

## SPECIFIC INSTANCE

### MR. EDOUARD TEUMAGNIE AND EUROPEAN INVESTMENT BANK (EIB)

15 JANUARY 2024, LUXEMBOURG

The objective of the initial assessment process under the Procedural Guidance is to determine whether the issues raised in the specific instance merit further examination. If so, the NCP will offer or facilitate access to consensual and non-adversarial procedures, such as dialogue, mediation or conciliation (e.g. ‘good offices’) to the relevant parties. Since specific instances are not legal cases and NCPs are not judicial bodies, NCPs cannot impose sanctions, directly provide compensation or compel parties to participate in a conciliation or mediation process.

#### EXECUTIVE SUMMARY

On June 26, 2023, Mr. Edouard Teumagnie, an individual from Cameroon, filed a complaint with the Dutch National Contact Point (the Dutch NCP) against the European Investment Bank (the EIB). As the EIB is headquartered in Luxembourg, the Dutch NCP redirected the submission to the National Contact Point of Luxembourg (the LuxNCP) on July 4, 2023.

The complaint centers on a labor dispute between Mr. Teumagnie and his former employer, AES-Sonel Cameroon. Mr. Teumagnie alleges that the financing of the 2005-2009 Investment Plan of AES-Sonel by a consortium of international funders (the Investment Plan), including EIB, facilitated worsening working conditions and wage disparities. He contends that this financial support empowered AES-Sonel to engage in systematic moral harassment, violating his fundamental rights and professional honor. Mr. Teumagnie asserts that the EIB violated OECD Guidelines by “not supporting and upholding good corporate governance principles throughout enterprise groups” (Chapter II, para. 6).

After assessing the information provided by Mr. Teumagnie and reviewing various decisions from other grievance mechanisms related to this complaint, the LuxNCP concludes that no further examination is warranted, as the complaint fails to meet the criteria of materiality and substantiation and offering of good offices would not contribute to the purposes and effectiveness of the Guidelines. This conclusion is supported by a unique combination of circumstances: the individual workplace dispute between Mr. Teumagnie and AES-Sonel has been addressed by competent national authorities in Cameroon and Mr. Teumagnie received a financial compensation for some of his claims against AES-Sonel. Mr. Teumagnie did not demonstrate any link between the reported mistreatment by AES-Sonel and the financing provided by the EIB. The absence of such a link was previously noted by the EIB’s Complaint Mechanism which addressed Mr. Teumagnie’s claims in detail and concluded that he did not provide sufficient elements to substantiate any connection between the alleged unfair treatment by AES-Sonel and the financing of the EIB. Various other National Contact Points

(NCPs) also addressed claims originating from the same dispute against AES-Sonel, and none found grounds to proceed with Mr. Teumagnie's assertions.

The LuxNCP shared the draft initial assessment with the parties on December 13, 2023, allowing 10 days for their reactions. The LuxNCP issued its final decision on January 15, 2024. The LuxNCP shared the decision with the OECD Secretariat and published it on the NCP's website.

## SUBSTANCE OF THE SUBMISSION

The complaint was submitted by an individual from Cameroon, Mr. Edouard Teumagnie (hereinafter the Complainant), against the European Investment Bank (the EIB). The core of the complaint revolves around a labour dispute between the Complainant and his former employer, (at the time) AES-Sonel SA, domiciled in Douala, Cameroon (hereinafter AES-Sonel), a Cameroonian energy company. The Complainant alleges that the financing of the 2005-2009 Investment Plan of AES-Sonel by a consortium of international funders, including EIB,<sup>1</sup> facilitated in deteriorating working conditions, particularly concerning wage disparities between national and international employees. He alleges that the financing of the Investment Plan of AES-Sonel provided the company with financial, technical and moral means to perpetrate systemic and programmed moral harassment against him, thus breaching his fundamental rights and violating his professional honour. As a result, the Complainant alleges that the EIB has failed to observe Chapter II, Article 6 of the OECD Guidelines, which emphasises the need to "[s]upport and uphold good corporate governance principles and develop and apply good corporate governance practices, including throughout enterprise groups".

The Complainant, among other things, asks that the EIB be urged to conduct an audit to validate the alleged abuses and their classifications, and to participate in damage reparation efforts, in cooperation with other funders.

The Complainant had previously taken his grievance to the EIB's Complaint Mechanism (EIB-CM) in 2014, and again in 2023. In 2014, the EIB-CM declared the complaint partially admissible, and assessed the case to verify whether there was evidence of maladministration by the EIB. The EIB-CM concluded that the Complainant did not provide sufficient elements to substantiate any connection between the alleged unfair treatment by AES-Sonel and the financing of the EIB.<sup>2</sup> The Complainant re-approached the EIB-CM in 2023 requesting a revision of the EIB-CM's initial position in light of the June 2019 France Telecom case law, which introduced the concept of "Institutional Psychological Harassment" in the workplace. The EIB rejected the new complaint for failure to provide any new elements, prompting the Complainant to approach the OECD National Contact Point of a member country of the EIB.

