

Scoping Study

# The Status of the Implementation of the UNGPs on Business and Human Rights in Europe and Central Asia



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A man making a leather shoe by hand at Dambog Pyabzali Savdo in Uzbekistan.

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## Abbreviations and acronyms

BHR	Business and Human Rights
CEPA	Comprehensive and Enhanced Partnership Agreement
CoE	Council of Europe
CSO	Civil Society Organization
EBRD	European Bank for Reconstruction and Development
EBRD's PCM	EBRD's Project Complaint Mechanism
ECHR	European Convention on Human Rights
ECA Region	Europe and Commonwealth of Independent States Region
ENNHRI	European Network of National Human Rights Institutions
EITI	Extractive Industries Transparency Initiative
ESG	Environmental, Social and Corporate Governance
EU	European Union
HEI	Higher Education Institution
HRDD	Human Rights Due Diligence
IIA	International Investment Agreement
ILO	International Labour Organization
IGO	Intergovernmental Organization
IOM	International Organization of Migration
LGBTIQ+	Lesbian, gay, bisexual, transgender, intersex and queer
MOE	Municipally Owned Enterprise
NAP	National Action Plan on Business and Human Rights
NBA	National Baseline Assessment on Business and Human Rights
NCP	National Contact Point
NGCT	Non-government-controlled territory
NGO	Non-governmental organization
NHRIs	National Human Rights Institutions
OSCE	Organization for Security and Co-operation in Europe
OECD	Organisation for Economic Co-operation and Development
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSH	Occupational Safety and Health
SDG	Sustainable Development Goals
SOE	State-Owned Enterprise
UN	United Nations
UN HRC	UN Human Rights Council
WTO	World Trade Organization

# 1.

## Executive summary and recommendations

The aim of this scoping study, the *Status of the Implementation of the UNGPs on Business and Human Rights in Europe and Central Asia*, is to map the current situation of Business and Human Rights (BHR) in the 18 countries and territories of Europe and Central Asia, referred to for the purpose of this study as Europe and the Commonwealth of Independent States ('ECA region').

The study starts by contextualizing Business and Human Rights in the region and thereafter follows the structure of the United Nations Guiding Principles on Business and Human Rights (the 'Guiding Principles' or the UNGPs). As such, it first discusses the obligations of United Nations Member States ('States') to protect human rights under Pillar I of the UNGPs. Thereafter, it describes challenges, but also good practices of some corporations in the region according to Pillar II. Under Pillar III, the study examines access to remedy frameworks and how rights-holders can enforce accountability for business-related human rights abuses. The study proceeds to examine some cross-cutting regional trends, before moving to conclusions and reflections. Finally, it sets out recommendations on how to advance the Business and Human Rights agenda in the region.

The implementation of the Business and Human Rights framework is underdeveloped in most of the countries, territories and subregions of the ECA region. State institutions are often unwilling and unable to protect rights-holders against the actual and potential adverse impact of businesses. In many cases, state institutions do not exercise proper control over state-owned enterprises that interfere with the enjoyment of human rights. Moreover, state institutions have in many cases turned a blind eye to alleged business-related human rights abuses by state-owned enterprises (SOEs) in order to promote private interests. Many rights-holders in the region do not have access to independent judicial institutions that they would trust to handle their complaints fairly.

Effective state-based non-judicial grievance mechanisms (such as those offered by (some) National Human Rights Institutions (NHRIs) or National Contact Points (NCPs) for the OECD (Organisation for Economic Co-operation and Development) Guidelines for Multinational Enterprises (OECD Guidelines) and non-state-based grievance mechanisms (such as company remediation mechanisms) are few and far between. NHRIs, with a few exceptions, do not have the mandate to examine complaints against private bodies, although their general mandates seem to be sufficient to engage in raising the awareness of stakeholders and putting forward suggestions of law reforms to the relevant authorities to address identified



negative trend(s). The inability of state institutions to effectively prevent and investigate business-related human rights abuses should be seen in the broader context of the pervasive weakness of the rule of law in some countries in the region. Many countries and territories in the region have not been able to fulfil the essential elements of the rule of law relevant to Business and Human Rights because of weak institutions, abuses of power, judiciaries lacking independence, inadequate access to justice for victims of abuses, widespread discrimination against vulnerable groups and a lack of transparency of state institutions.

Business practices and impacts on human rights vary in the region. Market relations are affected by a large informal economy and by the significant number of persons working in precarious conditions, without protections provided by labour law provisions. Only a few companies in the region report on non-financial indicators of their operations and even less undertake comprehensive efforts to map their human rights impact. Moreover, many businesses in the region confuse the fundamental precepts of Business and Human Rights (doing no harm and addressing their negative impacts on human rights) with corporate social responsibility, which is still perceived in the region narrowly—as a promotion of business through charitable actions and philanthropy. The record of investors is mixed: on the one hand, there is some evidence that foreign investors, mostly based in European Union (EU) member states, have brought about positive change regarding businesses' respect for human rights.

Nonetheless, there are examples when projects funded by EU-based investors have been linked to severe human rights allegations. For example, it was found that some investors in the region with detailed human rights and ESG policies did little to intervene or pull funding in the face of cases of repeated human rights abuse by companies.<sup>1</sup> Moreover, some foreign investors have undermined human rights protections in the region. Some governments in the region perceive low or zero levels of human rights protection as an advantage (e.g., in the area of labour law and health and safety standards) and present this situation to foreign investors. As a result, citizens of those States suffer direct consequences of such governments' conduct and other socially responsible investors are placed in a disadvantaged position compared to other investors that do not apply the same human rights standards.

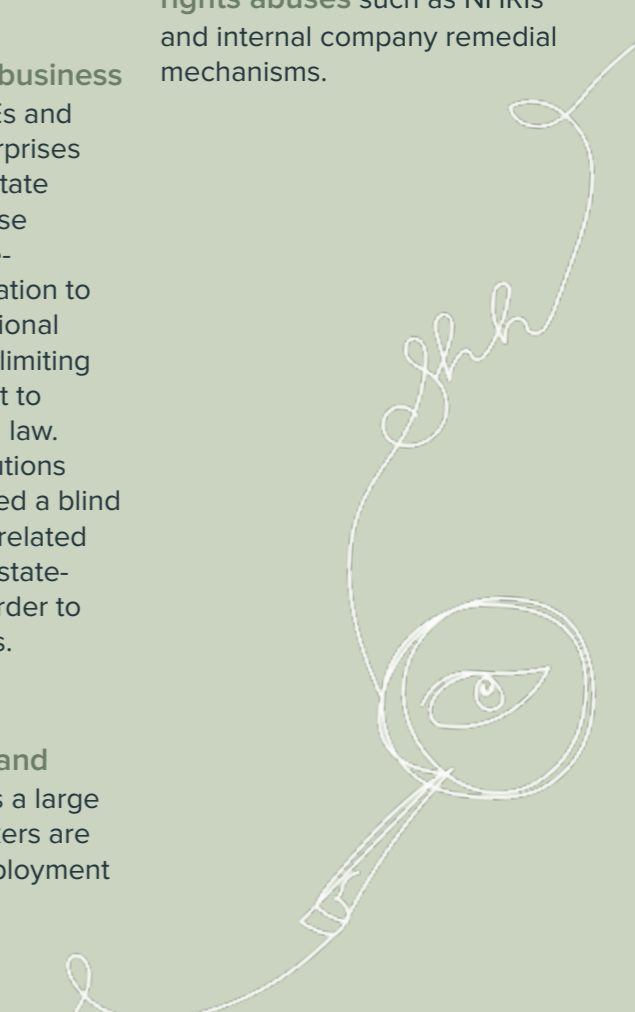
<sup>1</sup> Business & Human Rights Resource Centre (2021). Digging in the shadows: Eastern Europe and Central Asia's Opaque Extractives Industry. June. [https://media.business-humanrights.org/media/documents/2021\\_Company\\_Profiles\\_Key\\_Takeaways\\_EN\\_v3.pdf](https://media.business-humanrights.org/media/documents/2021_Company_Profiles_Key_Takeaways_EN_v3.pdf).

*Some governments in the region perceive low or zero levels of human rights protection as an advantage (e.g., in the area of labour law and health and safety standards) and present this situation to foreign investors.*

Currently, alternative dispute resolution mechanisms linked to, for example, investment treaties in practice do not offer efficient protection of human rights.

The scoping study identified several trends in the region. The most common BHR trends in the region with negative impacts are:

- 1. Civil society underequipped to deal with the vast array of BHR challenges.** Civil society organizations (CSOs) lack knowledge and understanding of BHR standards and how to operationalize them on the ground in order to drive the agenda in the region. This results in underuse of alternative avenues to seek justice (e.g. the OECD NCP mechanism), which could be used when state-based judiciary mechanisms fail. This is not surprising, as human rights defenders, including members of trade unions, have been systematically persecuted in some countries, thus focusing attention and most funding on civil and political rights. In some countries and territories, human rights defenders fear for their lives and livelihoods. Moreover, states appear unwilling or incapable of protecting vulnerable groups in the region, including women, migrant workers, lesbian, bisexual, transgender, intersex and queer (LGBTIQ+) people and many others.
- 2. The oligarchic structure of the economy in many countries and territories of the region, where the market is often artificially monopolized and competition is limited.** Oligarchs or tycoons are not just prominent business people with significant economic assets, they also enjoy strong political connections and have been able to control or influence state bodies, including law enforcement and other mechanisms of control. They are interested in low levels of transparency, limited accountability and the weak rule of law. Oligarchic economic structures significantly weaken the influence of investors who could contribute to the implementation of BHR standards.
- 3. A lack of trust in human rights mechanisms.**
- 4. Deregulation and 'business friendly' public governance,** which is to be interpreted as 'anything goes' for business in some cases, while state institutions that should enforce human rights (e.g. labour inspectorates) are defunded.
- 5. Lack of strong political will to implement the UNGPs and a lack of policy coherence.**
- 6. An unbalanced state-business nexus** (in particular, SOEs and Municipally Owned Enterprises (MOEs)). In most cases, state institutions do not exercise proper control over state-owned enterprises in relation to compliance with international human rights standards, limiting their expectations at best to compliance with national law. Furthermore, state institutions have in many cases turned a blind eye to alleged business-related human rights abuses by state-owned corporations in order to promote private interests.
- 7. Lack of a decent jobs and social security.** There is a large informal sector and workers are being pushed out of employment relationships and into business-to-business (B2B) relations based on civil law.
- 8. Lack of transparency and human rights capacities of key actors, coupled with low awareness of BHR and limited local BHR expertise.**
- 9. Deficient access to judicial remedies for business-related human rights abuses in the context of a broader lack of strong, independent and accountable judiciaries and justice systems.**
- 10. Lack of non-judicial remedies for business-related human rights abuses such as NHRIs and internal company remedial mechanisms.**



This list is not intended to be exhaustive. Other trends which were not a focus of this study were also identified, such as the increasing use of technology that poses serious human rights risks and leads to a range of HR issues:<sup>2</sup>

The most common business-related human rights abuses in the region include:

- Violations of labour rights of workers including poor working conditions
- Lack of guarantees of occupational health and safety
- Forced and child labour
- Restrictions on the freedom of association
- Violations of minimum and living wage legislation
- Human trafficking
- Environmental degradation which may result in serious human rights violations
- Violations of land rights and enforced displacement
- Prosecution of human rights defenders
- Gender discrimination in the workplace (horizontal and vertical gender segregation in the labour market, the gender pay gap, sexual harassment and more).

Some of the most vulnerable groups in the region are migrant workers, children, persons with disabilities, LGBTIQ+ people, refugees and internally displaced persons (IDPs), Roma people, people living with HIV, and ethnic and national minorities.

The study recommends that:

- Governments in the region intensify efforts to develop and implement National Action Plans on Business and Human Rights to ensure policy coherence in their actions. As such, they are to strengthen the rule of law in domestic systems in order for their judiciaries to be capable of fair, independent and impartial protection of individual and group rights against adverse business-related human rights impacts.
- Business compliance with UNGPs is ensured and transparency enhanced, with businesses starting to report on non-financial indicators of their business operations and conducting mandatory human rights due diligence in their (global) supply chains.

<sup>2</sup> See the overview presented by Ella Skybenko, Eastern Europe/Central Asia Researcher & Representative, Business & Human Rights Resource Centre, at the panel discussion, “Business and Human Rights: Searching for Sustainable Models”, at the Kharkiv Legal Forum, 21 September 2021, Kharkiv, Ukraine. <https://youtu.be/xtxg-5JbKKQ?t=12885>.

- Intergovernmental and international organizations continue to play an important role and equip local actors, through technical support schemes as well as crucial funding, with the necessary know-how and tools needed to drive the BHR agenda forward.

The change will not be possible without building and strengthening the BHR community in the region, which requires more specialists to help drive the change and support all stakeholder groups in the implementation of the UNGPs on the ground, first of all in business practices.

Accordingly, governments should:

- Equip relevant governmental institutions and local councils with knowledge and practical skills on Business and Human Rights with special attention to ensure policy coherence.
- Undertake human rights assessments of new regulations or strategic and programmatic documents should be undertaken (especially in cases of making “doing business easier”).
- Undertake efforts to develop National Baseline Assessments and based on their outcomes National Action Plans are adjusted accordingly.
- Ensure that state investments in the economy are managed in compliance with BHR standards, in particular by providing public access to information about the intention to conclude investment agreements and conducting public consultations about possible impacts of such agreements on human rights, e.g. provide human rights risks assessment of an agreement on the preliminary stage.
- Ensure that public procurement is compliant with the UNGPs.
- Communicate the expectation to all relevant stakeholders that all businesses operating in and from their territory comply with the UNGPs.
- Provide institutional support to companies that are actively undertaking efforts to improve their human rights impact and prevent violations.
- Lead by example and make it obligatory for SOEs and MOEs to undertake human rights due diligence (HRDD) and report non-financial information on an annual basis, based on a shared template to enable comparability of the data.
- Support small and medium-sized enterprises (SMEs) in their efforts to develop and implement relevant human rights policies and practices, taking into consideration their limited human and financial resources, and provide greater protection of SMEs in their business relationships with oligarchic structures, thus laying the basis for the region to abandon the oligarchic economy.
- Develop guidance and recommendations for businesses on the potential risks associated with relevant economic activities, with a key focus on high-risk sectors such as extractive, mining, chemical industries,

**Support small and medium-sized enterprises (SMEs) in their efforts to develop and implement relevant human rights policies and practices, taking into consideration their limited human and financial resources.**



agricultural, construction, garment and textile sectors, food and retail.

- Provide information campaigns to increase awareness on Business and Human Rights of the broad population of the country, in particular, consumers.
- Strengthen public participation requirements, as required under the Aarhus Convention to ensure that companies disclose information about the potential impacts of their actions, organize meetings and inform the public, and that they do take community concerns into account.

To encourage States and help them benchmark their efforts, it is recommended that a peer review mechanism or other method is developed to benchmark the quality of the implementation of the UNGPs and National Action Plans (NAPs) on Business and Human Rights by States.

The **labour rights sphere** is one of the riskiest areas for Business and Human Rights. The situation is even worse for migrant workers, who are less protected than other groups of workers. Thus, the following recommendations focus on labour rights. It is recommended that States should:

- If they have introduced them, **lift moratoriums on labour inspections** which were intended to create more investment-friendly operating contexts, and instead provide the resources required to ensure the efficient operation of labour inspections. States should also develop algorithms to support labour inspectors in identifying forced labour and trafficking in human beings.
- **Refrain from undermining and restricting freedom of association**, social dialogue and the right to collective bargaining and instead undertake measures to strengthen independent trade unions and other forms of workers' representation and promote and run public campaigns to support growth of their membership. Promote the creation of unions or other forms of organizational structures for those in non-standard forms of employment, including self-employed people.
- Take effective measures to ensure that migrant workers and members of their families can **fully exercise their right to form and be a member of associations and trade unions** for the promotion and protection of their rights and their economic, social, cultural and other interests, something they are excluded from in some countries and territories. States should also revise legislation in order to remove any discriminatory provisions.
- Bearing in mind that fear of retaliation, threat of deportation and monetary fines for carrying out unregistered work deter undocumented migrant workers from filing complaints even in situations of forced labour, States should establish an **accessible grievance mechanism or state-based judicial or non-judicial mechanism**, to secure an access to remedy for migrant workers,

including undocumented migrant workers, independently of whether they have permission to stay and work in the country. States should also ensure that in case of deportation (if unavoidable), migrant workers are provided with effective means of ensuring that earnings from their abusive employer are paid to them.

While **NHRIs** can play an important role in driving the implementation of UNGPs, with a few exceptions, this is not the case in this region. It is recommended that NHRIs should:

- Expand activity in capacity-building on Business and Human Rights, aimed at business and other stakeholders, on its own or in collaboration with intergovernmental organizations (IGOs) and other actors (including companies willing to share good practices and solutions).
- Consider proposing expansion of their mandates to the relevant state institutions to cover BHR issues in the private sector and to build their capacity on Business and Human Rights issues.

It is recommended that the **private sector** (businesses and enterprises):

- Raise awareness of CEOs and employees on corporate responsibility to respect human rights and contribute to awareness-raising campaigns for consumers, contractors, suppliers and communities in which the company operates.
- Commit publicly to respect human rights by adopting human rights policies, undertaking human rights risk mapping, identifying salient human rights issues and implementing human rights due diligence.
- Establish internal grievance procedures to enable employees and other rights-holders to voice their concerns and submit complaints about business-related human rights abuses to seek remedy.
- Avoid using formal models of relationships with employees beyond labour contracts, as many such models make employees vulnerable.
- Provide reasonable accommodation of the needs of vulnerable groups to ensure not only formal but also substantive equality.
- Ensure that non-financial reports publicly available reflect company's efforts to ensure corporate responsibility to respect human rights, and thus showcase steps taken by companies to identify, assess risks and prevent negative impacts on human rights, and not just examples of philanthropic CSR activities. Companies are encouraged to follow the guidance offered by the UNGPs Reporting Framework.

**Investors exert enormous impact** on the respect for human rights by businesses and thus should:

- Provide human rights risk assessments of their projects undertaken by independent experts during all stages.



- Guarantee mechanisms for individuals and communities that could be negatively impacted by projects funded by the investment to make claims, including anonymously, within a clear, accessible, efficient and transparent system.

Similar to investors, **development banks and other international organizations** should improve transparency of information concerning projects undertaken in collaboration with the local governments, for example, by publishing it on their websites. IGOs and development banks should also inform, or at the least make easily accessible, information about the possibility of using the complaints system or grievance mechanism offered by them, so that communities and stakeholders potentially affected by the funded projects are aware of the possibility of and access to remedy.

It is recommended that **civil society and other human rights defenders**:

- Make business (not just States) the subject of human rights monitoring and assessments, in particular in the context of the nexus between State and business.
- Consider establishing a regional network working group to analyse the situation on Business and Human Rights in the region, to develop recommendations with special attention to the specific challenges in the region.
- Involve rights-holders in Business and Human Rights initiatives, in particular to increase their awareness on BHR issues and equip them with knowledge on access to remedies in business-related human rights violations.

**Academia** plays a crucial role in educating new generations of market actors and decision makers to understand the impact of business practices on human rights, as well as how negative impacts can be prevented. It is recommended that academia:

- Promote awareness and knowledge about BHR standards through university courses and short courses on BHR.
- Increase integration of higher education institutions in the region on BHR issues, especially in Europe and Central Asia, in European and global scientific and pedagogical discourses.

Finally, all stakeholders need to engage in building a community of experts in BHR across the region, not least through training of trainers, who will be in the position to provide advice to and help companies to understand HRDD.

## 2. Introduction and methodology

This scoping study was commissioned by UNDP with the aims to:

- Assess and document the status of the implementation of the UN Guiding Principles on Business and Human Rights in the ECA region and identify emerging trends and issues, as well as challenges and opportunities for UNGPs implementation.
- Provide concrete recommendations on how to advance the Business and Human Rights agenda, including strategic entry points.
- Inform a strategic framework and pilot interventions for UNDP's BHR work in the region.

The research was carried out from August until mid-October 2021 by the three authors of the study. The study primarily employs a normative approach to the research of Business and Human Rights, thus following a straightforward methodology of employing primary and secondary research sources, which included a review of academic literature, reports, national legislation, international treaties, and jurisprudence of national and international courts. The authors have also applied a comparative approach to discern the main traits of Business and Human Rights topics in all national environments. Countries and territories covered were divided into three subregions following the division adopted by the UNDP Regional Hub for ECA in Istanbul:

- Central Asia: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan
- South Caucasus and Eastern Europe: Armenia, Azerbaijan, Georgia, Belarus, the Republic of Moldova and Ukraine
- The Western Balkans and Türkiye: Albania, Bosnia and Herzegovina, Kosovo,<sup>3</sup> Montenegro, Serbia, North Macedonia and Türkiye.

The authors first conducted desk research, whose results were corroborated by the interviewees and through peer review at UNDP. The materials used were selected according to the perspectives they were able to provide for the study. Where possible, data were triangulated, reviewed and cross-checked by referring to other sources. Given the regional imbalance of materials on and from the region as well as between countries and territories in the region, the research team used resources not only in English but also the national languages of the countries and territories of the region. Sources such as websites of official

<sup>3</sup> All references in this report to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).





bodies, CSO reports, news, court decisions and company reports were used. The authors sought to assign them proper weight and to qualify conclusions made based on them.

The desk research was supported by data collected in the course of 38 semi-structured online interviews conducted by the research team in September and early October 2021. Effort was given to ensure the diversity of interviewees both in terms of sector and gender with practitioners, businesses, government representatives, trade unions, civil society and academics engaged in the work in the field of Business and Human Rights (See [Annex 1](#)). While the number per country is certainly not representative and the authors faced challenges in the relative lack of capacity and BHR knowledge in the region, with work on BHR concentrated more in some countries than others. Nevertheless, the group was selected based on their knowledge of BHR and thus they were able to provide valuable information within the limited time-frame available to conduct the research. While the key purpose of semi-structured interviews was to validate the analysis and interpretation of the secondary data, it soon proved to also be valuable from the point of view of collecting additional information both factual (concerning, for example, laws available only in the local language or the most recent developments) and about challenges and opportunities. It became obvious that due to the initial stages of BHR-related activity in some countries, such information is not necessarily captured on paper, not only in English but even in the local language.

An online survey was also carried out, with 18 responses received from across the region. The researchers also benefited from a series of roundtable discussions with participants of the Vth Kharkiv International Legal Forum – Business and Human Rights Roundtable and associated sessions, and the 2021 Ljubljana Workshop on recent developments in Business and Human Rights, as well as informal but very informative interactions with participants from various countries and territories in the region on the margins of those events.

While the authors undertook efforts to ensure the comprehensiveness of this report, given the vast size of the region, limited amount of time for data collection and other limitations, it should be borne in mind that it is the first attempt (that we are aware of) of providing a comprehensive overview of BHR implementation in the region, which is intended to set the stage for further research both at the country level and within the private sector.

*Effort was given to ensure the diversity of interviewees both in terms of sector and gender with practitioners, businesses, government representatives, trade unions, civil society and academics engaged in the work in the field of Business and Human Rights*

### 3. Context

The countries of the ECA region share a common history of being governed by undemocratic regimes that have systematically violated human rights and fundamental freedoms. While in a number of them positive developments have taken place since 1989, the region is described in discussions at various forums as “stuck in transition”. Despite positive efforts across the ECA region in recent years, including changes in the regulatory framework, not least thanks to the impact of the association agreements with the EU, the region continues to be plagued by a weak rule of law and weak systems of human rights protection. Not surprisingly, both human rights issues and the political context affect the implementation of the Business and Human Rights agenda and have crucial impacts on how it moves forward across the region.

While all the countries and territories examined have ratified major human rights treaties, a number of organizations regularly report human rights violations, including attacks on human rights defenders (HRDs) and ineffective systems of remedy for victims of human rights abuses. Since the onset of the COVID-19 pandemic, the situation has further declined, with the 2021 World Justice Project (WJP) Rule of Law Index noting that most of the countries and territories in the region have experienced a worsening of the situation in terms of the rule of law, civic space, length of judicial proceedings and overall levels of discrimination.

In addition to issues with human rights, the level of corruption is high, with Georgia ranked as the least corrupt in the region (with an overall global ranking of 45th), and Turkmenistan ranked as the most corrupt country in the region (165th least corrupt out of 180 countries and territories).<sup>4</sup> Similarly, the gender gap is, at first glance, the highest in Central Asian countries and territories, while Serbia (ranked at 19th place), Albania (25th) and the Republic of Moldova (28th) ranking the highest among countries and territories in the region, followed by Belarus and Georgia (for details, see [Annex 2](#), Table 1 – Global Gender Gap Report 2021).<sup>5</sup>

The current situation is further exacerbated by the economic crisis related to COVID-19 that has resulted in a breakdown of the social contract between workers, government and business with a devastating impact on working conditions (which, even before the pandemic, were not meeting the ‘decent work’ standard). Belarus and Türkiye were ranked among the 10 lowest ranked countries and territories for workers in 2021 according

<sup>4</sup> OHCHR, “Connecting the business and human rights and anti-corruption agendas: Working Group on Business and Human Rights”. <https://www.ohchr.org/EN/Issues/Business/Pages/Connecting-business-and-human-rights-and-anti-corruption-agendas.aspx>.

<sup>5</sup> World Economic Forum (2021). Global Gender Gap Report 2021. Insight Report. March 2021. [https://www3.weforum.org/docs/WEF\\_GGGR\\_2021.pdf](https://www3.weforum.org/docs/WEF_GGGR_2021.pdf).

to the ITUC Global Rights Index,<sup>6</sup> with Belarus and Kyrgyzstan worse ranked for the repression of independent union activity<sup>7</sup> (for details, see [Annex 2](#)).<sup>8</sup> The situation in the region is part of a global “eight-year trend data analysed in the 2021 Global Rights Index (that) exposes attacks on the right to strike and the right to establish and join a trade union, as well as on the registration of unions; arbitrary arrests and detentions; and the denial of freedom of speech and assembly, which is at an all-time high.”<sup>9</sup>

The drive towards adoption of binding human rights and environmental due diligence legislation in the EU, as well as other regulatory efforts, is a positive development aimed at promoting the BHR agenda. As was highlighted, for example, in Georgia’s National Baseline Assessment of 2017, Article 252 of the Association Agreement with the European Union commits the country to support corporate social responsibility, including the application of the principles of Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development.<sup>10</sup> This regulatory pressure, both at the EU and national levels, and resulting from legislation introduced in France, Germany and the Netherlands, among others, is expected to lead to EU businesses paying increased attention to ensure responsible business practices throughout their supply chains. It may also lead to countries and territories in the region aligning with these laws upon entering into Association Agreements (see the [Annexes](#) for detailed information).

On a positive note, a slow increase in interest in the BHR agenda has been noticed, with an increased number of events promoting the BHR agenda organized by IGOs, CSOs and academics in the region during the pandemic. The forced move to online communication during the pandemic has also contributed to establishing or strengthening ties between various actors from the region who have found it easier to connect with their peers across the region and globally.

*...regulatory pressure, both at the EU and national levels, and resulting from legislation introduced in France, Germany and the Netherlands, among others, is expected to lead to EU businesses paying increased attention to ensure responsible business practices throughout their supply chains.*

6 International Trade Union Confederation (2021). “2021 ITUC Global Rights Index: COVID-19 pandemic puts spotlight on workers’ rights”. 30 June. <https://www.ituc-csi.org/2021-global-rights-index?lang=en>.

7 International Trade Union Confederation (2021). 2021 ITUC Global Rights Index: The world’s worst countries for workers. Executive Summary, p. 5. [https://files.mutualcdn.com/ituc/files/ITUC\\_GlobalRightsIndex\\_2021\\_EN-final.pdf](https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN-final.pdf).

8 Four countries of the region that were likely to fall into the “No Guarantee of Rights” category are not covered by the ranking. According to rating, the best situation is where violations are described as “Sporadic”, followed by “Repeated”, “Regular”, “Systematic” and “No Guarantee of Rights” (and where “No Guarantee of Rights” is due to the breakdown of the rule of law). Ibid., p. 13.

9 Ibid., p. 5.

10 Office of the Public Defender (Ombudsman) of Georgia and CiDA (2017). Georgia: National Baseline Assessment On Business And Human Rights. <https://www.ombudsman.ge/res/docs/2020070817231792603.pdf>, <https://globalnaps.org/wp-content/uploads/2018/04/georgia-national-baseline-assessment-english.pdf>.

## 4. Pillar 1 – State duty to protect

This chapter will provide an overview of concrete efforts undertaken by States to advance the implementation of the UNGPs and reflects on the failure of some state authorities to undertake meaningful actions and progress and efforts of other actors to remedy the situation. Given its impact and relevance to the discussion on BHR, this chapter starts with an examination of the state of the rule of law in individual countries and territories and how it affects BHR developments.

### 4.1. Rule of law and human rights in the region

#### 4.1.1. The Western Balkans and Turkey

All six countries and territories in the Western Balkans and Türkiye have, in the last three decades, introduced normative frameworks to respect and promote the rule of law, constitutional democracy and pluralism. Most of them (apart from Kosovo) are state parties to the European Convention on the Protection of Human Rights and Fundamental Freedoms and all major international human rights treaties. In the past decades, they have adopted laws in the field of Business and Human Rights, such as the equal treatment law that provides a legal basis for the protection of individuals against business-related human rights abuses.<sup>11</sup>

Nonetheless, there are discrepancies between the formal standards and their implementation in practice, which also affects respect for human rights by businesses.<sup>12</sup> Further, the UN Human Rights Council recommended that North Macedonia “[i]mplement credible and visible reforms to effectively strengthen the rule of law, including ensuring the independence of judges and the reliability of proceedings.”<sup>13</sup> The European Court of Human Rights has so far delivered several hundred judgments against countries and territories in the Western Balkans and Türkiye. However, they have been very slow and/or inefficient in adopting individual and general measures in executing the judgments. The European Commission observed in 2020 in its progress report on Bosnia and Herzegovina that “The rule of law and the functioning of the judiciary continue to be a crucial weakness. Improvements in this area

11 See, for example, Republic of Serbia (2021). Law on Gender Equality, Official Gazette of the Republic of Serbia, No. 52/2021, 24 May; Republic of Serbia (2021). Amended Law on the Prohibition of Discrimination, Official Gazette of the Republic of Serbia, No. 52/2021, 24 May.

12 European Commission (2020). Serbia 2020 Report. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020 SWD (2020) 352 final, p. 18. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/serbia_report_2020.pdf).

13 United Nations, Human Rights Council (2019). Report of the Working Group on the Universal Periodic Review, North Macedonia, A/HRC/41/1, 9 April at 104.89 and at 104.95. [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/11](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/11).



have remained very limited.”<sup>14</sup> It has delivered similar pronouncements in relation to other countries and territories in the subregion. The rule of law and state institutions are therefore generally weak and deficient, which also affects their capacity to advance Business and Human Rights at the normative level and in practice.

#### 4.1.2. South Caucasus and Eastern Europe

As in the Western Balkans subregion, countries in the South Caucasus and Eastern Europe have ratified the majority of the core international human rights treaties. All the countries are also members of the Council of Europe except for Belarus, which had its special guest status granted in 1992 but suspended in 1997 due to “lack of progress in the field of democracy, human rights and the rule of law”,<sup>15</sup> following an undemocratic referendum in 1996. In her 2021 report, the Special Rapporteur emphasized an “unprecedented deterioration” of the situation of human rights in Belarus since late spring 2020,<sup>16</sup> associated with the presidential elections that were held in summer 2020, with “evidence of massive violations unprecedented in scope and gravity”,<sup>17</sup> including reports about “massive police violence against protesters, cases of enforced disappearance, allegations of torture and ill treatment and the intimidation of civil society actors”.<sup>18</sup>

All states, except again for Belarus,<sup>19</sup> participate in the EU’s Eastern Partnership (EaP),<sup>20</sup> a dimension of the EU Neighbourhood Policy aimed at boosting ties with the EU. In addition, most of them are linked with the EU through Association Agreements, including the Deep and Comprehensive Free Trade Area (DCFTA), which aims to align their legal frameworks with the EU and to improve the overall business climate.

Yet, despite these institutional arrangements, rule of law issues are pervasive in the region. Georgia, which ranked highest in the region in the World Justice Project’s Rule of Law Index, holds the 42<sup>nd</sup> position out of 128 countries and territories, well ahead of Ukraine at 72<sup>nd</sup><sup>21</sup> and

14 European Commission (2020). Bosnia and Herzegovina 2020 Report. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final, p. 50. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia_and_herzegovina_report_2020.pdf).

15 Council of Europe (2019). Situation in Belarus. Political Affairs Committee. <http://www.assembly.coe.int/CommitteeDocs/2009/Belarusmai.pdf>.

16 This wave of repression was condemned by the EU as neither free, nor fair and were not recognized by the EU. European Council/Council of the European Union (n.d.) “EU relations with Belarus – Sanctions against Belarus”. <https://www.consilium.europa.eu/en/policies/eastern-partnership/belarus/>.

17 United Nations, Human Rights Council (2021). Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin, A/HRC/47/49, 4 May. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/101/82/PDF/G2110182.pdf?OpenElement>.

18 Ibid.

19 Belarus suspended its participation in the EaP in June 2021, indicating EU’s sanctions and restrictions as a reason. See Brzozowski, Alexandra (2021). “EU reproves Belarus’ walkout from the Eastern Partnership”, EURACTIV.com, 29 June. <https://www.euractiv.com/section/europe-s-east/news/eu-reproves-belarus-walkout-from-the-eastern-partnership/>; European Council/Council of the European Union (n.d.) “EU relations with Belarus”. <https://www.consilium.europa.eu/en/policies/eastern-partnership/belarus/>.

20 Launched in 2009, the EaP is a strategic partnership aimed to strengthen and deepen the political and economic relations between the EU, its Member States and the partner countries, and support sustainable reform processes in those countries. See European Union External Action Service (EEAS) (2022). “Eastern Partnership”. 17 March. [https://www.eeas.europa.eu/eeas/eastern-partnership\\_en](https://www.eeas.europa.eu/eeas/eastern-partnership_en).

21 Ukraine ranked 110th in the category ‘absence of corruption’. World Justice Project (2020). “WJP Rule of Law Index 2020”. <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020>.

the Republic of Moldova at 81<sup>st</sup>, while Armenia and Azerbaijan were not classified at all.

High levels of corruption are another systemic issue, with Azerbaijan ranking 129<sup>th</sup> out of 180 countries and territories in the Corruption Perception Index, the Republic of Moldova 115<sup>th</sup> and Ukraine 117<sup>th</sup>. Efforts undertaken by individual countries to address corruption are having mixed success. While there has been significant progress in the reduction of the level of corruption in Georgia,<sup>22</sup> there is still space for improvement as far as transparency is concerned (e.g. research efforts undertaken by Business and Human Rights Resources Centre have proved that it is very difficult to determine the true owners of certain companies; Georgia is not a member of the Extractive Industries Transparency Initiative (EITI) either). The rate of convictions resulting from corruption investigations is low in Ukraine.<sup>23</sup> COVID-19 has increased the visibility of corruption in the subregion. For example, public attention has been drawn to several high-profile scandals involving large companies, which according to journalists, had illegally obtained permits to continue working during the quarantine, despite the imposition of bans.<sup>24</sup> Overall, Georgia is perceived as the most advanced and developed country in the region, spotlighted in the 2018 Transparency International’s report as the least corrupt nation in the Black Sea region, outperforming all of its immediate neighbours and nearby European Union states, and the only country in the immediate vicinity where the press is not deemed unfree.

#### 4.1.3. Central Asia

Countries of Central Asia are not eligible to accede to the Council of Europe, and thus lack the important human rights enforcement mechanism provided by its European Court of Human Rights. More importantly, however, they are parties to various UN human rights treaties, and have allowed individual communications thereunder, including by recognizing the jurisdiction of the UN Human Rights Committee by acceding to the Optional Protocol to the International Covenant on Civil and Political Rights.<sup>25</sup>

Despite taking on the above-mentioned human rights obligations, the States of this subregion are not demonstrating significant improvements to the rule of law and appear to be lagging in eliminating corrupt practices in the public and private spheres. As stated by Staberock, “real constitutionalism remains a distant goal in Central Asia. There is a wide perception, even among lawyers and judges, that constitutional freedoms are mere statements of principles without effective means of enforcement.”<sup>26</sup> The World Justice Project’s Rule of Law Index for 2020 ranked Kazakhstan 62<sup>nd</sup>, Kyrgyzstan 87<sup>th</sup> and Uzbekistan 92<sup>nd</sup> (Tajikistan and Turkmenistan are not on the Index).<sup>27</sup> Meanwhile, States frequently

22 Office of the Public Defender (Ombudsman) of Georgia and CiDA (2017). Georgia: National Baseline Assessment On Business And Human Rights, p. 15. <https://www.ombudsman.ge/res/docs/2020070817231792603.pdf>. <https://globalnaps.org/wp-content/uploads/2018/04/georgia-national-baseline-assessment-english.pdf>.

23 European Commission (2020). Association Implementation Report on Ukraine. Joint Staff Working Document. [https://eeas.europa.eu/sites/default/files/2020\\_ukraine\\_association\\_implementation\\_report\\_final.pdf](https://eeas.europa.eu/sites/default/files/2020_ukraine_association_implementation_report_final.pdf).

24 Ombudsman of Ukraine (2020). Business and Human Rights in Times of COVID-19. [https://old.ombudsman.gov.ua/files/2020/UN/BHR\\_covid19\\_eng.pdf](https://old.ombudsman.gov.ua/files/2020/UN/BHR_covid19_eng.pdf).

25 Staberock, Gerald (2005). “A rule of law agenda for Central Asia.” Essex Human Rights Review 2, no. 1, p. 6.

26 Ibid., p. 7.

27 Freedom House. “Freedom on the Net report”. <https://freedomhouse.org/countries/freedom-net/scores>.

*There is a wide perception, even among lawyers and judges, that constitutional freedoms are mere statements of principles without effective means of enforcement.*

perpetrate significant human rights violations, with businesses often implicated in such cases. For example, Turkmentelecom (an SOE that remains the sole internet provider in Turkmenistan) has installed new technology imported from Germany to tighten internet censorship and surveillance in the country.<sup>28</sup>

Corruption has a significant negative impact on human rights, especially relating to business and commercial interests. In the famous ‘Kazakhgate’ case, a US court ruled that Mobil, Tengizchevroil’s parent company, paid millions of dollars in bribes to former Kazakh President Nursultan Nazarbayev.<sup>29</sup> These strong ties allegedly helped Tengizchevroil avoid serious consequences for illegal activities, including human rights violations. On the other hand, there are positive developments, such as UNODC and the corporate sector uniting in efforts to fight corruption in Uzbekistan. Uzbekistan is currently participating in the second cycle of the United Nations Convention against Corruption’s Implementation Review Mechanism. Uzbek authorities launched their latest anti-corruption programme covering the period from 2021 to 2022. UNODC, which facilitates efforts to increase the engagement of civil society and the private sector on anti-corruption, including in Central Asian countries, is supporting Uzbekistan in the implementation of this programme and related institutional reforms. In this context, it is worth noting a series of joint trainings on the prevention of corruption and fraud in the corporate sector aimed at managers and staff of UzAutosanoat, which unites dozens of large and medium-sized enterprises involved in the production of cars, car components and management of the related dealer network.<sup>30</sup>

All countries of the region participate in dialogue on human rights issues with the European Union. In 2019, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy adopted the Joint Communication to the European Parliament and the Council, The EU and Central Asia: New Opportunities for a Stronger Partnership, in which they state that “Promoting decent work and respect for international labour standards will remain a priority. The EU will help to consolidate the progress made in recent years towards compliance with the fundamental conventions of the International Labour Organization (ILO) and encourage the ratification and implementation of ILO conventions on labour inspections, occupational health and safety and working conditions. The EU will promote compliance with the *UN Guiding Principles on Business and Human Rights* (emphasis added).<sup>31</sup> The 17th EU–Central Asia ministerial meeting held in November 2021 reaffirmed a joint commitment to forge a strong, ambitious and forward-looking partnership that builds upon common values and mutual interests.<sup>32</sup>

28 Azatlyk Radiosy (2020). “Turkmenistan Interneti gözegçiligi has-da güýçlendirýär.” [Turkmenistan tightens Internet control], 12 August. <https://www.azatlyk.org/a/30780403.html>; Freedom House (2021).

29 Ashley Nancy Reynolds (2021). “Opinion: Kazakhstan’s oil sector is rife with human rights abuses”. The Third Pole. 3 August. <https://www.thethirdpole.net/en/energy/kazakhstans-oil-sector-is-rife-with-human-rights-abuses>.

