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Promoting and enabling responsible business conduct

Responsible Business Conduct (RBC) is an important part of the investment climate and is increasingly integrated within policies aimed at integrating quality investment and enhancing sustainable investment. This chapter provides an overview of the RBC landscape in Bulgaria and Bulgaria's plans for its National Contact Point for the OECD *Guidelines for Multinational Enterprises*.

Introduction

Governments that adhere to the OECD *Declaration on International Investment* aim to encourage the positive contributions that businesses can make on economic and social progress. They commit to promote Responsible Business Conduct (RBC) principles and standards, as set out by the OECD *Guidelines for Multinational Enterprises* (the *Guidelines*). The *Guidelines* are the most comprehensive set of government-backed recommendations on RBC currently in existence (See Box 8.1). Observance of the *Guidelines* is supported by their unique implementation mechanism – the National Contact Points (NCPs).

RBC is a key element of a healthy business environment – one that attracts quality investment, minimises risks for businesses, ensures stakeholder rights are respected and ultimately leads to broader value creation. RBC principles and standards set out an expectation that businesses should avoid and address adverse impacts of business activities, while contributing to sustainable development in countries where they operate. RBC emphasises the integration and consideration of environmental and social issues into core business operations. A key element of RBC is risk-based due diligence – a process through which businesses identify, prevent and mitigate actual and potential adverse impacts, and account for how these impacts are addressed. RBC expectations extend to business activities throughout the entire supply chain and linked to business operations, products or services by a business relationship.

Many businesses, governments and stakeholders are familiar with the term corporate social responsibility (CSR), which has historically been used to describe business interactions with society. Over the last years, CSR has increasingly been used alongside RBC and Business and Human Rights (BHR), with some using the terms interchangeably (e.g. the European Union). All these concepts reflect the expectation that businesses should consider the impact of their operations and supply chains on people, the planet and society as part of their core business operations and not as an add-on. A key characteristic of CSR, RBC and BHR is that they refer to corporate conduct beyond simply complying with domestic law and call on business to contribute positively to sustainable development while managing risks and any harm that may result from their activities and from that of suppliers and partners. These concepts are not and should not be understood to be equivalent to philanthropy.

While it is the role of businesses to behave responsibly, governments have a primary duty to protect the public interest and an important role in promoting and enabling RBC. The RBC chapter in the OECD *Policy Framework for Investment* is a useful reference for designing and implementing a strong RBC policy framework. This entails establishing and enforcing an adequate legal framework that protects the public interest and underpins RBC, while monitoring business performance and compliance with the law. Setting and communicating clear expectations on RBC and providing guidance on what those expectations mean is important, while encouraging and engaging industry and stakeholders in collective initiatives and providing recognition and incentives to businesses that exemplify good practice is encouraged. It also entails ensuring that RBC principles and standards are observed in the context of the government's role as an economic actor.

Bulgaria adhered to the *Declaration on International Investment and Multinational Enterprises* in June 2022. This chapter examines Bulgaria's convergence with OECD standards on RBC as enshrined in the Declaration and other instruments which form part of adherence, as well as Bulgaria's steps to establish a fully functioning NCP.

Box 8.1. Understanding the OECD Guidelines for Multinational Enterprises

Addressed by Adherents to the OECD *Declaration on International Investment and Multinational Enterprises* to businesses operating in or from their jurisdictions, the *Guidelines* set out principles and standards in all major areas related to RBC, including information disclosure, human rights, employment and industrial relations, environment, bribery and corruption, consumer interests, science and technology, competition, and taxation.

Their purpose is to ensure that business operations are in harmony with government policies, to strengthen the basis of mutual confidence between businesses and the societies in which they operate, to improve foreign investment climate, and to enhance the contribution of the private sector to sustainable development. The *Guidelines*, together with the UN Guiding Principles and the fundamental ILO Conventions, are one of the major international instruments on RBC.

The *Guidelines* do not aim to introduce differences of treatment between multinational and domestic enterprises – they reflect good practice for all. Adherents wish to encourage the widest possible observance of the *Guidelines* to the fullest extent possible, including among small- and medium-sized enterprises even while acknowledging that these businesses may not have the same capacities as larger enterprises.

The *Guidelines* are supported by a unique implementation mechanism of National Contact Points (NCPs), agencies established by adhering government to promote and implement the *Guidelines*. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the *Guidelines*. They also provide a mediation and conciliation platform for resolving practical issues that may arise.

To support implementation of the *Guidelines*, the OECD has developed due diligence guidance, which provide practical recommendations to businesses on how to identify and respond to risks of adverse impacts associated with particular products, regions, sectors or industries. OECD RBC Due Diligence instruments are: the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, the *OECD-FAO Guidance on Responsible Agricultural Supply Chains*, the *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, the *OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector* and the *OECD Due Diligence Guidance for Responsible Business Conduct*. For more information, see <https://mneguidelines.oecd.org/duediligence/>

Pursuing efforts to align with international standards and expectations on RBC can advance Bulgaria's national development objectives

The notion that businesses should contribute to society is not new in Bulgaria. Early forms of economic entities with a defined social mission date back from the second half of the 19th century (European Commission, 2019). RBC in its modern sense was introduced along with Bulgaria's transition to an open, market-based economy in the 1990s. International actors including international organisations, international financial institutions, business associations and multinational companies have played an important role in raising awareness of the concept, and disseminating standards, tools and business practice. Large multinational companies have also contributed to the dissemination of knowledge and practices through links with suppliers and investees (Stefanova, 2015).

Bulgaria's transition to an open economy was concomitant with global trends placing increased emphasis on RBC, reflected by a proliferation of high-level statements, policies and regulations (See Box 8.4). The

EU, for example, has over the years asserted its commitment to promote and enable RBC, and translated this commitment in a mix of voluntary and mandatory measures (European Commission, 2021). In the years 2000, Bulgaria's EU accession process created an impetus to promote RBC and align with EU standards and priorities on the matter (Stefanova, 2015; Lyubenova, 2014). Pursuing efforts to align with international expectations and standards on RBC remains highly relevant to achieve Bulgaria's national development objectives, and increasingly necessary for any country willing to attract investment and participate in global value chains.

Box 8.2. Rising international demands on RBC

The 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals (SDGs) adopted in 2015 call for robust involvement of the private sector in global development efforts. UN member states have also committed to foster a well-functioning business sector and protect labour rights and environmental and health standards in accordance with relevant international standard. Several high-level commitments to promote RBC in line with internationally recognised standards at G20 and G7 forums have also made it clear that RBC issues were a priority in the international agenda.

RBC expectations are also reflected in domestic legislations. Several countries have passed legislations aimed at strengthening due diligence requirements to address supply chain and sustainability risks. Importantly, in April 2020 the European Commission announced its commitment to introducing rules for mandatory corporate environmental and human rights due diligence, which will ultimately be applicable to all EU member states. The UK Modern Slavery Act, adopted in 2016, requires that commercial organisations prepare an annual statement and report on their due diligence processes to manage the risks of slavery and human trafficking within their operations and supply chains. Australia passed a similar act on 29 November 2018, which includes expectations for the government itself to report on its own activities. In France, since 2017, the French Due Diligence law requires certain companies to develop and implement due diligence plans to identify and address risks related to human rights, fundamental freedoms, health and safety, and the environment. In the United States, the US Trade Facilitation and Trade Enforcement Act of 2015 repealed the exceptions to the prohibition on imports of goods mined, produced or manufactured in any foreign country by forced or indentured child labour, including child labour.

RBC is also increasingly referenced in various economic instruments, such as trade or co-operation agreements. For example, the EU commonly includes RBC in its Trade and Sustainable Development chapters. The OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence encourages members, via their Export Credit Agencies (ECAs), to promote the *Guidelines*, consider the outcomes of NCP cases when undertaking project reviews, as well as to give consideration to policy coherence with the *Guidelines*.

Promoting RBC aligns with Bulgaria's national priorities

In the last two decades, the government has made important commitments toward RBC. As discussed earlier in the context of this *Review*, Bulgaria adopted in 2020 the National Development Programme BULGARIA 2030, which lays out Bulgaria's vision and general goals for the country's development policies and achievement of the global Sustainable Development Goals (SDGs). The plan gives a strong role to the private sector across its goals and priorities, and includes specific objectives to encourage companies to develop and implement CSR programmes, as a way to promote the inclusion of vulnerable groups (Government of Bulgaria, 2020a). RBC is also as a cross-cutting topic relevant to various national priorities

laid out in Bulgaria 2030, including for example the transition to a circular and low-carbon economy, clean air and biodiversity, sustainable agriculture, or education and skills (See Box 8.3).

The role of the private sector to achieve sustainable development is also reflected in Bulgaria's Voluntary National Review (VNR) of the implementation of the SDGs completed in 2020. The VNR recognises that the private sector has the resources to make many of the SDGs come true, and argues that private sector's commitment to the SDGs is mainly related to the adoption of the concept of corporate social responsibility (CSR) (Government of Bulgaria, 2020c).

Box 8.3. Observing the Science and Technology recommendations of the Guidelines to boost innovation and skills

Chapter 3 of this review already noted that boosting innovative capacities and addressing shortages of skills in areas including ICT, engineering, finance and mathematics is a strategic priority for Bulgaria. Bulgaria's national plan Bulgaria 2030 includes several goals and priorities to boost innovation, education and scientific infrastructure. The government has also adopted several national strategies and measures to foster innovation and enhance competitiveness, including important efforts to improve the vocational education and training (VET) system. The highly centralised VET and limited financial resources however have constrained the potential of these reforms. R&D spending remains relatively low compared to other EU countries, and more could be done to ensure equity within VET provision, and include vulnerable groups (OECD, 2019b). Engaging businesses in national efforts to enhance innovation and competitiveness is key to address the skills mismatch and promote innovative capabilities. Promoting RBC can go a long way in fostering a dialogue between businesses and the government, and encouraging business practices that contribute to the dissemination of scientific and technical knowledge.

