



## Press release by the NCP dated 26 March 2019

### **The French NCP completes the follow-up to the peer review and revises its Bylaws**

- **Positive conclusion of the peer review of the French NCP**

In 2017, a peer review was carried out of the French National Contact Point for Responsible Business Conduct. The report of this review was presented to the OECD in December 2017 and subsequently published by the OECD<sup>1</sup> in June 2018. The review was conducted by the NCPs of Belgium, Morocco and Canada, with support from the OECD. The findings of the report reflect the positive review of the French NCP. In terms of its institutional arrangements, the reviewers highlighted the NCP's compliance with the standards established by the OECD, as well as the importance of its tripartite structure which lend it undeniable legitimacy and representation. Moreover, the peers noted the highly proactive role played by the NCP in promoting not only the OECD Guidelines but also Corporate Social Responsibility (CSR) in general. They likewise commended its participation in international efforts enabling the implementation of the Guidelines at sectoral level, as well as the quality of the partnerships and contacts developed. Lastly, with regard to the handling of specific instances, the NCP reviewers welcomed the good practices put in place by the French NCP (transparency, recommendations, compliance, follow-up, detailed communication).

For more information on NCP peer reviews: <https://mneguidelines.oecd.org/ncppeerreviews.htm>

#### **Extract from the official summary of the peer review report of the French National Contact Point**

*"The French NCP is active in responding to its mandate of promoting the Guidelines, responding to requests for information and handling specific instances. It is effective in its activities and responsive when dealing with stakeholders. In addition, the NCP has grown as a result of its experiences and is responsive to lessons learned, as reflected in the amendments to its Bylaws, especially with regard to the procedure for handling specific instances, strengthened dialogue with stakeholders, as well as in the increased specific allocation of human resources to the NCP's work, and the negotiation of partnerships with key actors".*

- **8 peer review recommendations for the French NCP**

Upon completing their observations, the NCP reviewers drew up a comprehensive list of eight recommendations for the French NCP.

Three concerned institutional arrangements:

- It was recommended that the NCP ensure a balanced representation of the different categories within its structure given the presence of only one business association compared to six trade unions and four government administrations;
- An active and constructive participation by all NCP members in successfully achieving the NCP's mandate was encouraged;
- It was recommended that the human and financial resources allocated to the NCP Secretariat be increased in order to maintain the high level of activities and services offered by the NCP.

The peers made two recommendations to the French NCP concerning promotion of the Guidelines:

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<sup>1</sup> The peer review report is available here: <https://mneguidelines.oecd.org/ncppeerreviews.htm>



- The NCP was encouraged to continue its work with NGOs with a view to establishing a regular dialogue and improving their confidence in the NCP mechanism;
- The reviewers invited the least active NCP members to step up their promotion of the Guidelines and the NCP within their respective organisations and networks.

Lastly, the peers made three recommendations to the NCP about the handling of specific instances:

- It was suggested that the NCP facilitate discussion and exchange between the parties as early as possible;
- The NCP was invited to specify the different phases in its procedure, and to post a diagram explaining the procedure on its website;
- It was recommended that the NCP formalise the practice of having an NCP member withdraw from the procedure when conflict of interest, or the appearance of conflict of interest, arose.

- **The French NCP followed the recommendations of its peers**

Twelve months after a peer review, the OECD expects the reviewed NCPs to report on the remedial measures which they have taken. In December 2018, the French NCP presented to the OECD the various actions it had taken to implement the recommendations made by the peers. It also presented the findings of the peer review to its civil society stakeholders at a meeting which took place on 30 January 2019 (see the press release dated 19 March 2019).<sup>2</sup>

With regard to the recommendations concerning institutional arrangements, the NCP considered that its current composition allowed it to act effectively and gave it sufficient representation in terms of social dialogue. Consequently, it will not be changing the composition of its business representatives as suggested by its peers. In addition, it indicated that all NCP members attended NCP meetings and were involved in the handling of specific instances. It also noted that it had the financial resources necessary for achieving its mandate. The NCP pointed out, however, that the human resources in the NCP Secretariat had not been increased, and it hopes that this recommendation can be implemented at a later date.

Regarding the recommendations for promoting the Guidelines, the NCP has continued its work with civil society and NGOs. In 2017, it had already organised several events to establish dialogue with these stakeholders (discussions within the framework of the annual NCP information session) which were repeated and scaled up in 2018 (annual information session on 5 February 2018, meetings with NGOs, attendance of events organised by civil society, broader contact with academic institutions), and which will be renewed in 2019.

It should be noted that the NCP observed a marked increase in the presence of NGOs in new specific instances received in 2018. Three out of four specific instances were submitted by NGOs, and the NCP was in contact with six NGOs during the handling of the said specific instances.<sup>3</sup>

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<sup>2</sup>“Retour sur la réunion de dialogue entre le PCN français et la société civile du 30 janvier 2019”, available [here](#)

<sup>3</sup> ProDESC (Mexico), Union Hidalgo Agrarian and Indigenous Sub-Community (Mexico), ADIMED (Democratic Republic of Congo), two international NGOs specialised in human rights, one Tunisian NGO.

