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*WORKING TOGETHER: National Human Rights Institutions and the OECD Guidelines for Multinational Enterprises*

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Red de Instituciones Nacionales para la Promoción y Protección de los Derechos Humanos del Continente Americano

*This document<sup>1</sup> aims to explain what National Human Rights Institutions (NHRIs) are to National Contact Points (NCPs) and what the OECD Guidelines for Multinational Enterprises (Guidelines) and NCPs are to NHRIs. It further helps NCPs, NHRIs and other stakeholders identify synergies and opportunities for promoting business respect and support for human rights in line with the OECD Guidelines and the UN Guiding Principles on Business and Human Rights.*

## Introducing the OECD Guidelines for Multinational Enterprises and National Contact Points for Responsible Business Conduct

### What are the OECD Guidelines for Multinational Enterprises?

The OECD Guidelines for Multinational Enterprises (Guidelines) are recommendations from governments to business, and aim at ensuring responsible business conduct. The Guidelines were first adopted in 1976 and are part of the OECD Declaration and Decisions on International Investment and Multinational Enterprises. An inter-governmental Working Party on Responsible Business Conduct (WPRBC) was established in 2013 with a mandate to assist in furthering the effectiveness of the Guidelines.

The Guidelines provide voluntary principles and standards in areas such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

Companies from adhering countries are expected to respect these guidelines wherever they operate.

As of 2020, all [37 OECD countries](#), and [12 non-OECD countries](#) have adhered to the Guidelines.

Since their revision in 2011, the Guidelines have included a human rights chapter consistent with the UN Guiding Principles on Business and Human Rights.

The WPRBC regularly consults with the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) and the network representative of civil society organisations (OECD Watch) on matters relating to the Guidelines and on other issues concerning international investment and multinational enterprises.

### What are National Contact Points?

Adhering countries have a legal obligation to establish National Contact Points (NCPs) as a main institutional mechanism for implementation of the Guidelines. In essence, NCPs have a dual mandate: (i) promote the Guidelines, and (ii) handle cases of alleged non-observance of the Guidelines.

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<sup>1</sup> This factsheet has been prepared by the Danish Institute for Human Rights on behalf of the Global Alliance of National Human Rights Institutions (formerly International Coordinating Committee of National Human Rights Institutions), in coordination with the OECD Centre for Responsible Business Conduct.

Adhering countries have flexibility in how they organize their NCPs as long as such arrangements provide an effective basis for dealing with the broad range of issues covered by the Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government. In a few countries, the NHRI is associated with the NCP, for example through membership in the NCP's decision-making body, or through engagement with the NCP on an advisory basis. To ensure that all NCPs operate in a comparable way, the concept of "functional equivalence" is used which calls on NCPs to function in a way that is visible, accessible, transparent and accountable.

#### NCPs main functions

- Disseminate and raise awareness about the Guidelines;
- Handle enquiries about the Guidelines;
- Contribute to the resolution of issues that arise relating to the implementation of the Guidelines through the "specific instance" mechanism;
- Promote RBC policy coherence across government policies.

#### What do NCPs do?

NCPs are tasked to promote awareness of the OECD Guidelines to businesses operating in or from an adhering country. They may also promote the Guidelines across government by fostering RBC policy coherence, i.e. ensuring that government policies provide an enabling environment for RBC. NCPs also act as a non-judicial grievance mechanism and provide a platform for mediation, conciliation and

#### Specific instances

In the revision of the Guidelines in 2000, the specific instances mechanism was established whereby NCPs can receive grievances from interested parties regarding alleged breaches of the Guidelines.

A database of cases dealt with by NCPs can be accessed at:

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

resolution of issues that may arise regarding alleged failures to observe the Guidelines by such businesses. Any interested party, including affected individuals or communities, NGOs and trade unions can file a complaint – also called a specific instance - before an NCP. Complaints can be filed against companies from or operating in OECD or adhering country.

Through their regular contacts with business, NCPs play a preventive role by giving advice on the challenges faced by enterprises in meeting the Guidelines' expectations regarding corporate conduct.

NCPs meet periodically to share their experiences. This provides NCPs with an opportunity to share practices; discuss activities to promote the Guidelines; compare lessons learned on specific issues; strengthen collaborative efforts and hold consultations with representatives of business, labour unions, NGOs, international organisations and NHRIs.