The chapter on Science and Technology of the *Guidelines* specifically aims to promote the diffusion by multinational enterprises of the fruits of research and development activities among the countries where they operate, contributing thereby to the innovative capacities of host countries. Specific recommendations addressed to companies include, where feasible, adopting practices that permit the transfer and rapid diffusion of technologies and expertise, with due regard to the protection of intellectual property rights. The *Guidelines* also recommend that companies perform science and technology development work in host countries to address local market needs, as well as employ host country personnel in an S&T capacity and encourage their training, taking into account commercial needs. Where relevant to commercial objectives, companies are encouraged to develop ties with local universities, public research institutions, and participate in co-operative research projects with local industry or industry associations.

Source: OECD Guidelines for Multinational Enterprises (2011), <https://mneguidelines.oecd.org/mneguidelines/>

In 2019, Bulgaria adopted a new National Strategy for Corporate Social Responsibility (hereafter: the CSR Strategy) for the period 2019-23. It follows a previous iteration, which covered the period 2009-13 (Stefanova, 2015). The development of the new strategy was led by the Corporate Social Responsibility Advisory Council to the MLSP, an entity established in 2017 which is also in charge of monitoring its implementation. The CSR strategy affirms the government's commitment to improve the quality of life of the population through transparent, socially responsible business practices, and explicitly references key international RBC standards, including the OECD *Guidelines*, UN Guiding Principles, the ILO MNE Declaration, the UN Global Compact, and the ISO 26 000 on Social Responsibility (MSLP, 2019a).

The strategy includes a situation analysis, which lays out key challenges that CSR policy in Bulgaria should focus on, including insufficient awareness of the concept, weak stakeholder engagement, different levels

of implementation between small and large businesses, and insufficient integration of principles into company's policies (MSLP, 2019a). Implementation of the strategy is supported by an action plan covering the periods 2019, 2020-21, and 2022-23,¹ which define specific activities and performance indicators for the implementation of the CSR Strategy, including the organisation of events, and development of tools and knowledge products (MLSP, 2019b).

The EU accession process has supported alignment with global standards in policy areas covered by the Guidelines (e.g, disclosure, consumer interests, competition, taxation)

The EU accession process initiated with Bulgaria's application for EU membership prompted a set of reforms to align with the EU *acquis communautaires*, which is the body of common rights and obligations that are binding on all EU member countries. During the process of Bulgaria's accession negotiations, the *acquis* were divided into 31 chapters, many of which are relevant to the policy areas covered by the OECD *Guidelines* (e.g. company law, competition policy, social policy and employment, science and research, environment, consumer health and protection, etc.). Reforms and initiatives undertaken in the context of this process contributed to strengthen the regulatory framework underpinning RBC in all these areas. Since Bulgaria's accession to the EU in 2007, Bulgaria has an obligation as a member state to transpose EU Directives into national laws.

For example, in 2015, Bulgaria transposed in national law the landmark EU Accounting Directive, amended by the EU Non-Financial Reporting Directive, which requires certain large undertakings and groups to disclose, amongst other things, non-financial and diversity information in order to better understand the development, performance, position and impact of the entity's activity. Such requirement can contribute to align business practices with the disclosure expectations laid out in the OECD *Guidelines*, making relevant information available to the public and improving understanding of companies operations. Ensuring compliance with the requirements established in the EU Directive is therefore of importance to enable and promote RBC. In July 2020, the EU sent a letter of formal notice to inform Bulgaria of an infringement procedure for failing to correctly transpose the Directive into Bulgarian law. In particular, the assessment concluded that the law did not explicitly require companies to disclose information required by the Directive, such as information concerning human rights, corruption and bribery matters, and risk management and due diligence processes (European Commission, 2020d; EU Business, 2020). In response, and with a view to achieve full compliance with the Directive, amendments were made to the Bulgarian Accountancy Act. Bulgarian authorities have indicated in the framework of this *Review* that they provided additional information to the European Commission on the steps taken to fully transpose the Directive into national law.

Amendments to Bulgaria's legal framework to align with EU standards were also made in other policy areas covered by the *Guidelines*. For example, as discussed in Chapter 3 of this *Review*, in the field of competition, the 2008 Protection of Competition Act is the direct application of the articles 101 and 102 of the Treaty on the functioning of the European Union. The Protection of Competition Act notably aims to provide protection against agreements, decisions and concerted practices, abuse of monopolistic and dominant positions on the market. As part of EU membership requirements, Bulgaria has aligned its legal and institutional framework with EU standards.

Concerning consumer interests, the Consumer Protection Act, in force since 2005, was amended in 2020 to further align with the European Directives on Consumer Law and Consumer Protections (ICLG, 2020). The Consumer Policy Unit within the Ministry of Economy responsible for the formulation of consumer policy, for the protection of economic interests, consumer safety and for taking initiatives in favour of consumers. It is also responsible for drafting consumer protection legislation and for the alignment with the EU legislation in the field of consumer protection. As noted in Chapter 3 of this *Review*, despite significant progress in that field, further steps could be taken to ensure consistency and implementation of the Bulgarian competition framework.

Bulgaria's National Reform Programme 2020, prepared as part of the European Union monitoring and informed by findings from the European Commission, includes objectives to implement measures to curb tax fraud, to prevent tax evasion and non-payment, to limit the prerequisites for manifestation of the shadow economy, and to optimise the control activity of the revenue administrations (Government of Bulgaria, 2020). This aligns with the OECD *Guidelines*, which call on enterprises to comply with both the letter and spirit of the tax laws and regulations of the countries in which they operate. In June 2021 however, the European Commission sent a letter of formal notice to Bulgaria drawing its attention to the tax treatment of undertaxed subsidiaries. At that time, the Commission considered that the current legislation transposing the Council Directive (EU) 2016/1164 of 12 July 2016, laying down rules against tax avoidance practices that directly affect the functioning of the internal market, included an undue exemption for subsidiaries that constitute an infringement to the Directive (European Commission, 2021). In July 2021, Bulgaria made commitments to amend the national legislation and remedy the situation through a formal position of the Republic of Bulgaria to the European Commission, approved at the meeting of the Council of European Affairs on 19 July 2021.

Initiatives by various actors have contributed to raise awareness of RBC in Bulgaria, although understanding of the concept varies

Various actors have been involved in the promotion of RBC in Bulgaria. International organisations, for example, have contributed to raise awareness of RBC in the country. From 2007 to 2009, the United Nations Development Programme (UNDP) implemented a regional CSR project to promote CSR standards in the region (Blancpain et al., 2011). Between 2007 and 2010, the United Nations Industrial Development Organization (UNIDO) also carried out awareness raising and training activities under the project “Sustainable development of enterprises in Bulgaria” (BILSP, 2021).

International business networks have also played an important role in the diffusion of RBC in Bulgaria. In 1998, the International Business Leaders Forum supported the establishment of the Bulgarian Business Leaders Forum (BBLF), a group of Bulgarian companies united by RBC values and commitments (Stefanova, 2015; BBLF, 2021). Since its creation, the BBLF has initiated various projects including the development of a code of Business Ethics, the launch of annual Responsible Business Awards, as well as CSR research studies and charity events (BBLF, 2021). The creation of the local chapter of the UN Global Compact in 2003 was an important milestone for the promotion of RBC in the country. According to UNGC's official website, the Bulgarian network counts 40 members from various industries and sizes to date (UNGC, 2021).

Bulgarian business associations have spearheaded various initiatives, including the creation, adaptation and dissemination of RBC standards and tools. Between 2014 and 2016, the Bulgarian Chamber of Commerce and Industry (BCCI) participated at a regional EU-funded project to promote RBC and multi-stakeholder dialogue (CSR for All, 2021). The “CSR for All project” enabled the development and translation in Bulgarian language of a Handbook of Good Practices for Corporate Social Responsibility. The Association of Bulgarian Industrial Capital, together with the Association of Bulgarian Investor Relation Directors supported the dissemination of the Handbook, which had been taken on by over 100 Bulgarian companies by 2014 (Lyubenova, 2014; BBLF 2021). Other business groups have also developed standards and tools for the benefits of their members. For example, the Bulgarian Chamber of Mining and Geology established its own Sustainable Development Standard in 2012; since 2005, the Union of Brewers in Bulgaria have a Code of Commercial Communication and Ethical Standards and Human Resources (MLSP, 2019).

The adoption of a National Corporate Governance Code, applicable (on a voluntary basis) to companies listed in the Bulgarian Stock Exchange (BSE), in 2012, was an important milestone in the promotion of good corporate practice in Bulgaria. The Code, which amended an earlier version from 2007, was developed and approved by the National Corporate Governance Committee, a legal non-profit entity and

consisting of representatives from various stakeholder groups (NCGC, 2012). In 2019, 53 publicly listed companies declared compliance with the Code (MLSP, 2019). In November 2020, BSE became a partner exchange in the Sustainable Stock Exchange initiative, with the goal to promote responsible investment in sustainable development and advance corporate performance on environmental, social and governance issues in Bulgaria (BSE, 2020).

Several organisations have also been established with a specific goal to promote RBC. The Balkan Institute of Labour and Social Policy (BILSP) for example was established in 2001 as a non-profit organisation and works with a range of national and international actors to foster social innovation, including through projects and conferences to promote CSR (BILSP, 2021). The Bulgarian Association of CSR Professionals was created in 2018, with the goal to create and promote professional standards and a positive attitude towards the profession of specialists in corporate sustainability and social responsibility. The Association included about 40 CSR specialists in 2019 (MLSP, 2019). In 2020, the Association of CSR Professionals adopted Rules for ethical conduct of CSR specialists. Awareness of RBC varies among businesses.

Civil society organisations and trade unions have been active supporters of RBC promotion and dissemination in Bulgaria. In 2013, the Economic and Social Council (ESC) of Bulgaria – an independent consultative body established to express the will and interests of civil society – adopted a Resolution expressing support for any policy and / or action of the State bringing Bulgaria closer to OECD standards, including adherence to the OECD *Declaration* and the OECD *Guidelines*, and the establishment of an NCP (ESC, 2013). The role and importance of civil society organisations and trade unions in promoting RBC and participating in the due diligence process is discussed later in this chapter.