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<sup>1</sup> In 2006, the EIB granted a loan to partially finance AES-Sonel's 5 year Investment Plan which totalled EUR 380 million. The EIB's loan was of € 65 million which was around 17% of the total project cost. The project was co-financed by the African Development Bank, the Banque de Développement des États de l'Afrique Centrale, DEG- Deutsche Investitions- und Entwicklungsgesellschaft MBH, the Emerging Africa Infrastructure Fund Limited, the Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden NV, the Société de Promotion et de Participation pour la Coopération Économique and the International Finance Corporation. EIB-CM Assessment, Conclusion Report, December 2014. Shared by the Complainant with the LuxNCP upon the NCP's request.

<sup>2</sup> EIB-CM Assessment, Conclusion Report, December 2014. Shared by the Complainant with the LuxNCP upon the NCP's request.

In deciding where to submit his complaint, the Complainant considered five largest economies of the European Union: Germany, France, Italy, Spain and the Netherlands. He ruled out Germany and France, since he already had pending complaints with those NCPs in relation to other funders of the same Investment Plan. He then “drew a lot” among the remaining ones, and “the Netherlands came out on top”. On June 26, 2023, he filed his complaint with the Dutch NCP. Since the EIB is headquartered in Luxembourg, the Dutch NCP redirected the submission to the LuxNCP on July 4, 2023.

## THE PROCEEDINGS OF THE NCP TO DATE

Upon receiving the complaint, the LuxNCP contacted the Complainant on July 6, 2023. The LuxNCP informed the Complainant that his complaint would be handled by the LuxNCP (explaining that the Procedures of the Guidelines allow NCPs to transfer cases to other NCPs if the other NCP is deemed more relevant to handle the case). The Complainant was informed that his submission as well as the attachments he provided would be shared with the EIB and, if necessary, with any other competent authorities, experts and the OECD Secretariat.

On the same day, 6 July, the LuxNCP shared the complaint with the EIB informing that the LuxNCP would conduct an assessment of the submission to determine whether the complaint warrants further examination and requested the EIB to provide any information they believed to be relevant to this assessment. On 13 July, the EIB acknowledged the receipt of the LuxNCP’s email and informed the LuxNCP that the file was transmitted to the EIB Group Complaints Mechanism (the EIB-CM) for further follow-up. The LuxNCP confirmed that this information will be shared with the Complainant. It also informed the EIB that it would be clarified to the Complainant that this is a separate procedure and that the LuxNCP would make an admissibility assessment for a subsequent evaluation of the case in due course. The Complainant was informed of the EIB’s response the same day.

On 28 July, the EIB-CM reached out to the LuxNCP expressing their availability for a meeting to provide further information about the EIB-CM and to better understand if and how they could assist the LuxNCP in the evaluation of the current complaint. The LuxNCP proposed to schedule the meeting after completing the admissibility assessment of the current complaint.

On 23 August, the LuxNCP received a further communication from the Complainant. After reviewing the documents submitted, it became clear that this communication did not relate to the current complaint against the EIB. The communication instead raised concerns regarding the handling of the Complainant’s previous submissions by other NCPs.

On October 5th, the Complainant submitted another set of documents to the LuxNCP. This new submission included some documents identical to those previously provided, as well as others pertaining to the dismissal of the Complainant from his former job in 2002. These documents did not contain any specific allegations against the EIB but raised general concerns about the international organizations involved, directly or indirectly, in supporting AES-Sonel. The Complainant asked these organisations to acknowledge their responsibilities regarding wage disparities between expatriates and nationals, referred to in the complaint as “racial salary apartheid”.

On October 13, the LuxNCP asked for an online meeting with the Complainant to better understand his submission and discuss specific aspects of his complaint against the EIB. On October 18, a conference call was held between the Complainant and the LuxNCP members. During the call, the Complainant was asked if he had any additional information to support his claim against the EIB. The Complainant stated that he had no

further information to add. The LuxNCP informed the Complainant that they would proceed with their evaluation and share it with him in due course.

On November 6, the LuxNCP asked the Complainant for further information and documents including the decisions of the EIB-CM. On November 8, the Complainant submitted the 2014 decision of the EIB-CM and excerpts from the 2023 decision.