30 United Nations Office on Drugs and Crime (n.d.) “UNODC and the Corporate Sector Unite Efforts to Fight Corruption in Uzbekistan”. <https://www.unodc.org/central-asia/en/news/unodc-and-the-corporate-sector-unite-efforts-to-fight-corruption-in-uzbekistan.html>.

31 European Commission (2019). Joint Communication to the European Parliament and the Council. The EU and Central Asia: New Opportunities for a Stronger Partnership. Brussels, 15.5.2019, JOIN(2019) 9 final. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52019JC0009>

32 European Union External Action Service (2021). Joint Communiqué: 17th EU-Central Asia Ministerial Meeting, Dushanbe, 22 November. [https://eeas.europa.eu/headquarters/headquarters-homepage/107666/joint-communiqué/C3%A9-17th-eu-central-asia-ministerial-meeting\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/107666/joint-communiqué/C3%A9-17th-eu-central-asia-ministerial-meeting_en).

## 4.2. National Action Plans, National Baseline Assessments and other relevant policies

### 4.2.1. The Western Balkans and Türkiye

In the Western Balkans and Türkiye, state authorities do not appear to have any individual policies on how state enterprises should comply with BHR standards and policies. The governments have not adopted, nor have they been working towards the adoption of National Action Plans on Business and Human Rights under the UNGPs. Moreover, they have not developed stand-alone policies on Business and Human Rights nor have published any plans to do so.

Nonetheless, initial steps have been taken in some countries. For example, civil society has prepared several reports. In Serbia, the Belgrade Centre for Human Rights published and prepared the National Baseline Assessment of Business and Human Rights in Serbia in 2016<sup>33</sup> and in 2017 the Human Rights and Business Country Guide in Serbia.<sup>34</sup> In North Macedonia in 2016, civil society with assistance of the Danish Institute for Human Rights (DIHR) prepared a draft scope study on BHR. However, further developments on the part of the North Macedonian government are so far lacking.<sup>35</sup>

In 2019, the UN Human Rights Council in the 3rd cycle of the Universal Periodic Review (UPR) urged the government of Bosnia and Herzegovina (BiH) to “[a]dopt a national commitment in line with the UN Guiding Principles on Business and Human Rights through the adoption of a national action plan on business and human rights.”<sup>36</sup> As a result, the CSO, the Institute for Youth Development (KULT), published in June 2021 the “Baseline Analysis of Human Rights in the BiH Business Sector”<sup>37</sup> and the “Methodology for Developing the Charter of Business and Human Rights in BiH”.<sup>38</sup> According to the director of KULT, BiH authorities have developed a draft NAP, which is yet to be adopted.<sup>39</sup>

No BHR baseline assessment has been conducted in Kosovo. In Türkiye, the government adopted their Action Plan on Human Rights in March

33 Beogradski centar za ljudska prava (2016). National Baseline Assessment – Polazna ocena stanja: primena odabranih načela UN Rukovodećih načela o ljudskim pravima i biznisu [National Baseline Assessment on Business and Human Rights in Serbia]. June. <https://globalnaps.org/wp-content/uploads/2018/08/serbia-nba.pdf>.

34 Danish Institute for Human Rights (DIHR) and Belgrade Centre for Human Rights (BCHR) (2016). Human Rights and Business Country Guide – Serbia. August. <https://globalnaps.org/wp-content/uploads/2018/04/business-and-human-rights-guide-to-serbia-english.pdf>.

35 DIHR and Inter Partes (2016). Human Rights and Business Country Guide – Republic of Macedonia. November. <https://globalnaps.org/wp-content/uploads/2018/04/business-and-human-rights-guide-to-macedonia-english.pdf>.

36 United Nations, Human Rights Council (2019). Report of the Working Group on the Universal Periodic Review, Bosnia and Herzegovina, A/HRC/43/17, 19 December, p. 14 at 120.70. <https://digitallibrary.un.org/record/3849199>.

37 Institute for Youth Development KULT (2021). OSNOVNA ANALIZA O STANJU LJUDSKIH PRAVA U PRIVREDNOM SEKTORU U BOSNI I HERCEGOVINI [Baseline analysis of Human Rights in the BiH Business Sector]. June. <https://mladi.org/v2/phocadownload/Analiza%20o%20stanju%20ljudskih%20prava%20u%20privrednom%20sektoru%20u%20BiH.pdf>; Snaga lokalnega.ba (2021). “10-year Anniversary of the Adoption of UN’s Guiding Principles on Business and Human Rights”, 17 June. <https://snagalokalnog.ba/en/10-year-anniversary-of-the-adoption-of-uns-guiding-principles-on-business-and-human-rights/>.

38 Institute for Youth Development KULT (2019). LJUDSKA PRAVA U POSLOVNOM SEKTORU U BOSNI I HERCEGOVINI [Methodology for Developing the Charter of Business and Human Rights in BiH]. <https://mladi.org/v2/phocadownload/Methodologija%20za%20izradu%20Povelje.pdf>.

39 Mirela Geko, Lead Project Manager of Institute of Youth Development KULT, statement at UN Regional Forum on Business and Human Rights in Eastern Europe and Central Asia, 11 November 2021. <https://www.businesshumanrights-ECA.com/>.

*...In the famous ‘Kazakhgate’ case, a US court ruled that Mobil, Tengizchevroil’s parent company, paid millions of dollars in bribes to former Kazakh President Nursultan Nazarbayev. These strong ties allegedly helped Tengizchevroil avoid serious consequences for illegal activities, including human rights violations.*

2021.<sup>40</sup> Under Goal 9.3 (b), it states: “taking into consideration the UN Guiding Principles on Business and Human Rights, a national set of guiding principles concerning business and work life will be prepared and awareness-raising activities will be conducted.”<sup>41</sup> Despite these promising signs, however, BHR policies in the countries and territories of the Western Balkans and Türkiye are still nascent.

#### 4.2.2. South Caucasus and Eastern Europe

To date, none of the countries in the South Caucasus and Eastern Europe subregion have introduced comprehensive, stand-alone policies or legislation on business compliance with human rights. Nevertheless, two countries, Georgia and Ukraine, have developed Business and Human Rights chapters as part of their National Strategies on Human Rights. In December 2017, a dedicated Coordination Group, led by the Public Defender of Georgia and the NGO, the Civil Development Agency, published the first National Baseline Assessment in Georgia.<sup>42</sup> This led to the incorporation of a BHR chapter in the country’s National Strategy on Human Rights 2018–2020. As the Strategy has expired, work is currently under way on integrating BHR agenda into the new National Human Rights Strategy for 2021–2030.

The Human Rights Secretariat of the Government of Georgia and the Georgian Ombudsman often take part in forums dedicated to Corporate Social Responsibility and Responsible Business Issues, and undertake efforts to coordinate activities with stakeholders on BHR. There have also been some achievements in training public officials on BHR, including on social clauses in public procurement (at a pilot stage) and on non-financial reporting regulation.<sup>43</sup> Georgia also has a vibrant UN Global Compact (UNGC) local network that engages in awareness-raising and capacity-building activities, including in the development of the Guidelines on BHR for SOEs.<sup>44</sup> Despite these advances, Georgia has not created the necessary structures to implement the UNGPs. It appears that the efforts of the Human Rights Secretariat, the Ombudsman and the UNGC network are being frustrated by a lack of commitment from the rest of the administration. This is reflected in the lack of implementation of the National Human Rights Strategy’s BHR chapter, which has been noted by interviewees and by the UN Working Group (UNWG) on BHR, which identified the absence of an appropriate institutional framework and adequate funding to ensure the effective monitoring and implementation of the BHR chapter as key obstacles.<sup>45</sup> According to the UNWG, among “the Government’s initiatives aimed at finding a sustainable path, national economic policy 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

40 Türkiye, Government of (2021). Action Plan on Human Rights: Free Individual, Strong Society; More Democratic TÜRKIYE, Goal 9.3 (b). [https://inhak.adalet.gov.tr/Resimler/SayfaDokuman/5320211949561614962441580\\_insan-haklari-EP-v2\\_eng.pdf](https://inhak.adalet.gov.tr/Resimler/SayfaDokuman/5320211949561614962441580_insan-haklari-EP-v2_eng.pdf).

41 Ibid.

42 Office of the Public Defender (Ombudsman) of Georgia and CiDA (2017). Georgia: National Baseline Assessment On Business And Human Rights. <https://www.ombudsman.ge/res/docs/2020070817231792603.pdf>; <https://globalnaps.org/wp-content/uploads/2018/04/georgia-national-baseline-assessment-english.pdf>.

43 Survey entry. Record on file with the authors.

44 For details, see Global Compact Network Georgia website at <https://globalcompact.ge/en/>.

45 OHCHR (2020). Visit to Georgia – Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. A/HRC/44/43/Add.1, 14 April. <https://uhri.ohchr.org/en/document/8d-042d3a-3f58-499f-ab19-fb5e862f213a>.

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.”<sup>46</sup>

In Ukraine, the Ministry of Justice announced it was beginning a process to develop a National Action Plan on Business and Human Rights in January 2019.<sup>47</sup> A National Baseline Assessment (NBA) on Business and Human Rights, prepared by Yaroslav Mudryi National Law University at the request of the Ministry of Justice, was published in June 2019.<sup>48</sup> On 24 March 2021, the National Strategy on Human Rights, including a chapter on BHR, was adopted by the President of Ukraine.<sup>49</sup> The Action Plan to implement the National Strategy was adopted by the Ukrainian Government in June 2021.<sup>50</sup> However, despite experts, CSOs and business associations recommending more than 50 actions to implement this chapter, the Action Plan ended up containing just one action to implement the BHR chapter of the strategy: to study best practices to implement the UNGPs. This action is, at the time of writing, being implemented in partnership with UNDP Ukraine. During the Kharkiv Forum on Business and Human Rights held in September 2021, the Deputy Minister of Justice Valeriya Kolomiets, when asked about the limited scope of actions on BHR in the Action Plan, stated that the government had to consider the lack of funding for such actions.<sup>51</sup> It was also noted that the Ministry of Justice is responsible for human rights policy in general, but that it would not be responsible for policy on BHR, and that Ukraine still needs to determine which institution would be responsible for implementing the UNGPs and developing a stand-alone NAP.

Aside from the Ukrainian National Strategy on Human Rights, other programme documents with BHR components include: the Concept on Socially Responsible Business<sup>52</sup> and the Action Plan to implement it (which includes references to the UNGPs) and the National Strategy for providing a barrier-free space, adopted in 2021, which focuses mostly on the rights of persons with disabilities and other vulnerable groups.<sup>53</sup> Yet, the UNGPs

46 Ibid., at IV.16

47 See also more about the BHR process in Ukraine <https://globalnaps.org/country/ukraine/>.

48 Ministry of Justice of Ukraine, Yaroslav Mudryi National Law University and Danish Institute for Human Rights (2019). Business and Human Rights. National Baseline Assessment. Executive Summary. <https://minjust.gov.ua/files/gener-al/2019/07/10/20190710170813-19.pdf>.

49 President of Ukraine (2021). “Національна стратегія у сфері прав людини, затверджена Указом Президента України від 24 березня 2021 року № 119/2021” [“National Strategy in the Sphere of Human Rights, approved by the Decree of the President of Ukraine of March 24, 2021 N° 119/2021”]. <https://zakon.rada.gov.ua/laws/show/119/2021#Text>.

50 Ukraine, Government of (2021). “План дій з реалізації Національної стратегії у сфері прав людини на 2021–2023 роки, затверджений розпорядженням Кабінету Міністрів України від 23 червня 2021 р. № 756-р” [“Action Plan for the Implementation of the National Strategy in the Sphere of Human Rights for 2021–2023, approved by the order of the Cabinet of Ministers of Ukraine of June 23, 2021 N° 756-r”]. <https://www.kmu.gov.ua/npas/pro-zatverdzen-nya-planu-dij-z-realizaciyi-nacionalnoyi-strategiyi-u-sferi-prav-lyudini-na-20212023-roki-i230621-756>.

51 Valeria Kolomiets, Deputy Minister of Justice of Ukraine during Kharkiv Forum, 21 September 2021. <https://youtu.be/5d0cOEwKMns?t=16385>.

52 Ukraine, Government of (2021). “План дій з реалізації Національної стратегії у сфері прав людини на 2021–2023 роки, затверджений розпорядженням Кабінету Міністрів України від 23 червня 2021 р. № 756-р” [“Action Plan for the Implementation of the National Strategy in the Sphere of Human Rights for 2021–2023, approved by the order of the Cabinet of Ministers of Ukraine of June 23, 2021 N° 756-r”]. <https://www.kmu.gov.ua/npas/pro-zatverdzen-nya-planu-dij-z-realizaciyi-nacionalnoyi-strategiyi-u-sferi-prav-lyudini-na-20212023-roki-i230621-756>.

53 President of Ukraine (2021). “Національна стратегія у сфері прав людини, затверджена Указом Президента України від 24 березня 2021 року № 119/2021”

*In Ukraine...there is no governmental institution responsible for the UNGPs implementation and for policy coherence; and BHR issues are dealt with by individual representatives of different government bodies (mainly according to their personal enthusiasm for the topic) who are not decision-makers.*

implementation process in Ukraine is affected adversely by a lack of policy coherence: despite the BHR chapter in the National Strategy for Human Rights and the two documents mentioned above, other policy documents, in particular in the economic sphere, have been adopted with a disregard for the concept of Business and Human Rights; there is no governmental institution responsible for the UNGPs implementation and policy coherence; and BHR issues are dealt with by individual representatives of different government bodies (mainly according to their enthusiasm for the topic) who are not decision-makers.

Azerbaijan has stated its intention to develop a NAP, with this pledge repeated during a visit to the country by the UN Working Group on Business and Human Rights in 2015. The country supported Thailand's recommendation, made during its 2018 Universal Period Review, to "Take further steps to implement the United Nations Guiding Principles on Business and Human Rights, taking into account the recommendations from the Working Group on business and human rights".<sup>54</sup> Azerbaijan is reported to have undertaken some initial steps.<sup>55</sup> According to the statement of the Ombudsman's representative at the 8th UN Forum on BHR, the National Program for Action in the protection of human and civil rights and freedoms for 2020–2024 has been drafted and submitted in the relevant manner at the initiative of the Ombudsman. This draft has been described as reflecting important clauses like developing individual state programmes on Business and Human Rights, informing entrepreneurs about their human rights obligations, providing them with necessary information, supporting them with trainings and other means, instructing enterprises on how to respect human rights in the framework of their activities and other such kinds of duties."<sup>56</sup>

No developments aimed at developing a NAP were identified in Belarus and the Republic of Moldova.

#### 4.2.3. Central Asia

No country in the Central Asia subregion has a National Action Plan. According to interviewees, this issue has not received public attention and there is no indication that states are making efforts to initiate processes of developing NAPs or NBAs.

Some initial research, however, has been carried out to support policy processes in the region. In 2014, the Legal Policy Research Center of Kazakhstan conducted a review of the legislation of Kazakhstan on its compliance with the UNGPs and international standards in the field of BHR.<sup>57</sup> Kazakhstan has also received several recommendations to

<sup>54</sup> "National Strategy in the Sphere of Human Rights, approved by the Decree of the President of Ukraine of March 24, 2021 N° 119/2021". <https://zakon.rada.gov.ua/laws/show/119/2021#Text>.

<sup>54</sup> See Azerbaijan UPR 2018, Matrix of recommendations, A/HRC/39/14 – Para. 140, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session30/AZ/MatriceRecommendationsAzerbaijan.docx>.

<sup>55</sup> Statement by Elżbieta Karska, Member of the UN WG on BHR, at the UN Forum on BHR in 2020 (statement on file with the authors, recording available online on the UN Website. Earlier, a similar statement was made by Mr M.K. Addo, at the time he was a member of the UN WG. See also <https://www.businesshumanrights-ECA.com/>.

<sup>56</sup> Ombudsman – The Commissioner for Human Rights of the Republic of Azerbaijan (2019). "Staff member of the Ombudsman Office participated in the 8th UN Forum on Business and Human Rights". 28 November. <https://ombudsman.az/en/view/news/1574/staff-member-of-the-ombudsman-office-participated-in-the-8th-un-forum-on-business-and-human-rights>.

<sup>57</sup> Review of the legislation of the Republic of Kazakhstan for compliance with the provisions of the UN Guiding Principles on Entrepreneurship in the Context of Human Rights and International Standards in the Field of Business and Human Rights"

adopt policies on BHR. For example, in 2017, the OECD recommended that Kazakhstan develop a National Action Plan on Responsible Business Conduct<sup>58</sup> and during the 2019 UPR round, the country received a recommendation to implement the UNGPs,<sup>59</sup> which it has supported.<sup>60</sup> The Committee on Economic, Social and Cultural Rights (CESCR) made the same recommendation while voicing its regret over the lack of comprehensive data and information on the regulatory framework established to ensure that business entities respect rights and apply human rights due diligence, and its regret that information is not collected on the claims of victims of violations of economic, social and cultural rights resulting from business operations.<sup>61</sup> Despite the aforementioned research and recommendations from various sources, Kazakhstan has not developed a NAP to date.

For its part, during the 2019 UN Forum on BHR, Uzbekistan noted that two publications devoted to Business and Human Rights have been translated into Uzbek, and the experience of foreign countries and territories in the development and adoption of the NAPs is constantly being studied.<sup>62</sup> The development of this plan was also listed in the Voluntary Commitments of the Republic of Uzbekistan, a document developed to support the country's nomination to the UN Human Rights Council.<sup>63</sup> Despite these proclamations, there is no publicly available evidence that Uzbekistan has taken concrete steps towards developing a NAP.

### 4.3. Other policies and legislation of relevance and BHR trends

#### 4.3.1. The Western Balkans and Türkiye

Human rights defenders have been under attack in most countries and territories in the Western Balkans and Türkiye (see section on cross-cutting issues for more details). Nonetheless, there are positive developments in the area of whistleblower protection in the region. The Southeast Europe Coalition on Whistleblower Protection (SEE Coalition) was founded in 2015,<sup>64</sup> as the world's only regional organization that specializes in protecting whistleblowers, strengthening whistleblower rights, and utilizing whistleblowing as a crime-fighting and anti-corruption tool. The Coalition comprises over 40 NGOs, journalism groups, research

(in Russian) Almaty 2014, <https://lprc.kz/wp-content/uploads/2020/01/Obzor-zakonodatelstva-po-BHR.pdf>.

<sup>58</sup> OECD (Organisation for Economic Co-operation and Development) (2018). Reforming Kazakhstan: Progress, Challenges and Opportunities. <https://www.oecd.org/eurasia/countries/OECD-Eurasia-Reforming-Kazakhstan-EN.pdf>.

<sup>59</sup> United Nations, Human Rights Council (2019). Report of the Working Group on the Universal Periodic Review, Kazakhstan, A/HRC/43/10, 20 December. <https://undocs.org/A/HRC/43/10>.

<sup>60</sup> Ibid. United Nations, Human Rights Council (2020). Report of the Working Group on the Universal Periodic Review, Kazakhstan, Addendum, A/HRC/43/10/Add.1, 24 February. <https://undocs.org/en/A/HRC/43/10/Add.1>.

<sup>61</sup> United Nations Committee on Economic, Social and Cultural Rights (2019). Concluding observations on the second periodic report of Kazakhstan, E/C.12/KAZ/CO/2. 29 March. <https://uhri.ohchr.org/en/document/83763d6d-bee1-4427-95e0-2d2245572d23>.

<sup>62</sup> UZ Daily (2019). "Узбекистан представил в Женеве свой опыт взаимодействия бизнеса и прав человека" [Uzbekistan presented its experience of interaction between business and human rights in Geneva], 4 December 2019, <https://www.uzdaily.uz/ru/post/48019>.

<sup>63</sup> Ibid; also see the Draft report of the Working Group on the Universal Periodic Review for Tajikistan, 9 November 2021, which provides the recommendation (from Japan, para 6.79) to develop a National Action Plan (NAP) in line with the UN Guiding Principles on Business and Human Rights, with the aim of promoting respect for human rights in the context of business activities. <https://uprmeetings.ohchr.org/Sessions/39session/Tajikistan/Pages/default.aspx>.

<sup>64</sup> See the Southeast Europe Coalition on Whistleblower Protection at <https://see-whistleblowing.org/>.

*Human rights defenders have been under attack in most countries and territories in the Western Balkans and Türkiye.*

institutions and independent experts from 16 European countries and territories (including all of the countries and territories in the subregion except for Türkiye). Thanks in large measure to the Coalition and its partners' work, every country and territory in the subregion apart from Türkiye now has a modern whistleblower protection law and a formal, official system to receive and investigate reports of misconduct and retaliation complaints from employees, most often overseen by anti-corruption agencies and ombudsmans' offices.<sup>65</sup> Consequently, there have been some successful cases of employees who have reported misconduct and were protected from retaliation.<sup>66</sup>

#### 4.3.2. South Caucasus and Eastern Europe

While there is still not a single stand-alone NAP on BHR in South Caucasus and Eastern Europe, individual countries in this subregion are undertaking actions of relevance to the BHR agenda.<sup>67</sup> For example, the Azeri government has adopted a National Action Plan for 2020–2024 for combating trafficking in human beings. Over the past 5 or 6 years, countries, with support from the EU and CoE, have also quite strongly engaged on anti-corruption and to some extent introduced or strengthened the protection of whistleblowers, principally in anti-corruption cases. For example, in Armenia a new anti-corruption body was established, which became fully operational in 2018. Armenia has also adopted the Law on the Whistleblowing System, intended to protect whistleblowers, and other legislation that provides protection mechanisms for whistleblowers who report on criminal cases.<sup>68</sup> Azerbaijan has added whistleblower protection norms to the Law on Combating Corruption but has also introduced criminal procedure provisions of the enforcement of the liability of legal persons, which was crucial to ensure that in the case of a violation of rights could not be assigned to a specific physical person, the legal person, i.e. a company, could be held liable.

<sup>69</sup>

Changes in legislation have also been introduced by Georgia, which has adopted laws improving its conflict of interest and asset declaration system and by the Republic of Moldova, which has adopted several legislative amendments aiming to strengthen the framework for the disclosure of financial and private interests, bolster its National Integrity Commission, and prevent and combat money laundering and thus make it unattractive, in an effort to prevent profits from illegal activities from entering the official financial system. There are also several Moldovan organizations working on whistleblower protection that are members of the SEE Coalition.<sup>70</sup>

<sup>65</sup> Presentation by Arjan Dyrnishi at the Eastern Europe–focused session on “Business and Human Rights in Central and Eastern Europe: Rebuilding trust for new social contract”, UN Forum on BHR, 18 November 2020. <https://2020unforumbhr.sched.com/event/fD4b/business-and-human-rights-in-central-and-eastern-europe-rebuilding-trust-for-new-social-contract>.

<sup>66</sup> Ibid.

<sup>67</sup> The subregion receives regular support to develop robust legislation, foster good governance and fight corruption. See, e.g., Council Of Europe and European Union Partnership for Good Governance (n.d.) Regional Project on ‘Fight against corruption and fostering good governance; Fight against money laundering’. Final Narrative Report. <https://rm.coe.int/090000168090213b>. The project, 2015–2017, covered Armenia, Azerbaijan, Belarus, Georgia the Republic of Moldova and Ukraine.

<sup>68</sup> UNODC (n.d.). Information of the Republic of Armenia on implementation of provisions of the United Nations Convention against Corruption. [https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2017-August-21-23/Contributions\\_NV/Armenia\\_EN.pdf](https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2017-August-21-23/Contributions_NV/Armenia_EN.pdf).

<sup>69</sup> Council Of Europe and European Union Partnership for Good Governance (n.d.) Regional Project on ‘Fight against corruption and fostering good governance; Fight against money laundering’. Final Narrative Report. <https://rm.coe.int/090000168090213b>.

<sup>70</sup> These include the Anticorruption Alliance at <https://www.facebook.com/>

Ukraine has adopted legislation on whistleblower protections<sup>71</sup> as well as introduced an assessment of the degree of risk from business activities to determine the frequency of planned measures of state control.<sup>72</sup> All controlled entities are assigned to one of three levels of risk: high, medium or low. The following indicators are taken into particular account: risk to human life and health; proper quality of products, works and services; and risks to the environment, national security and other public interests. However, this assessment is not intended to determine the risks of human rights violations by the entity.

Interestingly, whistleblower protection legislation is often perceived primarily as a tool that makes economies more attractive to investors, thanks to mechanisms that help fight corruption, and much less as a tool to ensure protection of human rights. This is consistent with statements by interviewees and discussions held on the margins of the Kharkiv Forum where it was stressed that foreign investors, in general, can count on several incentives and regulations that are meant to make investment in those countries and territories more attractive. This is even at the cost of weakened workers' protections—as is the case with legislation introducing moratoriums on the functioning of labour protection—which is sometimes communicated as a more friendly operational environment, with fewer or no controls. Belarus is again the exception, where according to numerous sources in the local business community and independent media, the ways in which existing laws and unwritten practices were enforced in relation to the private sector, including foreign investors, could be discriminatory.<sup>73</sup>

No real progress has been made in this subregion in ensuring that public procurement is in line with the UNGPs. Officials interviewed for this research indicated that discussions in Georgia on the development of relevant regulations have been slowed down by business resistance to the introduction of additional procedures.<sup>74</sup> Even in the World Bank–supported reform projects in Georgia, Serbia and Ukraine, the focus seems to be on transparency, accountability and efficiency in the management of public procurement, rather than its impact on sustainability or the possibility of using it as a driver for greater respect for human rights in the execution of public contracts.<sup>75</sup>

[Alian%C5%A3a-Anticorup%C5%A3ie-294990177323293/](http://www.credo.md/); the Center for Analysis and Prevention of Corruption, CReDO at <http://www.credo.md/>; and Parinti Solidari at <http://parinte.md/>.

<sup>71</sup> Ukraine Crisis Media Center (2021). “Ukraine’s Roller Coaster Ride on Whistleblower Protections Symptomatic of Uneven Commitment to Anti-Corruption Reforms”, 1 March 2021. <https://uacrisis.org/en/amerykanski-girky>.

<sup>72</sup> The Law of Ukraine “On Basic Principles of State Control in the Sphere of Economic Activity” of April 5, 2007 N° 877-V162. <https://cis-legislation.com/document.fwx?rgn=17377>.

<sup>73</sup> U.S. Department of State (2019). Investment Climate Statements: Belarus, <https://www.state.gov/reports/2019-investment-climate-statements/belarus/>.

<sup>74</sup> Interview with Georgian governmental official (notes on file with the author), 17 September 2021.

<sup>75</sup> World Bank Event, Public Procurement Reforms in ECA: Are They Working? Lessons from Serbia, Georgia and Ukraine, 10 December 2020, see <https://www.worldbank.org/en/events/2020/12/10/public-procurement-reforms-in-eca-are-they-working-lessons-from-serbia-georgia-and-ukraine>. In Serbia, the Public Procurement Law adopted in 2020 has provisions that provide the State with a variety of ways of using public procurement to drive positive changes for human rights, thanks to the use of relevant clauses and other options at various stages of the procurement process – mainly due to the fact that the law needed to be aligned with the EU Public Procurement directives. This law is unique to Serbia. See World Bank Group, Serbia – Public Procurement. Lessons learned. Presentation, p. 9. <https://thedocs.worldbank.org/en/doc/813711607705040844-0090022020/original/GGFWSerbiaLesson-Learned.pdf>.

### 4.3.3. Central Asia

Initiatives on countering corruption and protecting whistleblowing are sporadic in Central Asia. The Council of Europe has held seminars on whistleblowing in Kazakhstan and Kyrgyzstan,<sup>76</sup> with the latter, held in December 2020, having brought together the authorities of Kyrgyzstan involved in the implementation of the 2019 law, “On the protection of persons reporting corruption offences”.<sup>77</sup> The participants noted a number of existing challenges in implementing the whistleblower protection law, such as the lack of effective reporting channels, a lack of positive experience with handling deliberately false reports, the lack of effective protection mechanisms against retaliation and the broader negative connotation of whistleblowing.<sup>78</sup>

In Uzbekistan, the Regulation adopted by Government Decree of December 2020 stipulates that persons reporting corruption offences or otherwise assisting in countering corruption will be rewarded with a lump sum of money, a thank-you letter and a memorable gift. In this context, the “provision of other assistance in countering corruption” means providing law enforcement bodies with information about evidence relevant for investigating and solving corruption crimes or direct assistance in the investigation of such crimes or police operations.<sup>79</sup> In 2021, safeguards for whistleblowers were strengthened. Information about persons reporting corruption offences constitutes an official secret and is subject to disclosure only in cases stipulated by law and on the basis of the written permission of the person themselves, as well as the head of the body carrying out anti-corruption activities. If there are sufficient grounds confirming a real threat to the life and health of persons reporting corruption offences and their close relatives, violence against them, destruction or damage to their property, anti-corruption bodies are obliged to take the necessary measures to protect them.<sup>80</sup>

## 4.4. Labour and social policies

### 4.4.1. The Western Balkans and Türkiye

Countries and territories in the Western Balkans and Türkiye subregion have in the last decades adopted laws that provide legal protections for individuals against business-related human rights abuses. Nonetheless, challenges remain on how to effectively translate them into practice in order to protect fundamental labour rights. In North Macedonia, approximately 40,000 workers, most of whom are female, work in the garment industry. Reports indicate that their labour rights are repeatedly violated,<sup>81</sup> that “they have really limited access to justice”,<sup>82</sup> and that

76 Ibid.

77 Newsroom CA TAEC-Kyrgyzstan, Webinar on the protection of whistleblowers in Kyrgyzstan, 3 December 2020, <https://www.coe.int/en/web/corruption/-/webinar-on-the-protection-of-whistleblowers-in-kyrgyzstan>.

78 Ibid.

79 HSE University Anti-Corruption Portal (2021). “Uzbekistan to Reward Whistleblowers” [Антикоррупционный центр НИУ], 11 January.

80 News-Asia (2021). “Узбекистан берет под защиту сообщающих о коррупции и их родственников” [Uzbekistan Protects Whistleblowers and Their Relatives], 21 November 2021. <http://www.news-asia.ru/view/uz/15128>.

81 IndustriALL (2019). “Towards living wages in North Macedonia”, 21 March. <http://www.industriall-union.org/towards-living-wages-in-north-macedonia>.

82 Foundation Open Society Macedonia (2020). “Access to justice in the Eastern region: Project of the Association Glasen Tekstilec, supported by the Foundation Open Society – Macedonia”. 28 July. <https://fosm.mk/en/current-project/access-to-justice-in-the-eastern-region/>.

their conditions have deteriorated during the COVID-19 pandemic.<sup>83</sup> The UN Committee on Economic, Social and Cultural Rights (UN CESCR) urged the government in 2016 that it “immediately apply the same level of minimum wage across all sectors, including the textile, garment and leather industries. It further recommends that the State party increase the minimum wages and regularly adjust them to the cost of living so as to ensure an adequate standard of living for workers and their families.”<sup>84</sup>

Similar concerns were noted by the UN CESCR on the enjoyment of workers’ rights in Montenegro. The Committee observed in its 2014 Concluding Observation on Montenegro that there exist “reports of violations of the right of workers to remuneration and regular payment of their social and health contributions in the private sector, as well as at the practice of non-conversion of fixed-term contracts to indefinite contracts in spite of the requirements of the Labour Act in this regard.”<sup>85</sup> It therefore recommended “the State party to take effective measures to ensure that private companies respect their obligations to guarantee the right of workers to remuneration and regular payment of their social and health contributions, as well as their right to an indefinite contract as stipulated in the Labour Act. The State party should also increase the resources and the capacity of the Directorate for Inspection Affairs, including the Labour Inspectorate, to regularize the informal economy and to effectively ensure just and favourable conditions at work through the implementation of both preventive and punitive measures.”<sup>86</sup>

In Serbia, the UN CESCR in 2014 recommended to the Serbian government “to ensure the effective implementation of the provisions of the Labour Code and the Law on Gender Equality with regard to equal pay for the same work as well as for work of equal value, including through labour inspections and the imposition of sanctions, and address the sources of the limited effectiveness of the remuneration legislation, in particular through public campaigns and training within the State party’s associations of employers and employees.”<sup>87</sup> It also urged the Serbian government to “undertake comprehensive reform to repeal legal provisions which may perpetuate gender discrimination, and empower women through gender-sensitive labour policies aimed at hiring women to non-traditional professions, enhancing their access to vocational and technical education and ensuring equal conditions of work”.<sup>88</sup> Similarly, civil society reports on the state of human rights in Kosovo in 2019 claimed that the enforcement of labour rights has generally been deficient

83 FAIR WEAR (2021). North Macedonia country study 2021. <https://api.fairwear.org/wp-content/uploads/2021/04/North-Macedonia-Country-Study-2021.pdf>; FAIR WEAR (2019). “FWF Gender fact sheet – Macedonia”. <https://api.fairwear.org/wp-content/uploads/2019/02/8.-Macedonia-Gender-Fact-Sheet.pdf>; FAIR WEAR (2021). “Covid-19 impact and responses: North Macedonia”, 5 November. <https://www.fairwear.org/covid-19-dossier/worker-engagement-and-monitoring/country-specific-guidance/covid19-north-macedonia/>; see the interview with Kristina Ampeva at FAIR WEAR (2021). “The workers’ rights victims of the pandemic in North Macedonia”. 19 February. <https://www.fairwear.org/stories/glasen-tekstilec-pandemic-video>; FAIR WEAR (2020). “North Macedonia reimposes curfew; Covid-19 cases spike in textile factories in Stip”, 5 June. <https://www.fairwear.org/stories/covid-19-cases-spike-stip/>.

84 The United Nations Committee on Economic, Social and Cultural Rights (2016). Concluding observations on the combined second to fourth periodic reports of the former Yugoslav Republic of Macedonia, E/C.12/MKD/CO/2-4. 15 July, para. 32.

85 United Nations Committee on Economic, Social and Cultural Rights (2014). Concluding observations on the initial report of Montenegro. E/C.12/MNE/CO/R.1. 15 December. <https://digitalibrary.un.org/record/783412?ln=ru>.

86 Ibid., para. 14.

87 United Nations Committee on Economic, Social and Cultural Rights (2014). Concluding observations on the 2nd periodic report of Serbia. E/C.12/SRB/CO/2. 10 July. <https://digitalibrary.un.org/record/782312?ln=ru>.

88 Ibid., para. 16.

*Turkish labour law provisions do not apply to companies that officially employ fewer than 50 employees, which leaves agricultural sector workers (particularly seasonal (and) migrant workers) with weaker protections...*



and lacking in fairness and efficiency.<sup>89</sup> Labour rights have not therefore been efficiently protected.

On the other hand, experts note that during the COVID-19 pandemic, “in the Western Balkan countries and territories, we did not find any major restrictions of labour rights by governments, but there were numerous infringements of workers’ rights by employers. The most common infringements concerned dismissal procedures, fake consensual termination of employment contracts (when resignation from a post is signed in advance or some dismissal conditions are offered in exchange of losing certain labour rights), unilateral reduction of wages, working hours or working conditions (Bosnia and Herzegovina, Serbia, Montenegro, North Macedonia).”<sup>90</sup>

Turkish labour law provisions do not apply to companies that officially employ fewer than 50 employees, which leaves agricultural sector workers (particularly seasonal (and) migrant workers) with weaker protections, as their activity is not covered by the labour inspection. Along with Belarus, Türkiye was ranked among the 10 lowest ranked countries and territories for workers in 2021, according to the Global Rights Index by ITUC,<sup>91</sup> not least because of the repression of strikes, as Türkiye continued to impose restrictions on civil liberties, and allow union-busting. Trade union leaders and ordinary union members alike have been arbitrarily arrested and their offices and homes raided, with trade union members singled out for unpaid leave, by “employers engaged in systematic union-busting by methodically dismissing workers who attempted to organize, especially in the metal, glass, leather and plastic industries”.<sup>92</sup>

Under the Turkish Constitution, both employees and employers can form unions and parent organizations without prior permission. In line with the Law on the Trade Unions and Collective Bargaining Agreements, “no permission is required to form or become a trade union member.”<sup>93</sup> Also, according to Turkish law, “employers are permitted to pay enhanced compensation, at their own choosing, to a worker unfairly dismissed for union activity rather than comply with court-ordered reinstatement [...] all to prevent their employees from organizing a union. [...] While the ILO’s Committee on Freedom of Association has on repeated occasions expressed that the appropriate remedy for a retaliatory dismissal because of trade union activity is reinstatement, the government of Türkiye, despite its ratification of ILO Conventions 87 and 98, has allowed this legal loophole to remain.”<sup>94</sup> The potential of trade unions in the BHR context should, however, be further examined, as according to information obtained through an interview, trade unions are neither welcomed by employers nor employees, due to trade union leaders being perceived as too pragmatic and not sufficiently inclusive.

89 United Nations Mission Interim Administration in Kosovo (2020). Civil Society Report on Human Rights in Kosovo in 2019. June, pp. 17–18. [https://www.ohchr.org/Documents/Press/Kosovo\\_cso\\_2019\\_human\\_rights\\_report\\_en.pdf](https://www.ohchr.org/Documents/Press/Kosovo_cso_2019_human_rights_report_en.pdf).

90 ILO (2021). “Labour rights infringed during the pandemic. Three essential questions to Aleksandar Ristovski, Professor of Labour Law, Skopje”. [https://www.ilo.org/budapest/whats-new/WCMS\\_820434/lang-en/index.htm](https://www.ilo.org/budapest/whats-new/WCMS_820434/lang-en/index.htm).

91 International Trade Union Confederation. “2021 ITUC Global Rights Index”, p. 5. [https://files.mutualcdn.com/ituc/files/ITUC\\_GlobalRightsIndex\\_2021\\_EN\\_Final.pdf](https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN_Final.pdf).

92 Ibid., p. 35.

93 A short overview of the rights of trade unions is available at <https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/Turkiye>.

94 Business & Human Rights Resource Centre (2021). “Türkiye: IUF files ILO complaint against the Turkish government over failures to protect workers’ freedom of association”. 12 July. <https://www.business-humanrights.org/en/latest-news/Turkiye-iuf-files-ilo-complaint-against-the-turkish-government-over-failures-to-protect-workers-freedom-of-association/>.

#### 4.4.2. South Caucasus and Eastern Europe

While the countries and territories in the South Caucasus and Eastern Europe subregion have ratified the core labour conventions, there is a low level of respect for them. Legal frameworks are designed to promote the private sector, and companies take advantages of various privileges. Also, in those societies in the region that are affected by widespread and entrenched corruption, this so-called deregulation often does not relieve business from pressure from the State but exempts business from obligations in relation to rights-holders (including employees, consumers and communities). Together with the fact that business models are dynamically evolving, this leads to the precarization of work. Some countries, in order to attract investment, are lowering workers’ protections either by amending legislation to make it more “business friendly” and to make it easier to fire employees,<sup>95</sup> or undermine enforcement mechanisms. For instance, Azerbaijan had already in 2015 suspended controls by labour inspectors unless there is a complaint for consideration, making it little, if at all effective in terms of protection of the rights of workers.<sup>96</sup> The suspension was in place until January 2022. In Ukraine, a draft of the Labour Code was envisaged,<sup>97</sup> which intended to, like in Azerbaijan, significantly reduce the labour rights of employees. Georgia’s Labour Inspectorate has also been challenged.<sup>98</sup> There is no doubt that there is a direct connection between the weak status of inspectorates and the message that rights do not matter and persistently poor and worsening labour conditions that often result in deaths.<sup>99</sup>

In this context, it is not surprising that Ukraine has periodically introduced moratoriums (in 2019 and in September 2021)<sup>100</sup> on inspections of business entities, including compliance with labour legislation, labour protection and occupational health, thus effectively halting inspections of labour inspectorates for an indefinite period.<sup>101</sup> In addition, due to the existing loopholes and ambiguities in the legislation, as well as in some cases the low quality of the legislation, the procedure for carrying out

*...in those societies in the region that are affected by widespread and entrenched corruption, this so-called deregulation often does not relieve business from pressure from the State but exempts business from obligations in relation to rights-holders...*

95 Connell, Tula (2020). “Draft Ukrainian Labor Laws ‘A Gift To Oligarchs’”, Solidarity Center, 16 January. <https://www.solidaritycenter.org/draft-ukrainian-labor-laws-a-gift-to-oligarchs/>.

96 President of the Republic of Azerbaijan (2015). Decree of the President of the Republic of Azerbaijan on the application of the Law of the Republic of Azerbaijan No. 1410-IVQ of October 20, 2015 “On the suspension of inspections in the field of entrepreneurship” and additional measures for state regulation of inspections in the field of entrepreneurship. 26 October. <https://president.az/articles/16496>. Azerbaijan, Republic of (2015). Law of the Republic of Azerbaijan on suspension of inspections in the field of entrepreneurship. November. <http://www.e-qanun.az/framework/31093>. Inspections were earlier carried out in line with the Law of the Republic of Azerbaijan “On regulation of inspections in the field of entrepreneurship and protection of the interests of entrepreneurs”.

