

Initial Assessment by the National Contact Point of the Republic of Kazakhstan

1. The Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises (hereinafter referred to as the Guidelines) are a set of recommendations on responsible doing business that Governments have addressed to multinational enterprises operating in or from states that comply with them.

The Guiding Principles constitute part of the Declaration of the Organization for Economic Cooperation and Development (hereinafter referred to as the OECD) on International Investment and Multinational Enterprises of 1976. This is a political commitment of the joined states designed to provide an open and transparent environment for international investment and to stimulate the positive contribution of multinational enterprises to social and economic progress.

The Government of the Republic of Kazakhstan (hereinafter referred to as the RK) has established a National Contact Point (hereinafter referred to as the NCP), whose activities are aimed at promoting Guidelines and considering specific cases concerning the activities of multinational enterprises based or operating in the RK.

2. On December 6, 2021, the NCP Secretariat registered an appeal from Azerbaijani citizen Jabir Gurban oglu Guliyev (hereinafter referred to as the author of the appeal) in relation to Telia Company AB (fd Telia–Sonera), Telia Company AB Fintur Holdings BV (*hereinafter, respectively, Telia Company, enterprise*) in the Republic of Azerbaijan.

3. **The subject of the appeal** concerns the alleged commission of corruption actions, money laundering, discrimination, and violation of human rights by Telia Company in the Republic of Azerbaijan. The author of the appeal showed that the enterprise had committed torture against his family members, bribed the police, illegally demolished his house, and evaded taxes. Thus, the company does not comply with the provisions of the OECD Guidelines in the field of Human Rights (*Chapter IV*), Combating Bribery, Bribe Solicitation and Extortion (*Chapter VII*), and Taxation (*Chapter XII*).

4. During the initial assessment as to whether the issue that has arisen needs further study, the National Contact Point carried out the following actions to establish the factual circumstances of the case:

- definition of a multinational enterprise;
- clarifying requests to the parties for additional information on the case.

Based on the necessary information provided by the parties, the NCP assessed the case according to the following criteria:

- 1) *The identity of the affected party and the multinational enterprise.*

The author of the appeal, Jabir Gurban oglu Guliyev, is a citizen of the Republic of Azerbaijan. According to the Ministry of Foreign Affairs of the Republic of Kazakhstan, J.G. Guliyev has no ties with the Republic of Kazakhstan.

According to the official website, Telia Company is a telecommunications company, the leader in the cellular communication markets in Sweden and Finland. The headquarters of the company is in Stockholm (Sweden). Telia Company has subsidiaries in the following countries: Denmark, Estonia, Finland, Latvia, Lithuania, Norway, and Sweden¹.

In Azerbaijan, Telia Company has owned 38.1% of the shares of the Azercell mobile operator since 2008. However, after a corruption scandal in 2015, the enterprise decided to completely withdraw from the Transcaucasian market.

In 2018, Telia Company and Turkcell sold their 51.3% shares of Azertel, which is the sole shareholder of Azercell, to Azintelecom, which is wholly owned by the Republic of Azerbaijan².

Based on the above, it should be noted that Telia Company is a multinational enterprise.

However, Telia Company is not a Kazakh multinational enterprise or a multinational enterprise operating in the Republic of Kazakhstan.

2) The existence of a link between the activities of the multinational enterprise and the appeal.

Jabir Gurban oglu Guliyev is a citizen of the Republic of Azerbaijan. According to the situation described in the appeal, a violation of the OECD Guidelines was committed in the Republic of Azerbaijan.

Thus, there is a direct link between the author of the appeal and the multinational enterprise.

2) The materiality and relevance of the appeal.

The author of the appeal is a citizen of the Republic of Azerbaijan.

c) The violations of the OECD Guidelines described in the appeal took place in the Republic of Azerbaijan.

Based on the above, it follows:

In accordance with paragraph 7 of the Procedure, an appeal submitted to the NCP may relate to a Kazakh multinational enterprise and/or a foreign multinational enterprise operating in the Republic of Kazakhstan, provided that the headquarters of the foreign multinational enterprise is located in one of the countries implementing the OECD Guidelines.

Based on the above, the received appeal to the NCP of Kazakhstan is beyond the competence of the NCP in accordance with paragraph 7 of the Procedure for Considering Complaints on Violations of the OECD Guidelines (hereinafter referred to as the Procedure).

4) Consideration of such appeals in the framework of other domestic or international procedures.

¹ <https://www.teliacompany.com/en/about-the-company/>

² <https://www.teliacompany.com/en/news/press-releases/2018/3/telia-company-agrees-to-divest-its-interest-in-azercell>

According to information obtained from the Specific Cases Database of the ³NCP of Finland, an identical case was considered in 2021. According to the decision of the NCP of Finland, the consideration of this case was rejected because none of the companies involved was Finnish. Thus, the NCP of Finland determined this was an improper way to solve the issue.

5) The applicability of other legal procedures (including court proceedings) in the situation described by the author of the appeal.

Not applicable. According to paragraph 7 of the Procedure, the appeal does not concern a Kazakh multinational enterprise or a foreign multinational enterprise operating in the Republic of Kazakhstan.

6) Whether the participation of the NCP in the consideration of the appeal contributes to the introduction of new best practices in the field of responsible doing business.

Not revealed.

5. Based on the above and in accordance with paragraph 7 of the Procedure, the appeal received to the NCP of Kazakhstan is beyond the competence of the NCP of Kazakhstan because the multinational enterprise in respect of which the appeal is filed is not a Kazakhstani one or an enterprise operating in the Republic of Kazakhstan.

Besides, according to the official website of the OECD, the ⁴Republic of Azerbaijan is not a party to the OECD Declaration on International Investment and Multinational Enterprises⁵.

In view of this circumstance, as well as in the absence of an NCP in the Republic of Azerbaijan, it is proposed to reject the appeal from further consideration and recommend that the author of the appeal contact the NCP of Sweden, where the headquarters of the enterprise is located.

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³ <http://mneguidelines.oecd.org/database/instances/fi0007.htm>

⁴ <http://mneguidelines.oecd.org/ncps/>

⁵ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0144>