

SPECIFIC INSTANCE CASE: MR & MRS B V MNE F

FINAL STATEMENT BY 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 B concerning alleged conduct towards them by a Multinational Enterprise (MNE) in relation to their contracted project management role over repairs to Mr and Mrs B's property following the events of the Canterbury earthquakes in 2010.

After reviewing the Specific Instance application and consulting the parties, a completed Final Assessment was distributed concluding that the core issues raised were not substantiated and did not merit further consideration. However, on one issue identified by the B's the NCP's involvement was considered to further the purpose and effectiveness of the Guidelines.

Substance of the Specific Instance/Guidelines provisions cited

In March 2015, the New Zealand NCP received an application from the NGO on behalf of Mr and Mrs B alleging that MNE F had breached the human rights provisions of the Guidelines in relation to their contracted project management role over repairs to Mr and Mrs B's property following the events of the Canterbury earthquakes in 2010. The matter had also been subject to legal action.

The application referred to Chapter 2 (A.11) and Chapter 4 (S.2) of the Guidelines and stated that the MNE's handling of an insurance claim for damage to the B's property has caused or contributed to adverse human rights impacts on them, and failed to address these once brought to its attention.

Over the course of 2015, the NCP considered information provided by the B's and MNE F about the allegations made by the B's and the assessment was concluded in 2017.

Initial assessment/good offices

The NCP concluded that the core issues raised by the B's against MNE F alleging breaches of human rights had not been substantiated and did not merit further action under the Guidelines. These concerns alleged delays by MNE F in repairing earthquake damage due to non-earthquake related damage and the ability of MNE F to influence the domestic insurer's decision-making over coverage of the claim. The NCP considered that the actions sought by the B's were not within the MNE F's ability to achieve or are reasonably demanded by the Guidelines. This was due to the MNE F being an agent and not the principal determining whether work proceeded, nor did it have a legitimate role in subsequent disputes between the B's domestic insurer and private insurer.

The NCP considers the B's submission that MNE F does not appear to have a specific human rights policy was substantiated. The NCP offered further engagement with MNE F on this point and encouraged it to develop such policies and procedures.

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. On the face of the information supplied by both parties, and for the reasons noted above, the NCP considered that the core issues raised by Mr and Mrs B, alleging breaches of their human rights by MNE F pursuant to the Guidelines, had not been substantiated and did not merit further action by the NCP.

The NCP did, however, note that it could usefully engage with the MNE over the development of its human rights and due diligence policies furthering the purpose and effectiveness of the Guidelines.

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

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