97 United Nations Ukraine (2021). Labour Code. UN Policy Options. [https://ukraine.un.org/sites/default/files/2020-10/UN%20Position%20Paper%20on%20Labour%20Code\\_final%20version.pdf](https://ukraine.un.org/sites/default/files/2020-10/UN%20Position%20Paper%20on%20Labour%20Code_final%20version.pdf).

98 Human Rights Watch (2020). “Georgia: Labor Reform Introduced in Parliament – Adopt New Regulations, Increased Oversight”. 18 June. <https://www.hrw.org/news/2020/06/18/georgia-labor-reform-introduced-parliament>.

99 See, for example, tragic cases in Chiatura and Tkibuli: Human Rights Watch (2019). “No Year without Deaths” A Decade of Deregulation Puts Georgian Miners at Risk. [https://www.hrw.org/sites/default/files/report\\_pdf/georgia0819\\_web\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/georgia0819_web_0.pdf); Business & Human Rights Resource Centre (2022). “Georgia: Labour Inspection Office’s preliminary investigation of Tkibuli mine explosion finds violations of safety rules”. 31 January. <https://www.business-humanrights.org/en/latest-news/georgia-labour-inspection-offices-preliminary-investigation-of-the-tragedy-in-tkibuli-mine-finds-violations-of-safety-rules/>.

100 OPPB (2021). “Інспекційні відвідування Держпраці: віднині вони поза законом?” [Inspections by the State Labor Service: are they now outlawed?], 14 September. <https://oppb.com.ua/news/inspekciyni-vidviduvannya-derzhpraci-vidnyni-vony-poza-zakonom>.

101 Ministry of Justice of Ukraine, Yaroslav Mudryi National Law University and Danish Institute for Human Rights (2019). Business and Human Rights. National Baseline Assessment [Full Text]. <https://minjust.gov.ua/files/gener-al/2019/07/10/20190710170838-51.pdf>.

inspections by labour inspectorates from time to time is invalidated by the courts.<sup>102</sup> The Committee of Experts on the Application of Conventions and Recommendations (CEACR) Observation (2020) expressed concern at reforms that substantially undermine the inherent functioning of labour inspection systems and urged the Ukrainian government to remove these restrictions, with a view to achieving conformity with Convention No. 81 and Convention No. 129.<sup>103</sup> Enforcement of occupational health and safety in Ukraine is lacking.<sup>104</sup> Ukraine also faces a challenge in ensuring compliance of domestic legislation with international standards and their implementation, despite having ratified core ILO Conventions, the European Convention on Human Rights and Fundamental Freedoms (ECHR) and a number of technical ILO conventions.<sup>105</sup> As pointed out in Ukraine's NBA, the six areas with the most significant BHR impact on labour rights are a high level of undeclared work and informal employment (according to official statistics, 22.9 percent); insufficient legal protection against the threat of forced labour with cases of human trafficking for the purpose of labour exploitation both within Ukraine and abroad; insufficient effectiveness of mechanisms for responding to cases of wage arrears; the gender pay gap (23 percent); insufficient protection of employees' rights in case of transfer of enterprises, mergers and acquisitions; and inconsistency of the state policy on protection of Ukrainian citizens working abroad.

The subregion is also characterized by an extremely low level of employees' awareness on labour rights and occupational health and safety.<sup>106</sup> In Armenia, efforts undertaken in 2020 by the Helsinki Citizens Assembly (Vanadzor) to develop a strategy on labour law protection have had no results. Interviewees expressed the opinion that for the UNGPs to be taken up by Armenian business, awareness-raising efforts would need to be made at the early stage of company registration, with newly registered company owners required to sign and commit to human rights at the time of registration. There is also a need to ensure the protection of independent trade unions, particularly in the context of SOEs, as labour rights are not well protected. Local stakeholders believe that while their voices might be ignored, much will depend on if the EU will pay attention to the protection of workers' rights.<sup>107</sup> In Georgia, as pointed out by interviewees, the association agreement with the EU has exerted noticeable pressure on national labour and environmental regulations, and inclusion of the direct reference to the core ILO conventions.<sup>108</sup>

102 Ibid., p. 49.

103 See ILO. Observation (CEACR) – adopted 2020, published 109th ILC session (2021), Ukraine, [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:4055449](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4055449).

104 Ministry of Justice of Ukraine, Yaroslav Mudryi National Law University and Danish Institute for Human Rights (2019). Business and Human Rights. National Baseline Assessment. Executive Summary. <https://minjust.gov.ua/files/gener-al/2019/07/10/20190710170813-19.pdf>. Ukraine has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as well as 38 ILO Conventions, including Numbers 97, 141, 162, 170, 171, 175, 177, 181, 183, 189 and the 2014 Protocol to the Convention on Forced Labour No. 29.

105 Ibid.

106 NHMT AZ (2016). "Report by the Oil Workers' Rights Protection Organization. Evaluation on fire at stationary deep sea platform No. 10 in "Guneshli" field of State Oil Company of Azerbaijan Republic on 4 December 2015. OWRPO", 26 January. <http://www.nhmt-az.org/frontend/pages/human-rights-inner.php?id=108>; People and Nature (2016). "It's 'oil first, people second', just like in Soviet times. An interview with Mirvari Gahramanli, chairperson of Oil Workers' Rights Protection Organization", 4 August. <https://peopleandnature.wordpress.com/2016/08/04/its-oil-first-people-second-just-like-in-soviet-times/>.

107 Interview with Armenian stakeholder. Notes on file with the authors.

108 Interview. Notes on file with the authors.

**Another country where large companies, including SOEs, are alleged to systematically disrespect the law, is Azerbaijan... timely payment of remuneration is not always respected, with employees in the oil industry having claimed to not being paid for the preceding two months.**

Another country where large companies, including SOEs, are alleged to systematically disrespect the law, is Azerbaijan, with reports pointing out that "every year, a large number of workers employed in the workplace lost their health and ability to work or die as a result of an accident or occupational disease."<sup>109</sup> Reports suggest that timely payment of remuneration is not always respected, with some employees in the oil industry having claimed to not being paid for the preceding two months.<sup>110</sup> And often, remuneration is not paid in full. For instance, workers in Azerbaijan's Bahar and Gum-Deniz oil<sup>111</sup> and gas fields were reportedly threatened with dismissal if they did not agree to a 20 percent reduction in salaries.

As noted earlier, ITUC ranked Belarus among the 10 lowest-ranking countries and territories for workers in 2021 in its Global Rights Index in 2021.<sup>112</sup> The International Trade Union Confederation claimed that Belarus violated the right to strike, with strikes met with repression, while the right to collective bargaining was eroded and used by the government to remove a key pillar of workplace democracy.<sup>113</sup> Further, despite stringent national legislation concerning occupational safety, the record shows an increase in the number of injured workers but also an increase in the "number of fatalities at work as a result of falls, collapsing buildings and structures (e.g., collapse of objects, materials and soil), traffic accidents, falling of the victim from a height, fire, exposure to harmful substances, and drowning".<sup>114</sup> Belarus also lacks comprehensive anti-discrimination legislation, yet it is unlikely to be introduced as the public administration officials responsible for the topic are convinced that it is not necessary due to the existence of Article 22 of the Constitution and Article 14 of the Labour Code.<sup>115</sup>

In the Republic of Moldova, the situation seems to be slightly improving. In October 2021, the country signed a new cooperation agreement and the next Decent Work Country Programme with the ILO. ILO support includes assistance to the National Employment Agency and the State Labour Inspectorate, increasing compliance with international labour standards, skills needs anticipation and reducing informality, among others.<sup>116</sup>

The legal framework in countries in the region has not yet adequately regulated the so-called 'gig economy', leaving a large percentage of the workforce (together with those in the informal economy) unprotected. This is leaving workers vulnerable and unprotected, so that even during the COVID-19 pandemic, they were not covered by emergency legislation,

109 See NHMT AZ (2017). "Report for 2016 on Evaluation of the implementation of legislation on labour, economic, social and civil rights in Azerbaijan's oil sector", 17 January. <http://nhmt-az.org/frontend/pages/human-rights-inner.php?id=134>.

110 OC Media (2020). "Azerbaijani oil workers told to 'take pay cut or face dismissal'", 2 July. <https://oc-media.org/azerbaijani-oil-workers-told-to-take-pay-cut-or-face-dismissal/>.

111 A Baku-based NGO said that oil firm Bahar Energy was violating Azerbaijani labour laws. Bahar Energy is a subsidiary of Greenfields Petroleum, a Texas-based company registered in the Cayman Islands. Information on the company's beneficial owners is not publicly available.

112 International Trade Union Confederation. "2021 ITUC Global Rights Index", p. 5. [https://files.mutualcdn.com/ituc/files/ITUC\\_GlobalRightsIndex\\_2021\\_EN\\_Final.pdf](https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN_Final.pdf).

113 Ibid., p. 5.

114 Deikalov, Ekaterina (2019). Belarus: Human rights and business. Guide for business, government and civil society. Minsk, Register, p. 78. [https://belhel.com.org/sites/default/files/bhc\\_human\\_rights\\_and\\_business\\_web\\_final\\_-\\_kopiya\\_compressed.pdf](https://belhel.com.org/sites/default/files/bhc_human_rights_and_business_web_final_-_kopiya_compressed.pdf).

115 Ibid., p. 78.

116 ILO (2021). "The Republic of Moldova and ILO sign new cooperation agreement to ensure best results in delivering decent work". News. 12 October. [https://www.ilo.org/budapest/whats-new/WCMS\\_822570/lang-en/index.htm](https://www.ilo.org/budapest/whats-new/WCMS_822570/lang-en/index.htm).

**High informality levels, a low number of wage-earners and, arguably, high unemployment rates are the key challenges that Central Asian economies need to resolve.**

and had to risk their health to continue working through the quarantine, without any protective guarantees from their companies. Alleged abuses of the rights of drivers led to strikes in Ukraine, where Bolt drivers went on strike after 50 percent wage cuts, and in Georgia, where Glovo couriers protested against the lack of medical coverage for work-related injuries, and Bolt couriers protested against lowered wages and an allegedly manipulated bonus system and unwarranted layoffs.

#### 4.4.3. Central Asia

High informality levels, a low number of wage earners and, arguably, high unemployment rates are the key challenges that Central Asian economies need to resolve.<sup>117</sup> Most economies are characterized by high levels of economic informality, informal employment and in some cases, business informality. For example, 70 percent of Kyrgyz workers are informal and so have little protection by trade unions or labour laws.<sup>118</sup> Labour market institutions in the region are still largely ill-equipped to formalize jobs, and adequate incentives are lacking.<sup>119</sup>

Occupational safety and health is an important issue in the subregion, where all countries share a common history of centrally planned economies followed by a transition to market economies. Too often, it seemed that there was tacit acceptance that neglect of health and safety was the inevitable price workers had to pay during the transition.<sup>120</sup> For example, in 2019, an independent, 12-month monitoring programme by a coalition of worker rights advocates in Kyrgyzstan found that the lives and safety of working people are at significantly higher risk than official data indicate—requiring urgent changes to the country’s occupational safety and health (OSH) monitoring system.<sup>121</sup> According to official labour inspection statistics, 3,808 OSH violations and incidents occurred in 2018. However, the unions’ independent monitoring programme found 500 previously unreported OSH violations and incidents, including 155 injuries and 15 deaths. Because most of the unreported OSH incidents occurred in informal-sector workplaces, unions are requesting that the country’s labour monitoring system be expanded into that sector.<sup>122</sup> In 2021, the Country Programme on Decent Work in the Republic of Uzbekistan for 2021–2025 was signed.<sup>123</sup>

According to experts, there was a sharp increase in social and labour

117 Mirkasimov, Bakhrom and Muzaffar Ahunov (2017). “Labor markets and informality: the case of Central Asia”, Munich Personal RePEc Archive. [https://mpr.ub.uni-muenchen.de/78751/1/MPRA\\_paper\\_78751.pdf](https://mpr.ub.uni-muenchen.de/78751/1/MPRA_paper_78751.pdf).

118 EuroPlus Consulting & Management (2018). Kyrgyzstan Final Report, Gender Study for Central Asia, January 2018. [https://eeas.europa.eu/sites/eeas/files/kyrgyzstan\\_final\\_report\\_09.01.2018\\_approved\\_workshop\\_final.pdf](https://eeas.europa.eu/sites/eeas/files/kyrgyzstan_final_report_09.01.2018_approved_workshop_final.pdf).

119 ILO (2017). *What future for decent work in ECA: Opportunities and challenges*. Tenth European Regional Meeting Istanbul, 2–5 October 2017. Report of the Director-General. [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-ankara/documents/publication/wcms\\_577395.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-ankara/documents/publication/wcms_577395.pdf).

120 Business & Human Rights Resource Centre (2013). Предпринимательская деятельность в аспекте прав человека в Восточной Европе и Центральной Азии – Обзор последних событий, Май 2013 [Business and Human Rights in Eastern Europe and Central Asia – An Overview of Recent Developments, May 2013]. <https://media.business-humanrights.org/media/documents/files/media/documents/rus-regional-briefing-eeca-final.pdf>.

121 Connell, Tula (2019). “Kyrgyz Unions Find Unreported Worker Deaths and Injuries”, Solidarity Center, 8 March. <https://www.solidaritycenter.org/kyrgyz-unions-find-unreported-worker-deaths-and-injuries/>.

122 Bisenov, Naubet (2017). “Kyrgyz trade unions vow to protect labour rights ahead of Sunday’s elections”, Equal Times, 12 October. <https://www.equaltimes.org/kyrgyz-trade-unions-vow-to-protect?lang=en#>.

123 The “Country Program on Decent Work in the Republic of Uzbekistan for 2021–2025” was signed, 23 September 2021, <https://senat.uz/ru/lists/view/3451>.

**Civil society is raising the issue of forced labour in the cotton fields of Turkmenistan at bilateral and multilateral business meetings... They are proposing advance traceability and verification procedures in textile supply chains to accurately identify where Turkmen cotton may be entering supply chains...**

conflicts in Kazakhstan in 2021. In addition to the low level of wages, poor working conditions in a number of enterprises in Kazakhstan are an important factor in the conflicts. According to the Federation of Trade Unions of the Republic of Kazakhstan, there has been an increase in the number of violations of workers’ rights in the country. In 2020, the number of accidents at enterprises increased by 5.8 percent (1,330 accidents), the number of victims increased by 5.1 percent (1,503 people) and the mortality increased by 15.6 percent (208 deaths). In 78 percent of fatal accidents, it was determined that the employer was at fault. Of 192 enterprises with fatalities, only 58 (30 percent) have trade union organizations.<sup>124</sup> The level of state control over the observance of labour legislation is weak. The number of state labour inspectors is only 256, which is 1 inspector for 23,000 employees; according to ILO recommendations, to effectively carry out their functions, their number should be 1 inspector for no more than 10,000 employees. State labour inspectors in Kazakhstan cover only 3 percent of enterprises and organizations with inspections per year.<sup>125</sup>

Widespread labour exploitation in the cotton sector in Turkmenistan continues to remain a focus of attention. In 2021, global fashion brands were again pressured to avoid cotton from Turkmenistan after a new investigation revealed how the previous year’s harvest was mired in forced labour, corruption and persecution of activists.<sup>126</sup> Civil society is raising the issue of forced labour in the cotton fields of Turkmenistan at bilateral and multilateral business meetings (for example, the US–Turkmenistan Business Council). They are proposing advance traceability and verification procedures in textile supply chains to accurately identify where Turkmen cotton may be entering supply chains, including as raw cotton, yarn and fabrics; working with suppliers based in third countries and territories (for example, Türkiye) to put the issue of Turkmen cotton on their agenda, and redirect sourcing; informing consumers about the labour abuses in Turkmenistan that might affect the products they wear and use every day; and insisting on independent monitoring to uncover forced and child labour in the cotton fields.<sup>127</sup> Authorities have retaliated violently to labour organizers.<sup>128</sup>

Discrimination in employment and occupation based on gender, disability and other factors is widespread across all sectors of the economy in the subregion, including legal discrimination against women from working in the same jobs as men. Civil society members reported the country has retained a strong cultural bias against women in positions of power and leadership, making it difficult for some women to secure managerial positions based on their gender. Although the law defines social protection policies for persons with disabilities and establishes quotas and workplaces for persons with disabilities, it is not broadly enforced. Members of the disability rights community report that persons with

124 Zhusupova, Aiman (2021). “Почему происходит рост социально-трудовых конфликтов в Казахстане?” [Why is there an increase in social and labor conflicts in Kazakhstan?]. CABAR, 9 December. <https://cabar.asia/ru/pochemu-proishodit-rost-sotsialno-trudovyh-konfliktov-v-kazahstane>.

125 Ibid.

126 Central Asia Labour Rights Monitoring Mission (2021). “Fashion Brands Urged to Boycott Turkmenistan’s Cotton”, 1 April. <https://labourcentralasia.org/en/news/fashion-brands-urged-to-boycott-turkmenistan-s-cotton/?f=9QpLXdfW>.

127 Turkmen.news and Turkmen Initiative for Human Rights (TIHR) (2021). Review of the Use of Forced Labor in Turkmenistan During the 2020 Cotton Harvest. March. [https://en.turkmen.news/wp-content/uploads/2021/03/TURKMENISTAN\\_COTTON\\_2020\\_WEB\\_ENG.pdf](https://en.turkmen.news/wp-content/uploads/2021/03/TURKMENISTAN_COTTON_2020_WEB_ENG.pdf).

128 U.S. Embassy in Turkmenistan. “Turkmenistan 2020 Human Rights Report”. <https://tm.usembassy.gov/our-relationship/official-reports/turkmenistan-2020-human-rights-report/>.

disabilities are generally unable to find satisfactory employment due to unofficial, informal discrimination.<sup>129</sup>

The gig economy is developing very actively in the region. To date, at least 1.5 million Kazakhstanis are involved in the gig economy, and for the most part are not included in the national system for protecting labour rights.<sup>130</sup> There have been a number of strikes by couriers of delivery services in the region due to violation of their labour rights.<sup>131</sup> The ILO in Uzbekistan has noted that gig workers need to be protected by the law. As mentioned in an ILO report, gig workers often work 16 hours a day and earn nothing at all, and do not have a balance of work and rest. In other words, platform workers are not formalized in terms of labour law and social protection.<sup>132</sup>

#### 4.5. NHRIs

National Human Rights Institutions (NHRIs) are institutions with a constitutional and/or legislative mandate to protect and promote human rights within the State's jurisdiction.<sup>133</sup> Although they are a part of the State apparatus and are funded by the State, they operate and function independently from governments. In the context of the UNGPs implementation, this makes them uniquely positioned to act as a convener and mediator, bring parties representing differing positions to the table and seek solutions and ways of remediating the human rights violations.<sup>134</sup>

The majority of countries and territories in the region have an NHRI, except for Belarus. Kosovo, Türkiye and Turkmenistan have established NHRIs; however, they have not yet been accredited by the Global Alliance of National Human Rights Institutions (GANHRI), which oversees the level of compliance of NHRIs with the Paris Principles,<sup>135</sup> the accepted minimum

129 Ibid.; and U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Tajikistan (<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/tajikistan/>); Kazakhstan (<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kazakhstan/>) and Kyrgyzstan (<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kyrgyzstan/>).

130 Пресс-конференция по соблюдению трудовых прав в РК и положению контрактных работников КІВНН (2021). "Пресс-конференция по соблюдению трудовых прав в РК и положению контрактных работников электронных сервисов" [Press conference on observance of labor rights in the Republic of Kazakhstan and the situation of contract workers of electronic services], 26 October. <https://bureau.kz/press-czentr/po-soblyudenyu-trudovyh-prav/>.

131 Inform buro (2021). "Glovo ne vypolnit trebovanie kur'yerov ob uvelichenii oplaty truda" [Glovo will not comply with the demand of couriers to increase wages]. 8 July. <https://informburo.kz/novosti/glovo-ne-vypolnit-trebovanie-kurerov-ob-uvelichenii-oplaty/>; Inform buro (2021). "Отстранённых от работы после забастовки курьеров Wolt разблокировали в системе" [Wolt couriers suspended from work after strike unblocked in the system]. 18 May. <https://informburo.kz/novosti/zablokirovannyx-kurerov-wolt-razblokirovali/>; Inform buro (2021). "Курьеры Glovo объявили забастовку в Алматы" [Glovo couriers go on strike in Almaty]. 7 July. <https://informburo.kz/novosti/kurery-glovo-obyavili-zabastovku-v-almaty/>.

132 ILO (2020). Assessment of the impact of COVID-19 on the socio-economic situation in Uzbekistan: Income, labour markets and access to social protection – Overview of anti-crisis measures and ways to improve policy. November 2020. [https://www.ilo.org/moscow/information-resources/publications/WCMS\\_759842/lang-en/index.htm](https://www.ilo.org/moscow/information-resources/publications/WCMS_759842/lang-en/index.htm); Russian version: Оценка влияния COVID-19 на социально-экономическую ситуацию в Узбекистане: доходы, рынки труда и доступ к социальной защите обзор антикризисных мер и направления дальнейшего совершенствования государственной политики. [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms\\_759844.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms_759844.pdf).

133 See OHCHR NHRIs website at <http://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx>.

134 Faracik, Beata (2012). The Role of Non-EU National Human Rights Institutions in the Implementation of the UN Guiding Principles on Business and Human Rights, with a Focus on Eastern Partnership Countries. October. European Parliament Policy Paper EXPO/B/DROI/2012/08, p. 9. <https://ssrn.com/abstract=2549819>.

135 OHCHR. UN Principles Relating to the Status of National Institutions (Paris Principles), Annex to the GA Resolution 48/134, 1993, <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>. NHRIs receive status A accreditation if they are fully compliant with the Paris Principles, and B if only partially

standard required for NHRIs, against which the effectiveness of fulfilment of their role and their independence are measured. Of those NHRIs accredited in the region, half are Status A NHRIs (Voting Members), and half are Status B NHRIs (Observer Members), with four out of five NHRIs in South Caucasus and Eastern Europe having Status A, three out of five in the Western Balkans and Türkiye having Status A, and all NHRIs in Central Asia having Status B (See [Annex 3](#)).

Compliance with the Paris Principles, while crucial as far as quasi-judicial procedures are concerned, does not necessarily mean that NHRI mandates and activities will cover the BHR agenda. On the other hand, the UNGPs do mention NHRIs under all pillars and the Paris Principles do not prevent the NHRIs from engaging with the UNGPs.<sup>136</sup> While the Edinburgh Declaration of 2010<sup>137</sup> already recognized "the key role of NHRIs in implementing human rights protection in the corporate sphere and affirmed the commitment of NHRIs worldwide to integrate business and human rights issues into their strategies and activities, at international, regional and national level",<sup>138</sup> the BHR agenda is not a matter of priority for the majority of NHRIs in the region, except in Armenia, Georgia and Ukraine, where NHRIs actively engage on Business and Human Rights and pressure their governments to develop and implement National Action Plans or undertake other actions.

A lack of focus on BHR by NHRIs is caused by the general context of the weak rule of law, the post-Soviet legacy and corruption that make other issues of greater concern, and also result in limited resources<sup>139</sup> and low, if any, internal expertise on the issue. The limited scope of their mandates is another cause. Also, while in practice many NHRIs in the region often work on labour rights and employee protection, although mainly in the public sector, they do not consider their work to fall into the category of Business and Human Rights.

Efforts to raise awareness and the build capacity of NHRIs on BHR have been mainly undertaken by the NHRI networks: by the International Coordinating Committee of NHRIs (ICC) and later by GANHRI, which developed a Guidebook on BHR for NHRIs<sup>140</sup> and held regular Working Group meetings on BHR, and by the European Network of NHRIs (ENNHRI), which in 2018 in collaboration with the Danish Institute for Human Rights (DIHR) organized a blended learning focused on BHR<sup>141</sup>

compliant.

136 For how to read the Paris Principles through the lens of the UNGPs and BHR, see Faracik (2012), p. 15 or Brodie, Meg (2012). "Pushing the Boundaries: The Role of National Human Rights Institutions in Operationalizing the 'Protect, Respect and Remedy' Framework", pp. 250–251. In *The UN Guiding Principles on Business and Human Rights. Foundations and Implementation*, Radu Mares, ed. Martinus Nijhoff Publishers, p. 245–272.

137 International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) (2010). The Edinburgh Declaration. [https://www.ohchr.org/Documents/AboutUs/NHRI/Edinburgh\\_Declaration\\_en.pdf](https://www.ohchr.org/Documents/AboutUs/NHRI/Edinburgh_Declaration_en.pdf).

138 Faracik, Beata (2012). The Role of Non-EU National Human Rights Institutions in the Implementation of the UN Guiding Principles on Business and Human Rights, with a Focus on Eastern Partnership Countries. October. European Parliament Policy Paper EXPO/B/DROI/2012/08, p. 17. <https://ssrn.com/abstract=2549819>.

139 In one of the NHRIs, over 30 percent of staff positions are vacant due to low salaries in public administration; the same factor causes a high turnover of staff. This, in turn, has an impact on internal expertise, as even if someone receives training, this knowledge disappears when the trained person leaves.

140 ICC and the Danish Institute for Human Rights (DIHR) (2013). *Business and Human Rights: A Guidebook for National Human Rights Institutions*. <https://www.humanrights.dk/publications/business-human-rights-guidebook-national-human-rights-institutions>.

141 DIHR and GANHRI (n.d.) "Introduction to business and human rights", business and human rights online course. <https://www.humanrights.dk/learning-hub/introduction-business-human-rights>. The training was supported by funding from the EU

*It is likely that the increasing popularity of this role [Ombudsman] is because of the perceived negative attitudes—unfriendly, bureaucratic and arbitrary—of public officials towards entrepreneurs, as well as laws that are unclear and internally contradictory that make business operations a high-risk endeavour.*

in which representatives of several NHRIs from the region took part: Azeri, Armenian, Georgian (the host institution of the training), Serbian and Ukrainian. ENNHRI also undertakes efforts to facilitate collaborative work on BHR through the Business and Human Rights Working Group. Yet, representation of the NHRIs from the region is very low.

A relevant development over the last few years has been the creation of the institution of an Ombudsman for Entrepreneurs (Business Ombudsman) in the region. Their role is to provide protection and support to companies wronged by state, and the institution seems to be unique to the ECA region. The position already exists in Ukraine and Azerbaijan, where it is merged into the NHRI, and the need to create such an institution is being actively discussed in Kazakhstan, Kyrgyzstan, Turkmenistan, Uzbekistan and the Republic of Moldova (where the NHRI, with support from ENNHRI and other bodies like the Venice Commission, has managed to protect itself from expanding its mandate to protect business enterprises from the state).

It is likely that the increasing popularity of this role is because of the perceived negative attitudes—unfriendly, bureaucratic and arbitrary—of public officials towards entrepreneurs, as well as laws that are unclear and internally contradictory that make business operations a high-risk endeavour. The Business Ombudsman is thus meant to provide a counterweight for business in their official contacts with administration, and to ensure that entrepreneurs' rights are respected and that administrations are not abusing their power simply because they can. While the existence of this institution is perceived as needed, this trend carries the risk of conflating rights-holders (individuals) with companies, taking attention away from individuals and overloading the NHRIs, which are designated to protect the human rights of individuals. As was noted by the UNWG on BHR, in its report from the Country Visit in Azerbaijan, where this issue was strongly highlighted, it “appreciates the importance of protecting entrepreneurs and small businesses against abuse ... The Guiding Principles ... do not, however, focus on the human rights abuses faced by enterprises, but rather on the abuses caused by their activities.”<sup>142</sup>

#### 4.5.1. The Western Balkans and Türkiye

NHRIs in six countries and territories in the Western Balkans provide quasi-judicial and non-judicial access to remedies in cases of human rights violations and supervise activities of all branches of government. BHR is not among their priorities. They have not been actively engaged in BHR implementation in their countries and territories nor is there any evidence that they have strategies to engage in building the capacity of other actors. None of them have staff dedicated to this portfolio, nor have tried to build capacity on BHR (either through training or participation in the ENNHRI Working Group on BHR),<sup>143</sup> with the exception of the Protector of Citizens of the Republic of Serbia whose representative participated in the ENNHRI–EU–DIHR training on BHR<sup>144</sup> a few years ago.

and is available online. NHRI staff can enrol in it.

<sup>142</sup> Report of the Working Group on the issue of human rights and transnational corporations and other business Enterprises, Addendum: Visit to Azerbaijan, Human Rights Council, Twenty-ninth session. A/HRC/29/28/Add.1, 3 June 2015, para. 26.

<sup>143</sup> Email exchange with ENNHRI Secretariat, 4 August 2021 (on file with the authors).

<sup>144</sup> Ibid.

*...the transition to information technologies in business does not favour men and women equally, especially given the fact that women are predominantly employed in the service sector such as trade.*

NHRIs from the Western Balkans do not have an explicit mandate to cover the private sector (with some exceptions relating to equal treatment and non-discrimination). Their main role is to supervise activities of all branches of government. They can, however, provide quasi-judicial access to remedies (handling and deciding on complaints) that can be submitted by individuals, legal persons or propio mutu (an official act taken without a formal request from another party) only against public authorities, as has been done in Serbia<sup>145</sup> and Bosnia and Herzegovina.<sup>146</sup> Thus, despite not having an explicit mandate to handle complaints against private bodies, they can reach them indirectly through handling complaints against public bodies for failing their obligations to respect and observe human rights.

In Serbia, the Institution of Protectors of Citizens of the Republic of Serbia, in its 2020 report relating to environmental rights complaints, noted that “the complaints received by the Protector of Citizens in 2020 in the area of environmental protection mostly refer to the problem of air, water and soil pollution, waste management, acting of competent inspection bodies upon the citizen reports, negative impacts on the environment such as noise, vibration and emission of dust particles in the performance of the operations of different business entities.”<sup>147</sup> It recommended that “Public company ‘Elektroprivreda Srbije’ and Distribution System Operator ‘EPS Distribucija’ should provide legal, conscientious, impartial, efficient and timely handling of requests, complaints and reclamations of citizens.”<sup>148</sup> However, those are only sporadic references. Serbia’s Commissioner for the Protection of Equality is in a better position to address issues of Business and Human Rights, as it is competent to examine complaints against corporations and other stakeholders in the private sector concerning violations of the principle of equal treatment in labour relations.<sup>149</sup> In 2020, 27 percent of complaints received by the Commissioner concerned alleged violations of the equal treatment principle in the private sector.<sup>150</sup>

The Human Rights Ombudsman of Bosnia and Herzegovina, which does not have a mandate to handle complaints against private actors, nevertheless in its 2020 report observed that “the transition to information technologies in business does not favour men and women equally, especially given the fact that women are predominantly employed in the service sector such as trade”.<sup>151</sup>

The Ombudsman Institution of the Republic of Kosovo also does not have the jurisdiction to examine complaints against private actors, nor

<sup>145</sup> Protector of Citizens – Ombudsman of Serbia (2012). “Role and Function”, 27 May. [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=3&Itemid=24](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=3&Itemid=24).

<sup>146</sup> See the Human Rights Ombudsman of Bosnia and Herzegovina at <https://ombudsmen.gov.ba/Default.aspx?id=0&lang=EN>.

<sup>147</sup> Republic of Serbia (2021). Regular Annual Report of the Protector of Citizens for 2020. 15 March, p. 100. <https://www.ombudsman.org.rs/attachments/article/396/Regular%20Annual%20Report%20of%20the%20Protector%20of%20Citizens%20for%202020.pdf>.

<sup>148</sup> Ibid., p. 20.

<sup>149</sup> See Commissioner for the Protection of Equality (Republic of Serbia). “Background Information”. <http://ravNOPravnost.gov.rs/en/background-information/>.

<sup>150</sup> Republic of Serbia (2021). Regular Annual Report of the Commissioner for the Protection of Equality for 2020. March, p. 14. <http://ravNOPravnost.gov.rs/wp-content/uploads/2021/04/Regular-Annual-Report-of-the-CPE-for-2020-za-sajt.pdf>.

<sup>151</sup> Human Rights Ombudsman of Bosnia and Herzegovina (2021). *2020 Annual Report on the results of the activities of The Institution of The Human Rights Ombudsman of Bosnia and Herzegovina*, p. 195. [https://ombudsmen.gov.ba/documents/ombudsmen\\_doc2021030808580995eng.pdf](https://ombudsmen.gov.ba/documents/ombudsmen_doc2021030808580995eng.pdf).

the mandate to investigate alleged business-related human abuses.<sup>152</sup> It is, however, noted that NHRIs in the Western Balkans have been, over the past decades, subjected to undue influence and pressure from governments and political actors, and are usually not sufficiently financed.

In many countries and territories, NHRIs provide oversight over respect for human rights by state institutions and also serve as equality bodies. In Türkiye, these two aspects are handled by two separate institutions: the Ombudsman Institution of the Republic of Türkiye,<sup>153</sup> which is the constitutional public entity tasked with “examining, investigating, and submitting recommendations to the Administration with regard to all sorts of acts and actions,”<sup>154</sup> while the Human Rights and Equality Institution of Türkiye handles complaints submitted by natural and legal persons, not only against public actors or natural persons, but also any legal persons. However, this is only related to violations of non-discrimination. Its powers enable it to demand the provision of documents and other evidence within 30 days following the date of communication of such a request and impose an administrative fine on those organizations who do not comply with such obligations and without a justification for a specified period of time.<sup>155</sup> It may also form commissions and enter into partnerships with CSOs and other actors. According to the Ombudsman’s Institution Annual Report for 2020, under the section ‘Labour and Social Security’, the main violations are: “working conditions, issues related to the rights demanded from the administration within the framework of labour law and employment contract due to the fact that the administration is the main employer (subcontracted labourer problem), employee and employers problems, occupational accidents, OHS actions, unions and collective labour relations, work permits of foreigners, union activities, and so forth.”<sup>156</sup>

#### 4.5.2. South Caucasus and Eastern Europe

Every country of the South Caucasus and Eastern Europe subregion, except for Belarus, has established an NHRI. Four of them, except for Azerbaijan have Status A. The NHRIs from the South Caucasus and Eastern Europe are among the most active agents pushing for the greater uptake of the UNGPs and more coherent implementation of the UNGPs, including in Azerbaijan, Georgia and to some extent, Ukraine, in supporting the NAP development processes. NHRIs’ potential and activities are, however, strongly affected by limited resources. While only two NHRIs in this subregion, in Armenia and Georgia, have a person dedicated to BHR issues and are members of the ENNHRI working group on BHR, other NHRIs have undertaken work and awareness-raising on BHR issues aimed at other actors and stakeholders, including in

152 Ombudsman Institution of the Republic of Kosovo (n.d.) “About Us”. <https://oik-rks.org/en/about-us/>.

153 The Ombudsman Institution of the Republic of Türkiye was established in 2012 with the Law on the Ombudsman. Institution No. 6328 is a constitutional public entity affiliated with the Grand National Assembly of Türkiye, see <https://www.ombudsman.gov.tr/English/index.php>.

154 Ibid.

155 “The Institution imposes an administrative fine of five hundred Turkish Liras to two thousand Turkish liras on public institutions and organizations and other natural and legal persons who do not comply with such obligations and without a justification for a specified period of time. If the applications cannot be settled by reconciliation and it is determined that there has been a violation of the prohibition of discrimination, the Institution may impose fines up to 15 thousand Turkish Liras”; see NHRI Human Rights and Equality Institution of Türkiye (n.d.) Information and description summary, p. 6. [https://www.tihk.gov.tr/upload/file\\_editor/2019/03/1551881762.pdf](https://www.tihk.gov.tr/upload/file_editor/2019/03/1551881762.pdf).

156 Republic of Türkiye Ombudsperson Institution (n.d.). *2020 Annual Report for 2020*. Abridged English Version, p. 74. <https://www.ombudsman.gov.tr/kdk-pdf/2020-anual-report/mobile/index.html>.

Azerbaijan and Ukraine, and in Georgia, where awareness-raising efforts were aimed at state officials.<sup>157</sup> The representatives from those four NHRIs (Armenia, Azerbaijan, Georgia and Ukraine) took part in the 2018 blended learning on BHR organized by ENNHRI and DIHR.<sup>158</sup>

It was suggested during interviews with the region’s NHRI representatives and with other actors, that NHRIs should focus more on awareness-raising and capacity-building activities if there were more support to organize such activities in collaboration with other actors to use their limited resources wisely. As for individual NHRIs, an interesting opportunity seems to be arising in the Republic of Moldova, where, although the People’s Advocate Office (a Status A NHRI) does not yet have strong internal expertise on the BHR agenda, it is in the process of slowly building it and has recently successfully fended off pressure to take on the mandate of an ombudsman for entrepreneurs.<sup>159</sup> While under the current strategic development programme, BHR is not yet a priority, in 2022 the programme will be renewed and BHR might be included on the limited list of priority subjects. Attempts to place the Ombudsman for Entrepreneurs within the NHRI showed that the concept of BHR is misunderstood and that awareness-raising activities aimed at public administration are necessary.<sup>160</sup> As in Serbia and Türkiye, the work of the People’s Advocate is complemented by the Council for Preventing and Eliminating Discrimination and Ensuring Equality (often referred to in practice as the Moldovan Equality Council),<sup>161</sup> which monitors respect for human rights including in the private sector but only with regards to equality and non-discrimination issues.

The situation is different in the case of the Armenian NHRI, which has several staff working on BHR issues and approaches it mostly from the perspective of labour rights protection. It also acts as a de facto Ombudsman for Entrepreneurs, as it operates a special Unit for Protection of Rights in the Field of Business operating at the Defender’s Office<sup>162</sup> and a hotline for entrepreneurs.<sup>163</sup>

An important role is also played by the Azerbaijan Ombudsman Institute (AOI),<sup>164</sup> which is the institution charged with promotion of the UNGPs.

157 Interviews with local experts (notes on file with authors).

158 DIHR and GANHRI (n.d.) “Introduction to business and human rights”, business and human rights online course. <https://www.humanrights.dk/learning-hub/introduction-business-human-rights>.

159 Interview with the public administration official (notes on file with the authors). Email communication with ENNHRI (on file with the authors).

160 Interview with Dumitru Roman, Office of the Ombudsperson of Moldova (notes on file with the authors).

161 See Council for Preventing and Eliminating Discrimination and Ensuring Equality, Moldova. <http://egalitate.md/>

162 A special “Unit for Protection of Rights in the Field of Business” operates at the Defender’s Office and in case of questions, entrepreneurs can call a special hotline. Further details can be found at: Human Rights Defender of the Republic of Armenia Online portal, News, (6 October 2021).

163 Human Rights Defender of the Republic of Armenia (2020). “Entrepreneurs can apply to the Human Rights Defender when encountering problems with state bodies”, 24 March. [www.ombuds.am/en\\_us/site/ViewNews/1124](http://www.ombuds.am/en_us/site/ViewNews/1124).

164 Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan (Azerbaijan Ombudsman Institute), see <https://ombudsman.az/en/> and <https://ennhri.org/our-members/azerbaijan/>. Since the ratification in 2008 of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol, the Institute of the Commissioner for Human Rights fulfils the function of a monitoring body under CRPD Art 33(2)s. Since 2009, the Institute of the Commissioner for Human Rights is also fulfilling the functions of the National Preventive Mechanism (NPM) implied by Article 18 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Commissioner also oversees the fulfilment of the obligations enshrined in the Law on Access to Information by state agencies, local governments and officials. The Ombudsman is also a member of the national action group for the implementation of the “Azerbaijan 2020: Look into

*With lengthy and costly proceedings in the courts that are perceived as not independent and corrupt, for many citizens, recourse to the Ombudsman is seen as the only realistic way to seek remedy...*

The Ombudsman's mandate allows handling complaints from individuals against companies. For example, in its 2020 Annual Report the Ombudsman states that "The investigations of complaints by the Ombudsman have resulted in disciplinary actions against some employers, who broke the labour legislation. In some cases, the employers were disciplined, and they were given binding instructions to ensure payment of salaries and final settlement of wages."<sup>165</sup> The Ombudsman can also submit recommendations to the government and state institutions. For example, reflecting on the number of complaints, it recommended that "it is appropriate to establish a state security system and related mechanisms for the payment of debts to employees by insolvent non-state agencies on wages and work-related injuries."<sup>166</sup> With lengthy and costly proceedings in the courts that are perceived as not independent and corrupt,<sup>167</sup> for many citizens, recourse to the Ombudsman is seen as the only realistic way to seek remedy, with the Ombudsman being one of the few institutions respected by the local population, which is reflected in the number of complaints received.<sup>168</sup>

The Azeri Ombudsman Office has also been actively promoting the UNGPs. Its Annual Reports since 2014 have included a section on Business and Human Rights and provide information about all activities undertaken, including:

- Various thematic awareness-raising meetings, and broad legal education events with the participation of consumers and preparing print materials<sup>169</sup>
- The work of the Working Group on Business and Human Rights<sup>170</sup> (established in 2013 thanks to the Ombudsman with the purpose of "coordination of the activities of relevant bodies, learning and implementing international instruments, improvement of legislation, effective arrangement of awareness-raising work",<sup>171</sup> and composed of relevant State Bodies and non-governmental organizations
- Proposals put forward in events being summarized and addressed to respective authorities and shared with the public in the Commissioner's annual reports.<sup>172</sup>

The office had translated core documents including the UNGPs and UN

the Future" Concept of Development (in compliance with the SDGs).

