

LUXNCP STAKEHOLDER CONSULTATION MEETING

13/06/2024 - MEETING MINUTES

Date: 13 June, 2024

Time: 10:00 AM

Location: Ministry of the Economy, 19-21, boulevard Royal, L-2449 Luxembourg (Room: E11)

Attendees:ⁱ Lorenzo AVICO (LSFI), Pitt BACH (OGBL), Basak BAGLAYAN (NCP), Ayşegül CAN (CCDH), Thomas COLLIN (ABBL), Michale CORR (ALFI), Laetitia GEORGEL (IMS), Sabrina KOHN (HoS / CC), Céline MARCHAND (Barreau), Alexandre MORTELETTE (UniLu), Max MOUSEL (CCDH), Alena SCHLÜNZ (ALFI), Esmeralda WIRTZ (AI), Jean-Louis ZEIEN (IDV)

Apologies:, Sara BOUCHON (Luxinnovation), Gilles BOULTGEN (CET), Elisa MENDES (CDM), Mandy NOESEN (LCGB), Natacha SIMBA (CET), Ana-Luisa TEIXEIRA (Caritas), Serge THILL (OKAJU)

AGENDA

- I. Welcome and introductions
- II. Review of Previous Meeting Minutes
- III. Review of LuxNCP Annual Report 2023
- IV. Updates on Recent Regulatory Developments on RBC
- V. Updates on OECD Peer Review Report
- VI. Updates on Specific Instances (Complaints)
- VII. Stakeholder Feedback and Discussion
 - Discussion on the international human rights delegation's visit to Luxembourg with Jean-Louis Zeien (IDV)
 - Open floor for additional topics
- VIII. Any Other Business
- IX. Conclusion and Next Meeting Date

DISCUSSIONS

I. WELCOME AND INTRODUCTIONS

- BB (NCP) opened the meeting and welcomed the attendees, requesting permission to voice record the meeting to accurately draft the meeting minutes.
- A round of introductions, welcoming new attendees: LA (LSFI), AC (CCDH), TC (ABBL), MC (ALFI), LG (IMS), SK (CC / HoS), AM (UniLu), EW (AI).
- Points added to the agenda:
 - Responsible contracting proposed by AM (UniLu)
 - Guidance foreseen under the CSDDD and the potential funding opportunities under the CSDDD for stakeholders in EU member states proposed by MM (CCDH)
- BB (NCP) presented the agenda and informed the attendees that the meeting minutes would be shared before publication on the NCP website.

II. REVIEW OF PREVIOUS MEETING MINUTES

- **Reviewing the previous meeting minutes** (October 2023), highlighting key events and developments. The **main focus of the last meeting was the presentation of the NCP's peer review report**.
- BB (NCP) recalled that a separate presentation was held a week later for those who missed the first presentation. During this second meeting, **J-LZ (IDV) proposed the creation of a multistakeholder advisory group for the NCP**, specifying its role to include decisions on promotional plans and rules of procedure, but not on specific instances (complaints).
- BB noted that including stakeholders in handling specific instances is currently not considered. However, the idea of a multistakeholder advisory group aligns with peer review recommendations. She noted that **the current stakeholder meetings are designed to fulfill a similar purpose, providing a platform for consultation and input**. For example, the NCP's promotional plan was discussed with the group during January 2023 meeting and adopted subsequently. Although the NCP revised and updated the RoP recently, these updates were based on the specific recommendations received from the peer reviewers. She noted that the RoP will have to be revised and updated again in the next weeks/months (preferably before the end of 2024) to align with the updated OECD Guidelines, and input of the group will be sought during that update.
- **BB (NCP) noted that the current group functions as a de facto advisory group and sought input on whether another reconfiguration is expected**. She invited the group to discuss their understanding and expectations of the advisory group.