The government has collaborated with various stakeholders on a number of initiatives. For example, on 30 September 2020, the MoE participated in a national conference on Corporate Social Responsibility, co-organised by the magazine “Enterprise” and the multimedia analytical and educational programme of the “Kauzi” Foundation “CSR AdviceBox”. The conference on “Corporate Social Responsibility: Sustainable Development for the Bulgarian Business” was held under the patronage of the Ministry of Labour and Social Policy. The government has indicated in the context of this *Review* that six information seminars led by the MLSP had been organised in 2019, as part of the plans laid out by the CSR Strategy.

Efforts by various stakeholders are paying off and contributing to gradually raise awareness of RBC and align understanding of RBC with internationally recognised RBC standards. A recent survey carried out among Bulgaria’s largest employers found that 76% of respondents considered the engagement of their company on CSR as high or very high – a 9-percentage point increase since the previous survey of this kind carried out in 2018. The main reported obstacles for further uptake were a lack of human resources and knowledge, lack of capacity, and lack of finance (Stefanova, 2018-20). The outlook for overcoming these challenges is positive: according to a 2015 CSR Managers regional survey by Deloitte, 60% of Bulgarian managers consulted believe that CSR will flourish and there will be a continued growth in the number of socially responsible businesses. Another 30% believe that CSR will become more mature whereby it will include social and environmental issues in the business model (Deloitte, 2015).

Despite encouraging trends, awareness of RBC in Bulgaria, although increasing, is not yet widespread. Understanding of the concept varies across businesses. Several studies have noted that RBC in Bulgaria is traditionally understood and practiced in the form of corporate philanthropy, and that integration of RBC principles and standards into core activities, while increasing, is not the norm (Stefanova et al., 2015; Lyubenova, 2019). For example, supply chain due diligence – a key element of RBC – is rarely mentioned in the public discourse, business initiatives and literature on CSR or RBC. Furthermore, RBC standards tend to be more prevalent within large companies that are subsidiaries of multinational enterprises. Thus the importance for Bulgaria to play an active role in promoting the *Guidelines* and related due diligence guidance.

Promoting and facilitating RBC risk-based due diligence

The *Guidelines* call on business to carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts, and account for how these impacts are addressed. The OECD has developed a set of guidance to provide practical support to enterprises on the implementation of the *Guidelines*, providing plain language explanations of its due diligence recommendations and associated provisions. Adherents to the *Declaration* commit to adhere to all of the related OECD legal instruments aimed at supporting the implementation of the *Guidelines*, including the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, the *OECD-FAO Guidance on Responsible Agricultural Supply Chains*, the *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, the *OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector* and the *OECD Due Diligence Guidance for Responsible Business Conduct* (See Box 8.4).

Box 8.4. OECD Due Diligence Guidance for Responsible Business Conduct

One of the key expectations reflected in the *Guidelines* is that companies should contribute positively to environmental, economic, and social progress worldwide, with a view to achieving sustainable development (“do good”). Another key expectation is that companies should avoid causing or contributing to adverse impacts and seek to prevent or mitigate adverse impacts related to their activities or business relationships (including throughout supply chains) “(do no harm)” through conducting risk based due diligence.

Due diligence is the process enterprises should carry out to identify, prevent, mitigate and account for how they address adverse risks and impacts in their own operations, their supply chain and other business relationships, as recommended in the *Guidelines*. Effective due diligence should be supported by efforts to embed RBC into policies and management systems, and aims to enable enterprises to remediate adverse impacts that they cause or to which they contribute.

Due diligence addresses actual adverse impacts or potential adverse impacts (risks) related to the following topics covered in the *Guidelines*: human rights, including workers and industrial relations; environment (including biodiversity issues); bribery and corruption; disclosure; and consumer interests (RBC issues).

For many enterprises, the term “risk” means primarily risks to the enterprise – financial risk, market risk, operational risk, reputational risk, etc. Enterprises are concerned with their position in the market vis-à-vis their competitors, their image and long-term existence, so when they look at risks, it is typically risks to themselves. The *Guidelines* and the OECD due diligence process, however, insist on the impacts on people, the environment and society that enterprises cause, contribute to, or to which they are directly linked. In other words, it is an outward-facing approach to risk.

By actively promoting these instruments, governments can help businesses operationalise RBC principles and standards. In addition to disseminating and building capacity on due diligence standards, governments can also facilitate supply chain due diligence, notably by removing legal and regulatory obstacles to RBC. This not only requires creating an environment that encourages responsible behaviour and enables dialogues between relevant stakeholders, but also a policy environment that is clear and predictable and allows for mechanisms to ensure accountability when RBC expectations are not met. This section highlights areas where the government could focus its policy efforts to build the capacity of businesses in carrying out due diligence, and facilitate supply chain due diligence.

Facilitating and removing obstacles to RBC risk-based due diligence to advance fundamental rights

Bulgaria is party to all but two of the nine core UN human rights treaties, and all eight fundamental ILO conventions (ILO, 2021). The State is also party to Council of Europe's European Convention on Human Rights and the European Social Charter. As noted earlier in this *Review*, as part of the EU Accession process, Bulgaria had to meet a number of pre-conditions, which include having the institutions to preserve democratic governance and human rights (EUR-Lex, 2021). Months of uninterrupted protests in 2020 however have put a spotlight on particular issues that affect the rule of law, including corruption, undue relations between business and politics, as well as the independence of the judiciary. As noted in Chapter 7 of this *Review*, the EU Parliament adopted in October 2020 a resolution on the rule of law and fundamental rights in Bulgaria (European Parliament, 2020), which expressed regrets for a significant deterioration in respect for the principles of rule of law, democracy and fundamental rights, including the independence of the judiciary, separation of powers, the fight against corruption, and freedom of the media. The resolution furthermore expressed its solidarity with the people of Bulgaria in their legitimate demands and aspirations for justice, transparency, accountability and democracy (European Parliament, 2020). Addressing these issues is of particular importance to ensure that businesses can effectively carry out human rights due diligence.

Facilitating stakeholder engagement

A key component of what constitutes an enabling environment for RBC is one where meaningful stakeholder engagement and dialogue is a way of doing business. The *Guidelines* explicitly recommend that enterprises engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly affect local communities. Enterprises are also encouraged to co-operate with governments in developing and implementing policies and laws, and to consider the views of other stakeholders in society. Additionally, the OECD *Policy Framework for Investment* emphasises that greater participation of stakeholders in policy design and implementation leads to better-targeted and more effective policies. Creating an environment where stakeholders are empowered to express their views and actively participate in policy design as well as consultations organised by businesses, the government or a group of stakeholders, is therefore essential for RBC.

Foreign investors, especially those for which implementing RBC standards is a legal obligation, may also have concerns about their ability to conduct risk-based due diligence when stakeholders cannot actively engage in the due diligence process. The OECD *Due Diligence Guidance for Responsible Business Conduct* lays out clear expectations that due diligence should be informed by meaningful engagement with stakeholders such as workers, workers' representatives, trade unions (including global unions), community members, civil society organisations, investors and professional industry and trade associations. Meaningful stakeholder engagement is characterised by two-way communication, through which enterprise and stakeholders freely express opinions, share perspectives and listen to alternative viewpoints to reach a mutual understanding. The government can play an important role in supporting this process by ensuring that the legal and judicial framework empowers stakeholders to express their views and engage with businesses.

Bulgaria enjoys a vibrant civil society, which can be leveraged to promote a broad consensus on RBC and support in key policy processes and business practices related to RBC. In recent years however, various actors have raised concerns over the environment enabling civil society organisations to raise human rights, environmental or social concerns (Freedom House, 2020; Za Zemiata, 2020). In 2019, legal proceeding initiated by the VMRO party – a partner in Bulgaria's coalition government at the time – for the de-registration of the Bulgarian Helsinki Committee (BHC), one of the main human rights organisations in the country, was widely condemned by the international community (CoE, 2019; Amnesty International,

2019). In 2020, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concerns that a draft law submitted in July 2020 by a group of members of the Bulgarian Parliament aimed at amending the Law on Non-Profit Legal Persons/Entities could, if adopted, hamper the work of independent non-profit organisations, including those that promote and protect human rights, (OHCHR, 2020c). These concerns were echoed by the European Parliament resolution on the rule of law and fundamental rights in Bulgaria (European Parliament, 2020; OHCHR, 2020d). The 2021 EU Rule of Law report indicates that following the publication of the previous similar report (the 2020 report), the draft legislation was not further pursued. The 2021 report notes that civic space remains narrow and that, in some occasions, members of the civil society appear to be under pressure (European Commission, 2021d).

Bulgarian law provides for the right of workers to form and join independent labour unions, bargain collectively, and conduct legal strikes. Anti-union discrimination is also prohibited. Workers alleging discrimination based on union affiliation can file complaints with the Commission for Protection Against Discrimination (United States, 2019). Observers however have noted limitations to the right to association and collective bargaining. The ITUC has been rating Bulgaria at rank 3, on a scale from 1 to 5+ (1 being the best possible rating), and domestic trade unions have reported cases of employer obstruction (ITUC, CITUB, 2019). Collective bargaining in Bulgaria is predominant in larger companies, while no union structure is in place in most small companies, meaning that there can be no company agreement. Moreover, most small companies are not members of an employers' association, which means that industry level agreements do not apply (Fair Wear, 2019).

The media environment is also of importance to enable RBC. Information relayed by the media is often a key source of information to identify RBC risks and make them known to the public. In Bulgaria, freedom of the media is protected by the Constitution, and by the Radio and Television Act. In the past decade, and particularly in recent years, concerns have been raised about the independence of the media and working conditions for journalists (European Parliament, 2020; CoE, 2020; OHCHR, 2020a; Freedom House, 2020). Bulgaria ranked 111 out of 180 countries in the 2020 World Press Freedom Index, which is the lowest performance within the European Union. This is a significant deterioration from 2008, where Bulgaria ranked at 59 (RSF, 2020). In 2020, a new legislation was adopted to strengthen the independence of the media regulator (CEM), and an increase in the resources of the regulator was foreseen in the 2021 State Budget to enhance its effectiveness. While this is a welcome development, in March and April 2021, the government decreased the budget of the regulator. The 2021 EU Rule of Law report noted in this context persisting challenges, including the lack of transparency of media ownership, as well as the working environment and safety of journalists (European Commission, 2021d).

