

Final statement by the German National Contact Point for the OECD Guidelines for Multinational Enterprises regarding a specific instance by an NGO headquartered in the UK, about violations of the OECD Guidelines for Multinational Enterprises by a company incorporated in Luxembourg

On 13 January 2015, an NGO headquartered in the UK (hereinafter referred to as “the Complainant”), lodged a specific instance with the German National Contact Point for the OECD Guidelines for Multinational Enterprises (NCP).

The Complainant claims that a company incorporated in Luxembourg, does not act in accordance with paragraphs 1 to 3, 5 and 6 of Chapter IV, Human Rights, of the Guidelines. It states that the company has provided satellite services to the US administration and that these services have been used for drone operations in a number of countries, including some on which no war had been declared. The complaint relates specifically to the human rights impacts of these operations on Yemeni individuals as well as of the population on Yemen as a whole. The Complainant also claims that the company does not have any internal policy for reviewing due diligence with regard to the human rights impacts of its activities.

The OECD Guidelines for Multinational Enterprises are part of the OECD Declaration on International Investment and Multinational Enterprises. The Guidelines set out recommendations for responsible corporate conduct when undertaking foreign investment. The governments of the OECD member countries and other participating countries have committed themselves to having their respective National Contact Points promote the use of this voluntary code of conduct and assist with finding solutions to specific instances by means of confidential mediation involving the relevant partners.

In keeping with the Procedural Guidance for the OECD Guidelines for Multinational Enterprises, the NCP and the ministries represented in the Interministerial Steering Group for the OECD Guidelines conducted an initial thorough evaluation in order to examine whether the issues raised in the specific instance warranted a more in-depth investigation. The company was given the opportunity to comment. In an email sent on

3 March 2015, the company stated that it would not be commenting or participating in the NCP proceedings.

The German NCP examined in particular whether it was the competent NCP to deal with this case. Paragraph 23 of the Implementation Procedures of the OECD Guidelines states that “Generally, issues will be dealt with by the NCP of the country in which the issues have arisen.”

Regarding this point, the specific instance states that critical infrastructure enabling drone operations to be conducted / information for these operations to be gathered via the satellite network is located in Germany in US military bases.

The NCP is not of the opinion that this reasoning – which has not been investigated – represents grounds for designating the German NCP as competent in this case. The company is incorporated in Luxembourg and its main operations centre for satellite operations is located in the US. Any issues relating to general due diligence would therefore have to be dealt from there. Furthermore, the German NCP is not competent to deal with issues concerning the specific impacts of the company’s actions. No assertion has been made that the company’s actions have had any adverse impacts to be felt in Germany. No sufficient assertion exists that the company itself conducts related activities based in Germany.

The proceedings brought before the NCP in Germany are thus terminated.

Berlin, 11 Mai 2015

For the National Contact Point
Dr Malte Hauschild
Federal Ministry for Economic Affairs and Energy