

# Guidance on Grievance Procedures

in accordance with the OECD Guidelines for Multinational Enterprises  
on Responsible Business Conduct

Vienna, 2024

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# 1 Introduction

The OECD Guidelines for Multinational Enterprises (hereinafter the Guidelines) are the most comprehensive instrument for promoting responsible business conduct in foreign transactions. The 38 OECD Members as well as 13 other adhering countries (i.e. a total of 51 countries, hereinafter Adherents) thus promote the positive contribution of multinational enterprises to sustainable development. This is intended to help avoid the risks that may result from global business activities. The OECD Guidelines stipulate principles and standards for responsible business conduct consistent with internationally recognised standards. They make recommendations for the conduct of international business of enterprises in the areas of information disclosure; human rights; employment and industrial relations; environmental protection; combatting bribery and other forms of corruption; consumer interests; science, technology and innovation; competition and taxation.

The adhering governments agreed to implement the OECD Guidelines and set up National Contact Points (NCPs) whose mandate is twofold. On the one hand, they are intended to promote awareness and effective take-up of the OECD Guidelines. On the other hand, they act as a non-judicial grievance mechanism, thus helping resolve problems and issues that arise in relation to the implementation of the Guidelines. Although the OECD Guidelines are of a non-binding nature, meaning enterprises observe them on a voluntary basis, complaints can be submitted to the competent National Contact Point if an enterprise fails to comply with the Guidelines. The National Contact Point will process any such complaints and seek meaningful solutions, serving as a non-judicial grievance mechanism.

Austria's National Contact Point (German acronym: öNKP, for ease of understanding hereinafter called Austrian NCP) is based within the Federal Ministry of Labour and Economy (Bundesministerium für Arbeit und Wirtschaft – BMAW). The organisational unit responsible for the Austrian NCP is V/6a – Austrian National Contact Point for the OECD Guidelines for Multinational Enterprises. Moreover, the Austrian NCP's activities are supported by a Steering Committee composed of representatives of the relevant ministries, chambers, trade unions and stakeholder groups, civil society, a human rights expert as well as an experts with knowledge of consensual non-judicial dispute resolution.

If any complaint on alleged contraventions of the OECD Guidelines is filed with the Austrian NCP, it will be processed in accordance with the 'Procedures' included in Part II of the OECD Guidelines.

The present Guidance applies to specific instances where the Austrian NCP is the competent lead (see 4.3.2) National Contact Point.

The Guidance informs about the nature and handling of such a grievance procedure. No legally binding rights can be derived from this Guidance. It has been revised following the update of the OECD Guidelines of 8 June 2023. The changes have been agreed with the Austrian NCP'S Steering Committee.

This Guidance will apply to all cases filed with the Austrian NCP as of 11 October 2024.

## **1.1 An overview of the OECD Guidelines**

The OECD Guidelines cover all the key areas of corporate responsibility and are thus among the most comprehensive international standards for responsible business conduct:

### **Chapter I: Concepts and principles**

Chapter I presents the most important concepts, objectives and the scope of the Guidelines as well as the nature of the National Contact Points.

### **Chapter II: General policies**

This chapter provides general orientation and uniform basic policies, which apply regardless of the subject area. The basic concepts of the Guidelines - risk based due diligence, prioritisation, stakeholder engagement - are explained.

### **Chapter III: Disclosure**

Enterprises are called upon to build transparency and accountability around their operations by providing clear, complete and accessible information. Alongside business results, this includes corporate governance, social and environmental aspects as well as foreseeable risks in an enterprise's operations.

### **Chapter IV: Human rights**

Enterprises, regardless of their size, sector, geographical or operational context, ownership and structure, have to respect human rights. Respect for human rights is the global standard of expected conduct of enterprises independently of whether the States where an enterprise operates fulfil their human rights obligations.

## **Chapter V: Employment and industrial relations**

This chapter addresses the fundamental principles with regard to employment and refers to the internationally recognised labour standards of the International Labour Organisation (ILO), which include, inter alia, respect of the freedom of association and right to collective bargaining, meaningful cooperation of the social partners, abolition of all forms of child and forced labour, elimination of all forms of discrimination in employment or promotion of the local workforce.

## **Chapter VI: Environment**

Achieving the environmental objectives resulting from international agreements (such as the Aarhus Convention, the Paris Agreement, Agenda 2030 for Sustainable Development) requires a whole of society approach. This chapter sets out expectations on how enterprises should contribute to avoiding and mitigating adverse environmental impacts and constantly improve their environmental results. It recommends effective environmental management systems, transparent environmental reporting as well as risk-based due diligence concerning adverse environmental impacts with the aim of advancing sustainable economies through environmental and climate protection, maintenance of biodiversity, transformation towards net-zero greenhouse gas emissions, a climate-resilient economy and sustainable management.