Continuing efforts to ensure access to effective remedy, including through state-based non-judicial grievance mechanisms

Access to remedy is an essential part of the state duty to protect against adverse impacts by private actors such as businesses. States are expected to take appropriate steps to ensure, through judicial, administrative, legislative, and other appropriate means, that when such abuses occur within their territory or jurisdiction, those affected have access to effective remedy. At the same time, the independence of the judiciary is a crucial foundation of law enforcement that affects investment as highlighted in this IPR, as business enterprises and the public need a reliable and impartial mechanism for resolving disputes, whether labour, commercial, environmental or otherwise, as well as for combatting corruption.

As highlighted in Chapter 7 of this *Review*, despite noticeable progress in judicial reforms, challenges remain to ensure the full independence and accountability of the judiciary, free from executive and other interferences, and with respect to the transparency and professionalism surrounding judicial selection and proceedings. As a result, effective access to remedy for corporate harms is still a work in progress, although positive developments can be noted in the area of state-based non-judicial grievance

mechanisms. In 2019, the Bulgarian National Human Rights Institution (NHRI) or Ombudsman was re-accredited with “A status”, meaning that the institution is now considered fully compliant with the international benchmarks for NHRIs (the so-called “Paris Principles”). The Ombudsman has the mandate to receive and review complaints concerning the violation of rights and freedoms by the state and municipal bodies and their administrations, as well as by public services providers, thus providing an avenue to resolve RBC issues falling within that scope (Ombudsman, 2021).

Individuals may also pursue discrimination cases through the Commission for Protection against Discrimination (CPD). The CPD was created as a specialised government agency under the Law on Protection against Discrimination with a mandate to prevent and protect against discrimination, specifically in relation to persons with disabilities and hate speech. The CPD hears individual complaints and can impose fines and administrative measures in case of violations (Government of Bulgaria, 2019). According to the CPD, the majority of discrimination complaints received in 2019 related to employment, predominantly concerning persons with disabilities (United States, 2019). The Bulgarian state 2021-23 budget forecast foresees an increase in financial and human resources of both the NHRI and the CDP, including a 10% increase of the personnel funds for both institutions (European Commission, 2021d).

In 2019, as part of Bulgaria’s request to adhere to the *Declaration on International Investment*, Bulgaria made steps to establish a National Contact Point within the Bulgarian Government. The creation of this entity would offer another important avenue for remedies for victims of business-related abuse (see section below on Bulgaria’s plan for the establishment of an NCP).

The *Guidelines* state that when causing or contributing to adverse impacts, companies are expected to provide for or co-operate with legitimate remediation mechanisms through which affected stakeholders can raise complaints and seek to have them addressed. Today, little evidence is found of businesses providing or co-operating in such mechanisms. The government, together with business associations, should consider taking actions to raise awareness about the importance of establishing effective company-based grievance mechanisms to address concerns by potentially affected stakeholders and adverse impacts at an early stage.

Combating bribery, bribe solicitation and extortion

Tackling corruption is another important component of building this enabling environment. The *Guidelines* emphasise that bribery and corruption discourage investment and distort international competitive conditions. In particular, the diversion of funds through corrupt practices undermines attempts by citizens to achieve higher levels of economic, social and environmental welfare, and it impedes efforts to reduce poverty. Both businesses and governments have a role to play in addressing corruption. For example, the *Guidelines* specify that enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage, and should also resist solicitation of bribes and extortion. Governments also have a responsibility to ensure that a legal and regulatory framework is in place and enforced to deter corruption. They can also lead by example by observing the highest integrity standards in their own actions as economic actors.

As discussed in Chapter 7 of this *Review*, corruption continues to be a challenge in Bulgaria. The country has carried out important reforms to address the issue. The National Development Programme BULGARIA 2030, a strategic framework document that determines the vision and the overall goals of development policies in all sectors of state governance, recognises that strengthening the independence of the judiciary and reducing the risk of corruption would improve the business environment and the international competitiveness of Bulgaria’s economy. The programme includes priority actions dedicated to the fight against corruption, including ensuring transparency of legislative processes, strengthening the independence of the judiciary and ensuring a balanced workload of courts (Government of Bulgaria, 2020). As noted in Chapter 7, Bulgaria has adopted long-term anti-corruption strategies. The lack of significant

results from Bulgaria's efforts to address corruption nevertheless fuelled civil unrest in Bulgaria in 2020 and led to political instability during most of the year 2021.

Civil unrest in Bulgaria in 2020 and 2021 resulted primarily from allegations of corruption in the public sector. Promoting a culture of business integrity and responsibility can play an important role in reducing corruption. Efforts so far in that regard have been timid. During the first quarter of 2022, Bulgaria was in the process of transposing the EU Directive 2019/1937 – the so-called “EU Whistleblowing Directive”. As Bulgaria goes through this process, promoting RBC and the *Guidelines* can help align business practices with international best practice, thereby facilitating implementation of the legislation once in force. The *Guidelines* include a recommendation for enterprises to introduce safeguards in their own policies to protect bona fide whistle-blowing activities, including protection of employees who, in the absence of timely remedial action or in the face of reasonable risk of negative employment action, report practices that contravene the law to the competent public authorities.

Strengthening environmental safeguards for a sustainable use of resources

Bulgaria has traditionally had a well-established and robust environmental protection framework. Environmental protection is enshrined in the Bulgarian Constitution, which stipulates that the country shall ensure the protection and reproduction of the environment, the maintenance and diversity of wildlife, and the rational utilisation of the minerals and the resources of the country. Bulgaria is a party to the vast majority of global and regional multilateral environmental agreements (MEAs), including the UN Convention on Biological Diversity, the UN Framework Convention on Climate Change, and the Paris Agreement. The National Development Programme BULGARIA 2030 includes a development axis focused on the sustainable management of resources, to satisfy the needs of the economy and society while maintaining environmental sustainability. Globally, Bulgaria ranks 41 out of 180 countries rated by the Environment Performance Index in 2020 (Yale, 2020).

The main law governing environmental management in Bulgaria is the Environment Protection Act (EPA) of 2004. Key secondary legislation specifying the EPA include the 2003 Ordinance on the conditions and procedure for carrying out environmental impact assessment (EIA), and the 2004 Ordinance on the conditions and the procedure for carrying out environmental assessment of plans and programmes (SEA Ordinance). Since the EU accession, Bulgaria has strengthened various aspects of its environmental legislation. In 2008, the Liability for Prevention and Remedying of Environmental Damage Act was adopted. The law transposed the 2004 Directive 2004/35/EO on environmental liability with regard to the prevention and remedying of environmental damage. The EPA has also been amended and a number of ordinances were issued to transpose other EU Directives. According to the UN and the European Commission, Bulgaria has nevertheless been slow in implementing the EU environmental legislation (UNECE, 2017, European Commission 2019b).

There is growing attention by stakeholders to environmental protection and to the environmental performance of business enterprises. The important rise in complaints related to environmental protection filed with the Ombudsman of the Republic of Bulgaria, the independent national human rights institution, illustrates such trend and offers an indication of the type of business-related environmental challenges facing the country (see Box 8.5).

Box 8.5. Complaints received by the Ombudsman of the Republic of Bulgaria on environmental issues

In 2019, the Ombudsman received 412 complaints from citizens and associations in relation to the right to a healthy environment. This is a significant increase from the 213 complaints received in 2017.

Issues raised in complaints included: failure to take into account the threats to health caused by industrial pollution of the air, water and soil; allowing for industrial burning and other activities with waste without a permit or under unclear rules; insufficient measures to prevent environmental and health risk through the procedures of environmental impact assessment of investment proposals; providing exploitation rights for natural resources and subsoil, in disregard of the rules for sustainable development and land use; failure to observe the citizens' procedural rights to information, participation in the decision making process on matters of the environment and challenging them, harmful impact on the environment with cross-border consequences; adverse impacts of harmful emissions from industrial sources and, more specifically, the burning and processing of waste, generation of electricity from biomass, and the extraction and initial processing of building materials.

Source: Ombudsman of Bulgaria (2019).

Among other issues, ensuring air quality and a reduction in the levels of some pollutants is an important challenge for Bulgaria. While domestic fuels-based heating and road transport are large sources of particulate matters in Bulgaria, various industry sectors also contribute to air emissions (UNECE, 2017). The energy sector, dominated by coal-fired power plants, was found generally responsible for the greatest share of emissions to air for most pollutants compared to all other industrial sectors (Ricardo, 2018). The European Environment Agency has found concentrations of pollutants, especially particulate matter (PM₁₀) and PM_{2.5}, to be above the annual limit value at times (EEA, 2020). In 2020, the European Commission referred Bulgaria to the European Court of Justice for failing to fully comply with a 2017 court judgement finding that Bulgaria had breached its obligations under the EU's ambient air quality legislation – in particular, the limit values for PM₁₀, and adoption of appropriate measures to keep the period of exceedance as short as possible (European Commission, 2020). In July 2019, the European Commission had issued another referral to the European Court of Justice for Bulgaria's failure to respect limit values of SO₂, noting persisting non-compliance in the South-East area of the country, where the largest thermal power plants in Bulgaria are located (European Commission, 2019c).

Air pollution is a major cause of premature death and disease. In 2015, the European Environment Agency estimated that about 14 200 premature deaths were attributable to fine particulate matter concentrations, 350 to ozone concentrations and 640 to nitrogen dioxide concentrations (European Commission, 2019b). In relative terms, when considering years of life lost per 100 000 inhabitants, the largest impacts were observed in Bulgaria and other central and eastern European countries, where the highest concentrations of PM_{2.5} were observed (European Environment Agency, 2018). The issue of air pollution attracted significant attention in 2020, as the health risks of air pollution compounded with that of the COVID-19 pandemic (Euractiv, 2020).

