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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

الزيارة إلى جورجيا

تقرير الفريق العامل المعني بمسألة حقوق الإنسان والشركات عبر الوطنية وغيرها
من مؤسسات الأعمال**

موجز

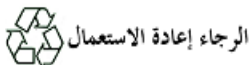
أجرى الفريق العامل المعني بمسألة حقوق الإنسان والشركات عبر الوطنية وغيرها من مؤسسات الأعمال زيارة إلى جورجيا في الفترة من 3 إلى 12 نيسان/أبريل 2019.

وفي أوائل العقد الأول من القرن 21، شرعت الحكومة في تنفيذ برامج واسعة النطاق لإزالة القيود التنظيمية تلغي مجموعة كاملة من القواعد التي تحمي العمال والبيئة، وتهدف إلى جلب الاستثمارات الأجنبية وتحسين درجة البلد في سهولة ممارسة الأعمال التجارية. وشمل ذلك، في عام 2006، تخفيض حماية العمال إلى حد كبير في قانون العمل وإلغاء مفتشية العمل، مما ترك العمال، ولا سيما أولئك الذين يؤدون أعمالاً خطيرة، دون حماية كافية لما يناهز عقداً من الزمن.

وأعرب الفريق العامل عن ارتياحه للجهود الجارية لسد الثغرات المتبقية في نظامي حقوق العمل والصحة والسلامة المهنيين، بما في ذلك تعزيز ولاية مفتشية العمل. ومع ذلك، لا تزال هناك تحديات عديدة في التصدي للانتهاكات المنهجية لحقوق الإنسان المرتكبة ضد العمال، ولا سيما في قطاعي التعدين والهيكل الأساسية.

* يعمم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فُيُعَمَّمُ باللغة التي قُدِّمَ بها فقط.

** اتُّفِقَ على نشر هذا التقرير بعد تاريخ النشر المعتاد لظروفٍ خارجةٍ عن سيطرة مقدِّمه.



ورحب الفريق العامل باعتماد فصل عن الأعمال التجارية وحقوق الإنسان في خطة العمل الوطنية لحقوق الإنسان للفترة 2018-2020. غير أنه أعرب عن قلقه إزاء مستوى تنفيذ الفصل واقترح اتخاذ تدابير لتعزيز محتواه وإطارة المؤسسي للتنفيذ.

ويشير الفريق العامل إلى الجهود التي تبذلها الحكومة لإيجاد نهج متوازن نحو جلب الاستثمارات الأجنبية، والحصول على الاستقلال في مجال الطاقة، والاضطلاع بواجبات الدولة المتمثلة في الحماية من انتهاكات حقوق الإنسان المتصلة بالأعمال التجارية. غير أنه لا يزال يشعر بالقلق لأن الأطر التنظيمية والرقابية الحالية لا تزال غير كافية لمعالجة ما للمشاريع الواسعة النطاق، بما في ذلك في قطاعي الطاقة والتعدين، من آثار سلبية على الناس والبيئة. وأخيراً، يشير التقرير إلى وضع الاستراتيجية الوطنية المقبلة لحقوق الإنسان لجورجيا في عام 2020 كفرصة سانحة لتنظر الحكومة في اعتماد خطة عمل وطنية قائمة بذاتها بشأن الأعمال التجارية وحقوق الإنسان، بمشاركة متساوية وهادفة من أصحاب المصلحة الرئيسيين.

Annex

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its visit to Georgia

I. Introduction

1. Pursuant to Human Rights Council resolutions 17/4, 26/22 and 35/7, the Working Group on the issue of human rights and transnational corporations and other business enterprises, represented by two of its members, Surya Deva and Elżbieta Karska, visited Georgia from 3 to 12 April 2019, at the invitation of the Government. During the visit, the representatives of the Working Group aimed to assess the efforts made by the Government and business enterprises to prevent, mitigate and address adverse impacts of business-related activities on human rights, in line with the Guiding Principles on Business and Human Rights.

2. During the visit, the experts met with the Ministry of Foreign Affairs; the Ministry of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs, including the Labour Conditions Inspection Department and the Labour and Employment Policy Department; the Ministry of Economy and Sustainable Development, including the Technical and Construction Supervision Agency and Enterprise Georgia; the Ministry of Environmental Protection and Agriculture of Georgia; the Human Rights Secretariat; the Ministry of Justice; the Public Defender (Ombudsperson); and the Ministry of Finance, including the Academy of the Ministry of Finance. They also met with two members of the parliament, and representatives of the National Bank of Georgia, Georgia Railways and Georgia Post. The experts also met with officials from the office of the Mayor of Tbilisi, the Acting Mayor of Chiatura, the office of the Government Administration of the Autonomous Republic of Adjara and the office of the Administration of the Governor of the Imereti region.

3. Meetings were held also with representatives of civil society organizations in Tbilisi, Batumi and Kutaisi, business associations, members of the United Nations Global Compact Network Georgia, and individual business enterprises that made themselves available to share their experiences with the Working Group, including JSC Nenskra Hydro, Georgian Manganese, the Adjara Group and the Reach Metal Gold Group.

4. The Working Group thanks the Government for its support and assistance during the visit, and for its willingness to engage in a constructive discussion on the challenges faced and lessons learned in promoting business respect for human rights. The Working Group also thanks the United Nations country team for its support, as well as the organizations, businesses, communities and individuals with whom it met for their openness and willingness to engage in a constructive and solution-oriented dialogue.

II. General context

5. Georgia has experienced significant economic growth in recent years and has made notable progress in accelerating democratic reforms and sustainable economic development. Rich in natural resources and strategically situated at a crossroads in the Caucasian region, Georgia has made significant efforts to create an attractive environment for investment. In 2020, it ranked seventh in ease of doing business in the world,¹ and is the highest-ranked economy in the Eastern Europe and Central Asia region.²

¹ World Bank Group, "Doing Business 2020: Economy report – Georgia". Available at www.doingbusiness.org (accessed on 16 April 2020).

² World Bank Group, "Doing Business 2019 Fact Sheet: Europe and Central Asia". Available at www.doingbusiness.org (accessed on 16 April 2020).

6. Specific measures were introduced by the Government for the purpose of attracting foreign investment, such as reducing regulations, lowering taxes, simplifying the tax regime, establishing tax exemptions, fighting corruption and investing in infrastructure development. For example, “Georgia 2020”, the socioeconomic strategy adopted in 2014, prioritizes measures for promoting rapid economic growth and increasing the competitiveness of the private sector, developing human capital, facilitating access to finance and increasing the efficiency of public administration. A dedicated agency, the Entrepreneurship Development Agency, was established to facilitate private sector development.

7. Georgia enjoys a very close and positive relationship with the European Union, its largest trading partner providing over 100 million euros annually in technical and financial assistance.³ The European Union-Georgia Association Agreement, which entered into force in July 2016, is aimed at political association and economic integration. Article 231 of the Agreement contains a commitment to promote responsible business conduct in line with internationally recognized standards, including the Guiding Principles on Business and Human Rights.

