

Non-official translation

SPECIFIC INSTANCE

“EDF - EDF RENEWABLES¹ IN MEXICO”

17th October 2019

Statement of the French NCP following complainant’s withdrawal from the NCP’s good offices in the present case

Mexican non-governmental organisation ProDESC² and two representatives of the “agrarian and indigenous sub-community” of Union Hidalgo (State of Oaxaca, Mexico) submitted a specific instance to the French National Contact Point (NCP) in writing on 8th and then on 12th February 2018 concerning EDF Group and its subsidiary EDF RENEWABLES. This specific instance concerns a wind farm project located in the territory of two municipalities, *Union Hidalgo* and *La Ventosa*, of Juchitan of Zaragoza municipality in the State of Oaxaca in Mexico.

On 12th June 2018, the French NCP published an Initial Assessment Statement announcing the specific instance acceptance and the opening of its good offices ([here](#)). It delivered its good offices with the parties as off June 2018 in order to enable information exchanges between parties and to build a dialogue between them in order to help finding mutually acceptable solutions to questions raised by the referral. On 14th May 2019, the French NCP published an Intermediate Statement announcing a meeting between parties on 19th March 2019 and the continuation of its good offices³ ([here](#)). Furthermore, it noted that it was informed of the existence of several administrative procedures and legal proceedings parallel to the referral. It also noted that the indigenous consultation’s procedure for this wind farm project carried out by competent Mexican authorities was ongoing. At the meeting between the company and the complainants on 18th July 2019 organised under the NCP’s auspices, EDF proposed to continue discussions bilaterally and at local level. Despite this proposal, complainants informed the NCP on 26th July 2019 and confirmed by press release on 29th July 2019 that they withdrew from the procedure.

When parties accept the NCP’s good offices, they commit to respect confidentiality and secrecy of discussions, commitment taken by complainants on 15th May 2018. Furthermore, Article 40 of the Bylaws states that “*When closing the procedures, if the parties involved have not agreed on the resolution of the issues raised, they shall be free to communicate about and discuss these issues. However, information and opinions provided during the procedures by another party involved shall remain confidential, for the parties and for the NCP members, unless that other party agrees to their disclosure or this would be contrary to the provisions of national law*”. On 29th July 2019, complainant’s NGO ProDESC published a press release, co-signed by several other organisations, stating its withdrawal from the procedure and commenting on it.

¹ formerly EDF ENERGIES NOUVELLES

² Project of Economic, Social and Cultural Rights

³ <https://www.tresor.economie.gouv.fr/Articles/2018/06/13/communiqué-du-pcn-francais-su-12-juin-2018-edf-edf-energies-nouvelles-au-Mexique>

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The French NCP regrets this situation. It reminds that respect of confidentiality and mutual trust constitute important elements for good offices and mediation success. The French NCP does not agree with the procedure's description in complainants' communication. ProDESC and other press release signatories are the only ones responsible for the content of this public statement. Furthermore, French NCP members deplored other organisations' statements in the press on this matter which they consider defamatory; two trade union organisations do not share this opinion.

The NCP also notes that on 7th October 2019 ProDESC stated that ProDESC and ECCHR served formal notice on EDF on 1st October 2019 under Article 1 of Law No 2017-399 of 27 March 2019 2017 on the duty of vigilance of parent companies and of its affiliated entities.

As a result of complainants' decision to withdraw from the procedure, the French NCP closes its good offices and moves to the conclusion phase of the procedure. In accordance with Article 35 of the Bylaws, it will publish a Final Statement on its website.

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The NCP adopted the Statement on 17th October 2019 with the exception on one trade union organisation. It sent it to the parties and to Mexican NCP prior to its publication on NCP website and its inclusion in NCP's specific instances database managed by the OECD.

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