## **Chapter VII: Combatting bribery and other forms of corruption**

Corruption is damaging to democratic institutions and the governance of corporations, discourages investment, distorts international competitive conditions, undermines global stability and has a negative impact on the objectives of the other chapters of the Guidelines. Enterprises should not, directly or indirectly, offer, promise, give, demand or accept a bribe or other undue advantage to obtain an advantage. Propriety, transparency and integrity, appropriate corporate governance, adequate internal controls and compliance programmes are to prevent and detect corruption.

## **Chapter VIII: Consumer interests**

Consumer satisfaction constitutes a fundamental basis for the successful operation of enterprises. Consumer markets are changing rapidly and becoming increasingly diverse and complex. Consequently, enterprises are expected to use fair business, marketing and advertising practices, ensure the quality and reliability of their goods and services and comply with health and safety requirements. They are to disclose adequate information to enable consumers to make informed decisions and direct comparisons of the goods and services on offer. Given consumers' growing interest in environmental and social issues and sustainable consumption, enterprises are called upon to provide appropriate information.

### **Chapter IX: Science, technology and innovation**

Scientific research and technological innovation are of an evolving nature, have enormous economic and social benefits, but involve far-reaching risks. Enterprises are important drivers of cross-border knowledge and technology transfer, thus contributing to the development in their host countries. Enterprises are called upon to handle data responsibly and take risk management measures to protect personal data, national security, intellectual property rights, etc., so as to prevent any adverse effects. Responsible innovations are to be promoted. In addition, all stakeholders are expected to take digital security measures, in particular where children and young people are affected by the digital environment.

### **Chapter X: Competition**

Competition laws and policies serve to ensure the efficient operation of markets, thus contributing to overall welfare and economic growth by promoting market conditions in which the nature, quality, and price of goods and services are determined by supply and demand. As a result of cross-border operations, any company's trading and investment activities will have a cross-border effect. Consequently, enterprises are expected to take into account the laws of all countries in which the effects of their conduct are likely to be felt. Moreover, enterprises should take proactive steps to understand applicable competition law, cooperate with national authorities and avoid any breach of competition law.

### **Chapter XI: Taxation**

Enterprises contribute to public finances by making timely and complete payment of their tax liabilities. With due regard to their tax responsibility, enterprises should comply with the tax laws and regulations in all countries in which they operate, cooperate with the competent authorities and pay their tax liabilities in a timely and complete manner. This includes in particular the timely and lawful provision of information required to calculate their tax liability. Enterprises' responsibility under tax law should be reflected in their risk management systems. Tax transparency is of special importance for the correct calculation of a corporation's tax liability, in particular in a multinational context.

# 2 Austrian National Contact Point

## 2.1 Core effectiveness criteria

The Austrian NCP fulfils its tasks, including the processing of specific instances, in a manner that is consistent with the core effectiveness criteria for National Contact Points: visibility, accessibility, transparency, accountability; impartiality and equity, predictability and compatibility with the Guidelines.

### 2.1.1 Visibility

The Austrian NCP is sufficiently visible to stakeholders. Information on the OECD Guidelines, the Austrian NCP and the grievance procedure is available on its website ([www.oecd-leitsaetze.at](http://www.oecd-leitsaetze.at)) or on request. In addition, information is regularly provided at events and through information materials.

### 2.1.2 Accessibility

No fee will be charged for submitting a complaint. The Austrian NCP provides the complaint submission form as well as information on the proceedings, the criteria for accepting a complaint and other information relevant to the grievance procedure on its website or on request and is ready to answer questions in this regard. The submission form is available in German, English and French. The grievance procedure is generally conducted in German or English, in exceptional cases, it may be conducted in another language if the resources and capacities of the Austrian NCP so permit.

### 2.1.3 Transparency

The grievance procedure is guided by the principle of transparency, in as much as the level of confidentiality that is necessary to establish a basis of trust for a constructive dialogue so permits. In so doing, the Austrian NCP will ensure the required protection of the parties' legitimate interests (in accordance with the Procedures in Part II of the OECD Guidelines).



#### **2.1.4 Accountability**

At least twice a year, the Austrian NCP will inform its Steering Committee about significant developments in its activities, including specific instances. In addition, the Austrian NCP will report to the OECD on an annual basis. There will be periodic OECD peer reviews of the Austrian NCP. At national level, parliamentary questions on the activities of the Austrian NCP may be submitted to the competent federal minister.