DISCUSSION:

- JLZ (IDV) cited some other NCPs with formal multistakeholder consultative bodies and suggested that it would also make sense in Luxembourg, noting that he fully agrees that the multistakeholder body should not be at operational level of complaints but on general governance elements.
- BB (NCP) briefly explained different NCP structures noting that single agency NCPs, like ours, are often criticized for not engaging sufficiently enough with the stakeholders and that the NCP wants to avoid this criticism. That's why the NCP organizes regularized meetings not for information exchange only but also to gather stakeholder input.
- AM (UniLu) asked if adopting the suggested multistakeholder structure, which involves stakeholders in decisions except for specific instances, would be unique among NCPs and whether it would require formalization through an official decision.

- BB (NCP) explained that there are various forms of NCP multistakeholder groups, some of which advise on specific instances while others do not. Regarding formalization, she noted that this issue was also raised in the peer review report. Although adopting a ministerial decree to address this recommendation was considered, it has been delayed due to the government change last October. She acknowledged that while a formal decision may not be possible at this time, the current group already functions as a de facto multistakeholder advisory group. Whether an official decision will be made remains uncertain, but this will be followed up further.
- MM (CCDH) supported the multistakeholder approach and asked about the Danish NCP’s structure. BB (NCP) explained that the Danish NCP has an independent expert body for handling complaints.
- JLZ (IDV), added that formalization, under any form, even if not too complicated, would contribute to the credibility and peer review compliance.
- PB (OGBL) added that having a multistakeholder advisory group would ensure that participation is not dependent on individual members. If one person is unable to attend, the organization can nominate someone else to ensure continuity.
- SK (CC / HoS) asked if the multistakeholder group would include other ministries. BB (NCP) explained it would consist of general stakeholders. Separate engagements would be held with other ministries and the administration.
- BB (NCP) asked if publishing a document about the group on the NCP website would suffice, as a dedicated law may not be feasible now. JLZ (IDV) responded that while a law isn’t necessary, a Ministerial Decree mentioning the multistakeholder group would be desirable. He also suggested an exchange with NCPs that have different structures (e.g. the Dutch NCP) to learn from their experiences. BB (NCP) agreed to follow up.
- It was **agreed to continue discussions and follow-up on the formalization process.**
- BB (NCP) asked if mentioning names in the meeting minutes, which are made public, was acceptable. There were no objections.

III. REVIEW OF LUXNCP ANNUAL REPORT 2023

- BB (NCP) presented the [2023 Annual Report](#), noting it is a condensed version of a detailed questionnaire submitted to the OECD Investment Committee.
 - She highlighted that **the NCP’s organization has changed**, moving from the Minister’s cabinet to a standalone unit within the Directorate of General Affairs.
 - She also pointed out that **the number of events organized by the NCP decreased compared to 2022, while participation in events organized by others increased.** The decrease in NCP-organized events was likely due to the increased promotional activities in 2022 in preparation for the peer review. Despite the decrease, she stressed the importance of maintaining consistent engagement and noted the NCP’s ongoing efforts to raise awareness.
- There were no comments or questions from the floor.

IV. UPDATES ON RECENT REGULATORY DEVELOPMENTS ON RBC

- BB (NCP) recalled that **the EU Directive on Corporate Sustainability Due Diligence** has been adopted and presented the timeline and the main elements.
- MM (CCDH) noted that the Directive includes **plans for the EU Commission to issue guidance on implementation and to conduct public consultations to gather feedback.** He mentioned that European Human Rights Institutions will provide input during these consultations. He emphasized that it would also be beneficial for our group to

provide individual or collective feedback to communicate Luxembourg's specific needs, such as guidance for SMEs or risk sectors. The public consultations are expected to open in August. BB (NCP) agreed to send an email to the group to inform them once the consultations are open.

