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**RESPONSIBLE
BUSINESS
CONDUCT**

NEWSLETTER

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The Newsletter of the Portuguese National Contact Point for Responsible Business Conduct (NCP PT) is a biannual online publication, developed by the Directorate-General for Economic Activities (DGAE), which aims to communicate relevant news in the national and international context regarding the activity of the Network of National Contact Points and the OECD Working Party on Responsible Business Conduct (WPRBC). You can access the Newsletter via the NCP PT website, which is also available in Portuguese.

In this issue you will find information on:

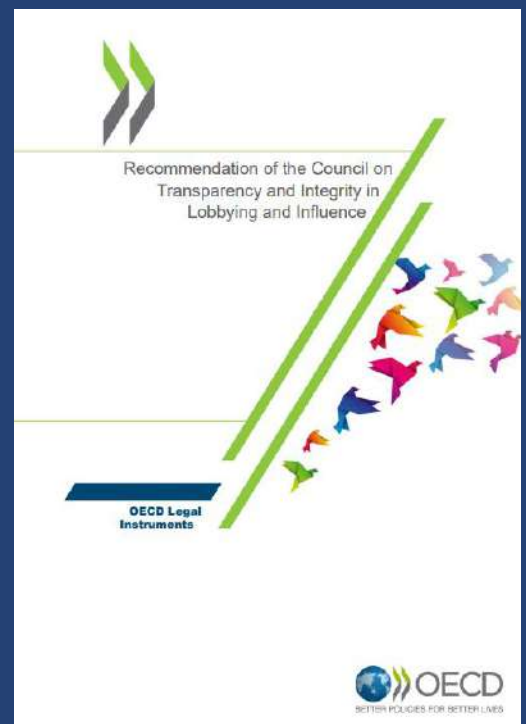
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Transparency and Integrity in Lobbying Activities

On June 20, 2024, the Portuguese government approved a package of 32 anti-corruption measures, including the regulation of lobbying. In this context, the NCP PT team considers it relevant to address the [OECD Recommendation on Transparency and Integrity in Lobbying and Influencing](#), adopted in 2010 and updated in 2024.

The Recommendation is the result of a set of principles established with the aim of improving transparency and integrity in interactions between governments and lobbyists. At a time when trust in government institutions is often under threat, this Recommendation aims to mitigate the excessive influence of certain interest groups and addresses current challenges such as the use of social networks and artificial intelligence to influence policy. In this article we address the main updates to this Recommendation, its alignment with the OECD Guidelines, the next steps for its implementation, the importance of transparency and integrity, the impacts for companies and the emerging challenges.

The evolution of the lobbying landscape prompted the 2024 revision of the Recommendation, which sought to strengthen the principles that aim to improve the transparency and integrity of institutions.



Transparency and integrity are fundamental to guaranteeing citizens' trust in institutions and public policies. The disproportionate influence of certain interest groups can damage trust in democratic governance and contribute to the implementation of policies that do not benefit society as a whole. The lobbying landscape is constantly changing, presenting new challenges such as technological developments and interference from foreign actors.

In order to respond to these challenges, the revision of the Recommendation introduces some important changes, namely:

- **Mandatory Disclosure of Lobbying Activities:** Companies must publicly disclose whether they are lobbying, the objectives of these activities, those responsible and the recipients.
- **Transparency in Donations and Contributions:** The recommendation calls for the online disclosure of donations and contributions received by governments, public officials, political parties and electoral campaigns.
- **Tracking Public Decision-Making:** Creation of a detailed register of lobbyists and stakeholders consulted during the public decision-making process.
- **Integrity and Conflict of Interest Management Rules:** Strengthening measures to identify, manage and resolve conflict of interest situations.
- **Interference by Foreign State Actors:** The recommendation addresses the need to guarantee the transparency of lobbying activities motivated by foreign interests in order to prevent undue interference.

The adoption of these recommendations by companies contributes to:

- **Mitigating Legal and Reputational Risks:** Companies that adopt this recommendation prevent possible sanction consequences and negative impacts on their reputation.
- **Improving Stakeholder Confidence:** Transparency and integrity in lobbying activities improve the trust of clients, suppliers and the community.
- **Access to Financing and Investment:** Currently, investors tend to value companies that include social and environmental responsibility in their management strategies.