III. Business and human rights chapter in the Human Rights Action Plan

8. In March 2018, the Government published the Human Rights Action Plan for 2018–2020, in which it set out actions to be carried out by different public authorities to implement the 2014–2020 Georgian National Human Rights Strategy. A specific chapter on business and human rights is incorporated within the broader Human Rights Action Plan. The implementation of the Plan is monitored at ministerial level by the Human Rights Council of Georgia, established in July 2014 and chaired by the Prime Minister.

9. In 2014, the Human Rights Secretariat was created under the Administration of the Government and was assigned to coordinate the participation of State agencies and other stakeholders in the monitoring of the implementation of the Plan.

10. The business and human rights chapter was included in the Human Rights Action Plan at the initiative of the Civil Development Agency, a non-governmental organization, which also chairs the Global Compact Network Georgia. In 2017, a national baseline assessment on business and human rights was conducted jointly by the Civil Development Agency, the Public Defender of Georgia and the Human Rights Secretariat. The assessment informed the work of an informal interministerial working group that drafted a specific chapter on business and human rights.

11. While the Working Group welcomed the adoption of a chapter on business and human rights in the broader Plan, it remained concerned by the limited progress made in the effective implementation of that chapter. From the meetings with different ministries, it was clear that they had yet to take coordinated and decisive action to meet the objectives and targets assigned to them under the chapter. The absence of an appropriate institutional framework and adequate funding to ensure its effective monitoring and implementation were identified as main obstacles in that context. At the time of the visit, information on the budget allocated for the implementation of the chapter was not available. In addition, the Human Rights Council of Georgia had not met since 1 April 2015, even though in accordance with article 6 of its statute, it should meet every six months. In order to function effectively, it is critical for monitoring bodies to hold regular meetings. The Working Group was informed that in February 2020, the Government reformed the Council into a national mechanism for reporting and follow-up⁴ to accelerate the pace of action.

³ European External Action Service, “Georgia and the EU”, 2 August 2018.

⁴ In line with the recommendations formulated in a report produced under the project “EU/UN Human Rights for All” (See Jeremy Sarkin, “Reinvigorating and transforming the role of the Human Rights Council (HRC) in Georgia into a National Mechanism for Reporting and Follow-up (NMRF) in line with global practice”, 14 January 2019.)

12. The Human Rights Secretariat is currently taking the lead on the elaboration of the Human Rights Strategy for 2021–2030 and the subsequent Human Rights Action Plan for 2020–2022. It will be critical for the Government to amend the chapter on business and human rights in order to strengthen implementation and monitoring efforts, and to hold implementing State agencies accountable for progress made, including through indicators that are specific, measurable, achievable, relevant and time-bound. The equal and meaningful participation of all relevant stakeholders, including civil society, the Public Defender, business and trade unions, in these initiatives should be ensured from an early stage. This requires the creation of adequate institutional arrangements and information-sharing mechanisms. In addition, the Working Group is of the view that the Human Rights Secretariat and Human Rights Council of Georgia should assume a more proactive role in coordinating and monitoring implementation of the business and human rights chapter.

13. Moreover, the Working Group believes that the content of the chapter should be improved after 2020, so to capture fully all findings and recommendations of the baseline assessment and of the present report. The chapter should cover all three pillars of the Guiding Principles on Business and Human Rights and ensure that its provisions also address the adverse human rights impacts of Georgian businesses operating abroad. More generally, it will be critical that business and human rights remain an integral part of the Human Rights Strategy for 2021–2030. The Government should also consider developing a comprehensive and stand-alone national action plan on business and human rights.

14. In that context, civil society organizations expressed concern about the lack of transparency, openness and meaningful participation in the process of developing the new Human Rights Strategy for 2021–2030 and the related Human Rights Action Plan for 2020–2022. The Working Group stresses the importance of translating the expressed political commitment towards an inclusive process into equal and meaningful participation of key stakeholders from an early stage, as a precondition for the effective development and implementation of these policy frameworks.

IV. Human rights risks and impacts in specific sectors

15. A consistent theme in the meetings with government officials, businesses, civil society organizations and community members was the legacy of a decade of deregulation, and the need for a new approach compatible with the Sustainable Development Goals and human rights protection.

16. Notwithstanding the Government’s initiatives aimed at finding a sustainable path, national economic policy still remains focused on improving the ease of doing business and attracting investment, including through tax incentives and the creation of free industrial zones without appropriate regulations and incentives for companies to respect human rights. As the Working Group witnessed, a one-eyed focus on attracting investment risks undermining efforts to promote responsible business conduct, unless there is a robust legal and institutional framework in place to protect human rights. The importance of ensuring a level playing field and a reward system through effective regulations on responsible business conduct was also stressed by some businesses.

17. During the visit, the Working Group identified a number of recurrent themes and explored several emblematic cases, which illustrated challenges faced and pointed to ways forward to promoting business respect for human rights.

A. Occupational health and safety

18. Occupational safety and health of workers is one of the most serious human rights concerns, resulting from a labour market that was almost completely deregulated until 2015. Particularly challenging is the situation in the construction and infrastructure sectors, where large numbers of injuries and fatal accidents occur, in particular in Batumi and Tbilisi, where construction is booming.

19. According to non-official figures, between 2011 and 2018, a total of 1,081 workers were injured and 376 died. Official information shows that in 2018 alone, accidents occurring at work resulted in 59 deaths and injuries to 199 individuals.⁵ By the time of the visit in April 2019, 11 deaths had already been recorded since the beginning of the year. The Working Group was troubled to learn that only a few days before the visit started, two workers had died on a construction site not far from where it was holding meetings in Tbilisi. The Working Group was encouraged by the official figures for 2019, which showed that the number of fatal accidents and of injuries in the workplace had decreased by 24 per cent and 16 per cent, respectively.⁶ However, the actual figures may be higher as the Working Group learned that many workers did not have proper insurance coverage, which was likely to contribute to underreporting of accidents.

20. According to the Office of the Ombudsperson, investigations had been launched into the 224 workplace incidents that occurred in 2018, which significantly exceeded the 128 incidents recorded in 2017. Of those allegations, investigations had been terminated in 67 cases and criminal prosecutions had been launched in only 19 cases. The Ombudsperson concluded that timely and effective investigation still remained a significant challenge.⁷

21. The Working Group considers that the lack of a comprehensive regulatory framework on occupational health and safety providing for an effective labour inspections mechanism, combined with a general lack of awareness among workers about their rights, had resulted in the alarming number of accidents recorded across sectors and throughout the country. Addressing the growing casualization of workers, especially in the construction and mining sectors, should remain a priority for the Government, requiring a stronger focus on preventive measures and effective oversight at the national and local levels.

Labour inspections

22. In its meeting with the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, the Working Group learned that, after having been abolished almost 10 years earlier, a labour inspectorate (the Labour Conditions Inspection Department) had been reintroduced within the Ministry through a governmental decree in 2015. That development was a positive step towards addressing the systemic challenges related to working conditions. However, the authority of the Labour Conditions Inspection Department was limited to voluntary inspections and to issuing non-binding recommendations for businesses. It lacked resources and had no authority to conduct unannounced inspections, except for alleged cases of human trafficking and forced labour.

