



OECD Guidelines for Multinational Enterprises on
Responsible Business Conduct

National Contact Point for Responsible Business Conduct Peer Reviews

LATVIA



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Foreword

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the Guidelines) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting.

Adhering governments to the Guidelines are required to set up a National Contact Point for Responsible Business Conduct (NCP) that operates in a manner that is visible, accessible, transparent, accountable, impartial and equitable, predictable, and compatible with the Guidelines. During the 2011 update of the Guidelines, NCPs agreed to reinforce their joint peer learning activities, in particular with respect to conducting voluntary peer reviews. The 2023 update of the Guidelines reinforced peer reviews of NCPs by making them mandatory and periodic, subject to modalities to be approved by the Working Party on Responsible Business Conduct (WPRBC). The commitment to undergo this peer review was made by Latvia while the 2011 version of the Procedures was in effect. The basis for this peer review is the 2011 version of the Guidelines (including the Implementation Procedures).

The peer reviews are led by representatives of two to four other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at <https://mneguidelines.oecd.org/ncppeerreviews.htm>.

This document is the peer review report of the Latvian NCP. This report was prepared by a peer review team consisting of reviewers from the NCPs of Germany and Lithuania, with the support of the OECD Secretariat. The NCP of Germany was represented by Yorck Diergarten. The NCP of Lithuania was represented by Andrius Bambalas. The OECD Centre for Responsible Business Conduct was represented by Nicolas Hachez and Lena Diesing. The report was informed by dialogue between the peer review team, the NCP of Latvia and relevant stakeholders during an in-person fact-finding mission on 14-16 March 2023. The peer review team wishes to acknowledge the NCP for its efforts to ensure broad participation and open exchanges at the on-site visit, and the delivery of the requested material throughout the peer review process. The NCP of Latvia was represented by Alise Balode, Peteris Pauls Celmins, Dace Liberte and Arvils Zeltins. This report also benefited from comments by delegates to the WPRBC and institutional stakeholders (BIAC, OECD Watch, TUAC). It was discussed by the WPRBC at its 8 November 2023 meeting and declassified by the Investment Committee on 18 December 2023.

Table of contents

Key findings and recommendations	6
Institutional Arrangements.....	6
Promotional activities	7
Specific instances	7
1 Introduction	9
Economic context.....	10
2 Institutional arrangements	12
Legal basis.....	12
NCP Structure and composition	12
Functions and operations.....	14
Resources and staffing	16
Reporting	17
3 Promotion of the Guidelines	18
Promotional plan	18
Information and promotional materials	18
Promotional events	18
Webpage	20
Promotion of policy coherence	20
Requests for information.....	21
Cooperation amongst NCPs.....	21
4 Specific instances	23
Overview.....	23
Rules of Procedure	23
Specific Instances in Practice.....	27
Timeliness.....	29
Confidentiality and transparency	30
Impartiality and avoidance of conflict of interests	30
Parallel proceedings.....	31
Cooperation with other NCPs.....	31
Request for clarification.....	31
5 Annex Documents	33
Annex A. List of organisations that submitted a response to the NCP peer review questionnaire	34
Annex B. List of participants in the NCP peer review on-site visit	35
Annex C. Promotional events	36

2022: Promotional events organise or co-organised by the NCP.....	36
2022: Presentations by the NCP in events organised by others	37
Annex D. Overview of specific instances handled by the Latvian NCP as the leading NCP	38

Tables

Table 4.1. Specific instance where the Latvian NCP has coordinated with other NCPs	31
Table A D.1.	38

Boxes

Box 4.1. SIA OMNIVA and Individual	28
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Key findings and recommendations

Institutional Arrangements

Latvia adhered to the OECD Investment Declaration in 2004, establishing the NCP as part of the adherence process through an Ordinance of the Ministry of Foreign Affairs. The Latvian NCP has a tripartite structure: the NCP Members include representatives of government institutions, as well as representatives from business, trade unions and one independent expert from a civil society organisation supporting its membership, businesses, towards more responsible business conduct. NCP membership, as well as their roles, are vaguely defined, however, and might differ in practice from information provided in the Ordinance.

The NCP Secretariat is located within the Ministry of Foreign Affairs' Department of Economic Relations and Development Cooperation. The NCP's location in the Ministry of Foreign Affairs was perceived as advantageous by stakeholders, as the Ministry was considered a "neutral broker" between different interests and substantive focus areas, possessing considerable convening power.

Resources appear to be insufficient. The NCP does not have a dedicated budget. Currently, the NCP is staffed by two civil servants of the Ministry of Foreign Affairs who dedicate 20% of their time each to the tasks of the NCP. Turnover has been high.

	Findings	Recommendations
1.1	The NCP's structure results in several benefits, including strong convening power, perception of impartiality, inclusiveness, access to technical expertise, dissemination across government and stakeholders. However, there is a lack of clarity around the role and functions of the NCP as an institution, as well as its features, owing due to an outdated Ordinance, as well as lack of visibility to the wider public about the NCP's structure.	The NCP should enhance efforts to create transparency and clarity around its work, structure and function – both within the government, including members and government-external stakeholders. This could include publishing additional information and hosting additional meetings and events, both internally and externally. Efforts should include a reflection to what extent the Ordinance meets current needs and updating it accordingly. The reporting lines for the Head of the NCP Secretariat should be revised to be more closely integrated in the hierarchy of the Ministry of Foreign Affairs, ensuring closer involvement of senior leadership and better oversight of NCP performance.
1.2	By including government and non-governmental stakeholders like businesses, trade unions and (to an extent) civil society, the Latvian NCP rests on a diverse membership base. However, members lacked clarity about their roles and responsibilities with regards to the NCP mandate, and how the NCP can benefit them. Representation of civil society (without a business focus) was weakest among the different membership groups.	The NCP should increase efforts to create an understanding with NCP Members about their roles and responsibilities as an NCP Member in delivering the NCP's mandate, and strengthen their ownership in the NCP's work. In doing so, the NCP would ideally work towards a sense of belonging to and identification with the NCP among the NCP Members, which could be achieved through, for example, more frequent in-person meetings, joint promotional and training activities as well as utilizing the MFA's convening power. The NCP should reflect whether the current NCP membership is adequate or might be adapted.
1.3	While the NCP has dedicated staff to deliver on its mandate, achievements of recent years are largely due to the personal engagement of part-time personnel – 40% of one full-time equivalent at the time of the review. In addition, the NCP grapples with the rotation of Ministry staff, and a lack of technical expertise on RBC.	Latvia should increase the NCP's resources and seek to reduce the impact of the staff rotation, for example through a stronger system to manage knowledge and share information between rotating staff.

Promotional activities

The Latvian NCP does not have a promotional plan, but developed some promotional material, which was well received by observers. NCP Members have been involved in the preparation and dissemination of promotional material to a limited extent.

In 2022, Latvia's NCP organised and participated in several events promoting RBC and the OECD Guidelines, including participation in high-profile events on RBC. There is potential to increase the impact of the NCP's promotional activity, as awareness about the NCP's mandate and activities appeared low. Limited impact of promotional activity was due to high turnover of NCP Secretariat staff, the COVID-19 pandemic, and branding of NCP participation as participation by the Ministry of Foreign Affairs.

The structure of the NCP provides an opportunity to promote RBC policy coherence as it includes several key actors on RBC across the Latvian government. In practice, there seems to have been limited initiatives on the topic.

The NCP engages with other NCPs through the NCP Network, as well as bilaterally in the context of specific instances and beyond.

	Findings	Recommendations
2.1	The NCP is involved in high impact events (such as the RBC week and fair trade award) and has created a good basis for promotion. The NCP has achieved high visibility with certain groups and disseminates well crafted materials. However, the impact of the promotional activity seems to be low, branded as Ministry and not as NCP activity. There is no multi-year planning transcending staff rotation.	The NCP should develop a promotional plan defining activities and priorities as part of its promotional mandate, striving to increase the frequency of promotional activity and greater visibility under the NCP rather than the MFA brand. Additionally, such plan can be of assistance in involving all members of the NCP in promotional activities of the NCP. In preparation for moving on to more ambitious promotional goals, the NCP could start focusing on straightforward and low-resources opportunities like adapting the website towards greater visibility, such as hosting it in a more visible location on the Ministry website, fixing broken links and translating key material.
2.2	The NCP Secretariat conducts all promotional activity; NCP Members are not proactively involved in promotional work. Activities have reached considerable audiences, but the diversity and breadth of audiences reached remain limited.	The NCP should better leverage its Members and other multipliers in delivering promotional activities. NCP Members should be involved in promotional activities and promote RBC, the Guidelines and the NCP with their specific audiences, achieving greater reach. This effort should include enabling NCP Members to host own events about the NCP.
2.3	The representation of many parts of government among the NCP Members provides a good basis to promote RBC policy coherence. However, there is limited initiative on this topic and the NCP is not viewed as a source of expertise on RBC and likewise not as a place to foster policy coherence on RBC.	The NCP should disseminate information about RBC among other government institutions and develop leadership on the topic, including by utilising its convening power for more regular in-person meetings for raising awareness about RBC in government. This should be accompanied by developing a vision around the NCP's mandate and tasks in that regard. The OECD Recommendation on the Role of Government in Promoting RBC can provide support in realizing this recommendation.

