



# Annual report on the activity of National Contact Points for Responsible Business Conduct 2021



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## *Foreword*

1. The OECD Guidelines for Multinational Enterprises (“the Guidelines”), adopted in 1976, are the most comprehensive international standard on responsible business conduct (RBC). They provide non-binding principles and standards for RBC in a global context consistent with applicable laws and internationally recognised standards. Evolving economic contexts, increasingly complex supply chains and growing expectations from society on business responsibilities lead to new challenges in the application of the Guidelines.
2. Governments adhering to the Guidelines are required to set up a National Contact Point (NCP) to further the implementation of the Guidelines. NCPs have two main functions: 1) to promote the Guidelines and handle enquiries, which means that NCPs ensure that the Guidelines and the role of the NCP are known among relevant stakeholders and across government agencies; and 2) provide a grievance mechanism to resolve cases (“specific instances”) relating to non-observance of the Guidelines by companies. NCPs report annually to the OECD’s Investment Committee, and this report compiles and analyses the key data reported by NCPs regarding their activities in 2021.
3. The 2021 Annual Report on the Activity of National Contact Points (NCPs) for Responsible Business Conduct describes activities undertaken by NCPs to fulfil their responsibilities under the Guidelines during the period January 2021 to December 2021. The Report was discussed by the Working Party on Responsible Business Conduct (WPRBC) on 26-28 April 2022 and approved by the Investment Committee by written procedure on 7 October 2022.

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## Introduction

4. Governments adhering (Adherents) to the OECD Guidelines for Multinational Enterprises (the Guidelines)<sup>1</sup> are required to set up a National Contact Point for Responsible Business Conduct (NCP) to further the implementation of the Guidelines.<sup>2</sup> NCPs have two main functions: 1) to promote the Guidelines and handle enquiries, which means that NCPs ensure that the Guidelines and the role of the NCP are known among relevant stakeholders and across government agencies; and 2) provide a grievance mechanism to resolve cases ("specific instances") relating to non-observance of the Guidelines by companies.<sup>3</sup> The Council Recommendations relating to the due diligence guidance tools provide that NCPs should contribute to their dissemination and active use by enterprises.<sup>4</sup> This unique implementation mechanism distinguishes the Guidelines from other international RBC instruments and continues to play a critical role in ensuring that commitments under the Guidelines are met. There were 50 NCPs in all adherent countries in 2021. Uruguay became the 50<sup>th</sup> Adherent in February 2021.<sup>5</sup>
5. Handling specific instances is a core pillar of the mandate of NCPs and part of what makes the Guidelines unique.<sup>6</sup> By end 2021, NCPs had received over 620 specific instances in total.<sup>7</sup> This mechanism has been part of the mandate of NCPs since the 2000 review of the Guidelines.

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<sup>1</sup> The Guidelines are annexed to the Declaration on International Investment and Multinational Enterprises [[OECD/LEGAL/0144](#)].

<sup>2</sup> Decision of the Council on the OECD Guidelines for Multinational Enterprises [[OECD/LEGAL/0307](#)] (Decision on the Guidelines).

<sup>3</sup> Procedural Guidance, Decision on the Guidelines.

<sup>4</sup> For example, the 2018 Recommendation of the Council on the Due Diligence Guidance for Responsible Business Conduct [[OECD/LEGAL/0443](#)] recommends "that Adherents and where relevant their NCPs, with the support of the OECD Secretariat, ensure the widest possible dissemination of the Guidance and its active use by enterprises, as well as promote the use of the Guidance as a resource for stakeholders such as industry associations, trade unions, civil society organisations, multi-stakeholder initiatives, and sector-initiatives, and regularly report to the Investment Committee on any monitoring, dissemination and implementation activities."

<sup>5</sup> Uruguay adhered to the Guidelines on 25 February 2021. As part of its commitment to fulfil the requirements under the Guidelines, the government has committed to establishing an NCP. As of June 2021, all 38 OECD Member countries had adhered to the Declaration, as had 12 non-Member countries: Argentina (22 April 1997), Brazil (14 November 1997), Egypt (11 July 2007), Jordan (28 November 2013), Kazakhstan (22 June 2017), Morocco (23 November 2009), Peru (25 July 2008), Romania (20 April 2005), Tunisia (25 May 2012), Ukraine (10 March 2017), Croatia (17 October 2019) and Uruguay (25 February 2021).

<sup>6</sup> The Procedural Guidance, a part of the Decision on the Guidelines, provides that "NCP[s] will offer a forum for discussion and assist the business community, worker organisations, other non-governmental organisations, and other interested parties concerned to deal with [...] issues raised [...]." Procedural Guidance, I (C).

<sup>7</sup> Currently 553 cases are listed on the public OECD specific instance database. The remaining specific instances have not yet been reported to the OECD for inclusion in the database as they were still in progress or recently closed.

6. The year 2021 was marked by the stocktaking exercise on the OECD Guidelines of Multinational Enterprises (the Guidelines), which was initiated by the OECD to obtain a clearer picture of whether the MNE Guidelines remain fit for purpose and to provide a basis upon which to discuss any issues meriting further attention and explore options for moving forward.
7. With regard to NCPs, the stocktaking concluded that the NCP system is recognised as a leading mechanism, unique in promoting RBC and facilitating access to remedy, and one of the main achievements of the Guidelines. The stocktaking highlights important strengths and achievements by NCPs through their dual mandate to promote the Guidelines and facilitate access to remedy, but also opportunities for further leveraging the unique capabilities of the NCP system, and also confirms a number of challenges that risk undermining the effectiveness and credibility of the system.
8. The year 2021 was also marked by the continuous outbreak of the COVID-19 pandemic, which affected businesses and their stakeholders around the world, but also the ability of NCPs to deliver on their mandate. NCPs have shown resilience in adapting to these circumstances, and most of them have put in place remote mechanisms to continue promoting the Guidelines and handle cases, although the impact of the pandemic can arguably be felt across a number of indicators, such as the level of promotion done by NCPs during the year.
9. This report outlines the main activities of NCPs in relation to their mandate, and generally the main developments around NCPs. This report is based essentially on annual reports by NCPs to the OECD Secretariat, and on the OECD database of specific instances. In 2021, the OECD Secretariat introduced a new online reporting system, which facilitates collation and analysis of the reported data. For this reason, this report analyses data that was not included in previous reports.
10. Section 1. provides an overview of NCP achievements and challenges presented in the Stocktaking of the MNE Guidelines report<sup>8</sup>. Section 2. presents the key statistics of specific instances closed and received in 2021 and discusses trends emerging from the numbers. Section 3. presents information on NCP structures and activities, by discussing trends emerging from developments in the past year. Section 4. presents ongoing and future action plans to strengthen the role of NCPs with a focus on tools, practices and peer-learning. Section 5. presents substantiated submissions handled and received in 2021 regarding whether NCPs have fulfilled their responsibilities and correctly interpreted the Guidelines in specific instances. Annexes contain an overview of the data reported by NCPs in relation to their institutional arrangements and activities.

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<sup>8</sup> Available at: <https://mneguidelines.oecd.org/stocktaking-report-on-the-oecd-guidelines-for-multinational-enterprises.pdf>

## 1. Conclusions of the Stocktaking of the Guidelines on the NCP system

11. Throughout 2021, the OECD carried out stocktaking exercise on the OECD Guidelines for Multinational Enterprises. The purpose of the stocktaking exercise is to enable the OECD Working Party on RBC and the OECD Investment Committee to obtain a clearer picture of whether the MNE Guidelines, including the NCP system, remain fit for purpose and to provide a basis upon which to discuss any issues they deem merit further attention and explore options for moving forward.
12. The stocktaking report<sup>9</sup> provides an account of achievements, developments and challenges observed since 2011, the most recent update of the Guidelines. The report has been developed by the OECD Secretariat based on inputs from NCPs; inputs from the Institutional Stakeholders BIAC, TUAC and OECD Watch; consultations with OECD Committees; and inputs received during a public consultation.
13. The observations emerging from the stocktaking exercise can be summarised under three broad questions focusing on the fitness of the Guidelines in relation to issues, implementation and institutions:
- **Fit for the issues:** Do the Guidelines adequately address contemporary substantive RBC issues? Are they likely to remain relevant in the future?
  - **Fit for implementation:** Are the Guidelines, and their ecosystem fit to drive global uptake and implementation of responsible business conduct?
  - **Institutionally fit:** Is the NCP system as currently designed and operated fit to deliver on its mandate to further the effectiveness of the Guidelines?
14. On the third point above, the stocktaking concluded that **the NCP system is recognised as a leading mechanism**, unique in promoting RBC and facilitating access to remedy, and one of the main achievements of the Guidelines. The stocktaking highlights important strengths and achievements by NCPs through their dual mandate to promote the Guidelines and facilitate access to remedy. Since 2011, the NCP system has seen a steady rise in the number of specific instances received by some NCPs and a number of NCPs have played a growing role in promoting the Guidelines and facilitating policy coherence. NCP peer reviews have led to concrete improvements in the reviewed institutions. More in particular, the stocktaking highlighted the following strengths:
- NCPs are a unique mechanism in the ecosystem in which the Guidelines are implemented, and plays a central role in ensuring the effectiveness and uptake of the Guidelines. As such, the **Guidelines are the only international standard on RBC that includes an implementation mechanism**, and NCPs are an important factor in the effectiveness of the Guidelines.



<sup>9</sup> Available at: <https://mneguidelines.oecd.org/stocktaking-report-on-the-oecd-guidelines-for-multinational-enterprises.pdf>



- NCPs are a **widely available and affordable remedy mechanism** with a broad scope of work. In particular, the specific instance mechanism provides a very open platform to provide access to remedy, enabled by low barriers to using the mechanisms and NCPs capacity to act as a ‘one stop shop’ to seek remedy for issues across the entire range of themes covered by the Guidelines.
  - NCPs actively **contribute to the uptake and implementation of the Guidelines** by companies through:
    - Their mandate to promote the Guidelines with business, for which they have developed a broad and far-reaching set of tools;
    - Their work on remedy through specific instances, which often leads to positive changes with respect to the issues at hand and better implementation of the Guidelines on the ground;
    - Their contribution to public policies and government decisions that support the implementation of RBC by companies through an enabling policy environment.
15. However, the stocktaking also identifies a number of **opportunities for further leveraging the unique capabilities of the NCP system**, and also confirmed a number of challenges that risk undermining the effectiveness and credibility of the system:
- Significant gaps exist in the **functional equivalence** of NCPs in the areas of visibility, accessibility, transparency and accountability. These gaps often result from under-resourcing, insufficient government support and/or inadequate structures. Achieving functional equivalence is made challenging by the vague and open-ended language of the Procedural Guidance combined with weak monitoring and oversight mechanisms.
  - Significant divergences exist across the network as to how NCPs implement their **mandate** and conceive their **authority** to act, in particular as regards facilitating access to remedy and in relation to policy coherence. The Procedural Guidance often fails to provide clear guidance, which in turn leads to diverging practices and disagreements across the network and among users.
  - There are challenges related to **procedural consistency and adequacy of the NCP’s handling of specific instances**. More precisely, certain procedural rules and practices were perceived as inadequate or inconsistently applied by NCPs across the network, causing the specific instance processes and outcomes to sometimes differ quite significantly from one NCP to the next, thereby creating confusion and divergence.
16. The WPRBC is currently discussing options to move forward on the conclusions of the stocktaking.

## 2. Specific instances

### 2.1. Overview of specific instances handled in 2021

17. In 2021, 18 NCPs closed 43 specific instances and 25 NCPs received 48 new specific instances. This is in line with a recent trend of increasing submissions, but lower than 2020, which saw 58<sup>10</sup> specific instances received. NCPs received the **third highest number** of submissions in 2021. ‘Closed specific instances’ refers both to concluded cases and those that are not accepted for further examination (Box 2.1). The sections below give an overview of the outcomes of closed specific instances and trends identified for the new ones.

#### Box 2.1. Terminology for the status of specific instances

- Specific instances **closed** during the year include both specific instances that have been concluded during the year and those that were not accepted during the year.
- Specific instances **concluded** during the year are those that the NCP found to merit further examination after the initial assessment and that have subsequently been closed. For such specific instances, the NCP will have offered its “good offices” (e.g. mediation/conciliation) to both parties.
- Specific instances **not accepted** during the year are those that the NCP found not to merit further examination, or cases that have been withdrawn prior to the completion of the initial assessment and that have therefore been closed.
- Specific instances that are **in progress** are those that are not yet closed. These include submissions received by the NCP, both those awaiting initial assessment, as well as those accepted by the NCP.

#### 2.1.1. Key outcomes of specific instances

18. Among the 43 specific instances that were closed in 2021, 35 were already in progress as of 1 January 2021 and eight were submitted during the year. Of the specific instances closed in 2021 that were in progress at the end of 2020, 13 were submitted prior to 2020. Table 2.2 provides an overview of closed specific instances in 2021. Out of the 43 specific instances closed in 2021, 27 were concluded and 16 were not accepted.
19. Mediation is the preferred method of most NCPs when facilitating dialogue in specific instances. Of the 27 concluded specific instances, nine underwent mediation (35%). In twelve concluded specific instances mediation was offered but did not take place as one or both parties declined to participate, in one of these instances, one party declined to participate citing bad faith engagement on the part of the submitter. No mediation took place in one specific instance as the submitter requested the NCP procedure be paused due

<sup>10</sup> The 2020 Annual Report notes 54 specific instances. This number has been adjusted to 58 after unreported submissions were received following the publication of the 2020 report. For consistency reasons, when making comparisons to 2020 numbers, this report uses the numbers published in the 2020 Annual Report.

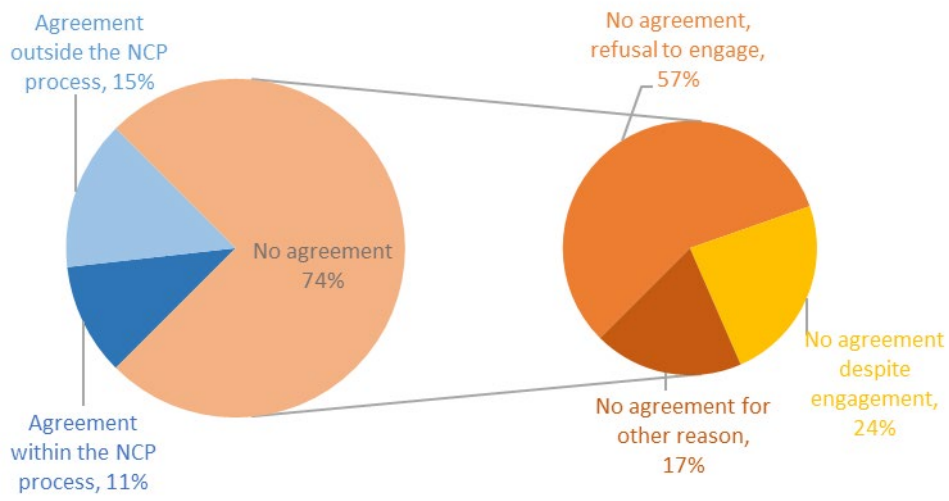
to parallel proceedings. An NCP did not offer mediation in one specific instance as both parties had previously been involved in a similar case where mediation did not lead to agreement. It was not possible to determine the reason why mediation did not take place in four specific instances.

20. Thirteen NCPs (27%) reported that NCP staff had undergone dispute resolution (e.g. mediation) training during the year. Nine NCPs (19%) reported engaging professional mediators during the year, the question did not apply to 25% of NCPs as they were not handling a specific instance during the year. Seven NCPs (15%) reported that their staff were involved in conducting mediation during the year.
21. Three concluded cases resulted in full or partial agreement between the parties within the NCP process (Box 2.2) and four resulted in full or partial agreement between the parties outside of the NCP process. Agreement between the parties was therefore reached in 26% of all concluded cases (Figure 2.1) and 33% of all concluded cases where mediation occurred, compared to 54% in 2020 and 86% in 2019, thereby confirming a steady downward trend in this respect.
22. Of cases closed in 2021, NGOs and individuals were the leading submitters with 18 specific instances each. Businesses and other interested parties (e.g. indigenous communities) had three submissions each, trade unions were involved in two submissions, and one submission was listed as multi-stakeholder. Of the cases submitted by NGOs, 78% were accepted for further examination with 36% of accepted cases leading to agreement. Individual submitters had a notably lower acceptance rate with 39% of their submissions being accepted, and just 14% of these leading to agreement, much lower than for NGOs. This finding is in line with the statistics noted in the Report on the 20 years of NCPs<sup>11</sup> where 33% of individual submissions were accepted between 2000-2018, lower than the average across all submitters. The current finding does indicate an increase in accepted submissions, which may suggest that the specific instance process is becoming more accessible to individual submitters.

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<sup>11</sup> Available at: <https://mneguidelines.oecd.org/NCPs-for-RBC-providing-access-to-remedy-20-years-and-the-road-ahead.pdf>

Figure 2.1. Outcome of specific instances concluded in 2021



Note: Data for 2021 do not include Egypt or Jordan  
 Source: 2021 NCP Annual Reporting Questionnaire

## Box 2.2. Agreements attained through the NCP mechanism in 2021

### **Bahrain Institute for Rights and Democracy (BIRD) & Hpower Group Limited (HPG)**

On 24 April 2018, BIRD submitted a specific instance to the UK NCP alleging that HPG, a privately owned event and venue management company, had not observed the Guidelines by forming a business relationship with the Royal Windsor Horse Show (RWHS) without conducting adequate human rights due diligence. The parties underwent mediation with an external mediation in 2020 and the final statement was published in January 2021 concluding the case with agreement between the parties. HPG committed to adopt a human rights policy that reflects the standards of the Guidelines, and reaffirm its commitment to respect internationally recognised human rights. The NCP began its follow-up procedures in June 2021 and HPG shared their new statement on human rights, including its promotional plan. The UK NCP published the follow-up statement in December 2021, concluding that HPG's actions were now consistent with the Guidelines.

