

June 16, 2014

Decision

This is a partial decision after case handling step 1; initial assessment.

The complainant: Danish NGO
ctr.

The subject of the complaint: a Danish company

The Mediation and Complaints-Handling Institution for Responsible Business Conduct (NCP) received the complaint with a preliminary report on April 30, 2014. The final report was sent to the NCP on June 5, 2014.

The NCP has dealt with the complaint in a meeting on June 16, 2014.

The specific circumstances of the case

The complaint relates to whether or not the subject of the complaint, which is a Danish company, has breached the OECD Guidelines for Multinational Enterprises (OECD Guidelines) by polluting and afterwards not adequately cleaning in Denmark, and by selling hazardous products abroad. The complaint thus relates both conditions in Denmark and abroad.

The complaint refers to the OECD Guidelines, chapter VI about environment (Chapter VI, 3, 4, 6b and 6d), and Chapter V about employment and industrial relations (Chapter V 4b).

The NCP's decision and justification:

After having received a complaint, the Danish NCP conducts an initial assessment. The Danish Act and Executive Order on a Mediation and Complaints-Handling Institution for Responsible Business Conduct set up a variety of criteria which the complaint must fulfill.

The Mediation and Complaints-Handling Institution for Responsible Business Conduct deals with cases relating to non-compliance of the OECD Guidelines for Multinational Enterprises. The Institution is the OECD's Contact Point in Denmark and is responsible for raising awareness of what responsible business conduct entails.

**Danish Mediation and Complaints-
handling Institution for Responsi-
ble Business Conduct**

Dahlerups Pakhus
Langelinie Allé 17
2100 Copenhagen

Tel + 45 35 29 10 00
Fax + 45 35 29 10 01
CVR-nr. 48 46 41 14

post@businessconduct.dk
www.businessconduct.dk

Time limit for the appeal:

The NCP can only consider complaints brought within five years after the disputed act or omission has ceased, cf. the Act on Danish NCP, section 6. The complaint relates to matters which have occurred at different times.

From the report submitted by the complainant, the points about foreign concerns relate to current practices and thus respect the 5-year period.

Regarding the point concerning the situation in Denmark, there are complaints of current production from the factory in Denmark which thus include current activities. The same applies to the point about actual pollution in Denmark and related inadequate cleaning.

However, the complaint also includes a point on historical pollution of factory areas and other areas in Denmark. As for this original pollution, the relationship ended more than five years ago, and the complaint cannot be treated in the NCP, cf. the Act on Danish NCP, section 6.

Objective justification:

The NCP has determined that the complaint contains an objective justification, as the complaint as a whole deals with matters which are included in the OECD Guidelines, cf. the Act on Danish NCP, section 5, paragraph 1.

Reasonable documentation:

The institution has also assessed whether or not there is reasonable documentation of the alleged violations of the OECD Guidelines, cf. the Act on Danish NCP, section 4 and its comments. There need not be evidence of the listed offenses, but there is a requirement for certain details of how the respondent has violated the OECD Guidelines.

The complainant has completed the NCP complaint form on the website. In addition, complainant has forwarded a report prepared by another NGO. The NCP has assessed this material.

The point in the complaint relating to pollution and inadequate cleaning in Denmark is not supported by concrete documentation which with a reasonable degree of certainty clarifies the way in which the subject of the complaint has violated the OECD Guidelines.

The point in the complaint relating to sale and use of products abroad is not supported by specific documentation which with a reasonable degree of certainty clarifies the way in which the respondent has violated the OECD Guidelines. The report merely identifies different products.

Other complaint criteria:

The complaint lives up to the other formal criteria.

NCP conclusion:

Based on the information available the NCP concludes that the 5 year time limit is outdated for the complaint point relating to the historical pollution in Denmark. Therefore, this part of the complaint is rejected, cf. the Act on Danish NCP, section 5, paragraph 1.

Regarding the other complaint points the NCP has assessed that they are not supported by reasonable documentation. Therefore, this parts of the complaint is also rejected, cf. the Act on Danish NCP, section 5, paragraph 1.

The NCP is an independent body within the public administration, and the decision not to investigate a complaint cannot be appealed to any other public authority.

On behalf of the Mediation and Complaints-Handling Institution for Responsible Business Conduct.

Mads Øvlisen
Chairman