Specific instances

The Rules of Procedure of Latvia's NCP appear to be largely in line with the Guidelines, providing a solid framework for handling specific instances. Some aspects of the Rules of Procedure are less clear, which might affect predictability of specific instances, such as the use of determinations; the role of different NCP Members regarding specific instances; references to Latvia's mediation law and the possibility to involve external mediators in specific instances. Timeframes in the Rules of Procedure are in line with the OECD

Guidelines. In practice, implementation of these timelines remains inconclusive as the NCP has received a limited number of cases to date.

As of the date of the on-site visit, the NCP had received two specific instances in total. One instance was not accepted; a second one was accepted and concluded with an agreement during the peer review period; NCP follow up is foreseen. The Latvian NCP has not yet used the possibility for determinations; the Rules of Procedure provide for their use implicitly by not prohibiting them.

In practice, case handling appears to have been managed by the NCP to the satisfaction of the parties. It appears that the communication by the NCP about the process could be intensified and clarified. At times, the sequence of procedural steps was handled with flexibility.

	Findings	Recommendations
3.1	The Latvian NCP developed Rules of Procedure that are largely aligned with the Guidelines and that have proven to work as evidenced by the most recent case. However, several aspects remain less clear, affecting predictability, such as on determinations, the decision-making role of the NCP Members, implications on confidentiality by the mediation law or the use of external mediators.	The NCP should revise the Rules of Procedure towards greater clarity. In doing so, the NCP Secretariat should involve the members of the NCP so as to build their ownership in the process and discuss how they should be best involved in specific instances. Importantly, revised procedures for specific instances should seek to leverage NCP Members to fulfil the mandate of the NCP also in specific instances.
3.2	While the NCP's Rules of Procedure facilitated the agreement in the most recent specific instance, in some aspects, the Rules of Procedure were not closely followed, notably in communication with the parties. Such derogations can impact predictability of the specific instance procedures.	The NCP should ensure the Rules of Procedure are closely followed and the sequence of steps is maintained. As part of onboarding staff under rotation, information on the Rules of Procedure as well as training materials on specific instances should be passed on to ensure their close implementation.

1 Introduction

The Latvia NCP at a glance

Established: 2004

Structure: Multipartite, no advisory body

Location: Ministry of Foreign Affairs

Staffing: Two part-time staff (20% each)

Webpage: [Latvian](#) and [English](#)

Specific instances received: one concluded, one not accepted

The implementation procedures of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the Guidelines) require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, the guiding principles for specific instances recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines. This report assesses conformity of the Latvia NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

Latvia adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 2004. The Guidelines are part of the Investment Declaration. The Guidelines are recommendations on responsible business conduct (RBC) addressed by governments to multinational enterprises operating in or from adhering countries. At the time of the review, the Guidelines had been updated six times since 1976; the most recent revision having taken place in 2023. As the onsite visit of this peer review was conducted prior to the adoption of the 2023 update of the Guidelines, it considers the 2011 edition of the Guidelines as a basis for review.

Countries that adhere to the Investment Declaration are required to establish National Contact Points (NCPs). NCPs are set up to further the effectiveness of the Guidelines and adhering countries are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices¹.

NCPs are “agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise.”²

The Procedural Guidance covers the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances and reporting. In 2011, the Procedural

¹ Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I (4).

² OECD Guidelines for Multinational Enterprises (2011), Foreword

Guidance was strengthened. In particular, a new provision was added to invite the OECD Investment Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations.

The objectives of peer reviews as set out in the “Revised core template for voluntary peer reviews of NCPs”³ are to assess that the NCP is functioning and operating in accordance with the core criteria set out in the implementation procedures; to identify the NCP’s strengths and possibilities for improvement; to make recommendations for improvement; and to serve as a learning tool for all NCPs involved.

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the revised core template⁴ as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by four organisations representing government agencies, enterprises, trade unions, civil society and academic institutions (see Annex A for a complete list of stakeholders who submitted written feedback).

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Germany and Lithuania, along with representatives of the OECD Secretariat. A fact-finding mission took place from 14-16 March 2023. This visit included interviews with the NCP, other relevant government representatives and stakeholders. A list of organisations that participated in the visit is set out in Annex B. The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review, the extensive supportive information provided, and successful efforts to ensure broad participation in the visit.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2003. The methodology for the peer review is that set out in the core template.⁵

Economic context

Latvia’s economy is dominated by the services sector, representing 73% of GDP in 2020⁶. Regarding foreign direct investment (FDI), the inward stock of FDI, which represents the accumulated value of FDI in the Latvian economy over time, was USD 24 billion in 2021⁷, equivalent to 61 percent of Latvia’s GDP.⁸ The outward stock of FDI was USD 9.0 billion in 2021, representing 15 percent of Latvia’s GDP. In 2022, Latvia’s exports of goods were USD 21.5 billion and exports of services were USD 7.361 billion while imports of goods were USD 26.3 billion and imports of services were USD 5 billion.⁹

³ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2019), [DAF/INV/RBC(2019)4/FINAL]

⁴ Ibid.

⁵ OECD (2019), Revised Core Template For Voluntary Peer Reviews Of National Contact Points, [DAF/INV/RBC(2019)4/FINAL].

⁶ OECD (2022), OECD Economic Surveys: Latvia 2022, OECD Publishing, Paris, <https://doi.org/10.1787/c0113448-en> .

⁷ [FDI main aggregates - Summary : FDI positions - NCP \(oecd.org\)](#)

⁸ [FDI main aggregates - Summary: FDI positions - NCP \(oecd.org\)](#)

⁹ [Balance of Payments \(BOP6\): Balance of Payments \(MEI\) BPM6-NCP \(oecd.org\)](#)

The main investors in Latvia in 2021 were Sweden, Estonia, Russian Federation (hereafter: 'Russia'), Lithuania and Cyprus^{10, 11} and the main inward investment sectors are professional, scientific and technical activities, wholesale and retail trade, repair of motor vehicles and motorcycles, and real estate activities.¹² The main destinations for outward investment from Latvia in 2021 were Estonia, Lithuania, Bulgaria, Ukraine and the Russia,¹³ and the most important sectors are financial and insurance activities, wholesale and retail trade; repair of motor vehicles and motorcycles, and professional, scientific and technical activities.¹⁴ The most important partner countries for exports of goods in 2021 were Lithuania, Estonia, United Kingdom, Germany and Russia, while the most important source countries for imports of goods in 2021 were Lithuania, Germany, Poland, Russia and Estonia. The most important destinations for exports of services in 2021 were Germany, Sweden, Lithuania, United Kingdom and Russia, and the most important sources for imports of services in 2021 were Ireland, Lithuania, Estonia, Germany and Russia.

As measured by employment at foreign-owned firms in Latvia in 2019, the most important investors are Lithuania, Sweden and Germany. As measured by employment at the overseas affiliates of Latvia MNEs, the most important destination countries in 2019 were Lithuania, Estonia and Russia.

¹⁰ Note by the Republic of Türkiye: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

¹¹ [FDI statistics by partner country and by industry - Summary: Inward FDI position - Main investors -NCP \(oecd.org\)](#)

¹² [FDI statistics by partner country and by industry - Summary: Inward FDI position - Main investors -NCP \(oecd.org\)](#)

¹³ [FDI statistics by partner country and by industry - Summary: Inward FDI position - Main investors -NCP \(oecd.org\)](#)

¹⁴ [FDI statistics by partner country and by industry - Summary: Inward FDI position - Main investors -NCP \(oecd.org\)](#)

2 Institutional arrangements

Legal basis

Latvia adhered to the OECD Investment Declaration in 2004 and established the NCP as part of the adherence.¹⁵ The Latvian NCP was formally established through an Ordinance of the Ministry of Foreign Affairs (“the Ordinance”). The Ordinance contains provisions appointing key personnel (e.g. the Chair, members) and delineates the NCP’s core functions.

The NCP’s structure and membership were determined by the “OECD Consultative Board”. This Board, formed by Latvia’s government, consists of representatives from relevant ministries, to handle the adherence process to OECD instruments, as well as the later accession to the OECD. The OECD Consultative Board determined the NCP’s structure and membership when it was first created. The Board still exists but has lost in relevance following Latvia’s accession to the OECD in 2016.

The peer review team received a version of the Ordinance from the NCP in Latvian language dated 2018 when the Ordinance was last updated. The Ordinance is not available online for an interested public to consult. Feedback indicated doubts about whether the Ordinance, in its current structure, was an appropriate form to regulate the NCP as it was a cumbersome process to keep it updated, notably with regards to the individual appointments.

NCP Structure and composition

The Latvian NCP has a tripartite structure: the NCP Members include representatives of government institutions (mostly ministries), as well as representatives from business, trade unions and one independent expert from a civil society organisation supporting its membership, businesses, towards more responsible business conduct. Different sources report different compositions of the NCP membership, including the Ordinance, the NCP’s Rules of Procedure, or the NCP website.

