

SPECIFIC INSTANCE CASE: MR AND MRS P V MNE F

FINAL STATEMENT OF THE NEW ZEALAND NATIONAL CONTACT POINT

Summary of the outcome of the Specific Instance

This Final Statement concludes consideration by the New Zealand National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the Guidelines) of a Specific Instance filed by an NGO on behalf of Mr and Mrs P concerning alleged conduct towards them by a Multinational Enterprise (MNE) in relation to their contracted project management role over repairs to Mr and Mrs P's property following the events of the Canterbury earthquakes in 2010 and 2011.

After reviewing the Specific Instance application, the NCP considered that all the allegations were not substantiated and/or did not merit further examination. The claim that MNE F had no policy commitment to respect human rights was substantiated, however, did not merit further examination. The NCP was willing to engage further with MNE F on this point and encouraged the development of such policies and procedures.

In accordance with the Guidelines, this Final Statement briefly describes the issues raised, the procedures the NCP initiated in assisting the parties, and the outcome.

Substance of the Specific Instance/Guidelines provisions cited

In January 2016, the NZ NCP received an application from the NGO on behalf of Mr and Mrs P, alleging that MNE F had breached the human rights provisions of the Guidelines in relation to consideration of earthquake-related damage to their property in Christchurch following the events of the 2011 Canterbury earthquake.

The application referred to Chapter 2 (A.11-12) and Chapter 4 (S.1-4) of the Guidelines and stated that the MNE's handling of its contracted project management role over repairs to Mr and Mrs P's property, has caused or contributed to adverse human rights impacts on Mr and Mrs P and failed to address these once brought to its attention.

Over the course of 2016, the NCP considered information provided by Mr and Mrs P and MNE F about the allegations made by Mr and Mrs P. Neither Mr and Mrs P nor MNE F provided comment on the NCP's initial assessment.

Initial assessment/good offices

The NCP concluded that the issues raised against MNE F had not been substantiated and/or did not merit further action under the Guidelines. In particular:

- The NCP considered that the obligation for MNEs to take action to mitigate human rights impacts linked to their operations and business relationships and to carry out due diligence activities to that end must be seen in the context of the particular situation and nature of the business relationships that apply and what can reasonably be expected of a party concerned. MNE F did not have authority to make decisions about whether work proceeded or the quality of work associated to the alleged impact as they were an agent of the decision-making government-owned enterprise.

- The NCP found the claim that MNE F did not have a specific human rights policy at the time of the alleged breaches was substantiated. However, this could not be considered a material “breach” of the Guidelines. In responding to the Specific Instance application, MNE F noted that it was in the process of developing a human rights policy and offered to supply a copy to the NCP once completed.

Conclusion

The assessment process is to determine whether the issues raised merit further consideration and involvement, not to determine whether an MNE has “breached” the Guidelines. Based on the information provided by both parties and for the reasons noted above, the NCP considered the issues raised in Mr and Mrs P’ specific instance complaint, alleging breaches of their human rights by MNE F pursuant to the Guidelines, had not been substantiated and/or did not merit further examination.

New Zealand National Contact Point for the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct

July 2024