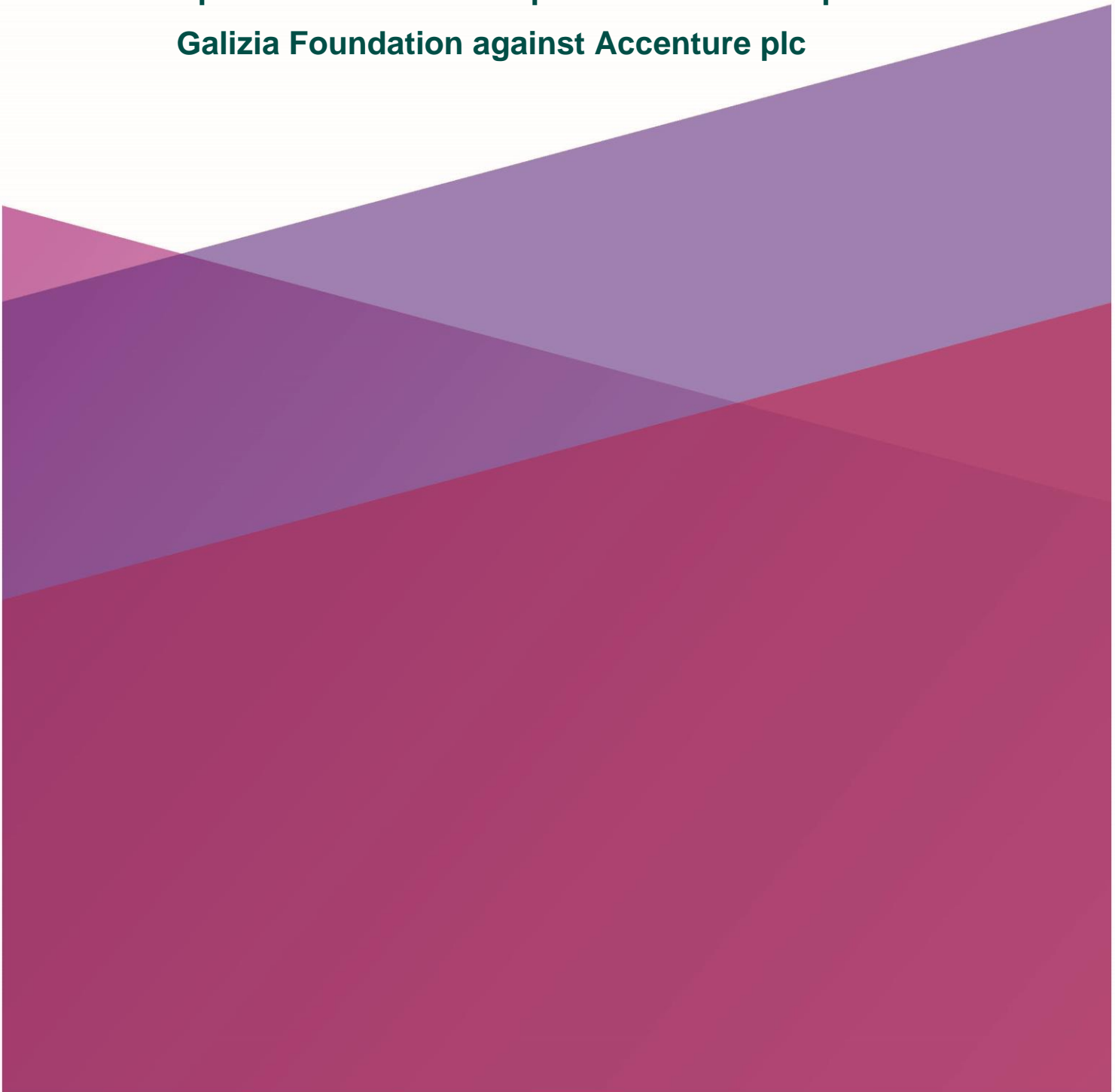




An Roinn Fiontar,  
Trádála agus Fostaíochta  
Department of Enterprise,  
Trade and Employment

