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Apartheid and bank complicity case: UN expert urges reform of OECD review mechanism to protect human rights

GENEVA (27 April 2020) – OECD Member States should consider establishing a mechanism to prevent conflict of interest of their National Contact Points (NPC's) corporate review process to strengthen the procedure and its credibility. Conflicts of interest must be prevented in order to not undermine accountability for gross human rights violations, a UN expert said today.

The UN Independent Expert on debt and human rights, Juan Pablo Bohoslavsky, said a case alleging the involvement of two European banks in illegal arms dealings by South Africa's apartheid regime highlighted the need to establish an independent committee to review potential procedural flaws.

Member States of the Organisation for Economic Co-operation and Development (OECD), which represents the 36 wealthiest countries, established National Contact Points (NPCs) at the national level as an independent mechanism reviewing responsible business conduct including the respect of human rights.

In May 2018, civil society organisations submitted a complaint to NCPs of Belgium and Luxembourg alleging that KBL Bank and KBC Group of Belgium allowed South African state-owned enterprise Armscor to fund and conceal weapons purchases in violation of a UN embargo, as well as offering financial vehicles for money-laundering.

Bohoslavsky said the complaints were dismissed at a preliminary stage without full consideration of the evidence and ignoring the arguments made in his [amicus curiae](#) on the legal implications of responsibility for financial complicity in gross human rights violations and the paramount importance of the right to truth in this case.

"I am also shocked about the fact that some representatives of the private sector's NCP committee included KBC Group, and that despite numerous requests from the complainants to address the potential and apparent conflict of interest, no meaningful action was taken during or after the process. Being judge and judged at the same time is against basic legal principles," the Independent Expert said.

Bohoslavsky said he agreed with OECD that States should ensure National Contact Points operate impartially and without any risk of real or perceived conflict of interest.

"The appearance of conflict of interest remains and seriously undermines the credibility of the process. One aim was to shed light on alleged financial contributions to a criminal regime and ultimately understand how these actors could have allegedly contributed to its consolidation. This is about the victims' fundamental right to the truth.

"It is key to guarantee that OECD's review mechanism works properly in each member State and to ensure accountability for human rights violations, including in the context of gross human rights violations," Bohoslavsky said.

However, he stressed: "In general, the authorities must ensure that potential victims have access to effective remedies for alleged human rights violations and that businesses act in accordance with their human rights obligations in all their operations.

"Ensuring that victims can exercise their basic right to truth and know what happened during apartheid, is essential," the Independent Expert said.

NOTE TO EDITORS:

This issue was brought to the attention of concerned authorities in 2019: [Belgium](#), [Luxembourg](#) and [OECD](#). The Independent expert is grateful for responses received, from [Belgium](#) and [OECD](#). The Independent Expert presented a [report on responsibility for financial complicity](#) to the Human Rights Council in 2015.

ENDS

Mr. Juan Pablo Bohoslavsky (Argentina) was appointed as [Independent Expert on the effects of foreign debt and human rights](#) by the United Nations Human Rights Council on 8 May 2014. He has previously worked as a Sovereign Debt Expert for the United Nations Conference on Trade and Development (UNCTAD) where he coordinated an Expert Group on Responsible Sovereign Lending and Borrowing. He is independent of any government or organization and serves in his individual capacity.

The Independent Experts are part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organisation and serve in their individual capacity.

The Independent Expert's appeal has been endorsed by Mr. Fabian Salvioli, [Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#).

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