#### **2.1.5 Impartiality and equity**

The Austrian NCP seeks to maintain stakeholder confidence in grievance procedures and in public. The Austrian NCP acts in an impartial manner and ensures fair and equitable terms vis-à-vis the parties involved in a grievance procedure. Moreover, the Austrian NCP will seek to prevent conflicts of interest. To ensure a comparable level of information, the parties are given reasonable access to sources of information relevant to the case, unless legitimate interests of the parties involved or mandatory rules (e.g. data protection) preclude such access. As far as possible, the Austrian NCP will be available for questions, explanations and other forms of assistance at every stage of the process. Where required, the Austrian NCP may organise deadlines flexibly to account for any differences in parties' capacities and resources.

#### **2.1.6 Predictability**

The Austrian NCP provides clear and publicly available information regarding: the grievance procedures it follows, the criteria for accepting specific instances, the stages of a grievance procedure (including indicative timeframes), the voluntary and non-binding nature of the process, expectations concerning good faith engagement by the parties, confidentiality and transparency, the provision of good offices, the possible outcomes of the process and the role of the Austrian NCP. It will regularly inform the parties of the progress of the case. The parties should obtain a predictable and clear picture of the grievance procedure.

#### **2.1.7 Compatibility with the OECD Guidelines**

The Austrian NCP will operate in a way that is compatible with the Guidelines and be guided by their principles and standards. In respect of case-handling procedures, the Austrian NCP will act in accordance with the Procedures set out in Part II of the Guidelines. During the proceedings, the Austrian NCP will assist the parties with its expertise on the Guidelines, thus fostering an agreement that is compatible with these Guidelines.

# 3 Grievance Procedure

## 3.1 Grievance mechanism

The OECD Guidelines are the only government-supported international instrument for responsible business conduct with an integrated grievance mechanism. The National Contact Points in the adhering countries offer non-adversarial procedures, such as conciliation and mediation platforms for complaints about alleged contraventions of the OECD Guidelines, thus closing a major gap in cross-border accountability of multinational enterprises.

## 3.2 Good faith

The effectiveness of the grievance mechanism relies primarily on the active and meaningful engagement of all the parties involved in accordance with the principle of good faith. Within the context of the procedure, this mainly refers to reacting and responding in a timely manner, maintaining the required confidentiality, creating the necessary transparency, refraining from misstatements or from threatening or taking reprisals against the parties involved as well as genuinely engaging in the proceedings to achieve a meaningful agreement. Disclosing any information shared during the proceedings without the consent of the other parties or conducting a public campaign against parties involved in the proceedings damages trust between the parties and jeopardises the success of the proceedings. Behaviour that could jeopardise the basis of trust between the parties involved and, as a consequence, the success of the proceedings should be avoided. All parties to the proceedings are expected to always consider the potential impact of their behaviour on the proceedings.

Moreover, the principle of good faith also requires that the parties give serious consideration to any offer of good offices and mediation made by the Austrian NCP.

The Austrian NCP monitors compliance with the principle of good faith and takes any steps that might become necessary. As part of its task of managing the proceedings, the Austrian NCP also takes measures to maintain the possibility of reaching an agreement. If the Austrian NCP deems it no longer possible for the parties to reach an agreement, it may conclude the process.

### **3.3 Transparency and confidentiality**

The Austrian NCP fulfils its tasks in a transparent manner. The parties and the Austrian NCP may communicate publicly on the existence and subject matter of the proceedings. After having given the parties the opportunity to make commentaries, the Austrian NCP will publish both its initial assessment and the final statement on its website and forward them to the OECD Secretariat, which includes them in the public database.

During the proceedings themselves, all and any data and information relating to the proceedings will be shared with all parties unless there are legitimate interests (such as protection of life and limb, of business and trade secrets, of personal data) that preclude disclosure.

For the grievance procedure to be effective, there must be trust between the parties to form a basis for constructive dialogue. The Austrian NCP seeks to strike a balance between transparency and the protection of legitimate interests.

In consultation with the parties, the Austrian NCP may draw up a procedural agreement in compliance with the Guidelines and the Austrian NCP's Rules of Procedure before initiating the good offices phase so as to create a common understanding of the transparency and confidentiality requirements and facilitate a constructive dialogue between the parties.

### **3.4 Who can submit a complaint?**

Any person or organisation with a legitimate interest may submit a complaint with the competent National Contact Point on their own behalf or as legitimate representatives regarding an alleged contravention of the Guidelines by an enterprise.

### **3.5 Objective of the grievance procedure**

The good offices process conducted by a National Contact Point offers the parties involved a framework for a trusting and constructive dialogue.

The objective of any grievance procedure is to have a trusting dialogue between the parties to achieve a common and tenable solution, thus contributing to the effectiveness of the OECD Guidelines. The subject of such an agreement may include measures taken by the enterprise to promote the future implementation of the

Guidelines and/or measures compatible with the Guidelines on how to manage adverse impacts that have already occurred. In addition, a National Contact Point may outline recommendations designed to contribute to an agreement.

