

**Note related to the Final Assessment Report (FAR) on Specific Instance filed by 197 former employees for alleged non-compliance with Guidelines by Avianca Peru S.A. under Liquidation and Avianca Holdings S.A.**

1. On July 24, 2020, the National Contact Point for the OECD in Peru (hereinafter, NCP Peru) received the Specific Instance on behalf of 197 former employees for alleged non-compliance of OECD Guidelines for Multinational Enterprises (GUIDELINES) by Avianca Peru S.A. under Liquidation and Avianca Holdings S.A. After the corresponding assessment, NCP Peru issued an Initial Assessment Report which considered that the specific instance does not merit further assessment as it complies with the criteria set out in subparagraph 25 of the Comment on the GUIDELINES implementation procedures.
2. Subsequently, NCP Peru issued the Final Assessment Report concluding that the enterprises involved in the non-compliance of the referred GUIDELINES have not breached the recommendations set out in the Human Rights chapter. Therefore, NCP Peru considers that the non-compliance by Avianca Peru S.A. under liquidation and Avianca Holdings S.A. have not been proved. Notwithstanding, regarding the Chapter of GUIDELINES Employment and Labor Relations, NCP Peru considers that the previous lack of communication by Avianca Peru S.A. under Liquidation and Avianca Holdings S.A. regarding the enterprises situation and its eventual liquidation or restructuration, demonstrates a non-compliance of the recommendations established in paragraph c) subparagraphs 2 and 6 of that Chapter.
3. It should be noted that the GUIDELINES are **recommendations** on Responsible Business Conduct that governments address to multinational enterprises operating in or headquartered in adhering countries and contain **non-binding** principles and standards.
4. Likewise, the Specific Instances are a non-judicial, uncontested and non-administrative complaint mechanism that provides a platform for dialogue for the resolution of problems that may arise in relation to alleged failures of compliance with the Guidelines by these enterprises. In other words, what is being assessed in the Specific Instance is a possible breach of the GUIDELINES. That is to say, an impact on the GUIDELINES does not necessarily imply an infringement of national legislation.
5. In this particular, the role of NCP Peru is not to determine the guilt or civil and/or criminal liability of the company involved in the Specific Instance.
6. NCP Peru reiterates its willingness to serve as a forum for discussion and dialogue between the business sector and non-governmental organizations seeking to solve specific issues, in accordance with applicable law and the GUIDELINES.

**Alejandro Prieto Toledo**  
**NATIONAL CONTACT POINT - PERU**