### **Society for Threatened Peoples Switzerland & BKW Group**

On 16 January 2020, Society for Threatened Peoples Switzerland, an NGO, submitted a specific instance to the Swiss NCP alleging that BKW Group, an energy and infrastructure company, had not observed the Guidelines relating to due diligence. Specifically, issues related to the company's minority stake in the "Fosen Vind DA" wind power plant in Norway, and associated violations of the human rights of the Sami Indigenous people. Both parties participated in mediation and in August 2021, the Swiss NCP published a final statement concluding the case with a full agreement between the parties. BKW agreed to revise its Code of Conduct and integrate the respect of human rights as well as the Principle of Free, Prior and Informed Consent (FPIC) concerning vulnerable groups. BKW further agreed to expand the accessibility of its own grievance mechanism to all groups affected by its projects. BKW will demand similar commitments from its business partners. A follow-up on the agreement was completed in May 2022.

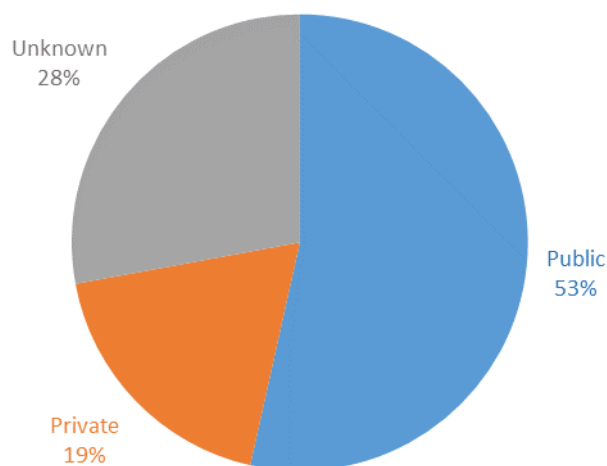
### **Society for Threatened Peoples Switzerland & UBS**

On 22 June 2020, Society for Threatened Peoples Switzerland submitted a specific instance to the Swiss NCP alleging that UBS, an investment bank and financial services company, had not observed the Guidelines concerning human rights violations in the context of its alleged business relationship with the Chinese company Hikvision. According to the submitting party, Hikvision manufactures technology used to monitor Uighurs in the Chinese province of Xinjiang. The NCP accepted the issues relating to UBS' activity as provider of custody services ('passive investment') in relation to Hikvision shares, and three mediation sessions were held with the parties between May and August of 2021. In December 2021, the NCP published the final statement with a partial agreement. The parties agreed to engage in the future to discuss human rights issues and to define measures that can significantly impact the advancement of the industry regarding the inclusion of environmental, social and governance (ESG) criteria into the management of passive investment funds. Furthermore, UBS confirmed that it would take a leading role in raising key issues related to ESG in the context of passive index funds. A follow-up on the agreement is expected in 2022.

### 2.1.2. Type of companies involved in specific instances

23. Out of the 43 specific instances closed in 2021 and for which the size of the company is known, three involved small or medium sized enterprises with the remainder involving large enterprises (defined as companies employing over 250 employees).<sup>12</sup> Final statements were not yet available or did not contain sufficient information about the companies involved to determine their size in nine specific instances.
24. Publicly listed entities were involved in 23 (53%) closed specific instances, while privately held companies were involved in eight (19%). Information on the ownership of twelve companies involved in specific instances is unavailable (see Figure 2.2).
25. Fortune Global 500 companies were involved in 14 specific instances (45% of known companies, compared to 28% in 2020 and 47% in 2019).<sup>13</sup> The known headquarters locations of companies involved in specific instances cover 16 countries (Table 2.1).

Figure 2.2. Ownership of companies/organisations involved in specific instances in 2021



Note: Data for 2021 do not include Egypt or Jordan  
 Source: 2021 NCP Annual Reporting Questionnaire

<sup>12</sup> The most frequent upper limit designating an SME is 250 employees. See OECD Glossary of Statistical Terms, "Small and Medium Sized Enterprises." <https://stats.oecd.org/glossary/detail.asp?ID=3123>

<sup>13</sup> Fortune Global 500 is a list compiled by Fortune magazine ranking the world's 500 largest companies as measured by their gross revenue. <https://fortune.com/global500/2019/methodology/>

**Table 2.1. Known headquarter locations of companies/organisations involved in specific instances closed in 2021**

Headquarter location of company/organisation	Number of specific instances	Headquarter location of company/organisation	Number of specific instances
Brazil	5	Argentina	1
Switzerland	5	Chile	1
France	4	Denmark	1
United Kingdom	4	Germany	1
Australia	3	Ireland	1
Canada	2	Netherlands	1
Sweden	2	New Zealand	1
United States	2	Peru	1

Note: Data for 2021 do not include Egypt or Jordan  
Source: NCP Specific Instance Database (2021)

### 2.1.3. Final statements

26. The Procedural Guidance of the Guidelines provides that NCPs will ‘at the conclusion of the [specific instance] procedures and after consultation with the parties involved, make the results of procedures publicly available [...]’<sup>14</sup>. In particular, the Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises provides that when the NCP ‘decides that the issues raised in the specific instance do not merit further consideration, it will make a statement publicly available after consultations with the parties involved’<sup>15</sup> and, with accepted cases, ‘if the parties fail to reach agreement or if the NCP finds that one or more of the parties to the specific instance is unwilling to engage or to participate in good faith the NCP will make recommendations as appropriate in the public statement.’<sup>16</sup> Determinations (to indicate that a company has or has not observed the recommendations of the Guidelines) can also be made by NCPs.
27. Statements constitute an important outcome of the procedure and a powerful tool to support the effectiveness of the Guidelines and enhance transparency, accountability and visibility of NCPs. Substantiated decisions containing concrete interpretations of the Guidelines, recommendations and determinations by the NCP can help companies and stakeholders better understand the Guidelines and what steps, actions, policy measures they can take to fully observe them. Some NCPs have also shared that, in certain contexts, the prospect of the NCP issuing a determination could be a disincentive for companies to engage with the NCP.
28. At the time of writing, final statements have been published for 38 of the 43 (88%) specific instances that were closed in 2021. One specific instance closed in 2021 will not result in a published final statement due to a nondisclosure agreement, and careful consideration by the NCP determining that there were sufficient grounds to refrain from publishing a final statement based on Section I.C.4. of the Procedural Guidance. Therefore, 91% of eligible cases have a published final statement. This represents a small increase from 2020, when final statements had been published for 89% of closed cases.

<sup>14</sup> Decision on the Guidelines, Procedural Guidance, I. C (3).

<sup>15</sup> Para. 32.

<sup>16</sup> Para. 35.

29. Sixteen of the 25 final statements published for concluded cases include recommendations (64%),<sup>17</sup> representing a decrease from 2020, when 81% of final statements contained recommendations, and closer to the 2019 rate (67%). Recommendations were included in two specific instances that were not accepted. Examples of recommendations are available in Box 2.3.

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<sup>17</sup> Recommendations were issued by the NCPs of Australia, Brazil, Chile, Denmark, France, Korea (Republic of South), Spain, Switzerland, United Kingdom



### Box 2.3. Examples of recommendations in NCP final statements published in 2021

#### **Individuals & Vale S.A.**

On 14 February 2020, a group of individuals submitted a specific instance to the Brazil NCP alleging that Vale S.A. did not observe the OECD Guidelines as a result of the Brumadinho dam accident that took place on 25 January 2019. The NCP offered its good offices but the company declined. In October 2021, the NCP published a final statement making recommendations that the company:

- Complete a report on the efficacy of remedial measures following the accident at individual, collective, and social levels;
- Disclose the list of national and international commitments assumed by Vale that could have implications for the allegations;
- Perform and disclose a diagnosis on the compliance with the Guidelines;
- Adopt a due diligence mechanism based on the OECD Due Diligence Guidance for Meaningful Stakeholders Engagement in the Extractive Sector;
- Implement the National Guidelines on Business and Human Rights, established by Decree No. 9,571 on 21 November 2018.

A follow-up is expected on the recommendations in 2022.

#### **UNI Global Union and four French Trade Union Federations & Teleperformance**

On 17 April 2020, UNI Global Union, together with four of its French affiliates, submitted a specific instance to the French NCP alleging that Teleperformance, an omnichannel company, had not observed the Guidelines in relation to workers' rights to health and safety at the workplace, freedom of association, collective bargaining, and due diligence in the context of the Covid-19 pandemic in ten countries where it operates call-centres. Both parties accepted the NCP's offer of good offices, but in July 2021, the NCP published a final statement concluding the instance as the parties were unable to reach agreement. The NCP noted that during the pandemic the company had implemented a policy to prevent undue health risks related to the pandemic in all of its subsidiaries, consistent with expectations in the Guidelines. The NCP addressed further issues and made recommendations, notably that the company:

- Strengthen its due diligence and engagement with its stakeholders representing workers to make sure that freedom of association and collective bargaining are respected;
- Strengthen convergence on the Group's policies for leave, sick leave and "work at home" costs to account for Covid-19, and improve employees' representation in health and safety committees, notably in India and The Philippines;
- Ensures as soon as possible that its Albanian and Colombian subsidiaries respect freedom of association and strengthen due diligence in the case of dismissals involving worker representatives;
- Strengthen its due diligence towards its subsidiaries in Albania, Colombia, India and the Philippines to ensure compliance with the Guidelines by its subsidiaries and provide remediation measures if non-compliance with the OECD Guidelines are found.

A follow-up is expected on the recommendations in 2022.

30. Determinations that the companies did not fully observe the Guidelines were included in five final statements (Box 2.4) and determinations that the company did fully observe the Guidelines were included in three final statements. One NCP reported making a determination but has not yet published the final statement.<sup>18</sup> This represents an increase in determinations compared to 2020, when two determinations were included in final statements.

#### Box 2.4. Example of a determination in NCP final statement

##### **West Virginians for Sustainable Development & Rockwool International A/S**

On 21 October 2019, West Virginians for Sustainable Development submitted a specific instance to the Denmark NCP alleging that Rockwool International A/S had not observed the Guidelines concerning environmental and health risks related to the planning and construction of a mineral wool manufacturing facility in West Virginia, USA, specifically improper involvement in local political activities, failing to engage with relevant stakeholders, and providing insufficient transparent and public notice on project plans. Rockwool declined to participate in good offices and the NCP moved to examine the specific instance. In June 2021, the NCP concluded the cases determining that the company had not observed the Guidelines by failing to carry out risk based due diligence in the initial phase of the project, and providing insufficient opportunities for stakeholder engagement in the project. The NCP recommended the company ensures systematic integration of risk based due diligence in its decision making process, reviews its Community Engagement Manual, and communicates publically about its due diligence processes. A follow up is expected in 2022.

##### **Individuals & ElectraNet Pty Limited**

On 28 October 2020, two individuals submitted a specific instance to the AusNCP alleging that ElectraNet Pty Limited, an electricity transmission company, did not observe the Guidelines in relation to damage of around 20 indigenous heritage sites during the constructions of a new project in South Australia. The NCP accepted the instance relating to one indigenous site as the others were covered by existing agreements with the company, the company declined to participate in good offices. In June 2021, the NCP published a final statement determining that the company had not acted consistently with the Guidelines by neither engaging in good faith in the NCP process, nor providing evidence of compliance at the examined site. The NCP noted that the Australian Government's formal position was the expectation for companies to comply with the Guidelines, including the procedural aspects around remedy in both initial assessment and good offices stages. The NCP recommended that the company ensure familiarity with the Guidelines within its governance, and take the chance to participate in the NCP process should the need arise again. A follow-up is expected in 2022.

<sup>18</sup> Determinations were issued by the NCPs of Australia, Denmark, France, and the United Kingdom.

31. Beyond recommendations and determinations, NCPs may make substantive interpretations of the Guidelines based on issues brought to light in specific instances. As priority areas in RBC continue to evolve and NCPs gain visibility, specific instances increase in complexity. This often results in the necessity for NCPs to interpret the Guidelines as they apply to complex issues and situations. Some NCPs dedicated sections of their published statements to making interpretation of the Guidelines (Box 2.5).

#### Box 2.5. Examples of substantive interpretations of the Guidelines in NCP statements <sup>19</sup>

##### **Friends of the Earth and Individuals & ANZ Banking Group**

On 30 January 2020, Friends of the Earth, an NGO, and three individuals submitted a specific instance to the AusNCP alleging that ANZ Banking Group had not observed the Guidelines by failing to fully disclose its climate change impacts, preventing consumers from making informed decisions about engaging with the bank. The NCP began mediation in 2021 and published a final statement in December 2021 concluding the instance without agreement between the parties. In the statement the NCP took the opportunity to illustrate the ambiguity of the Guidelines' expectations regarding climate change, given a lack of explicit language on the topic, and suggested the instance be brought to the attention of the OECD, BIAC, TUAC and OECD Watch. The NCP however noted that the Guidelines did provide provisions in the environment chapter that companies should be compliant with national and international commitments, and this could inform how NCPs interpret responsible business conduct in relation to climate change.

#### **2.1.4. Follow-up**

32. Following up on recommendations in final statements can be a valuable exercise in ensuring agreements reached through specific instance proceedings are implemented and in tracking whether recommendations are being implemented to further the effectiveness of the Guidelines. Follow up was identified as good practice by NCPs in a 'Guide for NCPs on follow up to specific instances', published in 2020<sup>20</sup>.
33. In 2021, the final statements in 11 of the 27 concluded cases (41%) included plans to follow up on the outcomes of the case (agreement and/or recommendations), representing a decrease over 2020 (58%). Additionally, in 2021, the NCPs of Belgium, Brazil, Chile, Denmark, France, Germany, Italy, Korea, Netherlands, and Poland issued follow-up statements relating to 16 specific instances, an increase from 2020 (13). While follow-ups have often been conducted on cases following agreements, NCPs have expanded the process to follow-up on other cases, which involved recommendations, regardless of whether or not the parties reached agreement, including in a couple instances where the cases were not accepted. For several cases, follow ups allowed to achieve new positive results or to evidence the concrete impacts as a result of the NCP's intervention (See Box 2.6). Follow ups can further be used to stress remaining non-compliance with the Guidelines.

<sup>19</sup> Substantive interpretations have also been made in relation to taxation and can be found in Box 2.8: Examples of specific instances referencing the Taxation Chapter of the Guidelines

<sup>20</sup> OECD (2019), Guide for National Contact Points on Follow Up to Specific Instances, OECD Guidelines for Multinational Enterprises.

### Box 2.6. Examples of positive developments evidenced by follow-up

#### **Conectas Human Rights and the Articulation of Rural Employees of the State of Minas Gerais (ADERE-MG) & Starbucks**

On 21 August 2018, the NGO ADERE-MG submitted a specific instance to the Brazilian NCP alleging that six multinational companies, including Starbucks, had not observed the Guidelines in relation to violations of labour and human rights in coffee plantations located in the South of Minas Gerais in Brazil, including inadequate supply chain due diligence. In March 2020, the NCP had decided not to accept the case but had still issued recommendations that the company encourage its business partners to observe principles of RBC and promote continuous labour improvements in the coffee farms in its supply chain. The NCP followed up in 2021 with the company, who stated it had increased verification procedures in its supply chain through inspection and auditing of farms with whom it conducts business. The company further reported opening the first Famer Support Centre in the country, aimed at educating producers on labour and environmental regulations. The NCP is expected to follow up on the impact of these initiatives in 2022.

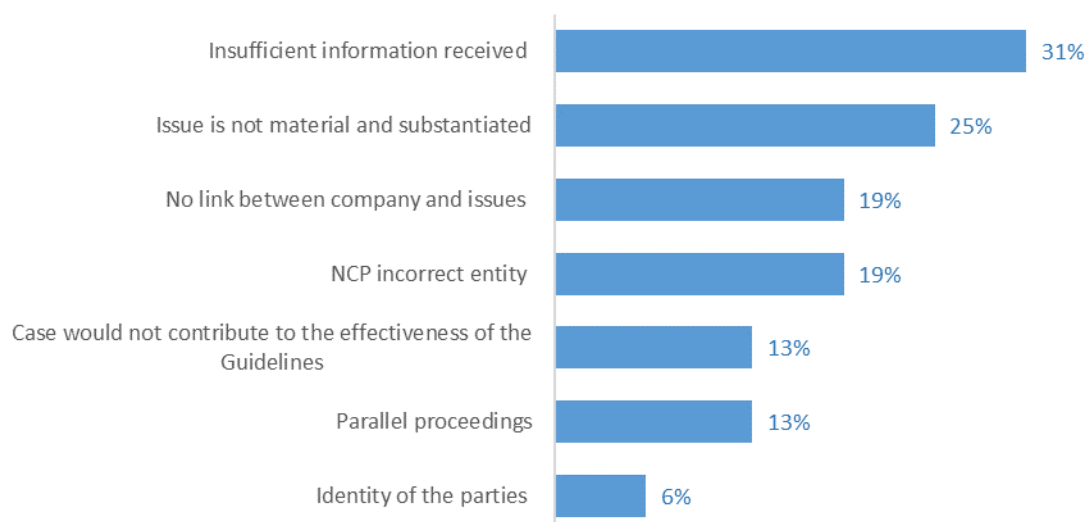
#### **FIVAS, the Initiative to Keep Hasankeyf Alive, and Hasankeyf Matters & Bresser**

On 28 July 2021, three NGOs submitted a specific instance to the Netherlands NCP alleging that a subsidiary of Bresser Inc., a construction company, had not observed the Guidelines relating to a failure to consult the local population before relocating an historic building, violating the human right to culture. The parties underwent mediation in 2018 but were unable to reach agreement. The NCP concluded that the right to culture/cultural heritage should be considered a human right under the Guidelines. The NCP recommended Bresser include external risks explicitly in its risk-management system and publish key features of the system on its website. The NCP issued a follow-up statement in 2021 noting that the company had reached a higher level of awareness of risk assessment and made further progress in adhering to due diligence guidance, particularly considering the additional challenges SMEs may face in this regard.