### **3.6 Who bears the costs of the grievance procedure?**

The parties will bear their own costs incurred in the grievance procedure.

### **3.7 Constructive engagement**

Compliance with the OECD Guidelines by enterprises is voluntary and not legally binding. In its foreign trade strategy, the Austrian Federal Government expressed its support for responsible business conduct and, by adopting the updated OECD Guidelines on 8 June 2023, reaffirmed its commitment to implementing the recommendations set out therein by enterprises operating in or from Austria. This also includes enterprises' constructive engagement in grievance procedures before the Austrian NCP if enterprises are alleged to have violated the Guidelines.

### **3.8 Nature of the procedure and possible consequences**

In grievance procedures before a National Contact Point, the parties enjoy greater control over the process of reaching an agreement than in formal procedures where a third independent entity takes a final decision. In most cases consensual agreement is also a less time consuming and less expensive alternative to formal or legal actions. National Contact Points are no judicial authority and complaints – so-called specific instances – no formal legal cases. The Austrian NCP is not authorised to issue orders and execute coercive measures. Nor are National Contact Points tasked with checking whether an enterprise is complying with binding rules and laws.

Grievance procedures brought before the Austrian NCP address issues relating to the implementation of the OECD Guidelines. Proceedings before National Contact Points are not intended to result in sanctions for alleged contraventions in the past. Rather, they seek to address the issue and find a solution that is satisfactory to both sides and sustainable for the future. Nevertheless, the results of such a procedure can have major consequences, e.g. for the reputation of an enterprise or for public procurement and funding systems. By the same token, these outcomes will feed into the review process of Austria's national export credit agency Oesterreichische Kontrollbank AG.

# 4 Course of the procedure

## 4.1 Initiation of the procedure

Complaints may be submitted by individuals, groups of the population, employees' and non-governmental organisations or other stakeholders concerned. In any case, a complaint must contain the interests and intentions of the complaint and provide consistent and reasonable arguments for the issue raised in good faith. Furthermore and where applicable, any lawful powers of representation must be stated.

The grievance procedure will be initiated by submitting a complaint to the Austrian NCP. Submission is in writing by e-mail and, where possible, using the form provided for this purpose, which is available in German, English and French on the website of the Austrian NCP. The complaint may also be filed in writing by post. It should be accompanied by documents and papers that are suited to substantiate the issues raised.

Address: **Austrian National Contact Point  
for Responsible Business Conduct  
Federal Ministry of Labour and Economy  
Stubenring 1, 1010 Vienna**

E-mail: **[NCP@bmaw.gv.at](mailto:NCP@bmaw.gv.at)**

Website: **[www.oecd-leitsaetze.at](http://www.oecd-leitsaetze.at)**

Where possible, the Austrian NCP will confirm receipt of the complaint to the complainant within ten working days of receipt.

## 4.2 Completeness of the complaint

The Austrian NCP will first check completeness of the complaint and may request additional information where necessary. The complaint is complete if the following information is included:

- a) Name, address and, where appropriate, e-mail and telephone number of the complainant. Complaints may not be submitted anonymously to the Austrian NCP. The complainant must be named and provide appropriate contact details.
- b) Name, address and, where appropriate, e-mail and telephone number of the respondent (enterprise in question).

- c) Identification of the provision of the Guidelines the violation of which is alleged.
- d) Presentation of the facts from which the alleged violation of the Guidelines is deemed to arise. The alleged contravention must fall within the scope of the OECD Guidelines and be specified in the complaint.
- e) If the respondent's alleged responsibility relates to the supply chain, the relationship of the respondent with the company that is alleged to have violated the indicated provisions of the Guidelines must be explained.
- f) The complainant must be able to explain its legitimate interest in the issue at hand and file the complaint in good faith.

### **4.3 International competence**

#### **4.3.1 Competence**

The complaint is to be addressed to the competent National Contact Point. The competent NCP is the National Contact Point of the country where the alleged violation of the OECD Guidelines took place. If no National Contact Point has been established in this country, the complaint must be addressed to the National Contact Point of the country where the enterprise concerned has its headquarters. The Austrian NCP may also handle complaints in cases where another relevant interest warrants its handling and whenever its handling cannot be assured otherwise. A list of all National Contact Points is available from the OECD Guidelines website: [mneguidelines.oecd.org](https://mneguidelines.oecd.org).

Whenever a complaint is submitted where the Austrian NCP considers itself not to be the competent body, it will inform the complainant accordingly.

