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Hungarian National Contact Point

Case handling procedure

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The Hungarian National Contact Point (HNCP) case handling procedure

The HNCP's procedure starts with the submission of a complaint and, in accordance with the Guidelines and Procedures, consists of three stages, namely:

1. preliminary assessment,
2. assistance to the parties to resolve the problems raised,
3. closure of the complaint handling procedure.

Submission of the complaint

The HNCP procedure may be initiated with the Hungarian National Contact Point in relation to the activities of a multinational company in Hungary or a Hungarian multinational company abroad in the event of an alleged violation of one or more of the provisions of the Guidelines. The procedure may be conducted in Hungarian or English, as requested by the parties.

Detailed information on how to properly submit a complaint form is available at the following link: <https://oecdmnkp.hu/hu/panaszbejelentes>

Complaints can be made by any party concerned by the case under complaint, such as communities, trade unions, NGOs or individuals affected by the company's activities. The complainant does not need to be an aggrieved party, but must be able to show a link to the case and be able to provide detailed information and facts about the case.

The complaint should be filed in the country where the problem arises or has arisen. However, it is also possible to contact the NCP of the company's

home country, in particular if the company is carrying out the activities complained of in a country that is not party to the Guidelines. If the complaint concerns more than one country that is party to the Guidelines or is submitted to more than one NCP, the NCPs will cooperate and agree on a lead NCP.

The complaint can be submitted to the HCPC in writing, in Hungarian or English.

The mandatory elements of the complaint are:

- name, address and e-mail address of the submitter;
- name, e-mail address, e-mail address, e-mail address of the multinational company which has engaged in the conduct complained of;
- the place, date, description of the conduct complained of, a description of the steps taken to bring the conduct complained of to an end;
- an indication of the provision of the Guidelines on which the complainant bases the complaint;
- if judicial or other proceedings are pending in respect of the matter complained of, a brief description of the proceedings;
- a statement of the change or objective which the complainant seeks to achieve.

The parties concerned have the possibility to initiate the HNCP procedure even if they have already initiated proceedings before another forum on the matter complained of, so that any pending proceedings do not preclude the possibility of an HNCP procedure, and offer a faster, more cost-effective and friendly alternative to the penalty procedure for resolving the dispute. If the good offices offered by the MNC between the parties are concluded by a joint agreement acceptable to all parties, the joint agreement can be approved by the court, which can mean a quicker conclusion of the court proceedings.

Preliminary assessment

The HNCP registers the complaint lodged and informs the complainant accordingly. At the same time, it will send the complainant an information note on the HNCP procedure. It states that the procedure is based on facts and covers only the provisions of the Guidelines. The HNCP will refuse to

investigate complaints that do not meet the conditions, are frivolous or harassing. The HNCP reminds the complainant that any information or opinion provided by the other party during the procedure must be treated confidentially.

The formal complaint to the HNCP will be followed by an analysis of whether the issues raised merit further investigation. In this respect, the determining factor is whether the complaint is bona fide and relevant to the application of the Guidelines.

The HNCP will consider the following:

- the identity of the complainant and his or her involvement in the case;
- the seriousness and justification of the problem;
- the complaint's gravity, the gravity of the problem and the seriousness of the complaint
- the link between the MNE's activities and the problem raised;
- the relevance of the applicable legislation and procedures, including any judicial decisions;
- the treatment of similar cases in other domestic and international proceedings;
- the extent to which the handling of the complainant's case may contribute to the objectives and effectiveness of the Guidelines.

The HNCP will only take action on a complaint concerning a case that occurred more than 5 years (from the date of submission) if it is of particular relevance to the implementation of the Guidelines.

At the start of the preliminary assessment, the HNCP will inform the company concerned of the content of the complaint received, the Guidelines and the procedure and purpose of the HNCP's procedure, and will give the company the opportunity to comment.

As a general rule, the HNCP will forward the entire complaint submitted to it, together with the complainant's details, to the company. The exception to the general rule is where there are grounds for believing that the complainant would suffer serious retaliation for initiating the procedure or where the complainant duly substantiates and justifies the possibility of such retaliation

in his or her request. Furthermore, it should be noted that the HNCP is a public interest body, and in order to be successful, it is expected that the parties to the proceeding will keep confidential any information provided by the other party or the HNCP.

