



# FINAL REPORT

(courtesy translation of original report in German)

by the German National Contact Point for the OECD Guidelines for  
Multinational Enterprises

in response to a complaint submitted by the

**Gesellschaft für bedrohte Völker**

(hereinafter referred to as “Complainant”)

against the

**TÜV SÜD AG**

(hereinafter referred to as “Respondent”)

The Complainant and the Respondent will be collectively referred to as  
“Parties”

## **A. THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES AND THE NATIONAL CONTACT POINT**

- 1 The OECD Guidelines for Multinational Enterprises (OECD Guidelines) are recommendations by adherent governments to multinational companies operating in or from adherent countries. They provide established non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines reflect government expectation of businesses in terms of responsible business conduct. The OECD Guidelines bring together all thematic areas of business responsibility, including human rights and employment policy, as well as information disclosure, environmental protection, anti-corruption, consumer interests, science and technology, competition, and taxation. This comprehensiveness is a unique feature of the OECD Guidelines and makes it the only government-backed instrument covering all major sustainability risks.
- 2 Adherents to the OECD Guidelines set up National Contact Points (NCPs). Their task is to promote the effective implementation of the OECD Guidelines. The NCPs shall, in particular, raise awareness of the OECD Guidelines among business, trade unions and civil society and serve as a non-judicial grievance mechanism.

## **B. SHORT OVERVIEW OF THE ISSUES RAISED**

- 3 The complaint was brought before the German National Contact Point for the OECD Guidelines for Multinational Enterprises (NCP) by the Gesellschaft für bedrohte Völker Deutschland (GfbV) (Complainant), an international non-governmental organisation based in Germany. It is directed against the TÜV SÜD AG (Respondent), an internationally active German service company. The complaint was filed in connection with the breach of a dam near the Brazilian municipality of Brumadinho in January 2019.
- 4 The Complainant, in view of stability declarations produced before the dam's collapse by TÜV SÜD Bureau de Projetos e Consultoria Ltda (TSB), which is part of the TÜV SÜD group, considered that the Respondent may be partially responsible for the breach. The Complainant stressed the impact of the collapse on the indigenous population of the Pataxó and the Pataxó Hã-Hã-Hãe; alleged that the Respondent failed to act in compliance with the OECD Guidelines with a number of obligations in Chapter II (General Policies), Chapter III (Disclosure), Chapter IV (Human Rights) and Chapter VI (Environment) of the OECD Guidelines allegedly violated.
- 5 The Respondent rejected these allegations. The Respondent stated that the responsibility rested with Vale, the dam operator, as had already been established in court; and that it did not bear any responsibility for the collapse of the dam. The Respondent stated that the stability declarations

complied with the applicable Brazilian standards. It asserted that parallel proceedings prevented a discussion of the specifics of the case in the NCP process.

- 6 Upon careful consideration of the views presented by both parties, the NCP accepted the complaint with regard to the issues raised under Chapter II (General Policies), IV (Human Rights) and VI (Environment); but rejected the case with regard to the issues raised under Chapter III (Disclosure) as allegations were not substantiated, and offered the Parties a forward-looking mediation process to discuss how to further the implementation of the Guidelines going forward.
- 7 The partial acceptance of the case and the NCP's offer of its good offices do not mean that the issues raised have been given final consideration. It is not a determination on whether or not the corporate behaviour or actions in question were consistent with the OECD Guidelines, and should not be equated with a determination on the merits of the case.

### **C. SUMMARY OF THE EVENTS AND RESULTS**

- 8 The Complainant submitted the complaint to the NCP on 30 December 2020. The NCP received the reply by the Respondent on 14 May 2021. On 25 June 2021, the Complainant sent its reply to the NCP. The NCP transmitted the First Evaluation on 5 May 2022 to the Parties, partially accepting the case and offering its good offices. The NCP highlighted the forward-looking nature of its good offices. Both parties accepted the NCP's offer of good offices and agreed to the use of an external mediator to be recruited by the NCP.
- 9 The NCP proposed an external mediator to the Parties. After separate introductory calls between the Parties and the mediator, facilitated by the NCP, both parties accepted the proposed mediator. With the support of the mediator, the NCP prepared draft terms of reference for the good offices phase which were finalised in coordination with both parties. In the terms of reference, the Parties also agreed on the key issues for discussion during the mediation sessions. The NCP, with the support of the mediator, facilitated virtual meetings with each party to prepare for the first mediation session. In total, four mediation sessions took place in person: on 12 October 2022, on 22 November 2022, on 8 February 2023 and on 3 April 2023. In addition, an informal virtual exchange took place on 10 January 2023 to clarify remaining questions. Between the mediation sessions, the NCP and the mediator organised several bilateral preparatory discussions with the Parties.
- 10 Based on constructive exchanges of information and intensive discussions regarding the key issues identified at the outset of the mediation, in the fourth mediation session, the Parties developed a catalogue of measures. This catalogue encompasses concrete measures and declarations of intent aimed at strengthening the rights of indigenous peoples in business contexts, at TÜV SÜD and at suppliers and clients of TÜV SÜD. As agreed with the Parties, the NCP will conduct a follow-up about twelve months after the publication of this report to follow up,

together with the Parties, on the implementation of the defined measures and declarations of intent. The Parties agreed to keep the content of the catalogue of measures confidential.

11 The NCP thanks the Parties for their participation in the NCP procedure and welcomes the fact that the Parties were able to reach an understanding on a catalogue of measures.

Berlin, 20 July 2023

*Signed by Anne-Kathrin Röthemeyer*

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For the National Contact Point

Anne-Kathrin Röthemeyer