



29th August 2019, Ministry of Economic Affairs and Employment

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PROCEDURE FOR SUBMITTING AND PROCESSING COMPLAINTS REGARDING THE OECD GUIDELINES

The OECD Guidelines for Multinational Enterprises (Guidelines) are recommendations addressed by governments to multinational enterprises. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. Finland is committed to promoting compliance with the OECD Guidelines. The Guidelines are supported by a mechanism of National Contact Points (NCPs), bodies established by adhering governments. The NCPs promote and implement the Guidelines. The NCPs also serve as a forum for mediation and settlement of disputes regarding the application of the Guidelines.

A party may submit a complaint (i.e. a “specific instance”) regarding the Guidelines when it wants to establish whether a multinational company has adhered to the Guidelines. Such a complaint will be processed by the Ministry of Economic Affairs and Employment together with the Committee on Corporate Social Responsibility¹ as the Finnish NCP (Government Decree 591/2008). The members of the Committee represent public authorities, labour market organisations and civil society. At the Ministry’s request, the Committee will provide a statement on whether the company has adhered to the Guidelines or not. Figure 1 illustrates the complaint processing procedure.

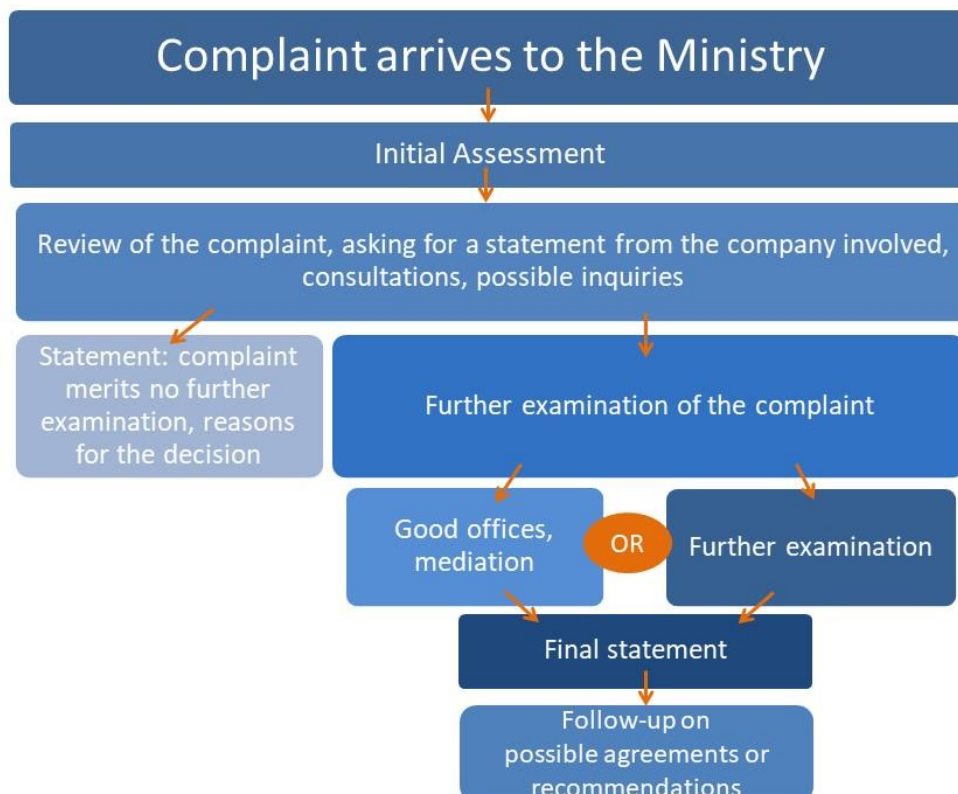


Figure 1. Processing of a complaint at the Finnish National Contact Point.

¹ The current composition of the Committee is shown here: <https://tem.fi/en/committee-on-corporate-social-responsibility>.

How to submit a complaint

A complaint is to be submitted in writing to the Ministry of Economic Affairs and Employment, PO Box 32, FI-00023 GOVERNMENT or by email to kirjaamo (at) tem.fi². A copy of the complaint is to be sent by e-mail to ncp-finland (at) tem.fi. There are no specific instructions regarding the format of the complaint, but it should indicate which company it concerns, explanations of the facts, and which chapters of the Guidelines have not been adhered to. To expedite the process, the National Contact Point requests that this form be filled out: <https://bit.ly/2E5uVpk>³.

A complaint may be submitted on behalf of several different parties. If necessary, the NCP may use videoconferencing and Finnish missions' networks to organise hearings with the parties, but the NCP will not reimburse any travel expenses. If a complaint refers to issues prior to 2011, when the OECD Guidelines were last renewed, the NCP will apply the OECD Guidelines in force at the time. This principle also applies to issues outreaching the year 2011.

More detailed principles regarding the processing of complaints can be found on pages 72–74 and 81–87 of the Guidelines: <https://www.oecd.org/daf/inv/mne/48004323.pdf>.