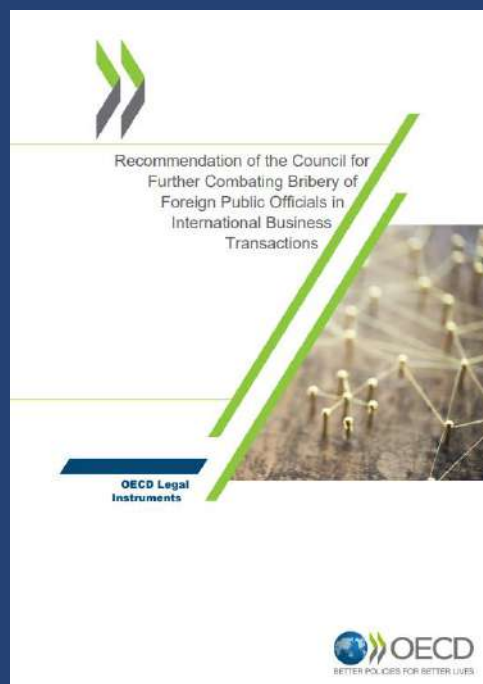
The revision of the 2024 Recommendation is in line with the OECD Guidelines, which promote responsible business practices in areas such as human rights, labor, the environment and the fight against corruption. Both instruments emphasize the importance of due diligence and transparency, encouraging companies to adopt practices that respect human rights and promote sustainable development.

Implementing the revised Recommendation will require continued efforts from both the public and private sectors. Committed to this task, NCP PT intends to use the space of its annual Webinar, scheduled for July 18, 2024, to present this Recommendation in greater detail.



Also, within this theme and as a mechanism coordinated by public administration entities, it should be noted that Portugal is in Phase 4 of the evaluation carried out by the OECD Working Group on Bribery of Foreign Public Officials in International Business Transactions (WGB), an evaluation focused on the practical implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and associated OECD Recommendations.

The NCP PT also recalls that, in accordance with the provisions of the OECD Anti-Corruption Recommendation, to which Portugal subscribes, all public officials have a duty to report episodes that constitute corruption, namely in international trade.



Interview with Karina Carvalho, Executive Director of Transparency International Portugal



Following on from the previous article, NCP PT interviewed the Executive Director of Transparency International Portugal, the Portuguese chapter of Transparency International (TI), Karina Carvalho.

Karina Carvalho has a degree in Sociology from the University of Coimbra, pursued advanced studies in Globalization, Development Cooperation, Migration, Inter-Ethnicities and Transnationalism and is now completing a Master's degree in African Studies at ISCTE - Instituto Universitário de Lisboa.

She has worked as a specialist in HRM and Human Capital and has developed consultancy projects in various areas, from education and training to gender mainstreaming, organizational capacity building, internal communication, social responsibility, corporate governance and entrepreneurship, for companies and NGOs in Portugal and Angola.

How important are transparency and integrity in lobbying activities for trust in government institutions?

The possibility for citizens' associations, aggregations of companies and other interest groups and/or stakeholders to participate in the formulation of public policies with a social and economic impact is as legitimate as it is necessary to strengthen democracy and the rule of law, and lobbying is therefore an integral part of the democratic process and is not illegal.

In this regard, it's worth remembering Tocqueville's "Democracy in America" (1835), where we read that the development of democracy implies the direct participation of citizens in public management, given that not only does power emanate from the people, but they also play a leading role in the choice of legislators and, consequently, in the formulation of laws and public policies.

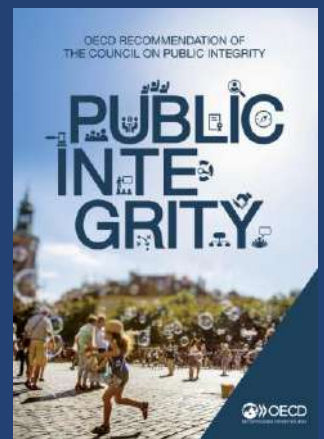


Transparency about lobbying and its regulation are therefore of the utmost importance, because they ensure and promote the participation of all interest groups in equal circumstances, as well as the accountability of public office holders and politicians in relation to the policies and legislation enacted, favoring the public interest and the consolidation of democracy.

What are the emerging challenges identified in the OECD Recommendation on Transparency and Integrity in Lobbying and Influencing? What are the main updates to this Recommendation in 2024?