#### ***2.1.5. Specific instances not accepted for further examination***

34. As noted above, 16 specific instances (37%) closed in 2021 were not accepted for further examination. This represents the third consecutive year without increase in the non-acceptance rate, equal to 37% in 2020, and down from 46% in 2019, and 50% in 2018.
35. The main reason for not accepting specific instances in 2021 was that insufficient information was received from the submitters following NCP requests, raised in five specific instances. The second most cited reason, with four specific instances, was that the issues were not material and substantiated. No link between the company and the issues, and the NCP as the incorrect entity to handle the case were tied as the third most common reasons for non-acceptance, with three cases citing each reason respectively (Figure 2.3).

**Figure 2.3. Reasons for non-acceptance of specific instances in 2020**



Note: Data for 2021 do not include Egypt or Jordan  
Source: 2021 NCP Annual Reporting Questionnaire

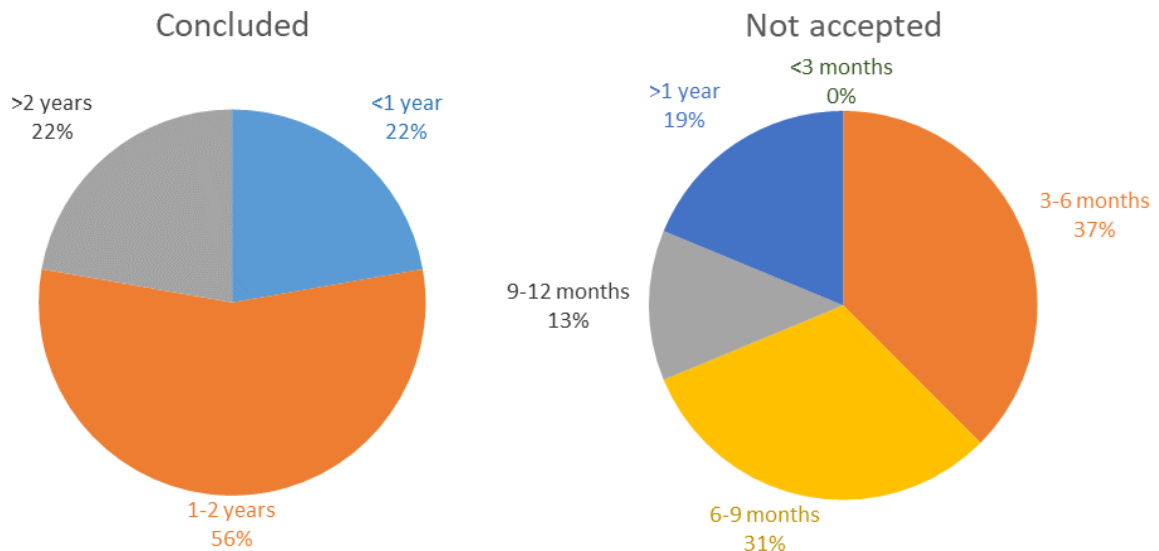
### **2.1.6. Duration of procedures**

36. The Commentary to the Procedural Guidance provides an indicative timeframe of three months for completing the initial assessment.<sup>21</sup> Of the specific instances concluded in 2021, for which the date of the initial assessment is known, the statement was published within three months in seven cases (23%), an increase from 16% of cases in 2020. In nine specific instances (30%) the initial assessment took between 3-6 months. In three specific instances (10%) it exceeded one year, a decrease from 2020 (18%).
37. The Commentary to the Procedural Guidance provides that ‘as a general principle, NCPs should strive to conclude the procedure within 12 months from receipt of the specific instance. It is recognised that this timeframe may need to be extended if circumstances warrant it, such as when the issues arise in a non-adhering country.’<sup>22</sup> Of cases concluded in 2021, six were concluded in less than one year (22%), 15 were concluded in between one and two years (56%), and six were concluded in more than two years (22%) (see Figure 2.4). Of cases not accepted in 2021, thirteen were closed in less than one year (81%), three were closed in between one and two years (19%), and no specific instances took longer than two years to close. No case was closed within the indicative timeframe of three months.

<sup>21</sup> Para. 40.

<sup>22</sup> Para. 41.

Figure 2.4. Timelines from start-to-finish of cases concluded and not accepted in 2021



Note: Data do not include Egypt and Jordan  
 Source: NCP Annual Reporting Questionnaire 2021

38. Timelines of specific instances to initial assessment are largely in line with previous years, although showing an increase in accepted cases reaching initial assessment in three months, an increase in initial assessments taking 3-6 months, and a decrease in initial assessments taking longer than one year. 2021 further saw improvements in timelines of concluded cases as 22% were concluded in one year, as compared to 13% in 2020, and 22% lasted more than two years, as compared to 31% in 2020.
39. Flagged as a challenge in the Report on the 20<sup>th</sup> anniversary of NCPs, the timely handling of specific instances remained an issue for many NCPs in 2021, despite relative improvements compared to 2020. Common causes continue to be an increasing complexity of cases, managing the availability of parties, insufficient internal resources, and issues related to the ongoing Covid-19 pandemic (Box 2.7). The improvements in timelines as compared to 2021 may be an indication that timeliness disruptions due to Covid-19 are decreasing, despite other related challenges remaining.

### Box 2.7. Impacts of the ongoing COVID-19 crisis on the handling of specific instances

Like 2020, 2021 was marked in many ways by the continuation of the Covid-19 pandemic. The NCP Network continued to be impacted as 19 NCPs (40%) explicitly pointed to the pandemic as a particular challenge faced during the year. This challenge manifested itself in stretched resources, limitations to promotional activities, both due to resource constraints and rapidly changing sanitary conditions, as well as in the timely and effective handling of specific instances.

NCPs continued to make adaptations in light of present circumstances, often switching promotional events and good offices and mediation sessions to a virtual format. However, it was not always sufficient to continue the process at the same standard as it was pre-Covid. NCPs reported delays in their procedures and, in one instance, reported that pandemic related delays in mediation had hindered the ability for the parties to reach a desired outcome.

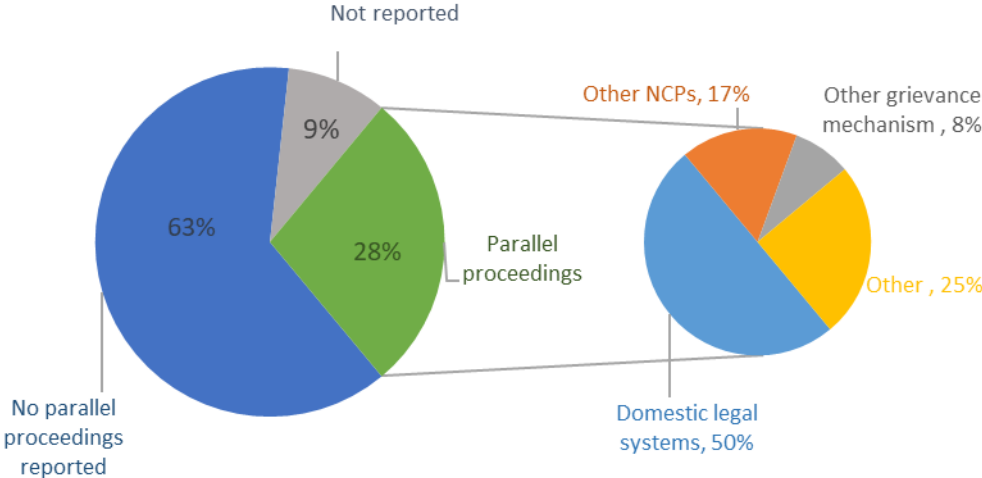
#### 2.1.7. *Parallel proceedings in closed specific instances*

40. The Commentary on the Procedural Guidance for NCPs provides that “when assessing the significance for the specific instance procedure of other domestic or international proceedings addressing similar issues in parallel, NCPs should not decide that issues do not merit further consideration solely because parallel proceedings have been conducted, are under way or are available to the parties concerned.”<sup>23</sup> However, it is relevant to the NCP procedure to know what other avenues of dialogue the submitting parties may be using, or if they have brought similar issues to a complaint mechanism previously. The presence of parallel proceedings may increase the complexity of the specific instance for the NCP.
41. Twelve specific instances (28%) closed in 2021 included reference to some form of parallel proceeding, twenty-seven cases (63%) reported no parallel proceedings, and information was not available for four cases (9%). Of the specific instances which included parallel proceedings, three (25%) were not accepted. Of these three cases, two listed parallel proceedings as a reason for non-acceptance, however, it was not listed as the sole reason in either case. In two instances, the companies cited parallel proceedings as its reason to decline the NCP’s offer of good offices, and in one instance the submitting party asked for suspension of NCP procedures while parallel proceedings were underway, ultimately leading to an agreement reached outside the NCP process. Parallel proceedings mentioned in statements included other NCPs, other grievance mechanisms, domestic legal systems, and other forms of parallel procedures (Figure 2.5).

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<sup>23</sup> Para. 26.

Figure 2.5. Parallel proceedings in specific instances closed in 2021



Note: Data do not include Egypt and Jordan. Data exclude four cases that did not report on PPs.  
Source: 2021 NCP Annual Reporting Questionnaire

**2.1.8. Summary of closed specific instances**

42. An overview of all closed specific instances including the leading NCP, host countries, duration and final outcomes is available in Table 2.2 below.



Table 2.2. Status of closed specific instances in 2021

Outcome		Specific instance	Lead NCP	Host country(ies)	Year submitted-closed
Concluded with agreement between parties within the NCP process, recommendations issued	1	Society for Threatened Peoples Switzerland & BKW Group	Switzerland	Norway	2020-2021
	2	Society for Threatened Peoples Switzerland & UBS	Switzerland	China (People's Republic of)	2020-2021
Concluded with agreement between parties within the NCP process.	3	Bahrain Institute for Rights and Democracy (BIRD) & HPower Group Limited (HPG)	United Kingdom	United Kingdom	2018-2021
Concluded with agreement between parties outside of the NCP process.	4	Human rights impacts of a building-related enterprise in New Zealand	New Zealand	New Zealand	2014-2021
	5	SOUL (Save Our Unique Landscape) and Nga Kaitiaki o Ihumatao Trust & Fletchers Building Ltd	New Zealand	New Zealand	2018-2021
	6	Vila Solaris Hospedagens e Eventos, represented by Mr. Rogério Mário Ziviani Gomes & Vale S.A.	Brazil	Brazil	2020-2021
	7	Individual & Petrobras	Brazil	Brazil	2020-2021
Concluded without agreement between parties and transferred to another NCP.	8	Society for Threatened Peoples – Gesellschaft für bedrohte Völker (GfbV), representing indigenous peoples Indígena Pataxó e Pataxó Hä-Hä-Häe & German Multinational Company	Brazil, transferred to German NCP	Brazil	2020-2021
Concluded without agreement between parties, determination made	9	UK Lawyers for Israel (UKLFI) & PricewaterhouseCoopers Global Network (PwC) 2	United Kingdom	Palestinian Administered Areas	2019-2021
	10	Friends of the Earth and Individuals & ANZ Banking Group	Australia	Australia	2020-2021
	11	197 former employees of AVIANCA PERÚ S.A. & AVIANCA HOLDINGS S.A. and/or AVIANCA PERÚ S.A. in liquidation	Peru	Peru	2020-2021

Outcome		Specific instance	Lead NCP	Host country(ies)	Year submitted-closed
Concluded without agreement between parties, recommendations issued	12	Arpal SpA & Walmart	Chile	Chile	2019-2021
	13	CSCA & CAF	Spain	Unknown	2019-2021
	14	Building and Wood Worker's International & LafargeHolcim	Switzerland	Philippines, El Salvador, India	2019-2021
	15	Individuals & Vale S.A.	Brazil	Brazil	2020-2021
	16	Mr. Carlos Cleber Guimarães Júnior and Ms. Carla de Laci França Guimarães & Vale S.A.	Brazil	Brazil	2020-2021
	17	UNI Global Union & Teleperformance	France	Albania, Colombia, France, Greece, India, Mexico, Philippines, Portugal, United Kingdom, United States	2020-2021
	18	Liquidator & Tensa- EIP	Chile	Chile	2020-2021
	19	Swiss-Tibetan Friendship Association et al. & International Olympic Committee	Switzerland	China (People's Republic of)	2021-2021
	Concluded without agreement between parties, recommendations issued, determination made.	20	Avocats Sans Frontières (ASF) and I Watch & Perenco	France	Tunisia,
21		Lawyers for Palestinian Human Rights (LPHR) & JCB	United Kingdom	Israel, Palestinian Administered Areas	2019-2021
22		West Virginians for Sustainable Development & Rockwool International A/S	Denmark	United States	2019-2021
23		I-Buycott & Starbucks Coffee France	France	France	2019-2021
24		Messrs. Andrew and Robert Starkey & ElectraNet Pty Ltd	Australia	Australia	2020-2021
25		AhTop & AirBnB	France	France	2020-2021
Concluded without agreement between parties, no recommendation made.		26	Institute for Participation and Development of Argentina (INPADE) and Friends of the Earth Argentina & Shell C.A.P.S.A	Argentina	Argentina
	27	Cabaritti Monica and Arca Continental & Individual	Argentina	Argentina	2020-2021
Not accepted for further examination, recommendations issued.	28	Edouard Teumagnie & ASCOMA International	France	Cameroon	2020-2021
	29	Daewoo Nigeria Limited , Daewoo E&C & Chief Olephiri Franklin Igoma of Uwema Aminigboko Community	Korea, Republic of (South	Nigeria	2020-2021
Not accepted for further examination.	30	Individual & G4S and ING	Netherlands	United States	2019-2021

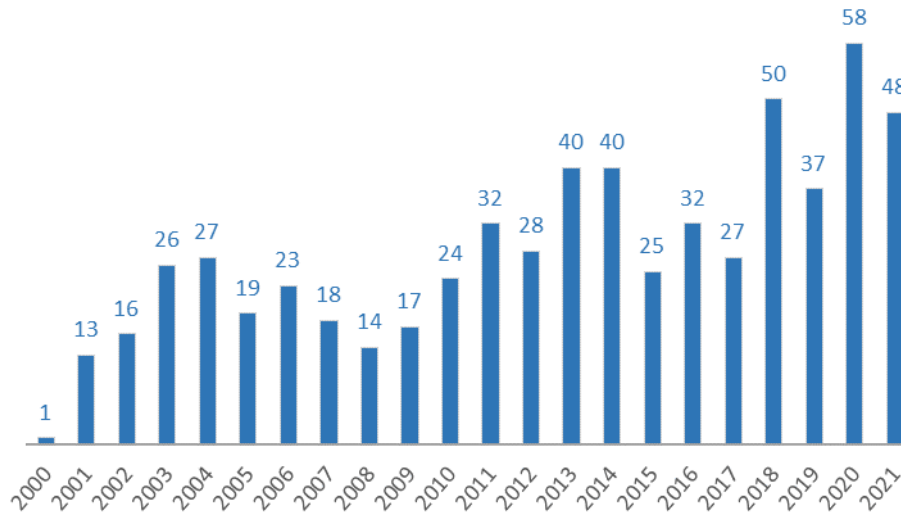
Outcome		Specific instance	Lead NCP	Host country(ies)	Year submitted-closed
Not accepted for further examination.	31	Anonymous	Canada	Unknown	2020-2021
	32	Emery Ruhamy & Schweppes Holdings Ltd.	Ireland	Democratic Republic of the Congo	2020-2021
	33	Korean Civil Society in Solidarity with the Rohingya (KCSSR) and Korean Transnational Corporation Watch and Justice for Myanmar & POSCO, Inno Group, Pan-Pacific, Hotel Lotte and Daesun Shipbuilding & Engineering and POSCO International	Korea, Republic of (South)	Korea, Republic of (South)	2020-2021
	34	Mr. Lee & Häagen-Dazs Korea & General Mills Korea	Korea, Republic of (South)	Korea, Republic of (South)	2020-2021
	35	Group of Creditors & SNC Lavalin	Canada	Chile	2020-2021
	36	Divest Invest Protect (DIP), Indigenous Peoples Law and Policy Program (IPLP), and Women's Earth and Climate Action Network (WECAN) & Credit Suisse Group	United States	United States	2020-2021
	37	Port Hedland Community Progress Association Inc & BHP (mining sector)	Australia	Australia	2021-2021
	38	Douglas Linares Flinto & MNE headquartered in Brazil	Brazil	Brazil	2021-2021
	39	Grecia Julia Leite Mageste & MNE headquartered in Brazil	Brazil	Brazil	2021-2021
	40	Individuals & B2Gold	Canada	Nicaragua	2021-2021
	41	Iranian Center for International Criminal Law & Mölnlycke Health Care	Sweden	Iran	2021-2021
	42	Guliyev Jabir Gurban oglu & Telia Company AB	Finland	Azerbaijan	2021-2021
	43	An individual & Two Companies operating in the mining and quarrying sector	Colombia	Colombia	2021-2021

Note: Data do not include Egypt and Jordan  
Source: NCP Annual Reporting Questionnaire 2021

## 2.2. Trends of new specific instances

43. A total of 48 new specific instances were submitted to NCPs in 2021 compared to 54 in 2020<sup>24</sup>. This represents an increase in submissions based on historical rates since 2000, with 2021 being the third highest number of new cases since 2000 (Figure 2.6).