The government recognises the significance of the problem and has taken steps to address it. Improving air quality is one of the key priorities of NDP BULGARIA 2030, which acknowledges that excess levels of particulate matter (PM₁₀) are a major problem at national level in terms of ambient air quality. In 2019 the government adopted the National Ambient Air Quality Improvement Programme 2018-24 to address and reduce fine dust pollution, in particular at municipal level (Government of Bulgaria, 2020). Another strategic document is the National air pollution control programme (2020-30) in order to limit annual anthropogenic emissions of SO₂, NO_x, NMVOC, PM_{2.5} and NH₃ into the air, which implements the Directive (EC)

2016/2284 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC. At local level, municipal governments with poor air quality have also adopted their own air quality plans, such as in the town of Galobovo, which sits in the vicinity of large coal plants and has experienced exceeding levels of pollutants (Municipality of Galobovo, 2019-23). In addition, the government's seventh National Communication on climate change lists a number of measures aimed at reducing greenhouse gas emissions, including improvement of production efficiency in existing coal-fired power plants, and fuel substitution from coal to natural gas (Government of Bulgaria, 2018).

Besides air quality, another area requiring continuing efforts is waste management. The legal framework is broadly in place, with the Waste Management Act transposing the EU Waste Framework Directive and introducing the hierarchy of waste management and the 'polluter pays' principle. However, progress in ensuring compliance with wastewater collection and treatment obligations has been slow (European Commission, 2019a). Among issues raised is the overreliance on landfilling as a method of waste disposal, the low recycling rate compared to EU average and targets, (European Commission, 2019a and 2020). Efforts have been made over the years to reduce the share of landfilled waste, and a national strategy on circular economy is being developed (Ministry of Environment and Water). While the waste management issue is to a large extent related to domestic and municipal waste management, industries also play a role in waste creation, management and prevention. With regards to coal waste management, a recent study on one large plant in the country has shown frequent releases of contaminated waste waters to the local environment from sites where ashes generated by the plant are stored (Greenpeace, 2021). Another issue has been the burning of waste by coal power plants, which has prompted local opposition (Euractiv, 2020; Greenpeace, 2021).² Only one coal power plant has permit to burn waste in Bulgaria. However, civil society organisations have raised concerns related to the illegal burning of waste, alongside coal, without the required permit, in violation of EU regulations. In 2020, environmental lawyers from ClientEarth and Za Zemiata Access to Justice brought a complaint to the European Commission to investigate and put an end to alleged illegal waste incineration in Bulgaria (Spasik, 2020; Euractiv, 2020). Finally, an important element of environmental protection is the ability of stakeholders to access environmental information, participate in public debates and access remedy for environmental matters. Civil society organisations have raised concerns in this regard, notably in relation to a 2017 Supreme Administrative Court decision to deny legal standing to citizens and environmental organisations to challenge air quality plans. In May 2020, as part of its infringement procedures, the European Commission sent a letter of formal notice urging Bulgaria to remove barriers to access to justice in relation to air quality plans (European Commission, 2020). Concerns related to public participation and access to justice (in connection among others with air quality plans) in environmental matters as well as protection of the members of the public against penalisation, persecution and harassment, were also raised by NGOs in a submitted October 2018 communication to the Aarhus Convention Compliance Committee (ACCC/C/2018/161), alleging violations of the Convention (of which Bulgaria is a party) (UNECE, 2018-20).

Promoting RBC standards in the energy sector in particular could support government's efforts to improve ambient air quality and environmental risk management more broadly. The environment chapter of the *Guidelines* calls on enterprises to take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. This entails sound environmental management that aims to controlling both direct and indirect environmental impacts; establishing and maintaining appropriate environmental management systems; improving environmental performance; being transparent about the environmental impacts and risks, including also reporting and communicating with outside stakeholders; being proactive in avoiding environmental damage; working to improve the level of environmental performance in all parts of their operations, even where this may not be formally required; and training and education of their employees with regard to environmental matters.

The *Guidelines* include specific recommendations on providing adequate, measurable and verifiable (where applicable) and timely information on the potential environment, health and safety impacts of the activities of the enterprise available to the public. The *Guidelines* also encourage companies to engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation. Bulgaria's government could further encourage businesses in that direction, and leverage the potential of the vibrant civil society engaged in environmental protection to hold businesses accountable. In addition, Bulgaria should ensure that the legal and institutional framework in place allows stakeholders to access environmental information, raise issues and access effective remedy.

Addressing RBC risks in strategic sectors by building capacity on due diligence

While awareness of RBC has been on the rise in Bulgaria, there is scope to improve businesses' understanding of due diligence as a key process through which RBC principles can be operationalise, and to build the capacity of businesses in carrying out due diligence. The OECD has developed a range of due diligence instruments to provide practical guidance to businesses on how to implement the *Guidelines*, including in key sectors particularly relevant to Bulgaria. This section provides examples of how due diligence instruments can be applied to address risks prevalent in selected Bulgarian sectors.

Promoting decent work in the garment industry

Bulgaria has a large garment and textile industry. The total number of employees under labour contract in the textile, apparel, leather and otherwise-related products within the manufacturing sector was close to 118 000 persons in 2017 (Fair Wear, 2019). Some NGOs estimate the total number might be around 130 000, accounting for those with semi-formal contractual conditions. In 2018, the export turnover of Bulgarian companies from the sector reached EUR3.86 billion euro. Almost 95% of the export production of the Bulgarian industry goes to EU member states (Fair Wear Foundation, 2019). The dominant type of production consists in sub-contracting of work done with materials provided by clients. The latter are predominantly foreign-owned, attracted by low cost sources of labour and energy, as well as a skilled workforce guaranteeing quality (Iankova, 2021).

Across sectors, Bulgaria has been facing issues with low wages, associated with some of the highest levels of poverty and income inequality in the EU (European Commission, 2020c). The issue is particularly salient in the garment industry, where workers receive amongst the lowest wages in the country, hovering around the national minimum wage. In 2019, Bulgaria had the lowest gross minimum wage (EUR 286) across the 22 out of 28 EU members that have national legal minimum wage³ (Eurostat, 2019). A 2019 study by Fair Wear found that the most common non-compliance issue with the Code of Labour Practices (CoLP) to date falls under 'payment of a living wage', usually found during social audits (Fair Wear, 2019). As a result, workers often face difficult living conditions and live under or close to the poverty line. The Clean Clothes Campaign estimated that in 2018, the average net salary in the garment sector, without overtime, was slightly below the statutory minimal net wage, and below the EU poverty threshold (Clean Clothes Campaign, 2018).

The absence of collective bargaining agreements (CBA) in the garment and textile industry makes it difficult to negotiate better wages and conditions. According to trade unions and NGOs, there has been no CBA in the garment industry since 2008, and none for the textile industry since 2012. Trade union and employer organisation density are low, partly because there are many small enterprises in the sector that remain difficult to unionise. A 2021 mapping of social dialogue in Bulgaria carried out by the Cornell University School of Industrial and Labor Relations and the Strategic Partnership for Garment Supply Chain Transformation noted serious problems for garment industry workers trying to exercise their right to Freedom of Association, including attempts by employers to eradicate trade union organisations, as well as an unwillingness to sign collective bargaining agreements (CBAs) at both the industry and company

levels (Iankova, 2021). There has however been some CBAs signed at company level. However, even when they are signed, CBAs are not always fully complied with. Furthermore, overall, 90% of the company-level collective agreements negotiate wages that are at the level of the mandatory minimum wage for the country (Iankova, 2021).

The OECD *Due Diligence Guidance in the Garment and Footwear Sector* provides practical recommendations to help businesses identify and address risks that are prevalent in the industry. For example, the *Guidance* includes dedicated modules on the questions of working time, trade union and collective bargaining, and wage. Widely disseminating and promoting the *Guidance* could contribute to ensure compliance with national law in the sector, but also to ensure that wages and working conditions satisfy the basic needs of workers and their families. The government could also consider promoting social dialogue, and taking advantage of collective initiatives present in the country to facilitate international partnerships and encourage responsible purchasing practices across the garment value chain, including among foreign buyers.

Protecting workers health and local communities in the mining sector

Contrary to the situation in the garment and textile industry, low wages are less of an issue in the mining sector, where workers enjoy higher wages up to EUR 800-1 000. Nonetheless, there is some evidence that sub-contracting is used to pay lower wages to many workers (Free Information Surveys, 2019). Other challenges in the mining sector relate to occupational health and safety and well as environmental and social impacts on communities.

There have been reports that conditions in sectors such as mining, but also construction, chemicals, and transportation pose risks for workers (CITUB, 2019). The mining industry, which remains the main source of energy production in the country, has been under scrutiny for years for unsafe working conditions and pollution affecting both workers and communities (Euractiv, 2020). The issue is one of implementation rather than policy, as the legislative framework to ensure occupational safety and health is in place, including ordinances on particular sectors such as construction, and on the order, manner and frequency of risk assessment, among others. The “General Labour Inspectorate” is mandated to carry out inspections to monitor employers’ compliance with laws protecting the rights of workers, including the Law on Healthy and Safe Working Conditions. The government has also made efforts to enforce regulations requiring companies to conduct occupational health and safety risk assessments and to adopt measures to eliminate or reduce any identified risks (United States, 2019).

The expansion of coalmines in certain areas have also led to alleged adverse impacts and created tensions with local communities. One case involving the main mining state-owned enterprise was taken to the EBRD complaint mechanism (See Box 8.6).

The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector can provide useful frameworks to address some of the issues that Bulgaria still faces in the coal mining industry. The latter lays out concretely why engaging with stakeholders makes good business sense and how to go about it.

Box 8.6. The Maritsa East Mines case with the EBRD

Maritsa East Mines EAD, also called Mini Maritsa East, in Stara Zagora province, operates the largest lignite coalmines in Bulgaria. The mines provide coal to the four thermal power plants in the nearby Maritsa East complex and account for about 96% of Bulgarian coal production. Maritsa East Mines is a subsidiary of Bulgaria Energy Holding (BEH), a fully state-owned holding company with a portfolio revolving around electricity generation, supply and transmission, and coal supply mining.

The mines' operations and expansion since 2005 have reportedly resulted in a range of impacts on the surrounding communities in Beli Bryag and Troyanovo, which are set to be expropriated and destroyed by 2023 and 2030, respectively. The inevitability of the mine expansion prevented any development in the two villages since the start of the expropriation process from 2010 on.

Residents raised concerns with the company over the expropriation process on numerous occasions. In late 2017, residents of Beli Bryag turned to the Project Complaint Mechanism of the European Bank for Reconstruction and Development (EBRD). The complaint is connected with the EBRD's Bulgaria Energy Holdings Bond Issue and the Kozloduy International Decommissioning Support Fund relating to Maritsa East Mines.