The OECD Council Recommendation on Principles of Transparency and Integrity in Lobbying of February 18, 2010 was the first set of guidelines to address transparency and integrity risks related to lobbying practices, recommending to governments equal access to political discussions by all interested parties, greater transparency and integrity in lobbying, as well as the adoption of enforcement, compliance and review mechanisms.

To complement this, in 2020 the OECD launched a Recommendation on Public Integrity and in 2022 a Handbook providing guidance to governments, businesses and civil society on its implementation, specifically recommending encouraging transparency and stakeholder engagement at all stages of the political process and the policy cycle to promote accountability and the public interest, namely through the design, access to all stakeholders - including the private sector, civil society and individuals - in the development and implementation of public policies, avoid the capture of public policies by particular interest groups through the management of conflict of interest situations and promote transparency in lobbying activities and in the financing of political parties and electoral campaigns.



The new OECD Recommendation on Transparency and Integrity in Lobbying and Influencing of May 2024 is thus a natural step in the reflection undertaken by the OECD on this issue, with a view to supporting stakeholders in government, business and civil society to strengthen transparency and integrity frameworks in public policy-making.

However, public integrity implies, first and foremost, the responsibility of public decision-makers and politicians, which is why this new recommendation is unequivocal about the responsibility of the highest public offices, including Members of Parliament, calling for lobbying and influencing activities to be aimed at supporting decision-making processes, while safeguarding integrity, transparency and fair access to such processes.

Furthermore, the recommendation broadens the scope to include all actors involved in lobbying and influencing activities, including traditional lobbyists, as well as other actors such as companies, civil society organizations, think tanks, lobbying or law firms representing third-party clients, business and trade associations, trade unions and individuals mandated to represent such interests, regardless of whether or not they receive remuneration for their activities.

It also identifies the risks of interference by foreign powers in democratic processes through covert and deceptive lobbying and influencing practices, recommending the disclosure of all lobbying and influencing activities conducted by any lobbyist or influencer on behalf of interests of foreign states, including foreign governments, foreign third-party politicians or foreign state-owned and controlled entities, and also encourages governments to take

better account of these risks in their pre- and post-public employment regulations.

In parallel, it establishes transparency and integrity rules for all those who are contracted to provide advisory or consultancy services to the government, for example individual experts or private consultancy firms, to limit the risks of undue influence and conflicts of interest.

To what extent can social media and artificial intelligence influence public policy and how does the OECD Recommendation address these challenges?

The recommendation considers the threat to democracy posed by the rapid and global spread of disinformation, including the manipulation of information and covert foreign influence, urging states to promote the disclosure of lobbying and influence activities carried out on behalf of foreign state interests, as well as donations and contributions received by the government, public officials, political parties and electoral campaigns.

How can NGOs and other civil society organizations contribute to the implementation of the OECD recommendations?

As outlined in the recommendation, states should allow and enhance effective public scrutiny of lobbying and influencing activities carried out by civil society watchdogs.

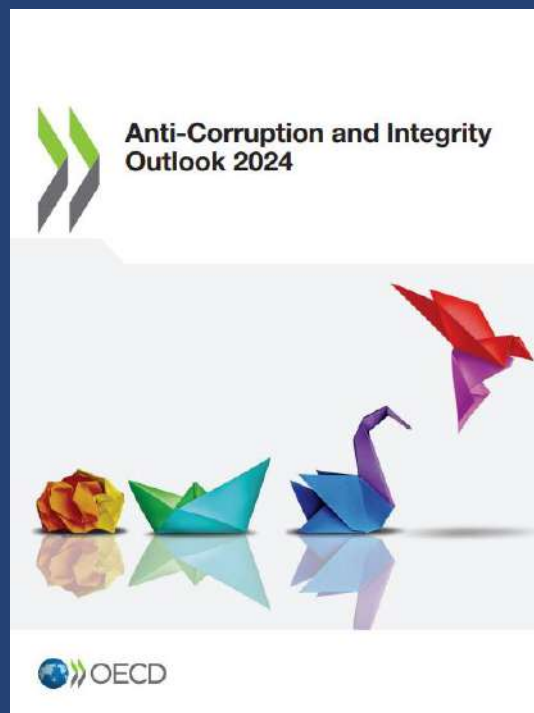
From your perspective, what is the role of the state and public administration in implementing this recommendation?