<sup>165</sup> The Commissioner for Human Rights of the Republic of Azerbaijan (2021). *2020 Annual Report*, p. 37. [https://ombudsman.az/upload/editor/files/2020%20Annual%20Report\\_Ombudsman\\_Azerbaijan.doc](https://ombudsman.az/upload/editor/files/2020%20Annual%20Report_Ombudsman_Azerbaijan.doc).

<sup>166</sup> Ibid., p. 42.

<sup>167</sup> Interview with representative of the business community in Azerbaijan (notes on file with the authors).

<sup>168</sup> Interview with the representative of the Azeri business community (notes on file with authors), September 2021.

<sup>169</sup> The next Meeting of the "Business and Human Rights" Working Group under the Ombudsman has been held, <https://ombudsman.az/en/view/news/1479/the-next-meeting-of-the-business-and-human-rights-working-group-under-the-ombudsman-has-been-held>.

<sup>170</sup> Ibid.

<sup>171</sup> Ombudsman – The Commissioner for Human Rights of the Republic of Azerbaijan (2019). "Staff member of the Ombudsman Office participated in the 8th UN Forum on Business and Human Rights". 28 November. <https://ombudsman.az/en/view/news/1574/staff-member-of-the-ombudsman-office-participated-in-the-8th-un-forum-on-business-and-human-rights>

<sup>172</sup> The Commissioner also issues specialized reports, in which BHR issues like child labour are addressed. See for example: Ombudsman – The Commissioner for Human Rights of the Republic of Azerbaijan (2010). *The First Specialized Report On Children's Rights Of The Commissioner For Human Rights (Ombudsman) Of The Republic Of Azerbaijan*. <https://ombudsman.az/upload/editor/files/Specialized-report.doc>; *ibid.*

Global Compact 10 Principles into Azerbaijani and undertook a number of BHR capacity-building activities for business.<sup>173</sup> The representative of the Ombudsman's office<sup>174</sup> took part in the ENNHRI–DIHR EU-funded capacity-building on BHR in 2018, although the office does not yet take part in the ENNHRI Working Group on BHR.

Very importantly, the Ombudsman recognizes the need for the development of the NAP on BHR.<sup>175</sup> At the initiative of the Ombudsman, the National Program for Action in the protection of human and civil rights and freedoms for 2020–2024 has been drafted and submitted in the relevant manner to the state authorities, with important recommendations including developing an individual state programme with regard to Business and Human Rights, informing entrepreneurs about their obligations on human rights, providing them with necessary information, supporting them with trainings and other means, and effectively instructing enterprises on the methods for respecting human rights in the framework of their activities and other such kinds of duties.<sup>176</sup>

Georgia's NHRI, the Public Defender of Georgia, is an active, driving force behind BHR developments in the country. An active ENNHRI working group member, involved in discussions on BHR since the Edinburgh Conference in 2010, it led the baseline study on BHR in Georgia<sup>177</sup> and has been involved in the development of the Action Plan on BHR as a part of the National Human Rights Action Plan. While the scope of the Public Defender's control under the Organic Law on the Public Defender of 1996 extends not only to the activities of state bodies, local administrations and officials but also to legal entities (Art. 3 (2) of the Organic Law), when receiving complaints and applications concerning alleged violations of any rights and freedoms guaranteed by law, the Public Defender does not have jurisdiction over companies and private entities. It can investigate only those applications and complaints that may have resulted as a consequence of the actions or acts of State or local self-government bodies, public entities and officials. However, such a complaint may come not only from individuals but also from legal entities of private law, and since the state is also an employer in the country, the Public Defender's mandate also covers issues of employment, albeit only in the public sector.

According to Article 21 of the Organic Law, proceeding from the findings of the examination, the Public Defender is authorized inter alia to submit proposals, comments or recommendations on Georgian legislation or draft laws to the Parliament or any other relevant body to ensure the observance of human rights and freedoms, and they can make use of this power regularly including on issues of BHR relevance. They can submit to the relevant authorities proposals on disciplinary or administrative measures against employees responsible for the violation of human rights

<sup>173</sup> Ibid.; Ombudsman – The Commissioner for Human Rights of the Republic of Azerbaijan at [www.ombudsman.gov.az](http://www.ombudsman.gov.az).

<sup>174</sup> Ibid.

<sup>175</sup> Ombudsman – The Commissioner for Human Rights of the Republic of Azerbaijan (2021). *2020 Annual Report*, p. 63. [https://ombudsman.az/upload/editor/files/2020%20Annual%20Report\\_Ombudsman\\_Azerbaijan.doc](https://ombudsman.az/upload/editor/files/2020%20Annual%20Report_Ombudsman_Azerbaijan.doc).

<sup>176</sup> Ombudsman – The Commissioner for Human Rights of the Republic of Azerbaijan (2019). "Staff member of the Ombudsman Office participated in the 8th UN Forum on Business and Human Rights". 28 November. <https://ombudsman.az/en/view/news/1574/staff-member-of-the-ombudsman-office-participated-in-the-8th-un-forum-on-business-and-human-rights>.

<sup>177</sup> Office of the Public Defender (Ombudsman) of Georgia and CiDA (2017). Georgia: National Baseline Assessment On Business And Human Rights. <https://www.ombudsman.ge/res/docs/2020070817231792603.pdf>, <https://globalnaps.org/wp-content/uploads/2018/04/georgia-national-baseline-assessment-english.pdf>.

*The Ombudsman is also open to cooperation with UNDP and other development agencies, to strengthen bilateral cooperation in the implementation of the UNGPs, improving the institutional capacity of the national mechanism to prevent human rights abuses and raise awareness...*

and freedoms, and in particular cases exercise the Amicus Curiae function in Common Courts and the Constitutional Court of Georgia, although within the limit provided by the relevant provisions. A further task of the Public Defender, in accordance with Article 3(3) of the Organic Law, is to lead information and education of the population and indeed, they do so, including on BHR issues.

Another NHRI that is actively promoting the UNGPs is the Ukrainian Human Rights Commissioner (Ukrainian Ombudsperson),<sup>178</sup> whose mandate is quite broad, and includes issues related to human rights violations by business and whose representatives contribute actively to discussions at national and international forums (e.g. regional sessions during the UN Forum on BHR or the Regional Forum on BHR in EE and Central Asia). Among the areas that are monitored by the Commissioner are areas where violations are committed by businesses (e.g. non-payment of wages, informal employment, discriminatory advertising). A significant part of the complaints received by the Commissioner for Human Rights to which they respond concern violations by businesses. The Ombudsman, in fulfilment of the awareness and education aspects of the mandate, initiates and supports numerous initiatives, including trainings; the inclusion of BHR experts in the platform comprising representatives of CSOs, human rights defenders and academics to cooperate on BHR issues (2019); the tool “Business and Human Rights in times of COVID-19” (2020, in cooperation with DIHR);<sup>179</sup> and “Business Human Rights Week” in 2021, dedicated to the 10th anniversary of the UNGPs.<sup>180</sup> The Ombudsman is also open to cooperation with UNDP and other development agencies, to strengthen bilateral cooperation in the implementation of the UNGPs, improving the institutional capacity of the national mechanism to prevent human rights abuses and raise awareness of Ukrainian society about human and civil rights and freedoms.<sup>181</sup>

#### 4.5.3. Central Asia

For all countries of the Central Asia subregion, there is a current concern that, as in the case of Kazakhstan, “the Ombudsman institution still does not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).”<sup>182</sup> For example, at the 2019 Universal Periodic Review, one of the recommendations to Kazakhstan was to “continue to improve the national human rights mechanism in line with the Paris Principles to effectively implement the commitments made in the area of human rights and the 2030 Agenda for Sustainable Development.”<sup>183</sup> The situation

<sup>178</sup> See ENNHRI, “Ukrainian Parliament Commissioner for Human Rights”. <https://ennhri.org/our-members/ukraine/>.

<sup>179</sup> Commission for Human Rights of the Verkhovna Rada of Ukraine. Керівні принципи ООН з питань бізнесу і прав людини, [UN Guiding Principles on Business and Human Rights]. <https://ombudsman.gov.ua/ua/page/sehl/profile-law/ker%D1%96vn%D1%96-princzipi-oon-z-pitan-b%D1%96znesu-%D1%96-prav-lyudini/>.

<sup>180</sup> The series of events took place 11 to 18 June 2021 including a roundtable on “Best corporate practices to respect human rights: international experience and Ukrainian context”, a quiz to test basic knowledge on business and human rights, training on business and human rights in the digital environment, a competition of students’ research papers and a collection of proposals to take measures aimed at implementing the UNGPs in Ukraine.

<sup>181</sup> United Nations Ukraine (2021). “The UN Resident Coordinator in Ukraine and Ombudsman agreed to cooperation in a number of strategic areas”, 19 February. <https://ukraine.un.org/en/113079-un-resident-coordinator-ukraine-and-ombudsman-agreed-cooperation-number-strategic-areas>.

<sup>182</sup> United Nations, Human Rights Committee (2017). Concluding observations on the second periodic report of Kazakhstan, 9 August, CCPR/C/KAZ/CO/2. <https://uhri.ohchr.org/en/document/4f1be133-706f-49a3-9b7f-86f992fee804>.

<sup>183</sup> United Nations Human Rights Council. “Universal Periodic Review – Kazakhstan”, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/KZIndex.aspx>.

in Turkmenistan is also changing, with the Office of the Ombudsman of Turkmenistan planning to file an application for accreditation with the Global Alliance of National Human Rights Institutions in 2022.<sup>184</sup>

Ombudspersons’ offices in the subregion have limited mandates and of a formal nature, but their relative inaction is also caused by a lack of capacity in the area of BHR. This in turn leads to a lack of information about business-related violations of human rights in their annual reports. It is important to ensure that National Human Rights Institutions are independent and operating in full compliance with the Paris Principles.<sup>185</sup> Interestingly, even those NHRIs in the subregion that can receive complaints on human rights violations by businesses are not empowered to take steps to hold businesses accountable, to protect or reinstate the violated right. They can appeal to the business to respond and stop the violation; they can also refer the case to the authorized state bodies to react. For example, employees of the Kyrgyz–Russian Enterprise RoLA LLC approached the Ombudsman of the Kyrgyz Republic and complained that the management of the enterprise violated their labour rights.<sup>186</sup> The representative of the Ombudsman’s office organized a meeting of the company’s employees with the management. As a result, the parties came to a mutual agreement that all issues on labour relations raised by the employees to the employer will be considered and appropriate decisions will be made on them.

In Turkmenistan, the Office of the Ombudsman has the powers to carry out inspections of places of detention without notice and to request information on human rights from organizations in Turkmenistan.<sup>187</sup> The Ombudsman has the right to verify information about violations of human rights and freedoms, based on received applications and self-initiatives, if they become aware of such violations from official sources or the media.<sup>188</sup>

#### 4.6. The State-business nexus, including State Owned and Municipally Owned Enterprises

<sup>184</sup> Turkmenistan Golden Age (2021). “The Office of the Ombudsman of Turkmenistan took part in the meeting of the Asia Pacific Forum of the national human rights institution”, 16 September. <https://turkmenistan.gov.tm/en/post/57106/office-ombudsman-turkmenistan-took-part-meeting-asia-pacific-forum-national-human-rights-institution>.

<sup>185</sup> United Nations, Human Rights Council (2016). Report of the Working Group on the Universal Periodic Review – Tajikistan, A/HRC/33/11, 14 July. <https://uhri.ohchr.org/en/document/3414e3b2-ce21-4739-9c63-1bef19b303c3>; United Nations, Human Rights Council (2019). Report of the Working Group on the Universal Periodic Review, Kazakhstan, A/HRC/43/10, 20 December. <https://undocs.org/A/HRC/43/10>; United Nations, Human Rights Council (2009). Report of the Working Group on the Universal Periodic Review – Turkmenistan, A/HRC/10/79, 6 January. <https://uhri.ohchr.org/en/document/bdda7700-3fde-4bb7-a05e-e7217f91b57b>; United Nations, Human Rights Council (2018). Report of the Working Group on the Universal Periodic Review, Uzbekistan, A/HRC/39/7, 9 July. <https://uhri.ohchr.org/en/document/3f532e3c-231d-4e11-af86-74ee53cabf32>; United Nations, Human Rights Council (2020). Report of the Working Group on the Universal Periodic Review, Kyrgyzstan, A/HRC/44/4, 19 March. <https://uhri.ohchr.org/en/document/33c1ce79-4bd8-4198-8453-f0076e4779a8>.

<sup>186</sup> Kyrgyz Republic Akyikatchy (Ombudsman). ‘При содействии представителей Омбудсмена КР конфликтная ситуация на предприятии ООО «RoLA» разрешилась мирным путем’ [‘With the assistance of representatives of the Ombudsman of the Kyrgyz Republic, the conflict situation at the enterprise of RoLA LLC was resolved peacefully’], [https://ombudsman.kg/index.php?option=com\\_content&view=article&id=1999:with-the-assistance-of-the-representatives-of-the-ombudsman-of-the-kyrgyz-republic-the-conflict-situation-at-the-rola-facility-was-resolved-peacefully&catid=18&lang=ru&Itemid=330](https://ombudsman.kg/index.php?option=com_content&view=article&id=1999:with-the-assistance-of-the-representatives-of-the-ombudsman-of-the-kyrgyz-republic-the-conflict-situation-at-the-rola-facility-was-resolved-peacefully&catid=18&lang=ru&Itemid=330).

<sup>187</sup> United Nations Turkmenistan (2021). “UNDP improves the proficiency of the Ombudsperson’s Office of Turkmenistan”, 19 March 2021. <https://turkmenistan.un.org/en/123037-undp-improves-proficiency-ombudspersons-office-turkmenistan>.

<sup>188</sup> Commissioner for Human Rights of Turkmenistan. Уполномоченный представитель по правам человека в Туркменистане – Омбудсмен: Принципы и функции [About the Ombudsman / Principles and Functions], <https://ombudsman.gov.tm/features.html>.

*State-owned companies as well as state subsidies and guarantees, which lead to substantial contingent liabilities, are a heavy burden on public finances and thus the country’s taxpayers... Many of those companies are characterised by low productivity, while at the same time they offer wages which are some 40 percent higher than in comparable private industries.*



#### 4.6.1. The Western Balkans and Türkiye

State institutions in this subregion have not developed guidance, tools and training and/or other initiatives to support businesses' uptake of the UN Guiding Principles on Business and Human Rights. States have not set any expectations that state-owned enterprises (SOEs) take specific measures to respect human rights. There are no State bodies that monitor the conduct of SOEs, nor official state guidance or a code of conduct for the SOEs. For instance, the European Commission observed in the 2020 Progress Report on Albania that "State-owned enterprises (SOEs) lack transparency and effective oversight, and rely on state funding; liberalisation of the energy market progresses with delays".<sup>189</sup> Further, the UN Human Rights Council in the 2018 Universal Periodic Review of Serbia recommended to "increase the Government's control over Serbian companies operating abroad, particularly any negative impact of their activities on the protection of human rights, especially in conflict zones, including cases of foreign occupation, where there are heightened risks of human rights violations."<sup>190</sup> In Bosnia and Herzegovina, the state-owned Elektroprivreda Bosne i Hercegovine d.d. – Sarajevo proclaims that it is a "socially responsible business". However, it does not explain if it complies with human rights due diligence standards. The European Commission observed in its 2020 progress report on Bosnia and Herzegovina that "State-owned companies as well as state subsidies and guarantees, which lead to substantial contingent liabilities, are a heavy burden on public finances and thus the country's taxpayers ... Many of those companies are characterised by low productivity, while at the same time they offer wages which are some 40 percent higher than in comparable private industries."<sup>191</sup> In Albania, KESH, the largest state-owned corporation and largest electricity producer, has developed corporate social responsibility in various areas (health and safety, environment and ethics in society); however, there is no publicly available information whether it measures compliance and whether it has established internal complaints mechanisms in case of alleged violations.<sup>192</sup>

Regarding Montenegro, the EC recommended in 2020 that "further efforts are needed to address managerial accountability and to strengthen the functioning of internal control and internal audit at all levels of the administration and in state-owned companies."<sup>193</sup> It added that in 2002, "the German police seized in the port of Hamburg half a ton of cocaine from a ship sailing under the Montenegrin flag and owned by the Bar Shipping-Montenegro Line, a state-owned company. The action was conducted by the Montenegrin police with colleagues from the United

189 European Commission (2020). Albania 2020 Report. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final, p. 56, 88. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/albania\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/albania_report_2020.pdf).

190 United Nations, Human Rights Council (2018). Report of the Working Group on the Universal Periodic Review, Serbia, A/HRC/38/17, 18 April, p. 17. [http://digitallibrary.un.org/record/1627323/files/A\\_HRC\\_38\\_17-EN.pdf](http://digitallibrary.un.org/record/1627323/files/A_HRC_38_17-EN.pdf).

191 European Commission (2020). Bosnia and Herzegovina 2020 Report. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final, p. 50. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia_and_herzegovina_report_2020.pdf).

192 KESH. "Corporate Social Responsibility". <http://www.kesh.al/en/csr/>.

193 European Commission (2020). Montenegro 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020 SWD(2020) 353 final, p. 119. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/montenegro\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/montenegro_report_2020.pdf).

**Despite mass privatization in the 1990s and less frequently in the late 2000s, the State remains the owner of a large portfolio of assets in most of the countries, in particular in oil and gas and extractive industries, the energy sector and banks.**

States, Germany and several other European countries and territories."<sup>194</sup> Analysts believe that SOEs in Montenegro are subject to the influence of politicians and their informal networks.<sup>195</sup>

In most countries and territories, there is no legal basis in the Law on Public Procurement for public agencies to take measures to protect human rights during procurement processes, for example, using tender requirements and/or contract clauses requiring companies to comply with human rights. In contrast, there exists such legal bases and obligations in the Serbian Law on Public Procurement for public bodies.<sup>196</sup> The EC observed in 2020 that "Public procurement, which represents a significant share of public spending and thus plays an important role for the private economy, is managed on the base of overly complex procedures which facilitate corruption and still contain a preference for domestic suppliers, which is incompatible with the EU acquis."<sup>197</sup> It noted that "Bosnia and Herzegovina still needs to align its legal framework in the area of non-financial reporting in line with the Directive on disclosure of non-financial and diversity information by certain large undertakings and groups."<sup>198</sup> However, progress has been slow in the last years.

#### 4.6.2. South Caucasus and Eastern Europe

Countries of the South Caucasus and Eastern Europe subregion inherited highly inefficient state-run economies after gaining independence. Despite mass privatization in the 1990s and less frequently in the late 2000s, the State remains the owner of a large portfolio of assets in most of the countries, in particular in oil and gas and extractive industries, the energy sector and banks.

On one side, there is Belarus, which has not undertaken large-scale privatization of SOEs or property and continues to derive about a half of gross value added from SOEs,<sup>199</sup> which count as many as 3,700 companies (about 1,900 are joint stock companies and 1,800 unitary enterprises).<sup>200</sup> Some of these SoEs, including producers of tractors and vehicles, employ more than 10,000 employees and many manufacturing companies provide jobs for 5,000 to 6,000 workers.

On the other side is Georgia, which after the fall of the Soviet Union privatized most state-owned enterprises in the early 2010s. The major remaining SOEs are Georgian Railways (GRW), the Georgian Oil and Gas Corporation (GOGC), the Georgian State Electrosystem (GSE), the Electricity System Commercial Operator (ESCO) and the

194 Ibid.

195 Ibid., p. 50.

196 Republic of Serbia (2019). Public Procurement Act, Official Gazette of Serbia no. 91/2019.

197 European Commission (2020). Bosnia and Herzegovina 2020 Report. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final, p. 51. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia_and_herzegovina_report_2020.pdf).

198 Ibid., p. 66.

199 U.S. Department of State (2019). Investment Climate Statements: Belarus. <https://www.state.gov/reports/2019-investment-climate-statements/belarus/>.

200 World Bank (2018). Systematic Country Diagnostic: Towards a Competitive, Inclusive and Dynamic Belarus., 20 February, 2018. <https://documents1.worldbank.org/curated/en/602921520877070059/pdf/Belarus-SCD-03072018.pdf>; See also World Bank (2020). The World Bank in Belarus: Country Snapshot. April. <https://thedocs.worldbank.org/en/doc/920651587043434717-0080022020/original/BelarusSnapshotApr2020.pdf>.

Enguri Hydropower plant, of which only Georgian Railways is a major market player.<sup>201</sup> All of them operate under the general terms of the Entrepreneurial Law. The energy-related companies largely implement the government's energy policies and help manage the electricity market. The senior management of SOEs report to Supervisory Boards where they exist (e.g. GRW, GOGC), and in other cases report directly to the line ministries. To ensure the transparency and accountability of state business decisions and operations, regular external audits are conducted and annual reports are published.

However, as stated in the Transparency International Georgia report on SOEs in Georgia, transparency is lacking, with the websites of the biggest SOEs not providing information about anti-corruption mechanisms, prevention of corruption, conflict of interest, whistleblower protection and grievance mechanisms; some do not even provide information about their core structure.<sup>202</sup> SOEs with more than 50 percent state ownership are obliged to follow the State Procurement Law and make procurements via public tenders. However, according to the Transparency International Georgia report,<sup>203</sup> both legislation and practice show that there are several shortcomings that need to be addressed, such as establishment of criteria for the establishment of SOEs, creation of a unified system of transparency and accountability for SOEs, and setting up clear guidelines concerning conflict of interest and corruption. This is, however, difficult to achieve, given the obvious political influence on the management of SOEs. Given the lack of clear guidance from the State, it is of even greater importance that SOEs and other actors review and follow the "Guidance for SOE on BHR for State-owned enterprises", developed by the UN Global Compact Network Georgia.

In Azerbaijan, oil and gas has always been the mainstay of the economy. In 2014, this sector accounted for 39 percent of GDP and 65 percent of State budget revenues; oil, natural gas and electricity and related products were 92 percent of exports. So, it is not surprising that the main actor and biggest SOE in the country is the oil company SOCAR (Oil and Gas Production of State Oil Company of Azerbaijan Republic), which works in partnership with several international oil and gas companies. There are human rights issues relating to SOCAR, including involvement in the alleged kidnapping of human rights defenders.<sup>204</sup>

201 Export.gov (USA) (2019). "Georgia – State-Owned Enterprises", 29 August. <https://legacy.export.gov/article?id=Georgia-State-Owned-Enterprises>.

202 Transparency International Georgia (2016). State-Owned Enterprises in Georgia: Transparency, Accountability and Prevention of Corruption, pp. 21–33. [https://transparency.ge/sites/default/files/post\\_attachments/state-owned\\_enterprises\\_in\\_georgia\\_eng.pdf](https://transparency.ge/sites/default/files/post_attachments/state-owned_enterprises_in_georgia_eng.pdf).

203 Ibid.

204 See in particular: Business & Human Rights Resource Centre (2022). "Azerbaijan: Report shows devastating impact of oil and gas development on health of local communities & environment". 8 February. <https://www.business-humanrights.org/en/latest-news/report-flames-of-toxicity-environmental-and-social-impacts-of-azerbaijans-oil-and-gas-development/>; Business & Human Rights Resource Centre (2017). "Azerbaijan: Oil workers' rights abuses include discrimination, lack of union rights, health & safety violations, says NGO report; includes firms comments". 14 February. <https://www.business-humanrights.org/en/latest-news/azerbaijan-oil-workers-rights-abuses-include-discrimination-lack-of-union-rights-health-safety-violations-says-ngo-report-includes-firms-comments/>; Business & Human Rights Resource Centre (2016). "Azerbaijan: Workplace health & safety abuses by SOCAR contributed to high number of casualties following Guneshli oil field accident, says NGO report; includes firm's comments". 24 February. <https://www.business-humanrights.org/en/latest-news/azerbaijan-workplace-health-safety-abuses-by-socar-contributed-to-high-number-of-casualties-following-guneshli-oil-field-accident-says-ngo-report-includes-firms-comments/>; Turan.AZ (2017). "Relatives of Afghan Mukhtarli awaits response from Georgian authorities", 30 May. <https://www.turan.az/ext/news/2017/5/free/Social/en/62708.htm/028>; Index on Censorship (2019). "Project Exile: Wife of kidnapped Azerbaijani journalist puts her career on hold to campaign for her husband's release", 21 June. <https://www.indexoncensorship.org/2019/06/project-exile-wife-of-kidnapped-azerbaijani-journalist-puts-her-career-on-hold-to-campaign-for-her-husbands-release/>.

Ukraine has a significantly large SOE portfolio, with 3,293 SOEs.<sup>205</sup> SOEs are active in areas such as energy, machine-building and infrastructure. Some of the companies have significant environmental problems, legacy legal issues or oligarchs as minority owners. Along with centrally owned SOEs, Ukraine also has a large portfolio of Municipally Owned Enterprises under the oversight of local councils. Over the years, the number of MOEs has continued to increase. They are mainly active in essential services sectors such as healthcare, water and water supply management, administration, utilities and transport, and remain key recipients of state aid.<sup>206</sup> Compared to centrally owned SOEs, corporate governance practices in MOEs remain informal and less transparent.<sup>207</sup> Ukraine sets expectations for responsible business conduct by SOEs. In particular, the "Action Plan for the Implementation of the Concept of Implementation of State Policy on Promoting the Development of Socially Responsible Business in Ukraine until 2030", which was approved by the Cabinet of Ministers of Ukraine on 1 July 2020,<sup>208</sup> describes actions to develop and implement socially responsible policy and introduce corporate social responsibility issues in SOEs' activities. Article 11 of the Law of Ukraine "On Governance of State Property" provides that the exclusive competence of the supervisory board of a state-owned unitary company includes the development of corporate social responsibility and a sustainable development policy. Ukraine also encourages SOEs to take specific measures on women's rights. The "National Strategy on the Creation of Barrier-free Space in Ukraine for the Period up to 2030" calls for ensuring the equal rights of women and men in representation in supervisory boards and governing bodies of state unitary enterprises, companies and state banks.<sup>209</sup>

In Ukraine, the Law on Public Procurement does not provide any requirements related to human rights; only economic criteria are used in the procurement procedure (lowest price, and in some cases price and other criteria, such as payment terms and operating costs). It is possible, however, to exclude a bidder, if they were prosecuted under the law for committing an offence related to child labour or any form of human trafficking.

#### 4.6.3. Central Asia

In key sectors of the Central Asian economies, state-owned enterprises still retain a dominant role. Low productivity SOEs slow economic growth in countries where SOEs have a significant share. The prevalence of SOEs

205 OECD (2021). OECD Review of the Corporate Governance of State-Owned Enterprises: Ukraine. <https://www.oecd.org/corporate/SOE-Review-Ukraine.pdf>.

206 Centre for Economic Strategy (2020). "How to overcome inefficiency of municipal enterprises?", 2 October. <https://ces.org.ua/en/how-to-overcome-inefficiency-of-municipal-enterprises/>.

207 OECD (2021). OECD Review of the Corporate Governance of State-Owned Enterprises: Ukraine. <https://www.oecd.org/corporate/SOE-Review-Ukraine.pdf>; *ibid.*

208 Ukraine, Government of (2020). "План заходів з виконання Концепції реалізації державної політики у сфері сприяння розвитку соціально відповідального бізнесу в Україні на період до 2030 року, затверджений розпорядженням Кабінету Міністрів України від 01 липня 2020 р. № 853-р" ["Action plan for the implementation of the Concept of implementation of state policy in the field of promoting socially responsible business in Ukraine for the period up to 2030, approved by the order of the Cabinet of Ministers of Ukraine dated July 1, 2020 N° 853-r"], <https://zakon.rada.gov.ua/laws/show/853-2020-%D1%80#Text>.

209 Ukraine, Government of (2021). "Національна стратегія із створення безбар'єрного простору в Україні на період до 2030 року, схвалена розпорядженням Кабінету Міністрів України від 14 квітня 2021 р. № 366-р" ["National strategy for the creation of barrier-free space in Ukraine for the period up to 2030, approved by the order of the Cabinet of Ministers of Ukraine dated April 14, 2021 N° 366-r"]. <https://zakon.rada.gov.ua/laws/show/366-2021-%D1%80#Text>.

*SOEs often operate as monopolies or are subject to limited competition. Experts highlighted how SOEs often operate on an uneven playing field relative to the private sector; this can stifle competition and innovation.*

in the region hinders competition and creates unfavourable operating conditions for small suppliers and competitors. Small firms have difficulty following and complying with fragmented business legislation, and report irregular inspections and sanctions.<sup>210</sup>

In Central Asia, governments' large role in the economy, reflected in the dominance of SOEs in local markets, impedes efficiency and entrepreneurship. For example, in Kazakhstan, SOEs account for about half of total value added and one third of employment, and they hold assets equal to nearly one half of GDP with the SOE sector dominated by a few national holding companies aggregating SOEs included in different sectors (banking, agriculture, industry). In Uzbekistan, SOEs account for about half of total value added, and 20 percent of the employment GDP.<sup>211</sup>

In the management of SOEs, political interests prevail over economic ones. The management of SOEs in the States of the region is often appointed at the political level and these companies have extensive links to the public sector, including access to public funding from state-owned banks as well as credit facilities. Civil society and other stakeholders do not necessarily have a platform to raise concerns about the effective management of SOEs.<sup>212</sup> For example, in Tajikistan, the government appoints directors and boards to SOEs but the absence of clear governance and internal control procedures means the government retains full control. A 2021 Investment Climate Statement reported, "Tajik SOEs do not adhere to the OECD Guidelines on Corporate Governance for SOEs. When SOEs are involved in investment disputes, domestic courts will likely rule in favour of state enterprises. Court processes are generally non-transparent and discriminatory."<sup>213</sup>

SOEs often operate as monopolies or are subject to limited competition. Experts highlighted how SOEs often operate on an uneven playing field relative to the private sector; this can stifle competition and innovation.<sup>214</sup> In sectors that are open to competition from the private sector and foreign companies, SOEs receive a larger percentage of government contracts and business than private sector competitors. In practice, private companies cannot compete successfully with SOEs unless they have good government connections.

SOEs are often involved in alleged rights violations through their activities, joint ventures and business partnerships.<sup>215</sup> The case of the village of

210 OECD (2021). *Informality and COVID-19 in Eurasia: The Sudden Loss of a Social Buffer*. Policy Insights. <https://www.oecd.org/eurasia/COVID-19-informality-Eurasia.pdf>.

211 World Bank (2018). *Kazakhstan Systematic Country Diagnostic: A New Growth Model for Building a Secure Middle Class*. Washington, DC. <https://elibrary.worldbank.org/doi/pdf/10.1596/29792>; OECD (2018). *Reforming Kazakhstan: Progress, Challenges and Opportunities*. Paris: OECD. <https://www.oecd.org/eurasia/countries/OECD-Eurasia-Reforming-Kazakhstan-EN.pdf>.

212 Taghizadeh-Hesary, Farhad (2019). *Reforming State-Owned Enterprises in Central Asia: Challenges and Solutions*. Policy Brief. December. <https://www.carec-institute.org/wp-content/uploads/2020/01/CI-KM-Policy-Brief-Reforming-SOEs-Bishkek-25-Dec-2019.pdf>.

213 U.S. Department of State (2021). *2021 Investment Climate Statements: Tajikistan*. <https://www.state.gov/reports/2021-investment-climate-statements/tajikistan>.

214 Olugbade, Oluremi Akin, Gareth Anderson, Maria Atamanchuk, Iacovos Ioannou, Tannous Kass-Hanna, Wei Shi, and Joyce Wong (2021). "State-Owned Enterprises in Middle East, North Africa, and Central Asia: Size, Costs, and Challenges." *Departmental Papers* 2021, no. 019. <https://www.elibrary.imf.org/view/journals/087/2021/019/article-A001-en.xml>.

215 Business & Human Rights Resource Centre (2018). "77 NGOs from 30 countries support Berezovka parents", 30 July. <https://www.business-humanrights.org/en/latest-news/77-ngos-from-30-countries-support-berezovka-parents/>.

Berezovka in Kazakhstan is one such example.<sup>216</sup> Reportedly, the mass poisoning of children from the village of Berezovka was caused by the Karachaganak Oil and Gas Condensate field operated by Karachaganak Petroleum Operating, a joint venture between KazMunaiGaz (SOE), Eni, BG Group, Chevron Corporation and Lukoil.<sup>217</sup> It should be mentioned that KMG, categorized by Transparency International and the Revenue Watch Institute as "absolutely intransparent", has full or partial ownership in 9 out of the 10 largest extractives companies in the country. There are many rights abuses related to its subsidiaries.<sup>218</sup>

In all countries of this subregion, public agencies are not expected to take any measures on human rights during procurement processes, for example, to use tender requirements and/or contract clauses requiring companies to comply with human rights; preferential treatment of businesses that demonstrate respect for human rights; exclusion from bidding processes of businesses with a track record of poor respect of human rights; targeted public procurement to advance specific human rights objectives, such as supporting women-owned enterprises; and the cancellation of a contract due to a supplier's human rights performance.

## 4.7. Education in Business and Human Rights

### 4.7.1. The Western Balkans and Türkiye

There are reportedly no stand-alone university undergraduate and postgraduate courses in Business and Human Rights in the countries and territories of the Western Balkans. Nonetheless, topics indirectly linked to Business and Human Rights are taught at law and business schools in the subregion. As such, Business and Human Rights has been taught sporadically at university as part of courses on human rights and international law. International organizations and donors have occasionally organized specialized courses on Business and Human Rights. For instance, in 2017, the Council of Europe organized a specialized Business and Human Rights course for Serbian judges.<sup>219</sup> In Türkiye, Istanbul Bilgi University and Koc University offer Master of Laws (LLM) courses on BHR and Bahcesehir University is in the process of developing a BHR course.

### 4.7.2. South Caucasus and Eastern Europe

There are several examples of BHR education and other educational activities in the South Caucasus and Eastern Europe subregion. BHR courses were introduced to the curriculum of Yaroslav Mudryi National Law University, Ukraine, in 2019 as an optional course for law students; to the curriculum of New Vision University, Georgia, in 2021 as an obligatory course for management specialization; and to the curriculum of Belarusian State University, Belarus, in 2019 as an optional course for the specialization "World Economy". However, optional courses are

216 See Environmental Justice Atlas (EJ Atlas). Karachaganak Oil and Gas Condensate field, Kazakhstan. <https://ejatlas.org/print/karachaganak>.

217 Business & Human Rights Resource Centre (2015). "Kazakhstan: Video documentary on Berezovka villagers' struggle with oil companies following mass poisoning of children", 25 December. <https://www.business-humanrights.org/en/latest-news/kazakhstan-video-documentary-on-berezovka-villagers-struggle-with-oil-companies-following-mass-poisoning-of-children/>.

218 See details in: Business & Human Rights Resource Centre (2021). *Digging in the shadows: Eastern Europe and Central Asia's Opaque Extractives Industry*. June. [https://media.business-humanrights.org/media/documents/2021\\_Company\\_Profiles\\_Key\\_Takeaways\\_EN\\_v3.pdf](https://media.business-humanrights.org/media/documents/2021_Company_Profiles_Key_Takeaways_EN_v3.pdf).

219 Council of Europe (2017). "First launch of the HELP course Business and Human Rights for Serbian judges", 10 May. [www.coe.int/en/web/help/-/first-launch-of-the-help-course-business-and-human-rights-for-serbian-judges](http://www.coe.int/en/web/help/-/first-launch-of-the-help-course-business-and-human-rights-for-serbian-judges).

*Business and Human Rights has been taught sporadically at university as part of courses on human rights and international law...*

generally not chosen by students if they don't feel that they provide them with knowledge and practical skills valued by society. Some higher education institutions have conducted occasional educational activities, such as certificate programmes,<sup>220</sup> and some have included separate BHR elements in other courses.<sup>221</sup>

The Webinar Series on Business and Human Rights for Civil Servants in Georgia, launched by ILO in partnership with the Administration of the Government of Georgia and the Civil Service Bureau of Georgia, in December 2020 is a good example of BHR education. The webinar series aimed to strengthen the capacity of the government in the implementation of the National Action Plan on Business and Human Rights.<sup>222</sup> It is noteworthy that the public administration in Georgia has also undertaken several awareness-raising activities prior to the development of the National Baseline Awareness, mainly aimed at the public officers.<sup>223</sup>

Public discussions on BHR issues have had a significant positive impact on integrating BHR in the educational process. For example, the Kharkiv International Legal Forum has included a BHR panel discussion annually since 2017, engaging representatives from various higher education institutions, leading them to include BHR components in their courses.<sup>224</sup>

#### 4.7.3. Central Asia

In Central Asia, the course "Business and Human Rights" has been included in the curricula of the Undergraduate Programme (LL.B.) of the International and Business Law Department of the American University of Central Asia, an international, multidisciplinary learning community located in Bishkek, Kyrgyzstan. It is described that the "objective of this course is to provide students with an introduction to the increasingly relevant link between business practices and the observance of human rights by corporate actors at the national and international levels."<sup>225</sup>

There are some sporadic educational BHR activities in the subregion. For example, in 2018, the Organization for Security and Co-operation in Europe (OSCE) supported a summer school in Astana, Kazakhstan, on Business and Human Rights for law students and young researchers from Belarus, Kazakhstan and the Russian Federation, conducted by M. Narikbayev of KAZGUU University and the CSO, the Legal Policy Research Center.<sup>226</sup>

220 For example: "Human rights in the business environment" in the Rule of Law Center of the Ukrainian Catholic University and "Business, Corporations and Human Rights" in the Yaroslav Mudryi National Law University with the European Court for Human Rights Judge, Pinto de Albuquerque.

221 For example: Kyiv Institute of International Relations, discipline "Social aspects of international business development" for "Master" in specialization "International Business", qualification "International Economist"; NTU "I. Sikorsky KPI", Faculty of Sociology and Law, "Human Rights in Business", elective course; KNEU named after V. Hetman, Department of International and European Law, Bachelor's program "International Law", Master's program "International Commercial Law", optional course "Protection of human rights in international commercial relations", etc.

222 ILO (2020). "ILO Launches Webinar Series on Business and Human Rights for Civil Servants in Georgia". 17 December. [http://ilo.org/moscow/news/WCMS\\_766180/lang-en/index.htm](http://ilo.org/moscow/news/WCMS_766180/lang-en/index.htm).

223 See, e.g., the list of capacity-building efforts in Office of the Public Defender (Ombudsman) of Georgia and CiDA (2017). Georgia: National Baseline Assessment On Business And Human Rights, p. 16. <https://www.ombudsman.ge/res/docs/2020070817231792603.pdf>, <https://globalnaps.org/wp-content/uploads/2018/04/georgia-national-baseline-assessment-english.pdf>.

224 See Kharkiv International Law Forum (2021). Round table: "Business and human rights in economics and law specialties", 20 September. <https://legalforum.nlu.edu.ua/en/events/business-and-human-rights-in-economics-and-law-specialties/>.

225 American University of Central Asia. Business and Human Rights [IBL-224, ID 5296]. [https://auca.kg/en/law\\_current\\_undergrad\\_courses/](https://auca.kg/en/law_current_undergrad_courses/).

226 OSCE (2018). "OSCE supports summer school on human rights and business

## 4.8. Position on the BHR Treaty

Countries and territories in Europe and Central Asia have generally so far not actively engaged in debates and negotiations on the BHR Treaty, nor have they taken a position on the proposed draft. The only exception is Azerbaijan, which actively participated in negotiations from the 3<sup>rd</sup> round in 2016 onwards. During the 5<sup>th</sup> round of negotiations in 2019, it submitted an oral statement in support of ongoing negotiations.<sup>227</sup> In 2020, Armenia during the 6<sup>th</sup> round of negotiations presented an oral statement submitting that corporate obligations and responsibilities should be included in the treaty and linked to state obligations and responsibilities.<sup>228</sup>

## 4.9. Pillar I conclusions

The concept of Business and Human Rights is highly dependent on the general situation on human rights and the rule of law in a particular country or region. The region vividly illustrates this thesis. There is a lack of access to justice and trust in the justice system is low due to the weakness of rule of law guarantees and because of the high level of corruption. Business is often part of corrupt schemes. In such circumstances, it is difficult to count on the effective implementation of Business and Human Rights standards.

