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Procedural description of OECD Guidelines complaints and their processing

The OECD Guidelines for Multinational Enterprises (Guidelines) are recommendations addressed by governments to multinational enterprises. The Guidelines provide responsibility principles and standards for international responsible business conduct, and compliance with applicable laws. Finland is committed to promote observance of the Guidelines. To support the effectiveness of the Guidelines the adhering governments have set up National Contact Points (NCPs) which raise awareness of the Guidelines and implement them. NCPs also function as conciliation and mediation fora for the implementation of the Guidelines.

Complaint related to the Guidelines refers to a situation, where someone wants to find out whether a certain multinational enterprise has operated according to the Guidelines. The Finnish NCP is the Ministry of Employment and the Economy together with the Committee on Corporate Social Responsibility (based on Government Decree 591/2008). The committee gives to the Ministry its view on the complaint, i.e. whether the committee sees that the enterprise has operated according to the Guidelines.

How to Submit a Complaint

A complaint is asked to be delivered in writing to the registry of the Ministry of Economic Affairs and Employment (P.O. Box 32, FI-00023 GOVERNMENT, Finland), and a copy of the complaint is asked to be sent by email to [ncp-finland \(at\) tem.fi](mailto:ncp-finland@tem.fi).

There is no strict guidance on how the complaint is to be formulated, but the complaint should contain the following information:

- Name and contact information of the complainant;
- Name of the company involved;
- Specific reference(s) to the section(s) of the Guidelines that are thought not to be complied with.

In order to make the process swift, parties can use this form to submit a complaint: <http://tem.fi/documents/1410877/2866346/How+to+submit+a+special+instance/ec2047ed-94c5-452a-9951-deb4e83699e7>.

Several parties can make a joint complaint. Travel expenses are not reimbursed. Complaints referring to events taken place over three years ago will not to be taken into consideration.

For further OECD principles for the processing of complaints, see the Guidelines (page 81): <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

Initial assessment

When the Ministry has received a complaint, the NCP will assess, whether the complaint merits further consideration (this is called initial assessment). This process includes a review of the complaint, asking for a statement from the company involved, communication between parties, and possibly consulting other NCPs.

During the initial assessment it is possible that the NCP makes further inquiries, which means making request(s) of information to parties, Finnish embassy network, or to other National Contact Points.

If the NCP will not take the complaint into closer examination, the NCP publishes a statement, which includes a description of the complaint and reasons for the decision. If on the other hand the NCP

takes the complaint into further examination, the process proceeds to the next phase, examination of the complaint. This does not however necessarily mean that the company involved in the complaint has violated the Guidelines.

Examination of the complaint and final statement

If the NCP decides to examine the complaint, the NCP offers good offices to parties, with the aim to find an acceptable agreement to parties involved. The NCP will follow the application of the agreement. If an acceptable agreement is not to be reached, the NCP continues examination of the complaint. Parties can supplement their statements throughout this phase. If the parties do supplement their statements, these are asked to be sent both the registry of the Ministry of Economic Affairs and Employment and to the NCP mailbox (see contact details above).

If parties wish to supplement their statement(s), supplements are always to be delivered at least three weeks before CSR committee's meeting. Meeting schedule will be delivered beforehand to the parties.

When the material related to the complaint is ready, the CSR Committee will be called to process the complaint in order to draft a statement for the Ministry of Economic Affairs and Employment.

Based on the examination of the complaint the CSR Committee drafts its view for a final statement and whether it sees that the company in question has breached the Guidelines or not. The final statement can also entail recommendations for the company on implementing the Guidelines. The Ministry of Economic Affairs and Employment makes the final decision after receiving the CSR Committee's view.

Complaint processing is also described in figure 1.



Figure 1. Complaint processing.

Confidentiality and Specific Instances

As a general rule the Guidelines state that NCP actions are public. However sometimes procedural efficiency may require appropriate securing of confidentiality when dealing with complaints. The Finnish NCP acknowledges the need to protect sensitive business information and other confidential information in complaint processing.

If a party in a complaint wants to keep something confidential, the party must mark the confidential parts to the material it delivers for the NCP. The delivered material cannot be marked confidential as a whole, since as a general rule the opposite party must have information on all material delivered to the NCP. These rules concerning concealing material are in line with the Act on the Openness of Government Activities (621/1999) and with the OECD Guidelines.

The NCP strives to handle complaints in a timely manner. When the NCP handles complaints, it acts in a manner that is impartial, predictable, equitable and compatible with the principles and standards of the Guidelines.

The NCP will notify the OECD Investment Committee of the statements it has given.