

## **SPECIFIC INSTANCE CASE: MS N V MNE F**

### **FINAL STATEMENT OF THE NEW ZEALAND NATIONAL CONTACT POINT**

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#### **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 N concerning alleged conduct towards them by a Multinational Enterprise (MNE) in relation to their contracted project management role over repairs to Ms N's property following the events of the Canterbury earthquakes in 2010 and 2011.

After reviewing the Specific Instance application, the NCP considered that issues raised in Ms N's specific instance complaint had not been substantiated and did not merit further examination, or that the purposes of the Guidelines would be served by further engagement by the NCP. On the matter of the development of a human rights policy, however, the NCP considered it could usefully engage with MNE F which could contribute to the purpose and effectiveness of the Guidelines.

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 October 2015, the NZ NCP received an application from the NGO on behalf of Ms N, alleging that MNE F had breached the human rights provisions of the Guidelines in relation to their contracted project management role over repairs to Ms N's property following the events of the Canterbury earthquakes in 2010 and 2011.

The application referred to Chapter 2 (A.11-12) and Chapter 4 (S.1-5) of the Guidelines and stated that the MNE's handling of an insurance claim for damage to Ms C's property, had 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 N and MNE F about the allegations made by Ms N. Neither Ms N nor MNE F provided comment on the NCP's Initial Assessment which was finalised in 2017.

#### **Initial assessment/good offices**

The NCP concluded that the issues raised against MNE F had not been substantiated and 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. The NCP considered that this issue has not been substantiated as it did not appear that MNE F could have meaningfully exercised leverage over the Crown entity that it was contracting to.
- The NCP considered that there was insufficient information provided to substantiate any claim of unacceptable conduct directed to Ms N by MNE F.

The NCP considered that Ms N substantiated the claim that MNE F did not appear to have a specific human rights policy. MNE F informed the NCP that it was in the process of developing a human rights policy. The NCP was willing to engage further with MNE F on this point and encouraged it in the development of such policies and procedures.

### **Conclusion**

The assessment process is to determine whether the issues raised merit further consideration, not to determine whether an MNE has acted consistently with the Guidelines. The NCP considered that the issues raised in Ms N's Specific Instance complaint had not been substantiated and did not merit further examination. The NCP did, however, conclude that it might usefully engage with the MNE over the development of its human rights and due diligence policies.

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

**July 2024**