

SPECIFIC INSTANCE CASE: MR C V MNE A

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 C concerning alleged conduct towards him by a Multinational Enterprise (MNE) in relation to an insurance claim following the events of the Canterbury earthquakes in 2010 and 2011.

After reviewing the Specific Instance application and consulting the parties, a completed Final Assessment was issued concluding that the issues raised did not merit further consideration.

Substance of the Specific Instance/Guidelines provisions cited

In July 2015, the New Zealand NCP received an application from the NGO on behalf of Mr C alleging that MNE A had breached the human rights provisions of the Guidelines in relation to consideration of earthquake-related damages to his property in Christchurch following the events of the 2010 and 2011 Canterbury earthquakes.

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 Mr C'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 to 2017, the NCP considered information provided by Mr C and MNE A about the allegations made by Mr C. The NCP also sought Mr C's views, via the NGO, on MNE A's response and concluded its assessment of the application in 2017.

Initial assessment/good offices

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

- The NCP considered that external factors impacted MNE A's ability to carry out adequate and timely investigations into the insurance claim.
- The NCP considered that the issue of interpretation relating to Mr C's insurance policy was not within scope of the Guidelines.
- The NCP considered that trying to resolve a factual dispute about interactions alleged as unacceptable conduct directed at Mr C some years ago was not consistent with the NCP function and further consideration would not "contribute to the effectiveness of the Guidelines".
- The NCP considered that Mr C had not substantiated the claim that MNE A had failed to conduct adequate risk based due diligence in accordance with the company policy and the Guidelines.

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. The NCP concluded that the information provided did not substantiate that MNE A’s activities in handling Mr C’s insurance claim caused or significantly contributed to the alleged adverse human rights impacts alleged in the Specific Instance complaint. Therefore, the complaint did not merit further investigation or involvement by the NCP.

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

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