The Ordinance formally appoints individuals as members of the NCP. Per the last version of the Ordinance from 2018, the listed individuals represented the following institutions (aside from the Chair from the Ministry of Foreign Affairs):¹⁶

- Ministry of Economics (Business Competitiveness Department, Internal Market Department)
- Ministry of Finance
- Ministry of Justice (Civil Law Department, Criminal Justice Department)
- Ministry of Education and Science

¹⁵ <https://www.oecd.org/daf/inv/investment-policy/latviajoinsocdddeclarationoninternationalinvestmentandmultinationalenterprises.htm>

¹⁶ Ordinance, §1

- Cross-Sectoral Coordination Centre¹⁷
- Employers' Confederation of Latvia
- Free Trade Union of Latvia
- Institute of Corporate Sustainability and Responsibility (“independent expert”)¹⁸
- Latvian Chamber of Commerce and Industry
- National Centre for Education¹⁹

The Rules of Procedure of the Latvian NCP²⁰, adopted in April 2018, foresee representatives from the following institutions. Compared with the Ordinance, the Rules of Procedure do not list the Institute of Corporate Sustainability and Responsibility or the National Centre for Education, but mention an independent expert:

- Ministry of Foreign Affairs,
- Ministry of Economics,
- Ministry of Finance,
- Ministry of Justice,
- Ministry of Education and Science,
- Cross-Sectoral Coordination Centre,
- Employers' Confederation of Latvia,
- Free Trade Union Confederation of Latvia,
- Latvian Chamber of Commerce and Industry,
- And an independent expert.

According to information provided by the NCP, a representative from the Institute for Corporate Sustainability and Responsibility has been included in the NCP indeed.

The institutions listed in the different instruments (Ordinance and Rules of Procedure) also differ from the actual participation. Since the creation of the Ordinance, the NCP Secretariat had invited representatives from the State Labour Inspectorate and the Ministry of Welfare in addition. Other members (per the Ordinance) often reportedly did not attend official events of the NCP, such as the Ministry of Economics.

Even though the Ordinance includes names of individuals appointed to the NCP, in practice, the persons assuming the role of NCP Member for a specific institution also differ. This is partly due to turnover in the member institutions. Out of 15 persons named as NCP Members in the Ordinance (status of 2018), only one person appeared to be still serving with the NCP at the time of the peer review visit in 2023. Further, institutions have been appointing personnel to fill the NCP roles ad hoc.

These discrepancies point to a need for revisiting the current approach of the Ordinance with regards to determining NCP Members to create greater transparency.

Aside from appointing members to the NCP membership, the Ordinance does not include information delineating the role, responsibilities or tasks of NCP Members with regards to the NCP mandate. In fact,

¹⁷ Incorporated in Latvia's State Chancellery since March 2023; tasked with coordinating government agencies in line with Latvia's national development plan.

¹⁸ InCSR; civil society organisation; membership consists of nine businesses, see: <https://www.incsr.eu/biedri/>

¹⁹ The National Centre for Education oversees the preparation of students for the labour market.

²⁰ <https://www.mfa.gov.lv/en/latvian-ncp-process-considering-specific-instances>

some of the members were unaware of what their status as NCP Members required or why their institution was included in the NCP membership. Officials appointed to handle NCP matters appear to fulfil this role out of a bureaucratic duty, not considering themselves as experts on RBC or NCP matters but rather as experts of their own ministries and in their respective fields of work.

The NCP is chaired by the Director General for Economic Relations, Trade and Development Cooperation of the Ministry of Foreign Affairs. Vice-Chair is the Director for Economic Relations and Development Cooperation in the Ministry of Foreign Affairs. Both roles are appointed ex-officio. As the position of the Director for Economic Relations and Development Cooperation was vacant at the time of the on-site visit, so was the position of Vice-Chair for the Latvian NCP.

The NCP Secretariat is located in the Ministry of Foreign Affairs, Department of Economic Relations and Development Cooperation. The NCP evaluated the likelihood of a conflict of interest as relatively low, owing to the involvement of other ministries in the structure of the NCP. The current structure was chosen to reflect the horizontal and multifaceted nature of RBC, and to raise awareness of RBC within Latvia's government. Stakeholders commended the fact that the NCP was located in the Ministry of Foreign Affairs, and not in a ministry that might also promote business and therefore face a conflict of interest in specific instances. Generally, the NCP's location in the Ministry of Foreign Affairs was perceived as advantageous, as the Ministry was considered a "neutral broker" between different interests and substantive focus areas, possessing considerable convening power. However, it was noted that the Ministry of Foreign Affairs did not have ownership of the topic of RBC, which was housed with other ministries like the Ministry of Economics (on business and matters related to supply chains) or the Ministry of Justice (on due diligence). See also chapter 3 Promotion of the Guidelines. For that reason, calls for a strengthened participation of the Ministry of Economics abound.

In addition, stakeholders positively highlighted that different stakeholder groups were represented in the NCP's structures. However, stakeholders also noted that the structure of the NCP was unclear and information difficult to find as the NCP was less visible on the website of the Ministry of Foreign Affairs. In addition, it appears that some relevant institutions should be added to the membership, notably to increase representation of civil society.

Functions and operations

The Ordinance foresees the following functions for the NCP:²¹

- Handle aspects related to the Guidelines
- Contribute to the resolution of issues in cases where violations of the Guidelines are reported
- Promote the Guidelines
- Provide information and explanation on the Guidelines

The Ordinance also authorises the NCP to request and receive relevant information from public institutions, business associations, social partners and non-governmental organisations.²²

Aside from a lack of awareness about their own role with the NCP, NCP Members appeared to have a limited awareness about the functions of the NCP, including the promotional and remedy mandate. Currently, NCP Members appear to take a predominantly reactive role in supporting the NCP Secretariat upon request.

²¹ Ordinance, §2

²² Ordinance, §3

According to the Ordinance, the NCP Chair convenes meetings as needed,²³ sets their agenda²⁴ and chairs them.²⁵ The Vice Chair can replace the Chair in chairing the meetings.²⁶ The NCP Chair can invite experts to the meetings to fulfil an advisory function.²⁷ The Ordinance does not include specifications on the frequency of NCP meetings. In practice, meetings have been held infrequently.

Due to the COVID-19 pandemic, the NCP did not hold any in-person meeting for several years; the first one since was held in December 2022. This annual meeting served as a capacity building exercise for the NCP on mediation. For this purpose, the meeting focussed on a presentation by the Chair of the Mediation Council of Latvia. In addition, the NCP Secretariat shared updates about the NCP's work, such as the upcoming peer review. Most NCP Members attended the meeting²⁸, with the exception of the Ministry of Economics.

The NCP takes decisions by simple majority vote.²⁹ The Chair's vote is decisive in case of parity,³⁰ i.e., decisions (as voted on by the members) are advisory in nature, informing the NCP Chair.³¹ In practice, decisions appear to follow a "silent procedure" whereby the NCP Secretariat proposes an approach that NCP Members do not object. There have been only few occasions on which NCP Members had to take such a decision, such as in the case of the two specific instances received to date.

The Ordinance assigns the following functions to the NCP Secretariat:³²

- external communication (including with other NCPs and the OECD bodies)
- preparation of NCP meetings, including sharing the agenda and relevant documents no later than two working days with all members of the NCP
- meeting minutes (to be prepared and shared within seven days with the NCP Members)

According to the NCP, the NCP considered the current structure adequately flexible and efficient in engaging with stakeholders to an extent. On the one hand, the NCP was placed in the position of "neutral broker" and was able to maintain the confidence of stakeholders. However, the NCP noted that the collegial structure of the NCP's limited capacity in promoting RBC as the competency for RBC was not placed with the Ministry of Foreign Affairs (i.e., the NCP's ministry), but rather with the Ministry of Economics.

Stakeholders positively evaluated the NCP's efforts to safeguard impartiality and avoid conflicts of interest in discharging its functions. They had mixed views about the involvement of stakeholders in the NCP's work. Some considered the NCP accessible and always open to inquiries. Others noted a lack of clarity on stakeholder involvement which in turn would render the NCP less accessible. It is to be noted that the only

²³ Ordinance, §4

²⁴ Ordinance, §6

²⁵ Ordinance, §4

²⁶ Ordinance, §4

²⁷ Ordinance, §5

²⁸ Institute of Corporate Sustainability and Responsibility, Ministry of Labour, State Labour Inspection, Ministry of Justice, Employers' Confederation of Latvia, Cross-Sectoral Coordination Centre, Ministry of Finance, Mediation Council, National Centre for Education

²⁹ Ordinance, §7

³⁰ Ordinance, §7

³¹ Ordinance, §7

³² Ordinance, §8

civil society institution in the NCP's membership (InCSR) is an organisation with a membership consisting exclusively of companies.³³

Resources and staffing

While the NCP has been able to draw on some budget and part-time staff, resources appear to be insufficient. The NCP does not have a dedicated budget, drawing on the budget of the Ministry of Foreign Affairs on an ad-hoc basis. The NCP's access to financial resources for promotional activities or conducting specific instances remained unchanged for the last five years. The NCP's operations are included in the budget of its division in the Ministry of Foreign Affairs. In practice, this lack of dedicated financial resources means that the NCP cannot pay for external mediators in specific instances or cover translation costs of OECD instruments into Latvian (i.e., the Guidelines for Multinational Enterprises or related due diligence guidances.) As demonstrated by experience in the NCP Network, both expenses can have a substantial, positive contribution to fulfilling the NCP mandate.