HNCP will endeavour to obtain all information it deems necessary to reach a preliminary decision on the admissibility of the complaint. It shall, as appropriate, inform the representatives of the public bodies, agencies and NCPs of the countries concerned of the complaint, seek their views, involve them in the preliminary assessment and seek independent expert advice. It may request further information from the parties, setting a time limit (up to 15 working days), and may consult them in person. Please note that, in order to ensure transparency, information received from one party will be shared with all parties concerned, unless the source of the information has requested confidential treatment in writing, stating the reasons for the request.

The HNCP shall evaluate the information received and communicate its assessment in writing to the Parties, giving them the opportunity to comment. It will then decide whether the complaint is admissible.

If the parties reach an agreement at the preliminary assessment stage and the complainant withdraws his or her complaint at this stage, the HNCP will close the case without disclosing the identity of the parties unless they have reached an alternative agreement. The HNCP shall inform the complainant of the initiation of the case accordingly.

The HNCP shall endeavour to complete the preliminary investigation within three months of the date on which the complaint was lodged.

Assistance to the Parties to resolve the problems raised

If the MNCP decides that the complaint merits further investigation or sees an opportunity to provide good offices assistance, it will consult with the parties concerned on the possible details of such assistance. The HNCP will publish a short notice of the opening of its procedure on its website, summarising the substance of the complaint. The HNCP shall inform the OECD Secretariat of the initiation of its procedure and of the main facts relating to the complaint.

The purpose of the HNCP procedure is to reach/facilitate an agreement between the parties. In order to facilitate this, the HNCP will offer good offices mediation and, where necessary, will seek the assistance of external experts. The HNCP will be actively involved throughout the procedure, in addition to ensuring that it is conducted in an orderly manner. To be successful, the parties must undertake to act in good faith during the mediation, to comply with the previously agreed agenda, not to raise new issues unexpectedly and to delegate representatives to the mediation who will be able to implement the resulting agreement. Terms of reference will be drawn up in agreement with the parties before the mediation actually begins.

If the HNCP decides to offer good offices, it will endeavour to limit the time needed to deal with the case. As progress depends on the parties concerned, the HNCP will propose a reasonable timeframe for the parties to discuss the issues, after consultation with the parties. If no agreement is reached within the proposed timeframe, preferably within twelve months of the date of receipt of the complaint by the HNCP, the HNCP will discuss with the parties the potential added value of further assistance that could be provided to them. If it concludes that the continuation of the procedure is unlikely to lead to a result, it shall close the mediation. However, if circumstances warrant, it may be possible to extend this deadline, for example if the problems arise in a country not party to the Guidelines or if the HNCP sees a realistic prospect of a further solution to the problem based on agreement between the parties.

The HNCP may make suggestions to the parties, but cannot exert pressure either to participate in mediation or to reach an agreement. Participation in mediation is voluntary, but the HNCP's statement of the case of the complainant will state if one of the parties did not wish to participate in mediation and summarise the reasons for the failure to mediate. However, the content of the mediation will be kept confidential and will not be documented in writing, only the partial agreements will be made and the agreement reached will be documented.

If mediation did not take place during the HNCP procedure, or if it did not lead to a result or only led to a partial result, the MNCP will examine the case of the complainant received or the details of the case that were not included in the settlement. The aim of this is to establish whether the complaint is justified and to facilitate further

The aim is to explore the merits of the complaint and to facilitate further mediation. In the course of the investigation, the HNCP may request information from the parties, arrange meetings with them and visit the site.

The HNCP may, as necessary:

- seek the opinion of the competent authorities, representatives of the business sector, employees and other civil society organisations, and experts;
- consult with other NCPs in the countries concerned;
- seek the views of the OECD Secretariat if it has doubts about the interpretation of the Guidelines or needs useful practical advice to take the process forward.

