

COMMUNIQUÉ OF THE ARGENTINE NATIONAL CONTACT POINT (ANCP)
for the OECD Guidelines for Multinational Enterprises
as closing of the specific instance “*CePETeL v. TELECOM*”

Buenos Aires, Argentina

19 October, 2018-

The functions of the Argentine National Contact Point (ANCP) are to promote the Guidelines for Multinational Enterprises of the Organization for Economic Co-operation and Development (OECD) and to contribute to the resolution of issues related to their implementation. The OECD Guidelines for Multinational Enterprises are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct consistent with applicable laws and internationally recognized rules.

The ANCP is the authority in charge of receiving claims involving non-observance or breach of the OECD Guidelines for Multinational Enterprises. The ANCP acts in compliance with its Procedure Manual and within the framework of the abovementioned Guidelines.

Specific Instance Request

Complainant:

On 8 July 2010, the Argentine National Contact Point (ANCP) held a work meeting with members of CePETel (*Sindicato de los Trabajadores de las Tecnologías de la Información y la Comunicación*) -the trade union of the workers in the communications and information technology industry- in order to consider, on a preliminary basis, a submission that CePETel would lodge against Telecom Argentina S.A. for alleged breaches of the OECD Guidelines for Multinational Enterprises.

The purpose of the meeting requested by CePETel was to get advice from the ANCP about the procedure, substantiation and documents to be submitted with a view to filing a complaint against the abovementioned enterprise.

Members of the trade union stated that there were parallel legal proceedings related to issues similar to those that would be raised in the complaint filed with the ANCP and that similar steps were being taken before the Argentine Ministry of Labour, Employment and Social Security.

After a number of meetings with and suggestions from the ANCP, on 23 April 2012 José Zas, in his capacity as Secretary General for CePETel, lodged a submission to the ANCP arguing that the OECD Guidelines for Multinational Enterprises had allegedly been breached by the enterprise Telecom Argentina S.A.

As regards the subject matter of the claim, CePETel stated that, in spite of having signed Collective Bargaining Agreement No. 210/93 in 1993 -effective due to the "ultra-activity" principle-, Telecom Argentina S.A. had systematically refused to negotiate in good faith with the trade union in administrative proceedings; it had systematically refused to provide relevant information on all of its employees with a university degree; for over seven years, it had refrained from taking any action to renew and update the collective bargaining agreement in force; it had implemented a policy aimed at persecuting and discriminating against any professional that revealed any kind of engagement with CePETel; over 5,299 employees from Telecom and 2,281 from Personal -out of which 2,400 have a university degree- had been illegally hired "OUTSIDE THE SCOPE OF THE AGREEMENT", which entailed precarious work in addition to a violation of international rules and agreements, thus breaching the following chapters of the OECD Guidelines for Multinational Enterprises: Chapter I (Concepts and Principles), Chapter II (General Policies), Chapter IV (Human Rights), Chapter V (Employment and Industrial Relations).

On the basis of the foregoing, the complainant requested:

1. That its domicile be deemed declared and established for all purposes;

2. That the reservation made hereby to add new grounds, report new facts and annex relevant documents be taken into account;
3. Considering the seriousness and continuation of the reported facts, the complainant requested that Telecom Argentina S.A.:
 - a) fully comply with the Guidelines signed by its parent company;
 - b) take steps to have its employees covered by Collective Bargaining Agreement No. 210/93 "E" under any kind of employment contract.
 - c) place agreements entered into by the Trade Union and other companies in the same sector on an equal footing, by incorporating them into the Collective Bargaining Agreement C.C. 210/93 "E" in force.

Procedure:

Within the framework of the ANCP restructuring and improvement process, its new members sent a written notice to CePETel, dated 9 November 2016, formally offering the possibility of updating the complaint -annexed to the notice- for them to assess the admissibility of the relevant Specific Instance.

Following a meeting with the ANCP, on 5 May 2017 CePETel formally notified it of its intention to continue taking the necessary steps to complete the submission -last updated in 2012- requesting information from the ANCP on the updating procedure.

On the same date, the ANCP answered in writing that, considering the time elapsed since CePETel's last submission -in 2012- and, in light of possible developments in the issues giving rise to the complaint and the emergence of new facts involving non-observance of the OECD Guidelines for Multinational Enterprises, a new complaint was required, for which purpose the ANCP provided CePETel with its Procedures Manual, which had been recently updated to include recommendations by the OECD Responsible Business Conduct Unit, and stated that it was at the disposal of the trade union to resolve any doubts.

As the complainant lodged no further submissions, on 28 September 2018 the ANCP sent a notice to CePETel requiring it to report -before 15 October 2018- any new developments in the issues giving rise to the complaint; failure to do so would lead to

the closing of the proceedings by means of the relevant report on the basis that the ANCP had to make a decision on the case in order to inform the OECD Investment Committee.

CePETel not having made any further submissions within the period specified in the abovementioned notice, the case is hereby closed due to the expiry of the time period set for answering the ANCP's request.

However, the ANCP remains at the disposal of CePETel in case it wishes to make a new submission for alleged breach of the OECD Guidelines for Multinational Enterprises, either related to the issues raised in its initial submission or to others that may arise in the future. In this regard, the ANCP recommends taking into account the OECD Guidelines for Multinational Enterprises and considering the ANCP as a forum for discussion and assistance aimed at finding solutions to issues related to their effective implementation.

Argentine National Contact Point (ANCP)
for the OECD Guidelines for Multinational Enterprises
Ministry of Foreign Affairs, International Trade and Worship