



**NON-OFFICIAL TRANSLATION**

## **SPECIFIC INSTANCE**

### **« AIRBNB in FRANCE »**

#### **Statement of the French National Contact Point of 4 June 2020**

##### **The NCP acknowledges receipt of the specific instance concerning Airbnb in France**

The French National Contact Point (NCP) for the implementation of the OECD Guidelines for Multinational Enterprises received a specific instance on 11 March 2020 submitted by *AhTop* (“Association pour un Hébergement et un Tourisme Professionnels”), a French business association in the tourism and hospitality sector, concerning Airbnb’s activities in France. The specific instance raises issues about the application of the Guidelines’ Chapter XI on Taxation.

**The NCP received the specific instance on 14 May 2020 and acknowledged receipt the same day. The procedure for handling specific instances is provided for in the rules of procedure of the French NCP ([NCP Bylaws](#)) and in the Implementation Procedures of the OECD Guidelines for Multinational Enterprises (see attached diagram). The procedure applies to the referral at hand:**

- **The specific instance procedure to the NCP is confidential** (Articles 38, 39 and 40).
- **The NCP notes that the specific instance is formally admissible** (Articles 16 and 21.1). This decision does not determine whether or not the enterprise behaved in compliance with the OECD Guidelines.
- **The NCP thereby begins the initial assessment of the specific instance in order to assess the relevance of the issues raised and whether they deserve further examination.** It must endeavor to complete it within an indicative period of three months. If the initial assessment is positive, it will examine the merits of the referral and offer its good offices to the parties in order to assist them in resolving their disputes and answering issues raised by the referral. If one of the parties refuses this offer for dialogue, the NCP will proceed directly to the concluding stage of the procedure *i.e.* the drafting of a final statement.
- **The NCP will issue a statement announcing its decision on initial assessment.** It will issue a final statement after the conclusion of the procedure. The NCP may make recommendations to the parties and decide to follow up on them. A follow-up statement may be released if deemed necessary.
- **The French NCP will coordinate its action with the NCPs of countries that adhere to the OECD Guidelines which are also concerned by this specific instance, namely NCPs of Ireland, the United Kingdom, and the United States of America.** Their coordination arrangements will be specified during the initial assessment.

#### **Annexes:**

- **Diagram of the procedure to handle a specific instance by the French PCN**
- **Extracts of the French NCP’s bylaws on admissibility criteria**

#### **For further information:**

- [French NCP website](#)
- « [Comment saisir le PCN](#) » & « [Template to submit a specific instance to the French NCP](#) »
- Find all the [decisions of the French NCP in specific instances](#)
- Check the OECD database listing all specific instances « [NCP Database](#) »



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**Extracts from the French NCP bylaws – IV – REFERRALS TO THE NCP – INITIAL ASSESSMENT**

**Form of referrals**

16. A referral to the NCP must be precise. In this regard, it must stipulate: The identity of the enterprise in question; The identity and contact details of the complainant; Details of the facts of which the enterprise is accused; Elements of the OECD Guidelines for Multinational Enterprises in respect of which the referral to the NCP is being made.

**Admissibility criteria**

21.1 A referral shall be declared admissible if it fulfils the formal conditions stated in Article 16.

21.2 When the NCP notes that the formal criteria for admissibility provided for by Article 16 have not been met, it shall ask the complainant to reformulate the referral within a certain timeframe which shall be set by the NCP.

21.3 When the NCP duly notes the formal admissibility of the referral, it shall begin the initial assessment provided for in Articles 18, 22, 23 and 25. The NCP shall inform the complainant of the formal admissibility of the referral and the start of the initial assessment. The NCP shall inform the enterprise of the existence of the specific instance, send it a copy of the file and ask it to respond to the referral as from the initial assessment stage. The NCP publishes an initial assessment statement in which is sets out the issues raised by the specific instance and provides the reasons for its decision. The parties and, where applicable, the supporting NCP, are consulted concerning the statement

22. Le PCN doit également déterminer si la question soulevée l'est de bonne foi et est en rapport avec les Principes directeurs.

22. The NCP shall also ascertain whether the issue in question has been raised in good faith and in accordance with the Guidelines.

23. In assessing the admissibility of a referral to it, the NCP shall consider: The identity of the party concerned and its interest in the case; The significance of the issue and the supporting items provided; The apparent connection between the enterprise's activities and the issue raised in the specific instance; The relevance of the applicable laws and procedures, notably jurisdictional proceedings; How similar issues are being (or have been) examined at national or international level.

25. The NCP shall strive to ascertain whether, in making an offer of good offices, it could make a positive contribution to the resolution of the issues raised and if this would not create serious prejudice for either of the parties involved in other proceedings, or cause a contempt-of-court situation. It may then decide either to pursue or to renounce its consideration of the specific instance.

26. The NCP shall endeavour to conclude an initial assessment within three months of acknowledging receipt of the referral, although additional time may be granted, if need be, in order to collect essential information necessary for an informed decision.