In the Recommendation of the Council for the Prevention of Corruption (available in Portuguese), on the management of conflicts of interest in the public sector, of January 8, 2020, it can be read that "for the prevention of conflicts of interest in all entities of the Public Sector and also in relation to all those who participate in decisions, handle public money, values or assets, there must be obligations to declare interests, incompatibilities and impediments, which, together with internal control systems and mechanisms for monitoring and sanctioning non-compliance, are capable of resolving private interests that may affect the pursuit of the public interest."



However, the report on corruption released at the end of March 2024 by the OECD (Anti-Corruption and Integrity Outlook 2024), pointed out Portugal's shortcomings in monitoring the registers of interests of senior state officials, delays in presenting the accounts of political parties and party funding by anonymous donations and vulnerabilities with regard to the lack of regulation of lobbying.

This OECD report also considers it essential to "regulate lobbying activities to avoid the capture of public policy by special interests. A regulatory framework that establishes clear definitions for lobbying strengthens, rather than weakens, policy-making." The OECD is of the opinion that "additional disclosure requirements, such as a lobbying register, increase transparency, thus enabling public awareness of the actors influencing policy." TI - Portugal is following the OECD's assessment.



What are the benefits for companies that implement the OECD's recommendations on lobbying?

The new OECD recommendation provides a framework to support companies and other influential actors in conducting their lobbying and influencing activities responsibly, including ensuring that these activities align with their public commitments on broader environmental, social and governance objectives.

How important is an efficient monitoring system for lobbying activities and how can it be implemented?

The OECD recommendation is clear in that it proposes that states:

- 1) implement appropriate policies to strengthen the transparency and integrity of lobbying and influencing activities that affect government decision-making processes;
- 2) ensure transparency and integrity in the lobbying and influencing activities of all lobbying and influencing actors; and
- 3) establish a public integrity framework for public officials adapted to the risks related to lobbying and influencing activities.

To achieve this, it is therefore essential to put in place an efficient oversight system, i.e.:

- 4) to promote accountability of lobbying and influencing activities through an adequate oversight function, capable of enforcing policies and regulations and monitoring and promoting their implementation, and of analyzing the completeness, adequacy and timeliness of all information disclosed for public scrutiny and the effectiveness of integrity standards.

On the other hand, the recommendation also calls for fair, objective, proportionate, timely and dissuasive sanctions for non-compliance with policies and regulations on lobbying and influence, through disciplinary, administrative, civil and/or criminal proceedings.

The Corporate Sustainability Due Diligence Directive (CS3D)

The CS3D aims to ensure that companies incorporate sustainability principles into their operations and chain of activities. On May 25, 2024, the CS3D was approved by the Council of the EU, after the European Parliament's first reading. The final version was signed on June 13, 2024.

Taking into account the interest that the CS3D has for the business community in the context of the RBC, this article aims to present a non-exhaustive analysis of the convergences and divergences between the CS3D and the OECD Guidelines.

The Guidelines and other international instruments were used as benchmarks in the drafting of the CS3D, insofar as they promote the integration of sustainability into business activity on a voluntary/soft law basis (in the case of the Guidelines and other instruments) and on a binding/hard law basis (in the case of the CS3D).

Convergence Points

Due Diligence: The OECD Guidelines highlight the importance of risk-based due diligence and encourage companies to identify and manage the adverse impacts of their operations at the level of their supply chain. The supply chain refers to the interconnected path that raw materials, components and goods take before they are assembled in the company and sold to customers (upstream). CS3D also requires companies to carry out due diligence, in an approach based on risk prioritization, to identify, prevent and mitigate the adverse impacts of their activities on human rights and the environment throughout their chains of activities. The chain of activities includes the supply

chain, as well as activities downstream of the company related to the distribution, transportation and storage of a product, when these activities are carried out for or on behalf of the company.

Network Operation: The CS3D provides for the creation of a network of supervisory authorities in the EU, while the Guidelines provide for a network of NCPs in their signatory countries.

Transparency and Disclosure of Information: The CS3D imposes transparency requirements, requiring companies to publicly disclose due diligence reports and the measures taken to resolve adverse impacts of their activities. The OECD Guidelines also recommend the disclosure of relevant information on responsible business conduct to promote transparency.

Remediation: The CS3D provides mechanisms to ensure that those affected have access to remedial measures. The OECD Guidelines encourage companies to collaborate in the remediation of adverse impacts and to develop effective remediation mechanisms in line with international standards.