# **Statement by the Ireland National Contact Point for the OECD Guidelines for Multinational Enterprises**

**Specific Instance Complaint from the Daphne Caruana  
Galizia Foundation against Accenture plc**



## **Summary of the Ireland NCP Decision**

1. The complaint was made by the Daphne Caruana Galizia Foundation (hereinafter “the Complainant”), a non-profit advocacy and civil rights organisation in Malta, against Accenture plc (hereinafter “the Company”), regarding its advisory role in the purchase of a wind power concession in Montenegro.
2. The complaint is related to Chapter VII (Combating Bribery, Bribe Solicitation and Extortion) of the Guidelines. The Complainant alleged that the Company failed to meet its obligations related to bribery and extortion.
3. The Company stated that it was not in a position to discuss its response to the claims made due to ongoing parallel proceedings that require confidentiality, but it was taking the matter very seriously. However, it provided detailed information about its compliance programme and internal controls related to combating bribery, bribe solicitation, and extortion, and stated that it was confident that it met the standards set forth in Chapter VII of the OECD Guidelines.
4. The Ireland NCP decided not to accept this Specific Instance. While the issues raised could be material, further consideration was unlikely to contribute to the purpose and effectiveness of the Guidelines, nor did the Ireland NCP wish to inadvertently impinge upon ongoing parallel proceedings. The Ireland NCP recognised that due to the nature of the issues raised, most of the allegations could not be resolved through mediation and a solution would have to be provided by the appropriate authorities.
5. The Ireland NCP set out the reasons for this decision in the interests of transparency and accountability.

## **Object of the Complaint**

6. The Ireland NCP received a complaint on 13 December 2021 from the Complainant, a registered non-profit advocacy and civil rights organisation against the Company, which has been incorporated in Ireland since 2009.
7. The Complainant argued the Company was in violation of their obligations under the OECD Guidelines based on alleged fraudulent advice provided by a Company employee to the Maltese government on the purchase of a wind power concession in Montenegro and claimed:
  - A Company employee, whilst acting within his capacity as a negotiator and consultant, accepted bribes and facilitated corrupt deals
  - The Company had not taken any action against the employee or taken measures to prevent further acts of bribery by its staff and intermediaries
  - The Company did not have adequate controls in place to combat bribery and corruption

- The Company had not facilitated transparency in Malta and Montenegro with regards to the employee. The employee was still employed by the Company. The Company had not made any statements condemning the alleged wrongdoings committed by their employee
  - The employee made contributions to government officials and personally benefitted from the deal
8. The Complainant requested that the Company:
- Undertake a contractual guarantee of non-repetition
  - Terminate the employee's employment contract and issue a public statement condemning the employee's actions
  - Pay compensation to the Maltese people
  - Bear responsibility for the illicit deals arranged by its employee
  - Issue a public apology to Malta and Montenegro for facilitating corruption
9. The Company, whilst it was not in a position to comment on the allegations directly due to ongoing investigations into the claims and the need for confidentiality in these proceedings, stated it was taking the complaint very seriously and that it had met the recommendations relating to Chapter VII of the Guidelines through its Global Anticorruption Programme. The key components of the programme include risk assessment, policies and procedures, and internal controls. The programme contains prohibitions against bribery and the improper use of business intermediaries and was set out in the Company's ethical code - [Code of Business Ethics \(COBE\)](#).
10. The Company noted their *"commitment against bribery and corruption begins with its core values, which include integrity and stewardship"*, which are outlined in the COBE. It *"requires that all employees "[a]ct ethically and comply with law, the Code of Business Ethics and Accenture policies[.]"* and outlined specific policies addressing gifts, meals, entertainment, and travel; business intermediaries; and public officials.
11. The Company also noted they have a dedicated ethics and compliance team, outlined their strict internal controls governing the retention and use of business intermediaries (reflected in their Business Intermediary Policy) and that their core values and efforts to combat corruption are reflected in partnerships such as their membership of TRACE (an association dedicated to anti-bribery, compliance, and good governance), the World Economic Forum's Partnership Against Corruption Initiative (PACI) and the Business Ethics Leadership Alliance (BELA).

