

SPECIFIC INSTANCE “LSD vs TOSYALI” August 27 2021

“Lumiere Synergie pour le Developpement” and “l’Association des femmes transformatrices de poissons de Bargny Guèdj (Khelcom)” vs.Tosyalı Iron And Steel Senegal S.A.

The objective of this assessment under the Procedural Guidance is to determine whether the issues raised in the specific instance merit further examination. If so, the NCP will offer its good offices, such as dialogue, mediation or conciliation to the relevant parties. As specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot impose sanctions, directly provide compensation nor compel parties to participate in a conciliation or mediation process.

Overview of the NCP and its role

The OECD Guidelines for Multinational Enterprises are recommendations by governments to their companies, regardless of where they operate. These recommendations focus on several areas such as disclosure, human rights, employment and industrial relations, the environment, the fight against corruption, consumer interests, science and technology, competition and taxation. In addition, the concepts of responsible supply chains and due diligence have been introduced. The various National Contact Points (NCP) are responsible for monitoring the implementation of these Guidelines. The NCPs have a dual role in raising awareness and promoting observance of the Guidelines as well as contributing to the resolution of issues that arise relating to the implementation of the OECD Guidelines. The NCPs can contribute to the resolution of issues raised by different means such as offering good offices, and where applicable, issuing determinations, recommendations, and carrying out follow up. Turkey, as an OECD Member and adherent country to the OECD Guidelines for Multinational Enterprises, entitled the Ministry of Industry and Technology as the National Contact Point to promote the Guidelines and act as a forum for discussion of all matters relating to the Guidelines.

Summary of the case and procedures followed

Turkish National Contact Point (Turkish NCP) received a specific instance notification, via e-mail, submitted by *Lumiere Synergie pour le Developpement* (LSD), a Senegalese NGO and Fisher women association of Bargny on August 27, 2020 alleging that *Tosyalı Iron And Steel Senegal S.A.*, a Senegalese company established in 2019 by Tosyalı Holding of Turkey (Tosyalı) had violated the chapters “General Principles”, “Human Rights” and “Environment” of the Guidelines.

The complaint by LSD alleges that Tosyalı, which has signed an agreement with the Senegalese government for the manufacturing of iron and steel products on the site where more than 1,500 women established the Association for several generations whose main activity consists of drying, processing and marketing of fish.

The complainant asked the good offices of the Turkish NCP to force Tosyali Holding Senegal to comply with the OECD Guidelines for Multinational Enterprises, immediately stop its activities on the Khelcom site and engage in dialogue with women.

As part of the initial assessment process, Turkish NCP contacted both parties, requested supporting documents and offered them its good offices in order to come to a solution through constructive dialogue.

On September 8, 2020 Tosyali contacted the Turkish NCP with a letter explaining that Tosyali signed a contract with a Senegalese consulting firm for conducting the environmental and social impact study (ESIA), which is still ongoing and another one for carrying out the topographic surveys.

The Turkish NCP attempted to contact the Senegalese side via e-mail (written in English) on 5 October 2020 and again on March 29, 2021 (written in French). The Senegalese Fisher women association and LSD have made no further contact and have not responded to the NCP's e-mails.

On April 26, 2021, Tosyali contacted the Turkish NCP via e-mail upon the request of an update on the case. The company stated that the fish processors of Bargny and the population living nearby the Special Economic Zone of Bargny-Sendou are now optimistic about Tosyali's project after an awareness program that APIX (Senegalese Agency for the Promotion of Investments and Major Constructions) had launched in order to facilitate the social acceptance of the project. Tosyali and APIX held several meetings with the Senegalese Authorities and representatives of Bargny's population (including the Fisher Women Association of Bargny) directly impacted by the project, explaining the advantages of the project and of the resettlement site where they will be able to continue their activities under better conditions.

Since the Turkish NCP was unable to reach the complainant, it contacted the Turkish Office the Commercial Counsellor at Dakar and asked for their assistance. On July 2, 2021, the Office relayed the e-mail from the complainant NGO, covering the latest developments on the case. It stated that the date of the last meeting dated back to February 09, 2021 in Bargny; they are waiting for the finalisation of the environmental and social impact studies accompanied by an Environmental and Social Management Plan; the Ministry of Fisheries, representatives of Tosyali and APIX have met several times with the fish processing women of Khelcom to try to find common ground, however, there were still disagreements over the location of the new site and accompanying measures.

Conclusion

Having regard to the ongoing dialogue between the company and the complainant NGOs, the Turkish NCP is of the opinion that further offering of good offices is not necessary at this date. However, the Turkish NCP will continue to follow up the specific instance in the following six-month and inquire about the results of the dialogue between two parties and offer its good offices if deemed necessary.