On December 13, the LuxNCP shared a draft version of the current assessment with the parties, with a request to submit any comments within ten working days. The LuxNCP also shared the draft initial assessment with the NCP of the Netherlands. LuxNCP received comments from the complainant. On 15 January 2024 the LuxNCP published its decision.

The LuxNCP was unable to meet the initial timeline of completing the preliminary assessment within three months. The primary reason for this delay was the submission of additional documentation, which, upon review, was found not to be directly relevant to the complaint. Nevertheless, this supplementary material caused a delay in the assessment process. Additionally, the Complainant had submitted numerous complaints to various NCPs and engaged in several other non-judicial grievance procedures. Reviewing these submissions and decisions also contributed to the time taken.

## ASSESSMENT BY THE LUXNCP

The LuxNCP assessed the allegations submitted by the Complainant's against the initial assessment criteria outlined in the Commentaries on the Implementation Procedures of the Guidelines (para. 33) and specified in the LuxNCP's Rules of Procedure.<sup>3</sup>

The LuxNCP concludes that the issue raised by the Complainant lacks materiality and substantiation and the further examination of the issue would not contribute to the purposes and effectiveness of the Guidelines.

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## WHETHER THE ISSUE IS MATERIAL AND SUBSTANTIATED

The LuxNCP assesses that the current complaint lacks materiality and is not relevant to the implementation of the Guidelines. The core of the allegations concerns an individual workplace dispute between the Complainant and his former employer, AES-Sonel in Cameroon, in the early 2000s which fall outside the purview of the Guidelines.

The Complainant's allegations against AES-Sonel were addressed by the competent national authorities, namely the Cameroon Labour Inspectorate and the local courts in Cameroon, and the Complainant received financial compensation in that context. Notably, in April 2007, a Cameroonian Court instructed AES-Sonel to compensate the Complainant for certain claims including those related to the removal of certain salary components. Following the appeal from AES-Sonel, the ruling was later confirmed by the Court of Appeal in February 2009 and by the Supreme Court in December 2012. The Complainant received the amounts as established by the Court from AES-Sonel.<sup>4</sup>

As concerns substantiation, the Complainant failed to establish a discernible link between the alleged mistreatment by AES-Sonel and the financing provided by the EIB. The generalized allegations against the

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<sup>3</sup> See, <https://pcn.gouvernement.lu/en/complaints-procedure/rules-of-procedure.html>

<sup>4</sup> Confirmed by the Complainant to the EIB-CM in 2014.

“consortium of international funders” lack specificity and fail to establish any connection with the EIB and the alleged harm suffered by the Complainant.

The LuxNCP acknowledges the previous review of the Complainant's allegations by the EIB-CM in 2014. In his complaint with the EIB-CM, the Complainant alleged that the EIB did not assess core labor issues before financing two AES-Sonel operations, and subsequently failed to require mitigation measures from AES-Sonel during the project. Additionally, the Complainant alleged that the EIB did not provide reports on environmental and social impacts during the implementation of the Investment Plan.

The EIB-CM declared the complaint partially admissible, declaring inadmissible the allegations related to the part of the project that was not financed by the EIB and those which had already been brought before the courts. In respect of the admissible complaints, the EIB-CM concluded that the Complainant “did not provide sufficient elements to substantiate any connection between the alleged unfair treatment by AES-Sonel and the financing of the EIB”.

Nevertheless, the EIB-CM conducted an investigation into the entire process of granting and monitoring the project, particularly focusing on the labor issues raised, and concluded that “while the claims might be important for the Complainant individually”, they overlapped with “parts already declared admissible in previous court referrals in Cameroon”. Beyond the specifics of his individual case, the Complainant did not present sufficient evidence to support broader concerns about the project's social outcomes.

The LuxNCP finds the EIB-CM’s assessment to be comprehensive and concurs with the assessment that the Complainant did not provide sufficient elements to substantiate any connection between the alleged unfair treatment by AES-Sonel and the EIB’s financing.

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#### WHETHER THE EXAMINATION OF THE ISSUE WOULD CONTRIBUTE TO THE PURPOSES AND EFFECTIVENESS OF THE GUIDELINES

According to the LuxNCP's Rules of Procedure, the existence of parallel proceedings, whether judicial or non-judicial, international or domestic, usually does not prevent the NCP from offering good offices. The NCP evaluates whether such an offer could contribute positively to resolving the issues or implementing the OECD Guidelines.

In this particular case, the LuxNCP observed that several other non-judicial grievance mechanisms, including other NCPs, have considered and assessed the Complainant's grievances, and notably, none of them found grounds to advance the Complainant's claims.