Currently, the NCP is staffed by two civil servants of the Ministry of Foreign Affairs who dedicate 20% of their time each to the tasks of the NCP. In recent years, the NCP has been short staffed while one of the Secretariat members observed maternity leave without being replaced during approximately one year. The NCP noted that this circumstance had contributed to a reduction of promotional activities and consequently reduced visibility – notably as this short staffing came during the COVID-19 pandemic. Challenges persist irrespective of the challenges posted by the COVID-19 pandemic and the short staffing during the maternity leave.

Turnover among public officials at the Ministry of Foreign Affairs, including the NCP, was reportedly high. At times, officials spent as little as 1.5 years in assignment with the NCP Secretariat. Such short appointments do not allow for the development of expertise on RBC or the functions of the NCP. Ministry of Foreign Affairs positions in capital, like those with the NCP, often remained open for lack of qualified applications and are reportedly considered less attractive compared with ministry postings in embassies abroad, largely due to differences in salaries between the two types of positions. The high turnover creates challenges towards maintaining NCP operations and fulfilling the NCP's mandate in an effective manner. For example, long-term strategic planning or the delivery of events has been difficult. To mitigate these challenges, the NCP Secretariat prepares handovers, but more could be done to enable smooth transitions between appointments if staff rotation were to continue.

The NCP noted that a future EU Directive on Corporate Sustainability Due Diligence³⁴ is expected to influence the need for additional human and financial resources as the role of the NCP in Latvia might be transformed in the wake of these developments.

As mentioned above, the NCP Members play a limited role to deliver the functions of the NCP Secretariat. However, the NCP Members are a valuable resource for the NCP, whose potential should be exploited to a greater extent.

³³ See <https://www.incsr.eu/biedri/> for a list of members.

³⁴ The European Commission adopted a proposal for Directive on corporate sustainability due diligence in February 2022, see https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en

Reporting

The NCP is embedded into the hierarchy of the Ministry of Foreign Affairs. However, there is no formal, standalone reporting on the NCP's activities, e.g. to the Minister, parliament or rest of government. Interviews indicated limited political space for RBC, including for matters related to the NCP.

The Latvian NCP has submitted its annual report to the Investment Committee regularly during past years. The NCP published some of its annual reports on its website at the time of the review, for the years 2015, 2017 and 2018. While the OECD has received reports every year, no other annual reports are available on the NCP's website. Stakeholders did not consider reports easily accessible.

	Findings	Recommendations
1.1	The NCP's structure results in several benefits, including strong convening power, perception of impartiality, inclusiveness, access to technical expertise, dissemination across government and stakeholders. However, there is a lack of clarity around the role and functions of the NCP as an institution, as well as its features, owing due to an outdated Ordinance, as well as lack of visibility to the wider public about the NCP's structures.	The NCP should enhance efforts to create transparency and clarity around its work, structure and function – both within the government, including members and government-external stakeholders. This could include publishing additional information and hosting additional meetings and events, both internally and externally. Efforts should include a reflection to what extent the Ordinance meets current needs and updating it accordingly. The reporting lines for the Head of the NCP Secretariat should be revised to be more closely integrated into the hierarchy of the Ministry of Foreign Affairs, ensuring closer involvement of senior leadership and better oversight of NCP performance.
1.2	By including government and non-governmental stakeholders like businesses, trade unions and (to an extent) civil society, the Latvian NCP rests on a diverse membership base. However, members lacked clarity about their roles and responsibilities with regards to the NCP mandate, and how the NCP can benefit them. Representation of civil society (without a business focus) was weakest among the different membership groups.	The NCP should increase efforts to create an understanding with NCP Members about their roles and responsibilities as an NCP Member in delivering the NCP's mandate, and strengthen their ownership in the NCP's work. In doing so, the NCP would ideally work towards a sense of belonging to and identification with the NCP among the NCP Members, which could be achieved through, for example, more frequent in-person meetings joint promotional and training activities as well as utilizing the MFA's convening power. The NCP should reflect whether the current NCP membership is adequate or might be adapted.
1.3	While the NCP has dedicated staff to deliver on its mandate, achievements of recent years are largely due to the personal engagement of part-time personnel – 40% of one full-time equivalent at the time of the review. In addition, the NCP grapples with the rotation of Ministry staff, and a lack of technical expertise on RBC.	Latvia should increase the NCP's resources and seek to reduce the impact of the staff rotation, for example through a stronger system to manage knowledge and share information between rotating staff.

3 Promotion of the Guidelines

Promotional plan

The Latvian NCP does not have a promotional plan. Mid- to long term planning of activities, including promotional activity, is hindered by high staff turnover and relatively short-term appointments of NCP staff.

Information and promotional materials

Latvia's NCP has developed limited promotional material, notably a brochure and introductory document for download on the NCP website. The two-page brochure contains information about the Guidelines, basic information about the NCP and information about the process for specific instances.³⁵ The 20-page introductory document contains additional detailed information about RBC, the Guidelines, due diligence guidances and the NCP and its work.³⁶ Stakeholders lauded the quality of the promotional material and found it useful. However, stakeholders found the brochures less impactful as print material was less frequently used. In addition, feedback touched upon translations of the Guidelines into Latvian. These were noted to be available, but their quality could be improved. A particular concern related to the translation of technical terms, notably “due diligence”. Here, at times, differing translations had been chosen, which might create confusion with the audience of these documents.

NCP Members have been involved in the preparation and dissemination of promotional material to a limited extent. While NCP Members are aware of material and have shared brochures, for example, there is no specific material targeting different stakeholder groups represented by the NCP Members, such as workers or business. There is potential to develop targeted material in cooperation between the different NCP Members and the NCP Secretariat.

Promotional events

All promotional activities are conducted by the NCP Secretariat almost exclusively. NCP Members, who would be able to complement activities and reach a wide audience, are largely not engaged in promotional activities. In 2022, Latvia's NCP organised and participated in several events promoting RBC and the Guidelines. Notable events include the following:

- In May 2022, a representative of the NCP's Secretariat participated as a guest speaker in the launch of the initiative “Zero Tolerance Against Corruption”³⁷. This initiative by Transparency International Latvia and the Corporate Social Responsibility Platform of Latvia, commits Latvian

³⁵ <https://www.mfa.gov.lv/en/media/4569/download?attachment>

³⁶ <https://www.mfa.gov.lv/lv/media/4506/download?attachment>

³⁷ <https://delna.lv/en/2022/07/07/why-zero-tolerance-against-corruption-is-important-for-business/>

companies to following and promoting transparency and to implementing and disclosing anti-corruption policies and procedures within the company and the business environment in general. Speakers in the event included OECD officials and the Minister of Justice. The representative of the NCP Secretariat was presented in the event agenda and summary as “Head of the OECD and Economic Cooperation Division at the Ministry of Foreign Affairs.”³⁸ The summary of the event details dissemination of information about the Guidelines and RBC; however, the NCP was not mentioned in the summary and did not appear visible in this event.³⁹

- In June 2022, the NCP Chair participated in the Responsible Business Week and Award Ceremony, taking place annually in the framework of the “Sustainability Index” programme. This participation was also an opportunity for communication and outreach (e.g., through a press release on the event by the NCP). The event is organised by the Institute of Corporate Sustainability and Responsibility (InCSR). As part of the Responsible Business Week, the Ministry of Foreign Affairs bestows the Fair Trade Award, awarded to a Latvian company complying with RBC standards and the Guidelines in foreign trade or production every year since 2015. Possible recipients of the award are evaluated according to the Sustainability Index, which tracks the extent to which the company implements a number of procedures and systems related to RBC.⁴⁰ Neither the website of the Responsible Business Week⁴¹ nor the Fair Trade Award⁴² (both in Latvian) mention the NCP nor the Ministry of Foreign Affairs for the event in 2022. Although the NCP appears to have had a substantial role in the event, visibility of the NCP as part of the event to the general public appears low.
- In December 2022, the NCP held its annual meeting in person, for the first time since the COVID-19 pandemic. Given the hiatus in meetings, this meeting served to re-ignite engagement with NCP Members and other partners across government. The meeting also contained a capacity building exercise for the NCP Members on mediation. Please see the sub-section Functions and operations for additional information.

In addition, the NCP reported to have individually engaged companies and other stakeholders via email, e.g. to inform them about the Guidelines, the NCP and its role including as non-judicial grievance mechanism. Stakeholders positively commented on the NCP’s accessibility for inquiries, but highlighted that potentially impactful, specific events or trainings for specific stakeholders’ groups were missing.

Overall, there is potential to increase the impact of the NCP’s promotional activity. Some stakeholders commented that they were unaware of the NCP’s promotional or outreach activities for specific groups and beyond limited information on the website. Others seemed to have interacted frequently with the NCP, but noted that the general public was likely less aware of RBC or the NCP’s work. Awareness among business about the Guidelines and the NCP appears to be low. However, increasing consideration of related issues, such as sustainability and the principles of RBC in general highlights potential for promoting the Guidelines with this stakeholder group in particular. The pending adoption of the European Union’s Corporate

³⁸ <https://delna.lv/en/2022/07/07/why-zero-tolerance-against-corruption-is-important-for-business/>

³⁹ <https://delna.lv/en/2022/07/07/why-zero-tolerance-against-corruption-is-important-for-business/>

⁴⁰ E.g., economic impact assessments, corruption prevention principles, environmental protection and climate change mitigating measures, principles of fair commercial practice, respect for human rights, diversity management principles; and international guidelines, including the OECD and the Global Reporting Initiative.