#### **4.3.2 Several National Contact Points concerned**

If a complaint, based on the issues raised, concerns the National Contact Point of another country or the National Contact Points of several other countries, the Austrian NCP will coordinate in good faith with this or these NCP(s) with the goal of designating the lead and supporting NCPs.

Supporting activities include obtaining, checking or translating documents or liaising with relevant authorities, etc. Where required, this may also include coordination arrangements among the National Contact Points concerned. The parties to the proceedings will be kept informed about such coordination arrangements, and they will be consulted prior to decisions to transfer the case to a different NCP.

Initial coordination arrangements to identify the responsibilities of several National Contact Points concerned should be completed, whenever possible, within two months of submission of the complaint.

## 4.4 Initial assessment of the complaint

### 4.4.1 Comment of the respondent to the complaint

As part of the initial assessment, the Austrian NCP will communicate the complaint to the respondent, explain the next phases of the proceedings and ask the respondent to provide a comment within four weeks. In addition, the respondent will be informed that its comment will be forwarded to the complainant. If the Austrian NCP deems it necessary for its initial assessment, it may request further comments from the parties.

### 4.4.2 Explanation of the Austrian NCP's case-handling framework

In addition, the Austrian NCP offers all the parties individual meetings or discussions to provide details on the grievance procedure and explain its case-handling framework. The Austrian NCP seeks to engage the respondent in the grievance procedure.

### 4.4.3 Criteria for accepting a specific instance

Based on the complaint and the comments received, the Austrian NCP will make an initial assessment of whether the issues raised in the complaint warrant further examination of the specific instance. The respondent's willingness to engage in the proceedings is irrelevant for the decision to accept a specific instance. Initial assessment is based on the following criteria:

- a) The complainant has a **legitimate interest in the matter**. Interest in the matter must be clearly demonstrated. It is possible to submit a complaint by proxy if lawful power of representation is demonstrated.
- b) The complaint is **material and sufficiently substantiated**. A complaint is material when it is relevant to the implementation of the OECD Guidelines, and when it alleges contravention of one or more recommendations of the Guidelines. A complaint is sufficiently substantiated when the allegations appear credible based on the parties' submissions. There must be a plausible link between the enterprise's activities and the issues raised. However, this does not involve any burden of proof.
- c) The respondent is an **enterprise**. The Guidelines apply to all enterprises irrespective of ownership, corporate structure or sector.

- d) The enterprise is **multinational**. The term ‘multinational’ is interpreted broadly within the meaning of the Guidelines. The factors to be taken into account include corporate structure and business activities of the enterprise as well as its business form and purpose.
- e) The enterprise operates **in or from a territory of an Adherent to the OECD Guidelines**. This criterion is independent of the state of incorporation or head office of the enterprise.
- f) There is a **link between the activities of the enterprise or its business partners and the alleged violation of the Guidelines**. There have been adverse impacts in violation of the Guidelines that are allegedly either caused or contributed to by the enterprise, or are directly linked to their operations, products or services by business relationships.

In addition, the Austrian NCP will assess the **relevance** of the issue raised in the complaint. In so doing, the NCP will take into account the extent to which it could contribute to the resolution of the issue and whether its handling of the specific instance in question could contribute to the effectiveness of the Guidelines.

#### **4.4.4 Acceptance of or refusal to accept a specific instance**

If the issues raised warrant further examination, and if the required criteria are met, the Austrian NCP will accept the instance based on its initial assessment. If one or several criteria are not met, further examination will not be appropriate, and the Austrian NCP will refuse to accept this specific instance.

The Austrian NCP will conclude initial assessment, where possible, within three months of receipt of the complaint and will state adequate reasons for its decision. Requests for additional information by the Austrian NCP will interrupt this period until submission of the improved complaint.

The Austrian NCP’s decision to accept a specific instance does not mean that it has issued a statement, apportioned blame within the meaning of the Guidelines or taken any decision in the matter. Rather, it means that the issue raised warrants further examination of its contents in relation to the OECD Guidelines. Initial assessment is based on the above criteria, which must be credible in the eyes of the Austrian NCP. Furthermore, initial assessment is based on the parties’ submissions.



#### **4.4.5 Initial assessment published in writing**

The Austrian NCP will summarise in writing the issues raised and the respondent's comments, including in any case the identity of the parties involved (unless there are reasonable grounds not to do so), the grounds for complaint, the pertaining chapters of the OECD Guidelines and their relevance as well as the reasons for accepting or refusing to accept the specific instance for further examination. The Austrian NCP will communicate a draft of this statement to the parties, giving them the opportunity to comment, whereupon it will decide at its discretion the extent to which any comments will be considered in the finalised initial assessment. The finalised written result of the initial assessment will be communicated to the parties, published on the website of the Austrian NCP and forwarded to the OECD Secretariat for inclusion in the OECD's public database.