Divergence Points

Scope: The CS3D directly covers part of the large intra-EU companies and, indirectly, the SMEs that are part of their chains of activity. The CS3D also covers part of large non-EU companies with significant operations in the single market. The Guidelines are aimed at all multinational companies and extend to all companies, regardless of their type or nature.

Civil liability: Unlike the Guidelines, the CS3D defines a civil liability regime for companies if they fail to prevent or resolve their adverse impacts, either intentionally or through negligence. This liability applies if the transgression causes harm to individuals or entities protected by national law.

Stakeholder Involvement: CS3D requires stakeholder involvement in the due diligence process, including mandatory consultations with affected stakeholders. The Guidelines recommend stakeholder involvement as a good management practice, but do not impose specific consultation obligations.

The NCP PT recognizes the approval of the CS3D as a relevant step in promoting the RBC, insofar as the implementation of the Guidelines' recommendations by companies supports compliance with the CS3D. In this context, the NCP network can provide support to companies and other stakeholders, and the OECD has been developing a set of Sector Guides to support due diligence.



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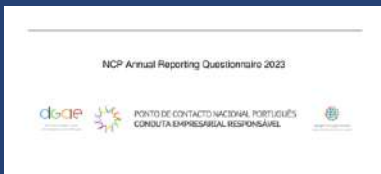
NCP PT Activities

You can consult all the NCP PT activities in more detail on the [NCP PT Activities](#) page.



Participation in an interview for a study developed by New York University, called the "Grievance Redress and Accountability Mechanisms Project", coordinated by post-doctoral student Claire Sieffert.

23/01



Publication of the Annual Report 2023 on the activity of the NCP PT, submitted to the OECD secretariat.

24/01



First Guest Lecture at the Nova School of Business & Economics. This session was attended by around 20 students from the Master's course "Responsibility and Ethics of Business".

27/02



Virtual awareness-raising session for the Directorate-General for Consumer Affairs, attended by 6 of the organization's employees.

28/02

12/03

Participation of the PT NCP in the Peer Review of the Romanian NCP, which took place in Bucharest between March 12 and 14 and was attended by the NCPs of Spain and Kazakhstan. The exercise involved meetings with the business sector and representatives of workers, civil society and government departments. It included a promotional event focusing on NCP best practices. The exercise report will be published shortly.



19/03

Virtual awareness session for the Entidade de Serviços Partilhados da Administração Pública, I.P. (eSPap). 76 of the entity's employees took part in this session.



04/04

Creation of the "Useful Links" area on the NCP PT website.



23/04

Second Guest Lecture at the Nova School of Business & Economics. This session was attended by around 20 students from the Master's course "Responsibility and Ethics of Business".





"Guest Lecture at NOVA School of Law. Around 30 students from the "Law and Management" Master's course took part in this practical session.

06/05



Publication of the Video Tutorial on Chapter I (Concepts and Principles) of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023 edition)

21/05



Creation of a new page dedicated to the OECD Guidelines on the website of AICEP - Agência para o Investimento e Comércio Externo de Portugal.

09/05



Virtual awareness session for the Institute of Public Markets in Real Estate and Construction (IMPIC). This session was attended by 58 of the entity's employees.