⁴¹ <https://www.incsr.eu/event-group/atbildiga-biznesa-nedela-2022/>

⁴² <https://www.incsr.eu/event/ilgtspejas-indekss-2022-apbalvosanas-ceremonija/>

Sustainability Due Diligence Directive (CSDDD) could create further opportunities for awareness raising around the Guidelines and the OECD Due Diligence Guidance.

Several aspects can be identified as contributing to the limited impact of promotional events. First, the NCP's gaps in staffing have impacted the NCP's promotional events in recent years. As turnover is high and appointment periods short, with limited opportunity for onboarding, NCP staff has limited ability to determine specific needs for promotional events and develop events in response. Second, the NCP experienced challenges towards effective promotion during the COVID-19 pandemic while opportunities for in-person engagements were low and ad-hoc priorities diverted capacity. Third, in the NCP's high-visibility events, most notably the Responsible Business Week, participating NCP staff was communicated as staff of the Ministry of Foreign Affairs – not as staff of the NCP. The public was thus unaware that the Latvian NCP had a part in the event.

To increase impact of promotional events in the future, the NCP should draw on its members, for example by co-organising events or enabling members to engage their own audiences, which would also strengthen their overall identification with the NCP. Several stakeholders highlighted a need for more frequent meetings internally to remain abreast of the NCP's work, and suggested leveraging the NCP Members for events. In addition, the NCP could message clearly how NCP Members can benefit from fulfilling the NCP's mandate, such as tying it to policy priorities at international and national level. Involvement of NCP members in drafting the promotional plan can be of great assistance in engaging NCP members more closely with NCP activities.

Webpage

The NCP maintains a website, albeit with limited information. The website, available in both Latvian and English, includes core information related to the Guidelines and the NCP, such as promotional material, an explanation of the Guidelines, the role of the NCP and how to file a specific instance. The page of the website on the process for specific instances also contains information on specific instances, such as statements on initial assessment or conclusion.

The website is part of the Ministry of Foreign Affairs' website, part of a section on economic cooperation and RBC. This location might not be easy to locate for all interested viewers.

A share of the information presented on the website does not appear to be recent and might be out of date. For example, a note on the website dated the last update to November 2021. Annual reports are published only for 2015, 2017 and 2018. In addition, the Rules of Procedure cannot be downloaded in English as the link appears to be broken. Stakeholders commented that the website provided all key information, but recommended that more information could be published, notably more recent annual reports.

Promotion of policy coherence

The structure of the NCP provides an opportunity to promote RBC policy coherence as it includes several ministries (see chapter 2 Institutional arrangements.) Reportedly, this structure was chosen specifically to increase awareness about RBC with other parts of government, i.e., contributing to policy coherence. In practice, NCP efforts to promote RBC policy coherence across government remain limited.

In practice, there seems to have been limited initiatives on the topic of policy coherence. The NCP is not viewed as an institution to foster policy coherence for RBC across government. Among the different government institutions, the Ministry of Foreign Affairs is considered a neutral broker, but less as a source of expertise on the topic of RBC. Competence on different aspects of RBC is dispersed among several government institutions. For example, RBC is part of the competence of the Ministry of Economics, due diligence of the Ministry of Justice. The process to develop a National Action Plan on Business and Human

Rights (NAP) illustrates these dispersed responsibilities on the topic. Latvia's NAP has been under development for several years.⁴³ This task had been placed with the Ministry of Economics, with limited follow up to finalise the NAP to date. Once adopted, the CSDDD is expected to fall under the competency of the Ministry of Justice.

There has been limited engagement by the governmental NCP Members in promoting the Guidelines in their respective ministries. This is associated with limited clarity on the part of the NCP Members of what an NCP Membership entails (see chapter 2 Institutional arrangements) and a lack of identification of government officials with the NCP. Given the diversity of NCP Members and the fact that a large part of Latvia's government is member of the NCP, engaging these members could be beneficial – notably to achieve greater RBC policy coherence. In this context, the NCP should take into account its access to OECD documents and discussions concerning the RBC issues.

Requests for information

The NCP's contact details are available on the webpage (address, email, telephone and fax.) Stakeholders considered the NCP accessible for their inquiries. No requests for information were received by the NCP.

Cooperation amongst NCPs

The NCP engages with other NCPs through the NCP Network, as well as bilaterally in the context of specific instances (see section 5) and beyond. For example, in 2019, Latvia provided input on good practice in institutional arrangements as part of a survey conducted by the Estonian NCP. In 2022, a representative of the Latvia NCP participated as a peer in the peer review of the Luxembourg NCP. Latvia has been an active participant in the Nordic-Baltic Regional NCP Network, and other NCPs in this regional network commented favourably on the NCP's constructive cooperation and engagement in this forum.

The Latvian NCP has not yet participated in an event organised by another NCP.

	Findings	Recommendations
2.1	The NCP is involved in high impact events (such as the RBC week and fair trade award), and has created a good basis for promotion. The NCP has achieved high visibility with certain groups and disseminates well crafted materials. However, the impact of the promotional activity seems to be low, branded as Ministry and not as NCP activity. There is no multi-year planning transcending staff rotation.	The NCP should develop a promotional plan defining activities and priorities as part of its promotional mandate, striving to increase the frequency of promotional activity and greater visibility under the NCP rather than the MFA brand. Additionally, such plan can be of assistance in involving all members of the NCP into NCPs' promotional activities. In preparation for moving on to more ambitious promotional goals, the NCP could start focusing on straightforward and low-resources opportunities like adapting the website towards greater visibility, such as hosting it in a more visible location on the Ministry website, fixing broken links and translating key material.
2.2	The NCP Secretariat conducts all promotional activity; NCP Members are not proactively involved in promotional work. Activities have reached considerable audiences, but the diversity and breadth of audiences reached remain limited.	The NCP should better leverage its Members and other multipliers in delivering promotional activities. NCP Members should be involved in promotional activities and promote RBC, the Guidelines and the NCP with their specific audiences, achieving greater reach. This effort should include enabling NCP Members to host own events about the NCP.
2.3	The representation of many parts of government among the NCP Members provides a good basis to promote RBC policy coherence. However, there is limited initiative on this topic and the NCP is not viewed as a source of expertise on RBC and likewise not as a place to foster policy	The NCP should disseminate information about RBC among other government institutions and develop leadership on the topic, including by utilising its convening power for more regular in-person meetings for raising awareness about RBC in government. This should be accompanied by developing a vision around the NCP's mandate and

⁴³ see OHCHR website, <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-human-rights>

coherence on RBC.	tasks in that regard. The OECD Recommendation on the Role of Government in Promoting RBC can provide support in realizing this recommendation.
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4 Specific instances

Overview

As of the date of the on-site visit, the NCP had received two specific instances in total (both since 2011), a relatively low number. One instance was not accepted; a second one was accepted and concluded with an agreement during the peer review period, and NCP follow up foreseen.

The two sectors concerned by specific instances handled by the NCP are “*Financial and insurance activities*”, as well as “*Transportation and storage*”. The specific instances concern chapters *III. Disclosure*, and *VI. Environment*. An overview of all cases handled by the NCP is available in Annex D.

Stakeholders noted that awareness about the possibility to raise specific instances was relatively low with relevant groups, including business, civil society and trade unions. Some highlighted the need for clearer and more visible guidance. Parties to specific instances highlighted that the NCP’s involvement brought an agreement but recommended stricter observation of the Rules of Procedure and clearer communication around the steps taken by the NCP as part of its role to resolve the issues.

Rules of Procedure

The Latvian NCP adopted Rules of Procedure in April 2018.⁴⁴ Only a Latvian version⁴⁵ of the Rules of Procedure is available on the NCP’s website. The download link for the English version⁴⁶ is not working. The NCP provided an English version of the Rules of Procedure to the peer review team, on which the following analysis is based. Stakeholders highlighted that this lack of availability decreased the NCP’s accessibility and visibility significantly, as well as its perceived or actual impartiality and predictability, encouraging the NCP to publish its rules of procedure in English to meet the expectations of the Guidelines.

Aside from a brief introduction, the Rules of Procedure contain the following short sections:

- Latvia’s National Contact Point⁴⁷
- Procedures:
 - Initiating a request⁴⁸

⁴⁴ <https://www.mfa.gov.lv/en/latvian-ncp-process-considering-specific-instances>

⁴⁵ https://www2.mfa.gov.lv/images/OECD_2019/procedura_LV.pdf

⁴⁶

https://www.mfa.gov.lv/images/OECD_2019/LVNCP_Procedures_Specific_Instances.pdf

⁴⁷ Rules of Procedure, p. 1

⁴⁸ Rules of Procedure, p. 2

- Stages in handling specific instances⁴⁹
- Timetable⁵⁰
- Code of Conduct – Confidentiality and disclosure of this information⁵¹
- Coordination between NCPs⁵²

Two introductory paragraphs briefly state the purpose of the Guidelines in the words of the NCP, as well as the role of NCPs according to the guidelines, notably resolving issues in relation to the guidelines.