### **4.5 Frequently asked questions regarding initial assessment**

#### **4.5.1 How do domestic law and judicial or administrative proceedings affect the grievance procedure before the Austrian NCP?**

Compliance with the OECD Guidelines is voluntary and not legally binding. The Guidelines are not a substitute for, nor do they override, domestic law and regulations. Failure of governments to uphold the Guidelines does not diminish the expectation that enterprises observe them. While the Guidelines extend beyond national law in many cases, they may not place enterprises in situations that are in conflict with applicable law. As a matter of principle, enterprises are expected to honour the Guidelines as far as possible without violating applicable domestic law. Consequently, a complaint may be accepted by the Austrian NCP although the enterprise complied with all national provisions.

Any judicial or administrative proceedings, running in parallel or already concluded, which concern the issue raised will thus not constitute a compelling reason for the Austrian NCP to refuse the complaint. Nor will the complainant's option of instituting judicial or administrative proceedings constitute a reason to refuse the complaint. Rather, the NCP will examine on a case-by-case basis whether conducting proceedings may make a positive contribution to resolving the issues raised, and whether no adverse impacts on other proceedings are to be expected.

#### **4.5.2 How should enterprises deal with a complaint?**

Enterprises at which complaints are directed will be informed by the Austrian NCP of this fact in the course of initial assessment and invited to comment. A complaint is always

linked to the OECD Guidelines. Therefore, enterprises should, first and foremost, familiarise themselves with the Guidelines and the related allegations. The German, English and French versions of the OECD Guidelines are available from the Austrian NCP's website: [www.oecd-leitsaetze.at](http://www.oecd-leitsaetze.at). Versions in other languages are available at: [mneguidelines.oecd.org/mneguidelines/](http://mneguidelines.oecd.org/mneguidelines/).

Although participation in the grievance procedure is not compulsory, it should, in any case, be understood as a valuable source of learning: the best result within the meaning of responsible business conduct will be achieved if all stakeholders cooperate in a meaningful manner and jointly devise sustainable solutions. Active participation in the procedure and a clear representation of their own position can help enterprises prepare the ground for finding joint solutions to the issue with their stakeholders. The proceedings before the Austrian NCP are efficient and cost-effective means of initiating long-term joint processes of change and strengthening the relationship to stakeholders.

The Austrian NCP will examine every complaint received and will publish – with or without the engagement of the enterprise – an initial assessment of the issues raised, which in turn is based on the parties' submissions. Moreover, the results of such a procedure can have major consequences, e.g. for the reputation of an enterprise or for public procurement and funding systems. In addition, these outcomes will feed into the review process of Austria's national export credit agency Oesterreichische Kontrollbank AG.

#### **4.5.3 What can enterprises do to avoid complaints under the OECD Guidelines?**

Due diligence is a key concept of the OECD Guidelines. Enterprises should implement risk-based due diligence to identify, assess, prevent, mitigate, discontinue, remedy and, where appropriate, redress actual and potential adverse impacts of their business activity. Alongside recommendations, the OECD Guidelines include commentaries on the individual chapters, thus assisting enterprises in implementing the recommendations. In addition, the OECD has developed a series of guidance papers and handouts that provide either cross-sectoral or sector-specific directions on implementing the Guidelines.

## **4.6 Good offices of the Austrian NCP**

If the Austrian NCP finds that the issues raised warrant further examination, a mediation process will be initiated, wherein it offers the parties its good offices and seeks to mediate between the parties, look into the allegations and resolve the issue by agreement of the parties involved. This is intended to foster compliance with the OECD Guidelines and

develop a sustainable solution within the meaning of the Guidelines. The Austrian NCP offers a platform for dialogue and mediation.

The mediation proceedings are based on written comments and discussions between the parties. Where required, the NCP may seek information from competent authorities, experts and other informed persons. In relation to other Adherents, the Austrian NCP may consult other National Contact Points. In the event of questions regarding the interpretation of the Guidelines, the Austrian NCP may seek guidance from the OECD Secretariat, the OECD Working Party on Responsible Business Conduct or the OECD Investment Committee. The Steering Committee of the Austrian NCP can provide advice.

A possible agreement primarily depends on the good will of both sides – all parties act in good faith. The parties may also reject the Austrian NCP's good offices. The Austrian NCP may discontinue the grievance procedure at any time if one or several parties show(s) insufficient readiness to meaningfully engage in the mediation proceedings.

