

IN THE SHADOW OF SOFT LAW:
THE HANDLING OF CORPORATE SOCIAL RESPONSIBILITY (CSR) DISPUTES
BY DOMESTIC NATIONAL CONTACT POINTS
UNDER THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

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ABSTRACT

This socio-legal study analyzes how Corporate Social Responsibility (CSR) issues are handled in the multilateral dispute resolution mechanism under the OECD Guidelines for Multinational Enterprises. The Guidelines are regarded to be the most developed governmental code of conduct for CSR due to their *specific instances* procedure. In these cases any person or organization may approach a National Contact Point (NCP) of the 42 adhering countries to the Guidelines to enquire about the implementation of these non-enforceable CSR standards in relation to a particular business conduct. But civil society and scholars criticize the different approaches of the NCPs to deal with these disputes to be highly heterogeneous. Yet, a comprehensive study of the governmental practices was missing. This research aims at filling this gap.

First, the CSR profile of the cases will be introduced: How do the parties, the issues and alleged corporate operations look like? Second, the various practices of the NCPs with regard to publishing final statements and to assessing a case initially as well as in a further consideration will be highlighted. Third, it will be shown how differently the NCPs assess their roles and functions and what objectives they aim to achieve while dealing with the disputes. Moreover, the central debate among the NCPs will be explained: whether to examine the CSR consistency of a particular corporate act or not. This question will be analyzed in detail. In particular it will be questioned what the significance of the soft law quality of the Guidelines could be for this dispute.

These findings are based on a content analysis of all 57 published final statements of the NCPs reporting on *specific instances*, a survey addressed to all and responded by 25 NCPs and interviews of 5 NCP officials and an OECD official.