illustrates the possibilities the grievance mechanism represents. All of the cases selected have either led to some form of restitution or compensation for the complainant, or to the NCP issuing recommendations to the companies on how to operate responsibly in line with the OECD Guidelines.



Photo: Fredrik Naumann/Felix Features

ONLINE MEDIATION: From the left: National Mediator of Norway Mats Ruland and Knut Kaasen, professor at the University of Oslo's Faculty of Law.

## Online mediation

# Mediation during the pandemic

The pandemic greatly impacted the way meetings were held also in 2021, including for mediation. The NCP started mediation in one specific instance early in 2021, involving multiple parties in different regions and time zones. Physical meetings were not possible, and mediation was carried out via Zoom.

Many NCPs have carried out online mediation during the pandemic, and the NCPs have exchanged experience and learnt from each other. Norway's NCP has found online mediation demanding. However, expedient technical assistance and professional mediators and interpreters have nonetheless made it work across languages, time zones and different opinions.

## External mediators – new practice

The NCP increasingly makes use of external expertise in mediation between the parties in specific instances. The cases are often complex and it may be beneficial to draw on expertise with respect to mediation and the issues raised.

Through an informal collaboration with the National Mediator of Norway, the NCP has

drawn on the experience of National Mediator Mats Ruland and mediator Nils-Henrik von der Fehr. The NCP has also recruited international experts to mediate in specific instances.

During 2021, the OECD has established a dedicated resource database where professional mediators can register their interest and assist in mediation for different countries' NCPs.

# A grievance mechanism that yields results

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What can be achieved through dialogue and mediation? What criteria must be fulfilled for the NCP to accept a complaint? What solutions are available? These were the topics discussed at the NCP's seminar on the grievance mechanism.

One of the tasks assigned to the National Contact Point system is to raise awareness among organisations, local communities and individuals that they have a place to turn when they believe companies have failed to observe the OECD Guidelines. The seminar held at Litteraturhuset in Oslo on 1 November 2021 was an important element in this work.

### **OECD Watch is monitoring**

The seminar gave participants from civil society organisations, trade unions, the business sector and academia the chance to hear interesting speakers who elucidated various aspects of the grievance mechanism.

Joseph Wilde-Ramsing gave the introductory talk on the possibilities and achievements of the grievance mechanism, exemplifying good practice in the NCPs' handling of specific instances. He represents OECD Watch, a global network of organisations that helps civil society to use the grievance mechanism.

### **The first climate complaint**

Peter Ras from the organisation Oxfam Novib and Arnaud Stuart from the international bank ING, both based in the Netherlands, provided unique insight into how the parties on both sides of the table may experience the complaints process.

They were involved in the first ever climate-related complaint in 2017. Oxfam Novib was one of four organisations claiming that ING, through its investments in fossil fuels, violated the OECD Guidelines. The result was a ground-breaking agreement, that saw ING committing to setting climate goals for its loan portfolio.

### **Good mediation**

Professor Knut Kaasen at the University of Oslo and National Mediator of Norway Mats Ruland are involved in the mediation of a specific instance against a Norwegian company. They gave the participants an introduction to what makes for good mediation, and how trust can be built in cases where there is a great deal of distance between the parties at the outset.

The seminar concluded with group work, where the participants got the chance to have a go at submitting complaints, based on cases concerning environmental issues, indigenous rights and trade union rights.



**WORKSHOP:** Åse Sand from the NCP guiding participants during the workshop on the grievance mechanism.



**FAIR HANDLING OF COMPLAINTS:** Joseph Wilde-Ramsing from OECD Watch pointed out that the NCPs shall act in a visible, accessible, transparent and accountable manner.



**HOW TO ASSESS A COMPLAINT:** The participants at the workshop got to have a go at this.



**WIDE REACH:** Kristel Tonstad, policy director at the NCP, gave a talk at the seminar, and underlined how the OECD Guidelines have a wider reach than the Transparency Act.

# 3

## International cooperation

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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.





# Participation in international meetings

One of the NCP's important tasks is to cooperate with the 50 OECD National Contact Points in other countries, and to participate in the OECD Forum and meetings on responsible business conduct. These meetings were held online in 2021 due to the coronavirus pandemic. The NCP nonetheless had the pleasure of attending several international events.



**MEET REGULARLY:** The NCPs meet regularly at the OECD offices in Paris – here from a meeting in 2019. Photo: OECD



## Record participation

### OECD Global Forum on Responsible Business Conduct

Leading representatives of business and industry, academia, trade unions, civil society and governments come together at the Forum to share best practices and new developments in responsible business conduct. The Forum was held online in June 2021, with a record number of more than 2,500 participants.