Figure 2.6. Number of specific instances submitted annually 2000-2021<sup>25</sup>



Note: Data do not include Egypt and Jordan

Source: NCP Annual Reporting Questionnaire 2021

44. In 2021, 25 NCPs received specific instances submissions, representing 50% of all NCPs (Table 2.3). This represents an increase in NCPs receiving specific instances compared to 2020 (45%). The NCP of Kazakhstan received its first two specific instances in 2021. The NCP of Estonia received its first specific instance in 2021, however the case was transferred to the Latvian NCP to act as lead and the Estonian NCP will continue assisting as the supporting NCP.

<sup>24</sup> Four new 2020 submissions were received following the publication of the 2020 Annual Report, bringing the total 2020 submissions to 58.

<sup>25</sup> Since publishing the 2019 and 2020 reports, three and four more cases were received for each year, bringing the totals to 40 and 58, respectively.

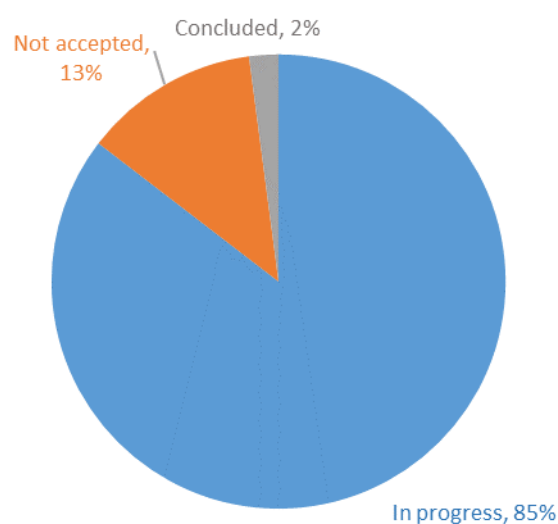
**Table 2.3. Number of specific instances received by NCPs in 2021**

National Contact Point	Number of specific instances	National Contact Point	Number of specific instances
Australia	8	Canada	1
Ireland	5	Estonia	1
Netherlands	3	Finland	1
United States	3	France	1
Brazil	2	Germany	1
Chile	2	Israel	1
Colombia	2	Korea	1
Denmark	2	Latvia	1
Italy	2	Norway	1
Japan	2	Spain	1
Kazakhstan	2	Türkiye	1
Sweden	2	United Kingdom	1
Switzerland	2		

Note: Data do not include Egypt and Jordan

Source: NCP Annual Reporting Questionnaire 2021

45. At the end of 2021, the status of the 48 specific instances submitted that year was the following: 41 were in progress, 6 had not been accepted for further examination, and one was concluded after one party refused to participate in mediation, citing bad faith engagement from one of the submitting parties (see Figure 2.7).

**Figure 2.7. Status of specific instances submitted in 2021**

Note: Data do not include Jordan or Egypt

Source: NCP Annual Reporting Questionnaire 2021

46. The Commentary to the Procedural Guidance provides that the NCP of the host country should consult with the NCP of the home country in its efforts to assist the parties in resolving the issues.<sup>26</sup> It also provides that when issues arise from an enterprise's activity that takes place in several adherent countries or from the activity of a group of enterprises organised as a consortium, joint venture or similar form, based in different adherent countries, the lead NCP should consult with other NCPs.<sup>27</sup> Fifteen specific instances submitted in 2021 (31%) are or were handled with the help of supporting NCPs, ranging from one to six supporting NCPs for cases involving support in 2021.

### *2.2.1. Host countries*

47. Specific instances submitted in 2021 dealt with issues involving companies in 29 different host countries. 30 (63%) of the specific instances submitted in 2021 address issues arising in at least one of the 50 Adherent countries and 14 (29%) address issues arising in non-adherent countries. One specific instance was marked as global given that the company operates in around 120 different countries. The location of the issues was not known for four specific instances. In total, since the year 2000 NCPs have handled specific instances involving issues arising in over 105 countries and territories.

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<sup>26</sup> Para. 23.

<sup>27</sup> Para. 24.

### 2.2.2. Specific instances by industry sectors

48. The most prevalent sectors referenced in specific instances submitted in 2021 were mining and quarrying (30% with 14 submissions) and information and communication (15% with 7 submissions). Professional, scientific and technical activities, Manufacturing, Financial and insurance activities, Electricity, gas, steam and air conditioning supply, and accommodation and food service received three submissions each (7%) (Figure 2.8). Mining and quarrying was also the most submitted to sector in 2020, although in 2021 the proportion has increased.

Figure 2.8. Count of specific instances submitted in 2021 by industry sector



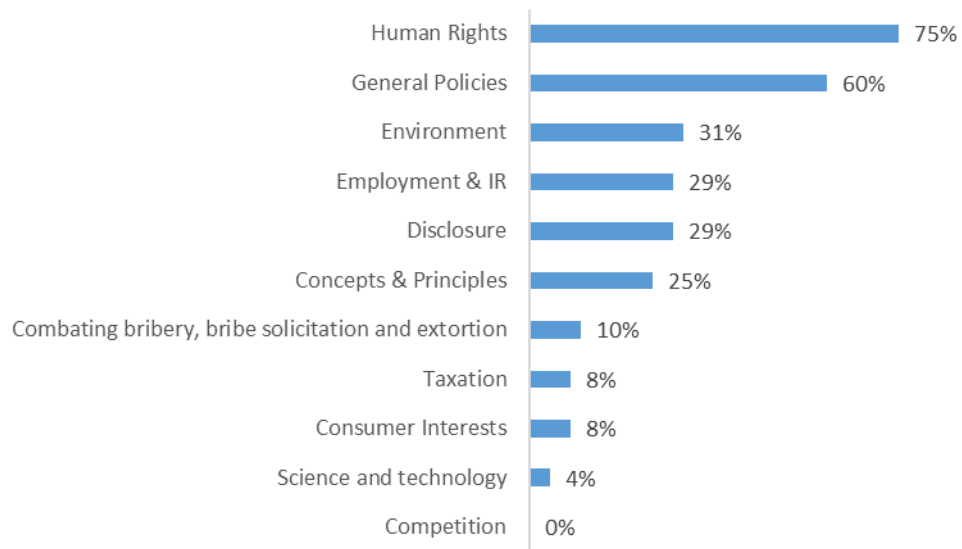
Note: Data do not include Egypt and Jordan

Source: NCP Annual Reporting Questionnaire 2021

### 2.2.3. Chapters of the Guidelines cited in specific instances

49. The chapters on Human Rights and General Policies (which includes recommendations on due diligence) were the most frequently referenced chapters, with respectively 35 (70%) and 28 (56%) of the specific instances submitted, followed by the chapters on Environment, and on Employment and Industrial Relations. The Human Rights chapter remains the most referenced chapter in specific instances since its introduction in the 2011 updates of the Guidelines (Figure 2.9).

Figure 2.9. Specific instances by Guidelines chapter in 2021



Note: Data do not include Egypt and Jordan

Source: NCP Annual Reporting Questionnaire 2021

50. Compared to previous years, recent years have seen an increase in specific instances making reference to the Taxation Chapter of the Guidelines (Box 2.8). The number of submissions have been steady with four cases received in both 2021 and 2019, and three cases received in 2020.



## Box 2.8. Examples of specific instances referencing the Taxation Chapter of the Guidelines

### I Buycott & Starbucks Coffee France

On 22 November 2019, the French consumer association I Buycott, submitted a specific instance to the French NCP alleging that Starbucks Coffee France had not observed the Guidelines regarding information disclosure, consumer interests, and taxation in France. The NCP issued an initial assessment in July 2020 and conducted its good offices between June 2020 and February 2021 in coordination with the NCPs of the US, Ireland, the Netherlands, Spain, and Mexico. On 1 June 2021, the NCP issued its final statement in which it determined that the company had not observed the OECD Guidelines regarding disclosure and consumer information and issued recommendations that the company:

- improve its disclosure of financial information, group structure and governance, tax information, and party transactions;
- commit to consider the OECD recommendations and benchmarks on international taxation, namely a code of conduct;
- provide accurate, verifiable, and clear information for customers;
- continue to comply with the letter and spirit of the tax laws and regulations of France.

Starbucks Coffee France participated in the good offices procedure but declined to engage in direct dialogue with the submitter. The NCP noted that the exercise of tax control of a company is covered by tax secrecy and is under the strict jurisdiction of the tax authorities. The company still provided an official tax certification. Accordingly, the NCP noted that the company was now compliant with the OECD recommendations on taxation. A follow up is expected in 2022.

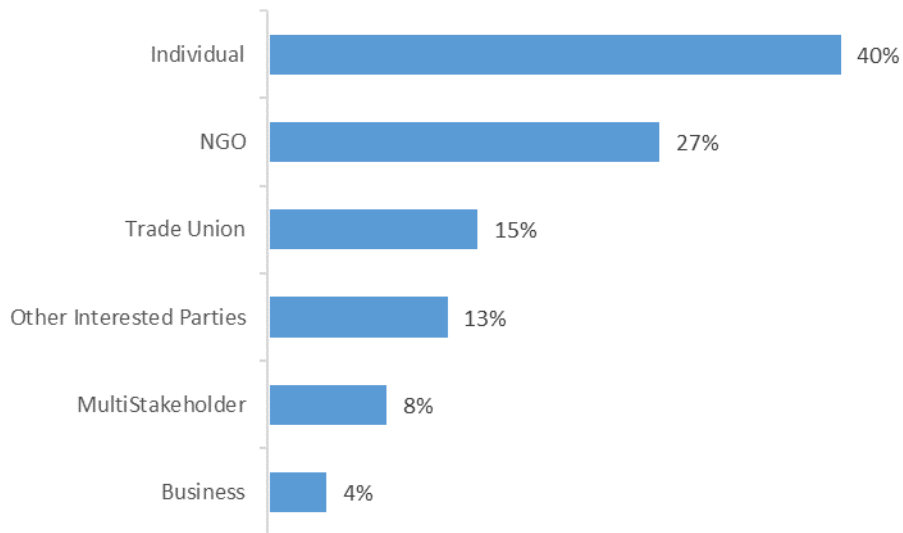
### AHTOP & AIRBNB France

On March 11, 2020, AHTOP, a French employer's association, submitted a specific instance to the French NCP alleging that AIRBNB France had not observed the Guidelines with regard to its transfer pricing practices. Specifically, concerns for the taxation of AIRBNB France and the transfer pricing between AIRBNB France and AIRBNB Ireland. The NCP offered its good offices, in coordination with the US, UK, and Ireland NCPs, but AIRBNB France declined to participate. As the NCP was not in a position to assess the compliance of AIRBNB France's transfer pricing, given that tax audits are under the strict jurisdiction of the tax authorities, the NCP has referred the specific instance to these authorities. The NCP also examined the relationship between Chapter XI of the Guidelines and the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations modified by actions 8 to 10 of the BEPs. The NCP submitted recommendations for AIRBNB France, including that the company comply with the letter and spirit of the tax laws and regulations applicable in France. The company responded positively and will consider making public the information regarding AIRBNBs taxation, in accordance with the Guidelines.

#### 2.2.4. Submitters of specific instances

51. Individuals and NGOs were the primary submitters accounting for 19 (40%) and 13 (27%) submissions respectively, followed by trade unions (15%) (Figure 2.10). While previous years saw NGOs and trade unions as the main submitters, 2021 marks a second consecutive year where individuals accounted for the most submissions.

Figure 2.10. Submitters of specific instances



Note: Data do not include Egypt and Jordan  
Source: NCP Annual Reporting Questionnaire 2021

### 3. NCP Structures and activities

#### 3.1. Structures and locations

52. As established by the Decision on the Guidelines, while adherent governments have flexibility in how to structure their NCP, they are under an obligation to make available human and financial resources to their National Contact Points so that they can effectively fulfil their responsibilities.<sup>28</sup> Key among these responsibilities is:

- seeking the active support of social partners;
- dealing with the broad range of issues covered by the Guidelines;
- operating in an impartial manner; and
- developing and maintaining relations with stakeholders.<sup>29</sup>

53. Adherent governments are also expected to ensure that their NCP can operate in accordance with the core criteria of visibility, accessibility, transparency and accountability.<sup>30</sup> When handling specific instances, NCPs should also observe the principles of impartiality, predictability, equitability and compatibility with the Guidelines.<sup>31</sup>

##### 3.1.1. Overview of NCP structures

54. In 2021, NCPs reported being set up according to the following types of structure:<sup>32</sup>

- **Single agency NCP:** The NCP is composed of one official in a single ministry, or by a group of officials belonging to the same service in the same ministry.
  - In 2021, there were 18 single agency NCPs: Argentina, Austria, Chile, Colombia, Estonia, Greece, Iceland, Ireland, Israel, Italy, Luxembourg, Mexico, Peru, Poland, Türkiye, Ukraine, the United Kingdom, and the United States.
- **Inter-agency NCP:** The NCP is composed of a group of representatives from several ministries or government agencies, usually with a Secretariat located in one of these ministries, composed of one or more officials.
  - In 2021, there were 12 inter-agency NCPs: Brazil, Canada, Costa Rica, Germany, Hungary, Japan, Morocco, New Zealand, Portugal, Romania, Slovenia, Spain and Uruguay.

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<sup>28</sup> Decision on the Guidelines, I (4).

<sup>29</sup> See Decision on the Guidelines, Procedural Guidance, I. A.

<sup>30</sup> Decision on the Guidelines, Procedural Guidance, I.

<sup>31</sup> Decision on the Guidelines, Procedural Guidance. Section C.

<sup>32</sup> These categories are based on OECD (2018), Structures and Procedures of National Contact Points for the OECD Guidelines for Multinational Enterprises, <https://mneguidelines.oecd.org/Structures-and-procedures-of-NCPs-for-the-OECD-guidelines-for-multinational-enterprises.pdf>. This report maps how Governments have set up their NCPs and how the mechanisms operate and make decisions in relation to their mandates.

- **Multipartite NCP:** The NCP is composed of a group of government officials and stakeholder representatives, usually with a Secretariat located in one of the government agencies represented on the NCP.
    - In 2021, there were 12 multipartite NCPs. Four were tripartite, i.e. they include representatives of government, business and trade unions (France, Latvia, Sweden and Tunisia). Seven were quadripartite, including representatives of civil society organisations (Belgium, Croatia, Czech Republic, Finland, Kazakhstan, Slovak Republic, and Switzerland).
  - **Expert-based NCPs:** The NCP is composed of experts who are appointed by, but external to, the government. These NCPs are generally set up as entities independent of the government, although they are dependent upon the government for funding and for their Secretariat, based in a government agency. Experts may be required to act in a personal capacity and not to represent particular interests or on the contrary may represent the views of the organisations that nominated them.
    - In 2021, there were four expert-based NCPs: Denmark, Lithuania, the Netherlands and Norway.
55. In addition, the NCPs of Australia and Korea were set up under a hybrid structure composed of elements derived from different models above, namely single-agency and expert-based (Australia), or inter-agency and expert-based (Korea). No data is available for Egypt and Jordan.
56. In 2021, the NCP of Uruguay reported for the first time, as the newest member of the NCP Network. An overview of the Uruguayan NCP's structure is provided in Box 3.1.

### Box 3.1. New joiner: the Uruguayan NCP

The Uruguayan NCP is composed of an inter-ministerial commission, an Executive Secretariat, and an advisory body.

The Inter-ministerial Commission is composed of the Ministry of Foreign Affairs, the Ministry of Economy and Finance, the Ministry of Environment, the Ministry of Labour and the Ministry of Housing. Its main functions are to examine and offer its best efforts in solving specific instance in line with the Guidelines and to cooperate with other NCPs when required.

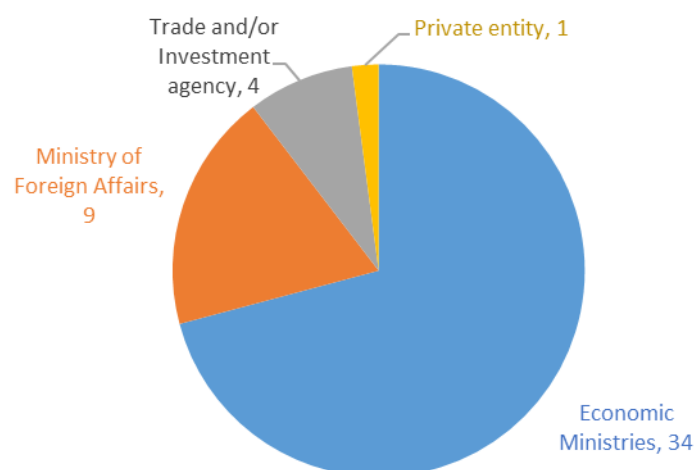
The Executive Secretariat is composed of the Ministry of Economy and Finance. Its main functions are to promote the Guidelines and organise promotional activities, processing submissions requiring a specific instance, drafting work plans and procedures for administrative affairs of the NCP, report to the Advisory Committee about specific instances, draft reports regarding specific instances.