Initial assessment

When the Ministry has received a complaint, the NCP will determine whether the complaint merits further consideration (so-called initial assessment). This includes a review of the complaint, asking for a statement from the company involved, communication between parties, and possibly consulting other NCPs. During the initial assessment, the NCP can make further inquiries, in other words it may request information from the parties involved, the Finnish embassy network or other National Contact Points.

In its assessment, the NCP will consider the following:

- Is the Finnish NCP the appropriate grievance mechanism to process the complaint;
- Who are the parties involved and what are their interests in the matter in question;
- Whether the issue is material and substantiated;
- Whether there appears to be a link between the company's activities and the matter raised;
- Whether the applicable legislation and procedures, including court decisions, are related to the matter;
- How similar matters are being or have been handled in other Finnish or international bodies; and
- Whether the processing of the specific instance would serve the purpose and effective implementation of the OECD Guidelines.

The NCP will assess, on a case-by-case basis, whether complaints in matters involving multiple NCP jurisdictions should be processed. In such cases, typically one NCP assumes main responsibility for processing the complaint, and other NCPs provide support.

According to the OECD Guidelines, the NCP makes every effort to provide the initial assessment within three months.⁴

If the NCP decides not to process the complaint, it will issue a statement that includes a description of the complaint and grounds for its decision. If the NCP decides to examine the complaint further, the

² When the complaint is sent by email to the Ministry's registry office, the registry office will send an automatic acknowledgement of receipt.

³ The form for filing complaints is also available here: <https://tem.fi/en/handling-specific-instances-of-the-oecd-guidelines-for-multinational-enterprises>.

⁴ OECD Guidelines for Multinational Enterprises (2011), p. 86–87, <https://www.oecd.org/daf/inv/mne/48004323.pdf>.

process moves to the next phase: examination of the complaint. A decision by the NCP that a complaint merits further examination does not imply that the NCP considers that the company has breached the Guidelines.

Further examination of the complaint and final statement

If the NCP decides to examine the complaint further, the NCP first offers an opportunity for settlement to the parties in order to reach a mutually satisfactory agreement. The NCP will act as an administrator for the mediation. If the parties reach an agreement, the NCP will monitor its application. If the parties fail to reach an acceptable agreement or a party or parties refuse mediation, the NCP will continue to examine the complaint. At the end of either process above, the NCP will publish a final statement. When the NCP publishes a final statement after examination (i.e. without mediation), the statement will include a view on whether the company has breached the Guidelines or not. The final statement may include recommendations for the company on the implementation of the Guidelines.

The parties can supplement their statements throughout this phase. If the parties do supplement their statements, the information is to be sent both to the registry of the Ministry of Economic Affairs and Employment and to the email address mentioned above.

Any material to supplement the complaint is to be submitted to the Ministry of Economic Affairs and Employment no later than three weeks before the Committee meeting. The parties will be informed of the meeting schedule.

NCP decision-making process for complaints

On the proposal of the CSR Committee, the Ministry of Economic Affairs and Employment appoints, on a case-by-case basis, a subcommittee consisting of members and/or deputy members of the CSR Committee to process the complaint. The subcommittee typically consists of a representative from employer organizations, a representative from employee unions, a representative from civil society, and representatives from different Ministries, the latter depending on the case at hand (see also chapter "Responsibilities in handling complaints"). The subcommittee prepares a proposal of a decision on the initial assessment for the CSR Committee. The subcommittee is responsible for any mediation and settlement activities, and for the further examination. Based on the subcommittee's work, the Committee on Corporate Social Responsibility will prepare its view for a final statement. The Ministry of Economic Affairs and Employment makes the final decision on the matter after it has obtained the Committee's view. The Ministry officials will act as the secretariat in the process.

Confidentiality

As a general rule, the Guidelines state that NCPs should operate with transparency. However, procedural efficiency requires that confidentiality be appropriately secured when complaints are processed. The Finnish NCP acknowledges the need to protect sensitive business information and other confidential information in complaint processing.

If a party wants to keep something confidential, the party must indicate which sections of the material delivered to the NCP are to be treated confidentially and explain why. The delivered material cannot be marked confidential in its entirety because the opposite party must, as a rule, be informed of all material delivered to the NCP. Provisions of the Act on the Openness of Government Activities (621/1999) regarding confidentiality shall be observed in accordance with the OECD Guidelines.

Responsibilities in handling complaints

When the Committee handles complaints, its members are subject to personal liability for acts in office. The members form their views independently, without consulting their own organisation, and members handle the information concerning complaints on a confidential basis. Members also evaluate whether they have a conflict of interest. If a member has a conflict of interest, they need to remove themselves and cannot participate in the complaint process.

The NCP will make every effort to process complaints as quickly as possible. It acts in a manner that is impartial, predictable, equitable and compatible with the principles and standards of the Guidelines.

The OECD Investment Committee will be informed of the decision that includes the final statement of the Ministry of Economic Affairs and Employment.