23. On 21 March 2018, the Law on Labour Safety came into force, reinforcing the mandate of labour inspectors by conferring upon them the power of introducing sanctions such as warnings, setting penalties and suspending business operations. However, the law remained limited in scope as it only covered sectors that were identified as especially hard, risky and hazardous. Labour inspectors also needed to seek authorization by court order to conduct inspections. It was therefore a welcomed development that in February 2019, a new Organic Law on Occupational Safety gave the Labour Conditions Inspection Department the authority to inspect all sectors, both public and private, without a court order or prior notice. The amendments entered into force on 1 September 2019. In addition, the new regime provided for mandatory inspections of all labour rights (along with occupation safety and health regulations), but only in situations of “increased risk”, and in “heavy, hazardous and harmful sectors”. During the meetings with representatives of the Labour Conditions Inspection Department and the Labour and Employment Policy Department, the Working Group expressed concern that the regulatory framework would

⁵ A total of 47 individuals died and 106 individuals were injured in 2017 (Office of the Public Defender of Georgia, *Annual Report of the Public Defender of Georgia: The Situation of Human Rights and Freedoms in Georgia* (2018), p. 159).

⁶ In 2019, 45 persons died and 168 were injured in the workplace (Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, *Labour Conditions Inspection Department: Annual Report 2019* (Tbilisi, 2019), p. 21).

⁷ Office of the Public Defender of Georgia, *Annual Report of the Public Defender of Georgia: The Situation of Human Rights and Freedoms in Georgia* (2018), p. 161.

remain inadequate even despite the September 2019 amendments, as it would not cover the whole spectrum of labour rights in all economic sectors. It was informed that an amendment presented to the parliament would broaden the mandate of the Labour Conditions Inspection Department to cover enforcement of the full range of labour rights and standards in all sectors of economic activities and to issue sanctions against companies abusing labour rights. The amendments are expected to enter into force in 2022.

24. Another source of concern expressed to the Working Group by different stakeholders across the country related to the lack of adequate resources of the labour inspectorate, which would prevent it from carrying out its mandate effectively and addressing the systemic abuses in a number of workplaces.

25. In that respect, the Working Group learned that the Government was investing in building the capacity of the Labour Conditions Inspection Department to identify risks and had increased the number of inspectors from 40 to 100. Legislation was being drafted to make the Department a legal entity of public law, in order to strengthen its independence and institutional capacity, including through the creation of regional branches.

26. The Ministry also recalled the provision in the Law on Labour Safety that required companies to recruit a dedicated labour safety specialist and report accidents to the inspectorate, and placed the burden of proof on the employer following an accident.

27. In Tbilisi, where construction projects were in rapid expansion, the Working Group met with officials at the City Hall. Those officials explained that the inspectorate department had 24 vehicles and 60 inspectors who conducted unannounced visits to construction sites. They stressed the importance of additional measures to strengthen their capacity to prevent and mitigate occupational safety and health-related risks, including stricter and more effective safety measures that focused on prevention.

28. Another concern constantly raised by stakeholders was the low level of awareness among the private sector of the responsibilities under the regime of occupational safety and health, particularly in the construction and infrastructure sectors. The Working Group learned that in many cases involving accidents on construction sites, companies generally blamed employee negligence, rather than adopting the necessary preventive measures to discharge their responsibility. Recognizing the importance of increasing awareness among workers of their rights, the Working Group recalls that the primary responsibility of ensuring a healthy and safe working environment rests with the employer.

29. The Working Group welcomes the commitment of the Government and business associations to help raise awareness about the Guiding Principles on Business and Human Rights, including in the private sector. The Government-led project to train 100 trainers by the end of 2019 to raise awareness about responsible business conduct was noteworthy. Trainers will be certified for two years and will be obliged to conduct trainings for at least four groups of companies operating in Georgia.

B. Environmental and social impact assessments

30. The new Environmental Impact Assessment Code entered into force on 1 January 2018 and expanded the scope of procedures in relation to environmental impact assessments, strategic environmental assessments, transboundary environmental impact assessments and public participation in decision-making. Under the new regime, activities that may have significant effects on the environment, human life or health are subject to a mandatory screening and scoping procedure to prevent risks and improve the planning of mitigation measures. The same provisions apply to modifications introduced to any strategic aspects of previously approved business activities. The new regulation also introduced the requirement to ensure public participation from an early stage of scoping and licencing phases.

31. However, the Working Group expressed concern at the level of implementation and oversight of the regulations, which seemed to remain weak. There also seemed to be a lack of institutionalized mechanisms to ensure coordination between the national and local authorities on oversight activities. Another cause for concern related to ongoing

assessments of environmental impacts of business operations that were authorized before the new Code entered into force.

32. The Working Group also received information regarding lack of effective and meaningful participation of affected individuals and communities in environmental decision-making processes, including examples where stakeholders had not been able to participate from an early stage, when no irreversible decision had been made prior to the commencement of projects. The Working Group reminds the Government and businesses that meaningful engagement with all stakeholders through transparent access to information is critical to prevent, mitigate and address business-related adverse human rights impacts. Furthermore, such engagement helps to build trust and address any power asymmetries between actors that could hamper inclusive and constructive collaboration.

C. Hydropower sector

33. A recurring challenge witnessed by the Working Group related to the current negative impact on the environment of large-scale hydropower plant projects. The 2018 national baseline assessment already noted the problem of deficient assessments of the impacts of hydropower plant projects on the environment and local communities. Civil society organizations and community representatives voiced concerns regarding major flaws in environmental impact assessment reports, including their scope, methodology, transparency of the procedure, and enforceability of environmental impact assessment requirements. Public participation was also considered to be limited in that context, which has often fuelled a lack of trust in the affected communities.

34. As part of its legitimate aim to secure energy independence, the Government has promoted investments in hydropower plants. At the time of the visit, Georgia had a total of 84 hydropower plants (with a rated capacity of 3,227 MW); 24 hydropower plants (capacity of 1,235 MW) were under construction and another 67 (capacity of 1,314 MW) were at the licencing stage. The Working Group remains concerned by the long-term energy policy for its inconsistency with a holistic approach that takes into account the rational use of natural resources, sustainable development, the socioeconomic needs of local populations and the right to live in a healthy environment. These challenges require sector-specific and comprehensive approaches to environmental impact assessments and strong oversight from the Government.

35. The 2018 baseline assessment highlighted that reports of various companies did not assess (or inadequately assessed) the projects' cumulative social, ecological, economic and energetic impact. In addition, the mitigation measures were not adequately defined. In the meeting with the Ministry of Economy, which is in charge of energy, it recognized the difficulties in finding a balanced approach to economic, social and environmental dimensions of energy sustainability, but also recognized the increased pressure put on the Government and companies by foreign investors and international financial institutions to comply with their own sustainability standards.