#### Explore:

- *The OECD Guidelines for Multinational Enterprises can be accessed at: <http://mneguidelines.oecd.org/text/>*
- *For more information on NCPs and contact details of NCPs in all adhering countries please visit: <http://mneguidelines.oecd.org/ncps/>*

## Introducing National Human Rights Institutions

### What are National Human Rights Institutions?

NHRIs are independent bodies established by the state with a constitutional or legislative mandate to promote and protect human rights. The [Paris Principles](#) set out the minimum standards for the status and functioning of NHRIs. The form of NHRIs varies between states, and reflects local and contextual factors. Common institutional forms adopted by NHRIs include: commissions, advisory institutes, ombudsman offices and public defenders' offices.

NHRIs have a legal mandate to promote and protect human rights, including via monitoring, advice, reporting, research, outreach and human rights education. NHRIs are public bodies and part of the State, but independent of the national government. NHRIs are subject to periodic peer review and accreditation to evaluate their continued compliance with the *Paris Principles*.

As of November 2019, there were 124 NHRIs:

- **A status:** 80 NHRIs were in full compliance with the Paris Principles.
- **B status:** 34 NHRIs were not fully in compliance with the Paris Principles.
- **C status:** 10 NHRIs were non-compliant with the Paris Principles.

### NHRIs: Building corporate respect for human rights

The mandate of NHRIs is broad and allows them to address issues in the area of civil and political rights, and economic, social and cultural rights, but also related to business and human rights. In 2011, the UN Human Rights Council welcomed NHRIs' roles in relation to human rights and business, and encouraged them to build their capacity on business and human rights. The UNGPs highlight NHRIs' role across the UN "Protect, Respect, Remedy" framework on business and human rights.

In October 2010, NHRIs adopted the *Edinburgh Declaration on Business and Human rights*. The Declaration considers the ways in which NHRIs can engage with business and human rights issues, and highlights a number of activities that may be taken by the NHRIs. This Declaration clearly signals NHRIs' joint commitment to supporting better understanding and respect for human rights in business operations.

#### NHRIs have two main responsibilities

- Human rights promotion, including creating a national culture of human rights where tolerance, equality and mutual respect thrive, *and*;
- Human rights protection, including helping to identify and investigate human rights abuses, bringing those responsible for human rights violations to justice, and providing a remedy and redress for victims of human rights violations.

#### Regional networks of NHRIs:

- **Africa:** Network of African National Human Rights Institutions
- **Asia:** Asia Pacific Forum of NHRIs
- **Europe:** European Group of National Human Rights Institutions
- **Americas:** Network of NHRIs of the Americas

Access regional action plans on business and human rights at:  
<http://nhri.ohchr.org/EN/Themes/BusinessHR/Pages/Capacity%20Building.aspx>

In particular, the *Declaration* encourages NHRIs to consider partnerships between NHRIs, and outreach to government, businesses and civil society. Regional networks of NHRIs have committed to taking action to support implementing of human rights in the business sphere.

## NHRIs and the OECD

In 2012 the OECD and International Coordinating Committee of NHRIs (ICC, now called GANHRI - the Global Alliance of National Human Rights Institutions) signed a Memorandum of Understanding in Amman, Jordan, at the ICC 11<sup>th</sup> Biennial Conference.

The purpose of the MOU is to establish a programme of cooperation. This cooperation shall promote a greater understanding of the OECD Guidelines and the NHRI Paris Principles Mandate, and work towards a greater respect for human rights in the sphere of business activities.

This includes using the synergies between the OECD and NCPs, on the one hand, and the GANHRI and NHRIs, on the other. This can be done by, for instance: cross-referencing each other's relevant instruments, functions and work; cross-participation in global relation events; experience-sharing and capacity building amongst NCPs and NHRIs; human rights expertise and due diligence; and continuing dialogue.

### NHRIs' role with regard to the three pillars of UN Guiding Principles on Business and Human Rights

- **Pillar 1:** NHRIs help to align national law and regulations on business with human rights in particular through supporting the development of National Action Plans.
- **Pillar 2:** NHRIs provide expert, independent advice to business on human rights issues and facilitate dialogue amongst stakeholders.
- **Pillar 3:** NHRIs facilitate mediation or conciliation of complaints about human rights and business issues, conduct inquiries.