In the complaint to the EBRD, residents raised concerns that the resettlement action plan proposed by Maritsa East Mines was made without their participation and consent, and that it did not include a fair compensation methodology for housing and agricultural land, with prices offered below market prices. Residents, many of whom were retirees, noted that as a result of such low compensation for housing, and the loss of agricultural and grazing land, they were likely to find themselves in poverty. In addition, due to the mine's proximity (500-600m) to the village, mining operations, including explosions, caused losses and destruction and damage to properties, and the noise level was impacting their health.

The EBRD conducted a problem-solving exercise from late 2017 to July 2020. This process is said to have facilitated communication and resulted in the signing of over 25 voluntary bilateral agreements, as well as, according to the Ministry of Energy, in the safeguarding of the cemetery outside the territory of the mine (although the EBRD final report notes that the relocation of the cemetery may take place in 2021). The EBRD problem-solving exercise did not however result in a final settlement agreement between the complainants and the company within the deadline set in the Resettlement Action Plan (RAP). The EBRD mechanism noted that it had been agreed, as part of the mediation process, that an addendum to the RAP would be drafted in consultation with the community, yet no addendum was shared. The EBRD noted the lack of agreement on the estimation of compensation costs, and the differing interpretations between parties of applicable legal provisions, the company claiming it could not cover non-monetary damages based on Bulgarian law.

Tensions between the remaining residents and the company rose subsequently. In June 2020, while the EBRD mediation was in its final stage, Maritsa East Mines allegedly submitted what appears to be an eviction notice to residents, flagging that it will rely on the police to conduct the eviction. The residents complained to the Ministry of Energy (which manages ownership of Maritsa East Mines) about the inappropriate nature of this letter. As of mid-2020, around 80% of properties in Beli Bryag had been expropriated, and it is unclear whether expropriation for the remaining properties has started.

Sources: Ministry of Energy; Bulgaria Energy Holdings (<https://bgenh.com/en>); EBRD, 2017 and 2020; Bankwatch (<https://bankwatch.org>)

Fostering policy coherence on RBC

Policy coherence is crucial to ensure sound policy design and implementation. This is recognised in the *Policy Framework for Investment*, which encourages governments to co-operate internally as well as externally with foreign governments and stakeholders to ensure coherence and support of policies relevant to RBC. Such co-operation should involve all relevant stakeholders, including among government agencies, companies, worker associations, professional associations, employer associations, civil society, and local communities.

As noted earlier in this chapter, Bulgaria has made important strides in mainstreaming RBC in national policies and strategies. Bulgaria has also adopted an overarching framework defining Bulgaria's priorities for the country on RBC. As Bulgaria plans to develop a National Action Plan on RBC, ensuring consistency and complementarity with existing plans will be essential to build on progress made and ensure clarity on messages and expectations communicated around RBC.

Ensuring co-ordination between various ministries and government agencies relevant to RBC will also be key to support implementation of these commitments. In particular, attention should be paid to ensuring co-ordination between the MLSP, in charge of the implementation of the CSR strategy, and the MoE, where under current plans the National Contact Point for RBC, in charge of promoting RBC and furthering the effectiveness of the *Guidelines*, will be hosted (see below plans for the establishment of the NCP). In a similar manner, clear delineations of roles and areas of collaboration between the multi-stakeholder working group established within the National Economic Council, the Economic and Social Council, and the Advisory Body on CSR located at the MLSP, would be important to maximise the potential of the different institutions to represent and liaise with stakeholders.

Policy coherence also means leading by example on RBC in the activities of the state as an economic actor. In that regard, important efforts have been made to enhance the corporate governance of state-owned enterprise. Besides the current reforms, the Accountancy Act, which regulates enterprises' accounting practices, includes requirements on transparency and disclosure of non-financial information, such as on environmental, social and employee matters, human rights, and anti-corruption. These requirements also apply to "public interest enterprises", which include several SOEs identified by name or business activity in the Act (Government of Bulgaria, 2015; OECD 2019).

As noted in Chapter 3, SOEs dominate strategic sectors, some of which such as energy, mining and transport are associated with high environmental and social risks. Coupled with the fact that some SOEs are large employers, this creates an opportunity for the government to promote good practices on responsible business, which could make a significant positive mark on these sectors and send a strong signal to other business enterprises. The *Guidelines* apply to all entities within the enterprise sector whether private, state or mixed. The *Guidelines on Corporate Governance of State-Owned Enterprises* (SOE *Guidelines*) also recommends that SOEs "observe high standards of responsible business conduct" and state that "expectations established by the government in this regard should be publicly disclosed and mechanisms for their implementation be clearly established". The SOE *Guidelines'* Annotations further encourage measures to report on foreseeable risks, including in the areas of human rights, labour, the environment, and risks related to corruption and taxation.

Public procurement can also be used strategically to promote and incentivise RBC. As noted in Chapter 7 of this *Review*, general government public procurement in Bulgaria accounts for approximately 12% of GDP, presenting a considerable opportunity for the government to leverage its purchasing power. Efforts have been made to integrate RBC criteria into public procurement. The Public Procurement Act, adopted in 2016, transposes EU directives on public procurement, according to which tenders should be awarded based on the Most Economically Advantageous Tender ("MEAT") criteria, which gives more prominence to non-financial considerations. In practice, however, the World Bank has observed that according to the PPA, in 2017 65% of procedures subject to ex-ante checks used the lowest price as evaluation criteria –

compared to 55% EU average. Against this backdrop, business and public stakeholders surveyed for the World Bank 2019 report concurred that the lowest price criteria was the least favoured option, and privileged a combination of price, quality, favouring SMEs, and environmental criteria, and were also open to including social aspects. The World Bank noted other avenues for the inclusion of environmental and social considerations in public procurement: for instance, through the application of exclusion grounds in the PP Act (disrespect of environmental or labour laws, criminal convictions such as bribery and child labour), or in the supervision and inspection phase, through the conduct of inspections on environmental and labour standards (World Bank, 2019).

The government has reported that in June 2019, the PPA completed the implementation of its project ‘Methodological Support for the Development of Green Public Procurement in Bulgaria’, funded under the Swiss-Bulgarian Co-operation Programme and aimed at raising the awareness on benefits of green public procurement, promoting the award of green public contracts and creating conditions for a coherent and targeted policy in this area. After a study on the potential of the national green public procurement market and identification of 12 product groups suited to the award of green procurement in the long term, a practical handbook has been developed containing the selected product groups, appropriate green criteria for each of them, practical advice on how to apply those criteria in the awarding process, as well as other useful information.

Current efforts to integrate RBC considerations into the public procurement process are positive steps that should be pursued in addition to addressing the issues raised in Chapter 7 related to the transparency and integrity of public procurement processes.

Bulgaria’s NCP

According to the *Decision of the OECD Council on the Guidelines*, all Adherents to the OECD *Declaration on International Investment* are required to set up an NCP. NCPs have a mandate to further the effectiveness of the *Guidelines* by undertaking promotional activities, handling inquiries, and contributing to the resolution of issues that arise if the *Guidelines* are not observed by businesses in specific instances. NCPs provide one of the few government-based, non-judicial grievance mechanisms with such an effective and broad application.

Adherents are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices. In accordance with the Procedural Guidance of the Decision of the Council on the *Guidelines*, NCPs are expected to operate in accordance with the “core criteria” of visibility, accessibility, transparency and accountability.

In early 2020, the Bulgarian authorities hosted a technical workshop in Sofia with the OECD Secretariat on the obligations of adherence in relation to RBC. The workshop provided information on the *Guidelines* and due diligence guidance, and included a dedicated session on the role and functions of NCPs, and process for establishing an NCP. Representatives from various ministries were present, along with representatives from trade unions, business associations and stakeholders. In July 2020, the government, together with the NCPs from France and the United Kingdom and the OECD Secretariat, held a second workshop with Bulgarian policy makers and stakeholders to discuss NCP structure and functioning, and learn from peers. Due to COVID-19 related measures in place at the time, the workshop was held in virtual format. The Bulgarian authorities have also engaged with OECD institutional stakeholders (BIAC, TUAC, and OECD Watch) to request advice on the draft plans for the NCP.

Based on this experience and engagement, Bulgarian authorities undertook the following actions and designed the following plan for Bulgaria’s NCP prior to adherence to the Investment Declaration.

Institutional arrangements

NCP Structure

On 17 September 2021 the Council of Ministers of Bulgaria adopted Decision № 682 for the establishment and organisation of the activities of the National Contact Point for the implementation of the OECD Guidelines for Multinational Enterprises in Bulgaria. The Decision includes details on the composition and functions of the NCP. Bulgaria envisions an NCP consisting of an NCP Head, a Secretariat, a multi-stakeholder Working Group and an Oversight Body.

In July 2021 the Minister of Economy appointed the Executive Director of the Bulgarian Small and Medium Enterprises Promotion Agency (BSMEPA) to serve as the Head of the NCP. He will perform his duties in addition to his responsibilities with BSMEPA. The Head of the Bulgarian NCP will be in charge of facilitating co-ordination between Bulgarian institutions, businesses, workers and stakeholders, and the OECD Secretariat. He will also lead and co-ordinate the work of the NCP, including undertaking promotional activities, handling inquiries and contributing to the resolution of specific instances. He will be the main contact point for the reception of specific instances.

The Secretariat will count two full-time members within the structure of each respective administration – one at the MoE and one at the BSMEPA. The government is also looking into the possibility of expanding the Secretariat after the adoption of the Decision, through the gradual involvement of additional staff members from other Ministries (tentatively, the Ministry of Environmental and Water and / or the Ministry of Labour and Social Policy). The Secretariat will have operational functions, providing administrative and technical service to support the NCP's activities, and ensuring co-ordination with the Working Group and oversight body. The Secretariat will also ensure institutional and organisational memory by keeping a record of activities and relevant information. The Head of the NCP and one staff member of the Secretariat will have their offices at the premises of BSMEPA. The other Secretariat staff member will sit in the office of the Ministry of Economy.

