

Final Statement

HDI SEGUROS & UNION (2024)

Non-official English translation

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CHILE'S NATIONAL CONTACT POINT FOR RESPONSIBLE BUSINESS CONDUCT | RESPONSIBLE BUSINESS
CONDUCT DEPARTMENT | UNDERSECRETARIAT OF INTERNATIONAL ECONOMIC AFFAIRS

FINAL STATEMENT

HDI Seguros & Union (2024)

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I. Introduction

1. Chile's National Contact Point for Responsible Business Conduct (NCP), implementing body of the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (Guidelines), located in the Head of the Responsible Business Conduct Department of the Undersecretariat of International Economic Affairs (SUBREI), hereby issues its Final Statement, in the specific instance "HDI Seguros & Union (2024)".
2. The Final Statement describes the process and the results of the analysis of the specific instance to which it refers. It is based on information received from the parties and the steps taken by the NCP. If there was confidential information submitted to the NCP in the course of the procedure, it has not been disclosed in this statement. According to the NCP's rules of procedure (RdP), the NCP will always issue a Final Statement, which is public, whether or not it has been preceded by an Initial Statement or good offices.
3. In this case, the Chilean NCP acts as the lead NCP, while the NCP of Germany serves as supporting NCP.
4. If the NCP offers its good offices or, in its Final Statement, makes recommendations to the company, this must not be interpreted under any circumstances as a statement that the multinational enterprise in question has breached the Guidelines.
5. In accordance with the principle of transparency governing the functions of the NCP, final statements are published on the NCP's website, translated into English, reported, and sent to the OECD Working Party on Responsible Business Conduct.
6. Before the Final Statement is issued, the parties are given the opportunity to comment on its draft, bearing in mind that the wording of the statement is always the responsibility of the NCP, which will determine the final version of the document.
7. The Final Statement marks the closure of the NCP procedure, without prejudice to the possibility of a follow-up stage.

II. Parties

a) Identification of the submitter

8. Intercompany Union Liberty Seguros (hereinafter, the submitter or the union).

b) Identification of the company

9. HDI Seguros, a company controlled by the German group Talanx AG (hereinafter, the company).

III. Issues raised

a) Summary of the specific instance request

10. On 9 September 2024, the union submitted a specific instance request to the NCP, alleging breaches of the Guidelines by the company. In the request and during a meeting held with the NCP on 24 October 2024, the submitter stated that, as a result of the merger process between the multinational companies Liberty Compañía de Seguros Generales (Liberty Seguros) and HDI Seguros, HDI Seguros had taken control of Liberty

Seguros and begun merging the work teams and operations of both companies, starting in March 2024.

11. The union states that during the period prior to the legal merger, which was finalised in November 2024, it was allegedly harmed by anti-union practices. Specifically, the company is said to have prevented the union from carrying out union promotion activities and from disseminating its current collective agreement to HDI Seguros workers — despite being an intercompany union — with the company justifying its actions by claiming that the merger had not yet been authorised by the regulator.
12. It adds that, in 2024, the company concluded a collective bargaining process with the HDI Union and did not disclose the collective agreement of the Liberty Union, preventing many workers from accessing a more beneficial collective agreement. It also claims that the company allegedly promoted the HDI Union's agreement among members of the Liberty Union, encouraging them to switch to that union.
13. The submitter identifies alleged breaches by the company of the following chapters of the Guidelines:
 1. Title IV, Nos. 1, 2, 3, 4, 5, 39 and 46 of Chapter IV: Human Rights.
 2. Title V, No. 1, letters a, b, c, d, e, f; No. 2, letters a, b, c; No. 3; No. 8 of Chapter V: Employment and Industrial Relations.

14. The expected outcome by the submitter through the NCP procures is as follows:

To enable it to carry out the union work appropriate to an intercompany union, in order to attract new members and promote its collective agreement.

b) Summary of the company's response

15. In a meeting held between the NCP and the company on 13 November 2024, and in the company's response dated 2 December 2024, it stated that the union had reported the same facts to the Labour Directorate (DT) on 19 June 2024 and to the courts of justice on 19 August 2024. It added that on 11 July 2024, prior to the submitter's presentation to the NCP, the DT ruled that the union, having no members who are employees of HDI Seguros, could not report anti-union practices by that company, as it does not represent any of its workers. The DT further stated that until the merger is finalised, the companies must be considered separate employers. This ruling was attached to the company's response document. Regarding the legal action brought before the courts, the case remains pending as of the date of this statement.
16. The company states that HDI Seguros and Liberty Seguros were two completely independent companies which, at the time the union submitted its complaints — to the DT, the courts, and the NCP — were awaiting authorisation from the Financial Market Commission (CMF) to merge, following HDI's acquisition of Liberty. The merger was finalised, following that authorisation, on 1 November 2024.
17. The company asserts that, in line with the ruling by the DT, the facts on which the union bases its specific instance request do not constitute anti-union practices, since — at least prior to the merger being finalised — the union had no members, directors, or delegates who were employees of HDI Seguros, nor was it party to any collective instrument linking it to that entity. It claims that the union was a completely unrelated organisation with no connection to the company. It adds that, consequently, allowing Liberty Union to carry out union activities involving HDI Seguros workers — including promoting its collective agreement — could have constituted an anti-union practice against the HDI Union,

especially during the collective bargaining process between the company and the HDI Union.