- MM (CCDH) also mentioned **potential funding opportunities by DG Growth, for proposals related to the awareness raising projects regarding the CSDDD.**

DISCUSSION:

- JLZ (IDV) believed that the Ministry of Economy (MECO) will lead the implementation process in Luxembourg and suggested that it should include multistakeholder processes, similar to those in the Netherlands and Denmark, which would add to the quality and better understanding of the transposition process.
- BB (NCP) responded that, to her knowledge, the lead ministry for the Directive has not yet been decided. While MECO will clearly be involved since the Directive concerns companies, other ministries, such as the Ministry of Justice due to company law and civil liability provisions, are also highly relevant. She noted that she believes discussions on this matter are still ongoing.
- AM (Uni.Lu) asked if there might be a role for the present group in the CSDDD transposition process. BB (NCP) clarified that the NCP's mandate is to implement the OECD Guidelines and handle specific instances. The group is discussing CSDDD because it is part of the broader RBC agenda, but neither the NCP itself nor the current multistakeholder group would have a direct role in the transposition of the Directive. She noted that if the members of the NCP are involved in the transposition process, it would be in their capacity as expert civil servants, not as NCP members.
- MM (CCDH) asked if there might be a role for the NCP in the implementation of the Directive. BB (NCP) responded that this topic will be addressed in the next item.

V. UPDATES ON THE OECD PEER REVIEW REPORT

- BB (NCP) informed the participants that **the NCP will report back on the follow-up of the peer review report's recommendations to the OECD Working Party for RBC (WPRBC) on June 25th during a virtual meeting.** She noted that since the update of the Guidelines, **the peer review process has become compulsory for all NCPs**, with reviews expected approximately every seven years. She added that the **implementation of the recommendations is an ongoing process.** She noted that the reporting back to the OECD will focus on the seven main findings of the peer review report under three headings, and provided an update on the current implementation status of the recommendations:

I. On the promotion of the Guidelines, the NCP will report that **all three recommendations have been implemented, including increasing promotion strategically through a promotion plan, updating website and maintaining and enhancing position in inter-ministerial processes.**

- On the promotional plan, BB (NCP) suggested that the next promotional plan could be more targeted and detailed. She recalled that the current plan focuses on "finance" and "digitalization", and informed the participants about the LSFI summit that will take place in September where the OECD experts will present the due diligence guidance for the financial sector.
- BB (NCP) highlighted recent collaborations with HoS and encouraged the group members to invite the NCP to speak about RBC related topics at their events.
- She informed the group about updates to the website and the NCP's participation in interministerial groups to enhance policy coherence. She noted that more is to be done to reach

out to other government agencies, in particular, for instance on trade promotion, which is on the NCP's agenda.

II. Regarding **institutional arrangements**;

- The NCP will report that the **recommendations on creating regular, formalized stakeholder engagement and on transparency about the NCP's activities have been implemented.**
- The recommendation on **consolidation with the Minister's cabinet has also been addressed**, as the NCP is now a standalone unit within the General Directorate.
- The recommendation on **setting up the NCP on a firmer legal basis has not yet been implemented.** BB (NCP) noted that the NCP is currently operating under the MECO's governmental attributions. The issuance of an "Arrêté Ministériel" was under consideration but has been delayed due to the October elections. There is no clear timeline for when this will be reconsidered.
- Responding to MM (CCDH)'s earlier question about **the potential role of the NCP in implementing the CSDDD**, BB (NCP) noted that some EU member states, particularly those with limited resources, are considering assigning a role to their NCPs as part of the national authority for CSDDD implementation. However, this must be carefully managed. While NCPs could offer inspiration and expertise to the national authority, the two bodies must remain separate due to their different approaches. NCPs operate on a voluntary basis, while the national authority will have significant powers. Nonetheless, any potential interaction between the NCP and the national authority will likely influence the evolution of the NCP's legal basis.
- BB (NCP) asked the group if they consider the **frequency of the meetings** (semiannual) to be sufficient. There were no specific comments from the group.