### ***Guidelines provisions cited by the Complainant***

12. The Complainant referred to the following section in the Guidelines:

#### **Chapter VII: Combating Bribery, Bribe Solicitation and Extortion**

**A.1:** Enterprises should *"Not offer, promise or give undue pecuniary or other advantage to public officials or the employees of business partners. Likewise, enterprises should not request, agree to or accept undue pecuniary or other advantage from public officials or the employees of business partners. Enterprises should not use third parties such as agents and other intermediaries, consultants, representatives, distributors,*

*consortia, contractors and suppliers and joint venture partners for channelling undue pecuniary or other advantages to public officials, or to employees of their business partners or to their relatives or business associates.”*

**A.2:** Enterprises should *“Develop and adopt adequate internal controls, ethics and compliance programmes or measures for preventing and detecting bribery, developed on the basis of a risk assessment addressing the individual circumstances of an enterprise, in particular the bribery risks facing the enterprise (such as its geographical and industrial sector of operation). These internal controls, ethics and compliance programmes or measures should include a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts, to ensure that they cannot be used for the purpose of bribing or hiding bribery. Such individual circumstances and bribery risks should be regularly monitored and re-assessed as necessary to ensure the enterprise’s internal controls, ethics and compliance programme or measures are adapted and continue to be effective, and to mitigate the risk of enterprises becoming complicit in bribery, bribe solicitation and extortion.”*

**A.3:** Enterprises should *“Prohibit or discourage, in internal company controls, ethics and compliance programmes or measures, the use of small facilitation payments, which are generally illegal in the countries where they are made, and, when such payments are made, accurately record these in books and financial records.”*

**A.4:** Enterprises should *“Ensure, taking into account the particular bribery risks facing the enterprise, properly documented due diligence pertaining to the hiring, as well as the appropriate and regular oversight of agents, and that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents engaged in connection with transactions with public bodies and State-owned enterprises should be kept and made available to competent authorities, in accordance with applicable public disclosure requirements.”*

**A.5:** Enterprises should *“Enhance the transparency of their activities in the fight against bribery, bribe solicitation and extortion. Measures could include making public commitments against bribery, bribe solicitation and extortion, and disclosing the management systems and the internal controls, ethics and compliance programmes or measures adopted by enterprises in order to honour these commitments. Enterprises should also foster openness and dialogue with the public so as to promote its awareness of and cooperation with the fight against bribery, bribe solicitation and extortion.”*

**A.6.:** Enterprises should *“Promote employee awareness of and compliance with company policies and internal controls, ethics and compliance programmes or measures against bribery, bribe solicitation and extortion through appropriate dissemination of such policies, programmes or measures and through training programmes and disciplinary procedures.”*

**A.7:** Enterprises should *“Not make illegal contributions to candidates for public office or to political parties or to other political organisations. Political contributions should fully comply with public disclosure requirements and should be reported to senior management.”*

### **The Initial Assessment Process**

13. The purpose of the initial assessment process is to determine if the issues raised in the complaint merit further examination by the Ireland NCP. **It does not determine whether the Company has acted consistently or inconsistently with the Guidelines.**

### ***Ireland NCP Handling Process***

13 December 2021	Complaint received by Ireland NCP from the complainant
14 December 2021	The Ireland NCP confirmed receipt of complaint and contacted the Company to provide notification of the complaint
20 December 2021	Company confirmed receipt of notification and requested a meeting with the Irish NCP in the New Year
4 January 2022	Complainant requested meeting with Ireland NCP to discuss NCP process
31 January 2022	Ireland NCP hosted a virtual meeting with the Complainant
2 February 2022	Ireland NCP hosted a virtual meeting with the Company
3 & 16 February 2022	Virtual meeting between the Ireland NCP and the US NCP
17 February 2022	Company requested extension to deadline for their submission
18 February 2022	Ireland NCP accepted request to extend deadline; new deadline of 14 March set
14 March 2022	Further extension requested by the Company, which was accepted by the Ireland NCP
21 March 2022	Ireland NCP received detailed response from the Company on its anti-bribery policies and procedures
30 March 2022	Ireland NCP shared the company's response with the Complainant. Offer extended to the Complainant to issue a response to the Company's submission
5 April 2022 & 25 April 2022	Complainant requested extension to deadline to submit response to Company's submission; with a further extension request