18. The company concludes by stating that there has been no breach of the Guidelines and, therefore, no grounds for the NCP to offer its good offices. It also notes that, following the finalisation of the merger on 1 November 2024, members of both unions are now employees of HDI Seguros, and the company will maintain respectful and open relations with both union organisations, in compliance with current regulations. In this regard, the company later reported that it is holding regular meetings with the union, where there is open and fluid dialogue, notwithstanding the legitimate differences inherent in the relationship between a company and a union.

IV. NCP evaluation of the specific instance

a) Preliminary issues

19. The preliminary issue is whether the NCP has jurisdiction to hear the case.
20. For this, two requirements must be verified: (1) the requested company must be a multinational enterprise, and (2) that the alleged breaches occurred in Chilean territory or, if they occurred in a foreign country without an NCP, the multinational enterprise must be Chilean.
21. Regarding the first requirement, the requested company is multinational in nature because it has entities in different countries and can coordinate its activities in all of them. Therefore, the first requirement is met. As to the second requirement, the events occurred in Chilean territory. Therefore, both requirements are met.
22. Thus, the NCP is competent to hear the case.

b) Initial assessment

23. In accordance with the RdP, in determining whether the issue raised merits further consideration, the NCP must establish whether the issue is bona fide and whether it relates to the Guidelines. In this context, the NCP takes into account the following criteria:

- a. The identity of the party concerned and its interest in the matter.

In this regard, there is sufficient available information to be certain of the identity and interest of the submitter in the case.

- b. Whether the issue raised in the specific instance request is material and justified.

The NCP considers that the issue raised in the specific instance request is sufficiently significant and well-founded for the purposes of an initial assessment. The issue is supported by sufficient and credible information.

- c. Whether the company's activities are linked to the issues raised in the specific instance.

The NCP considers it clear that there is a link between the company's activities and the issue raised in the specific instance.

- d. The relevance of concurrent legislation and procedures to the case, including court decisions.

Domestic law and internal procedures, including court rulings, may provide useful guidance to the NCP regarding existing expectations based on the applicable legal framework and how issues relevant to a specific instance have been assessed by other bodies. However, in conducting an initial assessment, the NCP is not expected to determine whether domestic law has been complied with, as its decision must be made in light of the Guidelines and its RdP, and solely to decide whether the issue merits further consideration.

In this regard, the NCP has taken note of the ruling issued by the DT on 11 July 2024.

- e. How similar or the same issues have been, or are being, addressed in other local or international processes.

In this regard, the NCP has taken note of the ruling issued by the DT on 11 July 2024.

- f. Whether the review of the specific instance will contribute to the purpose and effectiveness of the Guidelines.

Regarding the “purpose” of the Guidelines (2023 version), the first paragraph of its Preface states: “The common aim of the Adherents to the Guidelines is to encourage the positive contributions enterprises can make to economic, environmental, and social progress and to minimise the adverse impacts on the matters covered by the Guidelines that may be associated with an enterprise’s operations, products and services.”

Regarding their “effectiveness”, the Guidelines (2023 version) state that “Adherents shall set up National Contact Points [...] to further the effectiveness of the Guidelines,” and add that NCPs shall “Contribute to the resolution of issues that arise in relation to the implementation of the Guidelines in specific instances” (Decision of the Council on the Guidelines, paragraph I.1).

24. Therefore, after analysing the available information and holding bilateral meetings and communications with the parties – in order to obtain more details about the issue raised and greater clarity on the expected outcomes – the NCP concluded that there are no grounds to give further consideration to the issue raised.

V. Conclusion

25. In light of the above, the NCP issues this Final Statement, concluding the specific instance and making recommendations to the parties, based on the circumstances and available information.

a) NCP Observations and Recommendations

26. Recommendations for the parties:

The parties are urged to maintain and engage in reciprocal dialogue mechanisms in a constructive, open, and good-faith manner, prioritising the search for mutually agreed solutions, in line with the recommendations contained in the Guidelines.

Three months after the date of this Final Statement, the NCP will follow up on the implementation of this recommendation through interviews with the parties, after which a follow-up report will be issued and made public.

27. Recommendations for the company:

The company is recommended to implement risk-based due diligence processes, in accordance with the Guidelines and the OECD Due Diligence Guidance for Responsible Business Conduct. These processes are ongoing and consist of identifying, preventing

and mitigating risks of negative impacts, as well as identifying, ceasing and remediating actual negative impacts arising from the company's activities and business relationships, and reporting on how such risks and impacts are addressed (Paragraphs 11, 12 and 13, Chapter II, Guidelines 2023, pages 14 and 15).

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¹ In case of discrepancy, the Spanish version of this Final Statement shall prevail.