According to the OECD, in Central Asia, "there are sometimes large gaps between the de jure freedom to do business and the de facto operational environment, which is characterized by such problems as the unpredictability of tax systems, poor implementation of regulations, and licensing and permitting arrangements that can be complex, expensive, arbitrary and opaque."<sup>229</sup> The same appraisal can be made of the Western Balkans and South Caucasus and Eastern Europe. Experts from the region state that in this environment, human rights are not a priority for business.

The approach from States is not conducive to BHR, given massive human rights violations in some countries and territories in the region and in some cases, States demanding businesses to violate human rights (for example, to stop or interrupt provision of Internet services so that citizens cannot communicate to conduct peaceful demonstrations). Thus, more attention is being paid to Business and Human Rights standards by more responsible business actors and other actors, who look for ways of ensuring that their operations do not contribute to worsening of the situation.

in Astana", 17 August. <https://www.osce.org/programme-office-in-astana/390899>.

227 Permanent Representative of the Republic of Azerbaijan to the UN Office and other International Organizations in Geneva (2019). Open-ended intergovernmental working group for the elaboration of an International Legally Binding Instrument on Transnational Corporations and other Business Enterprises with respect to human rights, Fifth Session, Statement, delivered by Ambassador Vaqif Sadiqov, 14 October. [https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session5/States/Azerbaijan\\_General.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session5/States/Azerbaijan_General.pdf).

228 Permanent Representative of the Republic of Azerbaijan to the UN Office and other International Organizations in Geneva (2020). Open-ended intergovernmental working group for the elaboration of an International Legally Binding Instrument on Transnational Corporations and other Business Enterprises with respect to human rights, Item 2 – General statements, Delivered by Mr. Nairi Petrossian, Deputy Permanent Representative, 26 October. [https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/GeneralStatements/States/Armenia\\_General\\_Statement.docx](https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/GeneralStatements/States/Armenia_General_Statement.docx).

229 OECD (2021). *Improving the Legal Environment for Business and Investment in Central Asia*. Policy Insights. <https://www.oecd.org/eurasia/Improving-LEB-CA-ENG%2020%20April.pdf>.

*BHR concerns and issues do exist but often have not been identified as stand-alone and separate issues. State institutions occasionally deal with BHR issues but their approach is scattered and piecemeal.*

Given all the above, the primary finding is that the lack of political will to engage on Business and Human Rights issues is a primary challenge. Since governments do not prioritize Business and Human Rights, little attention is focused on building awareness, knowledge and capacity. As emphasized during the First Regional Forum on Business and Human Rights in Eastern Europe and Central Asia, there is a need to build a shared language and understanding around BHR; business persons use different terms and ideologies than international development agencies and local human rights activists.<sup>230</sup>

A positive development that is being noticed is the impact of the EU association agreements—in particular, in South Caucasus, Eastern Europe, the Western Balkans and Türkiye, except for in Belarus which has withdrawn from the Eastern Partnership—and the impact of approximation of laws in the EU, by which profiting from preferential trade arrangements is made conditional. Positive change has been seen in the area of non-discrimination laws and the creation of institutions tasked with monitoring the situation in this respect and having the right to receive and act upon complaints by individuals (e.g. Türkiye).

Other recent developments in the European Union concerning the Green Deal and related sustainability-focused legislation have the potential to drive progress in the region,<sup>231</sup> although most likely at the practical level, through pressure exerted by business. In particular, the EU's forthcoming legislation on mandatory Human Rights and Environmental Due Diligence is expected to have a spillover effect in the region, with many businesses operating in Europe and Central Asia being subsidiaries of EU-based companies and thus naturally affected by developments at the EU level.<sup>232</sup> At the same time, such impact will be different in individual subregions. As pointed out by interviewed experts, for Central Asian countries, the EU's role is not as significant as for other countries and territories of the region, which is explained by the subregion's closer connections with China and Russia, not least due to the strong presence of Russian oligarchs in Central Asia's economy.

#### 4.9.1 The Western Balkans and Türkiye

The area of Business and Human Rights has played only a minor role in the public policies of the Western Balkans and Türkiye. Such developments have been very much connected with weak rule of law and weak institutions. Awareness of BHR standards and policies has been very much deficient in most of the subregion, with some exceptions, such as in Bosnia and Herzegovina and Serbia. As for a normative legal basis, there are no general stand-alone BHR frameworks and policies in the subregion. None of the countries and territories have so far adopted NAPs under the UNGPs. Several countries and territories have, however, adopted baseline BHR assessments. None of them have so far been

230 Business & Human Rights Resource Centre (2020). "First Regional Forum on Business and Human Rights in Eastern Europe and Central Asia: Key problems and opportunities". Opinion. 11 December. <https://www.business-humanrights.org/en/blog/first-regional-forum-on-business-and-human-rights-in-eastern-europe-and-central-asia-key-problems-and-opportunities/>.

231 Business & Human Rights Resource Centre (2020). "Governance, rule of law and corruption in Eastern Europe and Central Asia: Barriers to holding corporations accountable for human rights abuses". Opinion. 15 December. <https://www.business-humanrights.org/en/blog/governance-rule-of-law-and-corruption-in-eastern-europe-and-central-asia-barriers-to-holding-corporations-accountable-for-human-rights-abuses/>.

232 Ibid.

*In the labour sphere, business's impact on human rights is significant and the business context is marked by informal employment, poor working conditions, inadequate occupational health and safety, weak trade unions and the limitation of power of labour inspections...*

translated in the adoption of NAPs on BHR. Some BHR issues are dealt with indirectly with labour law normative frameworks. Very few countries and territories, including Serbia, have introduced BHR into mandatory non-financial reporting and public procurement.

BHR concerns and issues do exist but often have not been identified as stand-alone and separate issues. State institutions occasionally deal with BHR issues but their approach is scattered and piecemeal. Generally, apart from in Bosnia and Herzegovina reportedly, state institutions in the subregion have not developed stand-alone policies on Business and Human Rights nor have any plans to do so been published. In most of the countries and territories of the subregion, there is no effective supervision of state-owned companies, which have been subjected to corruption and undue political influence from governments and other stakeholders. Most countries and territories of the subregion have not created separate public bodies or corporations to supervise state-owned corporations. Most developments in BHR in the subregion have so far been brought about by regional and international organizations and foreign donors. However, it appears that momentum is gearing up at least in some countries and territories, including Bosnia and Herzegovina and North Macedonia, for the development of more detailed policies, including National Action Plans. Nonetheless, there is increasing attention paid not only by civil society, but also by the public, to the responsibilities of the State to curb the worst excesses of businesses.

#### 4.9.2 Southern Caucasus and Eastern Europe

In the South Caucasus and Eastern Europe subregion, there are active NHRIs, the majority of countries having ratified the core international treaties and it is home to the only two countries, Georgia and Ukraine, that have included BHR chapters in their National Action Plans on Human Rights. However, at the practical implementation level, there remains much to be done, as States strive to balance improving the protection of human rights in the business context and trying to create competitive conditions for foreign investment. Legal frameworks are more focused on promoting the rights of the private sector rather than ensuring the labour guarantees of employees. This leads to the negative trend of labour inspections being underfinanced, understaffed and sometimes even suspended. The region is also characterized by an extremely low level of employees' awareness on labour rights and occupational health and safety.<sup>233</sup>

Many of the BHR developments in the subregion were advanced or made possible thanks to foreign or international organizations, such as the ILO, OSCE, UNDP and the Danish Institute for Human Rights, which is the Danish NHRI. As one of the important trends in the region, given the particularly negative impact of the COVID-19 crisis on small and medium-sized enterprises, countries in the subregion including Armenia, Azerbaijan and Belarus are designing and/or revising their national strategies for private sector development. They should also provide appropriate incentives to businesses by supporting their sustainable operations and development. Several countries have already incorporated

233 NHMT AZ (2016). "Report by the Oil Workers' Rights Protection Organization. Evaluation on fire at stationary deep sea platform No. 10 in "Guneshli" field of State Oil Company of Azerbaijan Republic on 4 December 2015. OWRPO", 26 January. <http://www.nhmt-az.org/frontend/pages/human-rights-inner.php?id=108>; People and Nature (2016). "It's 'oil first, people second'; just like in Soviet times. An interview with Mirvari Gahramanli, chairperson of Oil Workers' Rights Protection Organization", 4 August. <https://peopleandnature.wordpress.com/2016/08/04/its-oil-first-people-second-just-like-in-soviet-times/>.

green aspects in the support provided to SMEs,<sup>234</sup> and it expected that pressure from the EU will provide further motivation.

#### 4.9.3 Central Asia

Every country of the subregion has started to develop a NAP and/or has initiated an NBA at the official level. Countries of the subregion have no clear policy statements on the expectation that all businesses domiciled in their territory and/or within their jurisdiction respect human rights. They do not identify specific business sectors or activities that may have particularly negative impacts on human rights. There is no guidance for businesses on respecting human rights that is appropriate to different industry sectors. Businesses in the region, in particular SOEs, are involved in human rights violations in several cases.

In the labour sphere, business's impact on human rights is significant and the business context is marked by informal employment, poor working conditions, inadequate occupational health and safety, weak trade unions and the limitation of power of labour inspections, contrary to ILO standards. The general human rights environment in the subregion's countries and the lack of state protection has a huge impact on UNGPs implementation, according to subregional experts.

SOEs have a big impact on the national economies of the countries and territories of the subregion, and, as usual, they are key economic actors in the most important economic sectors of the subregion, i.e. the extractive, mining, chemical industries and agriculture sectors. Thus, good practices on responsible business conduct could be introduced via SOEs.

234 OECD (2021). "COVID-19 and greening the economies of Eastern Europe, the Caucasus and Central Asia". OECD Policy Responses to Coronavirus (COVID-19). 17 February. <https://www.oecd.org/coronavirus/policy-responses/covid-19-and-greening-the-economies-of-eastern-europe-the-caucasus-and-central-asia-40f4d34f/>.

## 5. Pillar 2 – Corporate responsibility to respect

This chapter provides information on how businesses operating in Europe and Central Asia respect, protect and fulfil human rights in their business activities. It examines self-regulation and voluntary initiatives by business, including due diligence, stock exchanges regulation and private regulation, non-financial reporting, best practices from business conduct, and the impact of relationships of the countries and territories with the EU including the Eastern Partnership and candidate country status. It also looks at allegations of business-related human rights abuses in the region. It analyses both normative commitments by business and their implementation in practice. Attention is also paid to the SMEs, which dominate the economic landscape.

### 5.1. Non-financial reporting by businesses

Publishing verifiable data on how a company respects human rights and what efforts it undertakes to ensure that it meets its responsibility to respect human rights forms an important part of the human rights due diligence process, aimed to help companies base their efforts to prevent and mitigate impacts on human rights on verified and regularly monitored data. While there are a number of international standards like the Global Reporting Initiative (GRI) or the UNGP Reporting Framework which are compliant with the UNGPs, they are usually non-obligatory. Yet, countries as well as bodies like stock exchanges can require companies to report on non-financial issues, including human rights, either how they comply with law or with their internal regulations. Additionally, non-financial reporting is obligatory in the EU for companies meeting certain thresholds under the Non-financial Reporting Directive. The situation, however, is different in the ECA region.

#### 5.1.1. Western Balkans and Türkiye

The majority of companies doing business in the Western Balkans still do not report on non-financial indicators. However, there are some exceptions. The Serbian parliament has recently adopted a new Law on Accounting on non-financial reporting, which required the largest corporations from 1 January 2021 to report on non-financial indicators in their supply chains.<sup>235</sup> Among companies doing business in Montenegro, Telenor has developed a Code of Ethics<sup>236</sup> and publishes an Annual

235 Republic of Serbia (2019, 2021). Law on Accounting, Official Gazette of Republic of Serbia No. 73/2019 and 44/2021.

236 Telenor Montenegro (n.d.) Code of Ethics of Telenor Montenegro (PPF Group). [https://www.telenor.me/static/file/TELENOR\\_MONTENEGRO\\_Code%20of%20](https://www.telenor.me/static/file/TELENOR_MONTENEGRO_Code%20of%20)



Sustainability Report.<sup>237</sup> Its Sustainability Report 2019 notes that “Telenor and PPF Group, of which Telenor has been a part since August 2018, have a prescribed Code of Ethics which includes corporate ethics and principles of conduct. These principles apply to members of the Management Board, directors, and managers, to all our employees, as well as to all others who operate in the name and on behalf of Telenor.”<sup>238</sup> The Albanian legal system does not provide for obligations for non-financial reporting. The European Commission submitted that “Albania needs to align further its legal framework in the area of non-financial reporting in line with the Directive on disclosure of non-financial and diversity information by certain large undertakings and groups.”<sup>239</sup> In 2017, in Türkiye there were 53 sustainability reports developed in line with (some) GRI standards uploaded to the GRI reports database by Türkiye-based companies.<sup>240</sup> This provides some evidence that the business sector is aware of Business and Human Rights standards; however, best practices and approaches have been sporadic and piecemeal.

### 5.1.2. South Caucasus and Eastern Europe

In the South Caucasus and Eastern Europe subregion, non-financial reporting is also in a relatively nascent form. Interviewees stated that there are none or at best not many non-financial reports done in the region, with their drafting more likely to be undertaken by subsidiaries of foreign companies and international corporations and companies linked to the UNGC local networks. Surprisingly, among the active members of the UNGC, SMEs constitute a relatively significant group.

While in Armenia, businesses are not subject to statutory or regulatory HRDD requirements, the subsidiaries of multinational companies headquartered in countries and territories with such regimes may be required to undertake such due diligence so that the parent company can meet its obligations. Similarly, there is no obligatory reporting or disclosure, yet companies that are subsidiaries of a foreign company might undertake such efforts. While not intended as non-financial reporting regulations, in practice some mining law provisions do require subsoil users to report information regarding the annual volume of extraction, exports, amounts paid to the budget, monitoring of the mining area, location of production landfill and safety of the population of adjacent communities and healthcare. However, while those provisions provide a certain level of transparency, as proved by NGO Ecolur,<sup>241</sup> in practice those requirements are often not met. On the positive side, Armenia is an Extractive Industries Transparency Initiative (EITI) member, and thus does provide some information on the real ownership of extractive companies, which otherwise is very difficult to find in the region.

Azerbaijan and Belarus require International Financial Reporting Standards (IFRS)<sup>242</sup> for listed companies and financial institutions, but not

[Ethics\\_July%202020.pdf](#).

237 Telenor Montenegro (2020). Sustainability Report 2019. <https://www.telenor.me/static/file/Telenor%20Sustainability%20Report%20ENG%202019.pdf>.

238 Ibid., p. 8.

239 Ibid., p. 70.

240 Global Reporting Initiative (GRI). “Register your report”. <https://database.globalreporting.org/search/>.

241 See Ecolur webpage ([www.ecolur.org](http://www.ecolur.org)) and presentation delivered on 13 October 2021 during the CEE & CA Resource Hub launch event. Reports in Armenian concerning various case investigations can be accessed here: <https://www.ecolur.org/> and <https://www.ecolur.org/files/uploads/ecolurminingbigreport.pdf>.

242 See IFRS Foundation at <https://www.ifrs.org/>.

*...there is no obligatory reporting or disclosure, yet companies that are subsidiaries of a foreign company might undertake such efforts.*

non-financial data. Georgia, although not being a part of IFRS, required businesses to prepare and publish management reports for the first time, starting in 2018, intending to increase the transparency of the Georgian market, expand investment prospects and simplify access to credit.

In the Republic of Moldova, according to the European Bank for Reconstruction and Development (EBRD) review, non-financial information disclosure requirements for companies and banks are quite detailed. The report described, “For banks, selected information must be made available on their website. In general, banks’ websites appear to be informative. The law requires public interest entities to disclose their financial statements, prepared in line with IFRS. All ten largest listed companies comply with this requirement. Reporting to the market and shareholders appears to be detailed by law, but it does not appear to be well implemented in some cases. The law is fairly detailed concerning disclosure on the external auditor and appears to be well implemented in this respect. Eight out of the ten largest listed companies posted their annual reports with financial and non-financial information online reflecting developments achieved by the company and information with the most important transactions involving its shares. In addition, public interest entities are required to disclose in their annual report—among others—the names of their board members and the amount of their participation in the capital.”<sup>243</sup>

In Ukraine, amendments to the Law of Ukraine “On Accounting and Financial Reporting in Ukraine” (2017) added a new element of mandatory reporting for some businesses, namely the governance (management) report, a document that should contain financial and non-financial information characterizing the state and prospects development of the enterprise and reveals the main risks and uncertainties of its activities (since 1 January 2018).<sup>244</sup> There is no obligatory information about steps taken to address human rights abuses in their operations or supply chains. There is also no judicial responsibility for companies if they are non-reporting. Yet, a small number of Ukrainian SOEs (among the top 15) have adopted non-financial and sustainability reporting standards (e.g. the Global Reporting Initiative Standard). The result is that non-financial reports for 2019 have been published by six companies.<sup>245</sup> This shows that non-financial reporting remains nascent and varies between companies, despite some key SOEs having improved their reporting and disclosure practices in recent years and even smaller groups such as Naftogaz, Ukrenergo and Energoatom having consistently issued non-financial reports.<sup>246</sup>

### 5.1.3. Central Asia

There is almost no non-financial reporting practice in the Central Asia

243 EBRD (2017). Corporate Governance in Transition Economies – Moldova Country Report. December. <file:///Users/andyquan/Movies/Moldova%20SUMMARY%20FINAL.pdf>.

244 Ukraine, Government of (2018). Methodological Recommendations for compiling a governance report APPROVED by the order of the Ministry of finance of Ukraine 12/07/2018 N° 982. <https://zakon.rada.gov.ua/rada/show/v0982201-18/ed20181207/stru>.

245 ESG Transparency Index Ukraine 2019 (2019). Company Transparency Index 2019 – Ukraine. <https://index.cgpa.com.ua/eng2019>. The Company Transparency Index 2019 provides an assessment of Ukraine’s 100 largest tax-paying companies in 2019, as per the State Tax Service Data. The assessment analyses the companies’ level of transparency in corporate governance and corporate social responsibility in 2019, before the pandemic caused by COVID-19.

246 OECD (2021). OECD Review of the Corporate Governance of State-Owned Enterprises: Ukraine. <https://www.oecd.org/corporate/SOE-Review-Ukraine.pdf>

subregion but there are some exceptions. For example, in Kazakhstan, SOEs are actively moving towards the disclosure of ESG information (for example, NWF “Samruk-Kazyna” and NMH “Baiterek”). The holdings themselves take the initiative to implement the principles of sustainable development in the work of their portfolio companies and impose information disclosure requirements on them. In 2019, the QRA Rating Agency prepared a rating of ESG information disclosure in corporate reporting of Kazakhstani companies. In the top 20 of the rating, 12 companies represented national state holdings.<sup>247</sup> According to the KPMG 2020 survey findings, sustainability reporting has seen the most substantial increase in Kazakhstan (plus 34 percentage points).<sup>248</sup> ESG reporting can also be expected from international (global) companies operating in the region, for example, the International Cement Group Ltd. that includes entities in Kazakhstan and Tajikistan.<sup>249</sup>

It is typical in the subregion for stakeholders to replace the Business and Human Rights agenda with corporate social responsibility initiatives focusing on philanthropy and charity. A survey conducted among companies in Uzbekistan showed that a significant share of businesses view CSR through a charity lens.<sup>250</sup> The overwhelming majority of companies that report positive actions focus on philanthropy: they invest in infrastructure development; support culture and education; sponsor eco-projects and assist vulnerable groups. But at the same time, businesses do not assess their impact on human rights. Companies do not include human rights standards in criteria for risk assessment, including impacts related to specific projects, transactions, products and services within their supply chains. No regulation requires business to take such actions.

There are some positive signals. Research shows that businesses and employers’ organizations increasingly recognize the importance of aligning their strategies with the SDG agenda. They see many benefits, including a focus on sustainability and the opportunity for innovation to solve social problems, which can also provide reputational benefits to businesses, higher levels of customer satisfaction and a competitive advantage.<sup>251</sup>

## 5.2. Stock exchange regulation and private regulation

### 5.2.1. Western Balkans and Türkiye

At stock exchanges in the Western Balkans, BHR standards are still nascent. None of the local stock exchanges publish annual sustainability

247 Ekonomist (2020). “ESG в Казахстане: кто и как раскрывает информацию?” [ESG in Kazakhstan: who discloses information and how?]. <https://ekonomist.kz/kalabin/esg-v-kazakhstane-kto-i-kak-raskryvaet-informaciyu/>.

248 KPMG (2020). The time has come – The KPMG Survey of Sustainability Reporting 2020. KPMG IMPACT, December, p. 11. [https://assets.kpmg/content/dam/kpmg/be/pdf/2020/12/The\\_Time\\_Has\\_Come\\_KPMG\\_Survey\\_of\\_Sustainability\\_Reporting\\_2020.pdf](https://assets.kpmg/content/dam/kpmg/be/pdf/2020/12/The_Time_Has_Come_KPMG_Survey_of_Sustainability_Reporting_2020.pdf).

249 International Cement Group (2019). Sustainability Report 2019. <https://internationalcementgroup.com/wp-content/uploads/2020/04/ICG-Sustainability-Report-FY2019.pdf>.

250 Smirnova, Y. (2015). “Смирнова Е. В. Социальная ответственность бизнеса в странах Центральной Азии: сравнительный анализ, Вестник КазНУ (серия экономическая)”, 2015, №2 (108), С. 118–126 [Smirnova E.V. Social responsibility of business in the countries of Central Asia: a comparative analysis, Bulletin of KazNU (economic series), 2015, №2 (108), S. 118–126]. [https://www.researchgate.net/publication/280093375\\_Socialnaa\\_otvetstvennost\\_biznesa\\_v\\_stranah\\_Centralnoj\\_Azii\\_sravnitelnyj\\_analiz](https://www.researchgate.net/publication/280093375_Socialnaa_otvetstvennost_biznesa_v_stranah_Centralnoj_Azii_sravnitelnyj_analiz).

251 United Nations Uzbekistan (2019). Общий страновой анализ ООН: УЗБЕКИСТАН, декабрь 2019г. [United Nations Country Analysis: UZBEKISTAN, December 2019]. [https://uzbekistan.un.org/sites/default/files/2020-10/United%20Nations%20Common%20Country%20Analysis%20Uzbekistan\\_RU.pdf](https://uzbekistan.un.org/sites/default/files/2020-10/United%20Nations%20Common%20Country%20Analysis%20Uzbekistan_RU.pdf).

reports or report non-financial indicators as a listing rule.<sup>252</sup> However, the most significant Serbian corporations listed on the Belgrade Stock Exchange have statutory obligations to report non-financial indicators. All the other stock exchanges in the region do not require listed corporations to report on the non-financial indicators of their business operations.

In Türkiye, there is a slowly rising trend in transparency and public disclosure of non-financial information spurred, for example, by the activity of Türkiye’s Capital Markets Board that targeted publicly held companies in Türkiye, regulating voluntary ESG measures. The Corporate Governance Principles<sup>253</sup> were amended in October 2020 to include environmental and social principles in line with the trend of Environmental, Social and Corporate Governance for Corporate Governance Communique (II-17.1) and the Sustainability Principles Compliance Framework.<sup>254</sup> It remains to be seen how capital markets will react. While the Turkish Stock Exchange is not making ESG reporting a listing rule, it wrote guidance on ESG reporting and organized ESG training and awareness-raising activities aimed at companies.<sup>255</sup> There is also a sustainability section on its website.<sup>256</sup> As part of sustainability efforts, Borsa İstanbul launched the BIST Sustainability Index<sup>257</sup> on 4 November 2014. Borsa also undertakes various CSR activities.<sup>258</sup>

### 5.2.2. South Caucasus and Eastern Europe

In the South Caucasus and Eastern Europe subregion, the Armenia Securities Exchange,<sup>259</sup> Baku Stock Exchange<sup>260</sup> and Belarusian Currency and Stock Exchange<sup>261</sup> are members of the Sustainable Stock Exchange Initiative, the UN Partnership Programme organized by the United Nations Conference on Trade and Development (UNCTAD), UN Global Compact (UNGIC), United Nations Environment Programme Finance Initiative (UNEP FI) and the Principles for Responsible Investment (PRI). The initiative is aimed at providing a global platform for exploring how exchanges, in collaboration with investors, companies (issuers), regulators, policymakers and relevant international organizations, can enhance performance on ESG issues and encourage sustainable investment. Other exchanges—the

252 Sustainable Stock Exchanges Initiative. “ESG Disclosure Guidance Database”. <https://sseinitiative.org/esg-guidance-database/>.

253 Türkiye’s Capital Markets Board (2020). Corporate Governance Principles. Edition 2 October. <https://www.resmigazete.gov.tr/eskiler/2020/10/20201002-4.htm>.

254 Sustainability Principles Compliance Framework, <https://www.spk.gov.tr/Sayfa/Dosya/1332>

255 SSEI. “Borsa İstanbul”. <https://sseinitiative.org/stock-exchange/borsa-istanbul/>.

256 Borsa İstanbul. “Sustainability Index”. <https://www.borsaistanbul.com/en/sayfa/2227/sustainability-index>.

257 Ibid.; Information about scoring is given on Refinitiv’s sustainability assessment methodology, which can be found at <https://www.refinitiv.com/en/sustainable-finance/esg-scores-methodology>; online trainings can be accessed at <https://training.refinitiv.com/videoplayer/videos/24121> and other informative documents can be accessed at <https://www.refinitiv.com/en/financial-data/company-data/esg-data>.

258 Borsa İstanbul. “Corporate Social Responsibility Policy”. <https://www.borsaisistanbul.com/en/sayfa/4961/corporate-social-responsibility-policy>.

259 Armenia Stock Exchange, <https://amx.am/>. The corporate governance framework in Armenia is essentially comprised of the Law on Joint Stock Companies, the Law on Banks and Banking Activity, the Law on Securities Market and a Corporate Governance Code, which was adopted in 2010. The Code is to be implemented by listed companies on a “comply or explain” basis.

260 Baku Stock Exchange. <https://bfb.az/eng/>.

261 Belarusian Currency and Stock Exchange. <https://www.bcse.by/en>.

*In Türkiye, there is a slowly rising trend in transparency and public disclosure of non-financial information spurred, for example, by the activity of Türkiye’s Capital Markets Board that targeted publicly held companies in Türkiye, regulating voluntary ESG measures.*



Georgian Stock Exchange,<sup>262</sup> Moldova Stock Exchange<sup>263</sup> and Ukraine Stock Exchange—are not members of the initiative.

However, this initiative makes little difference on the ground. None of the stock exchanges have listing rules linked to ESG reporting, nor provide ESG guidance to companies or demand reports on sustainability. There have only been minor initiatives of BHR relevance relating to such participation such as the Ring the Bell for Gender Equality initiative by the Georgian Stock Exchange in March 2021.

Some other minor developments worth attention include the update by the Belarusian Currency and Stock Exchange<sup>264</sup> on 1 November 2017 of its listing rules to include the introduction of a questionnaire for issuers of securities on the social and environmental aspects of the organization's activities and corporate governance issues into Appendix 2 of the Rules. While not a stock exchange, the National Bank of Georgia has developed ESG reporting and Disclosure Principles and a corresponding template to assist commercial banks and other financial institutions in disclosing comparable relevant, useful and consistent information relating to ESG. Such enhanced disclosure on ESG also aims to help Georgia's financial sector promote ESG risk management and improve transparency.<sup>265</sup>

### 5.2.3. Central Asia

As the only relevant subregional example, the Kazakhstan Stock Exchange (KASE) in Central Asia is the primary driver of the trend to increase transparency of Kazakhstani companies. It is a member of the initiative of exchanges that have implemented sustainability reporting in their operations and markets since 2012.<sup>266</sup> In early 2020, KASE tightened requirements for the content of annual reports to be published by listed companies, significantly expanding the list of the required information on personnel management (social sphere), environmental protection (environmental) and corporate governance. KASE has implemented several advanced world standards in its requirements for listed companies, which will be an essential factor in the movement of Kazakhstani businesses towards transparency in its current global understanding. However, listed companies are still a tiny share of Kazakhstani business.<sup>267</sup>

## 5.3. Self-regulation and voluntary initiatives by business

In general, there are no self-regulatory initiatives in place originating from the region, except for those that were introduced to the business environment by multinational enterprises that have subsidiaries in the region. Yet, companies and business associations from Eastern Europe and Türkiye are members of EU-headquartered networks or cross-national CSR-type initiatives, for example CSR Europe, the leading European

262 Georgian Stock Exchange. <https://www.gse.ge/en/>.

263 Moldova Stock Exchange. <http://www.bvm.md/en/>.

264 Belarusian Currency and Stock Exchange. <https://www.bcse.by/en/>.

265 National Bank of Georgia. "ESG Reporting and Disclosure". <https://nbg.gov.ge/en/financial-stability/esg-reporting-and-disclosure>.

266 Kazakhstan Stock Exchange (KASE) (2019). НЕФИНАНСОВАЯ ОТЧЕТНОСТЬ В РОССИИ И МИРЕ: ЦЕЛИ УСТОЙЧИВОГО РАЗВИТИЯ – В ФОКУСЕ ВНИМАНИЯ. <http://media.rspp.ru/document/1/f/6/f6e6f97287df39e326d6b2d236b459b1.pdf>.

267 Ekonomist. "ESG в Казахстане: кто и как раскрывает информацию?" [ESG in Kazakhstan: who discloses information and how?]. <https://ekonomist.kz/kalabin/esg-v-kazakhstane-kto-i-kak-raskryvaet-informaciyu/>.

*In general, there are no self-regulatory initiatives in place originating from the region, except for those that were introduced to the business environment by multinational enterprises that have subsidiaries in the region.*

business network for Corporate Sustainability and Responsibility,<sup>268</sup> which counts among its national partners the Albanian CSR Network,<sup>269</sup> Kosovo\* CSR Network,<sup>270</sup> Serbian Forum for Responsible Business (Forum za odgovorno poslovanje),<sup>271</sup> Corporate Social Responsibility Association of Türkiye (CSR Türkiye)<sup>272</sup> and CSR Ukraine.<sup>273</sup> CSR Europe brings together companies that declare a willingness to do business responsibly. While BHR is not the leading approach at CSR Europe, the network provides opportunities to learn about BHR through participation in webinars and other events.

Only one company from the region, Tirana-based ARB Security Group, is a member of the International Code of Conduct Association (ICoCA).<sup>274</sup> ICoCA is a multi-stakeholder initiative formed in 2013 to ensure that providers of private security services respect human rights and humanitarian law, and governs and oversees the International Code of Conduct for Private Security Service Providers. Four other member companies operating in the region (in Serbia, Türkiye and Ukraine) are headquartered in countries and territories outside the region. Given the number of armed conflicts in the region, this is a very disappointing outcome, as it suggests that few companies providing private security services operating in the region actively undertake efforts to minimize the risk of human rights violations by their staff.

Finally, several countries and territories in the region are home to UN Global Compact Local Networks (see [Annex 2](#), Table 2, for details), which—given that the UNGC 10 Principles also cover human rights—could be considered as an indicator of business commitment and interest in responsible business conduct and the human rights agenda. Local Global Compact Networks can play an important role in raising BHR awareness and promoting HRDD. Worth noting is a collaboration between the Global Compact Networks across the region and beyond (Belarus, Georgia, Liechtenstein, the Netherlands, the Russian Federation, Switzerland, Türkiye and Ukraine) to provide regular legal and regulatory briefings focused on the European Union and international regulatory trends.<sup>275</sup> This is essential as many of the local network members, and surprisingly many of the active members of the UNGC, are SMEs.

### 5.3.1. Western Balkans and Türkiye

Several corporations in the Western Balkans and Türkiye have internal and external human rights policies, with some of them conducting or being part of mandatory due diligence processes. Several transnational corporations have also introduced mandatory due diligence policies and processes through their global supply chains. Nonetheless, in general,

268 CSR Europe. Our Network. National Partner Organizations. <https://www.csreurope.org/our-network-1#NPOs>.

269 Albanian CSR Network. "Albanian CSR's Activity". <https://www.linkedin.com/in/albanian-csr-network-70a286bb/detail/recent-activity/posts/>.

270 Kosovo CSR Network. <http://csrKosovo.org/>.

271 Serbian Forum for Responsible Business (Forum za odgovorno poslovanje). <http://www.odgovornoposlovanje.rs/>.

272 Corporate Social Responsibility Association of Türkiye (CSR Türkiye). <http://csrTürkiye.org/>.

273 CSR Ukraine. <https://csr-ukraine.org/>.

274 International Code of Conduct Association – ICoCA. "About". <https://icoca.ch/about/>.

275 UN Global Compact Network Belarus (2021). "On November 2, a webinar on European regulation in the field of sustainable development and corporate responsibility will be held". Announcements. 24 September. <https://globalcompact.by/announcements/regulatory-trends-in-the-eu>.

there is a considerable discrepancy between normative standards and regulations and their implementation in practice.

In Kosovo, several organizations are active in the wider field of Business and Human Rights. The Kosovo Corporate Social Responsibility network is a civil society organization, which “aims, on an ongoing basis, to increase and disseminate the visibility of responsible practices in the private sector and beyond, by initiating various activities with social impact related to environmental issues, workers’ rights, promotion of anti-corruption, youth empowerment, and community engagement among others.”<sup>276</sup> It recently drafted the “Strategic Plan for Corporate Social Responsibility in Kosovo”, which includes concrete actions and aims in promoting corporate social responsibility practices, capacity-building of the Kosovo CSR Network, environmental protection and concerns, promoting decent work and protecting labour rights, and youth and women empowerment.<sup>277</sup> Raiffeisen Bank Kosovo also reports in its annual report on sustainability, where it sets out its objectives within the wider field of human rights. Its 2020 report notes that it “combines financial success with social responsibility by anchoring sustainability as a fixed component of its business and by practicing sustainability as an integral leadership and management responsibility, in addition to taking key sustainability aspects into consideration in its business activities.”<sup>278</sup> It describes efforts to comply with the 10 principles of the UN Global Compact and the Principles for Responsible Banking of the UNEP Finance Initiative.<sup>279</sup>

Some of the largest companies based in Bosnia and Herzegovina recognize that they have corporate human rights responsibilities. For instance, ArcelorMittal Zenica, d.o.o., has stated that it is committed to working towards sustainability.<sup>280</sup> However, it does not refer to human rights obligations or explain its quality assurance and due diligence policies. State-owned Elektroprivreda Bosne i Hercegovine d.d. - Sarajevo proclaims that it is a “socially responsible business”.<sup>281</sup> However, it does not explain if it complies with due diligence standards. There is some evidence that foreign investors have brought about positive change in some corporations based in Bosnia and Herzegovina. For example, Sportek is based in Kotor Varoš and produces footwear for Nike, whereas Sanino in Derвента for Adidas<sup>282</sup> is a part of the global supply of the global footwear corporation Nike and is subject to periodic control and supervision of respect for human rights in their business operations. In Albania, Spiecapag Transadriatica, part of a large transnational corporation, has a comprehensive policy on human rights, including “health and safety, environment, quality.” As such, there appears to be some positive influence of foreign investors, although there has not been an analysis of the benefits and a comparison with the negative effects of

276 Kosovo CSR Network (n.d.). “Misioni Dhe Vizioni”. <https://www.csrkosovo.org/mision>.

277 Ibid.; Kosovo CSR Network (2021), Strategic Plan for Corporate Social Responsibility in Kosovo 2021–2025, pp. 14–15. [https://www.csrkosovo.org/api/uploads/pdf/strategy\\_en-1623572221924.pdf](https://www.csrkosovo.org/api/uploads/pdf/strategy_en-1623572221924.pdf).

278 Raiffeisen Bank Kosovo (2021), Annual Report 2020, p. 35. [https://www.raiffeisen-kosovo.com/Uploads/Data/Files/77/2021-04-29-RB\\_Kosovo2020\\_AR\\_EN\\_for-webpage\\_FINAL\\_LXXpSUjXWf.pdf](https://www.raiffeisen-kosovo.com/Uploads/Data/Files/77/2021-04-29-RB_Kosovo2020_AR_EN_for-webpage_FINAL_LXXpSUjXWf.pdf).

279 Ibid., p. 36.

280 ArcelorMittal Zenica d.o.o. “Corporate Responsibility”. <https://zenica.arcelormittal.com/corporate-responsibility/corporate-responsibility.aspx>.

281 EPBIH [Public Company Elektroprivreda Bosne i Hercegovine d.d. – Sarajevo] (n.d.) “Mission and Vision”. <https://www.epbih.ba/eng/page/about-company#mission-and-vision>.

282 Pucar, Stevo (2014). Where are we now and where should we go? Gap Analysis of Footwear Sector. Enterprise Development Agency Eda, Banjaluka, p. 8. [https://edabl.org/pub/edaen/GAP\\_Footwear.pdf](https://edabl.org/pub/edaen/GAP_Footwear.pdf).

some investors’ business models, such as so-called ‘fast fashion’, used by some large clothing retailers.

In Türkiye,<sup>283</sup> the Global Compact Network Türkiye (GCNT), with 290 companies listed as active signatories of the UNGC, has committed to following the 10 UNGC principles. Unfortunately, it should not be understood that all of them have human rights policies or HRDD procedures. According to some interviewees, UNGC, due to its voluntary nature, has not led to any major changes on the ground, with the membership of the GCNT being perceived more as a “nice to be in club” rather than a step towards major change. Other standards familiar to business enterprises in the country are the SDG-supportive IMPACT 2030<sup>284</sup> and Business 4 Goals.

### 5.3.2. South Caucasus and Eastern Europe

When compared to progress overall in the region, business community activity advancing implementation on BHR in the South Caucasus and Eastern Europe region is deficient. It is often driven by a small number of medium to large foreign and domestic companies. There is no widespread practice among companies in the subregion of developing specific human rights policy commitments and publishing them on websites among companies. In general, there are no self-regulatory initiatives in the subregion, except for those introduced by subsidiaries of multinational corporations and except for more CSR-focused initiatives and awards, like the CSR Excellence prize.

Still, several non-governmental business-driven organizations undertake CSR activity, which is more recognized in the region than the BHR concept. These organizations include well-established organizations as CSR Ukraine, which counts among its partners over 100 companies,<sup>285</sup> and newly established ones, including the CSR Association of Moldova, which was created in March 2021 by a small group of companies from the Republic of Moldova with an aim “to bring together, inspire, and support private companies to help them contribute to a better world, eliminate discrimination, create long-term business value, and scale their social, economic, and environmental impact. It supports businesses to transform and collaborate towards practical solutions and sustainable growth, and it advocates for systemic change by following the SDGs. The CSR Association aims ... to promote WEPs within the companies, both its members and non-member SMEs in the Republic of Moldova, to help them understand, integrate, and maintain gender equality principles.”<sup>286</sup>

A similar role is played across the region by Global Compact Local Networks, some of which are less visible, while others, like the Georgian GCLN, are driving agents of BHR in Georgia. The Global Compact Network Belarus is active, with its core activity providing awareness-raising and education to its members.<sup>287</sup> In connection with the political

283 Global Compact Network Türkiye. <https://www.globalcompactturkiye.org/>.

284 IMPACT2030 Initiative. <https://www.impact2030.com/home>.

285 WBCSD. “Centre for CSR Development Ukraine (CSR Ukraine)”. <https://www.wbcd.org/Overview/Global-Network/Regions/Europe/Ukraine/Centre-for-CSR-Development-Ukraine-CSR-Ukraine>.

286 UN Women, Job advert for consultant in CSR from gender perspective and WEPs.

287 Сеть Глобального Договора в Беларуси [UN Global Compact Network in Belarus]. <https://globalcompact.by/>.

...several non-governmental business-driven organizations undertake CSR activity, which is more recognized in the region than the BHR concept.

crisis in Belarus,<sup>288</sup> it urged “all business companies operating in the Belarusian market, regardless of their form of ownership, size or industry, to comply with the ten universal principles of the UN Global Compact.” An interesting initiative is the Goodness Index (Index Dobra),<sup>289</sup> a tool for assessing corporate sustainability and business responsibility coordinated by UNGC Belarus.