36. Given that several hydropower plant projects were being developed at the same time, there was also a legitimate concern by affected communities regarding the proportionality between the benefits and the possible harm these projects might cause to communities and the environment. It is worth mentioning that current regulations do not foresee an obligation to carry out a cost-benefit analysis for the plants when the construction permits are issued. The risk for social and environmental conflicts is therefore high. The Nenskra hydropower plant is an example of a project that has failed to gain acceptance from the local communities.

37. The planned construction of the Nenskra power plant (280 MW) – with a dam that is 130 metres high and a reservoir of up to three square kilometres – is one of 35 hydropower plants planned in the Upper Svaneti region. In order to understand the situation, the Working Group met with different stakeholders, including the promoters of the project, JSC Nenskra Hydro – a joint venture of Korea Water Resources Corporation and JSC Partnership Fund (a Georgian government agency).

38. In September 2015, the environmental and construction permits were issued on the basis of a number of environmental and social impact studies carried out by the company between 2010 and 2015. In 2016, international funders of the project, including the European Bank for Reconstruction and Development, identified a number of gaps and set a number of conditions for their approval of funding. This forced the company to carry out supplementary studies, presented in 10 volumes, including a more robust social impact assessment, which were completed in 2017 and posted online. Changes were also made to the project to reduce the impact on pasture land. According to the company, the entire valley was consulted, including through door-to-door meetings, and the project would not result in physical displacement. In 2018, a complaint was filed with the Project Complaint Mechanism of the European Bank for Reconstruction and Development, alleging the failure of the Bank to comply with its Environmental and Social Policy regarding the project's potentially significant impacts and harm on Svans as indigenous peoples, as well as on the livelihoods, health and general well-being of the impacted community, by accepting the lack of proper public consultations, as well as by approving a project that lacks proper impact assessment and mitigation measures.⁸

39. Despite the additional measures taken to comply with the standards of international financial institutions, the project remains highly contested. Similar to a number of other hydropower plant projects, there was a perception that consultations with communities were being conducted as a box-ticking exercise. However, the Government, in comments it provided to the Working Group, disputed that the level of participation was superficial and reported that affected communities had been consulted from early stages of the environmental impact assessment process, in line with relevant international and national standards. It also contended that the final construction permit was issued in 2020 on the basis of improved social and environmental parameters, as reflected in a number of environment and social studies carried out in accordance with Georgian standards and requirements of international financial institutions, including the European Bank for Reconstruction and Development and the Asian Development Bank.

40. Although the project might not directly result in the relocation of any communities, concerns were raised regarding the possible economic displacement and its disproportionate impact on women, whose incomes from traditional livelihoods could be lost because of the project's impact on local forests. The loss of the local population's source of income could also result in physical displacement. Civil society organizations also highlighted the impact of the Nenskra hydropower plant on Svan people who self-identify as indigenous, although the Government claims there are no indigenous peoples in Georgia.

41. The Working Group notes the information provided by the Government regarding the refusal to carry out two projects on construction and operation of hydropower plants in 2019. However, it remains concerned at the cumulative impact of all hydropower plant projects – whether implemented, halted or planned – on human rights and the environment, and at the level of information and meaningful participation of all relevant stakeholders, both in environmental impact assessment processes and throughout the implementation of projects.

D. Mining sector

42. In Chiatura, a mining town of around 20,000 inhabitants, the Working Group met with trade union representatives, local community members, the acting mayor, and representatives of the mining company, Georgian Manganese, to learn more about challenges faced in the mining sector.

43. Manganese has been extracted in Chiatura for more than 100 years. In 2006, Georgian Manganese – a subsidiary of Georgian American Alloys Inc., based in the United States of America – obtained a 40-year licence to extract manganese in Chiatura. The mining operations currently provide employment for some 5,800 workers, making Georgian Manganese one of the largest employers in the Imereti region. The company

⁸ See https://bankwatch.org/wp-content/uploads/2018/08/nenskra-complaint_redacted.pdf.

estimated the amount of manganese under the ground to be 160 million tons, and indicated an extractive capacity of 1.2 million tons per year.

44. In Chiatura, another 43 smaller companies extract manganese as subcontractors under Georgian Manganese's licence, operating smaller mines and quarries and employing around 1,500 workers. The company also operates a ferroalloy plant in Zestafoni, and a hydroelectric power plant that supplies power to all of the company's operations.

45. The 140-year-old mine has plants that were constructed in 1944 and in 1933 (in Zestafoni) that are still operating. Most of the mines are rusty, derelict industrial complexes, operating with antiquated equipment, which raised immediate serious concerns about the environmental impacts and about the working conditions of miners.

46. Under current regulations, wastewater generated as a result of manganese extraction should be discharged in the rotational water supply system, and direct discharge of the wastewater in the rivers is prohibited. The same applies to the subcontractor companies of Georgian Manganese. However, the Working Group witnessed first-hand how some of the sludge from manganese extraction was being discharged directly into the river. According to information received from the local communities, 375.961 tons of waste materials were discharged into the rivers in 2018, with huge negative impact on safe drinking water, farming and livestock grazing. Despite existing regulations and the oversight exercised by the Environmental Supervision Department under the Ministry of Environmental Protection and Agriculture, proper and safe management of waste generated from mining sites remained a source of concern requiring urgent and more effective measures by Georgian Manganese and monitoring by the Government.

47. The Working Group learned from Georgian Manganese representatives that the company would stop discharging sludge into the river once a new construction ore enrichment plan, and related investments in new technology, had become operational. While these are welcome developments, concerns remain regarding the lack of plans for proper and safe management of waste materials resulting from the operations of the company's subcontractors. As was clear from the Working Group's conversations with company managers, the company did not consider that it had any responsibility to address the polluting practices of its subcontractors. However, under the Guiding Principles on Business and Human Rights, Georgian Manganese has a responsibility to seek to prevent or mitigate adverse impacts that are linked to its operations or products by its business relationships.

48. Residents in Chiatura also complained about air pollution caused by the mining operations and the recurrent practice of trucks transporting manganese ore without adequate cover. There was a perception that the local and national authorities had not done enough to remedy the situation.

49. The Working Group learned that since 2012, Georgian Manganese had been doing its own environmental audits every two years. However, the Working Group expressed concern at the information received from the company that the results of the internal audits were only shared with the company's shareholders, lenders and investors.

50. In 2016, the Ministry of Environmental Protection and Agriculture made a decision – approved by the Tbilisi City Court – to appoint a special manager for a period of three years to develop a detailed plan to remediate and mitigate environmental harms, since Georgian Manganese had continuously failed to comply with environmental legislation and licence conditions. The special manager conducts environmental monitoring and reports monthly to the Ministry.

51. Mitigating environmental harm caused by decades of unsustainable mining practices and abandoned mining was also a challenge in other parts of Georgia, as recognized in the 2017–2021 National Environmental Action Programme. The Working Group urged the Government and businesses to work together to urgently address the current extensive environmental pollution and to transition to sustainable mining practices.

