



The Norwegian Contact Point (NCP)
The Ministry of Foreign Affairs
WTO/OECD section
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Allegation of a breach of the OECD guidelines for multinational enterprises.

The Forum for Environment and Development (ForUM) is a network comprising more than 50 voluntary organisations engaged in questions of environment and development. The organisation was established after the Rio summit in 1992 to follow up the work on sustainable development. Today the organisation is a forum for political and professional debates, and facilitates initiatives and political influencing in environmental and developmental questions.

ForUM wishes to file a complaint against Aker Kværner ASA of a breach of the OECD guidelines for multinational companies.

Since 1991, Aker Kværner ASA has, through the agency of its daughter company Kværner Process Services Inc. (KPSI) which it owns 100%, carried out assignments for the American Department of Defense in the area of Guantanamo Bay, Cuba. In 2001 the scope of activities was expanded to include the building and maintenance of facilities for the incarceration of captives taken during military operation in, among other places, Afghanistan.

KPSI has been involved in the excavation and building of foundations, the building of prison cells, maintenance and other work connected to the infrastructure of these facilities.

Attachment 1: Article in Verdens Gang 07.09.2002

Attachment 2: Article in Klassekampen 13.01.2004

These prison facilities have attracted a great deal of attention in the press. The International Committee of the Red Cross and human rights organisations such as Human Rights Watch and Amnesty have all pointed out that the facilities are administered in a fashion that infringes several core human rights.

Attachment 3: The International Committee of the Red Cross: Press Release: 16.01.2004 and operational update 30.04.2005

Attachment 4: Amnesty International, USA: Press Release 13.05.2005

Attachment 5: Article from the Center for Constitutional Rights (CCR), USA

The prohibition against the deprivation of freedom is reckoned as a core human right. This prohibition is included in many national legal sources, as well as in the Universal Declaration of Human Rights of 1948, art. 9, which states that: "No one shall be subjected to arbitrary arrest, detention or exile."

In the UN Covenant on Civil and Political Rights of 16.12.1966 this prohibition is developed further, and this convention is also ratified by the USA. At present 540 prisoners are imprisoned in the Guantanamo facilities. Many of them have been imprisoned for more than two and a half years without receiving a prosecution notice or trial.

Attachment 3: The International Committee of the Red Cross: Press Release: 16.01.2004 and operational update 30.04.2005

Attachment 5: Article from the Center for Constitutional Rights (CCR), USA

This practice constitutes a clear breach of the two conventions mentioned above.

The USA High Court has, in the judgement of the 28th. June 2004 (Rasul v. Bush), established that practices employed in the prison facilities breach American law according to the Habeas Corpus principle that nobody can be held imprisoned for an indefinite time without access to a court of law.

Attachment 5: Article from the Center for Constitutional Rights (CCR), USA

The OECDs guidelines, in Chapter 2 point 2, state that companies that are subject to these guidelines should "Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments."

ForUM wishes to draw attention to the fact that Aker Kværner, through KPSI, breaches the Guidelines Chapter 2 point 2, by contributing to a prison system that abuses international law and core human rights, and that Aker Kværner ASA and KPSI through their activities do not respect the human rights of the prisoners that are affected by the self same activities. The activities at the prison cannot be said to be in agreement with the host country's obligations, since the USA is obliged through the Covenant on Civil and Political Rights to respect the prohibition against arbitrary deprivation of freedom. Furthermore, the injunction against arbitrary detention is regarded as a point of common law that is valid in any geographic area. On this basis, Aker Kværner's contribution to the prison facilities through its daughter company KPSI constitutes a breach of the OECDs guidelines, Chapter 2 point 2.

Other abuses have also occurred within the facilities of Guantanamo. Deprivation of the senses and of sleep has been reported from several sources, as has the use of strobe lights, and incarceration in tiny cages. Furthermore there are reports of the regular use of violence, sexual harassment and forced immobility in painful physical positions. This is well documented by the organisation Human Rights Watch, in the report: "Guantanamo: Detainee Accounts".

Attachment 6: Human Rights Watch: "Guantanamo: Detainee accounts"

The Universal Declaration of Human Rights of 1948, article 5, and the UN Covenant on Civil and Political Rights of 16.12.66 article 7 on the prohibition of torture or cruel, inhuman or degrading treatment or punishment and the UN Covenant on Torture articles 1 and 2 are central clauses that directly relate to actions that have occurred and are occurring at Guantanamo base.

KPSI's assignments were connected to the excavation, foundation and construction of very small cells (2 x 2,5m), and the running and maintenance of specified objects and areas of the facilities. These assignments alone give, in the opinion of ForUM, grounds to claim that KPSI, through these activities, breaches the OECDs guidelines, Chapter 2 point 2.

Aker Kværner ASA and KPSI have, through their services, made possible the continued running of the facilities, and thereby the abuses that have occurred and are occurring. Such tasks as the supplying of electricity to floodlights that are turned on 24 hours a day, maintenance in the cells, responsibility for sewage, renovation and fuel are so closely interconnected with the operation of the facilities that the perpetrators of these actions must be regarded as accessories to a serious breach of human rights. These activities also create independent grounds to establish the breach of OECDs guidelines, Chapter 2 point 2.

ForUM requests that the National Contact Point takes this case up for evaluation. We demand that Aker Kværner ASA and KPSI close down their work connected to the prison facilities at Guantanamo.

Yours faithfully,

Forum for Environment and Development

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