However, in Georgia, the Labour Code (Article 23)<sup>290</sup> requires companies to establish codes of conduct to regulate behaviour within the company but does not provide the format so that companies are free to include whatever they deem necessary.<sup>291</sup> According to experts interviewed, even those companies that seek advice or develop human rights policies, which have shown an interest in and awareness of the importance of human rights issues, assume that it is sufficient to invite external consultants to develop the policies and do not understand that human rights should be a cross-cutting element of all processes in the company.

In Ukrainian practice, but also in that of other countries and territories in the subregion, there are examples of companies that consider it sufficient to translate the human rights policies used by Western companies or to conduct a single two-hour human rights training for company managers to believe that they have done enough to implement human rights standards for their business activities. Moreover, it is difficult for large companies, including state-owned ones, to convince management that sustainable development strategies with a strong human rights focus can be of benefit or that dedicated staff to human rights in a company are important and that this work should be funded by the company. Lack of understanding of the concept of human rights and the need to perceive it as a cross-cutting component in company operations leads to the inability to overcome another challenge: both States and businesses developing human rights regulations, policies and instruments specific to the national context. Simply transposing the norms and practices that work in the EU will not be effective. Ukrainian companies implement human rights policies when they are part of a multinational company or due to legal obligation.

Some early assessments of Responsible Business Conduct (RBC) practices are slowly being undertaken, with research into due diligence practices in Ukraine’s energy companies aiming to identify patterns on a broader scale.<sup>292</sup> In Ukraine, many SOEs (including Naftogaz and Ukrenergo) have started adopting policies on social and environmental protection and anticorruption programmes while introducing due diligence mechanisms. In addition, both SOE and joint stock company (JSC) laws stipulate that representatives of local self-government bodies, trade unions and labour collectives that have established an agreement with a company may participate during supervisory board meetings.<sup>293</sup>

288 UN Global Compact Network Belarus (2020). “Statement by the Office of the UN Global Compact Network in Belarus”, 26 August. <https://globalcompact.by/news/statement>.

289 Index Dobra. <https://indexdobra.by/>.

290 Legislative Herald of Georgia (2020). Organic Law of Georgia – Labour Code of Georgia, 2010. <https://matsne.gov.ge/ka/document/view/1155567?publication=20>.

291 Interview with Ani Baramidze (notes on file with the author).

292 OECD (2021). Responsible Business Conduct Due Diligence Practices in Ukraine’s Energy Sector. <http://mneguidelines.oecd.org/rbc-dd-practices-in-ukraine’s-energy-sector-english.pdf>.

293 OECD (2021). OECD Review of the Corporate Governance of State-Owned Enterprises: Ukraine. <https://www.oecd.org/corporate/SOE-Review-Ukraine.pdf>.

### 5.3.3. Central Asia

In some instances, legislation related to business integrity in the Central Asia subregion is still insufficient, particularly in the regulations it offers for corporate compliance with standards (either voluntary or mandatory). For example, the 2014 OECD report, *Responsible Business Conduct in Kazakhstan*, points out that one of the main challenges for the country’s private sector regarding business integrity is the practical implementation of national and international standards. The gap between business integrity standards and their practical implementation can partly be explained by the lack of knowledge of such standards and tools and insufficient guidance on how to use them.

OECD noted the level of awareness of responsible business conduct in Kazakhstan has increased since the 2014 OECD report. Numerous public and private initiatives have been established, with notable efforts to promote responsible business conduct by Samruk-Kazyna, the sovereign wealth fund and joint-stock company; the National Chamber of Entrepreneurs, Kazakhstan’s umbrella business organization; and several civil society organizations. On a policy level, the 2016 Entrepreneurial Code includes a legal definition of social responsibility and commits the state to create enabling conditions and not to interfere with business activities in this area.<sup>294</sup>

Good practices in the region are linked to the UN Global Compact Network. For example, in Kazakhstan, the SOE, JSC National Company KazMunayGas, in its Development Strategy 2028 defined sustainable development as one of the strategic objectives, looking at integrating sustainability principles in key business processes, operations and decision-making practices.

There is no widespread practice of developing a specific human rights policy commitment and making it available on a website among companies in the subregion. Some companies, particularly transnational ones, introduce such policies as a part of their corporate codes of conduct but not as separate statements. However, most of these examples do not refer to basic international human rights standards outlined in the International Bill of Rights, the ILO Declaration on Fundamental Principles and Rights at Work or specific industry standards. There are no references to considering human rights in supply chains. Moreover, human rights protection standards are not integrated into contracts between companies.

CSR Central Asia, based in Kyrgyzstan,<sup>295</sup> launched some awareness-raising initiatives in the subregion focused on promoting the SDGs and ESG, but it does not have a BHR perspective and focuses mostly on corporate social responsibility as a voluntary initiative. The PwC Kazakhstan TOP-50 Best ESG Disclosure Companies<sup>296</sup> list demonstrated the lack of understanding human rights in companies’ operations. One of the few components that is of relevance to human rights in the report is gender equality. But it is limited by the information that “54 percent of companies in the TOP-50 rating indicated that they do not allow discrimination in the company. However, only 10 percent described

294 OECD (2018). Reforming Kazakhstan: Progress, Challenges and Opportunities. Paris: OECD. <https://www.oecd.org/eurasia/countries/OECD-Eurasia-Reforming-Kazakhstan-EN.pdf>.

295 CSR Central Asia’s website used to be <http://csr-ca.com/> but does not work as of April 2022.

296 PwC (2021). TOP-50 Best ESG Disclosure Companies. <https://www.pwc.com/kz/en/assets/pdf/top-50.pdf>.

**There is no widespread practice of developing a specific human rights policy commitment and making it available on a website among companies in the subregion.**

specific policies, processes, and activities that ensure equal opportunities for all”.<sup>297</sup>

## 5.4. Business sectors with significant impact on the protection and promotion of human rights

### 5.4.1. The Western Balkans and Türkiye

In the Western Balkans and Türkiye subregion, the most common business-related human rights abuses include violations of workers’ labour rights, forced labour, violations of minimum wage legislation, human trafficking, environmental degradation, and violations of the rights of people of disabilities.<sup>298</sup> Violations of health and safety at work are also one of the most common challenges. For instance, in Serbia, the ILO reported over 3,000 annual violations of health and safety regulations between 2009 and 2016 in the construction sector.<sup>299</sup> In Albania, the European Commission noted in 2020 that “Albania progressed on the legal framework with the adoption of most of the legislation transposing the EU Framework Directive on health and safety at work. However, the implementation and enforcement of health and safety at work legislation is limited due to insufficient financial and human capacities. This remains a particular issue in the shoe/textile and mining sector. Reported accidents at work decreased from 195 in 2018 to 176 in 2019, while fatalities at work increased from 27 to 38 in the same time-frame.”<sup>300</sup>

Concerns are related to human rights violations due to environmental degradation and pollution. For instance, several Chinese corporations have invested and been involved in the extractive industry in the subregion, often raising human rights and environmental concerns.<sup>301</sup> In Serbia, the Chinese corporation Hebei Iron & Steel Group is reported to increase air pollution affecting several human rights, including the right to life at Zelezara Smederevo. Also, in Serbia, civil society has recently raised several concerns concerning human rights and the environmental impact of Rio Tinto’s proposed lithium mine in Jadar River valley in western Serbia.<sup>302</sup> Similarly in Kosovo, violations of human rights connected to

297 Ibid.

298 The Danish Institute for Human Rights’ “Human Rights and Business Country Guide” project ended in 2017; it included the reports DIHR and Belgrade Centre for Human Rights (BCHR) (2016). *Human Rights and Business Country Guide – Serbia*. August. <https://globalnaps.org/wp-content/uploads/2018/04/business-and-human-rights-guide-to-serbia-english.pdf>; Foreign & Commonwealth Office (UK) (2022). *Overseas Business Risk – Bosnia and Herzegovina*. Guidance, Human Rights. <https://www.gov.uk/government/publications/overseas-business-risk-bosnia-and-herzegovina/overseas-business-risk-bosnia-and-herzegovina#human-rights>.

299 Bulat, Petar, Kenichi Hirose and Jovan Protić (2018). *Occupational Safety and Health in the Construction Sector in Serbia*. International Labour Organization, p. 6. [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms\\_671139.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_671139.pdf).

300 European Commission (2020). *Albania 2020 Report*. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final, p. 89. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/albania\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/albania_report_2020.pdf).

301 For example, the Bor Copper Mine in Serbia. See Business and Human Rights Resource Centre. “Zijin Mining” <https://www.business-humanrights.org/en/companies/zijin-mining/>; Zijin Mining (Group), <https://www.zijinmining.com>; Business & Human Rights Resource Centre (2021). “Serbia: Zijin Mining ordered to halt work after failure to comply with environmental standards”, 14 April. <https://www.business-humanrights.org/en/latest-news/serbia-government-orders-zijin-mining-group-to-halt-work-after-failure-to-comply-with-environmental-standards/>; Business & Human Rights Resource Centre (2021). “Serbia: Plans for Kolubara B coal power plant halted, opening space for decarbonisation”, 18 June. <https://www.business-humanrights.org/en/latest-news/serbia-plans-for-350-mw-kolubara-b-coal-power-plant-have-been-halted/>.

302 Sekularac, Ivana and Aleksandar Vasovic (2021). “Rio Tinto-led plan for major lithium mine stirs protests in Serbia”, *Reuters*, 26 August. <https://www.reuters.com/business/sustainable-business/rio-tinto-led-plan-major-lithium-mine-stirs-protests-serbia-2021-08-26/>.

**Concerns are related to human rights violations due to environmental degradation and pollution... There are reports that human rights and environmental rights activists have been targeted.**

environmental degradation have been reported.<sup>303</sup> There are reports that human rights and environmental rights activists have been targeted. More specifically, there are reports that Kelkos Energy (a subsidiary of Kelag International) has been targeting human rights defenders,<sup>304</sup> despite Kelag International noting that, “Together with its parent company, KI-KELAG International GmbH is committed in its actions to complying with legal framework conditions as well as internal company guidelines and ethical standards”.<sup>305</sup>

In Türkiye, certain state-funded construction and infrastructure projects have negative impact on the protection and existence of the cultural heritage of ethnic and national minorities (e.g. heritage sites in Hasankeyf) even when sites have universal historical value.<sup>306</sup>

There are many challenges in the subregion to ensuring a minimum and living wage in the garment and mining industries and beyond. Failure to fully ensure a minimum and living wage has been widespread in Kosovo, particularly in the mining industry.<sup>307</sup> Moreover, there are several reports from Serbia of violations of the right to minimum wage regulations in the garment industry.<sup>308</sup> In Bosnia and Herzegovina, the rights of mostly female workers have been in danger in the retail industry sector.<sup>309</sup> There are discrepancies between formal labour rules and daily practices.<sup>310</sup>

[bia-2021-08-26/](https://www.ohchr.org/Documents/Press/Kosovo_cso_2019_human_rights_report_en.pdf).

303 United Nations Mission Interim Administration in Kosovo (2020). *Civil Society Report on Human Rights in Kosovo in 2019*. June. [https://www.ohchr.org/Documents/Press/Kosovo\\_cso\\_2019\\_human\\_rights\\_report\\_en.pdf](https://www.ohchr.org/Documents/Press/Kosovo_cso_2019_human_rights_report_en.pdf); Institute for Development Policy (INDEO) (2019). “Air Quality in Kosovo: Towards European Standards”, Research, August. [https://indep.info/wp-content/uploads/2019/08/INDEP\\_June-2019\\_Air-Quality-in-Kosovo.pdf](https://indep.info/wp-content/uploads/2019/08/INDEP_June-2019_Air-Quality-in-Kosovo.pdf); U.S. Department of State (2021). *2020 Country Reports on Human Rights Practices: Kosovo*. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kosovo/>.

304 Kelkos Energy (subsidiary of Kelag International). <http://kelag-international.com/home.html>. News about practices: Bami, Xhorxhina (2021). “Kosovo Prosecution Sues Power Plants’ Austrian Manager for Damages”, *BalkanInsight*, 21 May. <https://balkaninsight.com/2021/05/21/%E2%80%8Bkosovo-prosecution-sues-power-plants-austrian-manager-for-damages/>; defamation”, *Balkan Green Energy News*, 22 February. <https://balkangreenenergynews.com/small-hydropower-plant-owner-sues-activist-shpresa-loshaj-in-kosovo-for-defamation/>.

305 Kelag International (2022). “Group-wide Compliance Management System”. <http://kelag-international.com/certificates-12397.htm>.

306 See, e.g., Ahunbay, Zeynep. (2006). “Hasankeyf, a Site Threatened by the Ilisu Dam Project”. In *Heritage at Risk: ICOMOS World Report 2006–2007 on Monuments and Sites in Danger*, Michael Petzet and John Ziesemer, eds. Altenburg, Germany: E Reinhold Verlag; Ahunbay, Zeynep and Özge Balkız (2009). “Outstanding Universal Value of Hasankeyf and the Tigris Valley”. *Doğa Derneği*. <https://goo.gl/qZ9tqX>.

307 <https://politiko.al/english/kosova/minaret-ne-greve-per-pagat-jep-dore-heqje-ushtres-i-detyres-se-drejtor-4542/>; Exit News (2020). “Kosovo Government Allocates €1.1 Million to Trepça Mine”, *Die Morina van Uijtregt*, 13 November. <https://exit.al/en/2020/11/13/kosovo-government-allocates-e1-1-million-to-trepca-mine/>; Exit News (2020). “Kosovo Miners End Their Protest After Salaries Confirmed”, *Die Morina van Uijtregt*, 20 November. <https://exit.al/en/2020/11/20/kosovo-miners-end-their-protest-after-salaries-confirmed/>; Exit News (2021). “Kosovo Miners Protest Demanding Their Salaries”, *Die Morina van Uijtregt*, 12 February. <https://exit.al/en/2021/02/12/kosovo-miners-protest-demanding-their-salaries/>.

308 N1 (2021). “Radnici „Đuzepe Leva“: Zarada nam je ispod minimalne, na bolovanju smo bez plate”, 19 May. <https://rs.n1info.com/biznis/radnici-djuzepe-leva-zarada-nam-je-ispod-minimalne-na-bolovanju-smo-bez-plate/>; Bukvić, Lj. (2020). “Lisca zaposlenima umanjila yakonon yagarantovan minimalac”, *Danas*, 4 December. <https://www.danas.rs/ekonomija/lisca-zaposlenima-umanjila-lakonom-yagarantovan-minimalac/>.

309 Westminster Foundation for Democracy (WFD) (2019). *The rights of women employed in retail commerce in Bosnia and Herzegovina*. Mia Karamehić-Abazović and Andela Pepić, Sarajevo. <https://www.wfd.org/wp-content/uploads/2019/09/Study-The-rights-of-women-employed-in-retail-commerce-in-BiH.pdf>.

310 European Commission (2020). *Bosnia and Herzegovina 2020 Report*. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final. [https://ec.europa.eu/neighborhood-enlargement/system/files/2020-10/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighborhood-enlargement/system/files/2020-10/bosnia_and_herzegovina_report_2020.pdf); Ibid., p. 57.

Supervision is piecemeal and lacking.<sup>311</sup> No permanent body exists to mediate labour disputes.<sup>312</sup> In North Macedonia, approximately 40,000 workers, mostly female, work in the garment industry, where labour rights and conditions are not respected.<sup>313</sup> It is reported that “they have minimal access to justice”.<sup>314</sup> It has been reported that conditions have deteriorated during the COVID-19 pandemic,<sup>315</sup> which have directly interfered with human dignity at work.<sup>316</sup> In Türkiye, gender inequality caused by a patriarchal culture is a serious challenge. More women work in the home, in particular among refugees. They also work in jewellery and textile factories. Because a large part of exports from the textile industry goes to the Global North, particularly to the EU, there is some pressure on companies to improve their behaviour, as companies ordering the products have started to pay more attention to business conduct and press attention; they demanding improvements, not least out of fear of risk of reputational damage. The EBRD is perceived as pushing companies to commit to better behaviour when they request funding. Still, this is not easy, as in the Turkish textile sector where “about 60 percent of the workers are unregistered, many of whom are working for small subcontractors”.<sup>317</sup> So unless the State improves the legislative framework and ensures similar protection to unregistered workers as it does to registered ones, the underlying problem will always be there.

The subregion has also suffered business-related human rights violations connected to human trafficking. The UN Committee on the Elimination of Discrimination against Women (CEDAW) observed in its 2019 Concluding Observations on Serbia that Serbia should meet its procedural obligations to investigate and prosecute cases of human trafficking.<sup>318</sup>

#### 5.4.2. South Caucasus and Eastern Europe

In South Caucasus and Eastern Europe, the sectors with the heaviest negative impacts on human rights are the extractive and mining sector

311 Westminster Foundation for Democracy (WFD) (2019).

312 Ibid., p. 58.

313 IndustriAll (2019). “Towards living wages in North Macedonia”, 21 March. <http://www.industriall-union.org/towards-living-wages-in-north-macedonia>.

314 Foundation Open Society Macedonia (2020). “Access to justice in the Eastern region: Project of the Association Glasen Tekstilec, supported by the Foundation Open Society – Macedonia”. 28 July. <https://fosm.mk/en/current-project/access-to-justice-in-the-eastern-region/>.

315 FAIR WEAR (2021). *North Macedonia country study 2021*. <https://api.fairwear.org/wp-content/uploads/2021/04/North-Macedonia-Country-Study-2021.pdf>; FAIR WEAR (2019). “FWF Gender fact sheet – Macedonia”. <https://api.fairwear.org/wp-content/uploads/2019/02/8.-Macedonia-Gender-Fact-Sheet.pdf>; FAIR WEAR (2021). “Covid-19 impact and responses: North Macedonia”, 5 November. <https://www.fairwear.org/covid-19-dossier/worker-engagement-and-monitoring/country-specific-guidance/covid19-north-macedonia/>; FAIR WEAR (2021). “The workers’ rights victims of the pandemic in North Macedonia”. (Interview with Kristina Ampeva), 19 February. <https://www.fairwear.org/stories/glasen-tekstilec-pandemic-video/>; FAIR WEAR (2020). “North Macedonia reimposes curfew; Covid-19 cases spike in textile factories in Stip”, 5 June. <https://www.fairwear.org/stories/covid-19-cases-spike-stip/>; Duridanski, Darko and Joseph Boyle (2021). “Disenfranchised: Macedonian women ramp up equality fight”, yahoo! news, 9 July. <https://news.yahoo.com/disenfranchised-macedonian-women-ramp-equality-054031544.html>.

316 ILO (2020). *COVID-19 and the World of Work. Rapid Assessment of the Employment Impacts and Policy Responses. North Macedonia*. 15 May. [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms\\_746124.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_746124.pdf); Ampeva, Kristina, Nikola Popovski, Donche Stamenkov and Silvija Kotovska (2020). “The impact of COVID-19 on low-paid and labor intensive branches”. October. Glasen Tekstilec and Friedrich Ebert Stiftung. <http://library.fes.de/pdf-files/bueros/skopje/16695-20201104.pdf>.

317 Doing Business With Respect for Human Rights. “Türkiye: Navigating a complex apparel supply chain and a changing labour market”. <https://www.businessrespecthumanrights.org/en/page/387/navigating-a-complex-apparel-supply-chain-and-a-changing-labour-market>.

318 United Nations Committee on the Elimination of Discrimination against Women (2019). Concluding observations on the fourth periodic report of Serbia. CEDAW/C/SRB/CO/4. 14 March. <https://digitallibrary.un.org/record/3801127?ln=en>.

(in Azerbaijan,<sup>319</sup> Armenia,<sup>320</sup> Ukraine,<sup>321</sup> Georgia)<sup>322</sup> and hydropower (Georgia,<sup>323</sup> Armenia), in which workers’ rights, violence against striking workers, major violations of health and safety regulations, environmental damage and even child labour are well documented. Other sectors in which negative human rights are regularly reported include agriculture (across the region), the textile industry (Ukraine, Moldova),<sup>324</sup> the chemical industry (Ukraine)<sup>325</sup> and telecoms (Belarus).<sup>326</sup>

The most common human rights abuses in the South Caucasus and Eastern Europe subregion are violations of human rights connected to environmental degradation and the related harassment of activists and the failure to ensure decent wages and safe and healthy work conditions. There is also a lack of accountability for the violations that take place; this is particularly seen in the extractives and mining sector. This is true for Azerbaijan, with its strong oil and gas industry and other countries in the subregion that also rely strongly on the extractive sector for revenue. A vivid example of such violations was well-documented by the Oil Workers’ Rights Protection Organization (OWRPO),<sup>327</sup> a group of specialists working in the oil sector to protect workers’ rights in the oil and gas sector of Azerbaijan and to promote civil society control over projects implemented in the energy sector of the country. The group reported deaths and injuries among sector employees in their annual report. They also carried out an evaluation related to a fire at stationary deep sea platform No. 10 in the Guneshli field of the State Oil Company of Azerbaijan Republic (SOCAR), as a result of which 12 people died, 19 were missing and 32 were injured.<sup>328</sup> Information about the event was initially withheld from the public. Later, the company provided misinformation to not acknowledge the tragedy’s scale and avoid releasing information about the pollution and ongoing fire. One of the reasons for such a situation is the lack of employees’ awareness about their rights and protection. For example, OWRPO conducted a survey in March 2021 on access to legal aid. To the question, “How much do you know about access to legal aid to protect your rights?”, only 23.6 percent of the participants answered “I have enough information”, 49.4 percent said “we are partially informed” and 27 percent said “I do not have any information at all”.

319 Oil Workers’ Rights Protection Organization. [www.nhmt-az.org](http://www.nhmt-az.org).

320 Based on the Ecolur webpage ([www.ecolur.org](http://www.ecolur.org)) and the presentation delivered on 13 October 2021 during the CEE & CA Resource Hub launch event. Reports in Armenian concerning various case investigations can be accessed here: <https://www.ecolur.org/> and <https://www.ecolur.org/files/uploads/ecolurminingbigreport.pdf>.

321 Oil Workers’ Rights Protection Organization. [www.nhmt-az.org](http://www.nhmt-az.org).

322 Green Alternative (2020). *Labyrinths of Georgian Mining Sector – Development Planning*. [https://www.business-humanrights.org/documents/19365/Developing-national-mining-policy\\_in\\_Georgia\\_August\\_2020\\_ENG.pdf](https://www.business-humanrights.org/documents/19365/Developing-national-mining-policy_in_Georgia_August_2020_ENG.pdf).

323 OHCHR (2020). Visit to Georgia – Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. A/HRC/44/43/Add.1, 14 April. <https://uhri.ohchr.org/en/document/8d-042d3a-3f58-499f-ab19-fb5e862f213a>.

324 Clean Clothes Campaign (2020). “Report finds ‘Made in Europe’ label tied to garment and shoe production in European sweatshops”, 10 August. <https://clean-clothes.org/news/2017/11/09/report-finds-2018made-in-europe2019-label-tied-to-garment-and-shoe-production-in-european-sweatshops>.

325 Basakin, Alekey (2021). “В ХАРЬКОВЕ СУД ОБЯЗАЛ “КОКСОХИМ” ВЫПЛАТИТЬ 3,5 МИЛЛИОНА ГРИВЕН ЗА УЩЕРБ ЭКОЛОГИИ”. [COURT IN KHARKOV ORDERS COXOCHEM TO PAY 3.5 MILLION UAH FOR ECONOMIC DAMAGE]. 3 June. <https://www.newsroom.kh.ua/news/v-harkove-sud-obyazal-koksohim-vyplatit-3-5-milliona-griven-za-ushchereb-ekologii>.

326 Amnesty International, “It’s enough for people to feel it exists”. Civil society, secrecy and surveillance in Belarus. 2016. <https://www.amnesty.org/en/documents/eur49/4306/2016/en/>

327 Oil Workers’ Rights Protection Organization. [www.nhmt-az.org](http://www.nhmt-az.org).

328 NHMT (2016). “Evaluation on fire at stationary deep sea platform No.10 in ‘Guneshli’ field of State Oil Company of Azerbaijan Republic on December 4, 2015”. 9 February. <http://www.nhmt-az.org/frontend/pages/human-rights-inner.php?id=108>.

“How much do you know about access to legal aid to protect your rights?”, only 23.6 percent of the participants answered “I have enough information”...

During meetings with SOCAR officials, the UN Working Group on BHR “noted the poor degree of understanding of the company’s human rights responsibilities, particularly when measured against the Guiding Principles”, with officials referring to several social responsibility projects, but admitting that the company did not have any specific policy on human rights or mechanisms for carrying out human rights due diligence.”<sup>329</sup> Officials of the Ministry of Energy, which regulates the activities of SOCAR and other companies in the energy sector, showed limited awareness of the State’s particular responsibility to exercise scrutiny and oversight of SOEs and “to ensure that they conduct effective human rights due diligence.”<sup>330</sup>

In Georgia, the UN Working Group on BHR noted in its report the hydropower and mining sectors<sup>331</sup> as having a significant impact on human rights in the country, highlighting that deregulation has left workers without sufficient protection. The impact of mining sector policies on some human rights issues, including property rights, due diligence, environmental impacts and transparency, is also examined in depth in the report, *Labyrinths of Georgian Mining Sector Development Planning*.<sup>332</sup>

Another sector of paramount importance in the subregion is agriculture because of its role in the development needs of countries and territories. Yet, it carries the risk of forced labour<sup>333</sup> and child labour (see [Chapter 8](#) for more details), even in European countries.

The construction boom, in particular in Azerbaijan, related to the European Games in 2015, an Olympics sporting event and a programme of urban renewal in the capital city, led to a series of evictions. Demolitions and expropriations were associated with it, carried out with disregard for property rights, and later non-competitive construction contracts were awarded to well-connected business people.<sup>334</sup> Other significant industries in the country with the potential for risks of human rights abuses include telecommunications, agriculture, manufacturing and the service sectors, mainly wholesale and retail trade, and hotels and restaurant services.<sup>335</sup>

In Armenia, a core problem is mining conducted without the required precautions and due diligence. There are several mines, belonging to 21 out of the 28 mining companies in Armenia, that do not operate or operate with breaks. However, they are not monitored during times of non-operation, often leading to environmental degradation, e.g. the Terterasar gold mine development programme is not being implemented

329 United Nations, Human Rights Council (2015). Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Addendum: Visit to Azerbaijan, A/HRC/29/28/Add. 1, 3 June, para. 55–56.

330 Ibid.

331 United Nations, Human Rights Council (2015). Visit to Georgia – Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, A/HRC/44/43/Add. 1, 24 April. <https://uhri.ohchr.org/en/document/8d042d3a-3f58-499f-ab19-fb5e862f213a>.

332 Green Alternative (2020). *Labyrinths of Georgian Mining Sector – Development Planning*. <https://www.business-humanrights.org/documents/19365/Developing-national-mining-policy-in-Georgia-August-2020-ENG.pdf>.

333 For example, according to news reports, over 80 jobless Ukrainians from the Odessa and Dnipropetrovsk regions were lured to work at a farm by promises of free accommodation and meals and salaries of US\$170 per month (well below the average salary in Ukraine of US\$400). IOM (2019). “Farm Slaves Rescued in Ukraine”, *Global News*, 18 October. <https://www.iom.int/news/farm-slaves-rescued-ukraine>.

334 United Nations, Human Rights Council (2015). Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Addendum: Visit to Azerbaijan, A/HRC/29/28/Add. 1, 3 June, para. 66.

335 Ibid., p. 4.

**Increasingly, communities are informing themselves and getting organized, sometimes with support from NGOs, to fight for their lands and communities’ survival.**

and the Meghri River continues to be polluted by water and dust from the mine area. In 2019–2020, the Armenian government took back the soil management rights of seven companies.<sup>336</sup> And affected communities are starting to take issues into their own hands, for example, with communities affected by the Amulsar gold mine calling on the EBRD to withdraw from the project, alleging non-compliance with the bank’s Environmental and Social Policy,<sup>337</sup> while in another example, residents complained about the environmental damage caused by GeoProMining Gold.<sup>338</sup> Controversy often surrounds hydropower projects, resulting in ecological and social problems, including shortages of water for irrigating arable land, lack of water for consumption and the impact on the ecological flow in parts of the river.<sup>339</sup> Increasingly, communities are informing themselves and getting organized, sometimes with support from NGOs, to fight for their lands and communities’ survival. In Georgia, where human rights violations have been reported in the hydropower sector, a broad protest movement discouraged Turkish builders from pursuing the Namakhvani hydropower project, which was to be the largest energy project in the country’s history.<sup>340</sup>

As in other countries of the region, Ukrainian SOEs are involved in human rights violations. In May 2021, Kyiv mine workers protested against US\$71 million in wage theft by state-owned coal-mining enterprises.<sup>341</sup> In 2019, coal miners in Ukraine protested underground over 15 days to demand months of unpaid wages after 33 miners at the state-owned Lysychansk coal mines refused to leave from their underground shift. The miners demanded wages they did not receive from June to September 2018 and for several months from 2015 to 2017.<sup>342</sup> Ukraine’s third-biggest bank suspended its chairman after a video was aired showing a scuffle in his office with journalists investigating the bank’s lending practices.<sup>343</sup> At the beginning of October 2021, an all-Ukrainian warning action by trade unions to protect workers’ labour rights took place. The action was joined by the Trade Union of Railway Workers and Transport Builders of Ukraine because of systemic gross violations of labour rights by the SOE Ukrzaliznytsa (Ukrainian Railway). In a march of thousands in the centre of Kyiv, trade union representatives from all over Ukraine opposed the authorities’ systematic attack on workers and trade unions’

336 Based on the Ecolur webpage ([www.ecolur.org](http://www.ecolur.org)) and the presentation delivered on 13 October 2021 during the CEE & CA Resource Hub launch event. Reports in Armenian concerning various case investigations can be accessed here: <https://www.ecolur.org/> and <https://www.ecolur.org/files/uploads/ecolurminingbigreport.pdf>.

337 Ecolur (2020). “Amulsar Project Affected Community Residents Applied to EBRD/IPAM Calling on EBRD To Withdraw from Amulsar Project”, 19 May. <https://ecolur.org/en/news/amulsar/---/12404/>.

338 Petrosyan, Sara (2020). “GeoProMining Gold’s Toxic Impact on Sotk Village Residents: Company Provides Little in Compensation”, *Hetq Online* (Investigative Journalists (Armenia)), 29 August. <https://hetq.am/en/article/120828#.X1Nut8oVnFE.facebook>.

339 EcoLur (2021). “Hydropower Impact on Economies in Goris and Sisian Communities in Syunik Region: What Kind of Environmental and Social Problems Arise?”, 23 September. <https://www.ecolur.org/en/news/water/13497/>.

340 Business & Human Rights Resource Centre (2021). “Georgia: ENKA pulls out of hydropower project after nearly a year of community protests”, 24 September. <https://www.business-humanrights.org/en/latest-news/georgia-enka-pulls-out-of-hydropower-project-after-nearly-a-year-of-community-protests/>.

341 Solidarity Center (2021). “Ukraine Mine Workers Successfully Fight Wage Theft”, 17 May. The article is no longer available but was at <https://www.solidaritycenter.org/ukraine-mineworkers-successfully-fight-wage-theft/>.

342 Connell, Tula (2018). “Protesting Ukraine Miners Owed Months Of Back Wages”, 2 November. <https://www.solidaritycenter.org/protesting-ukraine-miners-owed-months-of-back-wages/>.

343 Zinets, Natalia and Polityuk, Pavel (2021). “Ukrainian state bank chief suspended after scuffle with investigative journalists”, 7 October. <https://www.reuters.com/world/europe/ukrainian-state-bank-chief-suspended-after-scuffle-with-investigative-2021-10-06/>.

legitimate rights and interests, attempts to impose and legalize “slave labour legislation” and other anti-social legislative initiatives.<sup>344</sup> While not prevalent, child labour can still be encountered in Ukraine, in the mining sector, but mostly in the streets, with children distributing advertising leaflets, selling at kiosks, washing cars and begging.<sup>345</sup>

As in other countries in the subregion, in Ukraine there are many cases of environmental damage caused by companies from the chemical industry, extractive and mining industries.<sup>346</sup> In 2010, the Ukrainian parliament declared an environmental emergency in Kalush as a result of the chemical industry’s activities, which changed the structure of the local geology, leading to land collapses and, as a result, the destruction of houses and communication lines. There was also salinization of water reserves. Two factories were named as accumulators of industrial waste, which, in the event of a negative incident, could lead to disaster: the Nikolaev Alumina Refinery and the Zaporozhye Aluminum Plant.<sup>347</sup>

Companies such as H&M, Zara, Hugo Boss, Adidas and Benetton pay their workers in Europe and Türkiye the minimum legal wage, which is under the poverty threshold. The Republic of Moldova and Ukraine have the lowest net minimum wages of EUR 71 and EUR 80 monthly respectively.<sup>348</sup> The Clean Clothes Campaign’s report, Europe’s Sweatshops, documents endemic poverty wages and other stark working conditions in the garment and shoe industry throughout Europe. Despite working overtime, many workers in Ukraine for example, make just EUR 89 a month, where a living wage would be five times that much. Among customers of the factories are fashion brands like Benetton, Esprit, GEOX, Triumph and Vera Moda. Many brands even tout the fact they are “Made in Europe”, suggesting this means “fair” conditions. In reality, many of the 1.7 million garment workers in the region live in poverty, face perilous work conditions, including forced overtime, and have accumulated significant debts. Many of the workers interviewed reported perilous working conditions such as exposure to heat and toxic chemicals, unhygienic conditions, unpaid and illegal forced overtime and abusive treatment by management. Workers report feeling intimidated and being under constant threat of termination or relocation.<sup>349</sup>

Finally, in Belarus, violations of labour rights are common; however, in this specific political context, other rights are more prone to being affected, for

344 Ukraine Rail Monitoring (2021). “3 12 жовтня на Укрзалізниці розпочнеться «італійський страйк» [“Italian strike” to start on Ukrzaliznytsia on October 12], 12 October. <https://urm.media/z-12-zhovtnya-na-ukrzalizniczi-rozpochnet-sya-italijskij-strajk/>.

345 Bureau of International Labor Affairs. Ukraine: MINIMAL ADVANCEMENT – EFFORTS MADE BUT REGRESSION IN LAW THAT DELAYED ADVANCEMENT. [https://www.dol.gov/sites/dolgov/files/LAB/child\\_labor\\_reports/tda2019/Ukraine.pdf](https://www.dol.gov/sites/dolgov/files/LAB/child_labor_reports/tda2019/Ukraine.pdf).

346 Basakin, Alekey (2021). “В ХАРЬКОВЕ СУД ОБЯЗАЛ “КОКСОХИМ” ВПЛАТИТИ 3,5 МИЛЛІОНА ГРИВЕН ЗА УЩЕРБ ЕКОЛОГІЇ”. [COURT IN KHARKOV ORDERS COXOCHEM TO PAY 3.5 MILLION UAH FOR ECONOMIC DAMAGE]. 3 June. <https://www.newsroom.kh.ua/news/v-harkove-sud-obyazal-koksohim-vyplatit-3-5-milliona-griven-za-ushcherb-ekologii>.

347 Business & Human Rights Resource Centre (2013). Предпринимательская деятельность в аспекте прав человека в Восточной Европе и Центральной Азии – Обзор последних событий, Май 2013 [Business and Human Rights in Eastern Europe and Central Asia – An Overview of Recent Developments, May 2013]. <https://media.business-humanrights.org/media/documents/files/media/documents/rus-regional-briefing-eeca-final.pdf>.

348 EURACTIV (2014). “Textile workers paid lower in Eastern Europe than in China, report finds”, Tanja Milevska, 18 June. <https://www.euractiv.com/section/social-europe-jobs/news/textile-workers-paid-lower-in-eastern-europe-than-in-china-report-finds/>.

349 Clean Clothes Campaign (2020). “Report finds ‘Made in Europe’ label tied to garment and shoe production in European sweatshops”, 10 August. <https://clean-clothes.org/news/2017/11/09/report-finds-2018made-in-europe2019-label-tied-to-garment-and-shoe-production-in-european-sweatshops>.

example the right to privacy, as telecom companies have been required by the regime to facilitate secret government surveillance by providing access to customer communication and data.<sup>350</sup>

### 5.4.3. Central Asia

The extractive and mining industries and agriculture sector have a significant impact on human rights in the Central Asia subregion, as they are associated with major human rights violations, such as forced labour and child labour (especially in the cotton industry in Turkmenistan<sup>351</sup> and, in the past, in Uzbekistan),<sup>352</sup> environmental damage (extractive and mining industries in all countries and territories of the subregion),<sup>353</sup> and weak labour guarantees. The Business and Human Rights Resource Centre’s report, Digging in the shadows: Eastern Europe and Central Asia’s opaque extractives industry, draws attention to human rights issues related to extractive projects in the region, including mass deaths, torture and violence against striking workers, lawsuits and criminal charges against journalists and activists, poisoning of local communities and widespread environmental destruction.<sup>354</sup> For example, Kazakhstan’s oil sector is rife with human rights abuses.<sup>355</sup>

One of the regional trends described earlier in this study is the significant role of SOEs in national economies, operating in key sectors, including energy, mining, agriculture, transport and construction. Moreover, certain sectors experience particularly high levels of human rights-related challenges, e.g. state-owned coal mines have high emissions levels. Their activities and unsustainable mine closures have contributed to excessive water and land pollution. Workers in state-owned mines are often not paid their wages and face health and occupational safety risks, while measures to minimize hazards remain limited. Reportedly in Tajikistan, wage arrears are accumulating from year to year, with the 75 largest enterprises in the country owing salaries to 14,000 employees, and some extreme cases being reported such as that of an employee, who has not received a salary for 8 years; the company’s debt to him reaching 90,000 somoni.<sup>356</sup> In Uzbekistan, there are cases where workers have threatened to strike over wage cuts.<sup>357</sup>

350 Amnesty International (2016). “It’s enough for people to feel it exists” – Civil society, secrecy and surveillance in Belarus. <https://www.amnesty.org/en/documents/eur49/4306/2016/en/>.

351 Butler, Carolyn (2021). “Turkmenistan: Forced labor remains in cotton supply chain”, 25 March. <https://www.solidaritycenter.org/turkmenistan-forced-labor-re-mains-in-cotton-supply-chain/>.

352 ILO (2021). “The systematic use of forced and child labor in the cotton industry of Uzbekistan is over”, 28 January. [https://www.ilo.org/moscow/news/WCMS\\_769065/lang-ru/index.htm?shared\\_from=shr-tls&s=04](https://www.ilo.org/moscow/news/WCMS_769065/lang-ru/index.htm?shared_from=shr-tls&s=04).

353 Crude Accountability (2021). *Road to China: China’s Oil and Gas Ventures in Central Asia. Social and Environmental Impacts*, November. [https://crudeaccountability.org/wp-content/uploads/compressed\\_Road\\_to\\_China\\_Chinas-Oil-and-Gas-Ventures-in-Central-Asia.pdf](https://crudeaccountability.org/wp-content/uploads/compressed_Road_to_China_Chinas-Oil-and-Gas-Ventures-in-Central-Asia.pdf).

354 Business & Human Rights Resource Centre (2021). Digging in the shadows: Eastern Europe and Central Asia’s Opaque Extractives Industry. June. [https://media.business-humanrights.org/media/documents/2021\\_Company\\_Profiles\\_Key\\_Takeaways\\_EN\\_v3.pdf](https://media.business-humanrights.org/media/documents/2021_Company_Profiles_Key_Takeaways_EN_v3.pdf).

355 Reynolds, Ashley Nancy (2021). “Opinion: Kazakhstan’s oil sector is rife with human rights abuses”. *The Third Pole*, 3 August. <https://www.thethirdpole.net/en/energy/kazakhstan-oil-sector-is-rife-with-human-rights-abuses>.

356 Asia-Plus (2021). “В Таджикистане 14 тысяч работников не могут получить зарплату. Какие предприятия не платят деньги?” [In Tajikistan, 14,000 workers cannot receive their wages. Which businesses don’t pay money?], 31 August. <https://www.asiaplustj.info/ru/news/tajikistan/society/20210831v-tadzhikistane-14-tisyach-rabotnikov-ne-mogut-poluchit-zarplatu-kakie-predpriyatiya-ne-platyat-dengi>.

357 Radio Ozodlik (2021). “Рабочие предприятия Jizzakh Petroleum грозят забастовкой из-за урезания зарплат”, [Jizzakh Petroleum workers threaten to strike over wage cuts], 17 April. <https://rus.ozodlik.org/a/31209028.html>.