52. Another major challenge in Chiatura and in other mines in Georgia was the need to improve worker health and safety and ensure decent working conditions. The incidence of accidents in Chiatura mines remains a cause for alarm. According to local trade unions, in

2018, a total of 60 accidents were documented, which resulted in the death of one employee and several serious injuries. In addition, testimonies reported that the ventilation system in the mines was insufficient and often not fully functioning. The representatives of Georgian Manganese did not deny that current working conditions in the old mines were hazardous, but said conditions have improved in the new mining sites.

53. Georgian Manganese representatives also informed the Working Group that the employees received salaries that were above the industry average and that they were granted benefits, including free transportation and meals, and free medical insurance for them and their families. However, in May 2019, a strike over poor working conditions at the Chiatura Manganese mine shutdown production for 13 days. The Working Group was also concerned to learn about the practice in the new mines of organizing miners into 15 days of 12-hour shifts, followed by 15 days of leave. During the working days, miners worked 12 hours in the mine and were then taken to a dormitory, which they were not allowed to leave without the permission of a supervisor. The Working Group stressed that such a practice was not consistent with international labour standards, and it also questioned whether this was consistent with national legal standards.

54. The Working Group learned about existing grievance mechanisms at company level, such as a hotline and the ability to submit written complaints. However, testimonies indicated a generalized lack of trust in these mechanisms among employees, questioning whether available grievance mechanisms met the effectiveness criteria under principle 31 of the Guiding Principles on Business and Human Rights.

E. Labour rights

1. Minimum wage and working hours

55. In 2013, significant amendments were made to the Labour Code to align national legislation on labour rights with international standards. However, monitoring and implementation of the Code remains a challenge in the absence of an effective labour inspection mechanism with the mandate to cover all labour rights, including labour conditions and discrimination at the workplace.

56. In the private sector, the minimum monthly wage is 20 Georgian lari (approximately \$7); in the public sector, it is 135 Georgian lari⁹ (approximately \$50), although the Ministry of Labour noted that, in practice, the minimum wages were much higher. The Working Group raised the concern that the absence of an adequate minimum wage was being touted to attract foreign investment¹⁰ and encouraged the Government to establish a periodic review of the minimum wage, to be indexed to the cost of living and sufficient to ensure a decent living for workers.

57. Regarding working hours, article 14 (1) of the Labour Code provides that the duration of working time must not exceed 40 hours a week, but indicates that in enterprises with specific operating conditions requiring more than 8 hours of uninterrupted production, work should not exceed 48 hours a week. According to trade unions, this provision puts employees working in these enterprises in an unequal position. They also voiced concern regarding the rule for counting overtime compensation, noting that the current regime does not define Saturday and Sunday as holidays. This gap in the regulatory framework could lead, for example, to situations where an employee would work seven days a week but not exceed 40 or 48 hours, and therefore would not be entitled to receive overtime compensation for the work done on weekends. Since 2015, the Public Defender has recommended in its annual reports the inclusion of a cap on daily working hours, a provision for weekly rest, and a cap on overtime. In this regard, the Government informed the Working Group that the amendments to the Labour Code that were being discussed in the parliament encompassed the maximum amount of working hours within a week, as well as a cap for overtime work. It also reported that the new law on labour inspection would

⁹ Davit Darsavelidze, *Impact of Possible Growth of Minimum Wage in Georgia* (Tbilisi, Friedrich Ebert Stiftung, January 2019), p. 5.

¹⁰ <https://investingeorgia.org/en/georgia/labor>.

provide workers with the possibility of referring to the Labour Conditions Inspection Department in case of an infringement of their labour rights.

58. Steps have been taken to revive the Tripartite Social Partnership Commission, established in 2013 and comprising government, private sector and trade union representatives. The Commission had the objective of supporting the development of a social partnership; promoting social dialogue between employees, employers and the Government at all levels; and developing proposals and recommendations on various issues related to labour rights with the assistance of the International Labour Organization (ILO). The Working Group learned that the Commission was supposed to meet quarterly but that it had only held four meetings since 2013, and that it did not represent an effective mechanism to strengthen labour policies and practices. In order to assess labour legislation and elaborate measures for the better protection of labour rights, the Working Group recommends that the Commission be reformed, in order to make it more effective, especially in relation to the implementation of its recommendations.

2. Freedom of association and discrimination

59. The legal framework protects the right to freedom of association, including the right to create and join trade unions. The unions have the right to develop their own charters, establish management bodies, elect representatives and administer their activities. The Labour Code (arts. 40.1 and 40.2) prohibits discrimination based on membership or activities in any association, but does not oblige the employer to reinstate employees dismissed owing to discrimination.

60. Trade unions representatives and civil society organizations told the Working Group about instances of trade unions being unduly influenced by employers, and cases of companies automatically enrolling their employees in a specific trade union when they signed the employment contract. This practice threatens the vital role played by independent trade unions in protecting workers' rights.

61. Moreover, the Working Group received allegations of discrimination based on trade union affiliation, and unfair dismissal allowed by the vaguely defined ground of "other objective circumstance", contained in article 6 (e) of the Labour Code. Concerns were also raised regarding the lack of effective penalties or remedies for arbitrarily dismissed employees, including lengthy delays involving labour rights in legal disputes. Trade unions and civil society representatives emphasized the importance of an effective labour inspection system with the mandate to inspect the full spectrum of human rights at the workplace in order to act as a preventive mechanism but also to foster respect of labour rights.

62. The Office of the Public Defender plays a critical role in preventing and addressing discrimination. It has a mandate to monitor how State authorities and institutions protect and respect human rights, exercise oversight on the implementation of the Law of Georgia on Elimination of all Forms of Discrimination of 2 May 2014, and monitor implementation of the Convention on the Rights of Persons with Disabilities, in line with the Organic Law on the Public Defender of Georgia. The provisions of the law of 2014 apply to public agencies as well as legal entities and physical persons of private law, thus allowing the Public Defender to deal with discrimination complaints arising from both the public and private sectors. It is noteworthy that the non-discrimination grounds referred to in the law protect against all forms of discrimination, including discrimination related to sexual orientation and gender identity.

63. According to official figures, during the period 1 September 2017–31 August 2018, a total of 69 per cent of incidents of alleged discrimination were committed in the public sector and 31 per cent in the private sector. The private sector figure represented an increase of 4 per cent over the previous year.¹¹

64. At the time of the visit, the Public Defender's recommendations concerning a finding on discrimination were not binding on private actors. The Working Group

¹¹ Office of the Public Defender of Georgia, "Special report on the fight against discrimination, its prevention and the situation of equality" (2018), pp. 26–27.

considered this to be a serious limitation to the mandate of the Public Defender, undermining its potential to operate as an effective non-judicial mechanism in business-related human rights abuses.¹² Notably, recent legislative amendments have entitled the Public Defender to refer to national courts to enforce the recommendations addressed to both public and private actors.¹³ The Working Group commends the Government for this positive development.