## Explore

- *The full text of the MOU can be accessed at:*  
<http://www.oecd.org/investment/guidelinesformultinationalenterprises/OECDandNationalHumanRightsInstitutionsjoinforces.htm>
- *For more information on NHRIs, visit the GANHRI website:*  
<http://nhri.ohchr.org/EN/Pages/default.aspx>

## Working Together

How NHRIs and NCPs provides complementary knowledge relevant to promoting business respect for human rights.

<p><b>Experience sharing and capacity building</b></p> <p>NCPs and NHRIs may have complementary knowledge relevant to promoting business respect for human rights. NCPs are responsible for the promotion of the OECD Guidelines and for providing a non-judicial grievance mechanism relating to their implementation. NHRIs possess expertise on national human rights standards and local human rights situations and risks. NCPs and NHRIs can partner on organizing e.g. training or multi-stakeholder dialogue around key human rights and business issues.</p>	<p><b>Due diligence guidance</b></p> <p>Home-state NHRIs can contribute to NCP actions to promote learning at national level among businesses and other stakeholders on the OECD Guidelines. Some NHRIs are experts in specific business and human rights topics, e.g. human rights impact assessment, achieving non-discrimination in the workplace, socially responsible public procurement, or labor rights. Maintaining regular dialogue between NCPs and NHRIs will promote sharing of information relevant to defining due diligence in given contexts. The OECD has also developed authoritative general and sector-specific <a href="#">guidance on due diligence</a>, which NCPs are tasked to promote and on which they have expertise.</p>
<p><b>Addressing complaints</b></p> <p>NCPs are not judicial bodies. However, they do have a function to address substantiated non-observance of the OECD Guidelines. Where such issues are raised, NCPs will address the parties involved, for instance through conciliation or mediation. This procedure involves a chance to inform companies of their responsibilities to respect human rights, to assess related challenges and contribute to the resolution of issues. NHRIs may have formal legal powers in their countries to undertake complaint-handling, mediation, conciliation or investigation of alleged human rights abuses, depending on their founding legislation. Some NHRIs have a vast experience in handling complaints or conducting inquiries related to alleged human rights abuses involving business. NCPs and NHRIs should be aware of each other's mandates on complaints and explore coordination.</p>	<p><b>Benefiting from expertise</b></p> <p>NHRIs are required by the UN Paris Principles to monitor and report to international organizations on human rights situations, and to evaluate the consistency of national laws and practices with human rights standards. NCPs can draw on the expertise of NHRIs in the area of human rights, e.g. by seeking expert inputs from a host-country NHRI during handling or investigating specific instances.</p>
<p><b>Information, education, and awareness-raising</b></p> <p>One of NHRIs' core functions is to undertake human rights education, including to business and professional organisations, as well as to rights-holders. NCPs are tasked with disseminating the OECD Guidelines among multinational enterprises. NHRIs and NCPs can therefore collaborate to develop platforms to provide information, publications, and tools on business and human rights issues for companies as well as other stakeholders. They can also co-host public events to stimulate awareness and engagement by business and communities on sustainability issues.</p>	

## Contact

- For contact information of NCPs please visit <http://mneguidelines.oecd.org/National-Contact-Points-Website-Contact-Details.pdf>
- For contact information of NHRIs please visit: <https://ganhri.org/membership/>

## Explore

- For more information on the Guidelines please visit <http://mneguidelines.oecd.org/>
- For more information on OECD Watch please visit: <http://oecdwatch.org/>
- For more information on TUAC: <http://www.tuac.org/>
- For more information on BIAC: <http://www.biac.org/>
- OECD Due Diligence Guidance:
  - General Due Diligence Guidance: <http://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>
  - Agricultural supply chains: <http://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>
  - Extractive sector stakeholder engagement: <https://mneguidelines.oecd.org/stakeholder-engagement-extractive-industries.htm>
  - Financial sector due diligence: <https://mneguidelines.oecd.org/rbc-financial-sector.htm>
  - Mineral supply chains: <http://www.oecd.org/corporate/mne/mining.htm>
  - Garment and footwear supply chains: <https://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>