*As an example of poor working conditions, Chinese workers in Central Asia were forced to work overtime despite fears during the COVID-19 pandemic.*

The protection of labour rights is one of the most pressing issues for the subregion. One interviewee commented that “labour and social rights are forgotten rights in the region”. Almost all countries in the subregion can be characterized as having economic informality, poor working conditions, inadequate occupational health and safety, and low and unpaid salaries. In terms of economic informality, almost half of employed women in the subregion work in the informal sector. Workers in the informal sector are deprived of social protection, and this problem is especially acute during the time of COVID-19. In addition, this situation significantly distorts statistics, which only cover the formal sector. For example, it is impossible to know the number of accidents at work because data are inaccurate and do not include information about accidents in the informal sector.

As an example of poor working conditions, Chinese workers in Central Asia were forced to work overtime despite fears during the COVID-19 pandemic. Inadequate occupational health and safety is another problem. The most dangerous sectors in relation to occupational health and safety are mining, agriculture, construction, the metallurgical industry, forestry and fish farming. Finally, as described earlier, there is the problem of low and unpaid salaries and working not being covered by social benefits. For example, dozens of women in the southern Kazakh city of Shymkent have rallied to demand increased social allowances and state support for poorer families whose situations have been worsened by the coronavirus pandemic.

Environmental risks are high in various sectors of businesses operating in the subregion. For example, in Kyrgyzstan in 2021, residents of one of the regions “worried about environmental pollution by the mining industry, where mainly Chinese companies invest”.<sup>358</sup> Full Gold Mining has repeatedly found itself in the news for its activities. In 2011, an overseas investor faced a hurdle when local residents made it a condition that the company should extract gold without using cyanide. And at the beginning of 2018, the company laid off 370 employees. The new contracts did not provide payments for length of service, income tax, insurance premiums and food provision to employees since they worked on a rotational basis. Then, the vice-president of Full Gold Mining, Chi Shuan Tan, during a meeting with officials of the State Committee for Industry, Energy and Subsoil Use of the Kyrgyz Republic, said that the company and hired workers could not agree on some points, with the excuse that, “The invested funds have not yet paid off. In order not to become bankrupt, we are forced to take such steps.”<sup>359</sup>

The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes paid special attention to Kazakhstan’s extractive industry. It was recommended to Kazakhstan to require all businesses operating within its jurisdiction to have an explicit policy to respect human rights and to implement the Guiding Principles on Business and Human Rights. It was stressed that SOEs, as an extension of government, must protect human rights, and that the Government should ensure that businesses always employ the best available technologies and best

358 EKOIS (2021). “Добыча золота в центре недавних политических потрясений в Кыргызстане” [Gold mining at the centre of recent political turmoil in Kyrgyzstan]. 27 August. <http://ekois.net/dobycha-zolota-v-tsentre-nedavnih-politicheskikh-potryasenij-v-kyrgyzstane/>.

359 Ibid.

*The enthusiasm for contributing to the local community is the driving force behind the corporate social responsibility of Nelt Group. Investing in the professional development of young generations is a fundamental part of the 2012 Corporate Social Responsibility Strategy.*

environmental practices to reduce the number of hazardous substances used, produced and generated by the extractive industries.<sup>360</sup>

## 5.5. Examples of BHR and HRDD best practices among companies in the region

While awareness of the UNGPs and the BHR agenda and by implication of HRDD is limited in the region, some positive developments and good practices can nevertheless be noticed. While many of these initiatives have stronger roots in CSR, they have evolved and slowly transitioned into more mainstream BHR. It should also be noted that several efforts are underpinned by internal procedures. This is essential to achieve the results but also to sensitize larger groups of workers around specific issues.

### 5.5.1. The Western Balkans and Türkiye

There are several examples of HRDD best practices among companies doing business in the Western Balkans. For instance, the Nelt Co. D.o.o., based in Serbia, proposes that “The enthusiasm for contributing to the local community is the driving force behind the corporate social responsibility of Nelt Group. Investing in the professional development of young generations is a fundamental part of the 2012 Corporate Social Responsibility Strategy.”<sup>361</sup> In relation to sustainability, they argue that “The Group’s strategic approach to sustainability and development is based on the ethical business of all the companies and their desire to contribute to the creation of a better work environment for employees, partners and the wider social community, with good business results and a high level of responsibility towards the environment.”<sup>362</sup> The Nelt Group is also part of the UN Global Compact.<sup>363</sup> They report on sustainability as part of the Global Reporting Initiative and have in place a quality assurance system where they measure compliance and act on deficiencies.<sup>364</sup> Its sustainability reporting is detailed and provides a textbook example of good corporate practice concerning reporting.<sup>365</sup>

In Kosovo, Sharrcem, a leading cement corporation and part of the transnational corporation Titan Cement International Group based in Belgium and Cyprus, publishes an annual sustainability report. The 2020 Sustainability Report notes that the Sharrcem corporation aims to “reduce our environmental footprint, with a focus on de-carbonization and biodiversity”, and pays attention to the development of “employees and fosters constructive collaborations with ... neighbouring communities and other stakeholders.”<sup>366</sup> It also reports on the conduct of quality assurance and notes that it “observes the highest governance principles, seeking

360 United Nations, Human Rights Council (2015). Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Başkut Tuncak, A/HRC/30/40/Add. 1, 15 September. <https://uhri.ohchr.org/en/document/71bebb9f-466a-465a-8d41-b2090846c147>.

361 Nelt Group (n.d.) “Social Responsibility”. <https://www.nelt.com/en/about-us/social-responsibility/>.

362 Nelt Group (n.d.) “Sustainable Business”. <https://www.nelt.com/en/about-us/sustainable-business/>.

363 Ibid.

364 Ibid.

365 See, for example, Nelt Group (2019). Sustainability report 2018/2019. <https://www.nelt.com/en/media-center/reports/>.

366 Sharrcem (2021). 2020 Annual Sustainability Report, p. 19. [http://sharrcem.com/wp-content/uploads/2021/09/2020-Annual-Sustainability-Report\\_opt.pdf](http://sharrcem.com/wp-content/uploads/2021/09/2020-Annual-Sustainability-Report_opt.pdf).



consistent enhancement of its corporate governance performance and promoting transparency, sustainability and long-term value creation.”<sup>367</sup> It also reports on and measures in detail compliance with ESG indicators and the Code of Conduct of the Titan Cement International Group.<sup>368</sup>

Johnson Matthey DOOEL is the largest corporation by revenue in North Macedonia. It is an “emission control catalyst and car parts manufacturer”<sup>369</sup> and part of a large transnational chemicals corporation, with comprehensive sets of policies, disclosures and position statements concerning Business and Human Rights and sustainability throughout their global supply chains. In relation to their business operations in North Macedonia, they reported lowering carbon emissions at the Skopje factory.<sup>370</sup> However, a study by North Macedonian NGO Konekt in 2019 commented that overall, “almost half of the companies do not present an image of showing an interest in human rights.”<sup>371</sup> But when asked whether they are applying environmental protection measures, the vast majority of the companies in the study (83.3 percent) gave an affirmative answer.<sup>372</sup> In a more recent study, Konekt noted that “Many Macedonian (North Macedonia) companies as suppliers are already facing obligations imposed by large, multinational companies to respect and report on human rights as a condition for concluding a business cooperation agreement. Conversely, companies that do not incorporate respect for human rights in their operations are a risk to large multinational companies and will face termination of contracts which is already becoming a common practice. In North Macedonia, there have also been examples in the textile industry, where a foreign business partner terminated the contract with a North Macedonian company because of a lack of respect for human rights and labour standards.”<sup>373</sup> It added, “risk assessment and due diligence procedures are present in an extremely small number of companies, usually in larger ones.”<sup>374</sup>

The most prominent companies operating in Türkiye are from the petroleum, automotive, steel and home appliance sectors, e.g. Tupras, Ford Otomotiv, Toyota Türkiye, Oyak Renault, Tofas Turk Otomobil, Arcelik, Iskenderun Demir Celik, Ereğli Demir Celik, Icdas Celik and Hyundai Assan Otomotiv. Some of them have human rights policies (e.g. Toyota, Tupras).<sup>375</sup> Others have CSR policies that have sections of relevance to human rights (e.g. Oyak Renault; Tekfen Construction<sup>376</sup> has a Code of Business Conduct and an Antibribery and Corruption Policy,<sup>377</sup> which explicitly mention human rights and commits the company to comply with them). Guidance and procedures are used to operationalize those

367 Ibid., p. 58.

368 Ibid.

369 SeeNews. “Johnson Matthey DOOEL”. [https://seenews.com/companies/company\\_profile/johnson-matthey-dooel-411867](https://seenews.com/companies/company_profile/johnson-matthey-dooel-411867).

370 Ibid., Johnson Matthew Doel. 2021 *Annual Report and Records*, p. 67. <https://matthey.com/-/media/ARA-21/Files/JM-AR21-SECURED.pdf?page=62>.

371 Karajkov, Risto and Marija Dimitrovska (2019). Respect for human rights in the business sector. Research results. Skopje: Associatio Konekt, p. 7. <http://konekt.org.mk/wp-content/uploads/2019/03/lzvrsno-Rezime-ENG.pdf>.

372 Ibid., p. 8.

373 Ibid., p. 10.

374 Ibid., p. 12.

375 Türkiye Petrol Rafinerileri A.Ş. Human Rights Policy. [https://tupraswebpanel.tupras.com.tr/uploads/Politikalar\\_en/tupras\\_human\\_rights\\_policy.pdf](https://tupraswebpanel.tupras.com.tr/uploads/Politikalar_en/tupras_human_rights_policy.pdf).

376 Tekfen Construction. <http://www.tekfeninsaat.com.tr/#/en>.

377 Tekfen Engineering. CODE OF BUSINESS CONDUCT & ANTIBRIBERY AND CORRUPTION (“ABC”) POLICY. See <https://www.tekfenmuhendislik.com/corporate/code-of-conduct/>.

high-level documents, for example, Renault distributes the “Renault-Nissan Guidelines for Supplier CSR”,<sup>378</sup> which includes a section on human rights and labour rights, to all purchasing department staff worldwide and suppliers, and they are reflected in the Global Framework Agreement.<sup>379</sup> It is still, however, rather rare for Turkish companies to respond to queries concerning human rights, with Tekfen Construction being one of not many exceptions.<sup>380</sup> Another exception is Asya Port Liman Isletmeleri (‘Asyaport’), which completed in 2019 a gender-based violence risk assessment as part of the International Finance Corporation (IFC)’s Environmental and Social Review and based on the results agreed to promote equal opportunities in the project and reduce gender-based violence risks.<sup>381</sup> An interesting development is the certification of six companies in Türkiye as B-corps,<sup>382</sup> which while not necessarily requires undertaking HRDD, nevertheless points to an effort to make social outcomes an important part of business operations.

### 5.5.2. South Caucasus and Eastern Europe

The majority of HRDD practices in the South Caucasus and Eastern Europe region are linked to local subsidiaries of global corporations which require them to undertake at least some elements of HRDD. Yet, some early homegrown examples are slowly emerging such as the Ukrainian Corporate Equality Index (UCEI), a national study of corporate policies, rules and practices of private and state-owned companies promoting equality and diversity and prohibiting discrimination in the workplace. The index includes research on methods and tools enabling companies to prevent and combat discrimination in the workplace on the grounds of sex, age, disability, IDP status, sexual orientation, gender identity and more, as well as measures developed and implemented by companies to support diversity and promote equality. In 2020 for the first time, the UCEI emphasized the role of small businesses, including individual entrepreneurs, in ensuring respect for human rights, the values of equality, non-discrimination, diversity and inclusiveness.<sup>383</sup>

While BHR language is still resisted by some businesses, the OECD-backed Responsible Business Conduct (RBC) approach seems to be more easily taken on board. According to the OECD report, RBC-related principles and standards, including due diligence mechanisms, have been introduced in several SOEs in the subregion at supervisory and management board levels. For example, some SOEs, including Naftogaz and Ukrenergo, “have started adopting policies with regard to social

378 Renault Nissan (2015). Renault-Nissan Corporate Social Responsibility Guidelines for Suppliers. December. [https://www.renaultgroup.com/wp-content/uploads/2020/06/v1-20151215\\_rn-supplier-csr-guidelines-en.pdf](https://www.renaultgroup.com/wp-content/uploads/2020/06/v1-20151215_rn-supplier-csr-guidelines-en.pdf).

379 Ibid.

380 Business & Human Rights Resource Centre (2018). Response by Tekfen Construction to 2018 Questions for Construction Companies in Qatar Migrant Worker Rights. <https://media.business-humanrights.org/media/documents/Tekfen-Qatar-Aug-2018.pdf>.

381 International Finance Corporation (2020). Case study: Exploring Client Approaches to Gender-Based Violence Prevention and Response. Client: Asyaport – Infrastructure, Türkiye. <https://www.ifc.org/wps/wcm/connect/9ac525f6-0503-4115-a885-7458cd330b46/Case+Study+-+Asyaport+Türkiye.pdf?MOD=AJPERES&CVID=nx-ABJcl>.

382 B Lab certification is a third-party standard requiring companies to meet social sustainability and environmental performance standards, meet accountability standards, and be transparent to the public according to the score they receive on the assessment. B Lab certification applies to the whole company across all product lines and issue areas. Further information is available at: <https://www.bcorporation.net/en-us/>. As an example, see B Corporation. TAZE KURU GIDA PAZARLAMA INC, certified since March 2016: <https://www.bcorporation.net/en-us/find-a-b-corp/company/taze-ku-ru-gida-inc>.

383 Ukrainian index of corporate equality. <https://www.t-o.org.ua/cei>.

*The current reality is that most SEOs in the subregion are state-owned coal mines which have high levels of emissions; their activities and unsustainable mine closures contribute to excessive water and land pollution.*

and environmental protection, and anticorruption programmes, while introducing due diligence mechanisms. In addition, both SOE and JSC laws stipulate that representatives of local self-government bodies, trade unions, and labour collectives that have established an agreement with the company may participate during supervisory board meetings. The responsibilities of the representatives, however, are not specified in the law, though in case of participation, they may cast an advisory vote". Naftogaz is also reported to having established a Committee on Health, Safety, Environment and Reserves, which is responsible for developing a health, safety and environment strategy, policies, plans and risk assessment mechanisms. The company has also created an integrated management unit that monitors RBC-related risks, and has adopted relevant environmental, social (including health and safety) and anticorruption policies. Along with communicating risks, Naftogaz discloses relevant indicators and adheres to the Global Reporting Initiative; similar standards, due diligence and disclosure mechanisms have been introduced in other SOEs, including Ukrenergo. Naftogaz and its subsidiaries also provide contributions to local communities where they operate, while Ukrhydroenergo engages in cross-border collaboration to ensure the sustainability of water reservoirs.<sup>384</sup>

Overall, however, there is still a long way to go until the majority of SOEs adopt RBC policies and implement due diligence mechanisms. The current reality is that most SOEs in the subregion are state-owned coal mines which have high levels of emissions; their activities and unsustainable mine closures contribute to excessive water and land pollution. Moreover, workers in state-owned mines often face non-payment of their wages and face health and occupational safety risks, while measures to minimize hazards remain limited.

In Georgia, there are positive developments. Since 2019, 43 local companies have signed onto the Women's Empowerment Principles, which offer guidance to businesses on promoting gender equality and women's empowerment in the workplace, marketplace and community.

In Belarus, the COVID-19 pandemic was a good opportunity to showcase respect for the right to health. It was reported that "the network of pharmacies ADEL and 'Dobryya Leki' have launched the possibility of online ordering of drugs with the delivery to the nearest pharmacy. The example of this network of pharmacies is very indicative: while caring about their clients on the one hand, the safety of employees ... and therefore of the other part of customers (who come to the pharmacy). This once again proves the need for an integrated and systematic business approach to the development of measures to prevent COVID-19 from spreading".<sup>385</sup> Meanwhile, a recommendation<sup>386</sup> from the National Bank of Belarus to Belarusian banks was made to provide "credit holidays": "Speaking about the likelihood of a reduction in the income of business enterprises due to the limitation or impossibility to operate, which may entail, first of all, the need to provide employees with a social leave with partial pay and secondly, it could entail the conditions when many citizens may be forced to be on social leave without pay. Therefore, the National

384 OECD (2021). *OECD Review of the Corporate Governance of State-Owned Enterprises: Ukraine*. <https://www.oecd.org/corporate/SOE-Review-Ukraine.pdf>.

385 Deikalo, Ekaterina and Oleg Hulak (2020). "COVID-19, бизнес и права человека: вызовы и стратегии поведения (аналитическая записка)", 30 March. [Russian]. [https://belhelcom.org/sites/default/files/covid-19\\_businesshuman\\_rights\\_5.0.pdf](https://belhelcom.org/sites/default/files/covid-19_businesshuman_rights_5.0.pdf).

386 Letter from National Bank sent on 20 March 2020, No. 04-14 / 322 "On the return (repayment) of the loan".

*...companies do not properly understand the concept of Business and Human Rights and that the tools to implement respect for human rights differ in practice from those used in CSR.*

Bank recommended considering the possibility of deferring the return and payment of interest on the loan."<sup>387</sup>

### 5.5.3. Central Asia

There are some positive examples of human rights commitments by companies in Central Asia. For example, the HeidelbergCement Group<sup>388</sup> is committed to its responsibility to protect human rights and declares that it follows the UNGPs, OECD Guidelines for MNEs and the eight core labour conventions, and that it "ensure(s) fair working conditions and compliance with applicable labour laws. HeidelbergCement takes a clear position against modern slavery, forced or compulsory labour, child labour and human trafficking in all areas of our business. As part of our commitment as an employer, we support equality and inclusiveness in the workplace and do not tolerate any form of (illegal) discrimination, harassment or violence. We engage in an open, fair and constructive dialogue with our employee representatives regarding their rights to freedom of association and collective bargaining, including on health and safety issues."<sup>389</sup> However, such declarations are still rare in the region.

A positive trend in the subregion is linked to ILO and OECD initiatives focused on SOEs, for example in Kazakhstan and Uzbekistan. Technical knowledge of how to integrate respect for human rights into company operations is being shared by companies, mostly foreign and international. For example, BSR<sup>390</sup> helped the telecommunications firm Telia Company integrate human rights into business decision-making by Human Rights Impact Assessments (HRIAs) in six Eurasian markets where the company is exiting. In September 2015, Telia Company announced its intention to divest from the Eurasia region, including through the sale of its subsidiaries in Azerbaijan, Georgia, Kazakhstan, the Republic of Moldova, Tajikistan and Uzbekistan. For this reason, Telia Company sought to create a "responsible divestment plan" that would take into consideration the human rights impacts, risks and opportunities arising from the divestment, including: how to minimize human rights risks from the announced sale; what to look for in the due diligence of potential buyers, such as their human rights record and commitments; and what activities to undertake during the sales period, such as using the final HRIA reports to build the capacity of the buyer to manage its new assets with respect for human rights.<sup>391</sup>

A significant challenge is the attitude of companies to their human rights obligations. Even among companies with human rights policies at the group level (usually with headquarters outside of the region), there is often a case of reading them through the lens of corporate social responsibility. Moreover, the appearance of SDG or ESG strategies, on top of CSR policies, results in additional confusion for understanding the concepts, leading to the vast majority of companies not implementing such policies properly in practice. This is because companies do not

387 Deikalo, Ekaterina and Oleg Hulak (2020), p. 17.

388 HeidelbergCement is active in several countries in Europe and Central Asia, in particular Bosnia and Herzegovina, Kazakhstan and Georgia, and Albania. See <https://www.heidelbergcement.com/en/northern-and-eastern-europe-central-asia>.

389 HeidelbergCement Kazakhstan. "Позиция ХайдельбергЦемент в сфере защиты прав человека". [HeidelbergCement's position on human rights protection]. <https://kz.heidelbergcement.com/ru/node/7183>.

390 Business for Social Responsibility (BSR). <https://www.bsr.org/en/about>.

391 BSR (2017). "Telia Company: Human Rights Impact Assessments". Case studies. 12 July. <https://www.bsr.org/en/our-insights/case-study-view/telia-company-human-rights-impact-assessments>.

properly understand the concept of Business and Human Rights and that the tools to implement respect for human rights differ in practice from those used in CSR.

## 5.6. Pillar II conclusions

### 5.6.1 The Western Balkans and Türkiye

The current state of Business and Human Rights in the business sector in the countries and territories of the Western Balkans and Türkiye is deficient. Several foreign investors have exercised negative influence on domestic legal systems through their corporate and business culture and models, pressuring governments to grant them subsidies and favourable tax treatment and exemption from domestic labour, human rights and environmental legislation. Apart from Serbia, corporations in most States in the subregion are not obliged to report on non-financial indicators of their business operations. On the other hand, some positive influence of foreign investors exists, mostly from those based in EU member states and in the United States, which require their subsidiaries in the Western Balkans to report and measure BHR in their global supply chains. There are best practices in several countries and territories of corporations reporting on non-financial indicators and conducting mandatory due diligence. As such, the incentive for BHR regulation derives mostly from private corporations, which, to stay competitive in global markets, are subscribing to non-financial reporting and due diligence.

Nonetheless, the approach seems isolated, scattered and piecemeal. The EU, as the principal international actor in this subregion, has so far not pressured States to introduce BHR standards; the weak rule of law and institutions have been more pressing concerns. However, the rule of law goes hand in hand with respect for BHR; the EU could do more to provide incentives for countries and territories to bring about positive change.

### 5.6.2. South Caucasus and Eastern Europe

Despite the global push for ESG reporting and indicators to help advance the transition to a sustainable economy, non-financial reporting practice in the South Caucasus and Eastern Europe subregion is very limited. The lack of guidance or reporting regulations tailored to the subregion is affecting the number and quality of non-financial reporting. Stock exchanges are not putting forward such expectations for listed companies. While some SOEs in Ukraine are leading the way, this is not the case in other countries and territories in the subregion. The group of businesses that do non-financial reporting is small, even if considering reports recorded in the GRI database and by some SMEs, which are keeping an active member status with UNGC by submitting Communications on Progress.

Across the subregion, BHR and RBC awareness is much more developed among multinational enterprises than national ones, with the majority of domestic companies being micro, small and medium enterprises. Therefore, States and business communities must adjust tools and guidance to this context. This might be easier in some countries, like Georgia and Ukraine where BHR organizations like the Global Compact Network Georgia and the academic community in Ukraine are very active and well-versed in the areas and can share this knowledge with private and public actors.

Unlike good practices, reports of human rights violations are plenty, not

only in such dominant sectors as the extractive and mining, chemical, agricultural, garment and textile, and construction industries. Yet, there are also signs of the impact and empowerment of local communities by CSOs and other actors, which has resulted in some victories, for example, in the prevention of significant investment in construction projects. Finally, the positive impact of EU investments and the EU affiliation process can be seen, as the approximation of the laws has led to societal change, particularly in terms of equal treatment.

### 5.6.3. Central Asia

In the Central Asia subregion, the extractive and mining, chemical, agricultural sector, garment and textile, and construction industries operate with high risks of negative impact on human rights. At the same time, the subregion is characterized by a very limited number of human rights policies and corporate tools to assess and mitigate human rights risks and to communicate about such risks with rights-holders in particular communities. A positive example is provided by Uzbekistan where a multilayered approach to the fight against forced labour resulted in a significant reduction of cases of forced labour in the cotton industry.

Corporate management practices that are commonly utilized by businesses in the subregion are basic and do not include human rights standards as a reference point for risk assessment and determining the possible impact on human rights. While there are no UN Global Compact Local Networks operating in the subregion, a few companies are active members of the UN Global Compact: seven companies (four of them SMEs) in Kazakhstan, three companies in Uzbekistan and one SME in Kyrgyzstan. While some CSR networks seem to be operating in the region, there is hardly any information about their activities.

*At the same time, the subregion is characterized by a very limited number of human rights policies and corporate tools to assess and mitigate human rights risks and to communicate about such risks with rights-holders in particular communities.*

## 6. Pillar 3 – Access to remedy

As attacks against Business and Human Rights Defenders and violations of workers' rights mount, there is a need for increased legal protection in the region. Unfortunately, court systems are often inefficient and politically influenced, with access to remedy severely affected by the length of proceedings. Only three countries in the region—Kazakhstan, Türkiye and Ukraine—have National Contact Points for the OECD Guidelines for Multinational Enterprises. Trust in the justice system is low due to the weakness of guarantees of the rule of law and the high level of corruption, with people using such alternative routes as complaints to NHRIs or the institutions for complaints to a country's leadership. Business is often a part of corrupt schemes. This is a challenge not only for countries and territories of the region but also for companies registered in the EU, because they need to control their supply chains. In such circumstances, it is not easy to count on the practical implementation of Business and Human Rights standards. Furthermore, there is a lack of good practices of establishing internal company grievance mechanisms.

### 6.1. State judicial mechanisms

#### 6.1.1. The Western Balkans and Türkiye

The legal systems of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia theoretically provide access to judicial remedies in case of human rights violations, including business-related human rights violations, and access for victims to free legal advice. The European Court of Human Rights has delivered several judgments against all states, except for Kosovo. However, countries and territories have prolonged and been inefficient in adopting individual and general measures in executing the judgments. Access to a fair, impartial, and independent system in domestic judiciaries has been subjected to corruption, nepotism and conflict between business and public interests for decades. Local experts have observed that judicial processes are neither fair nor independent in the most controversial cases, where governmental structures are indirectly involved in judicial decision-making.

Substantive and procedural fairness are only possible in less sensitive cases, which do not include the interests of business and political elites. Vehabović, a former judge at the European Court of Human Rights, on behalf of Bosnia and Herzegovina, highlighted “the weak capacity of democratic institutions due to complex constitutional structure” in Bosnia and Herzegovina.<sup>392</sup> The European Commission observed in its 2020 Progress Report on Bosnia and Herzegovina that “The rule of law

392 Vehabović, Haris (2016). “Bosnia and Herzegovina”. In *The Impact of the ECHR on Democratic Change in Central and Eastern Europe: Judicial Perspectives*, Iulia Motoc and Ineta Ziemele, eds. Cambridge: Cambridge University Press, p. 107.

and the functioning of the judiciary continue to be a crucial weakness. Improvements in this area have remained very limited.”<sup>393</sup> Similarly, the European Commission observed in 2020 that “challenges remain, particularly regarding the judiciary’s independence, professionalism, efficiency and accountability. It is essential that Montenegro does not reverse earlier achievements in judicial reform. Corruption remains an issue of concern and Montenegro needs to take more proactive steps to ensure maximum integrity, impartiality and accountability of the Anti-Corruption Agency”.<sup>394</sup>

#### 6.1.2. South Caucasus and Eastern Europe

The legal system in countries of the South Caucasus and Eastern Europe subregion is a civil law system with legal separation of branches and institutions; the main source of law is a legal act, not a precedent. There are serious concerns about the judicial system’s independence across the subregion, its ability to objectively adjudicate cases due to corruption and lack of independence from governments (particularly in Azerbaijan and Belarus), and pressure to favour the central government. The subregion is also affected by the length of proceedings. To protect their financial interests, foreign investors tend to look to investment treaties and established Alternative Dispute Resolution mechanisms. The subregion is currently supported through the Council of Europe–European Union Partnership for Good Governance programme, “Support to the judicial reform – enhancing the independence and professionalism of the judiciary”, which began in January 2019 to run for 36 months and implemented in all Eastern Partnership countries and territories.<sup>395</sup>

Some positive developments have taken place but seem too insignificant to be able to change the judicial landscape. For example, there were judicial reforms in Azerbaijan, supported by the programme described above, which foresaw an increase in the number of judges from 200 to 800 based on presidential decree, making judge’s salaries exempt from income tax, and the creation of separate administrative and commercial courts (tasked to deal with business activities, including tax disputes and customs duties) in place of administrative-economic courts.<sup>396</sup> Such reforms relate not only to the fact that Azerbaijan ranked last among the 45 member states of the Council of Europe in terms of public funds allocated to the judicial system but mainly due to the problem of political interference in the work of the courts. Concerns have been raised that the judicial reform was meant more to attract foreign investors than to lead to real change, as with “no political will among the authorities for the existence of an independent judiciary, ‘all laws, orders, and negotiations with the Council of Europe, the EU, and other powerful international forces, will be reduced, at best, to declarations, manipulations, and other

393 European Commission (2020). Bosnia and Herzegovina 2020 Report. Commission Staff Working Document, Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020, SWD(2020) 350 final, p. 50. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/bosnia_and_herzegovina_report_2020.pdf).

394 European Commission (2020). Montenegro 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020 SWD(2020) 353 final, p. 19. [https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/montenegro\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/montenegro_report_2020.pdf).

395 See Council of Europe. Partnership for Good Governance I. <https://pip-eu.coe.int/en/web/eap-pcf>; and the Armenia section at: <https://pip-eu.coe.int/en/web/eap-pcf/armenia>.

396 Abubakirova, Sabina (2019). “Half-measures: Azerbaijani judicial reform brings ‘no independence’ from government”, OC Media, 12 July. <https://oc-media.org/features/half-measures-azerbaijani-judicial-reform-brings-no-independence-from-government/>.

kinds of games’.”<sup>397</sup>

In Armenia, reform of the judiciary, which before the Velvet Revolution was perceived as often carrying out orders from the executive,<sup>398</sup> seems to not be progressing well despite support from the Council of Europe, with crisis around the Constitutional Court being just part of the problem. On the positive side, the Armenian Civil Procedure Code allows collective lawsuits (claims) to be brought against businesses for human rights violations: a claim submitted jointly by at least 20 co-plaintiffs shall be deemed a group action, where a claim is initiated against the same respondent, and the subject matter and the ground of the claim are the same.<sup>399</sup> Also, the Administrative Procedure Code enables NGOs to represent the legal interests of their beneficiaries in court in the field of environmental protection. However, this right is limited by several conditions, the primary being that the NGO needs to have environmental protection as a goal in its statute. It also must be active in this field for at least two years before filing the claim.<sup>400</sup>

A similar problem seems to be faced by Georgia, where reforms are focused on enhancing the accountability and efficiency of the judicial system and the professionalism of lawyers.<sup>401</sup> According to the Georgian Institute of Politics Policy Brief, “while recent waves of reforms did improve [the] institutional quality of Georgia’s justice system formally, [the] main challenges of the system remain unanswered. Judicial corporatism, lack of transparency, and politicization keep undermining the integrity of Georgia’s justice system and overall democratic consolidation. While the EU does not apply strict conditionality on Georgia for now, these challenges may become a major stumbling block for Georgia’s next steps in the European integration process”.<sup>402</sup> However, it seems that courts are effective on labour issues, with workers being able to count on trade unions’ support. A positive sign of change is that even cases against ministries are being won.<sup>403</sup>

In relation to Ukraine’s judicial system, according to the National Strategy for Human Rights (Chapter 4), the problems to be solved include the excessive length of proceedings in administrative, civil and criminal cases; insufficient inclusiveness and accessibility of trials; cases of violation of the right to defence, the right to remain silent and not to testify against oneself; and prolonged non-enforcement of court decisions.<sup>404</sup> Also, human rights organizations point to such problems as partial territorial inaccessibility of courts, problems with the accessibility of courts for low

397 Ibid.

398 JAMnews (2020). “Why the Armenian gov’t has waited two years to reform the judicial system”, 10 July. <https://jam-news.net/armenia-judicial-reform-steps-authorities-criticism-opposition/>.

399 For a detailed overview of various legislation and judicial system-related issues, see: Narine Beglaryan and Harutyun Hovhannisyanyan, “Armenia”. In: Roger Lees and Anna Kirkpatrick (eds). Business and Human Rights 2021. Lexology, Law Business Research Ltd.

400 Ibid., p. 10.

401 Council of Europe. Georgia: Enhancing the accountability and the efficiency of the judicial system and the professionalism of lawyers (PGG). <https://www.coe.int/en/web/cdcj/georgia-enhancing-the-accountability-and-the-efficiency-of-the-judicial-system-and-the-professionalism-of-lawyers-pgg>.

402 Erkvania, Tinatin and Bidzina Lebanidze (2021). “The Judiciary Reform in Georgia and its Significance for the Idea of European Integration”, Georgian Institute of Politics Policy Brief #31, January.

403 Interview with Georgian public official (notes on file with the author), 17 September 2021.

404 Ukraine, Government of (2021). Decree of the President of Ukraine on the National Strategy for Human Rights. <https://zakon.rada.gov.ua/laws/show/119/2021#-Text>.

mobility groups (persons with disabilities), problems of ensuring financial accessibility of courts for people (due to increasing court fees), limited access to court for persons living in the occupied territories, as well as areas of hostilities, and restrictions on the protection of rights in court through the introduction of fines for abuse of procedural rights with the expansion of the category of actions that can be regarded as such abuse.

As for the possibility of class actions, the current Civil Procedure Code of Ukraine does not provide for the possibility of filing lawsuits to protect group interests, even though substantive law in some cases allows them to be filed (e.g. paragraph 9 of Part 1 of Article 25 of the Law of Ukraine “On Consumer Protection” equips consumer associations with the right to sue the actions of the seller and manufacturer (enterprise performing their functions). Another limited procedural possibility of filing group (or collective) lawsuits is provided for in Article 32 of the Civil Procedure Code of Ukraine, according to which the claim may be filed jointly by several plaintiffs or several defendants. However, the mechanism is not sufficiently regulated, and the practice of such lawsuits is not widespread.<sup>405</sup> Today, the most well-known class action lawsuit in Ukraine is the lawsuit filed by 750 PrivatBank clients against the unauthorized transfer of personal data, which was filed with the Pechersk District Court of Kyiv.

A separate issue is the possibility of filing lawsuits to protect the public interest. The current legislation of Ukraine does not contain a minimum legal regulation of this institution. The lack of regulation of the procedure in practice leads to the fact that the courts do not recognize claims for protection of the public interest. And yet, the Grand Chamber of the Supreme Court in the decision of 11 December 2018 in case N° 910/8122/17 concluded that the environmental organization (charitable) has the right to represent in court the environmental interests of society and its members in order to protect the violated environmental rights of people or in order to eliminate violations of environmental legislation.<sup>406</sup>

### 6.1.3. Central Asia

While there are formal guarantees of the judicial independence in Central Asia, in practice the judiciary is subject to political influence. Government interference and corruption are common. The judicial system is “used to further the regime’s agenda rather than to protect the rights of citizens”.<sup>407</sup> The Special Rapporteur on the independence of judges and lawyers noted in relation to Uzbekistan governmental authorities, and in particular the President, that they retain important functions in relation to the organization and functioning of the judicial system. The pyramid structure of the justice system and the extremely broad powers of the presiding judges with regard to the selection, promotion, evaluation and discipline of judges also contribute to limiting the capacity of individual judges to adjudicate cases before them impartially and autonomously.<sup>408</sup> However,

405 УННРУ (2017). “Проблеми забезпечення права на справедливий суд – О. Овчаренко” [Problems of ensuring the right to a fair trial – O. Ovcharenko]. 8 March. <https://helsinki.org.ua/problemy-zabezpechennya-prava-na-spravedlyvyj-sud-o-ovcharenko/>.

406 Interfax (2018). “Колективні позови передбачені законодавством, але їхні механізми не врегульовані – юристи” [Collective lawsuits are provided by law, but their mechanisms are not regulated – lawyers]. 5 July. <https://ua.interfax.com.ua/news/general/516271.html>.

407 Freedom House (2021). Nations In Transit 2021: Turkmenistan. <https://freedomhouse.org/country/turkmenistan/nations-transit/2021>.

408 United Nations, Human Rights Council (2020). Visit to Uzbekistan. Report of the Special Rapporteur on the independence of judges and lawyers, A/HRC/44/47/Add. 1, 20 April. <https://uhri.ohchr.org/en/document/33c1ce79-4bd8-4198-8453-f0076e4779a8>.

***In relation to Ukraine’s judicial system...the problems to be solved include the excessive length of proceedings in administrative, civil and criminal cases; insufficient inclusiveness and accessibility of trials; cases of violation of the right to defence, the right to remain silent and not to testify against oneself; and prolonged non-enforcement of court decisions.***

***While there are formal guarantees of the judicial independence in Central Asia, in practice the judiciary is subject to political influence.***

State authorities claim that so-called “telephone justice”, that is, the practice of interfering with judicial decision-making by putting pressure on the judge on how to adjudicate the case, is a remnant of the past.

Victims often face difficulty accessing remedy through the judicial system due to legal, financial and practical barriers. For example, in Tajikistan, publicly significant cases are usually heard behind closed doors, with civil society and independent media barred from monitoring court proceedings. The chance of a successful appeal is highly unlikely; in the first half of 2020, less than 0.2 percent of all decisions were successfully appealed. Overall, the justice system is yet to comply with human rights standards. Among the gaps in the field of judicial protection of human rights is the lack of training programmes for judges, lawyers and law enforcement officers on Business and Human Rights. Barriers to access to justice in Tajikistan correlate to the lack of transparency of Tajikistan’s regulatory system. Despite recent improvements to allow access to presidential decrees and laws online, governmental instructions, ministerial memos and regulations are often inaccessible to the public. Business people and investors must purchase access to Adliya, a commercial legal database, to obtain updated legal and regulatory information.<sup>409</sup> Each ministry has its own set of unpublished regulations, and these may contradict the laws and/or regulations of other ministries. The Tajik government rarely publishes proposed laws and regulations in draft form for public comment.

Tajikistan was recommended by the UN Human Rights Committee to guarantee the full independence and safety of lawyers so that they can carry out their legitimate duties without any harassment, undue interference or fear of arbitrary criminal prosecution and conviction or of other retaliatory measures.<sup>410</sup> In Uzbekistan, the most common procedural and practical barriers to access to remedy for victims of human rights abuses by businesses are: 1) Significant difficulties accessing the information and evidence necessary to prove a claim; 2) Rules on applicable laws restrict access to effective remedy; 3) Collective redress mechanisms such as class actions are not available; 4) Victims cannot access justice because of financial reasons; 5) The judiciary lacks adequate resources, expertise and support; 6) Political interference with the justice system; and 7) Significant delays in case handling. Another issue is lack of accessibility of court proceedings for people with disabilities.<sup>411</sup> These problems are common for all countries of the subregion.

This situation needs to improve throughout the subregion. For example, according to the Special Rapporteur on the independence of judges and lawyers, Uzbekistan’s low number of lawyers, too low to make the system efficient, is a matter of serious concern. At the time of the Special Rapporteur’s visit, there were approximately 4,000 lawyers in the country, with most lawyers residing and working in Tashkent. In other areas of the country, there is a dramatic shortage of lawyers, which has a serious impact on access to justice.<sup>412</sup>

409 See Adlia. <http://www.adlia.tj/>.

410 United Nations ICCPR (2019). Concluding observations on the third periodic report of Tajikistan. CCPR/C/TJK/CO/3, 22 August. <https://uhri.ohchr.org/en/document/722f6192-8f4b-40f4-887f-806ca882cedd>.

411 United Nations, Human Rights Council (2020). Visit to Uzbekistan. Report of the Special Rapporteur on the independence of judges and lawyers, A/HRC/44/47/Add.1, 20 April. <https://uhri.ohchr.org/en/document/33c1ce79-4bd8-4198-8453-f0076e4779a8>.

412 Ibid.

Barriers have increased with the COVID-19 pandemic. The International Commission of Jurists was concerned that in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan the COVID-19 pandemic, and measures purportedly taken to contain it, have significantly curtailed access to justice. Restrictions have affected the operation of courts and impeded lawyers’ abilities to provide effective legal assistance to their clients.<sup>413</sup>

## 6.2. State non-judicial mechanisms

In the region, there are no typical state-based non-judicial grievance mechanisms with the exception of the OECD NCPs in Kazakhstan, Türkiye and Ukraine. However, this role may be played to a certain extent by NHRIs, labour inspectorates and Personal Data Protection Institutions, and in some countries and territories the institution of complaints to the President of the country. As NHRIs were covered in detail under Pillar 1, to avoid repetition, only basic information about NHRIs will be provided in this chapter.

### 6.2.1. The Western Balkans and Türkiye

The state non-judicial mechanisms in the Western Balkans, the National Human Rights Institutions, do not have explicit mandates to cover the private sector nor handle complaints against private bodies. They can reach them only indirectly through handling complaints against public bodies for failing their obligations to respect and observe human rights. The exception is the Commissioner for the Protection of Equality of Serbia, who is competent to examine complaints against corporations and other stakeholders in the private sector concerning violations of the principle of equal treatment in labour relations.<sup>414</sup> In 2020, 27 percent of complaints received by the Commissioner concerned alleged violations of the equal treatment principle in the private sector.<sup>415</sup>

States of the Western Balkans are not state parties of the OECD and therefore do not have NCPs, with the sole exception being Türkiye. In Türkiye, the Ministry of Industry and Technology – General Directorate of Incentive Implementation and Foreign Investments is designated as the OECD National Contact Point of Türkiye to promote the OECD Guidelines and to examine and resolve complaints. The NCP has adopted individualized decision-making.<sup>416</sup> So far, six complaints have been handled by the Turkish NCP since 2008, the most recent one having an initial assessment published in 2020.<sup>417</sup> Nonetheless, some NCPs outside the subregion have considered complaints concerning violations of the OECD Guidelines in the subregion. The French National Contact Point has recently done so in the report, “Teleperformance in France and the World”, examining the compliance of teleperformance with the OECD Guidelines for Multinational Enterprises during the COVID-19 pandemic in several

413 ICJ (2020). Central Asia: ICJ calls on Central Asian States to ensure access to justice during the COVID-19 pandemic, 30 July. <https://www.icj.org/wp-content/uploads/2020/07/Central-Asia-Statement-COVID-19-Advocacy-2020-ENG.pdf>.