The section “**Latvia’s National Contact Point**” explains the composition of the Latvian NCP, and introduces six principles that guide the work of the Latvian NCP: visibility, accessibility, transparency, impartiality, predictability, equitability. The Rules of Procedure state that these criteria are based on the Guidelines, which define core criteria and guiding principles for the handling of specific instances.⁵³ However, at the time of review, the Guidelines in place defined a total of eight criteria or principles; four core criteria (visibility, accessibility, transparency and accountability) and four guiding principles for handling specific instances (impartiality, predictability, equitability, and compatibility with the OECD Guidelines.)

The section “**Procedures**” makes up most of the Rules of Procedure and includes the remaining sections.⁵⁴

The sub-section titled “**Initiating a request**” contains information on who can submit a specific instance and what elements the submission should entail. First, the section repeats the role of the NCP in resolving issues according to the Guidelines. Here, the Rules of Procedure foresee that “stakeholders” may report issues, and that submitters must have a “specified interest in the case, be in a position to supply information about it and have a clear view of the outcome they wish to achieve.”⁵⁵ The latter requirement extends beyond the Guidelines. According to this section of the Rules of Procedure, the submitters have to provide⁵⁶

- Information about themselves
- Information about the organisation that allegedly has violated the Guidelines
- What the issue at hand is and what chapters of the Guidelines are concerned
- Possibly information about parallel proceedings

The section also encourages submitters to substantiate their claim and provides that the NCP will offer “mediation and conciliation services” if the matter is deemed “material and substantiated”⁵⁷ Note that this provision does not reflect the Guidelines in force at the time. The Commentary to the Guidelines foresees good offices when the case is found to be “bona fide and relevant to the implementation of the Guidelines”

⁴⁹ Rules of Procedure, p. 2

⁵⁰ Rules of Procedure, p. 5

⁵¹ Rules of Procedure, p. 6

⁵² Rules of Procedure, p. 6

⁵³ Rules of Procedure, p. 1

⁵⁴ Rules of Procedure, pp. 2ff

⁵⁵ Rules of Procedure, p. 2

⁵⁶ Rules of Procedure, p. 2

⁵⁷ Rules of Procedure, p. 2

⁵⁸. As such, the differing formulation in the Rules of Procedure might reduce the predictability of the NCP. The section does not require a format for the submission.

There is no ad-hoc submission form on the website of the NCP. Complaints can be submitted either via email or post. The parties to a complaint can also meet in person with the NCP to introduce a specific instance or substantiate their case. This information is not provided in the Rules of Procedure.

The section “**Stages in handling specific instances**” considers the following sub-sections:

- Stage 1 – Confirmation of receipt
- Stage 2 – Initial assessment
- Option for resolving the matter independently
- Stage 3 – Mediation or facilitation
- Stage 4 – Completion of the procedure, drafting and publication of the Final Statement
- Stage 5 – Providing follow-up services

According to “**Stage 1 – Confirmation of receipt**”, the NCP confirms receipt of the specific instance within 14 working days, and notifies the concerned company. Both parties receive written information on the process to follow, and can meet with the NCP to clarify the procedure. The company is offered the opportunity to respond to the claims made, and can do so within 10 working days.⁵⁹

“**Stage 2 – Initial Assessment**” details the process for the initial assessment conducted by the NCP. The section states that here, the NCP will determine whether the issue raised is bona fide and relevant to the implementation of the Guidelines.⁶⁰ This is in line with the formulation in the Commentary to the Guidelines, but deviates from a similar statement in the section of the Rules of Procedure “Initiating a request”. Specifically, the NCP will consider:⁶¹

- Whether Latvia’s NCP is the appropriate entity to consider the request,
- Identity of the party concerned and its interest in the matter
- Whether the issue is material and substantiated
- Whether links between the company’s activities and issue raised appear
- Applicable law and procedures
- How similar issues have been, or are being treated in other domestic or international proceedings
- Contribution to the purposes and effectiveness of the Guidelines

According to this section, the NCP will exchange with both parties as part of the initial assessment. The NCP is also to inform the parties if it decides not to examine the issue further, issuing a statement describing the issues and reasons for the NCP’s decision. In case the NCP does decide to accept a case, NCP prepares a draft initial assessment for the commentary by the parties. The parties have to comment within two weeks. The Rules of Procedure foresee that, once finalised, the initial assessment statement

⁵⁸ OECD Guidelines, Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises, Paragraph 25.

⁵⁹ Rules of Procedure, p. 2

⁶⁰ Rules of Procedure, p. 3

⁶¹ Rules of Procedure, p. 3

will be published on the NCP's website.⁶² The peer review team located one initial assessment on the website, pertaining to *SIA OMNIVA and Individual*.⁶³

According to the subsection "**Options for resolving the matter independently**", following the initial assessment, the NCP gives the parties the option to try and resolve the matter without the NCP's support, for a period of three months. There is no statement by the NCP in case the parties resolve the matter independently; if not, the NCP intervenes.⁶⁴

"**Stage 3 – Mediation or facilitation**" defines the concept of mediation in the context of a specific instance, the role of the NCP and the process to be followed. According to this section, the NCP will offer mediation, and facilitate a constructive exchange between the parties if the offer is accepted. The role of the NCP is that of a facilitator between the parties, for example by structuring the mediation, seeking external expertise and summarising meeting outcomes. The NCP pledges to always remain neutral and respect decisions if parties do not wish to engage in mediation.⁶⁵

The subsection authorises the NCP to engage others as part of the mediation process, e.g. to seek advice from relevant authorities, institutions and experts, OECD bodies, to coordinate with other NCPs, or to facilitate access to means supporting the parties in resolving their issues.⁶⁶ However, the Rules of Procedure do not foresee the use of a professional mediator. The subsection requires parties and NCP to agree to Terms of Reference for mediation, and foresees that "persons taking part in mediation as representatives of the parties should have the authority to implement a proposed agreement"⁶⁷. The Rules of Procedure foresee an end to mediation either when the parties have reached an agreement, or if the NCP determines that "the issue is not likely to be resolved within a reasonable timeframe."⁶⁸ The subsection notes that the NCP issues a final statement in both cases.⁶⁹ Some information in this section overlaps with information in subsection "Stage 4".

Under the heading "**Stage 4 – Completion of the procedure, drafting and publication of the Final Statement**", the Rules of Procedure describe how the NCP concludes a specific instance. The NCP issues a public statement detailing how the specific instance ended, i.e. with or without agreement.⁷⁰ In doing so, the NCP should take "into account the need to protect sensitive business and other stakeholder information."⁷¹ In the case the parties have not reached an agreement, the NCP can include recommendations in its final statement. Parties can provide comments on the final statement within two weeks after having received the draft statement. The final statement is to be published on the NCP website.⁷² The NCP noted that determinations may be part of NCP's final statement concluding a specific instance, as there was no clause in the Rules of Procedure prohibiting their use. However, the Rules of

⁶² Rules of Procedure, p. 3

⁶³ https://www.mfa.gov.lv/sites/mfa/files/media_file/2022_initial_assessment_omniva.pdf

⁶⁴ Rules of Procedure, p. 3-4

⁶⁵ Rules of Procedure, p. 4

⁶⁶ Rules of Procedure, p. 4

⁶⁷ Rules of Procedure, p. 4

⁶⁸ Rules of Procedure, p. 4

⁶⁹ Rules of Procedure, p. 4

⁷⁰ Rules of Procedure, p. 5

⁷¹ Rules of Procedure, p. 5

⁷² Rules of Procedure, p. 5

Procedure are not clear in this regard. As a consequence, parties to specific instances may be unaware that determinations are a part of the action the Latvian NCP can take in a specific instance.

According to subsection “**Stage 5 – Providing follow-up services**”, the NCP can request parties to share information on how the agreement has been implemented. By default, the NCP will publish a short implementation report one year after the publication of the final statement detailing progress on implementation of the agreement or recommendations.⁷³

The section “**Timetable**” details the timeframe for each of the stages presented above (see also subsection “Timeliness” below.) The NCP commits to meeting these deadlines and to informing parties in case of unavoidable delays. The section also calls on the parties to promptly share information if requested to facilitate the prompt resolution of the specific instance.⁷⁴

“**Code of Conduct – Confidentiality and disclosure of this information**” develops rules for confidentiality and related expectations towards the parties (see section below.) The Rules of Procedure defer to Latvia’s Mediation Law, which regulates any mediation procedure in the country.⁷⁵ According to further clarifications during the on-site visit, so far, there has been limited exchange with Latvia’s Mediation Council, which is in charge of overseeing mediation in the country. The deference to Latvia’s mediation law for the purposes of regulating confidentiality in specific instances appeared to have limited relevance with regards to specific instances in practice.

The final section, “**Coordination between NCPs**” commits the NCP to coordinating with other NCPs in case they are concerned with a specific instance (see below.) This should include information on progress, as well as exchanges of draft statements and information.