Where the HCPN consults with National Contact Points in other countries to determine which of them is competent to handle a particular case, it may be necessary to transfer personal data, including data of third parties, to countries outside the EU under Article 49(1)(d) of the GDPR, which allows for transfers of data in the public interest.

The relevant information received will be communicated to the other party or parties, unless there are reasonable grounds to the contrary, drawing their attention to the requirement of confidentiality. During the procedure, the HNCP expects mutual cooperation and good faith from the parties. This requires the parties to respond in a timely manner, to maintain confidentiality with regard to any personal data of which they become aware in connection with the case of the complainant, as well as confidential or restricted data for security reasons, to refrain from discrediting or making the other party impossible to contact, and to respond to requests in a timely manner. The parties will have the possibility to inform the public about the substance of the complaint lodged and the different stages of the procedure, in strict

compliance with the aforementioned conditions. Conduct contrary to these conditions may be considered by the HNCP as lack of good faith and may lead to the closure of the procedure. The statement closing the procedure may provide information if a party has not shown good faith or cooperation during the procedure.

The HNCP and the professionals involved in the investigation/mediation shall maintain the confidentiality of business secrets of which they become aware and shall comply with the rules ensuring the protection of personal data. The members and professionals of the HNCPs involved in the process shall sign a confidentiality declaration to that effect. The HNCP shall keep the documents generated during the procedure as part of the complainant's case file for a period of 10 years and shall ensure that confidential information is kept confidential. Any HNCP member or professional with a conflict of interest in relation to the case shall not participate in the complaints procedure. This shall be examined and judged individually by the HNCP Secretariat. If a party has a conflict of interest, it shall declare it to the HNCP Secretariat no later than 3 working days after becoming aware of it.

Closure of the complaints procedure

The HNCP shall, following the conclusion of the procedure:

a) Issue a statement if it decides, at the preliminary assessment stage, that the complaint raised does not merit further investigation. The statement shall include at least the parties, a description of the complaint and the reasons on which the HNCP based its decision.

b) A report shall be prepared if the parties have reached agreement on the issues raised. The report shall include at least the parties, a description of the complaint, the process initiated by the HNCP to assist the parties and the date of agreement. The HNCP shall make public the report on the outcome of the process in consultation with the parties. If the parties agree, it shall include all or part of the content of the agreement. In addition, the Parties may agree to use the assistance of the HNCP to monitor the implementation

of the agreement and its terms. An agreement to this effect may also be included in the report.

c) Issue a statement if the parties have not reached an agreement or if one of the parties refuses to participate in the MNEPA procedure. The statement shall include the parties, a description of the complaint that has arisen, why the HNCP considered the complaint worthy of investigation, and a summary of the process initiated to assist the parties. Where appropriate, the HNCP's statement shall include a recommendation for the application of the Guidelines. Where appropriate, the statement may also explain why no agreement was reached.

The HNCP shall give the parties the opportunity to comment on the draft declaration in advance. However, the statement is the HNCP's position and it may decide, at its discretion, whether to change its draft on the basis of comments received from the parties. The statement issued by the HNCP has no legal effect and cannot be challenged in court or appealed.

The HNCP will make the outcome of the procedure public regardless of the outcome of the procedure. The personal data of natural persons will be disclosed only with the written consent of the data subjects.

The personal data of natural persons may only be disclosed with the written consent of the data subjects, while legal persons named as parties to the complaint will, as a general rule, be named in the final documentation. The representative of the legal person concerned may request that this be waived in a duly reasoned request to the OECD Secretariat. Personal data will be processed in accordance with the General Data Protection Regulation (GDPR), the legal basis for the processing being Article 6(1)(e) GDPR. Where the HNCP makes recommendations to the parties and considers it necessary to follow them up, it will indicate in its declaration the proposed timeframe for doing so. After the expiry of the timeframe, the HNCP will assess the extent to which the parties have complied with the proposed recommendations and will also publish a summary information notice on its website.

The HNCP will notify the outcome of its procedure to the OECD Secretariat, which will publish a short summary of the case description on the OECD Guidelines for Multinational Enterprises website. The HNCP also reports on the cases in its annual report.

Contact:

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