



Mexican NGO ProDESC and indigenous human rights defenders announce their withdrawal from specific instance procedure before French National Contact Point against EDF Group and its subsidiaries

Mexico City, July 29th, 2019. Today, Mexican human rights organisation Proyecto de Derechos Económicos, Sociales y Culturales¹ (ProDESC) and indigenous human rights defenders and *comuneros* from Unión Hidalgo, Oaxaca (Mexico), announced that they are stepping out of the procedure of the specific instance filed in February 8th, 2018 to the French OECD National Contact Point.

In the OECD complaint, the organisations argued that French electricity company EDF Group and its Mexican subsidiary EDF Energies Nouvelles (currently EDF Renewables) violated standards of human rights due diligence in the development of the Gunaa Sicaru Wind Power Project in Oaxaca, Mexico.

The organisations made this decision after participating *bona fides* in the procedure for almost a year and a half, with no substantial results in the mediation procedure. To a large extent, such poor outcomes are related to the dysfunctional form of French NCP organization as well as its role assumed in delivering its good offices.

During the procedure, the French NCP spent considerable time assessing issues that were not either at stake in the specific instance or indicated as part of the requirements set by the Guidelines and the NCP Bylaw. Besides, the NCP required a very high level of confidentiality from the interested parties, but did not compensate such strict standard with an adequate level of transparency. This would have ensured the predictability and equitability of the procedure, according to the NCP's own guiding principles.

The complainants highlighted in several occasions how the specific instance could be beneficial to the topics at stake in spite of the parallel procedures related. Furthermore, the European Center for Constitutional and Human Rights (ECCHR) was consulted as legal expert organisation by the NCP. ECCHR underlined how EDF's behavior contributes to the "shrinking spaces" for civil society and, in this specific case, significantly restrict fundamental civil rights of indigenous people. However, the examination of such matters by the French NCP was rather superficial, pushing the complainants to get into an agreement when no substantial contribution

¹ Project of Economic, Social and Cultural Rights.

to the resolving of the issues was made, and after only two meetings with the company held in the course of the procedure².

The good offices of the French NCP were not delivered in a way that could prevent or refrain the continuity if the negative impacts caused by the breaches alleged in the specific instance. Such actions should be in the scope of the French NCP, since they provide equitability to the procedure and can maintain the substance of the specific instance –thus bringing the basis for NCP recommendations.

One example of the importance of delivering good offices in a way that could have fostered the effectiveness of the Guidelines, is the recent Urgent Appeal issued by World Organization Against Torture and the International Federation of Human Rights. These organisations highlighted the increasing of level of risk and incidents of threats against human rights defenders in Unión Hidalgo, as a consequence of the installation of wind farms in the community – one of them is the Gunaa Sicarú wind farm project related to the specific instance³. The French NCP did not address such situation nor propose any action as part of its good offices.

Finally, it is important to recall the demands of several organisations directed to the French NCP in a letter on January 28th, 2019. Among other things, they required French NCP to secure the impartiality of the specific instance by having the French Ministry for the Economy and Finance stepping out of the procedure in order to avoid any conflict of interest. No change in the composition of French NCP was made over the course of the specific instance⁴.

As stated by all the signatory's organizations, this specific instance stood out as an opportunity for the French NCP for institutional reform. It represented an opportunity to further the effectiveness of the Guidelines and bring remedy for the issues at stake. It is regrettable that none of these objectives were accomplished.

² The first meeting being reported in the Intermediate Statement of the French National Contact Point in May 14th, 2019.

³ World Organisation Against Torture, "México: Amenazas, señalamientos y estigmatización en contra de miembros de la comunidad indígena de Unión Hidalgo (Oaxaca)", available at <https://bit.ly/30HSeOW>.

⁴ Lettre de relance "Appel urgent à la réforme du Point de Contact National OCDE français en vue de restaurer la confiance de la société civile française", available at https://www.asso-sherpa.org/wp-content/uploads/2019/03/Avis-pour-la-CNCDH-VF_3_compressed-3_compressed-2.pdf#page=25

ProDESC and Unión Hidalgo's indigenous human rights defenders and *comuneros* will continue their efforts to hold the companies involved in the complaint accountable.

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