Overall, the Rules of Procedure of Latvia’s NCP appear to be largely in line with the Guidelines as applicable at the time of the peer review visit. They appear to provide a solid framework for handling specific instances. At the same time, some aspects of the Rules of Procedure are less clear, which might affect predictability of specific instances. Examples for aspects that could benefit from further clarification include the use of determinations; the role of different NCP Members regarding specific instances; references to Latvia’s mediation law and the possibility to involve external mediators in specific instances.

Specific Instances in Practice

As mentioned above, the Latvian NCP has handled two specific instances at the time of the review – one was not accepted, one accepted and concluded during the review period. The Latvian NCP has not yet used the possibility for determinations, but stated that the Rules of Procedure provide for such a possibility implicitly by not prohibiting them. Follow up is foreseen for the recently concluded case. Stakeholders commented that they were unable to evaluate the NCP’s performance due to relatively few specific instances received by the NCP.

Non-accepted cases

Since 2011, the NCP did not accept one out of two specific instances received (*JSC Norvik Bank regarding efficiency and transparency of Latvia’s legal system and public institutions*). In July 2016, commercial bank JSC Norvik Bank submitted a specific instance with the Latvian NCP against Latvia’s judiciary. The bank was involved in a legal dispute with Winergy Ltd. In this context, the bank alleged, Latvia’s Prosecutor

⁷³ Rules of Procedure, p. 5

⁷⁴ Rules of Procedure, p. 5-6

⁷⁵ Rules of Procedure, p. 6

General's Office, the Financial and Capital Market Commission and Latvian State Revenue Service had acted deliberately slow and inefficiently. As a consequence, the bank felt that access to justice was denied to them.

Following an initial assessment, the NCP concluded that this specific instance did not merit further examination. According to the final statement in the case issued in October 2016, the issues raised were considered not relevant to the implementation of the Guidelines. The main reason cited by the NCP was that the public institutions and judicial authorities cited as respondents in the specific instance could not be considered multinational enterprises according to the Guidelines, as they were “not international in nature and [...] not engaged in commercial activities.”⁷⁶

Accepted cases

Since 2011, the NCP accepted one out of two cases. The NCP offered good offices. The case was concluded during the review period. See Box 5.1 for a summary of the accepted specific instance.

Box 4.1. SIA OMNIVA and Individual

In July 2021, an individual residing in Latvia submitted a specific instance against Latvian logistics company SIA OMNIVA (*SIA OMNIVA and Individual*)⁷⁷. The individual alleged that SIA OMNIVA violated the Environment Chapter (Chapter VI) of the Guidelines. According to the submitter, courier van drivers reportedly left engines running and the vehicles unattended while fulfilling deliveries, notably in zones where children were particularly exposed to exhaust. The individual pointed to resulting air and noise pollution. The individual submitted the specific instance following direct contact with SIA OMNIVA about these issues to no avail. The individual requested that delivery drivers cease these practices, and that SIA OMNIVA verified behaviour through regular audits.

As part of the initial assessment, the NCP Secretariat made efforts to collect information about the issue at hand, drawing on expertise across government, for example on legal, environmental and public health aspects of pollution through exhaust. The NCP Secretariat informed the NCP Members regularly.

The NCP engaged the company in several meetings virtually and in person, with representatives of both the Estonian and Latvian branches and differing reactions. Aside from the NCP Secretariat, one NCP Member participated in these exchanges. SIA OMNIVA accepted the NCP's offer of good offices in May 2022.

As a result of the good offices, the company took a number of measures in line with the suggestions by the submitter, such as training for the drivers, software-led supervision of driving habits, and incentives for drivers. The measures proved to be impactful, decreasing the average fuel consumption (in litres per km) of SIA OMNIVA's fleet by 12% compared with the previous year.

Inquiries by the peer review team found that the NCP managed the overall process to the satisfaction of the parties. However, it appears that the communication by the NCP about the process could be increased and clarified. In addition, the NCP seems to have applied a more flexible approach to the sequence of steps in the specific instance provided by the Rules of Procedure, e.g. by engaging in

⁷⁶ Final statement, Latvian NCP (1 July 2016), *JSC Norvik Bank regarding efficiency and transparency of Latvia's legal system and public institutions*, <http://mneguidelines.oecd.org/database/instances/lv0001.htm>

⁷⁷ Latvian NCP (9 July 2021), *SIA OMNIVA and Individual*, link to OECD Case Database not yet available.

meetings with the targeted company that arguably went beyond the scope of an initial assessment and appeared to have approached negotiations around the issues at stake in the specific instance.

Source: Information provided by the NCP; draft final statement on the case

SIA OMNIVA and Individual was initially submitted with the NCP of Estonia, the home country of SIA OMNIVA's parent company. However, the submission alleged breaches in Latvia by a Latvian company prompting Estonia's NCP to initiate contact with the Latvian NCP. Following coordination between the Estonian and Latvian NCPs mostly via written electronic communication, the Latvian NCP took the lead in the specific instance.

In its initial assessment, the Latvian NCP found that the issue merited further examination because a resolution of this issue could have wider positive impacts not only on SIA OMNIVA's activities but also on the transport industry as a whole. In conducting its initial assessment, the NCP solicited input from two public institutions with competence on the issues raised, notably the Road Traffic Safety Directorate (CSDD) and the Ministry of Environmental Protection and Regional Development, as permitted by the Rules of Procedure.⁷⁸ This approach is highlighted as a good practice to determine the factual basis of a specific instance.

The NCP was able to conclude the specific instance with an agreement. The initial⁷⁹ and final⁸⁰ statements have been published on the NCP's website. NCP Members were involved in the specific instance only to a limited extent, mostly in gathering background information to substantiate the issues. The Corporate Sustainable Institute was the only NCP Member that participated in meetings with the parties.

Follow-up

No follow up needed to be conducted in the case that was not accepted. In the recently concluded case, the NCP foresees to visit SIA OMNIVA on-site 12 months after the final statement to verify that the company's commitments have been implemented, i.e., in March 2024.

Timeliness

The Rules of Procedure foresee the following timeframes for each stage of the specific instance:⁸¹

- Completing a specific instance: within one year of receiving the submission
- Completing stage 1 (Confirmation of receipt): within 14 working days of receipt by the NCP
- Completing stage 2 (Initial assessment): within further 3 months, wherever possible
- Completing stage 3 (Mediation or facilitation): within further 6 months
- Completing stage 4 (Completion of the procedure, drafting and publication of the Final Statement): within further 3 months
- Completing stage 5 (Providing follow-up services): within a year after completion of Stage 4.

These timeframes are in line with the Guidelines. In practice, implementation of these timelines remains inconclusive as the NCP has received a limited number of cases to date.

⁷⁸ Rules of Procedure, p. 4

⁷⁹ https://www.mfa.gov.lv/sites/mfa/files/media_file/2022_initial_assessment_omniva.pdf

⁸⁰ https://www.mfa.gov.lv/sites/mfa/files/media_file/2023_final_statement_omniva_0.pdf

⁸¹ Rules of Procedure, p. 5

For example, each procedural step in *SIA OMNIVA and Individual* took longer than specified in the Rules of Procedure. The case was concluded in March 2023 after approximately 20 months, i.e. longer than foreseen in the Guidelines. The NCP issued its offer of good offices 10 months after receipt; the final statement was being reviewed for ten months.⁸² It appears that the extended duration of the process risked negatively impacting perceptions of the NCP procedure.

In *JSC Norvik Bank regarding efficiency and transparency of Latvia's legal system and public institutions*, the NCP concluded the initial assessment (and the case) within three months of receipt, in line with its Rules of Procedure.⁸³

Confidentiality and transparency

The Rules of Procedure include a section to regulate confidentiality.⁸⁴ To this effect, the Rules of Procedure refer to the Mediation Law. This law regulates how to disclose or access information, protect data and handle confidentiality in the context of mediation procedures. However, the Rules of Procedure do not clearly develop the resulting expectation on the NCP's case handling specifically, creating uncertainty. The Rules of Procedure state that in "principle, neither the NCP nor the parties involved may make information from the specific instance or the subsequent proceedings publicly available."⁸⁵ Exceptions are statements by the NCP as foreseen in the Rules of Procedure (i.e., initial assessment statement and final statement), as well as circumstances where parties have granted permission to provide information.⁸⁶

Stakeholders highlighted that the Rules of Procedure do not explicitly state a possibility for the NCP to protect the submitter's identity. Stakeholders maintained the importance of keeping the identities of individual complainants confidential, vis a vis MNEs for security reasons. In addition, stakeholders commented that a specific instance should be made public prior to the initial assessment to maintain transparency of the specific instance process (with exceptions for specific circumstances including security reasons or legitimate business information.)

In *SIA OMNIVA and Individual*, it appears that the NCP was not fully transparent to all parties at all times, e.g. by failing to communicate the transfer of the case from the NCP of Estonia to the NCP of Latvia. Language appears to have been a barrier to publishing the initial statement. While the lack in communication was not perceived negatively or against their interests by the parties, additional efforts to communicate more clearly could be beneficial in future specific instances.

Impartiality and avoidance of conflict of interests

The Rules of Procedure include clear provisions delineating the expectations towards the NCP on impartiality: "at all times the NCP will be neutral and will avoid any appearance of partiality in its contacts with stakeholders, the consideration of specific instances and its promotional activities."⁸⁷ The Rules of

⁸² Known dates: The case was received in July 2021; the offer of good offices was accepted in May 2022. The final statement was being commented by the parties in February 2023.