Moreover, the fact that some trade union NCP members carry out fewer promotional activities in no way prejudices the NCP's active efforts to promote the Guidelines. Since 2015, the French NCP has been the most active member in the network of 48 peer NCPs.

As for the three recommendations concerning the handling of specific instance, they have all been implemented (see below). The NCP will continue, as it has always done, to encourage dialogue between the parties, including as early as possible, with or without it being present. In order to provide clarity on the procedure for handling specific instances, the NCP started developing several tools in May 2017, which were posted on a dedicated page on its website in June 2017<sup>4</sup>:

- A diagram of the procedure;
- A fact sheet on the procedure;
- An initial assessment form, available in French and English.

Lastly, the NCP followed the peer recommendation regarding measures for taking into consideration the possible risk of conflict of interest and integrated it into the Bylaws (see below).

Moreover, during the implementation of the eight peer recommendations, the French NCP also put in place several measures to increase its visibility (new interface on the "Trésor-Info" portal that hosts the NCP website by publishing NCP updates under the [#PCN France – Trésor Info](#) tag) and autonomy within the Directorate-General of the Treasury of the Ministry of Economy and Finance (autonomy of the NCP in the organisation chart of the Directorate-General of the Treasury<sup>5</sup>).

- **The French NCP completed the peer review with the revision of the NCP Bylaws on 5 February 2019**

On 5 February 2019, the NCP revised its Bylaws, thereby completing the follow-up to the recommendations and the peer review. The twofold purpose of the revision is to improve transparency on the NCP's procedure for handling specific instances, and to integrate the prevention of conflict of interest.

- **Greater transparency on the NCP's procedure for handling specific instances:** Sections IV and V of the Bylaws on "Referrals to the NCP – Initial assessment" and "Examination of specific instances" have been expanded in order to make the NCP's procedure for handling specific instances even more transparent and predictable. The Bylaws now refers explicitly to the tools developed by the NCP and posted on its website in June 2017 (diagram on the procedure, fact sheet on the procedure). The amendments to Articles 18, 20 and 21 help to provide details on the different aspects that constitute the evaluation of admissibility of a referral (phase one of the procedure). The additions to Articles 27, 28, 33 and 38 specify the various possibilities available to the NCP when examining specific instances for offering its good offices (phase two of the NCP procedure). The revision of the Bylaw also confirms the possibility for the NCP to rule on compliance with the Guidelines in its different statements and communiqués (Article 33) and frames the obligations of confidentiality binding NCP members during the examination of specific instances (Articles 38 and 40).

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<sup>4</sup> "Comment saisir le PCN français?": [https://www.tresor.economie.gouv.fr/Ressources/6373\\_Que-signifie-la-recevabilite-dune-circonstance-specifique-](https://www.tresor.economie.gouv.fr/Ressources/6373_Que-signifie-la-recevabilite-dune-circonstance-specifique-)

<sup>5</sup> <https://www.tresor.economie.gouv.fr/Ressources/File/450511>



- **Enhanced prevention of conflicts of interest:** a sub-heading “Transparency, impartiality, and preventing potential conflict of interest” has been inserted into the NCP Bylaws in response to the suggestions made in the peer review. It contains an article which formalises the practice of having an NCP member withdraw from the procedure for handling a specific instance when conflict of interest, or the appearance of conflict of interest arises, so as to ensure the impartial handling of specific instances (Article 41).

*The revised version of the Bylaws dated 5 February 2019 is available [here \(FR and EN\)](#)*

### Table of peer review recommendations:

<b><i>Institutional arrangements</i></b>	
Recommendations	
1.	The NCP should ensure a balanced representation to promote diversity of perspectives within its structure.
2.	All NCP members should be encouraged to play an active and constructive role in successfully achieving the NCP’s mandate.
3.	In order to maintain, and even build on, the current high level of activities and services offered by the NCP, the human resources in the NCP’s Secretariat should be increased, and the Secretariat should be allocated the financial resources required to ensure the proper functioning and achievement of its objectives.
<b><i>Promotion of the Guidelines</i></b>	
Recommendations	
4.	The NCP is encouraged to continue its work with NGOs with a view to establishing a regular dialogue so as to improve their confidence in the NCP’s specific instance mechanism.
5.	The less active NCP members should be more involved in promoting the Guidelines and the NCP within their respective organisations and networks.
<b><i>Handling of specific instances</i></b>	
Recommendations	
6.	When a specific instance is accepted for further examination, it is recommended that the NCP facilitate discussion and exchange between the parties as early as possible.
7.	In order to strengthen the predictability of communication on the procedure for handling specific instances, the NCP is encouraged to specify the different phases in its procedure, including the planned exchanges with the enterprise and the types of processes or support that are envisioned in the offer of good offices and mediation. A diagram to explain the procedure in simple terms could be developed and posted on the NCP’s website.
8.	The NCP should formalise the practice of having an NCP member withdraw from the procedure for handling a specific instance when conflict of interest, or the appearance of conflict of interest, arises. In particular, NCP members should declare any conflict of interest, or appearance of conflict of interest, which is likely to impact the handling of a specific instance.