The key topic at the year's Forum was how responsible business conduct can be the key to a sustainable future in a world that is constantly changing. A range of enterprises shared best practices from their work on due diligence. Several sessions were held on the NCPs' work, where Head of the Secretariat Cathrine Halsaa led a session on the NCPs' role in promoting responsible business conduct.



## Well established network

### Nordic-Baltic cooperation meeting

The Nordic and Baltic NCPs meet every year under the Nordic-Baltic NCP network. In 2021, the Danish NCP hosted this conference, which had to be held online due to the coronavirus pandemic.

The group has evolved to be a trust-based forum for raising specific issues, such as the best way of giving advice to businesses about due diligence, and methods for successfully handling specific instances.

The topic of this year's meeting was experience of handling specific instances during the coronavirus pandemic, with a particular focus on the advantages and disadvantages of online mediation. Belgium's NCP gave an account of its experience of the online mediation process. International developments in statutory due diligence, by way of national and international regulation, were also discussed. Norway's NCP presented its survey of Norwegian enterprises' knowledge of the OECD Guidelines and the NCP, discussed in its 2020 annual report.



**PHYSICAL MEETING:** From the left Barbara Bijelic representing the OECD, Cecilie Meciah Haugen Ngwenya and Linda Nielsen representing Denmark's NCP, Henning Kloster-Jensen representing the Norwegian Ministry of Foreign Affairs, Cathrine Halsaa representing Norway's NCP and Jakob Kiefer representing the Swedish Ministry of Foreign Affairs. Photo taken at the meeting in 2019.



## Important learning tool

### Peer review of Ireland's NCP

Peer reviews of the individual NCPs are an important resource in establishing functional equality between them. In autumn 2021, NCP member Beate Ekeløve-Slydal and Åse Sand from the secretariat participated in the peer review team that assessed Ireland's NCP. The Spanish and Czech NCPs were also represented on the team, together with representatives of the OECD Secretariat. They met Ireland's NCP and its stakeholders on 27 and 28 October 2021 in Dublin.

During the peer review, the team assesses how the NCP works, and whether it operates in accordance with the core criteria for the NCP system, i.e. visibility, accessibility, transparency and accountability. The team also looks at whether the NCP's handling of specific instances is impartial, predictable, fair and in compliance with the OECD Guidelines.

The peer review process is an important learning tool for the NCP being reviewed, but it is also a very interesting and educational process for the NCPs represented on the team.



**Caption: PEER REVIEW:** The peer review team speak to different stakeholders during the process, here on the phone to a party to a complaint relating to DR Congo. From the left: Aize Azqueta representing Spain's NCP, Ludmila Hyklova representing the Czech Republic's NCP, and Nicolas Hachez and Emily Halstead representing the OECD Secretariat.



Photo: Getty Images

## Updating the OECD Guidelines?

In 2021, the OECD initiated a process to ensure the Guidelines continue to be the leading standard for responsible business conduct. The objective of this stocktaking process is to map recent developments relating to responsible business conduct, the most important goals achieved, challenges for the Guidelines and the unique grievance mechanism the NCP system represents, in addition to the international context the Guidelines operate in.

The process has been subject to international open consultation, with input from a range of actors, also from Norway, including organisations representing the social partners, civil society and international organisations such as ILO, the UN and the Global Alliance of National Human Rights Institutions (GANHRI).

This work has enabled the OECD to map the strengths of the Guidelines and the NCP system, and challenges and shortcomings in relation to international developments and the potential for improvement.

Three topics have stood out in particular in the process:

1. Are the Guidelines fit for the issues in all areas of responsible business conduct?
2. Is the NCP system institutionally fit to promote the Guidelines and handle complaints?
3. Are the Guidelines and the OECD Working Party on Responsible Business Conduct (WPRBC) fit for implementation at the centre of international developments in responsible business conduct?

The process will continue throughout 2022.

# Accounts 2021

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The NCP's budget mainly covers fees for the NCP members and salaries for the secretariat employees (three permanent employees). Other funds are spent on the handling of specific instances, promotional activities, and expert assistance.

All numbers are in NOK

2021 EXPENDITURE	
Fees for NCP members	460 000
Salary, secretariat	2830 000
Travel expenses	30 000
External consultancy	690 000
IT, misc. office equipment and printed matter	48 000
Promotional activities, courses and meetings	520 000
Translations	244 000
<b>Total</b>	<b>4 816 000</b>

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