The advisory body contains representatives of private and public stakeholder groups (e.g. government, business, business organisation, NGO, trade union, academia, consumer organisation). The advisory body provides recommendations on promotional activities and advises the NCP on handling specific instances.

More information on the NCP of Uruguay can be found on the website: <https://www.gub.uy/ministerio-economia-finanzas/punto-nacional-contacto-ocde>

57. Each Adherent can also decide on the location of its NCP, bearing in mind the core criteria for functional equivalence. This location is either that of the NCP itself (for single-agency NCPs) or, for NCPs that are set up as committees meeting intermittently (inter-agency, multipartite, expert-based), the location of their permanent office or Secretariat handling the daily management of NCP affairs (receiving inquiries and specific instances, organising or participating in promotional events or promoting policy coherence, preparing NCP decisions, etc.):
- Thirty-four NCPs (71%) were located in Ministries with an economic portfolio (i.e. Ministries of Economy, Trade, Investment, Industry, Investment, Business, etc.);
  - Nine NCPs (19%) were located in Ministries of Foreign Affairs; and
  - Four NCPs (8%) were located in Trade and/or Investment Promotion Agencies.
58. In addition, the Secretariat of the NCP of Korea is located in a private entity, the Korea Commercial Arbitration Board. No data is available for Egypt and Jordan.
59. The location of NCPs was identified in the Report on the 20<sup>th</sup> anniversary of NCPs as an important factor conditioning the perception of impartiality of NCPs by stakeholders. The report notably points out the need for governments to clearly provide for measures to avoid that personal or organisational links between the NCP and its members on the one hand, and other potentially conflicting portfolios or interests on the other hand, lead to a perceived lack of impartiality.<sup>33</sup> Guide was developed in 2021 to notably address how adherent governments can best leverage their structure to build and maintain impartiality (see below).

Figure 3.1. Location of NCPs



Note: Data for 2021 does not include Egypt or Jordan  
Source: NCP Annual Reporting Questionnaire 2021

<sup>33</sup> See <http://mneguidelines.oecd.org/ncps/ncps-at-20> and [report](#) p. 38.

### ***3.1.2. Rules of procedure for the handling of specific instances***

60. Having clear rules of procedure is an important way to ensure a predictable process to resolve cases and to build trust among stakeholders. NCPs have made important progress in this regard over the years. In 2021, 45 NCPs have rules of procedure in place, of which 42 were available online, remaining at the same level as in 2020. Moreover, seven NCPs modified their rules of procedure (Argentina, Belgium, Estonia, Ireland, Mexico, the Netherlands and New Zealand). Amongst the different updates to the rules, NCPs noted issues such as further alignment with the procedural guidance and clarifications related to initial assessment, follow up, impartiality and preventing conflicts of interest. These updates reflect ongoing efforts by many NCPs to ensure a more consistent approach to case-handling across the NCP network, a challenge that was highlighted by the stocktaking exercise of the OECD MNE Guidelines.

### ***3.1.3. Reporting***

61. As part of the core criteria for functional equivalence, NCPs are required to be accountable. Under the Procedural Guidance, NCPs must report annually to the OECD Investment Committee and may communicate on a regular basis to Government and/or Parliament. Such reporting can be an important means to raise the internal profile of NCPs within their Governments and to ensure that budgetary challenges that the NCPs may face can be addressed. In 2021:

- Thirty-seven NCPs reported on their activities to their Government, and 16 reported to Parliament.
- All except two NCPs (Jordan and Egypt) reported on their activities in 2021 to the OECD. This was also the case for Jordan and Egypt in 2020 and for Jordan in 2019. The NCP of Jordan is therefore in breach of the requirement to report to the Investment Committee for the third year in a row. One NCP reported only about activities for the months of January and February 2021, as the NCP has been discontinued since then, as a result of a reshuffle of ministry portfolios that is still ongoing (Greece).

### ***3.1.4. Attendance to meetings of the Network of NCPs***

62. NCPs are required to meet regularly to share experience, in particular by attending the two annual meetings of the NCP Network at the OECD.

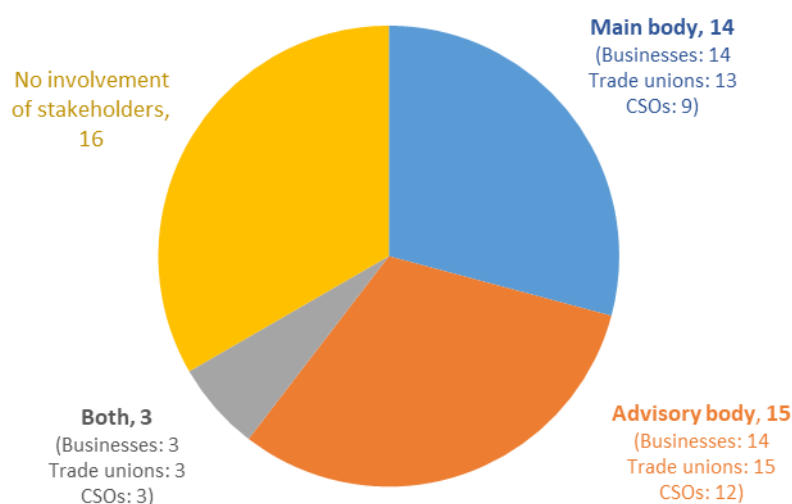
63. As noted above, the COVID-19 pandemic continued to affect NCPs by reducing human and financial resources, but also by limiting their ability to travel to meetings. In recognition of the situation, both NCP meetings of 2021 were organised fully virtually, like in 2020. In 2021, a total of 40 NCPs attended the meetings of the NCP Network in June and in November, compared to respectively 45 and 42 in 2020. Five NCPs (Greece, Jordan, Latvia, Slovenia and Uruguay) did not attend either of the two NCP meetings in 2021, compared to four in 2020 (Egypt, Jordan, the Slovak Republic and Slovenia) and one in 2020 (Jordan).

### 3.1.5. Stakeholders as part of the institutional arrangements of NCPs

64. Stakeholders can be formally integrated into the institutional arrangements of the NCP, for example as members of the NCP main body or on the NCPs' advisory or oversight bodies. Including key stakeholders – such as workers' organisations, civil society organisations and the business community – as part of the NCP's institutional arrangement can serve to enhance the expertise available to the NCP and may render it easier to maintain relations with stakeholders, to seek their support, and ultimately to gain and retain their confidence.
65. To promote impartiality of the NCPs, the Commentary to the Procedural Guidance recommends that NCPs establish multi-stakeholder advisory and/or oversight bodies. While these do not normally form part of the NCP and do not have decision-making power on accepting or concluding specific instances, they can provide important advice to the NCP on a range of issues, including general strategy of the NCP, promotional plan, stakeholder engagement, general guidance on handling specific instances (e.g. advice on rules of procedure, updates on cases received and concluded, etc.).
66. In 2021, two-thirds of NCPs (32) involved key stakeholders in their institutional arrangements, of which 14 involved them in their main body, 15 in their advisory body and 3 in both. 31 NCPs involved business representatives in their structure, 30 NCPs involved trade unions in their structure, and 24 NCPs involved CSOs in their structure (see Figure 3.2). Six NCPs had an advisory body that only includes representatives from across government, meaning that a total of 24 NCPs had an advisory body in 2021 (compared to 22 in 2020). During 2021, some NCPs, such as Mexico, also started the process of setting up an Advisory Body, which will be finalised in 2022. This continues to show that NCPs are increasingly including stakeholders in their structure, and thereby creating opportunities for strengthening engagement and building confidence with stakeholders. Eight of these advisory bodies also provided oversight to the NCP (Australia, Austria, Chile, Croatia, New Zealand, Spain, Switzerland and the United Kingdom).

**Figure 3.2. Stakeholders in institutional arrangements**

Number of NCPs with key stakeholders in their main bodies and advisory bodies



Note: Data for 2021, does not include Egypt and Jordan.  
Source: NCP Annual Reporting Questionnaire 2021

### 3.1.6. NCP Resources

67. As established by the Decision on the Guidelines, adhering Governments must ensure that their NCP has the human and financial resources to effectively promote the Guidelines and handle the broad range of specific instances that it may receive. In June 2017, the OECD Ministerial Council Statement, entitled “Making globalisation work: better lives for all” committed to “having fully functioning and adequately resourced National Contact Points”. In 2019, the Ministerial Council discussed a Progress Report on National Contact Points for Responsible Business Conduct that presented key facts and figures, as well as recommendations, in relation to that commitment. In 2020, the Report on the 20th anniversary of NCPs also identified appropriate human resources, in terms of numbers, expertise and seniority, as a key factor for the effectiveness of NCPs.<sup>34</sup>

68. In 2021:

- Thirteen NCPs reported having staff working both full-time and part-time on NC matters (compared to 17 in 2019 and 11 in 2020)
- Nine NCPs reported only having staff working full-time on NCP matters (compared to 7 in 2019 and 8 in 2020)
- Twenty-five NCPs reporting only having staff working part-time on NCP matters (compared to 21 in 2019 and 25 in 2020)
- One NCP reported having no staff at all (Greece, reporting on activities from 1 January to 28 February 2020).

69. Taken together, in 2021 NCPs reported a higher level of absolute staff resources throughout the network, reaching 189, compared to 166 in 2019 and 146 in 2020). This increase is partly linked to the new arrival of the NCP of Uruguay, which reported having 12 staff members (all part-time). While having staff working full-time on NCP matters is considered an asset for NCPs, it can be noted that the majority of NCPs still have to rely mostly on part-time staff, and that their proportion is increasing. Additionally, there is wide variation across NCPs and from year to year in the percentage of their time that part-time staff members work on NCP issues, and in whether they are ‘permanent’ staff of the NCP or NCP members meeting intermittently on NCP issues. It is therefore difficult to draw conclusions regarding the level of resources available to NCPs from variations in absolute staff numbers. Based on reports of NCPs, the Secretariat has therefore sought to evaluate human resources reported by NCPs for 2021 (not accounting for turnover) in terms of full time equivalents (FTE, see Figure 3.3), showing that almost 40% of the NCP network operate with one or less than one FTE staff:<sup>35</sup>

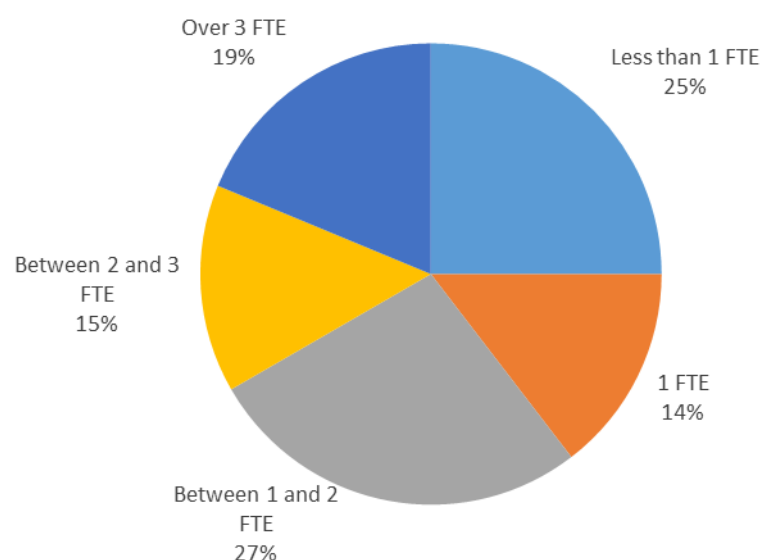
- 13 NCPs (25%) had less than 1 FTE staff (<1),
- 7 NCPs (14%) had 1 FTE staff (=1),
- 13 NCPs (27%) had between 1 and 2 FTE staff (>1 to =2),
- 7 NCPs (15%) had between 2 and 3 FTE staff (>2 to =3),
- 9 NCPs (19%) had more than 3 FTE staff (>3)

<sup>34</sup> OECD (2020), National Contact Points for RBC: Providing Access to Remedy: 20 Years and the Road Ahead <http://mneguidelines.oecd.org/NCPs-for-RBC-providing-access-to-remedy-20-years-and-the-road-ahead.pdf>

<sup>35</sup> According to responses to questions 7 and 8 of the 2021 NCP Annual Reporting Questionnaire. Data represents the sum of full time staff and shares of time spent on NCP matters for each part-time staff member of staff. Note: when shares for part-time staff were provided as a range, the median point was considered. For example, 15% was considered when a 10%-20% range was provided.



Figure 3.3. FTE staff resources available to the NCP Network in 2021



Source: NCP annual reporting questionnaires. No data are available for Egypt and Jordan.

70. Furthermore, frequent turnover of staff continues to present a challenge to NCPs in terms of ensuring institutional memory and handling ongoing specific instances, and this challenge is intensifying. Staff turnover increased significantly in 2021 compared to 2020. In 2021, 73% of NCPs reported staff changes, compared to 55% in 2019 and 51% in 2020. In particular, in 2021:

- 28 NCPs reported that a total of 72 new staff members had joined (21 reported 41 in 2020)
- 29 NCPs reported that a total of 50 staff members had left (22 reported 43 in 2020)

71. With regards to financial resources:

- Twenty-one NCPs had access to a dedicated budget for their activities (compared to 20 in 2020).
- Out of the twenty-seven NCPs that did not have access to a specific budget, 18 reported that financial resources were available on an ad-hoc basis for promotional activities, and 8 reported that financial resources were available on an ad-hoc basis for specific instances.

72. With regards to whether human and financial resources were sufficient to cover various activities, three NCPs considered they were insufficient to handle specific instances in a timely manner (compared to four in 2020 and one in 2019), five NCPs considered they were insufficient to organise promotional activities (compared to six in 2020 and eleven in 2019), one considered they were insufficient to attend NCP meetings at the OECD and six considered they were insufficient to attend events organised by other NCPs.

73. As noted in the Stocktaking Report (see above), in the report on the 20th anniversary of NCPs, as well as the Progress Report on National Contact Points for Responsible Business Conduct delivered to the OECD Ministerial Council in 2019, insufficient human and financial resources continues to be a major concern for NCPs. The lack of full-time staff, and the fact that many NCP officials have other duties and only devote a portion of their time to NCP work, was highlighted in the reports as an issue. Even though working on other RBC-relevant issues alongside NCP duties may be beneficial in terms of policy coherence, this may also limit the official's ability to actively promote the Guidelines and the NCP, or to handle cases in a timely and efficient manner as mandated by the Guidelines, particularly as case complexity is only set to increase. Constrained by a lack of resources, some NCPs may be confronted by a trade off between handling specific instances and promotional activities. This also comes at a time when NCPs report facing increasing demands from various sources as the RBC agenda develops across government and society. Responding to these developments with equivalent or diminishing levels of staff also challenges the ability of NCPs to deliver on their more regular activities, such as promotion and the handling of specific instances.

## 3.2. Promotion of the Guidelines

74. Ensuring that NCPs are visible requires sustained efforts to raise awareness among the business community, worker organisations, civil society organisations and other interested parties. An important function of NCPs is to promote awareness of the OECD Guidelines and the due diligence guidance that offers tools to the private sector on how to do business responsibly. In line with this function, over 2021, many NCPs met with stakeholders across government, business, trade unions and civil society to promote the OECD Guidelines and due diligence guidance.

### 3.2.1. Translations of RBC documents

75. To facilitate the broad uptake of the Guidelines, the EU-funded OECD LAC project<sup>36</sup> worked with the NCPs over the course of 2021 to provide translations to a variety of documents, translating in-house with NCPs assistance in reviewing. Translations included:

- OECD Due Diligence Guidance for Responsible Supply Chains in the Garment & Footwear Sector into Portuguese<sup>37</sup>;
- OECD-FAO Guidance for Responsible Agricultural Supply Chains into Portuguese<sup>38</sup>;
- OECD Responsible Business Conduct Policy Review of Brazil into Portuguese<sup>39</sup>;

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<sup>36</sup> See <http://mneguidelines.oecd.org/rbclac.htm>

<sup>37</sup> Available at: [https://www.oecd-ilibrary.org/governance/guia-de-devida-diligencia-da-ocde-para-cadeias-de-fornecimento-responsaveis-no-setor-de-vestuario-e-calcados\\_ce0e9e26-pt](https://www.oecd-ilibrary.org/governance/guia-de-devida-diligencia-da-ocde-para-cadeias-de-fornecimento-responsaveis-no-setor-de-vestuario-e-calcados_ce0e9e26-pt)

<sup>38</sup> Available at: [https://www.oecd-ilibrary.org/agriculture-and-food/guia-ocde-fao-para-cadeias-de-fornecimento-responsaveis-no-setor-agricola\\_fb446fdc-pt](https://www.oecd-ilibrary.org/agriculture-and-food/guia-ocde-fao-para-cadeias-de-fornecimento-responsaveis-no-setor-agricola_fb446fdc-pt)

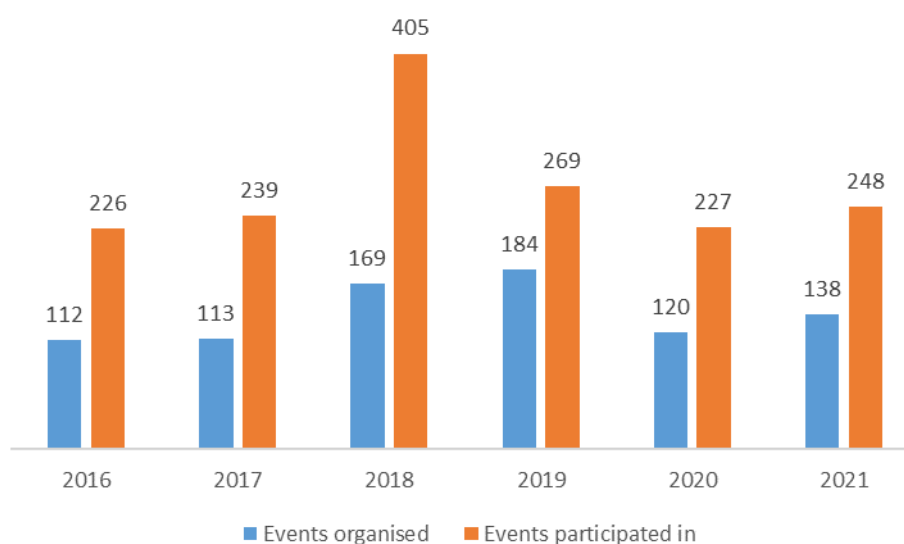
<sup>39</sup> Available at: <https://mneguidelines.oecd.org/estudos-da-ocde-sobre-a-politica-de-conduta-empresarial-responsavel-brasil.pdf>

- Providing access to remedy: 20 years and the road ahead into Spanish<sup>40</sup>;
- Initial Assessment Template for NCPs into Spanish<sup>41</sup>;
- And Final Report/Statement Template for NCPs into Spanish<sup>42</sup>.