III. Concerning **specific instances (complaints)**;

- The NCP will report that the **recommendation on revising the RoP has been implemented.** BB (NCP) reiterated that another revision of the RoP will take place in light of the updated Guidelines, during which stakeholder input will be sought.
- The **recommendation on formalized case handling and more inclusive decision-making processes, including enhancing consistency in handling complaints against holding companies, has been partially implemented.** BB (NCP) noted that involving stakeholders in decisions concerning complaints is not currently under consideration.
- Regarding **holding companies**, she mentioned that the **NCP continues to seek guidance from the OECD on handling cases against such entities**, as this issue is relevant not only to Luxembourg but also to other OECD members. She recalled that the previous Minister of the Economy raised this issue during the RBC Ministerial in 2023, asking the OECD for guidance. NCP members consistently bring up this question in meetings with the OECD.
Until further guidance is available, the NCP will continue to assess complaints on a case-by-case basis, adhering to OECD rules on jurisdiction.

DISCUSSIONS:

- JLZ (IDV) noted that since the group is expected to be actively involved and not just passive recipients of information, he would propose issuing a **"strong recommendation to the Ministry of the Economy for an Arrêté Ministériel"**, if the rest of the group agrees.

- MM (CCDH) noted that while some similar groups in Luxembourg operate without formalization, others do have formal status, such as the recently formed LGBTQI+ group. He suggested exchanges with this group if inspiration is needed.
 - PB (OGBL) pointed out the difference between a working group and a multistakeholder meeting, suggesting that a formal basis through an Arrêté Ministériel makes sense in this case. He emphasized that this would address the question of group membership and noted that an Arrêté Ministériel is flexible and can be adjusted in the future if necessary.
 - BB (NCP) sought the input of CM (Barreau). CM (Barreau) stated that from a purely legal point of view an Arrêté Ministériel would not make much difference. However, from a psychological perspective, it would significantly enhance member engagement. She added that formalization would require members to obtain formal approval from their respective organizations, thereby elevating the group's priority within those organizations.
 - BB (NCP) asked the group if anyone had objections to the suggestion proposed by JLZ (IDV). No one did. She confirmed that she would convey the proposal to the relevant colleagues at the Ministry.
- JLZ (IDV) commented on holding companies, noting that the CSDDD includes holding companies within its scope. He explained that while it is possible to request an exemption by transferring obligations to subsidiaries, holding companies will remain jointly liable if damage occurs. He added that although any clarification from the OECD on holding companies is welcome, he believes that the CSDDD already provides clarity on this issue.

VI. UPDATES ON SPECIFIC INSTANCES (COMPLAINTS)

- BB (NCP) informed the group about the **complaint filed by a Cameroonian individual against the European Investment Bank (EIB)** in June 2023 and concluded in January 2024. The complainant alleged that financing of his former employer by a consortium of funders, including the EIB, resulted in worsening working conditions and wage disparities. After examining the relevant materials and conducting an interview with the complainant, the NCP concluded that the complaint lacked materiality and substantiation. The NCP decided that further examination would not contribute to the purposes and effectiveness of the OECD Guidelines. The decision was finalized and published on both the NCP's and the OECD's websites in January.
- BB (NCP) also updated the group on an **ongoing complaint by Greenpeace Luxembourg against Fonds de Compensation de la Sécurité Sociale (FDC)**. She noted that the complaint is currently in the initial assessment stage, and the deadline for issuing the initial assessment has been delayed due to additional arguments provided by the parties.

VII. STAKEHOLDER FEEDBACK AND DISCUSSION

DISCUSSION ON THE INTERNATIONAL HUMAN RIGHTS DELEGATION'S VISIT TO LUXEMBOURG WITH JEAN-LOUIS ZEIEN (IDV)

- BB (NCP) noted that an **international human rights delegation visited Luxembourg at the end of April** and gave the floor to JLZ (IDV) to further elaborate. JLZ (IDV) informed the group that a delegation of human rights defenders and members of affected communities from the operations of two companies based in Luxembourg, Arcelor Mittal and Ternium, visited Luxembourg and held meetings, including with the NCP. He mentioned that the main issues raised by the delegation are published in the report "Real Cost of Steel". He expressed general concerns about the safety and security of human rights advocates and defenders.

- MM (CCDH) added that there is a **lack of a legal framework for witness protection in Luxembourg**, although noting that the topic is not directly related to the present group’s discussions.