The Bulgarian authorities planned to give the role of oversight body to the National Economic Council (NEC), created in 2015 to advise the Council of Ministers on the definition and implementation of Bulgaria's economic policy. As discussed earlier in this *Review*, the NEC is chaired by the Minister of Economy, and composed of Deputy Ministers from various ministries, as well as Chairpersons of the five Bulgarian Employers Organisations.⁴ According to the Bulgarian Government, this will allow benefitting from an established and well-functioning entity, with a mandate and structure that are suited for NCP oversight functions, and help avoid duplication and overlap of entities.⁵ The NEC, which meets on a regular basis (at least once a month), will be holding additional meetings on an ad hoc-basis as required by specific instances or other circumstances related to the Bulgarian NCP. The NEC will serve its oversight functions by reviewing the annual or ad-hoc activity reports of the Bulgarian NCP to ensure consistency in practice and provide general recommendations for better implementation of the NCP's mandate. The oversight body will also aid the NCP in promoting the *Guidelines* by regularly disseminating the relevant information regarding specific instances, policy changes or future developments in the strategic framework for RBC through its stakeholder network since it includes representatives of the public authorities and business organisation. The oversight function of the NEC entails a formal reporting process: the Head of the NCP will submit annual as well as mid-term reports on the implementation of the NCP's activities in Bulgaria to the Minister of Economy for approval, then the Head of the NCP in his/her capacity as chairperson of the WG shall submit these reports to the NEC for review of the NCP's activities and provision of general recommendations for better efficiency of the Bulgarian NCP.

As a follow-up to the adoption of the Decision No. 682 for the establishment and organisation of the activities of the National Contact Point for the implementation of the OECD *Guidelines for Multinational Enterprises* in Bulgaria, a multi-stakeholder Working Group will be established by Order of the Minister of Economy. At the time of writing of this *Review*, the multi-stakeholder Working Group was on its way to be

established before the end of 2021. The Working Group will be established as a subsidiary body to the NEC (which, as indicated above, also has the function of oversight body to the NCP), with an independent decision-making mandate. The Working Group will be chaired by the Head of the NCP and composed of approximately 15 members, representing four stakeholder groups:

Government institutions will include the Ministry of Economy, the Ministry of Labour and Social Policy, the Ministry of Environment and Water, and the National Revenue Agency of the Republic of Bulgaria (on behalf of the Ministry of Finance).

Business organisations will include the Bulgarian Chamber of Commerce and Industry, Bulgarian Industrial Association – Union of the Bulgarian Business; the Confederation of Employers and Industrialists in Bulgaria, Bulgarian Industrial Capital Association, and the Union for Private Economic Enterprise.

Trade Unions will include the two largest union confederations in Bulgaria, i.e. the Confederation of Labour “Podkrepa” and the Confederation of Independent Trade Unions of Bulgaria.

Civil society organisations will include the Centre for the Study of Democracy, the Bulgarian Association of CSR Professionals, and the UN Global Compact Network Bulgaria.

After being formally appointed to be part of the NCP Working Group (WG) through a letter from the Ministry of Economy, each institution will elect their representative to participate in the Working Group. Furthermore, external experts from other government institutions, business organisations, trade unions, non-governmental organisations and/or the academic sector, will be involved on an ad-hoc basis in the activity of the Working Group. For that purpose, each stakeholder group, after internal deliberation within the group, will have the possibility to put forward an official request to involve an external expert on an ad-hoc basis. As explained by Bulgaria, the authorities have designed an open construct for the WG by providing stakeholders with the option if necessary to call for the involvement of external experts from other institutions, business organisations, trade unions, NGOs and academia. All stakeholders in the WG will be provided with equal voting rights. According to Bulgaria, the addition of ad-hoc experts will not in any way affect the total amount of votes that each stakeholder group is allocated – six votes.

The Working Group will be the only body of the Bulgarian NCP with decision-making power, notably when it comes to specific instances (see below). The Rules of Procedure developed by the WG will clarify the full decision-making procedure – simple majority during the initial assessment of cases of alleged non-compliance with the OECD Guidelines, internal and external communication processes, transparency and promotional activities, etc. or qualified majority voting (QMV) during further deliberations when handling specific instances. Bulgaria views the majority voting system as more operational since, according to Bulgaria, it provides more flexibility to the WG when making decisions as opposed to consensus which would slow down the reaching of a mutually acceptable decision. The Working Group will make decisions on topics including future measures for the promotion of the OECD *Guidelines* and the role of Bulgarian NCP in this process; adoption of National Strategy/National Action Plan for the implementation and promotion of the MNE Guidelines; adoption of the Annual Activity Reports of the NCP; and specific instances. One of the WG's prerogatives will be to develop and apply the Internal Rules of Procedure regarding the organisation and operation of the NCP mechanism and the co-ordination of the NCP with the WG itself and the Oversight Body. The Working Group will also be in charge of developing rules of the procedures for the Bulgarian NCP. During the first formal meeting of the WG, it will be tasked with drafting the Rules of Procedure in which the WG will envisage specific provisions/mechanisms for ensuring its impartiality from the Oversight Body and equity when executing its decision-making functions. After the drafting and consultation processes have been finalised, the Working Group will send the rules of procedures for approval and official adoption by an Order of the Minister of Economy.

Every year, the NCP will submit an annual report on its activities to the Minister of Economy. After approval, the report shall be submitted to the NEC by the Chairperson of the Working Group, and then to the OECD Secretariat. Furthermore, the Minister of Economy in his capacity as Chair of the NEC shall report to the

Council of the Ministers on the decisions of the NEC including any deliberations on the activities of the Bulgarian NCP. Annual reports will be made available online in the NCP section of the MoE and BSMEPA websites.

Stakeholders have been consulted throughout the process of defining the NCP structure and institutional modalities. In addition to the two workshops co-hosted with the OECD Secretariat, Bulgarian authorities held bilateral meetings and carried out e-consultations on their draft plans for the NCP from 16 to 27 July 2020. A total of 20 people were consulted, including representatives from five ministries, one government agency, five business associations, three research centres, one academic, two trade unions, and three associations focused on CSR and corporate governance research and promotion. After incorporation of the feedback and finalisation of the NCP structure, a public consultation was organised on 26 July 2021. An open invitation was sent by the Ministry of Economy to civil society, business representatives, trade unions, academia, OECD institutional stakeholders and interested parties. The consultation took place at the premises of the Ministry of Economy in a hybrid format – physically and virtually for anyone who could not participate in person. In the framework of this *Review*, the Bulgarian Government has expressed its commitment to review the NCP structure and planned activities one year into the establishment of the NCP, through both internal and public consultations aiming at gather feedback and general recommendations. As a result of this built-in review mechanism of the Bulgarian NCP, a Summary Report will be elaborated with recommendations and specific actions to be taken for the improvement of the NCP's structure and efficiency in the future.

Stakeholder engagement

On 30 September 2020, the MoE participated in a national conference on Corporate Social Responsibility, co-organised by the magazine “Enterprise” and the multimedia analytical and educational programme of the “Kauzi” Foundation “CSR AdviceBox”. The conference, entitled “*Corporate Social Responsibility: Sustainable Development for the Bulgarian Business*”, was held under the patronage of the Ministry of Labor and Social Policy. At this occasion, a representative from the MoE presented the role of the NCP and called on various stakeholders to work together to support this mechanism.

The Bulgarian authorities have created a [dedicated webpage](#) providing information and updates about the Bulgarian NCP on the MoE website. The webpage includes details about the NCP's role and function, structure, and activities. The email address of the NCP is publicly available on the NCP webpage. The government plans to use this webpage to publish documentation included OECD instruments on RBC. At the time of writing, Bulgarian authorities have translated the *Guidelines* and made them available in both English and Bulgarian languages. The website will also provide links to OECD instruments and relevant webpages. Once they have been developed, the rules of procedures will be made publicly available. As mentioned previously, annual reports on the activity of the NCP will also be posted online. Additionally, key RBC documents and information on the Bulgarian NCP's structure and activities will also be published on the BSMEPA webpage.

After the formal establishment of the NCP, stakeholders will primarily be involved in the NCP's activities through the multi-stakeholder Working Group, which has been formed to represent diverse views and act as a platform for dialogue and consultations on matters related to the NCP functioning. It is also foreseen that stakeholders will be consulted throughout the process of developing rules of procedures, including through an open consultation to be organised prior to their adoption. In addition, it is envisaged that the NCP will hold regular meetings with stakeholders, as well as an Annual Information Event to present the activities and results of the NCP.

Resources

The MoE has committed to fund the NCP's establishment and activities, the financial resources for which will be allocated from the budget of the MoE depending on the NCP's needs. The staffing resources will

be allocated on behalf of the MoE and the BSMEPA as follows: 1) For the Head of the NCP/the Executive Director of the BSMEPA, which according to the Decision of the Council of Ministers is tasked with the execution of this function on a full-time basis effective immediately with no additional payment; 2) For the two experts of the NCP's Secretariat – two currently employed experts from both institutions will be appointed on a full-time basis to execute the sole functions of a Secretariat to the NCP. At the time of this *Review*, according to Bulgaria, dedicated resources were specifically envisaged in the MoE's budget for 2022 amounting to BGN 35 000 (approximately EUR 18 000) to cover the activities of the Bulgarian NCP for the implementation of the *MNE Guidelines* and establishing a network of stakeholders (including for the purpose of participation in NCP meetings and forums at OECD level; of maintaining an up-to-date website of the NCP; of adopting a National Action Plan (NAP) to promote the Guidelines; of holding regular consultations/meetings with the stakeholders such as seminars, roundtables and workshops; of translating and making publicly available key RBC documents in Bulgarian and English, etc.).

Since the activities of the NCP will be covered by the MoE's budget, each year the NCP will elaborate a draft budget according to its needs to be approved for the following year. This will allow Bulgaria to have the NCP budget (as part of the MoE's budget) approved one year in advance.

Handling of specific instances

The Head of the NCP will be the main contact point for the submission of specific instances. Upon reception, specific instances will be transmitted to the Working Group, which will handle cases and make decisions related to the resolution of specific instances. In order to ensure impartiality, each of the four stakeholder groups represented in the Working Group will be given an equal number of votes (six votes each), when making decisions on specific instances, regardless of the number of representatives participating in each group. The Head of the NCP will also have one vote.