### 3.2.2. Promotional events

76. In 2021, 31 NCPs organised or co-organised 138 events. This showed a decrease in the number of NCPs organising and co-organising events, but an increase in total events organised as compared to 2020 where 33 NCPs organised 120 events (see Figure 3.4). This means that 17 NCPs did not organise or co-organise any promotional events in 2021, compared to 14 in 2020.

Figure 3.4. Promotional events organised by or involving NCPs (2016-2021)



Note: Data for 2021 does not include Egypt or Jordan  
Source: 2021 NCP Annual Reporting Questionnaire

77. Promotional activities in 2021 continued to be disrupted by similar circumstances as in 2020 where the ever-changing Covid-19 situation interfered with planning capabilities. The year saw a continued use of online resources to host remote promotional events, while returning to in-person modalities when restrictions would allow.
78. In the context of the ongoing Covid-19 crisis, NCPs organised events to discuss the role of RBC and priority areas for building back sustainably after the pandemic (see Box 3.2).

<sup>40</sup> Available at: <http://mneguidelines.oecd.org/proporcionando-acceso-a-la-reparacion-20-anos-y-el-camino-por-recorrer.pdf>

<sup>41</sup> Available in the Communities Portal of the NCP Network

<sup>42</sup> Available in the Communities Portal of the NCP Network

### Box 3.2. Example events organised or co-organised by NCPs on the role of RBC and NCPs leading into post-pandemic recovery

While 2021 saw some return to normalcy, the Covid-19 pandemic continued to affect the economy and business operations globally. However, by taking lessons learned during 2020, many countries began developing and implementing strategies to rebuild a more sustainable world post-Covid and considered priority areas in this regard.

NCPs have continued to leverage their role as authority figures on RBC to support governments and companies on how RBC standards can inform their post-Covid strategies. Related NCP events have included:

- The Italian NCP co-organised a conference for businesses, researchers, and sector specialists on the continued impacts of the pandemic on the Guidelines and Due Diligence sectoral guidance for SMEs
- The Norwegian NCP organised a webinar for a large multi-stakeholder audience largely centring on the launch of their annual report. The theme of the conference was Covid-19 and “Build Back Better,” considering RBC, the Guidelines, due diligence and sectoral guidance, and the role of the NCP.

The OECD Secretariat has made many materials available, from general policy notes on RBC to sectoral and regional guidance on the topic of economic recovery from Covid, and how RBC makes companies more resilient and better equipped to resist future crises.<sup>43</sup>

79. Some in-person events were held in 2021, such as conferences, meetings with government officials or stakeholders, and university lectures. Similarly to 2020, the majority of events continued to be held in virtual format, such as online webinars, trainings, and meetings with stakeholders. Promotional events in 2021 had a broad range of topics including, recent developments in RBC, public procurement and RBC, data protection, and climate change and renewable energy, in addition to general events, which covered the Guidelines, Due Diligence Guidance, and the NCP mechanism. In 2021, 28 NCPs (56%) hosted an annual meeting with stakeholders, an increase from 24 NCPs in 2020, and 22 in 2019.
80. In addition to organising or co-organising events, 31 NCPs reported taking part in a total of 248 events organised by others, during which they participated in presentations, panels, academic lectures, and discussions (see Box 3.3). This shows a decrease in the number of NCPs participating in events organised by others, but an overall increase in the number of events in which NCPs participated, possibly reflecting some return of normalcy following the pandemic. No data are available for Egypt or Jordan.
81. Promotional activities in 2021 relied heavily on the use of virtual formats, often to account for continued restrictions on in-person gatherings due to the ongoing pandemic. Of the events organised, co-organised, and participated in by NCPs, 69% of promotional events were held in a virtual format. 27% had a physical location reported for the event, 2% were reported as being hybrid online, in-person, and three events (<1%) did not have a location reported.

<sup>43</sup> Available at: <http://mneguidelines.oecd.org/covid-19-and-responsible-business-conduct.htm>

### Box 3.3. Example events organised, co-organised, or participated in by NCPs in academic settings

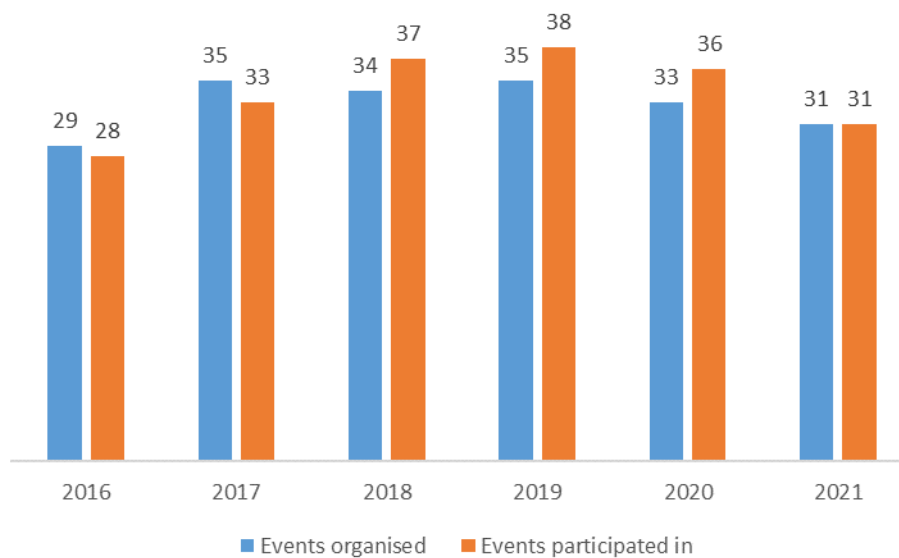
Academia comprises an important pillar for NCP engagement and promotion, and an important opportunity to foster the uptake of the Guidelines via the education of future business leaders and the stimulation of innovative research on RBC that can then feed into government policy or business operations.<sup>44</sup> In 2021, NCPs not only held promotional events with current academic stakeholders, but also participated in a variety of events targeting students and future professionals at universities and law schools. For example:

- The Polish NCP co-organised a webinar for a large multistakeholder audience on the role of universities in the preparation of future business leaders in the context of RBC standards
- The Australian NCP made presentations on the Guidelines and NCP role at the University of Western Australia Law School, Dundee University, and Curtin University
- The Austrian NCP made a presentation of the Guidelines, Due Diligence Guidance, and the work of the Austrian NCP for students at the Vienna University of Economics and Business
- The Canadian NCP joined a webinar held by Algonquin University to present on the Guidelines, NCP mandate, and due diligence
- The French NCP participated in two webinars and one conference organised by the Sorbonne University in Paris. The NCP additionally gave several lectures at Dauphine University in Paris and organised several meetings with students working in RBC
- The German NCP made presentations on the Guidelines, due diligence, and the NCP mechanism to students at the Universities of Bremen, and the TH Dresden
- The Italian NCP participated as guest lecturer twice for the Master’s students of Sustainability, Law, Finance and management at Milan Bicocca University, covering RBC, the Guidelines, and due diligence
- The Netherlands NCP presented on the NCP Network to students at Tilburg University
- The Swiss NCP made presentations of the Guidelines, due diligence guidance, and the work of the Swiss NCP for students at the University of Berne as well as at the University of Applied Sciences in the Grisons.

<sup>44</sup> In 2021, the NOVA Law School (Lisbon, Portugal) held a Blog Symposium on ‘National Contact Points for Responsible Business Conduct: the road ahead for achieving effective remedies’, to which the OECD Secretariat contributed a piece, based on the 2020 Annual Report on NCP activity. See <https://novabhre.novalaw.unl.pt/blog-posts-national-contact-points-effective-remedies/>.

82. Ten NCPs did not organise, co-organise, nor participate in any promotional event (Hungary, Iceland, Lithuania, New Zealand, Portugal, Slovak Republic, Slovenia, Spain, , Tunisia, and Türkiye), compared to seven in 2020 (including already Iceland, Portugal, Slovak Republic, Spain, and Türkiye). No data are available for Egypt and Jordan.
83. As shown in Figure 3.5, 2021 showed a decrease in both NCPs that organise or co-organise promotional events, and NCPs that participate in promotional events. 2021 showed the second lowest organisation and participation levels for different NCPs in the last five years, although the number of promotional events organised and participated in showed a slight increase compared to 2020, as shown in Figure 3.4 above.

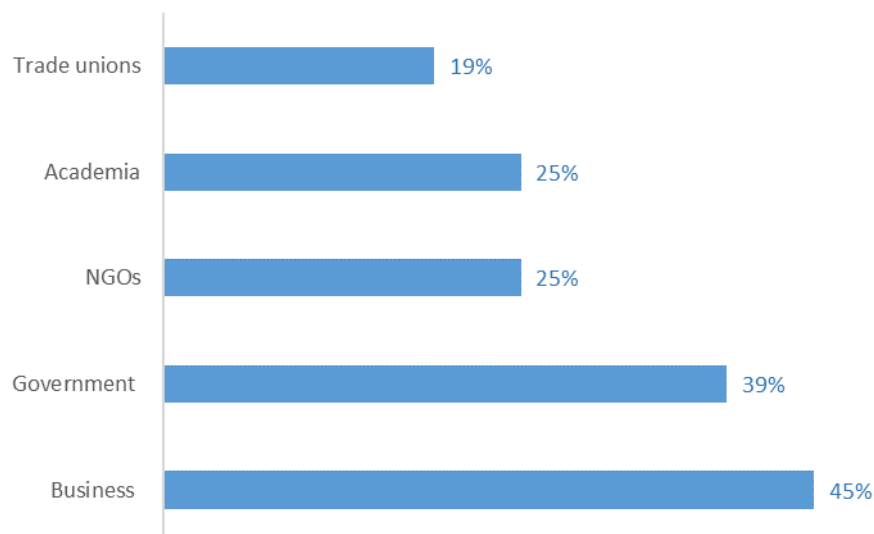
**Figure 3.5. Number of NCPs that organised or participated in events (2016-2021)**



Note: Data for 2021 does not include Egypt or Jordan  
 Source: 2021 NCP Annual Reporting Questionnaire

84. In 2021, 54% of reported events organised or co-organised by NCPs were targeted to a multi-stakeholder audience. 45% of events included businesses as at least one part of the target audience and 39% included government representatives. Academia and NGOs were targeted less frequently, though were still included as part of the target audience in 25% of events each. Trade unions were the least often targeted, included in 19% of events (Figure 3.6). In addition to targeted participant events, some NCPs included social media as a central piece of their promotional strategy (Box 3.4).

Figure 3.6. Target audience at NCP events organised or co-organised by NCPs



Note: Data from 2021 do not include Egypt and Jordan

Source: 2021 NCP Annual Reporting Questionnaire

#### Box 3.4. NCP use of digital strategies and social media to reach larger audiences

Beyond organised events, NCPs have developed other methods of achieving their mandate through promotion. In recent years, NCPs have begun to develop a stronger social media presence, whether it be with their own dedicated account, or by sharing information via a government ministry or other departmental account. Other digital avenues for promotion have also been adopted by NCPs, such as joining digital newsletters. Social media and other digital forms of promotion have the potential to be low cost while also reaching a large audience. For example,

- The UK NCP worked with the Department of International Trade (DIT) on the DIT newsletter to explain the Guidelines and the mandate of the NCP. The newsletter was circulated to a membership of 200 businesses
- The Denmark NCP considers its LinkedIn<sup>45</sup> to be an integral part of its promotional strategy. In 2021, the NCP made 61 posts and the profile reached more than 1000 followers

85. In 2021, a plurality of NCP organised or co-organised events had an audience of less than 10 participations (38%), followed closely by events with 10 to 50 participants (37%). 13% of events had 50 to 100 participants, and 12% of event had audiences with over 100 participants (Figure 3.7). This represents a shift from audience sizes reported last year, where just 20% of events had less than 10 participants. Last year saw an increase in events targeted towards larger audiences, possibly due to an online shift allowing for a greater number of participants at each event. Conversely, 2021 saw the return of some in-person

<sup>45</sup> See at: [https://dk.linkedin.com/company/ncp-danmark-m%C3%A6glings-og-klageinstitutionen-for-ansvarlig-virksomhedsadf%C3%A6rd?trk=organization-update\\_share-update\\_actor-text](https://dk.linkedin.com/company/ncp-danmark-m%C3%A6glings-og-klageinstitutionen-for-ansvarlig-virksomhedsadf%C3%A6rd?trk=organization-update_share-update_actor-text)

events, often bound by sanitary measures, which may help to explain the increase in events with fewer than 10 participants. This may also be considered as a return to post-Covid-19 strategies as 2019 also had a plurality of events with fewer than 10 participants (40%). 2021 did show an increase in events with over 100 participants as compared to 2019 (9%), possibly suggesting a mix of pre- and post-Covid-19 strategies which target small groups of stakeholders in-person, and large audiences online. See examples of online events organised by an NCP in Box 3.5.

### Box 3.5. Online and hybrid events organised by NCPs

#### **Austria NCP's webinar on due diligence in the garment and footwear sector**

In April 2021, the Austrian NCP organised a webinar<sup>46</sup> targeted at businesses, trade unions, NGOs, academia, and government on responsible supply chains in the garment and footwear sector. The webinar was held in English and German and included speeches from the Austrian NCP, industry experts, and an OECD sector expert from the RBC Centre to highlight the experiences and recommendations of the OECD based on the OECD recommendations on the implementation of corporate due diligence in the clothing and footwear industry. The webinar reached an audience of 50-100 people and is a good example of conducting promotional events online.

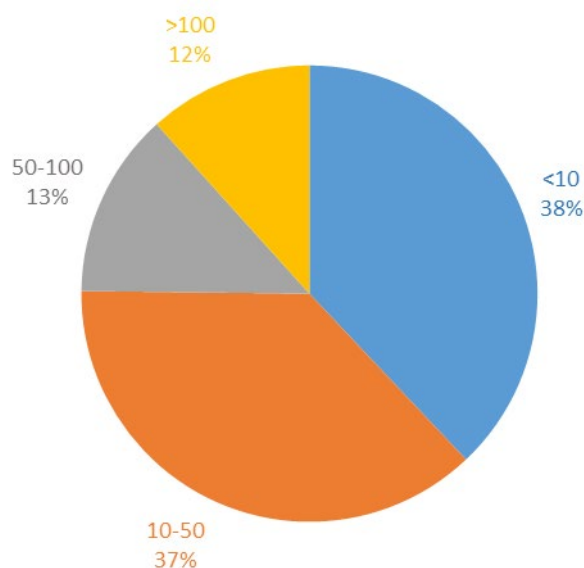
#### **Swiss NCP's hybrid event on the 20<sup>th</sup> anniversary of the NCP**

On the occasion of its 20th anniversary, the Swiss NCP organised an event to share its activities with the public. Representatives of stakeholder groups from business, NGOs, trade unions, and academia, as well as a mediator from a specific instance, presented their views on the work of the NCP. One panel was dedicated to young people from different political parties who shared their concerns about responsible business conduct. The representatives of the different stakeholder groups stressed the high relevance of the out-of-court conciliation body in solving the challenges ahead in an increasingly polarised and also regulated environment. The high relevance of environmental issues, including climate change and biodiversity, for the work of the NCP in the coming years was emphasised.

