



Follow up of the Final Statement regarding the Specific Instance

4 Trade Unions (IUF, EFFAT-IUF, SEIU, UGT) vs APG Asset Management

Date: 21 December 2023

Follow up of the Final Statement by the Dutch National Contact Point for the OECD Guidelines for Multinational Enterprises further to the Final Statement published on 3 February 2022.

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1. Introduction

On 3 February 2022, the Dutch National Contact Point (NCP) published a Final Statement which concluded the specific instance regarding an alleged violation of the OECD Guidelines for Multinational Enterprises (hereinafter: the Guidelines) by APG Asset Management. The notification in this specific instance was submitted to the NCP by IUF, EFFAT-IUF, SEIU and UGT.

The notification concerned alleged gender-based violence and harassment (GBVH) in the global operations of McDonald's Corporation, a multinational enterprise with headquarters in Chicago, Illinois, USA, and related due diligence by investors APG (the Netherlands) and NIBM (Norway). The issues raised involved conduct at McDonald's operations in, but not limited to: Australia, Brazil, Chile, Colombia, France, the United Kingdom and the United States. Following coordination with the US NCP and Norwegian NCP, it was decided that the Dutch NCP would handle the issues concerning APG.

The issues raised in the initial submission and in the supplemental submission of 28 January 2021 relate to the OECD Guidelines' Chapter II (General Policies), Chapter IV (Human Rights) and Chapter V (Employment and Industrial Relations).

In its Initial Assessment of 20 May 2021, the NCP concluded that the issues raised merited further consideration and offered its good offices to facilitate a dialogue between the parties. Both parties accepted the good offices, after which a dialogue between the parties started, resulting in an agreement between the parties.

On 3 February 2022, the NCP published its Final Statement with the Agreement between the parties, and included recommendations to APG on the implementation of the Guidelines. With this, the NCP concluded the procedure of this specific instance. For further details on the notification and the following NCP procedure, see the Final Statement on the NCP website.

2. Follow-up of the Final Statement procedure

The standard procedure for a follow-up is that the NCP initiates an evaluation one year after the publication of a Final Statement. The purpose of such a follow-up is for the NCP to assess, based on information provided by the parties, what follow-up actions parties have taken in relation to the results of the dialogue and/or the recommendations made by the NCP.

Usually, this process is done in writing. However, if the parties so prefer, the NCP can also organize a meeting. In the case of the specific instance concerned, it was recommended in the Final Statement that both parties would come together for a follow-up meeting.

The NCP initiated the follow-up by contacting both parties with the request to give an account of the follow-up actions they took in relation to the NCP's recommendations and the suggestion of a follow-up meeting. A joint on-line meeting between the parties was held on 26 September 2023.

Following the joint meeting, the NCP drafted the follow-up report and shared the draft with both parties. Parties provided comments, after which the NCP finalized the follow-up report and posted it on its website.

3. Outcomes of the follow-up

In their Agreement, the parties agreed on the following points:

- 1) the exchange of information on APG's RBC policies and the importance of learning about the prevalence of GBVH in the workplace against workers in the fast-food restaurant industry;
- 2) developing a common understanding of standards applicable to GBVH, and the need for effective and publicly available policies on GBVH; and
- 3) the need for stakeholder engagement of workers in the development of corporate policies and training programmes.

Going forward, the parties agreed on a roadmap for further cooperation to develop the points of the agreement. As laid out in the roadmap, APG invited the sharing of information on GBVH by stakeholders in order to strengthen and further develop its responsible investment policies; the parties would work together to develop a common understanding of what "applying a gender-based lens" means from an investment perspective; and the parties would exchange views on how APG can integrate this into their policies and programs through, for example, the development of indicators and data sets, the drafting of enterprise (thematic/industry) engagement guidance and/or the production of an internal document on GBVH.

During the follow-up meeting of 26 September 2023, parties shared with the NCP that a continued dialogue and sharing of information between IUF and APG had not materialized following the conclusion of the mediation process, even though the willingness to cooperate still remained on

both sides. This means that the parties did not jointly take action on the various points of the roadmap for further cooperation, but each took actions separately in a different context.

For example, APG informed the NCP and the notifying parties that they continued to engage with McDonalds twice a year, including on the topic of GBVH. According to APG, McDonalds has confirmed that they are implementing programmes and policies, which are well-received amongst workers. Results and findings of these policies are not published, but will be shared with APG overtime. APG is monitoring the development of trainings and is pushing to add human capital management as an item to the manager job profile. Furthermore, APG has engaged a human rights consultancy to improve their company screening methodology on human rights.

IUF informed APG and the NCP on the trends they encounter in the fast-food industry, even though this is beyond the immediate scope of this Specific Instance against APG. For example, IUF encounters difficulties engaging with the fast-food restaurant sector. When IUF wishes to address issues arising in the workplace, it is referred to the local franchise.

This becomes a challenge when the majority of restaurants is franchised. IUF also sees an unwillingness in the sector to engage with worker organizations and trade unions, as well as efforts to prevent workers from organizing.

4. Conclusion of the NCP

Based on the information provided by the parties, the NCP concludes the following.

Overall, the NCP has not been able to identify substantive progress made by the parties jointly regarding their agreed roadmap on the issues raised in the specific instance, due to a lack of communication between them following the NCP procedure. The NCP appreciates the fact that both parties have expressed the wish to remain in contact going forward, and expresses the expectation that the parties will work together more closely on implementing the agreed outcomes of the mediation procedure, in line with the provisions of the updated OECD Guidelines regarding meaningful stakeholder engagement.

The NCP would like to thank both parties for their cooperation in this follow-up procedure and encourages the parties to resume sharing information now that contact has been reestablished.

The role of National Contact Points (NCPs) is to further the effectiveness of the OECD Guidelines. The Dutch government has chosen to establish an independent NCP, which is responsible for its own procedures and decisions, in accordance with the Procedural Guidance section of the Guidelines. In line with this, the Dutch NCP consists of four independent members, supported by four advisory government officials from the most relevant ministries. The NCP Secretariat is hosted by the Ministry of Foreign Affairs. The Minister for Foreign Trade and Development Cooperation is politically responsible for the functioning of the Dutch NCP. More information on the OECD Guidelines and the NCP can be found on the [NCP Website](#)

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Ministry of Foreign Affairs

P.O. Box 20061

2500 EB The Hague

The Netherlands

[NCP Website](#)