OPEN FLOOR FOR ADDITIONAL TOPICS

- AM (UniLu) briefly informed the group about the “**Responsible Contracting Project**”. He mentioned an upcoming meeting with Sarah Dadush and Daniel Schönfelder from the Project, along with the Chair of the Working Group on Business and Human Rights (WG BHR), Madame Anne Goedert, and himself. The purpose of the meeting would be to discuss whether the topic should be included on the agenda for the WG BHR’s September meeting. It was agreed to revisit this topic in future discussions.

- SK (HoS) informed the group about the « **Pacte national Entreprises et droits de l’Homme** » (Pact), which is co-ordinated by the Ministry of Foreign Affairs and HoS. The Pact includes the voluntary engagement of companies integrating human rights due diligence into their processes. She mentioned that the next signing of the Pact will take place on July 15th and invited interested companies and organizations to join. She noted that the first signatories of the Pact in 2022 and 2023 have already reported for the year 2023, and a global report will be available soon.

A participant asked if these reports are publicly available. SK (HoS) explained that the first-year signatories were required to publish their reports online, but the second set of signatories, that only joined the Pacte in September or even October 2023, were not asked to publish their reports online.

- JLZ (IDV) inquired if there are plans to adopt a reporting framework for the Pact, especially for SMEs, noting that their previous inquiries had remained unanswered. SK (HoS) responded that the UNGPs Reporting Framework has been adopted, and since the HoS took over the organization of the Pact together with the Ministry in 2023, discussions were held with Shift, including considerations for SMEs. She offered to share the framework with the group if there is interest.
 - JLZ (IDV) requested that the framework be shared. BB (NCP) suggested that those interested could contact SK (HoS) directly for further inquiries.
- LA (LSFI) informed the group about the **upcoming LSFI Summit**, which will be held on September 18-19. He invited participants to visit the LSFI website and subscribe to their newsletter. In response to questions, he clarified that while the event will focus on the sustainable finance community, it will be open to the general public. He also suggested sharing several relevant links with the group.

VIII. ANY OTHER BUSINESS

- No additional topics were discussed.

IX. CONCLUSION AND NEXT MEETING DATE

- BB (NCP) proposed having the **next stakeholder meeting towards the end of October or the beginning of November**. No objections were raised.

THE MEETING WAS ADJOURNED AT 11.45 AM.

ACTION POINTS

- BB (NCP) will follow up with relevant colleagues to determine if an official decision can be adopted to formalize the stakeholder group.

- BB (NCP) will reach out to other NCPs with different structures, particularly the Dutch NCP, to see if they are willing to exchange information with our group about their structure.
- BB (NCP) will send an email to the group once the EU Commission opens the consultations on the CSDDD Guidance.
- AM (UniLu) will keep the group updated on developments related to the Responsible Contracting Project in future meetings.
- LA (LSFI) will share details of the LSFI event and other relevant links with the group.
- BB (NCP) will propose a meeting date in September for an end of October or beginning of November meeting.

RELEVANT LINKS AND DOCUMENTS

- LuxNCP Annual Report 2023 ([VA](#) / [VF](#))
- [Minutes](#) of the previous consultation meeting
- LuxNCP Peer Review [Report](#)

ⁱ List of organizations:

ABBL : Association des Banques et Banquiers Luxembourg

AI : Amnesty International

ALFI : Association Luxembourgeoise des Fonds d'Investissement

Barreau

Caritas

CC : Chambre de Commerce

CCDH : Commission consultative des Droits de l'Homme

CDM : Chambre des Métiers

CET : Centre pour l'égalité de traitement

HoS : House of Sustainability

IDV : L'Initiative pour un devoir de vigilance

IMS : Inspiring More Sustainability

Luxinnovation

LSFI : Luxembourg Sustainable Finance Initiative

NCP : National Contact Point

OGBL : Onafhängege Gewerkschaftsbond Lëtzebuerg – Luxembourg Trade Union Confederation

OKAJU : Ombudsman fir Kanner a Jugendlecher

UniLu : University of Luxembourg