As previously mentioned, external experts may be involved on an *ad hoc* basis to provide additional expertise and support the work of the Working Group. When this is the case, *ad hoc* experts will have access to all relevant documents keeping in mind that they will be bound to respect the confidentiality of the stakeholders and the matters under review. External experts' role will depend on the needs of each stakeholder group that they are a part of; it will mostly be to consult the given stakeholder group, to give them an opportunity to express their views on a given matter openly and to advise according to their competences so that the specific stakeholder group can form its general opinion/position. The involvement of external experts will not affect voting rights, which will remain evenly distributed between the four stakeholder groups (with one additional vote for the Head of the NCP). It is also envisioned that external professionals with mediation expertise be involved to handle specific instances. These professional mediators will support the Working Group when handling specific instances and share knowledge and expertise on the mediation process.

Promotional activities and next steps

The Bulgarian Government has elaborated a draft plan for various activities for the first two years of functioning of the NCP (See Table 8.1). Planned activities include the creation of an NCP section in MoE website (available in both Bulgarian and English) as well as on the BSMEPA webpage, translation of the *Guidelines*, the elaboration of a digital booklet on the implementation of the *Guidelines*, and the development by the WG of a National Action Plan (NAP) on RBC to promote the *Guidelines*. Bulgaria recognises that the development NAP will be important as it will serve as an effective way to unify concrete efforts at national level to promote the *Guidelines* by active engagement with different stakeholders and co-ordination of measures to reinforce policy actions for coherence of the RBC-related policy instruments including coherence between the NAP for the implementation and promotion of the *MNE Guidelines* and the National CSR Strategy (2019-23). The NAP on RBC will be subject to an open public consultation prior to its adoption by a Decision of the Council of Ministers in the first few months of 2022. Each year will be

marked by the publication of an annual report followed by an Annual Information event for the presentation of the NCP's activities.

In the first two years of activity, the NCP will aim to raise awareness of the *Guidelines* and learn from experiences in other countries, for example by contacting diplomatic missions to identify effective ways to promote the Guidelines, and by researching and publishing case studies on the implementation of *Guidelines* in other countries. These case studies could be presented at different events where information about the NCP would be shared.

Table 8.1. Timeline for the establishment of the Bulgarian NCP

Timeline	Milestones / Actions
July 2021	Appointment of the Head of the NCP in Bulgaria
Q3 2021	The Council of Ministers of Bulgaria adopted Decision № 682 for the establishment and organisation of the activities of the National Contact Point for the implementation of the OECD Guidelines for Multinational Enterprises in Bulgaria on 17 September 2021
Q4 2021	Establishment of the Working Group through an Order of the Minister of Economy
Q4 2021	First meeting of the newly established NCP
Q4 2021	Participation at the OECD NCP meeting in Paris (or virtually)
Q4 2021	Start of the development of rules of procedures by the Working Group
Q4 2021	Start of the development of a NAP on RBC by the Working Group, including stakeholder consultations
Q4 2021	Public awareness raising event with stakeholders and policy makers to promote and disseminate information about the Bulgarian NCP
Q4 2021	Publication of the first report on the activities of the NCP
Q4 2021	Public consultation on the final draft of the rules of procedure
Q4 2021	Adoption of the rules of procedures by MoE
Q1 2022	Adoption of the Bulgarian NAP on RBC
Q1-Q2 2022	Participation at the meeting of the OECD NCP network in Paris
Q2 2022	Public awareness raising event with stakeholders and policy makers to promote and disseminate information about the Bulgarian NCP
Q3 2022	Start the reception of specific instances
Q4 2022	Publication of the results of the mediation process on the NCP webpage
Q4 2022	Open consultation to review the structure and planned activities of the Bulgarian NCP Publication of a summary report including lessons learned and next steps as an outcome of the consultation

Outlook and policy recommendations

Bulgaria has taken steps to promote RBC, including through the adoption of a National CSR Strategy and the mainstreaming of RBC principles and several policies and sectoral strategies. Various actors, notably business associations have been active in RBC promotion. These efforts have resulted in a growing awareness of RBC in the country. Understanding and implementation of RBC however varies significantly

across businesses. Moreover, the concept of due diligence – a key process for the implementation of RBC principles – is not yet at the forefront of the public discourse and national efforts on RBC. Promoting a common understanding of RBC based on internationally recognised RBC standards, can help promote sound business practices, while supporting the government national priorities for Bulgaria’s sustainable development.

Furthermore, deepening efforts to promote RBC due diligence could go a long way in addressing some of the main environmental and social risks that are associated with certain industries, for example the garment, mining and energy production sectors. The government could consider leveraging and actively disseminating international standards and tools to help businesses better manage such risks, improve industrial relations and maximise the contribution of the sectors to economic, but also environmental and social outcomes.

Beyond promoting standards, the government can play a role by facilitating the due diligence process, and creating an enabling environment for RBC. Ensuring that stakeholders, workers and journalists can play their role in consultative and accountability processes is key to ensure that businesses can meet international RBC standards. More broadly, a sound regulatory and judicial system, as well as predictable and transparent processes are important elements to underpin RBC. The government has made efforts in that regard, and is encouraged to deepen reforms to support further uptake and implementation of RBC.

Policy recommendations

- *Establish an effectively functioning NCP to further the effectiveness of the OECD Guidelines.* All Adherents to the *OECD Declaration* have an obligation to establish an NCP, in accordance with the Decision of the Council on the *OECD Guidelines for Multinational Enterprises*. Bulgaria should ensure that structure of the NCP retains the trust of stakeholders and guarantees its impartiality. In this context, further clarify the relations between the NCP’s Chair, Secretariat and Working Group as well as its relation with the National Economic Council with respect to NCP’s impartiality as highlighted in the *OECD Procedural Guidelines*.
- *Promote policy coherence and ensure co-ordination on RBC-related policies within the government.* In particular, the government should ensure that the mandates of different bodies, including those created through the process of establishing the NCP, are clearly delineated and co-ordinate adequately. As Bulgaria plans to develop a NAP on RBC, ensuring consistency and complementary with the existing CSR Strategy will be of particular importance. The government should also make sure that the development of the NAP follows international best practice notably with regards to the consultation processes and involvement of stakeholders.
- *Set clear expectations as to what RBC entails, including in relation to due diligence.* The governments could leverage the presence of large business associations active in RBC promotion to translate and disseminate the *OECD Guidelines* as well as all OECD due diligence guidance, to establish a common understanding across businesses of what RBC means and what government expectations are in that respect.
- *Actively promote the OECD Guidelines and the NCP among businesses operating in Bulgaria and Bulgarian companies operating abroad, as well as workers and stakeholders.* This entails organising awareness raising events, capacity building activities and consultations on RBC with all stakeholders to identify priorities and needs. Ensuring that RBC principles and standards, as well as the NCP mechanism, are known among all relevant stakeholders is an important aspect of ensuring that the NCP can effectively fulfil its mandate.
- *Promote the use of the OECD sectoral due diligence guidance,* in particular the *OECD Due Diligence Guidance in the Garment and Footwear Sector*, *OECD Minerals Guidance* and *OECD Guidance in Extractive Industries*, through active support to these enterprises in implementing the recommendations of the due diligence instruments. Countries that adhere to the *OECD Declaration*

commit to also adhere to all of the related OECD legal instruments aimed at supporting the implementation of the OECD *Guidelines*, including the OECD *due diligence guidance*. Promoting and supporting implementation of these instruments will contribute to facilitate businesses in meeting RBC expectations in Bulgaria.

- *Facilitate meaningful stakeholder engagement in the design and implementation of RBC policies and processes.* This includes ensuring that all stakeholders are empowered to express their views and take part in the public debate and encouraging companies to consider the views of stakeholders and affected communities. The *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector* can provide a useful framework that can be particularly relevant for the coal industry.
- *Ensure full compliance with EU legislations related to RBC, including the EU Non-Financial Reporting Directive*, and support businesses in observing RBC-related laws and expectations. The government could consider leveraging the NCP to identify challenges faced by businesses and provide relevant tools and guidance to facilitate businesses in meeting RBC expectations.
- *Seize the momentum created by SOE reforms to promote and implement RBC standards within SOEs.* As an economic actor in its own right and owner of enterprises, the government could take steps to establish clear expectations and requirements for SOEs with regards to RBC performance and due diligence, and reporting on RBC-related risks. The government could rely on OECD due diligence guidance to practically operationalise RBC in Bulgarian SOEs.

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Notes

¹ At the time of writing, the preparation of the CSR Action Plan for the period 2022-23 was ongoing.

² In 2020, NGOs filed a complaint with the European Commission against Bulgaria, alleging that several power plants were burning non-hazardous waste alongside coal, in violation of EU regulations, and with potential air pollution risks (Euractiv, 2020). NGOs have also expressed concerns with regards to the adequacy of the permits granted, as earlier permits for 'exploratory purposes' were not made public and, at least in one case, allowed for the burning of waste beyond EU limits.

³ Denmark, Italy, Cyprus, Austria, Finland and Sweden do not have any minimum wage.

⁴ The Ministries that are part of the NEC are: Ministry of Economy, Ministry of Labour and Social Policy, Ministry of Finance, Ministry of Regional Development and Public Works, Ministry of Foreign Affairs, Ministry of Education and Science, Ministry of Energy, Ministry of Tourism, Ministry of Environment and Water, Ministry of Transport, Information Technology and Communications, Ministry of Agriculture, Food and Forestry. The five business associations represented are: the Bulgarian Chamber of Commerce and Industry, the Bulgarian Industrial Association – Union of the Bulgarian Business, the Confederation of Employers and Industrialists in Bulgaria, the Bulgarian Association of Industrial Capital in Bulgaria Association and the Union for private economic enterprise.

⁵ The specific functions of the NEC under Decree No75/2015 are to: i) analyse and propose measures to support innovative and investment activities in order to increase the competitiveness of the economy; ii) draw up recommendations and consult the government on the problems of the general economic development of the country; iii) to develop and propose economic and legal regulators to promote the investment activity in the country; and iv) organise, analyse and control the interaction between the executive authorities, other public authorities and the business representatives.



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