27 April 2022	Further submission received from the Complainant and shared with the Company
3 May 2022	Virtual meeting between the Ireland NCP and the US NCP
6 May 2022	Company requested meeting with Ireland NCP
16 May 2022	Ireland NCP hosted a virtual meeting with the Company to answer their queries on progress of initial assessment
3 August 2022	Ireland NCP completed initial assessment and issues to the parties
7 October 2022	Ireland NCP published initial assessment

***Is the Ireland NCP the right entity to assess the Specific Instance Complaint?***

14. Virtual meetings were held between the Ireland NCP and the US NCP to ascertain which NCP was the correct one to address the complaint. This was due to the fact that the Accenture website describes the company as “*an Irish-American, professional services company*”. While the Company has no single headquarters, it has been incorporated in Dublin, Ireland, since 2009. Therefore, the Ireland NCP found it appropriate to undertake an initial assessment of the complaint.

**Ireland NCP Decision**

15. The Ireland NCP decided not to accept this Specific Instance, based on the information provided by the Complainant and the response from the Company, as further consideration was unlikely to contribute to the purpose and effectiveness of the Guidelines, nor did the Ireland NCP wish to inadvertently impinge upon ongoing parallel proceedings. The Ireland NCP took the following points into consideration in arriving at this decision:

***a) Identity of the complainants and their interest in the matter***

16. The Complainant is a non-profit, non-governmental organisation created by the family of Daphne Caruana Galizia, registered in Malta. The organisation is named after Daphne Caruana Galizia, a journalist who was investigating corruption which relates to the issues raised in the complaint.
17. The Ireland NCP considered the Complainant to have legitimate and bona fide interests in the issues raised in the complaint.

***b) Whether the issue is material and substantiated***

18. The issues raised by the Complainant claim the Company failed to combat bribery and corruption for several reasons (see Para 7) relating to Chapter VII of the Guidelines.

19. Given that the issues raised in the complaint are highly relevant and intrinsically linked to ongoing parallel proceedings, the NCP was not in a position to determine whether these issues were material and substantiated as it did not want to undertake any actions to prejudice these proceedings.

***c) Link between the enterprise's activities and the issues raised in the Specific Instance***

20. The Ireland NCP noted that the complaint related to the Company's role as the employer of the official who was allegedly involved in bribery and corruption and its processes and procedures to combat such activities.
21. The Ireland NCP considered that there was a sufficient link between the Company's activities and the issues raised in this Specific Instance, but noted the issues were being addressed through parallel proceedings.

***d) Relevance of applicable law and procedures, including court rulings***

22. The Complainant presented extensive citations of journalistic investigations regarding the purchase of a wind power concession and noted several investigations into the claims.
23. The Company noted in its response to the Ireland NCP that it could not comment directly on the claims due to the sensitivities of the ongoing proceedings into the same matter and the need for confidentiality.
24. The Guidelines note in these instances, an NCP can proceed to evaluate whether an offer of good offices could make a positive contribution and would not create serious prejudice for either of the parties involved in other proceedings. However, the Ireland NCP considered that progressing this complaint could create serious prejudice and, therefore, cannot accept the complaint at this time.

***e) How similar issues have been, or are being, treated in other domestic or international Complaints***

25. The Ireland NCP is not aware of similar issues being raised in Specific Instances received by other NCPs.

***f) Whether the consideration of the Specific Instance contributes to the purpose and effectiveness of the Guidelines***

26. The Ireland NCP considered the information provided by both parties and took the ongoing parallel proceedings into account. While the issues raised could be material, further consideration was unlikely to contribute to the purpose and effectiveness of the Guidelines.

## **Conclusion**

27. The Ireland NCP determined that pursuing this Specific Instance further cannot contribute to the resolution of the issues raised for reasons set out above. It therefore closed the Specific Instance with this statement.

**ENDS**

**Ireland National Contact Point  
OECD Guidelines for Multinational Enterprises  
Department of Enterprise, Trade and Employment**