In August 2011, the Complainant filed a complaint with the UK NCP, which was later transmitted to the US NCP. The complaint alleged racially discriminatory salary practices by AES-Sonel. In September 2012, the US NCP dismissed the complaint, noting that the Complainant “provided insufficient substantiation for a possible race-related basis for the salary differences he cited. Differentiated wage scale policies for expatriate and local employees are common practice among multinational enterprises and are not in themselves inconsistent with the Employment and Industrial Relations principles of the Guidelines”.<sup>5</sup> The Complainant filed subsequent

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<sup>5</sup> See, US NCP, [Mr Edouard Teumagnie & AES Sonel](#), 27 August 2011.

complaints with the UK NCP in 2012 and 2015, and with both the UK and US NCPs in 2023, which were all rejected during the initial assessment phase.

In September 2014, the Complainant approached the French NCP, asserting that the French Development Agency violated the Guidelines' General Provisions by funding investments in AES-Sonel. The French NCP, in its March 2015 Final Statement, found none of the aspects of the case admissible emphasizing that the labor dispute should be handled by local judicial authorities and citing the Complainant's failure to provide substantial evidence on governance and human resources management allegations against AES-Sonel.<sup>6</sup>

In February 2013, the Complainant filed a complaint with the World Bank Group's International Finance Corporation Compliance Advisor Ombudsman (IFC-CAO), citing discrimination and unfair treatment by AES-Sonel. Despite initiating dispute resolution, the case was transferred to the CAO's Compliance function. On 26 June 2014, the IFC-CAO concluded that, while the Complainant's concerns were significant at an individual level, the available information did not indicate substantial environmental or social concerns regarding the project. The CAO's evaluation considered IFC's due diligence and mandate, finding no issues of systemic importance to IFC that would warrant an investigation.<sup>7</sup>

In reviewing the case, the LuxNCP has not been informed of any facts or circumstances that might suggest a different outcome than the ones reached by the other NCPs and the IFC-CAO. Given this context, the LuxNCP maintains that further examination of the issue and offering of good offices would not contribute to the purposes and effectiveness of the Guidelines.

In summary, the LuxNCP's assessment of the specific facts of this case have led it to conclude that no further examination is warranted, as the complaint fails to meet the criteria of materiality and substantiation and offering of good offices would not contribute to the purposes and effectiveness of the Guidelines.

This conclusion is supported by a unique combination of circumstances:

- the core of the allegations concern an individual workplace dispute, and the LuxNCP has not been provided with substantiated indications of broader and/or more systemic deficiencies;
- the workplace dispute has been assessed by domestic courts which have awarded compensation in accordance with domestic law, and the LuxNCP has not been provided with substantiated indications that the application of the applicable law by the Cameroonian courts was deficient;
- the dispute has already been assessed by several other NCPs, and the LuxNCP has not been informed of any substantiated reasons why the substance of the decisions adopted by these NCPs was deficient;
- the Complainant has not informed the LuxNCP of any reasons why the EIB would have a specific relationship to the matter that would be a reason for a separate, additional assessment of the dispute in light of the EIB's individual involvement;
- the LuxNCP has been provided with a comprehensive assessment of the matter by the EIB-CM, whilst the Complainant has not raised any concerns with this process, other than his disagreement with the outcome of the assessment;
- the Complainant is no longer working for AES-Sonel and has not brought forward any reason why the specific instance process would contribute to the resolution of the matter.

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<sup>6</sup> See, French NCP, [Violation of employee rights in Cameroon](#), 9 September 2014.

<sup>7</sup> CAO, [Cameroon: AES Sonel-02/Douala](#), 26 June 2014.

Whilst none of these factors, taken on its own, may preclude the offering of good offices in all circumstances, the LuxNCP concludes that, in the present case, the combination of the factors outlined above justifies the LuxNCP's decision to refrain from further examination of this specific complaint.

In light of this conclusion, the LuxNCP also considers it unnecessary to address, in the context of this decision, more principled questions that could potentially be raised in respect of any of the factors mentioned above including for instance, the standard of diligence required from financiers of companies whose conduct is alleged to be in breach of the Guidelines. The same applies to potential preliminary questions such as the LuxNCP's competence to conduct a specific instance against an intergovernmental institution for the sole reason that this institution is headquartered in Luxembourg.

## CONCLUSION

The LuxNCP concludes that the Complainant's submission does not merit further consideration as it lacks materiality and substantiation. Considering, *inter alia*, the assessments already made by other NCPs, the LuxNCP concludes that further examination or offering of good offices would not contribute to the purposes and effectiveness of the Guidelines.

## NEXT STEPS

The LuxNCP sees no need for further examination of the complaint. This decision marks the conclusion of the process under the Guidelines. The NCP will inform the OECD Secretariat and the current statement will be added to the OECD Guidelines for Multinational Enterprises Database of Specific Instances.