⁸³ Known dates: the case was received in July and closed in October after initial assessment (not accepted.)

⁸⁴ Rules of Procedure, p. 6

⁸⁵ Rules of Procedure, p. 6

⁸⁶ Rules of Procedure, p. 6

⁸⁷ Rules of Procedure, p. 1

Procedure require the NCP Members to recuse themselves from specific instances if they have “a stake in one of the parties involved with a specific instance”.⁸⁸ There has been limited application of the rule in practice, given the limited involvement of the NCP Members in the received specific instances.

Stakeholders familiar with the handling of specific instances favourably evaluated the NCP’s role, noting that the NCP had always remained impartial. Stakeholders also commended the fact that the NCP was located in the Ministry of Foreign Affairs as a positive prerequisite to avoid conflicts of interests on an intuitional level, as this ministry was not tasked with business promotion. The location of the NCP in the Ministry of Foreign Affairs was considered beneficial towards impartiality, given the Ministry’s ability to convene different parties as a neutral broker.

Parallel proceedings

The Rules of Procedure do not specify a course of action in the case of parallel proceedings, but authorise the NCP to collect information about them in case they appear in specific instances.⁸⁹ None of the specific instances handled by Latvia’s NCP involved parallel proceedings.

Cooperation with other NCPs

The Rules of Procedure specifically commit Latvia’s NCP to cooperation with the NCPs of other countries as relevant, highlighting the importance of reporting on progress and decision making, as well as sharing draft statements and information.⁹⁰

Two NCPs provided feedback on their cooperation with the Latvian NCP. Out of these two, one NCP had cooperated with the Latvian NCP in the context of a specific instance. As highlighted above, the specific instance about a Latvian company was initially submitted to Estonia’s NCP. The NCPs of Latvia and Estonia subsequently exchanged via email and in online meetings to discuss the case. Both NCPs assessed this exchange positively and deemed the resulting decision (that the Latvian NCP take the case) as effective. The statements in the case were shared with the Estonian NCP upon conclusion of the case. Parties to the case had been unaware of specifics of the coordination between the two NCPs.

Table 4.1. Specific instance where the Latvian NCP has coordinated with other NCPs

Specific instances	Lead NCP	Supporting NCP(s)
<i>SIA OMNIVA and Individual</i>	Latvia	Estonia

Source: Information provided by Latvia’s NCP.

Request for clarification

To date, Latvia has not submitted requests for clarification from the Investment Committee or the Working Party on Responsible Business Conduct.

Findings	Recommendations

⁸⁸ Rules of Procedure, p. 1

⁸⁹ Rules of Procedure, p. 2

⁹⁰ Rules of Procedure, p. 6

3.1	The Latvian NCP developed Rules of Procedure that are largely aligned with the Guidelines and that have proven to work as evidenced by the most recent case. However, several aspects remain less clear, affecting predictability, such as on determinations, the decision-making role of the NCP Members, implications on confidentiality by the mediation law or the use of external mediators.	The NCP should revise the Rules of Procedure towards greater clarity. In doing so, the NCP Secretariat should involve the members of the NCP so as to build their ownership in the process and discuss how they should be best involved in specific instances. Importantly, revised procedures for specific instances should seek to leverage NCP Members to fulfil the mandate of the NCP also in specific instances.
3.2	While the NCP's Rules of Procedure facilitated the agreement in the most recent specific instance, in some aspects, the Rules of Procedure were not closely followed, notably in communication with the parties. Such derogations can impact predictability of the specific instance procedures.	The NCP should ensure the Rules of Procedure are closely followed and the sequence of steps is maintained. As part of onboarding staff under rotation, information on the Rules of Procedure as well as training materials on specific instances should be passed on to ensure their close implementation.

5 Annex Documents

- A. List of organisations submitting responses to the NCP peer review questionnaire
- B. List of organisations that participated in the NCP peer review on-site visit
- C. Promotional events
- D. Overview of specific instances handled by the NCP as the leading NCP

Annex A. List of organisations that submitted a response to the NCP peer review questionnaire

“Sabiedrība par atklātību – Delna” / Transparency International Latvia

Free Trade Union Confederation of Latvia (LBAS)

Institute of Corporate Sustainability and Responsibility of Latvia (InCSR),

OECD Watch

Annex B. List of participants in the NCP peer review on-site visit⁹¹

- Balta Insurance
- Competition Council of Latvia
- Consumer Rights Protection Centre (PTAC) (public institution in charge of consumer protection policy)
- Cross-Sectoral Coordination Centre of Latvia
- ELKO GROUP
- Foreign Investors Council in Latvia (FICIL)
- Free Trade Union Confederation of Latvia (LBAS)
- Institute of Corporate Sustainability and Responsibility of Latvia (InCSR)
- Investment and Development Agency of Latvia (LIAA)
- Latvian Association of Small and Medium Enterprises
- Latvian Chamber of Commerce and Industry (LTRK)
- Maxima LATVIA
- Mikrotīkls
- Ministry of Economics
- Ministry of Education and Science
- Ministry of Finance
- Ministry of Welfare
- National Centre for Education*
- NCP Chair
- NCP Secretariat
- Ombudsman's Office of Latvia
- Riga City forests
- Riga International Airport
- SCHWENK
- SIA OMNIVA
- State Labour Inspectorate (VDI)
- Submitter in *Individual v OMNIVA*
- Swedbank LATVIA
- Transparency International Latvia

⁹¹ Due to conflicting agendas, meeting with the parties in *Individual v OMNIVA*, InCSR, and the NCP Chair were held remotely.

Annex C. Promotional events

2022: Promotional events organise or co-organised by the NCP

TITLE	DATE	LOCATION	TYPE OF EVENT	SIZE OF AUDIENCE	ORGANISED OR CO-ORGANISED?	TARGETED AUDIENCE	THEME
SUSTAINABILITY INDEX FAIR TRADE AWARD	14-Jun-2022	Rīga	Conference	>100	Co-organised	Business representatives NGOs Trade Unions Academia Government Other, General Public	<p>In June, the NCP Chair took part in an annual Responsible Business Week event and Award ceremonies that takes place within the framework of “Sustainability Index” programme aimed at evaluating business sustainability. These events are organized by the Institute of Corporate Sustainability and Responsibility (InCSR) and since 2015, the MFA annually bestows the Fair Trade Award which is given to a Latvian company complying with the RBC standards and the OECD Guidelines in foreign trade or production. When evaluating candidates, it is assessed within the Sustainability Index how the company implements the following:</p> <ol style="list-style-type: none"> 1) economic impact assessment, corruption prevention principles; 2) environmental protection and climate change mitigating measures at all stages of the production life cycle; 3) principles of fair commercial practice in relations with suppliers and subcontractors, incl. respect for human rights and diversity management principles; 4) as well as international guidelines, including the OECD and the Global Reporting Initiative, are used in reporting on corporate responsibility and sustainability. <p>The sustainability index is a strategic management tool based on an internationally recognized methodology, helping Latvian companies to diagnose the sustainability of operations and the</p>

MEDIATION PRESENTATION/CONSULTATION FOR THE LATVIAN NCP CAPACITY-BUILDING.	08-Dec-2022	Rīga	Meeting	10-50	Organised	Trade Unions Government	level of corporate responsibility. NCP held its annual meeting which, amongst other topics, was focused on mediation topic introduced by the Chair of the Mediation council of Latvia for the purpose of the NCP capacity-building.
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2022: Presentations by the NCP in events organised by others

TITLE	DATE	LOCATION	TYPE OF EVENT	SIZE OF AUDIENCE	TARGETED AUDIENCE	ORGANISER(S)	THEME OF THE INTERVENTION
“ZERO TOLERANCE AGAINST CORRUPTION INITIATIVE” FOR LATVIAN COMPANIES	30-May-2022	Rīga	Conference	>100	Business representatives NGOs Trade Unions Government Other	NGOs: 1) Transparency International Latvia and 2) Corporate Social Responsibility Platform of Latvia	Promotion of the OECD Guidelines for Multinational Enterprises and responsible business conduct

Annex D. Overview of specific instances handled by the Latvian NCP as the leading NCP

Table A D.1.

Enterprise	Submitter	Host Country	Chapter (s) of the Guidelines	Date of submission	Date of initial assessment	Date of conclusion	Outcome	Description	Follow-up
n/a (submitted against Latvian Prosecutor General's Office)	JSC Norvik Bank	Latvia	III. Disclosure	01/07/2016	01/11/2016	01/11/2016	Not accepted	JSC Norvik Bank regarding efficiency and transparency of Latvia's legal system and public institutions ⁹²	n/a
SIA OMNIVA, a logistics subsidiary Latvian company owned by an Estonian parent company	Individual	Latvia	VI. Environment	09/07/2021	14/04/2022	03/02/2023	Accepted	Individual submitting a complaint about environmental and noise pollution due to idling delivery vans by SIA OMNIVA	

Source: OECD Case Database (2023); information provided by the Latvian NCP.

⁹² <http://mneguidelines.oecd.org/database/instances/lv0001.htm>

National Contact Point Peer Reviews: Latvia

Governments adhering to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner.

This report contains a peer review of the Latvian NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