<sup>46</sup> Overview page available at: <https://app.livestorm.co/oenkp/ue-diligence-im-textil-und-bekleidungssektor?type=detailed>



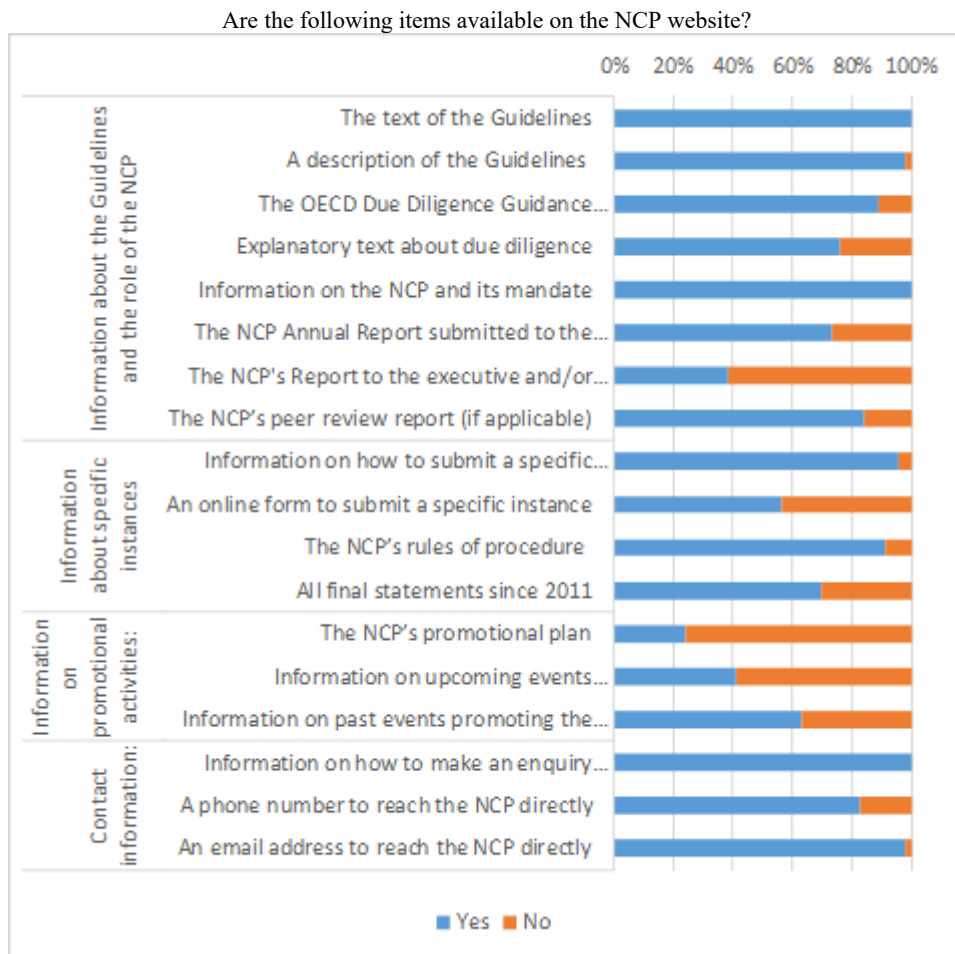
Figure 3.7. Size of audience at NCP events



Note: Data for 2021 do not include Egypt and Jordan  
 Source: 2021 NCP Annual Reporting Questionnaire

86. A total of 30 NCPs reported having a promotional plan in place for 2021, setting out target activities and audiences over the coming year. This number represents a small decrease compared to the previous year (31 NCPs reported having a promotional plan in 2020) but still slightly higher than in 2019 (27) and short from 2018 when 38 NCPs reported having a promotional plan.
87. Although there is no specific requirement for NCPs to have a website, an important aspect of being visible is online presence through a dedicated website where rules of procedures and regular updates about NCP activities and specific instance outcomes are made public. For many stakeholders, NCP websites have served as a principal point of contact for submitting specific instances.
88. Forty-six reporting NCPs have dedicated websites or dedicated webpages that provide information about the Guidelines and the NCP, including contact information for reaching the mechanism. An overview of items available on NCP websites is shown in Figure 3.8. It appears that, even though websites play an important role in the visibility of the NCP and in its promotional role, items related to information and promotional activities were amongst the least present on NCP websites.

Figure 3.8. Items available on NCP websites



Note: Data for 2021 do not include Egypt and Jordan

Source: 2021 NCP Annual Reporting Questionnaire

### 3.3. NCPs at the Global Forum on Responsible Business Conduct

89. Three sessions dedicated to NCPs<sup>47</sup> were held at the Global Forum on RBC in 2021. Each session introduced NCPs under a particular angle (NCPs for beginners, NCPs for remedy, NCPs for RBC) under the common theme ‘Conversations with NCPs’. This format allowed NCPs to directly engage with their users and other stakeholders. In support of this event, a promotional video<sup>48</sup> presenting the NCPs was also developed. Another session of the GFRBC was dedicated to ‘Access to remedy in the tech sector: The role of NCPs in providing access to remedy for technology-related human rights abuses’ and featured a deep dive of a case handled by the Polish NCP.

<sup>47</sup> See <https://oecd-events.org/oecd-global-forum-on-responsible-business-conduct/en/session/88449539-69ac-eb11-94b3-501ac5921410>

<sup>48</sup> See [https://www.youtube.com/watch?v=IeeL-\\_UpIkI&feature=emb\\_imp\\_woyt](https://www.youtube.com/watch?v=IeeL-_UpIkI&feature=emb_imp_woyt)

## 4. Action plans to strengthen NCPS

### 4.1. Action plan 2019-2021

90. 2021 marked the final year of the second Action Plan to Strengthen NCPs (2019-2021), adopted in December 2018. In the continuity of the first Action Plan, it contained four overarching priority areas: peer reviews and capacity-building, building functional equivalence, building and improving tools, and promoting policy coherence.
91. Subject to availability of funding, Action Plans seek to deliver support to NCPs on meeting the core criteria for functional equivalence, stimulate the sharing of expertise and skills among the NCPs, organise capacity-building around skills related to the NCP mandate, develop tools to assist with the daily operation of NCPs, and generally support the NCPs at individual or network levels.

#### *4.1.1. Peer learning, capacity building and tools*

92. In January 2021, NCPs again had the opportunity to participate in a capacity-building programme organised by the ILO Training Centre and funded by the EU on the theme of ‘Labour issues in RBC: the guidance provided by International Labour Standards and the ILO’. Contrary to the similar training organised in 2019, this edition was organised fully remotely and was open to all NCPs (Box 4.1).

#### Box 4.1. NCP training on Labour issues in RBC: the guidance provided by International Labour Standards and the ILO

From 25 January 2021 to 19 February 2021, 37 NCP officials from 22 countries participated in seven capacity-building webinars led by ILO, OECD and EU experts, as well as NCPs themselves. The webinars included general webinars on the following themes:

- Responsible business conduct and decent work
- Introduction to the ILO, its standards and resources
- The ILO Tripartite Declaration of Principles concerning Multinational Enterprises

The webinars also included ‘Focus sessions on labour and Responsible Business’, dedicated to more specialised topics around:

- Working time and wages issues
- Non-discrimination, equal opportunity and treatment
- Freedom of association and collective bargaining

The webinars then concluded with two forward-looking sessions on:

- Opportunities for improved synergies and coherence for trade and decent work: How to move forward? Experience sharing from NCPs for RBC
- Way forward

NCPs again showed their great appreciation for this capacity-building programme, which enabled them to better ensure alignment between OECD and ILO standards relevant to RBC, and to obtain much needed expertise on substantive standards referred to in Chapter V of the Guidelines, the third most-cited in specific instances.

93. At the June 2021 meeting of the NCP network, NCPs discussed a Guide on building and maintaining impartiality,<sup>49</sup> which was based on discussions at a previous meeting that aimed to identify how to prevent and manage perceptions of bias and conflict of interest. The Guide addresses how NCPs can avoid bias and conflicts of interests through their structure, but also through specific policies such as detailed rules on conflicts of interest. Two Guides that had been developed in 2020 were also finalised in 2021: a Guide for NCPs on interpreting the purposes of the Guidelines in initial assessments, and a Guide for NCPs on the rights of indigenous peoples in specific instances.<sup>50</sup>

<sup>49</sup> OECD (2022), *Guide for National Contact Points on Building and Maintaining Impartiality*, <http://mneguidelines.oecd.org/guide-for-national-contact-points-on-building-and-maintaining-impairtiality.pdf>

<sup>50</sup> OECD (2022), *Guide for National Contact Points on the Rights of Indigenous Peoples when handling Specific Instances*, <http://mneguidelines.oecd.org/guide-for-national-contact-points-on-the-rights-of-indigenous-peoples-when-handling-specific-instances.pdf>

94. At the June 2021 meeting of the NCP network, NCPs also finalised template documents for initial assessment and final statements. These templates have already increased predictability and made NCPs' practices more consistent across the network as NCPs have started to use them to draft their statements. At the same meeting, NCPs discussed a toolkit to select and hire external mediators for specific instances. This tool responds to NCPs' need to access expertise on mediation, as many NCPs do not have such skills in-house and do also not have access to relevant training. However, NCPs lacked a source of information on where to mediation professionals and how to evaluate their credentials. The tool, comprised of two rosters, is now available on the NCP Network's Intranet and an open call to interested mediators has been issued and disseminated by the OECD Secretariat and NCPs.<sup>51</sup>
95. At the November 2021 meeting of the NCP network, a peer learning session was held on designing and conducting awareness surveys on NCPs and the Guidelines, based on existing surveys developed by the NCP of Norway and the NCP Secretariat. For NCPs, developing competences regarding surveys may contribute to a better understanding of RBC practices and knowledge among relevant stakeholders; inform research and analysis on RBC related issues and policies with data at a high level; orient topics and agendas for presentations and the promotion of RBC instruments; identify potential areas for capacity-building activities on RBC and due diligence strategically and; spot gaps in relevant expertise available to the NCP. A methodological note summarising the lessons learned was subsequently prepared.
96. In 2021, the production of an Online Training Tool for NCPs was started. The Online Training Tool will be a web-based tool where information on NCPs and their mandate is stored in an accessible and organised way, to serve as an on-boarding tool for new NCP officials and as a readily available repository of information for NCPs. At the June 2021 meeting of the NCP network, the Secretariat presented a pilot session of the tool, which was welcomed by NCPs. It was also agreed that the tool would be available not only to core NCP staff and members, but also to NCP advisory bodies. The tool is now under finalisation and is set to be delivered in the first half of 2022.
97. Finally, NCPs discussed a comprehensive programme of workshops on good offices, to be rolled out in 2022. This programme of workshops will aim to assist NCPs in more consistently facilitating agreement in specific instances. It covers the key steps of the good offices process, and the various common challenges that are associated with it. These relate to important other aspects of the good offices that are peripheral to mediation, but need to be managed carefully in order to bring mediation to a good end. The workshops will cover five core themes: bringing the companies to the table, preparing the key documents, carrying out fact-finding, conducting good offices, and engaging lawyers in the good offices.

#### *4.1.2. NCP Peer reviews*

98. NCP Peer reviews offer an important opportunity to appreciate and share the internal workings of an NCP and any barriers the NCP may face in realising its objectives, as well as achievements and good practices in discharging its functions. The peer reviews also include an examination of the NCP's procedures and approach to handling of specific instances which can help improve consistency going forward.

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<sup>51</sup> See <http://mneguidelines.oecd.org/faqs-roster-of-mediators-for-national-contact-points-for-responsible-business-conduct.pdf>

99. The final peer review report of the Korean NCP was presented at the March 2021 meeting of the WPRBC. The peer review team was composed of representatives from the NCPs of Australia, Germany and Switzerland. The recommendations of the peer reviews are listed in Annexe C.
100. The on-site visits of the peer review of the NCPs of Australia and Sweden had to be transformed into virtual visits and took place in September and December 2021. The peer review teams were respectively composed of the NCPs of Italy, New Zealand and Sweden, and of the NCPs of Brazil, France, and the Slovak Republic.. The on-site visit of the NCP of Ireland took place as planned in October 2021, including a peer review team composed of the NCPs of the Czech Republic, Norway, and Spain
101. Since 2015, peer reviews have been carried out using a Core Template for assessing NCP performance during peer reviews, which was revised in 2019. This template addresses core criteria (visibility, accessibility, transparency and accountability) and the guiding principles for handling cases (impartiality, predictability, equitability, and compatibility with the Guidelines).
102. In 2017, the OECD Ministerial Council made a commitment to have all NCPs peer reviewed by 2023.<sup>52</sup> At the end of 2021, 19 NCPs had been peer reviewed, three peer reviews were ongoing, and 19 more reviews were scheduled by the end of 2023, leaving seven countries yet to commit to a peer review of their NCP, including five OECD members.

**Table 4.1. State of affairs of peer reviews as at the end of 2021**

Peer review complete	Peer review ongoing	Peer review scheduled by end 2023	Not yet committed
The Netherlands	Australia	Brazil (2022)	Czech Republic***
Japan	Ireland	Spain (2022)	Finland***
Norway	Sweden	Slovenia (2022)	Iceland***
Denmark		Luxembourg (2022)	Israel***
Belgium		Morocco (2022)	Türkiye***
Italy		Peru (2022)	Egypt
Switzerland		New Zealand (2022)	Jordan
France		Latvia (2023)	
Germany		Romania (2023)	
Chile		Estonia (2023)	
Lithuania*		Hungary (2023)	
Costa Rica*		Colombia (2023)**	
United States		Greece (2023)	
Austria		Mexico (2023)	
Canada		Poland (2023)	
United Kingdom		Portugal (2023)	
Argentina		Slovak Republic (2023)	
Korea		Tunisia (2023)	
		Kazakhstan (2023)	
		Ukraine (2023)**	

Note: \* Underwent significant reviews as part of the process of the countries' accession to the OECD

\*\* Commitment made pending availability of funding

\*\*\* OECD Member Country

Croatia and Uruguay are not included in the list given their recent adherence.

Source: <https://mneguidelines.oecd.org/ncpeerreviews.htm>

<sup>52</sup> See <https://www.oecd.org/mcm/documents/2017-ministerial-council-statement.htm>.

## 4.2. Approving a new Action Plan for the period 2022-2024

103. 2021 was the third and last year of implementation of the second Action Plan to Strengthen NCPs. NCPs therefore discussed the results achieved under this action plan and the previous one, and whether to request that the WPRBC approve a third action plan and in what form. In terms of results, the note highlighted that peer reviews were a very effective tool to generate improvement at the level of individual NCPs, noting enhanced structures, increased resources and better visibility. NCPs have also been able to increase the promotional events that they organised or in which they participated by 88% between 2016 and 2019 (2020 being excluded due to COVID-19). On specific instances, NCPs achieved a 14% growth in the average number of yearly cases submitted to NCPs since 2016, and substantial improvements in the acceptance rate of cases as well as in the quality of final statements (e.g. 75% of final statements in concluded cases contained recommendations in 2020).



104. In terms of challenges, it was noted that most of the progress achieved was concentrated only on a segment of the NCP network, notably with newly established NCPs having some issues e.g. in attracting cases. Additionally, while case numbers were raising, the overall number of cases received per year remained fairly modest given the size of the network and the outcomes achieved could be improved, with only a quarter of accepted cases reaching agreement in recent years.

105. Based on this, a proposal for a new action plan was approved by the WPRBC at its November 2021 meeting. The new Action Plan to Strengthen NCPs (2022-2024)<sup>53</sup> is articulated around four objectives (see Figure 4.1 below), and supported by the creation of regional networks of NCPs. For each objective, a number of actions are foreseen, each broken down into deliverables that are prioritised on a timeline and linked to success indicators to be achieved at the end of the plan.



Source: Action Plan to Strengthen NCPs (2022-2024)

106. The creation of regional networks was proposed to give NCPs an opportunity to meet in smaller and informal settings to discuss issues of joint interest.

<sup>53</sup> OECD (2022), Action Plan to Strengthen National Contact Points for Responsible Business Conduct (2022-2024), <https://mneguidelines.oecd.org/action-plan-to-strengthen-national-contact-points-for-responsible-business-conduct-2022-2024.pdf>

## 5. Substantiated submissions

107. On 10 March 2020, the OECD Trade Union Advisory Committee (TUAC) submitted a request to the Investment Committee based on paras. II.2. c. and d. of the Procedural Guidance. The response was approved by the Investment Committee on 5 March 2021.<sup>54</sup>

108. The submission relates to the specific instance ‘British American Tobacco (BAT) and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF)’, submitted to the National Contact Point (NCP) of the United Kingdom on 27 April 2016 and concluded on 2 December 2019.

109. The specific question of interpretation was the following: ‘Do industry-led or multi-stakeholder processes used by companies to conduct due diligence in respect of human and labour rights issues fulfil the requirements of Chapter II. A. 10 and 11 and Chapter IV. 1, 3, and 5 of the Guidelines if they do not include engagement with trade unions?’

110. In that regard, the Investment Committee issued the following clarifications:

- Meaningful stakeholder engagement is a key feature of due diligence;
- Companies should prioritise meaningful engagement with bona fide trade unions where these exist when conducting due diligence related to risks to employment and the human rights of workers;
- Industry-led or multi-stakeholder due diligence processes through which companies conduct due diligence should be credible and include engagement with workers representatives.

111. Two more substantiated submissions were received in 2021 and are currently being examined:

- On 22 September 2021, OECD Watch made a substantiated submission to the Investment Committee based on paras. II.2. b) and d) of the Procedural Guidance on whether the Canadian NCP had fulfilled its responsibilities in the handling of a specific instance:
- On 17 December 2021, OECD Watch and TUAC made a joint request for clarification based on paras. II.2. c) and d) as to whether Export Credit Agencies’ business activities are subject to the standards and relevant to the implementation of the Guidelines for MNEs.



