

SPECIFIC INSTANCE CASE: MS C V MNE I

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 Ms C concerning alleged conduct towards her 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 distributed concluding that the issues raised did not merit further consideration by the NCP.

Substance of the Specific Instance/Guidelines provisions cited

In July 2015, the New Zealand NCP received an application from the NGO on behalf of Ms C alleging that MNE I 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 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 Ms C's property, has caused or contributed to adverse human rights impacts on her and failed to address these once brought to its attention.

Over the course of late 2015 and 2016, the NCP considered information provided by Ms C and MNE I about the allegations made by Ms C. The NCP also sought Ms C's views, via the NGO, on MNE I response and finalised its assessment of the application in November 2017.

Initial assessment/good offices

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

- The NCP considered the claim of unacceptable conduct was substantiated to the extent that MNE I acknowledged two instances of conduct on the part of their agents or representatives that resulted in upsetting Ms C. MNE I acknowledged and apologised for both incidents. Therefore, there was no need for further involvement by the NCP to assist in the resolution of this issue.
- The NCP considered Ms C had not substantiated an issue in relation to her claim that MNE I failed to undertake an adequate investigation into the repair or replacement of her property in a timely manner, resulting in adverse impacts on her human rights. The NCP notes that this obligation must be seen in the context of the particular situation and what can reasonably be expected of a party concerned.
- The NCP considered that there was insufficient information to establish that MNE I was in a 'business relationship' with the government-owned entity involved, and if so, they had sufficient leverage to effect a change in practices.

- The NCP considered that an allegation on breach of right to freedom of speech and social contribution did not merit further examination or consideration by the NCP and was not an issue to resolve under the Guidelines, as no supporting information was provided.

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 considered that the issues raised in Ms C’s specific instance complaint, alleging breaches of her human rights by MNE I 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