3. Persons with disabilities

65. The 2014 Law on the Elimination of All Forms of Discrimination prohibits discrimination on several grounds, including disability, in both the public and private sectors. However, civil society and representatives of persons with disabilities informed the Working Group that, in practice, significant challenges remained in integrating and retaining persons with disabilities in the labour market. They face discrimination in all spheres of life, including in accessing educational institutions and other services, which increases their precarious position in the labour market.

66. Among the measures taken by the Government to address these challenges is a system in which the Government provides 50 per cent subsidized salaries for an initial period of six months for persons with disabilities employed in the private sector, with the requirement that the company extend the contract for a minimum of another six months. However, the practice showed a low level of retention at the end of one year. Civil society organizations and persons with disabilities explained that that measure had proved to be insufficient because it was not accompanied by a holistic approach requiring effective measures to address the root causes of exclusion.

67. The Working Group also learned of the weak enforcement of court decisions in dismissal cases involving persons with disabilities. The current legal framework provides for three avenues to remedy established cases of illegal dismissal. The first calls for reinstatement to the same position. When that is not possible, the person should be reinstated to a similar position. Should a similar position not be available, the final avenue is the right to monetary compensation. The practice has shown that in cases of illegal dismissal, by the time the court examines the case, the position left vacant by the dismissed person has typically been filled, and the court has to opt for monetary compensation instead of demanding the reinstatement of the employee. This practice, compounded by stigma and insufficient implementation of the provisions on reasonable accommodation, has a disproportionate negative impact on labour rights of persons with disabilities. The draft law of rights of persons with disabilities submitted to the parliament on 3 February 2020 is aimed at addressing some of the shortcomings in the current regulation and in turn, at strengthening equal access to employment opportunities for persons with disabilities, including through temporary measures.

68. The Working Group encourages the Government to tackle the root causes of discrimination against persons with disabilities, such as stigma related to their ability to work, and to ensure their participation in the design of more effective incentives for companies to hire and retain them in the labour market.

4. Migrant workers

69. The Working Group is concerned that the situation of migrant workers, who are particularly exposed to business-related human rights abuses, is not regulated by any specific legislation. It was informed that in some cases, migrant workers employed by foreign companies involved in major infrastructure projects were living at their workplace in bad living conditions.

70. The absence of adequate legal protection is compounded by the lack of official statistics on migrant workers, which makes it difficult to assess the specific challenges they face and the actions required to protect them from abuse, and to provide effective remedies.

¹² Ibid., p. 24.

¹³ Office of the Public Defender of Georgia, “Input on the role of national human rights institutions in facilitating access to effective remedy for business-related human rights abuses”, June 2019.

The Working Group encourages Georgia to ratify the relevant international human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

V. Gender aspects of business and human rights

71. The impact of business-related abuses is experienced by men, women and non-binary persons differently. The Working Group learned about several types of discrimination faced by women. Women are underrepresented in the workforce¹⁴ and are paid less than men.¹⁵ Unpaid work at home, gender-segregated jobs, sexual harassment and gender-based violence, including domestic violence, also operate as significant barriers for women to avail of economic opportunities. Moreover, as women often do not enjoy property rights, they may find it difficult to obtain loans from banks to start a new business. Labour and gender legislation already regulate various aspects of discrimination against women, including sexual harassment and discriminatory questions in pre-contractual labour relations. However, despite these efforts, gender inequality remains high: Georgia was ranked seventy-fourth in the *Global Gender Gap Report 2020* of the World Economic Forum.¹⁶

72. Sexual harassment cases seem to be underreported, including because of existing patriarchal social norms and a lack of sensitivity in handling such complaints. The Working Group hopes that the recent legal amendment extending the power of the Public Defender to make binding recommendations to companies, together with the broadened mandate of the Labour Conditions Inspection Department, will provide a mechanism for accountability and redress for these cases as well.

73. The Working Group noted with concern that women working in the private sector were not entitled to any paid maternity leave as a matter of right, apart from a payment of 1,000 Georgian lari (approximately \$350) offered by the Government. It also learned how reproductive rights were curtailed by internal policies of certain companies that discouraged pregnancy in the first 30 months of employment. The Working Group understands that the parliament is currently considering a proposal to extend paid maternity leave in the private sector and to provide for paternity leave. This opportunity should be used by the Government to require all companies to provide paid maternity leave in line with ILO standards and emerging best practices in other countries, and to move towards the idea that child-rearing is a shared responsibility of both parents.

74. As for the principle of equal pay for work of equal value, the monthly gender pay gap comprises 35.2 per cent. The Working Group stresses the importance of adopting measures to implement the principle in all sectors, as recommended by the Committee on the Elimination of Discrimination against Women¹⁷ and European Parliament Directive 2006/54/EC.

75. The Working Group is encouraged by the steps taken by the Government to achieve gender equality in recent years, and welcomes the leadership role played by the parliament Gender Equality Council on amending the existing labour legislative regime or enacting new laws, including on equal access to employment, terms of employment and equal working conditions and remuneration in the public sector. It also welcomes Government-led initiatives, such as the awarding by Enterprise Georgia of “plus points” to women applicants in cases where all other job requirements are equally met. The Government should consult the Working Group’s report on gender dimensions of the Guiding Principles

¹⁴ In 2017, a total of 53 per cent of women were reportedly employed, compared with 67 per cent of men (www.ohchr.org/Documents/Issues/Business/Gender/Georgia.pdf).

¹⁵ See UN-Women Georgia, “Dialogue to be launched on policy aiming to eliminate gender pay gap”, 22 May 2019; and Mercy Tembon, “Why we care about closing gender wage gaps in the South Caucasus”, World Bank, 7 March 2019.

¹⁶ World Economic Forum, *Global Gender Gap Report 2020* (Geneva, 2019), p. 9.

¹⁷ CEDAW/C/GEO/CO/4-5, para. 29 (b).

on Business and Human Rights (A/HRC/41/43), which provides guidance on how to integrate a gender perspective throughout policies and decisions.

76. As of December 2019, 43 companies had become signatories to the Women's Empowerment Principles, including the Georgian Chamber of Commerce and Industry, making it one of the first chambers of commerce in the world to commit to the principles.¹⁸

77. The Working Group also became aware of discrimination against the lesbian, gay, bisexual, transgender and intersex community. The Government should promote the lesbian, gay, bisexual, transgender and intersex standards of conduct for business,¹⁹ and take proactive steps to eliminate discrimination based on sexual orientation or gender identity in both the public and private sectors. The Government should also fully implement the recommendations made by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity following his official visit in 2018 (A/HRC/41/45/Add.1).

VI. Access to effective remedies

78. Courts are the bedrock of an effective mechanism of remedies in cases of business-related human rights abuses. The Working Group learned that judicial remedies were often not effective in practice, including because of a low level of awareness among rights-holders about their rights, high costs of litigation, complex corporate structures, delays in deciding cases, and practical obstacles in enforcing court orders.