#### **4.6.1 How do the good offices work?**

At the outset, the Austrian NCP will discuss with the parties their expectations of the good offices as well as the objectives and specific organisation of this process. At the beginning of the mediation process, both parties will be given the opportunity to present their view on the issue and its merits. The Austrian NCP is responsible for managing the proceedings, assists in the dialogue and may propose solutions. If a party rejects the NCP's attempts at mediation, or if no agreement can be reached, the mediation process will be discontinued by the Austrian NCP and concluded with a final statement.

The Austrian NCP may choose to carry out mediation itself or, with the agreement of all parties, engage an external mediator to do so, the important aspect being that this person is impartial and that there is no conflict of interests. The results of the dialogue will be recorded in writing by the Austrian NCP.

The Austrian NCP creates the organisational conditions for talks conducted in an efficient and protected manner. Mediation meetings are generally held at the headquarters of the Austrian NCP, Federal Ministry of Labour and Economy, Stubenring 1, 1010 Vienna, with the parties being present. If it is conducive to mediation, a meeting may also be held at another location or virtually in agreement with the parties and with the consent of the Austrian NCP. The language of the procedure will be specified in consultation with the parties in advance – as a rule, it is German, but occasionally the parties may also agree on English.

#### **4.6.2 How is confidential information handled?**

In consultation with the parties, the Austrian NCP may draw up a procedural agreement in compliance with the Guidelines and the Austrian NCP's Rules of Procedure to facilitate a constructive dialogue between the parties, specify the transparency and confidentiality requirements as well as the scope and course of discussions and create a basis of trust. This agreement may cover procedural and logistical aspects as well as other questions that the parties or the Austrian NCP wish to define.

The principle of transparency applies. The parties are given access to all sources of information relevant to the issue and procedure. For reasons of procedural transparency, all and any data and information relating to the proceedings and provided by one party to the Austrian NCP will be forwarded by the NCP to the other parties unless there are legitimate interests (such as protection of life and limb, of business and trade secrets) that preclude disclosure. If information is not to be forwarded by the Austrian NCP due to legitimate interests, the submitting party must notify the NCP in writing in a timely manner, while demonstrating clearly the reasons for such non-disclosure. Partial redaction of documents may be considered.

This applies in particular to cases where the publication of such information entails a risk of reprisals against individuals involved in the proceedings, against related persons or the Austrian NCP. The Austrian NCP will take the necessary measures to protect confidential information, such measures being upheld also after conclusion of the grievance procedure. The parties, the Austrian NCP or other external individuals consulted will not share with third parties or the general public any information only known to them as a result of the proceedings unless the parties and the Austrian NCP agree to its disclosure, such information is already in the public domain or not disclosing would be contrary to the provisions of mandatory law.

In any case, the components of the initial assessment and the final statement are shared with the public, meaning that the parties, too, may communicate publicly on the existence of the specific instance and the reason for the complaint. In some cases, even the identity of the parties involved is not disclosed, for instance when its disclosure could be of disadvantage to one or both parties. This is to ensure that no party is put at a disadvantage through disclosure of information during the proceedings. Disclosure of any other information will be agreed by the parties. This is without prejudice to mandatory rules on disclosure or data protection, which must be observed.

#### **4.6.3 What is the timeframe for the mediation process?**

The Austrian NCP strives to facilitate the resolution of the issues in a timely manner. Recognising that progress towards finding a solution largely depends upon the parties involved, the Austrian NCP will, after consultation with the parties, establish a reasonable timeframe for the discussion between the parties to resolve the issues raised.

#### **4.6.4 Can the parties reach an agreement outside the grievance procedure?**

Agreement outside the grievance procedure before the NCP is possible at any time and will be expressly encouraged by the Austrian NCP at the beginning of proceedings. If the parties are working towards such an agreement on key points of the complaint, the Austrian NCP must be informed in writing thereof. In case they fail to reach an agreement, the NCP's good offices can be resumed at any time. If the parties reach an agreement outside the procedure, this will be made public by the Austrian NCP in its final statement.

### **4.7 Conclusion of the grievance procedure**

The purpose of a grievance procedure is to ensure that the parties reach agreement on a sustainable and tenable solution which is consistent with the Guidelines and, consequently, promotes their effective implementation. Any complaint addressed to the Austrian NCP will be concluded with a final statement published on the NCP's website. This document will be forwarded to the OECD Secretariat for inclusion in its public database. The Austrian NCP will also draft a final statement in cases where external mediators have been engaged. A grievance procedure before the Austrian NCP may have the following results:

- a) The parties decline the offer of good offices.
- b) The parties reach an agreement.
- c) The proceedings are discontinued.