23/05

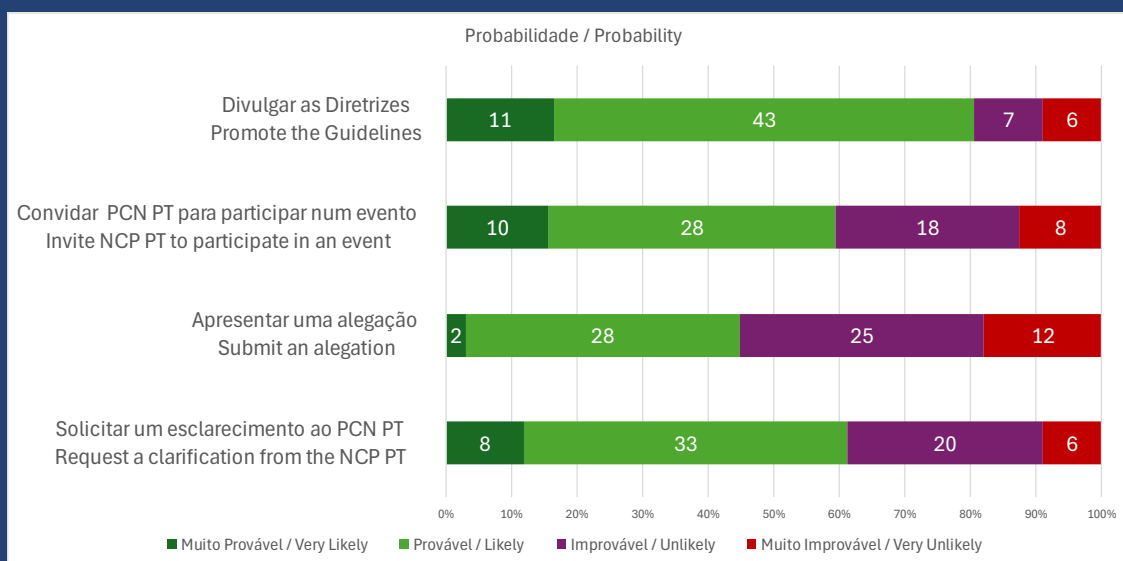
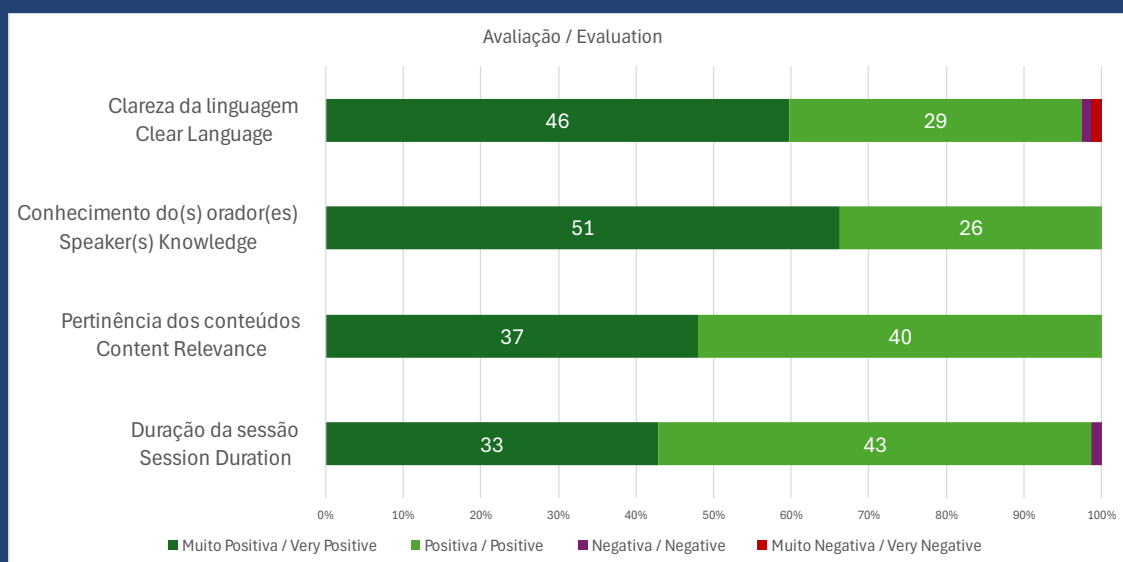


Virtual awareness session for DECO - Portuguese Association for Consumer Protection. This session was attended by 24 of the organization's employees.

03/06

Evaluation of NCP PT Awareness Sessions

Of the approximately 230 participants in the awareness-raising sessions held by NCP PT during the first half of 2024, 77 took part in the process of evaluating these sessions via an online form. The form evaluates the sessions on the criteria “Session Duration”, “Content Relevance”, “Speaker(s) Knowledge” and “Clear language” and asks whether the participant is likely to “Request a clarification”, “Submit an allegation”, “Invite the NCP PT to participate in an event” and “Promote the Guidelines”. The results of this evaluation are presented below:

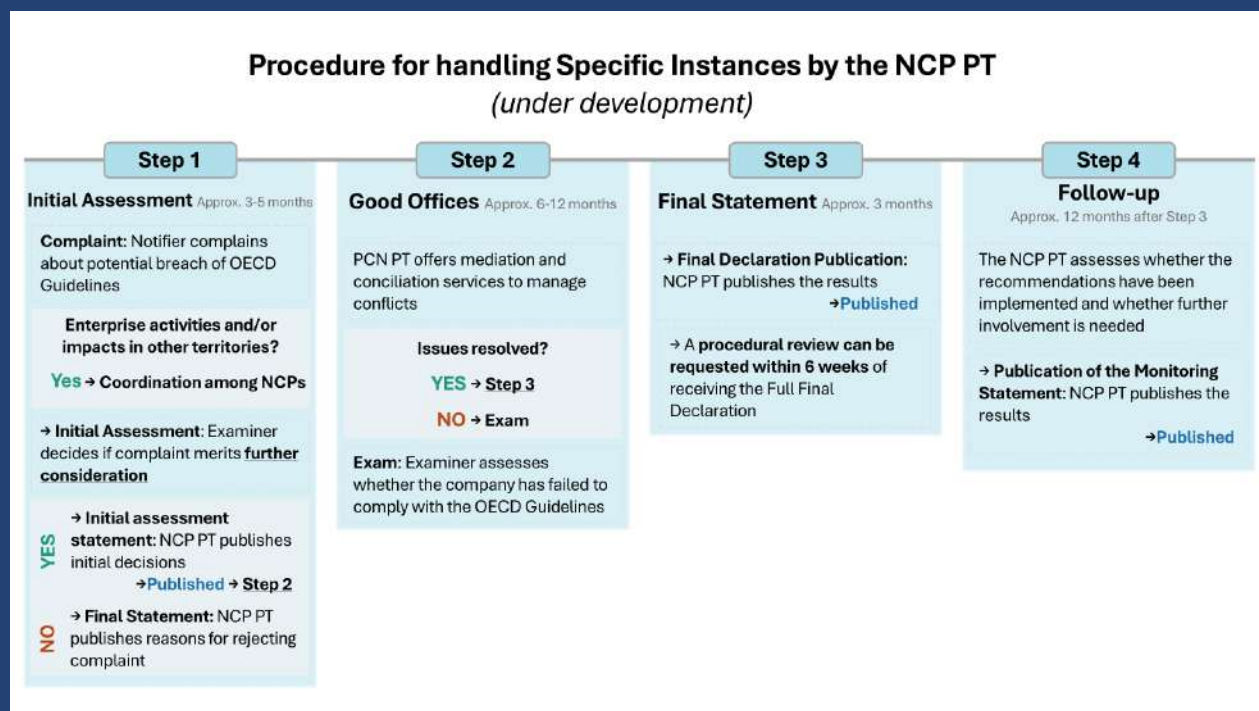


Revision of the case-handling procedures

Following the OECD Guidelines update, in 2023, the NCP PT has been revising the Procedural Guidance for handling specific instances (complaints submitted to the NCP PT based on an alleged breach of the Guidelines).

This document is intended to serve as a guide for the parties involved, namely the NCP PT Secretariat, any independent mediators, notifiers of complaints and companies. It is intended that the document will be put out for consultation in the near future, with the aim to make the final publication by the end of 2024.

In the webinar on July 18th, the NCP PT will present more information about this revision process and the next steps.



Responsible Business Conduct and Transparency: Responding to Emerging Challenges

The NCP PT will organize its next webinar on July 18th, 2024. This event will feature a presentation of the activities carried out by the NCP PT in the 2nd half of 2023 and the 1st half of 2024 and the status of the implementation of the recommendations that emerged from the Peer Review exercise carried out on the NCP PT.

A short presentation on transparency and integrity in lobbying and influencing activities is planned for this event. The event will also feature a panel discussion, moderated by Claire Bright, professor at the Nova School of Law and dedicated to the theme "Challenges and Opportunities in Responsible Business Conduct", where relevant inputs will be shared on the national panorama with regard to the promotion of transparency and prevention of corruption and the respect and promotion of Human Rights and Labor Rights.

To take part in this event, **register by July 17th** using the [registration form](#). For more information on the event, see the NCP PT page.

14H30	Welcome João Rui Ferreira, Secretary of State for the Economy*
14H40	Overview of the Activities of the Portuguese NCP Portuguese NCP Team from DGAE and AICEP
15H20	Transparency and Integrity in Lobbying Activities
15H55	Break
16H00	Challenges and Opportunities in Responsible Business Conduct Moderator: Claire Bright, Nova School of Law - Representative of the Portuguese Chapter of Transparency International* - Representative of the Portuguese General Union of Workers - Representative of the Portuguese Business Association*
16H50	Closing Remarks Fernanda Ferreira Dias, Directorate-General for Economic Activities

* To be confirmed.

Talk to us



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