79. Another challenge in ensuring access to remedy was a low level of knowledge about the Guiding Principles on Business and Human Rights among the judiciary. For example, the High School of Justice, which provided training for judges and lawyers, did not include training on international standards for responsible business conduct. The Government should conduct an internal review of the effectiveness of judicial remedies in business-related human rights abuses and make systematic reforms in line with recommendations made by the Accountability and Remedy Project of the Office of the United Nations High Commissioner for Human Rights.

80. The Working Group was informed that a mediation law for the resolution of disputes with companies had entered into force on 1 January 2020. Although that law was a step in the right direction, it was critical to ensure that the mediation process complemented access to judicial remedies and complied with effectiveness criteria under principle 31 of the Guiding Principles on Business and Human Rights, including by addressing power imbalances between the parties.

81. Access to information about corporate operations as well as the presence of an independent civil society and trade unions are vital to facilitate access to remedies for business-related human rights abuses. The Government should take measures to extend the applicability of the right to information to the private sector and require businesses (including State-owned enterprises) to respect the freedom of association and the right to collective bargaining.

82. The Working Group found little evidence of business enterprises establishing or operating effective operational-level grievance mechanisms in line with the Guiding Principles on Business and Human Rights. The Government, the United Nations Global Compact Network Georgia and business associations should raise awareness about the importance of establishing effective grievance mechanisms to address concerns and adverse human rights impacts at an early stage. State-owned enterprises should lead by example in this area.

¹⁸ UN-Women Georgia, "Number of WEPs signatories in Georgia reaches 43", 5 December 2019.

¹⁹ OHCHR, "Tackling discrimination against lesbian, gay, bi, trans, and intersex people: standards of conduct for business", November 2017.

VII. The State as an economic actor

83. Principle 4 of the Guiding Principles on Business and Human Rights provides that States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State. State-owned enterprises, such as Georgian Railways and Georgian Post, are among the largest employers in the country, and the Government should set out a clear expectation that those enterprises respect human rights. In this regard, relevant guidance is provided by the Working Group to ensure that State-owned enterprises lead by example (see A/HRC/32/45).

84. The Working Group also encouraged the Government to integrate the promotion of responsible business conduct into its diplomatic trade missions and other forms of economic diplomacy, such as export credits and trade missions. While the Government has yet to take such steps, it should refer to the Working Group report on how economic diplomacy should be used to promote responsible business conduct (A/HRC/38/48). As a first step, the Government could require businesses to make a public commitment to respect human rights as a condition for receiving any forms of official trade support.

85. Public procurement offers another important means for the Government to incentivize respect for human rights among businesses. Currently there are no mechanisms to set out a requirement for contractors to respect human rights, except for a narrow focus on employment conditions in some public procurement contracts.²⁰ The Working Group encourages the State Procurement Agency to systematically integrate responsible business conduct criteria into the bidding process. Through strategic sourcing decisions to increase the diversity of their suppliers, public procurement can serve as an effective tool for economic and social empowerment, including of women, migrants, lesbian, gay, bisexual, transgender and intersex persons, and persons with disabilities.

VIII. Free industrial zones

86. In Georgia, free industrial zones were created in Poti and Kutaisi in 2009, in Kulevi in 2012, and in Kutaisi and Tbilisi in 2015. According to the current regulatory framework, free industrial zones may be created on any plot of territory or area that exceeds 10 hectares, except protected territories defined by national legislation. Free industrial zones may be created at the initiative of the Government of Georgia, or at the request of any individual or legal entity.

87. The profit or distribution of profit earned by a free industrial zone enterprise from business permitted within the zone is exempt from corporate profit tax, while property within such a zone is exempt from property tax for an indefinite period. Simplified procedures for obtaining licences and permits apply, for example, for the issuance of a construction permit. While the Working Group received reassurance from the Government that all human rights standards, including labour rights, fully apply in free industrial zones, it did not receive any evidence of human rights due diligence integrated in the efforts to attract investments in such zones. For example, free industrial zones are not addressed in the chapter on business and human rights, and reference to the Guiding Principles on Business and Human Rights as providing the standards of expected conduct for all businesses operating in these zones is absent in publicly available information about them.²¹ In addition, any public information provides the detailed and full list of companies operating or in the process of obtaining permits in these zones, raising concerns about lack of transparency and proper oversight on their operations.

88. The Working Group remains concerned that development projects in free industrial zones could be rushed through without adequate assessment of their adverse social and environmental impacts.

²⁰ Office of the Public Defender of Georgia, “National baseline study on business and human rights” (2018), p. 229.

²¹ See <http://tfz.ge/en/444/>; https://investinggeorgia.org/en/ajax/downloadFile/569/Free_Industrial_Zones_in_Georgia; <https://potifreezone.ge/>; and <https://hualingfiz.ge/>.

IX. Financial sector

89. During the meeting with the National Bank of Georgia, the Working Group learned that some positive steps had been taken in the financial sector to support the development of sustainable and responsible investments, in particular since the National Bank joined the Sustainable Banking Network in September 2017. The Code of Corporate Governance for Commercial Banks specifies that a bank should integrate sustainability issues, such as environmental, social and governance factors, into their long-term strategic development plans, thus considering financial and non-financial risks, including environmental and social risks, together. The Working Group hopes these initiatives will contribute to a shift in the approach to risk, which should focus less on financial risks to the bank, and more on potential negative impacts on people and the environment, in particular when financing large infrastructures and projects in the energy, mining and construction sectors that carry higher risks of negative human rights impacts.

90. The Working Group also learned about efforts to address the current gender imbalance in the composition of supervisory boards. It noted the requirement under the Code to ensure that female representation on supervisory boards would be at least 20 per cent – and in all cases a minimum of one female member – by the end of 2019. However, the Working Group learned that governmental institutions or agencies, including the National Bank of Georgia, were not subject to a quota requirement. It was therefore not surprising that none of the Bank’s seven board members were women.

X. Policy coherence

91. In 2017, a council to ensure the effective implementation of the Sustainable Development Goals was established under the coordination of the Administration of the Government. The Head of the Administration acts as the Chair of the council, and the Resident Coordinator is the co-Chair. The council reports directly to the Prime Minister. It is composed of ministries and other government agencies but allows for the participation of representatives of United Nations agencies, European Union delegations, non-governmental organizations, business associations and academia, without voting rights. The meetings of the council take place at least once a year. To support the functioning of the council, four thematic working groups have been established on social inclusion, economic development, democratic governance, and sustainable energy and environmental protection.

92. Similar interministerial, multi-stakeholder coordination bodies exist under the Human Rights Council and the Administration of the Government to coordinate action for the effective implementation of the rights of the child, and on gender equality and combating violence against women and domestic violence.

93. The creation of dedicated and participatory bodies to deliver on human rights obligations is a positive development. However, the Working Group found no evidence of interaction between these bodies, although it learned about a plan to allow for integrated reporting on goals and indicators under Sustainable Development Goal 5 and the Gender Equality Chapter of the Action Plan.

