

STATEMENT ON SPECIFIC INSTANCE

(August 16, 2023)

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

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. Türkiye, 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 Türkiye (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 Tosyalı 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.

Recommendations of the 2011 Guidelines targeted by the referral

Chapter II on General Policies

Enterprises should take fully into account established policies in the countries in which they operate and consider the views of other stakeholders. In this regard:

II.A. Enterprises should:

II.A.10. Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

II.A.11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

II.A.14. Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.

Chapter IV on Human Rights

States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

IV.2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.

IV.5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.

IV.6. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

Chapter VI on Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

VI.3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.

VI.4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise such damage.

As part of the initial assessment process, Turkish NCP validated the submission's formal admissibility and 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 Tosyalı contacted the Turkish NCP with a letter explaining that Tosyalı 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, Tosyalı 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 Tosyalı'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. Tosyalı 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 Tosyalı 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.

On August 7, 2023 Tosyalı contacted the NCP again upon the request of an update. The company states that APIX has reserved 13 hectares site for the resettlement of the women and construction of football pitches that will be financed by Tosyalı. Furthermore, the Prefect of Rufisque, together with the Ministry of Fisheries and APIX, conducted several meetings with leaders of fishermen and women. The latter consented to the implementation of the project as the weather conditions usually affect their activities, particularly during the rainy season (3 months) when they cannot perform their fish smoking activities.

Assessment of the National Contact Point (NCP)

The NCP's role is to facilitate a dialogue between parties concerned and thus to contribute to a mutually agreed solution to the conflict between parties. Having regard to the ongoing dialogue between the company and the complainant NGOs and the existence of a mutually agreed solution, the NCP has decided to close the specific instance.