<sup>54</sup> OECD (2021), *Engagement with trade unions in due diligence processes conducted by industry-led or multi-stakeholder initiatives: Clarification by the OECD Investment Committee*, <http://mneguidelines.oecd.org/engagement-with-trade-unions-in-due-diligence-processes-conducted-by-industry-led-or-multi-stakeholder-initiatives.pdf>



## 6. Conclusion

112. The past year was once again significantly impacted by the ongoing Covid-19 pandemic. This influenced the NCP Network in variable ways as countries diverged in their sanitary measures and restrictions, and regions and countries began to see more discrete waves of the virus prompting less of a global response than in 2020. Nevertheless, NCPs continued to face restrictions and closures, travel bans, and economic disruptions, which continued to affect their ability to deliver on their mandates.
113. The previous year, 2020, saw notably low promotion within the NCP Network, largely reported as being due to the pandemic. While some aspects of promotion showed improvement in 2021, the Network may have suffered from low promotional activity in 2020, leading to a decrease in active stakeholders and a decrease in visibility for the mechanism. In this regard, the NCPs received five fewer submissions in 2021 as they had by the time of publishing the Annual Report for 2020.
114. With regard to NCPs, the stocktaking concluded that the NCP system is recognised as a leading mechanism, unique in promoting RBC and facilitating access to remedy, and one of the main achievements of the Guidelines. The stocktaking highlights important strengths and achievements by NCPs through their dual mandate to promote the Guidelines and facilitate access to remedy, but also opportunities for further leveraging the unique capabilities of the NCP system, and also confirms a number of challenges that risk undermining the effectiveness and credibility of the system. Both the NCPs' strengths and challenges evidenced by the stocktaking are reflected by the conclusions of the 2021 annual report on NCP activity.
115. In terms of specific instances, despite a decrease from the previous year, 2021 received the third most specific instance submissions (48) since 2000. These submissions continued the trend introduced last year where individuals made up the largest group of submitters, while submissions by NGOs and trade unions remained lower than in previous years. NCPs also closed 42 cases in 2021, in line with previous years. Sixteen cases were not accepted and 26 cases were concluded, delivering seven agreements in total, and three entirely within the NCP process. This marks another year during which the rate of non-accepted cases dropped below average historical levels. The year did show a marked decrease in agreements facilitated, confirming a steady downward trend and increased difficulties for NCPs to mediate agreed outcomes. In 2021, the outcomes achieved showed again that cases filed by individuals have a lower chance of being accepted or leading to a successful outcome, emphasising the need for NCPs to support this category of submitters. Likewise, recommendations included in final statements decreased importantly compared to 2020, more similar to 2019 rates. NCPs have continued to follow up on cases at high rates with 16 follow ups conducted in 2021, compared to 13 in 2020.
116. In terms of institutional arrangements, in 2021 NCPs have continued to seek to include stakeholders in their structures, but also to struggle with human and financial resources. Although the overall number of NCP officials increased in 2021, from 146 in 2020 to 189 in 2022, most new positions were filled by staff working part-time on NCP matters, and almost three quarters of them experienced staff turnover in 2020. All in all, 40% of the network operates with one or less than one full-time equivalent staff. Shortage of staff and excessive turnover have long been identified as one of the biggest challenges for NCPs, and seems to be intensifying year after year despite repeated calls for better resourcing of NCPs.

117. In terms of promotion, 2021 continued to rely heavily on virtual promotional events. The number of NCPs that promoted the Guidelines dropped to their lowest levels in five years, despite an increasing number of NCPs. Covid-19 was again cited as a challenge for many NCPs in their ability for promotion and for some NCPs the high level of activities in handling specific instances reduced resources dedicated to promotion. This may have been further impacted by the low funding for the Action Plan in 2020, which limited the support provided by the OECD Secretariat. While the number of NCPs participating in promotional activity decreased to its second lowest level since 2016, the overall number of promotional activities organised, co-organised, or participated in by NCPs increased, suggesting some recovery and further adaptability following the pandemic outbreak in 2020 by most NCPs, but also that a significant portion of NCPs are still struggling to maintain a minimal level of activity. Some NCPs had the opportunity in 2021 to move certain promotional activities back to in-person formats. Navigating a post-Covid transition and maintaining lessons learned from the use of digital promotional tools will be an important challenge for NCPs in 2022.
118. Finally, in 2021, NCPs continued with peer learning activities with the support of the OECD Secretariat in the framework of the Action Plan to Strengthen NCPs (2019-2021), the final year of this iteration of the Action Plan. A third Action Plan to Strengthen NCPs was approved to cover the period 2022-2024. The year also saw the return of peer reviews after none were conducted in 2020 due to a lack of commitment from governments. Three peer reviews were conducted starting in 2021 with virtual on-site visits taking place for the reviews of Australia and Sweden, and an in-person on-site visit for the review of Ireland. Twenty governments are currently committed to undergo a peer review of their NCP by 2023, leaving seven governments (including five OECD members) yet to commit, excluding Croatia and Uruguay given their recent adherence.

## Annexe A. Overview of key NCP data

Number	Country	Staff working full-time on NCP matters	Website	Rules of procedure online	Engaged in promotional events	Attended June and/or November NCP meetings	
1	Argentina	No	Yes	Yes	Yes	Yes	
2	Australia	Yes	Yes	Yes	Yes	Yes	
3	Austria	No	Yes	Yes	Yes	Yes	
4	Belgium	No	Yes	Yes	Yes	Yes	
5	Brazil	Yes	Yes	Yes	Yes	Yes	
6	Canada	Yes	Yes	Yes	Yes	Yes	
7	Chile	Yes	Yes	Yes	Yes	Yes	
8	Colombia	No	Yes	Yes	Yes	Yes	
9	Costa Rica	No	Yes	Yes	Yes	Yes	
10	Croatia	Yes	Yes	Yes	Yes	Yes	
11	Czech Republic	No	Yes	Yes	Yes	Yes	
12	Denmark	Yes	Yes	No	Yes	Yes	
13	Estonia	No	Yes	Yes	Yes	Yes	
14	Egypt	No report					Yes
15	Finland	Yes	Yes	Yes	Yes	Yes	
16	France	Yes	Yes	Yes	Yes	Yes	
17	Germany	Yes	Yes	Yes	Yes	Yes	
18	Greece	No	No	No	Yes	No	
19	Hungary	Yes	Yes	Yes	No	Yes	
20	Iceland	No	Yes	No	No	Yes	
21	Ireland	Yes	Yes	Yes	Yes	Yes	
22	Israel	No	Yes	Yes	Yes	Yes	
23	Italy	Yes	Yes	Yes	Yes	Yes	
24	Japan	No	Yes	Yes	Yes	Yes	
25	Jordan	No report					No
26	Kazakhstan	No	Yes	Yes	Yes	Yes	
27	Korea	Yes	Yes	Yes	Yes	Yes	
28	Latvia	No	Yes	Yes	Yes	No	
29	Lithuania	Yes	Yes	Yes	No	Yes	
30	Luxembourg	No	Yes	Yes	Yes	Yes	
31	Mexico	No	Yes	Yes	Yes	Yes	
32	Morocco	No	Yes	Yes	Yes	Yes	
33	Netherlands	Yes	Yes	Yes	Yes	Yes	
34	New Zealand	No	Yes	Yes	No	Yes	
35	Norway	Yes	Yes	Yes	Yes	Yes	
36	Peru	No	Yes	Yes	Yes	Yes	
37	Poland	No	Yes	Yes	Yes	Yes	
38	Portugal	No	Yes	Yes	No	Yes	
39	Romania	No	Yes	No	Yes	Yes	

Number	Country	Staff working full-time on NCP matters	Website	Rules of procedure online	Engaged in promotional events	Attended June and/or November NCP meetings
40	Slovak Republic	No	Yes	Yes	No	Yes
41	Slovenia	No	Yes	Yes	No	No
42	Spain	Yes	Yes	Yes	No	Yes
43	Sweden	No	Yes	Yes	Yes	Yes
44	Switzerland	Yes	Yes	Yes	Yes	Yes
45	Tunisia	Yes	No	No	No	Yes
46	Türkiye	Yes	Yes	Yes	No	Yes
47	Ukraine	No	Yes	Yes	No	Yes
48	United Kingdom	Yes	Yes	Yes	Yes	Yes
49	United States	Yes	Yes	Yes	Yes	Yes
50	Uruguay	No	Yes	No	Yes	No
	<b>Differential with 2020 (% of yeses)</b>	<b>-1%</b>	<b>-4%</b>	<b>-4%</b>	<b>-10%</b>	<b>+0.5%</b>

## Annexe B. Comprehensive overview of NCPs

	Country	Structure & location						Human and financial resources					Report to:		Rules of procedure			Website	Promotion plan	Promoted Guidelines among:			Number of events:		Attendance NCP meetings		
		Structure	Advisory body	Advisory body with oversight	Struct. includes business	Structure includes NGOs	Struct. Includes trade unions	Total staff	Full time	Part time	Total staff joined	Total staff left	Dedicated budget	Government	Parliament	In place	Online			Revised in 2021	Businesses	NGOs	Trade unions	Organised	Participated in	June	November
1	Argentina	Single agency	Yes	No	No	No	No	4		4	3	2	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	1	1	Yes	Yes	
2	Australia	Single agency & Expert based	Yes	Yes	Yes	Yes	Yes	5	2	3		1	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	5	7	Yes	Yes	
3	Austria	Single agency	Yes	Yes	Yes	Yes	Yes	2		2			Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	7	4	Yes	Yes	
4	Belgium	Multipartite	Yes	No	Yes	Yes	Yes	1		1	1	2	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes		1	Yes	Yes	
5	Brazil	Inter agency	No	N/A	No	No	No	5	4	1	2	3	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	2	56	Yes	No	
6	Canada	Inter agency	Yes	No	Yes	No	Yes	2	2		2	2	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	5	3	Yes	Yes	
7	Chile	Single agency	Yes	Yes	Yes	Yes	Yes	5	4	1	5	2	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	2	16	Yes	Yes	
8	Colombia	Single agency	Yes	No	Yes	Yes	Yes	2		2			No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No	3		Yes	Yes

9	Costa Rica	Inter agency	Yes	No	Yes	Yes	Yes	2		2	1	1	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	9	17	Yes	Yes	
10	Croatia	Multipartite	No	N/A	Yes	Yes	Yes	6	3	3	2	2	No	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes	5	1	Yes	Yes	
11	Czech Republic	Multipartite	No	N/A	Yes	Yes	Yes	3		3		1	No	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	2	3	Yes	Yes	
12	Denmark	Expert based	No	N/A	Yes	Yes	Yes	3	3			1	2	Yes	Yes	No	Yes	No	No	Yes	Yes	Yes	Yes	Yes	4	2	Yes	Yes
13	Estonia	Single agency	No	N/A	No	No	No	2		2			No	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No	1		Yes	Yes	
14	Egypt		NO REPORT																							No	Yes	
15	Finland	Multipartite	No	N/A	Yes	Yes	Yes	2	1	1			No	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes		4	Yes	No	
16	France	Multipartite	No	N/A	Yes	No	Yes	19	2	17	2	1	No	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	28	19	Yes	Yes
17	Germany	Inter agency	Yes	No	Yes	Yes	Yes	5	2	3	3	1	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	4	13	Yes	Yes	
18	Greece	Single agency	Yes	No	Yes	Yes	Yes	0				1	No	Yes	No	Yes	N/A	No	No	No	Yes	No	No		1	No	No	
19	Hungary	Inter agency	No	N/A	No	No	No	1	1		1	1	Yes	Yes	No	Yes	Yes	No	Yes	Yes	No	No	No			Yes	Yes	
20	Iceland	Single agency	No	N/A	No	No	No	2		2			No	No	No	No	N/A	N/A	Yes	No	No	No	No			Yes	No	
21	Ireland	Single agency	No	N/A	No	No	No	4	1	3	4	2	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	6		Yes	Yes
22	Israel	Single agency	Yes	No	No	No	Yes	5		5	2		No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	1		Yes	Yes
23	Italy	Single agency	Yes	No	Yes	Yes	Yes	6	3	3	1		Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	2	10	Yes	Yes
24	Japan	Inter agency	Yes	No	Yes	No	Yes	11		11	8	8	Yes	No	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes		2	Yes	Yes	
25	Jordan		NO REPORT																							No	No	
26	Kazakhstan	Multipartite	No	N/A	Yes	Yes	Yes	4		4			Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	8	3	No	Yes

27	Korea	Inter agency & Expert based	No	N/A	Yes	No	No	3	3			1	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	5	1	Yes	Yes	
28	Latvia	Multipartite	No	N/A	No	No	No	17		17	2		No	No	No	Yes	Yes	No	Yes	Yes	No	No	No	1		No	No	
29	Lithuania	Expert based	Yes	No	No	No	No	1	1			1	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	No	No			Yes	Yes	
30	Luxembourg	Single agency	Yes	No	No	No	No	2		2			No	Yes	No	Yes	Yes	No	Yes	No	Yes	No	No		7	Yes	Yes	
31	Mexico	Single agency	No	N/A	No	No	No	2		2	1	1	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	1		Yes	Yes
32	Morocco	Inter agency	No	N/A	No	No	No	1		1		1	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	No	Yes	3	3	Yes	Yes	
33	Netherlands	Expert based	Yes	No	Yes	Yes	Yes	4	1	3			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	7	No	Yes	
34	New Zealand	Inter agency	Yes	Yes	Yes	Yes	Yes	3		3	2	2	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No		Yes	Yes	
35	Norway	Expert based	No	N/A	Yes	Yes	Yes	3	3		1		Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	5	35	Yes	Yes	
36	Peru	Single agency	No	N/A	No	No	No	4		4	2	1	Yes		Yes	Yes	Yes	No	Yes	No	No	No	No	1	1	Yes	Yes	
37	Poland	Single agency	Yes	No	No	No	No	3		3		1	No	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	3	6	Yes	Yes
38	Portugal	Inter agency	No	N/A	No	No	No	5		5	2		No	Yes	No	Yes	Yes	No	Yes	No	Yes	No	No			Yes	Yes	
39	Romania	Inter agency	No	N/A	No	No	No	2		2			No	Yes	No	No	N/A	N/A	Yes	No	Yes	No	No	3		Yes	No	
40	Slovak Republic	Inter agency	No	N/A	Yes	Yes	Yes	5		5	1	1	No	No	No	Yes	Yes	No	Yes	No	No	No	No			Yes	No	
41	Slovenia	Inter agency	Yes	No	Yes	Yes	Yes	1		1	1	1	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes			No	No	
42	Spain	Inter agency	Yes	Yes	Yes	Yes	Yes	3	1	2	4	3	No	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	No			No	Yes	
43	Sweden	Multipartite	No	N/A	Yes	No	Yes	2		2	2	1	No	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	4	2	Yes	Yes
44	Switzerland	Multipartite	Yes	Yes	Yes	Yes	Yes	4	1	3			Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	3	10	Yes	Yes	

45	Tunisia	Multipartite	No	N/A	Yes	No	Yes	1	1				No	Yes	No	No	N/A	N/A	No	Yes	No	No	No			No	Yes	
46	Türkiye	Single agency	No	N/A	No	No	No	2	2				Yes	Yes	No	Yes	Yes	No	Yes	No	No	No	No			Yes	Yes	
47	Ukraine	Single agency	Yes	No	Yes	Yes	Yes	3		3			No	Yes	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes		6	Yes	Yes
48	United Kingdom	Single agency	Yes	Yes	Yes	Yes	Yes	3	3		2	1	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	6	1	Yes	Yes
49	United States	Single agency	Yes	No	No	No	No	2	1	1	2	3	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	7	4	Yes	Yes
50	Uruguay	Inter agency	Yes	No	Yes	Yes	Yes	12		12	12		No	Yes	No	Yes	No	N/A	Yes	Yes	Yes	Yes	Yes	Yes	1	1	No	No



## Annexe C. Peer review of the NCP of Korea: findings and recommendations

**Table C.1. Institutional arrangements**

	Findings	Recommendations
1.1	Civil society and trade union stakeholders raised issue that labour experts did not represent worker interests but, in their opinion, the interests of business and the relationship between representatives from MOTIE and civil society and trade union stakeholders appears to be tenuous. Business representative were also of the opinion that they were not adequately represented by the current composition of the NCP.	The NCP should make more efforts to improve relationships with key stakeholders by integrating stakeholder perspectives into its structures or establishing channels for regular and meaningful engagement with stakeholders.
1.2	The NCP has a publically announced application process for appointment of NCP commissioners and according to the NCP as part of this process they collect recommendations from stakeholders including from trade union and civil society. However some trade union and civil society stakeholders do not trust the integrity of the appointment process of NCP commissioners	The NCP should improve the selection process for NCP commissioners to demonstrate it takes into account stakeholder inputs on candidates.
1.3	Using the KCAB Secretariat as an intermediary body between the NCP commission and key stakeholders (including parties to specific instances and other NCPs) is reducing the visibility and direct contact of stakeholders with decision makers. .	The NCP should provide more opportunities for direct communication between the NCP commission and key stakeholders.

**Table C.2. Promotion of the Guidelines**

	Findings	Recommendations
2.1	The NCP makes decisions annually about promotional activities as a function of the budget; it has not developed a separate strategy for promotion.	The NCP should develop a separate strategic promotional plan to help it refine its focus on promotional activities that result in most impact.
2.2	The NCP does not demonstrate having a close and regular relationship with all government agencies with complementary or related mandates or that it regularly promotes policy coherence on responsible business conduct.	The NCP should make additional efforts to engage more regularly and broadly with other relevant parts of government such as the Ministries of Justice, Foreign Affairs as well as the National Human Rights Commission.

**Table C.3. Specific instances**

	Findings	Recommendations
3.1	The separate roles and responsibilities of the Secretariat, NCP commission and Mediation Committee in handling the specific instances could be more clear in the Rules and procedural overview for specific instances provided on the NCP website.	The roles of the responsibilities of different NCP bodies involved in handling specific instances should be further clarified.
3.2	The recommendations provided in final statements are general and do not respond specifically to the issues raised.	<p>The NCP should provide concrete recommendations that respond specifically to the issues in question and as relevant make reference to recommendations of the Guidelines and due diligence guidance.</p> <p>The NCP should also consider undertaking follow up of specific instances where recommendations are issued to assess whether they have been responded to.</p>
3.3	Some NCPs have raised challenges with respect to cooperating with the Korean NCP in specific instance handling.	The NCP should strengthen cooperation with other NCPs in the network with respect to specific instance handling.

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