94. These coordination bodies have the potential to expand coordination efforts across critical human rights policy areas, which are all closely related to the business and human rights agenda. The Working Group encourages greater and frequent interaction among them and across State institutions and government entities, which have a role to play in implementing business and human rights standards. In this regard, it encourages the Government to implement the recommendations contained in its 2019 report to the General Assembly on policy coherence in government action to protect against business-related human rights abuses (A/74/198).

XI. Conclusions and recommendations

A. Conclusions

95. In the early 2000s, the Government initiated extensive deregulatory programmes that eliminated entire sets of rules protecting workers and the environment with the aim of attracting foreign investment and improving the country's score in the ease of doing business. That included, in 2006, a dramatic reduction of worker protections in the Labour Code and the abolishment of the Labour Inspectorate, leaving Georgian workers without adequate protection for almost a decade. Since 2013, Georgia has taken an incremental approach towards gradually improving labour and safety standards and government oversight, including through the re-establishment in 2015 of a Labour Inspectorate, albeit with a limited mandate. The Working Group welcomes the ongoing efforts to address remaining gaps in the regulatory framework, and to strengthen the Labour Conditions Inspection Department's mandate. The adoption of the business and human rights chapter in the 2018–2020 National Action Plan on Human Rights as well as other ongoing reforms reflect such efforts. The Working Group urges the Government and the parliament to expedite the adoption of the necessary reforms in order to quickly bring the labour rights regime in line with international labour standards and the country's international human right commitments.

96. The Working Group also observed efforts by the Government to find a balanced approach towards attracting foreign investment, gaining energy independence, and discharging its duty to protect against business-related human rights abuses. The Working Group was encouraged by steps taken by the Government to address existing gaps in the regulatory and monitoring framework in order to protect the environment and communities affected by large-scale projects, in particular in the mining and energy sectors. However, the Government should take more proactive action to implement the Guiding Principles on Business and Human Rights, including by strengthening oversight, setting clear expectations for companies to respect human rights through effective human rights due diligence processes in all sectors, and holding companies accountable for human rights abuses.

97. More efforts should also be made to raise awareness and common understanding among all stakeholders about the concept of responsible business conduct and of the independent responsibility of businesses of all sizes and in all sectors to respect human rights under the Guiding Principles on Business and Human Rights.

98. The development of the National Human Rights Strategy for 2021–2030 represents a key opportunity to ensure the full integration of the “Protect, Respect and Remedy” framework of the Guiding Principles on Business and Human Rights into the strategy, including by developing a stand-alone national action plan on business and human rights, with the equal and meaningful participation of stakeholders.

B. Recommendations

99. The Working Group recommends that the Government:

(a) Strengthen the implementation of the chapter on business and human rights in the human rights national action plan by including indicators that are specific, measurable, achievable, relevant and time-bound, allocating adequate resources and improving the effectiveness of coordination structures to ensure that relevant ministries and agencies can deliver on their responsibility under the chapter. These structures should enable input from all relevant parts of the Government and other stakeholders, meet regularly and provide a forum where the Government can be held to account;

(b) Develop, in meaningful consultation with all stakeholders and in line with the Working Group's guidance, a stand-alone national action plan on business and human rights to implement the Guiding Principles on Business and Human Rights in a comprehensive manner;

(c) Ensure that the amendments of the Labour Code, once adopted by the parliament, are immediately implemented and effectively monitored, including in relation to working hours, weekly rest, night work, payment of overtime hours and work on public holidays;

(d) Adopt measures to combat all discriminatory practices in the private sector and to address challenges in integrating and retaining discriminated individuals or groups in the labour market;

(e) Adopt effective measures to implement the principle of equal pay for work of equal value, in order to close the gender wage gap, and to consistently review the wages of men and women in all sectors;

(f) Integrate a gender perspective in all measures to promote business respect for human rights and corporate accountability in line with the Working Group's gender guidance for the Guiding Principles on Business and Human Rights;²²

(g) Adopt effective measures to prevent and address sector-specific risks related to the health and safety of workers and their labour rights, especially in construction and mining sites. The Government should ensure that the Labour Conditions Inspection Department is adequately staffed and that its staff receives the necessary training and resources to inspect all human rights pertaining to the workplace and to safety and working conditions in all sectors, with an emphasis on its preventive role;

(h) Implement training programmes to empower workers, especially those in vulnerable situations, such as migrant workers, to exercise their rights, including the rights to create and join trade unions and to collective bargaining;

(i) Adopt a more holistic approach to environmental impact assessments and monitoring that takes into account sector-specific risks and the differentiated impacts on groups at heightened risk of business-related human rights abuses. In relation to the hydropower sector, this should include stricter requirements that take into account the cumulative and holistic impact assessments;

(j) Ensure the effective enforcement of the regulations providing for the equal and meaningful participation of rights-holders in environmental decision-making from an early stage, and throughout project implementation, including access to information and transparency at scoping and licencing phases;

(k) Include human rights criteria in State public procurement practices and economic diplomacy, including export credits and trade support for Georgian companies as a means of promoting business respect for human rights;

(l) Ensure that businesses operating in free industrial zones respect human rights, including through effective human rights due diligence processes, and develop effective oversight systems for the enforcement of human rights requirements in free industrial zones;

(m) Improve access to judicial and non-judicial remedies by removing barriers outlined in the present report;

(n) Raise awareness about the Guiding Principles on Business and Human Rights and the chapter on business and human rights of the national action plan among civil servants, judiciary and lawmakers, and build their capacity to deliver on their respective obligations to prevent, investigate, punish and redress business-related human rights abuses.

²² A/HRC/41/43.

100. The Working Group recommends that businesses and industry associations:

(a) Play a more robust role, in collaboration with the Global Compact Network Georgia, in disseminating the Guiding Principles on Business and Human Rights and in promoting their implementation, including by supporting their members in carrying out effective human rights due diligence;

(b) Strengthen awareness among businesses of their independent responsibility to respect human rights, including under the regime of occupational safety and health to protect the life and health of workers. This should be complemented by training programmes and information for workers to prevent the risk of accidents;

(c) Adopt a gender perspective when conducting impact assessments and designing operational-level grievance mechanisms, based on the Working Group's gender guidance for the Guiding Principles on Business and Human Rights;

(d) Establish effective grievance mechanisms to provide remedies to affected individuals and communities in line with the Guiding Principles on Business and Human Rights. Such mechanisms should not preclude access to judicial remedies.

101. The Working Group recommends that civil society organizations continue to:

(a) Raise awareness about the respective duties and responsibilities of the State and businesses under the Guiding Principles on Business and Human Rights;

(b) Document cases of human rights abuses, in particular those committed against individuals and communities in vulnerable situations in all appropriate national, regional and international forums, and to facilitate access to judicial and non-judicial remedial mechanisms, including operational-level grievance mechanisms;

(c) Contribute to and engage in any ongoing or future initiatives aimed at strengthening existing legal and policy frameworks on business and human rights, and facilitate the equal participation of all stakeholders in these initiatives.