#### **4.7.1 Good offices declined by the parties**

If one of the parties declines the good offices of Austrian NCP, the grievance procedure will be terminated. The Austrian NCP will draft a final statement which will at a minimum describe the issues raised, the parties' identity and respective positions as appropriate, the steps taken by the Austrian NCP in considering the complaint, the parties' readiness to engage in the proceedings and the reasons for discontinuing them. It will also explain the relevance of the grievance procedure for the effective implementation of the OECD Guidelines.

### **4.7.2 Agreement**

If the parties reach an agreement on the issues raised, the Austrian NCP will draft a joint final statement with the parties. The statement will at a minimum describe the issues raised, the parties' identity and respective positions as appropriate, the steps taken by the NCP to resolve the dispute, the parties' readiness to engage in the proceedings, the date when agreement was reached and recommendations of the Austrian NCP where appropriate. In addition, the final statement will explain the importance of the grievance procedure for the effective implementation of the OECD Guidelines. The parties should also address in their agreement how and to what extent the content of the agreement is to be made publicly available, and which form any follow-up is to take.

### **4.7.3 Discontinuation of the procedure**

If the parties are unable to reach agreement on key points of the complaint, the Austrian NCP may discontinue the proceedings. Its final statement will at a minimum inform about the issues raised, the parties' identity and respective positions as appropriate, the steps taken by the NCP to resolve the dispute, the parties' readiness to engage in the proceedings and the reasons for discontinuing them. In addition, the final statement will explain the importance of the grievance procedure for the effective implementation of the OECD Guidelines. Despite the lack of agreement, the Austrian NCP may include recommendations in its final statement.

### **4.7.4 Final statement**

Where possible, the Austrian NCP will draft a final written statement within three months of conclusion of the proceedings.

Before finalising the statement, the Austrian NCP will provide an opportunity for the parties to comment on its draft statement. It is within the Austrian NCP's discretion to decide whether and to what extent it will change the draft statement in response to comments from the parties. Where the parties are unable to agree on the wording of the final written statement, the Austrian NCP will take a final decision.

## **4.8 Timeframe for the grievance procedure**

The Austrian NCP will endeavour to conclude the procedure within 12 months of submission of a complaint (14 months if coordination to determine a lead NCP is needed).

There may be external factors that delay the proceedings. Such situations include, but are not limited to, situations when the issues arise in a non-Adherent, when the specific instance involves multiple enterprises, multiple submitters or multiple NCPs, or when translations are necessary, or when the Austrian NCP needs to consult with its Steering Committee, the OECD or public authorities, etc. Therefore, the timeframes indicated in this Guidance are to provide orientation rather than rigid deadlines. The NCP will keep the parties informed of any deviations from the intended timeframes.

## **4.9 Follow up**

The publication of the final document is not intended to bring an abrupt end to the grievance procedure. Rather, it will now be up to the enterprise to implement its own promises and the Austrian NCP's recommendations on a voluntary basis, thus making an important contribution to sustainable development through responsible business conduct in a global context. Once the proceedings have closed, the parties or the Austrian NCP, in consultation with the parties, may engage in follow-up. Follow-up may be assisted by the Austrian NCP. Any intended follow-up will also be referred to in the final statement, including deadlines to do so. The Austrian NCP will publish a follow-up statement after conducting the follow-up.

## **4.10 Withdrawal of the complaint**

If the complainant withdraws the complaint before the proceedings are concluded, the Austrian NCP will close the grievance procedure. The Austrian NCP will inform the respondent and the OECD Secretariat of such withdrawal.

# 5 Miscellaneous

## 5.1 Protection against reprisals

Threatening or taking reprisals against any of the parties involved including the Austrian NCP is unacceptable. Reprisals may include threats to harm physically or psychologically the individual concerned, their family or other relations or organisations or actually do so; threats to carry out unfair dismissals, benefit cuts or legal action or actually do so.

Throughout the entire grievance procedure, the Austrian NCP will take all reasonable and appropriate measures to counteract the risk of reprisals. If the Austrian NCP becomes aware of actual or imminent reprisals, it will assist the individuals concerned as far as possible. To this end, the NCP may contact the competent authorities, where possible in consultation with the individuals concerned. Measures taken by the Austrian NCP may include, for example, keeping the identity of the person at risk confidential, suggesting that the person at risk be represented by a trusted third party, documenting attempted reprisals, reaching out to relevant authorities or embassies, etc.

## 5.2 Data protection

The Austrian NCP will process personal data in accordance with the EU's General Data Protection Regulation (GDPR) and the Austrian Data Protection Act (Datenschutzgesetz - DSG).



## 6 Contact

More information on the OECD Guidelines, the National Contact Points and the grievance procedure can be obtained from the Austrian National Contact Point in the Federal Ministry of Labour and Economy:

**Austrian National Contact Point  
for Responsible Business Conduct**

Federal Ministry for Labour and Economy

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