414 Republic of Serbia (n.d.) “Background Information”. The Commissioner for the Protection of Equality. <http://ravnopravnost.gov.rs/en/background-information/>.

415 Republic of Serbia (2021). *Regular Annual Report of the Commissioner for the Protection of Equality for 2020*. March, p. 41. <http://ravnopravnost.gov.rs/wp-content/uploads/2021/04/Regular-Annual-Report-of-the-CPE-for-2020-za-sajt.pdf>.

416 The Turkish OECD National Contact Point. <https://www.sanayi.gov.tr/anlasmalar/utn-ncp>.

417 See OECD National Focal Point (UTN/NCP) (Türkiye). <https://www.sanayi.gov.tr/anlasmalar/utn-ncp/a11610>.

countries and territories, including Albania.<sup>418</sup> In terms of teleperformance's business operations in Albania, the French NCP noted that, "The NCP recalls the importance of workers' freedom of association respect as provided for in the OECD Guidelines and the 1998 ILO Declaration in all Teleperformance countries and territories. The NCP recommends that the Group ensure, as soon as possible, that its Albanian and Colombian subsidiaries respect the right of workers to form or join trade unions and representative organizations of their choice. The NCP recommends that the Group, including from its headquarters, exercise a particularly strengthened vigilance in dismissals involving staff representatives, trade union representatives and unionized workers in its countries and territories of activities. The NCP recommends that the Group provide appropriate remediation measures if cases of non-compliance with the OECD Guidelines are found."<sup>419</sup> Also, it recommended concerning due diligence that, "The NCP recommends that Teleperformance strengthen its due diligence towards its subsidiaries in Albania, Colombia, India and the Philippines to ensure compliance with employment and industrial relations recommendations of the OECD Guidelines by its subsidiaries in those countries and territories provide appropriate remediation measures if non-compliances with the OECD Guidelines are found."<sup>420</sup> Nonetheless, very few complaints concerning alleged violations of OECD Guidelines in the region have been dealt with in the subregion or outside of it.

Labour inspections could provide an opportunity for enforcing corporate responsibility for violations of labour rights, as explored in the chapter on Pillar I. The UN Committee on Economic, Social and Cultural Rights observed in 2014 in Concluding observations on Montenegro that there exists "inadequate capacity of the Directorate for Inspection Affairs, including the Labour Inspectorate, to regularize the informal economy, to sanction employers who violate the Labour Act, and to prevent occupational accidents and diseases (arts. 6 and 7)."<sup>421</sup> It, therefore, recommended "the State party to take effective measures to ensure that private companies respect their obligations to guarantee the right of workers to remuneration and regular payment of their social and health contributions, as well as their right to an indefinite contract as stipulated in the Labour Act. The State party should also increase the resources and the capacity of the Directorate for Inspection Affairs, including the Labour Inspectorate, to regularize the informal economy and to effectively ensure just and favourable conditions at work through the implementation of both preventive and punitive measures."<sup>422</sup>

418 French National Contact Point (2021). "Teleperformance in France and the World", 5 July. <https://www.tresor.economie.gouv.fr/Articles/dd4bdb48-bac2-4e89-83a5-6f41be82247c/files/49d93040-0527-4c2e-9ffa-4f7f2dc3cd94>. See also, Teleperformance. "Teleperformance Albania". <https://www.teleperformance.com/en-us/our-locations/albania>. For news about practices, see UNI Global Union (2021). "French OECD contact point calls on Teleperformance to strengthen efforts to ensure respect for human rights, worker safety", 2 August 2. <https://uniglobalunion.org/news/french-oecd-contact-point-calls-on-teleperformance-to-strengthen-efforts-to-ensure-respect-for-human-rights-worker-safety/>; Business & Human Rights Resource Centre (2020). "Unions file OECD complaint against contact co. Teleperformance, following concerns of union busting & workers' health and safety during pandemic". 13 April. <https://www.business-humanrights.org/de/neuste-meldungen/philippines-employees-report-sub-human-conditions-in-their-company-provided-quarters-teleperformance-did-not-respond/>.

419 French National Contact Point (2021). "Teleperformance in France and the World", 5 July, Recommendation 5, p. 14. <https://www.tresor.economie.gouv.fr/Articles/dd4bdb48-bac2-4e89-83a5-6f41be82247c/files/49d93040-0527-4c2e-9ffa-4f7f2dc3cd94>.

420 Ibid., Recommendation 6, p. 14.

421 United Nations Committee on Economic, Social and Cultural Rights (2014). Concluding observations on the initial report of Montenegro. E/C.12/MNE/CO/R.1. 15 December, para. 14. <https://digitallibrary.un.org/record/783412?ln=ru>.

422 Ibid., para. 14.

**Labour inspections could provide an opportunity for enforcing corporate responsibility for violations of labour rights...**

## 6.2.2. South Caucasus and Eastern Europe

The only OECD National Contact Point in the South Caucasus and Eastern Europe subregion is that of Ukraine,<sup>423</sup> which in 2017 became a signatory to the OECD Declaration on International Investment and Multinational Enterprises. As a signatory country to the OECD Declaration, Ukraine has committed to implementing the OECD Guidelines and has established a National Contact Point under the Ministry of Economy. Like NCPs of Kazakhstan and Türkiye, it has adopted individualized decision-making, and as is the case with the majority of the NCPs with individualized decision-making is located in a ministry with an economic or investment portfolio, in this case the Ministry of Economic Development and Trade. The Ukrainian NCP reports having an advisory body composed of business, trade union and NGO representatives<sup>424</sup> whose advice is to be sought in relevant instances. However, in practice the advisory bodies are not independent and should not be mistaken for expert advisory bodies which serve NCPs rooted strongly in governmental administration with independent and unbiased opinions and recommendations.<sup>425</sup> Still, at the moment, discussion is theoretical, as this NCP has not yet received a specific complaint. The NCP occasionally undertakes awareness-raising activities around the OECD Guidelines for Multinational Enterprises.<sup>426</sup>

Except for Belarus, all of the subregion's countries have NHRIs, which can (as described earlier) if not directly handle complaints against businesses then can indirectly address them by putting forward recommendations to develop relevant legislation to limit abuses by business.

Another mechanism is labour inspections; however, they require time and money. There are mixed trends in relation to labour inspections. In Georgia, the labour inspectorate is becoming stronger and better equipped and financed every year, now even more so as they also oversee COVID-19 regulations. The labour inspectorate had to be rebuilt from zero, as it was dissolved in 2006 in an effort to fight corruption (as indicated by the authorities) and recreated again in 2013/2014, initially with a scope covering only OHS issues, but now also covering human rights. In Azerbaijan, labour inspections are suspended, unless complaints about violations reach them. However, recently, Boards of Appeal were established within central and local executive authorities and operate on a public basis under the Presidential Decree, as does the newly established mediation institution. In Armenia, there are no state-based non-judicial grievance mechanisms. The labour inspectorate that was created and operated for some time was dissolved once international funding stopped. The situation improved after the change of government, with a new labour inspectorate being operational again.

In Ukraine, there are a number of state-based non-judicial bodies available to receive complaints of human rights violations by businesses: the OECD NCP, the Ombudsman's office and/or the NHRI; labour inspectorates and

423 For details, see the official Ukrainian NCP website, <https://ncp.gov.ua/?lang=en>, and the OECD Watch Website dedicated to NCPs, <https://www.oecdwatch.org/ncp/ncp-ukraine/>.

424 OECD (2019). Guide for National Contact Points on Structures and Activities. OECD Guidelines for Multinational Enterprises, Table 3. Characteristics of advisory bodies across in NCPs, p. 24. <https://mneguidelines.oecd.org/Guide-for-National-Contact-Points-on-Structures-and-Activities.pdf>.

425 Ibid.; For a thorough evaluation of the NCP, see the OECD Watch website: <https://www.oecdwatch.org/ncp/ncp-ukraine/>

426 For example, CSR Ukraine (2019). "Eco-marathon Green Business Ukraine 'OECD Guidelines for responsible business conduct'", 12 September. <https://ncp.gov.ua/eco-marathon-green-business-ukraine.html?lang=en>.

**Under some jurisdictions, it is mandatory to try mediation to solve employee-employer disputes before a case can be brought to the courts.**

public health and safety bodies; consumer protection bodies; privacy and data protection bodies; and equality bodies. In one case, “Citizen Sh.” appealed to the Ombudsman regarding the violation by the employer of his right to timely remuneration for work for “K” LLC at a construction site. The Commissioner requested the State Labour Inspectorate to carry out an inspection visit to LLC K at the place of its legal registration and the place of actual execution of LLC K’s construction work. According to the State Labour Inspectorate, there were no signs of undeclared work between K LLC and Citizen Sh.; however, according to the applicant, as of December 2020, K LLC continued to provide construction services at the actual address in Kyiv. Given the above, the Commissioner reiterated recommendations to the management of the State Labour Office to take appropriate control measures.

Under some jurisdictions, it is mandatory to try mediation to solve employee–employer disputes before a case can be brought to the courts. Georgia has established the Georgia Office of (Alternative) Dispute Resolution.<sup>427</sup> Also increasingly popular, mostly due to approximation of laws in the EU, is the Officer for Personal Data Protection, tasked with protecting personal data from violation by third parties, including businesses.

### 6.2.3. Central Asia

All countries of the Central Asia subregion have the current concern that “the Ombudsman institution still does not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles)”.<sup>428</sup> There are a significant number of limitations on labour inspections, some of them in direct contradiction with the requirements of the priority International Labour Organization Conventions on Labour Inspections.<sup>429</sup> In Tajikistan, a serious limitation, the three-year moratorium on the activity of labour inspections, was introduced by the Law of 21 February 2018, No. 1505, for the period from 2018 until the end of 2020. The moratorium suspended any inspections, even in the case of complaints from victims of labour law abuses. The moratorium on inspections by the labour inspectorate was proclaimed as one of the most important achievements of the State Committee on Inspection and Administration of State Property of the Republic of Tajikistan, which is under the supervision of the Government of Tajikistan.<sup>430</sup> In Uzbekistan, in 2018 the limitation of unscheduled inspections<sup>431</sup> was welcomed by the EBRD as one of the major steps towards the liberalization programme.<sup>432</sup> Some of the restrictions do

427 Georgia Office of Dispute Resolution. <https://godr.org>.

428 United Nations, Human Rights Committee (2017). Concluding observations on the second periodic report of Kazakhstan, 9 August, CCPR/C/KAZ/CO/2. <https://uhri.ohchr.org/en/document/4f1be133-706f-49a3-9b7f-86f992fee804>; United Nations, Human Rights Committee (2015). Concluding observations on the fourth periodic report of Uzbekistan, 17 August, CCPR/C/UZB/CO/4. <https://uhri.ohchr.org/en/document/9a2dc3cd-15fd-4ba3-8abb-6d424572bdb9>; United Nations, Human Rights Committee (2014). Concluding observations on the second periodic report of Kyrgyzstan, 23 April, CCPR/C/KGZ/CO/2. <https://uhri.ohchr.org/en/document/03e27d7f-7591-4a6b-8d22-b3509183c737>; United Nations, Human Rights Council (2016). Report of the Working Group on the Universal Periodic Review, Tajikistan, A/HRC/33/11, 14 July. <https://uhri.ohchr.org/en/document/3414e3b2-ce21-4739-9c63-1bef19b303c3>.

429 International Labour Organization Conventions on Labour Inspections, No. 81 and 129.

430 Lyutov, Nikita and Ilona Voitkovska (2021). “Labour Inspections in Post-Soviet Countries: Reform or Collapse?”, *International Journal of Comparative Labour Law and Industrial Relations*, Volume 37, Issue 2/3, pp. 269–300.

431 See Decree of the President of the Republic of Uzbekistan dated 20 Aug. 2018 n. PP-3913.

432 EBRD (2018). *Uzbekistan Diagnostic: Assessing Progress and Challenges in Unlocking the Private Sector’s Potential and Developing a Sustainable Market Econo-*

my. May. <https://www.ebrd.com/documents/strategy-and-policy-coordination/uzbekistan-diagnostic-paper.pdf>.

not directly contradict the requirements of ILO Conventions, but their inadequate application in combination with certain restrictive measures leads to significant non-compliance with international labour standards. While international institutions such as the World Bank and the International Finance Corporation have advocated this decline in inspections,<sup>433</sup> these measures directly contradict the provisions of ILO Conventions 81 and 129.

Kazakhstan is the only country in Central Asia where an OECD NCP has been established. The Ministry of Investments and Development of the Republic of Kazakhstan is defined as the NCP of Kazakhstan (government decree dated 31 May 2018, N° 306). The NCP’s working group as a collegiate body was established (decree of MID RK from 12 October 2017, N° 696) to review complaints, comprising representatives from various ministries covering investments and development, national economy, labour and social protection, energy, education and science, and internal affairs, the Civil Service and Anti-Corruption Agency, the National Center for Human Rights, the National Chamber of Entrepreneurs “Atameken”, NGOs and trade unions. According to the report on the activity of the NCP in 2020, no complaints were filed to the NCP and no funds were allocated for its operation.<sup>434</sup>

## 6.3. Sector-level and company-level mechanisms

### 6.3.1. The Western Balkans and Türkiye

Sector-level and company-level mechanisms are rare or almost non-existent in the Western Balkans and Türkiye. When they exist, they are mostly found in the subsidiaries of EU-based investors. The European Ombudsman Office opened in 2021 an investigation into the alleged lack of supervision of the European Commission environmental and human rights impact assessment in the proposed pipeline in the Western Balkans.<sup>435</sup>

### 6.3.2. South Caucasus and Eastern Europe

Company-level or sector-level grievance mechanisms<sup>436</sup> are in place at best in single companies in South Caucasus and Eastern Europe, as they require resources such as trained people, time and funding. This is not counting subsidiaries of international corporations in the subregion. Some business investments in the subregion were covered by the EBRD Project Complaints Mechanism (until June 2020),<sup>437</sup> after which it was replaced by

my. May. <https://www.ebrd.com/documents/strategy-and-policy-coordination/uzbekistan-diagnostic-paper.pdf>.

433 Lyutov, Nikita and Ilona Voitkovska (2021). “Labour Inspections in Post-Soviet Countries: Reform or Collapse?”, *International Journal of Comparative Labour Law and Industrial Relations*, Volume 37, Issue 2/3, pp. 269–300.

434 Вопросник для ежегодной отчетности Национального контактного центра (2020). [Annual reporting questionnaire National Contact Centre (2020)]. [https://economy.kz/documents/OECD/NKC/Reports/Report\\_nkc\\_2020\\_rus.pdf](https://economy.kz/documents/OECD/NKC/Reports/Report_nkc_2020_rus.pdf).

435 Radečić, Gligor (2021). “EU Ombudsman launches probe into assessment of priority gas projects at EU’s doorstep”, CEE Bankwatch Network, 10 May. <https://bankwatch.org/blog/eu-ombudsman-launches-probe-into-assessment-of-priority-gas-projects-at-eu-s-doorstep>. See also the European Ombudsman (2021). “The European Commission’s role in assessing the sustainability of gas projects on the list of ‘projects of regional significance’ of the ‘Energy Community’”, Case 327/2021/KR, April. <https://www.ombudsman.europa.eu/en/case/en/58794>.

436 International Commission of Jurists (ICJ) (2019). *Effective Operational-Level Grievance Mechanisms*. <https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>.

437 EBRD. “PCM [Project Complaint Mechanism] Register”. <https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html>.



the Independent Project Accountability Mechanism, what provided a good example of how such a grievance mechanism could operate. For example in 2018, an EBRD case concerned community members from the villages of Olyanyatsa, Zaozerne and Kleban in Vinnytsia Oblast, Ukraine who alleged that MHP Corporate Support Loan and MHP Biogas agribusiness activities in the area, specifically by Vinnytsia Poultry Farm and Zernoproduct Farm, caused a series of adverse impacts to the community, including continuous odour and dust pollution and fear of further contamination to air, water and soil. Community members raised concerns about the lack of basic information and engagement to understand the impacts and be assured that measures were being undertaken to address environmental and health impacts; they asked for confidentiality for fear of retaliation.<sup>438</sup> Through the period of 2019–2020, the parties held 19 joint meetings, including online, to discuss the matters raised in the complaint by the three communities. The case was closed in the spring of 2021, with a statement jointly drafted by all parties.

### 6.3.3. Central Asia

As in the other two subregions, sector-level and company-level mechanisms are almost non-existent in Central Asia. However, the Asian Development Bank (ADB)'s Accountability Mechanism (AM) grievance mechanism should be noted. As official information said, “through the AM, project-affected people can raise their concerns about any direct, material and adverse harm they have or could experience as a result of an ADB-assisted project. When filing a complaint to the AM, you can request Problem-solving and/or a Compliance Review”.<sup>439</sup> At the same time, Human Rights Watch notes, “the Asian Development Bank has emphasized the role of community participation in development projects, as well as transparency and accountability. But it cannot put these principles into practice in Azerbaijan and Uzbekistan, where the government quashes independent voices – unless it recognizes the problems and starts actively working to overcome them.”<sup>440</sup>

There is the more general problem in the Asian Development Bank's Accountability Mechanism of lack of transparency and easily accessible information about complaint procedures in the sources provided. For example, in the complaint filed on the CAREC Transport Corridor I Investment Program Kazakhstan,<sup>441</sup> project information included the following: “A census of all affected households and socioeconomic surveys of a 20 percent sample of the affected households were undertaken in May 2009 to assess resettlement impacts. As part of the preparation of the EIA [environmental impact assessment], extensive public consultations were undertaken from mid-2008 to early 2009, including two public hearings in two major towns (Kulan and Merke) along the sections. Questions and concerns related to the project were

438 EBRD. “MHP Corporate Support Loan, MHP Biogas”. <https://www.ebrd.com/work-with-us/projects/ipam/2018/09.html>.

439 Accountability Counsel (2017). The Asian Development Bank's Accountability Mechanism. Brochure. <https://www.accountabilitycounsel.org/wp-content/uploads/2017/08/SOMO-AC-The-Asian-Development-Bank%E2%80%99s-Accountability-Mechanism.pdf>.

440 Human Rights Watch (2016). “Asian Development Bank: Heed Local Voices, Support Participation, Accountability in Azerbaijan, Uzbekistan”, 1 May. <https://www.hrw.org/news/2016/05/01/asian-development-bank-heed-local-voices>.

441 Office of the Compliance Advisor Ombudsman (CAO) for the International Finance Corporation and Multilateral Investment Guarantee Agency (MIGA) (n.d.). *Civil Society Engagement with the Independent Accountability Mechanisms: Analysis of Environmental and Social Issues and Trends*. <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/publications/civil-society-engagement-with-the-accountability-mechanisms.pdf>.

noted. Compensation issues and crossings for animals were among the common concerns raised in the consultations. Such concerns were incorporated in the environmental mitigation plan and land acquisition and resettlement plan.”<sup>442</sup> There is no easily accessible information on whether the complaint was accepted for consideration and the results of consideration.

As experts note, the Accountability Mechanism shows how difficult it is to access this form of redress mechanism and the limited remedies available to project-affected people. NGOs also question the extent to which the ADB's external AM is independent from the bank in holding its parent institution to account. Nonetheless, the AM does show that it can improve the plight of affected people through mediation, compliance investigation and monitoring bank actions. While these acts may not improve the conditions of project implementation plan to pre-project levels, they can make a difference to vulnerable communities.”<sup>443</sup> And yet, in 2021, 10 complaints were received, but all of them were rejected as ineligible because of procedural reasons.<sup>444</sup>

Another accessible mechanism used in relation to Central Asia is the Office of the Compliance Advisor Ombudsman (CAO), the international independent accountability mechanism for projects supported by the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group.<sup>445</sup> CAO received several complaints from the subregion, but has not demonstrated effectiveness in resolving problematic issues. For example, according to information on the CAO's website, the Lukoil Overseas Project is an IFC-financed investment to develop oil fields and increase crude oil and condensate production in the Karachaganak Oil and Gas Condensate Field in the Western Kazakhstan Oblast. CAO received three complaints about this project, raising concerns about the health and well-being of Berezovka residents related to air emissions and quality of drinking water. In February 2006, CAO released a progress report that recommended a process for establishing a multiparty monitoring initiative. Both parties' responses indicated their lack of willingness to engage in a collaborative process and therefore in August 2006, CAO closed the complaint and transferred the case to CAO Compliance for appraisal.”<sup>446</sup> Over the years, local activists and NGOs have campaigned to relocate people from dangerous proximity to the Karachaganak oil and gas condensate field.<sup>447</sup> In November 2014, over two dozen schoolchildren from the village of Berezovka were taken directly from school to the hospital. In a village located next to one of the world's largest oil and gas condensate fields, there was a massive

442 Asian Development Bank. “Kazakhstan: CAREC Transport Corridor 1 (Zhambyl Oblast Section) Investment Program – Tranche 2, Sovereign Project I 41121-033”. <https://www.adb.org/projects/41121-033/main>.

443 Park, Susan (2015). “Assessing Accountability in Practice: The Asian Development Bank's Accountability Mechanism”, Global Policy Volume 6, Issue 4. November, pp. 455–465. [https://munkschool.utoronto.ca/egl/files/2016/02/2015-Park\\_Assessing-Accountability-in-Practice.pdf](https://munkschool.utoronto.ca/egl/files/2016/02/2015-Park_Assessing-Accountability-in-Practice.pdf).

444 Asian Development Bank. Accountability Mechanism: Complaints Registry by Region. <https://www.adb.org/who-we-are/accountability-mechanism/problem-solving-function/complaint-registry-region#accordion-0-0>.

445 Office of the Compliance Advisor Ombudsman (CAO). <http://www.cao-ombudsman.org/about-us/>.

446 CAO. Kazakhstan: Lukoil Overseas-01/Berezovka. <https://www.cao-ombudsman.org/cases/kazakhstan-lukoil-overseas-01berezovka>.

447 Business & Human Rights Resource Centre (2021). “HRD Interview: Sergey Solyanik, Consultant from Crude Accountability, Kazakhstan”. 15 April. <https://www.business-humanrights.org/en/latest-news/hrd-interview-sergey-solyanik-consultant-from-crude-accountability-kazakhstan/>.

**There is no easily accessible information on whether the complaint was accepted for consideration and the results of consideration.**

**As a rule, the implementation of the Business and Human Rights standards in the region hinges on improving the rule of law in State institutions and the private sector.**

poisoning, the consequences of which are expected to have future repercussions.<sup>448</sup>

## 6.4 Pillar III conclusions

### 6.4.1 The Western Balkans and Türkiye

Access to justice for business-related human rights abuses in the Western Balkans and Türkiye has been deficient. In relation to access to the judiciary, rights-holders can count on formal judicial structures of mature constitutional democracies. However, challenges remain in practice as case law of the European Court of Human Rights illustrates that the right to a fair trial has been systematically and generally violated. It was noted in 2020 that “Access to justice for corporate-related human rights abuses in the region mostly depends on the fairness and independence of State institutions ... As a rule, the implementation of the Business and Human Rights standards in the region hinges on improving the rule of law in State institutions and the private sector.”<sup>449</sup> Rights-holders have enjoyed at least formal access to quasi- and non-judicial remedies, mainly to National Human Rights Institutions in the form of ombudsperson institutions. However, ombudsperson institutions often lack independence from the executive branch of government and/or do not have normative powers to enforce business-related human rights abuses. In the past years, some countries and territories, including Albania, Kosovo and Montenegro, have reformed the rule of law and strengthened their judiciaries, thereby enhancing access to remedy for business-related human rights abuses. However, challenges remain for enforcing state and corporate accountability for business-related human rights abuses. Nonetheless, rights-holders in these subregions enjoy direct access to the European Court of Human Rights if the State fails to meet its negative and positive obligations.

### 6.4.2 South Caucasus and Eastern Europe

While court proceedings are considered lengthy, often affected by corruption and political influences, and thus not trusted, many of the countries in the South Caucasus and Eastern Europe subregion have undertaken judicial reform with support from development partners, which has some promise for improving the situation. Ukraine has the only OECD NCP in the subregion, but has not had the opportunity to handle even a single complaint. So, it is unclear if the system is working well or not. Individuals whose rights are violated usually turn for help either to the NHRIs, submit complaints to labour inspectorates or seek support from the office that handles complaints to the President. There is scarce evidence of internal grievance mechanisms in companies and none at the sectoral level. The available international grievance mechanisms such as those offered by the EBRD are not easily accessible to or even known by most people.

### 6.4.3. Central Asia

The judicial process in most countries in the Central Asia subregion

is considered lengthy, prone to political influence, and often affected by corruption, with compensation or other remedies that do not cover the actual costs of damages. This is further affected by a lack of trust in judicial bodies. There is only one OECD NCP in the region, in Kazakhstan, but it is not actively operational, and no complaints have yet been received. Grievance mechanisms, including those provided by the development banks, have not demonstrated efficiency as a remedy to protect human rights. There are procedural barriers and a lack of transparent and easily accessible information.

448 Radio Azattyk (2019). “Березовки больше нет, последствия отравления остаются” [Berezovka is no more, the consequences of poisoning remain]. 28 November. <https://rus.azattyq.org/a/kazakhstan-berezovka-children-poisoned-by-toxic-emissions/30295740.html>.

449 Letnar Černej, Jernej (2020). “Mapping Business and Human Rights in Central and Eastern Europe”, Cambridge Core Blog, Business and Human Rights Journal, 11 December. <https://www.cambridge.org/core/blog/2020/12/11/mapping-business-and-human-rights-in-central-and-eastern-europe/>.

## 7. Regional trends

While earlier chapters examined issues that fall under the three UNGP pillars, there are several cross-cutting issues that are common to many countries and territories of the region that are discussed in this chapter.

### 7.1. Corruption and conflicts of interest

Since democratization in the 1990s, countries and territories of the ECA region have suffered from corruption, nepotism, clientelism and conflicts of interest. All 18 countries and territories rank relatively poorly on the annual corruption ranking of Transparency International, with Georgia having the highest ranking (45) and Uzbekistan the lowest ranking (146) among 180 countries and territories.<sup>450</sup> The area of Business and Human Rights in the ECA region is closely connected to the nature of economies and the way business is conducted. The overwhelming presence of state-owned enterprises in the region and the lack of their effective management allows for political influence through institutions and informal networks. Such frameworks have allowed politicians to acquire wealth through connections to state-owned enterprises. At the same time, corruption has engineered the rise of oligarch tycoon businessmen who have eventually entered politics, entered institutions and subjected them to their influence.

Corruption has affected human rights protection in all three pillars of the UNGPs. In relation to Pillar 1, corruption allows public procurement grants to be influenced by a spider's web of informal connections between businessmen, politicians and public employees. Public contracts to businesses are rarely awarded transparently, fairly and independently. Similar practices have been observed across the three subregions of Europe and Central Asia concerning the awarding of public licences for new investment projects. As a result, several projects in the Western Balkans and Türkiye, South Caucasus and Eastern Europe, and Central Asia have resulted in detrimental and long-lasting human rights and environmental impacts.

In relation to Pillar II, most corporations, both state-owned and privately owned, have not subscribed to the most basic principles of the UNGPs and continue to employ negative practices. As such, some of those practices have contributed to the capture of some State institutions by powerful businesses, mostly by business oligarchy and tycoons. To this end, the largest businesses in the region have heavily invested in the media, which in the last decades have been employed to advance private

450 Transparency International (2021). Corruption Perceptions Index 2020. [https://images.transparencycdn.org/images/CPI2020\\_Report\\_EN\\_0802-WEB-1\\_2021-02-08-103053.pdf](https://images.transparencycdn.org/images/CPI2020_Report_EN_0802-WEB-1_2021-02-08-103053.pdf).

interests. As a result, national systems have had little capacity to respond to and lower the risk of corruption and related practices, which creates risk for the longevity of institutions and the rule of law in the region.<sup>451</sup>

Corruption has also had impacts on the functioning of Pillar III of the UNGPs. Judicial, quasi-judicial and non-judicial mechanisms in the region have often suffered challenges in granting rights-holders effective, fair and independent access to judiciary. Persons working in regional judicial institutions have often been underpaid, overworked and understaffed, meaning they cannot effectively mitigate the risk of the various shapes and forms of business corruption. Some countries and territories in the region have yet to prohibit actual and potential conflict of interest in state institutions or to require state officials and politicians to annually disclose their wealth. As a consequence, rights-holders have turned to regional judicial bodies to enforce state responsibility for human rights violations.<sup>452</sup> However, regional judicial institutions are not a substitute for domestic courts, and they are often themselves understaffed and underfunded

### 7.2. Role of CSOs and academia

While in many countries and territories across the region, the discussion about the UNGPs was initiated by civil society, this is not the case in all of them. And it should not be assumed that BHR awareness is high among CSOs in any given country. In reality, BHR work was often driven by individual CSOs, who adopted the topic consciously or by accident (usually in relation to capacity-building undertaken by the Danish Institute of Human Rights or, at times, by SOMO/OECD Watch), decided to work on it and, in some countries and territories, took advantage of the right timing and context to prompt the State and other actors to engage with the BHR agenda. This situation, where there is a single CSO in a country that is aware and skilled in BHR, raises the question of a choice. Should the CSO focus on monitoring company activities and raising awareness of the people and communities affected (like the “EcoLur” informational NGO in Armenia did) or rather, given the low awareness of BHR by companies, focus on supporting them in understanding their responsibilities under the UNGPs and providing advice?

Some NGOs in the region address some aspects of the BHR agenda in their work, without necessarily categorizing it as BHR, while focusing more generally on CSR. For example, the Belgrade Centre for Human Rights in 2016 carried out a national baseline assessment and the Serbia-based Ana and Vlade Divac Foundation<sup>453</sup> developed the “Handbook for Employees – Reconciling Work and Family Life”,<sup>454</sup> trained 30 Human Resources/Relations managers and carried out gender pay gap research.

451 See, for instance, Brattberg, Erik, Philippe Le Corre, Paul Stornski and Thomas de Waal (2021). “China’s Influence in Southeastern, Central, and Eastern Europe: Vulnerabilities and Resilience in Four Countries”, Carnegie Endowment for International Peace, 13 October. <https://carnegieendowment.org/2021/10/13/china-s-influence-in-southeastern-central-and-eastern-europe-vulnerabilities-and-resilience-in-four-countries-pub-85415>.

452 Letnar Černič, Jernej (2018). “The European Court of Human Rights in the States of the Former Yugoslavia”, *East European Yearbook on Human Rights* 1(1), September, pp. 32–54; Letnar Černič, Jernej (2018). “Impact of the European Court of Human Rights on the Rule of Law in Central and Eastern Europe”, *Hague Journal on the Rule of Law*, vol. 10, no. 1, pp. 111–137.

453 See Foundation Ana and Vlade Divac at <https://www.divac.com/en/Home>.

454 Forum Za Odgovorno Poslovanje (2020). “Employee’s Handbook – Reconciling Work and Family Life has been published”, 4 June. <https://odgovornoposlovanje.rs/vesti/objavljen-prirucnik-za-zaposlene-uskladjivanje-radnog-i-porodicnog-zivota>. The book was developed as part of the EU-funded project “Prava, jednakost i državljanstvo (2014–2020)”.



In some countries and territories of the region, including Ukraine, academia first spearheaded efforts concerning the UNGPs. For example, the University of Yaroslav Mudryi in Kharkiv started an academic and later a practice-oriented discussion about the UNGPs and BHR in general and was instrumental in carrying out the National Baseline Assessment of Ukraine and in advising on what shape the NAP should take. In Belarus, the key role of awareness-raising on BHR was played by the Belarus Helsinki Committee. Yet usually neither CSOs nor academic institutions have the sufficient power to be able to push for the implementation of NAPs or other legislation once they are adopted. Practical actions on the ground need to be taken. At the same time, without more experts and organizations pushing this agenda forward, unless the government has a very strong political will, it is unlikely that NAPs and other state declarations will become worth more than the paper they are written on. Naturally, academia contributes to teaching the next generations of leaders and workers on BHR (see [Chapter 4](#) for details), yet as noted earlier, courses are still too few and scattered to drive momentum.

Given the record of weak rule of law in the region, it is not surprising that in most countries and territories, civil society organizations are focusing their work and advocacy on the standard area of human rights protection and direct their message at states. On the other hand, with pollution and environmental destruction caused by large-scale extractive and construction projects, often involving SOEs, other groups of activists focus primarily on environmental protection and related issues. The groups, however, until recently were unable to link business and human rights and the potential work in this area.

Overall, there is a need to raise awareness and build the capacity of CSOs across the region on BHR issues and point to the correlation between business and human rights, traditional civil and political rights and environment protection. While an essential role can be played by CSOs that already have expertise, they receive insufficient funding to do so, as BHR has not been a top priority for international development agencies and other actors in the region.

Naturally, academia plays a major role in educating and preparing the next generation of experts in the region on BHR, which can be supported through exchange and funding programmes such as Erasmus+ and similar programmes. Other cross-fertilization efforts undertaken in the region should be supported, including a newly launched Resource Hub on Business & Human Rights for Central & Eastern Europe<sup>455</sup> and initiatives such as the Summer School on BHR aimed at students and young professionals from Central and Eastern Europe and Central Asia (CEECA) countries and territories, organized by the Polish Institute for Human Rights and Business (PIHRB), Yaroslav Murdyi University and other partners in the autumn and winter 2022, with support from a grant from European Economic Area funds.<sup>456</sup> The objective is to prepare a group of experts to be not only well versed in international law treaties but also to understand the specific regional context, including economic issues, and how human rights need to be addressed and safeguarded by businesses and in their operations.

455 CEECA Resource Hub. Resource Hub on Business & Human Rights for Central & Eastern Europe & Central Asia. <https://ceeca-bhr.org/>.

456 For information about the CEE&CA Summer Academy on Human Rights and Business, see: <http://www.pihrb.org/ceeca-summer-academy>.

*...it is not surprising that in most countries and territories, civil society organizations are focusing their work and advocacy on the standard area of human rights protection and direct their message at states.*

### 7.3. Vulnerable groups

The groups which are most vulnerable to BHR-related violations in the region include persons with disabilities, women, migrant workers, children, LGBTIQ+ people, refugees and internally displaced persons, Roma people, people living with HIV, and ethnic and national minorities.

#### 7.3.1. People with disabilities

During the Soviet Era, disability was generally approached from a health care perspective in the countries and territories of Europe and Central Asia. People with disabilities received benefits or pensions in accordance with the duration and grade (category/group) of their disability, based on medical certificates. The rehabilitation system focused primarily on medical rehabilitation, neglecting many aspects of social and vocational rehabilitation,<sup>457</sup> with architectural barriers also being a challenge. The entire system of state support for people with disabilities, for their social protection and employment, was centralized.

Almost all countries and territories of the region have a strong legislative framework for persons with disabilities. Just one country, Tajikistan, is yet to ratify the Convention on the Rights of Persons with Disabilities. In 2020, Tajikistan approved their National Action Plan to prepare for the ratification and implementation of the UN Convention on the Rights of Persons with Disabilities.<sup>458</sup> The reality of implementation is, however, more complex. The national legislation prohibits discrimination in employment, education and access to public health and other social services for persons with disabilities. However, despite the law, persons with disabilities continue to face discrimination. They have limited access to jobs and lack reasonable accommodation, education and access to health care and other social services.

In many parts of the region, including Azerbaijan, Belarus, Kazakhstan and Ukraine, laws mandate a quota for employing persons with disabilities. But with a history of inaccessibility to secondary, vocational or higher education, employers tend to avoid hiring people with disabilities in a competitive labour market. Inaccessible environments further limit employment opportunities for persons with physical or psychosocial disabilities.

Georgia, for example, has a system where the State provides a 50 percent subsidy for 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. The measure was proven insufficient because it was not

457 ILO (2014). *Advisory report on vocational rehabilitation and employment of people with disabilities in Eastern Europe and Central Asia*. ILO Decent Work Technical Support Team and Country Office for Eastern Europe and Central Asia. [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms\\_384835.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms_384835.pdf).

458 ITU (2021). Обзор национального регулирования в области обеспечения доступности электросвязи/ИКТ для лиц с ограниченными возможностями и лиц с особыми потребностями в регионе Содружества Независимых Государств: Политики и стратегии в области доступности [ICT accessibility policy and regulatory framework overview in the CIS region]. [https://www.itu.int/hub/publication/D-PHCB-ICT\\_ACCESS\\_CIS.01-2021/](https://www.itu.int/hub/publication/D-PHCB-ICT_ACCESS_CIS.01-2021/); See also Национальный план действий по подготовке Республики Таджикистан к ратификации и реализации Конвенции о правах инвалидов, Утвержден Постановлением Правительства Республики Таджикистан от 27 февраля 2020 года №116 [National Action Plan for the preparation of the Republic of Tajikistan for the ratification and implementation of the Convention on the Rights of Persons with Disabilities, Approved by the Decree of the Government of the Republic of Tajikistan dated February 27, 2020 No. 116], [http://base.spinform.ru/show\\_doc.fwx?rgn=123066](http://base.spinform.ru/show_doc.fwx?rgn=123066).

accompanied by a holistic approach with effective measures to address the root causes of exclusion.<sup>459</sup>

The Committee on Economic, Social and Cultural Rights indicates for many parts of the region, including Turkmenistan and Uzbekistan, that the employment rate of persons with disabilities is exceptionally low, despite measures taken to stimulate their employment, and that physical barriers may obstruct their access to social services, the labour market and education. Concerns were also expressed about the lack of trained staff in schools and inadequate school curricula.<sup>460</sup> The UN Committee on the Rights of Persons with Disabilities (CRPD) calls on States of the region to raise the awareness of private actors on non-discrimination and reasonable accommodation of persons with disabilities, focusing on an approach to disability based on human rights instead of the traditional medical and charity model.<sup>461</sup> The CRPD noted in 2019 in relation to Albania that it is “concerned about the fact that persons with disabilities, especially women with disabilities, are particularly affected by unemployment.”<sup>462</sup>

For all countries and territories of the region, physical access barriers affect the human rights of people with disabilities. Physical infrastructure is not adapted for people with diverse disabilities. Access to buildings, transport and public institutions and services remains insufficient. There is a lack of application of international standards for accessibility. Another problem is that people with disabilities and public and private employers are not fully aware of the rights of people with disabilities in relation to opportunities for employment in the open labour market.<sup>463</sup>

Azerbaijan has a positive practice in relation to the human rights of people with disability. When companies express interest in employing persons with disabilities, they reach out to CSOs working with persons with disabilities through online social networks in search of potential employees. CSOs serving persons with disabilities also receive preferential rights to State social service contracts. However, despite these initiatives, businesses continue to demonstrate a lack of interest in hiring persons with disabilities.<sup>464</sup>

459 United Nations, Human Rights Council (2020). Visit to Georgia – Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. A/HRC/44/43/Add.1, 14 April. <https://uhri.ohchr.org/en/document/8d042d3a-3f58-499f-ab19-fb5e862f213a>.

460 United Nations, Human Rights Committee (2014). Concluding observations on the second periodic report of Uzbekistan, 13 June, E/C.12/UZB/CO/2. <https://uhri.ohchr.org/en/document/6d4596e7-da6c-4821-998b-b71a8d6dfc45>; United Nations Committee on Economic, Social and Cultural Rights (2018). Concluding observations on the second periodic report of Turkmenistan, E/C.12/TKM/CO/2. 31 October. <https://uhri.ohchr.org/en/document/fa405144-ad7c-4162-a45b-af3583a93aef>.

461 United Nations Committee on the Rights of Persons with Disabilities (2018). Concluding observations on the initial report of the former Yugoslav Republic of Macedonia. CRPD/C/MKD/CO/1. 29 October. <https://uhri.ohchr.org/en/document/7a6eedad-750d-4d4c-b081-85bf3ced3874>.

462 The UN Committee on the Rights of Persons with Disabilities (2019). Concluding observations on the initial report of Albania, CRPD/C/ALB/CO/1, 14 October, para. 43.

463 United Nations Committee on the Rights of Persons with Disabilities (2018). Concluding observations on the initial report of the former Yugoslav Republic of Macedonia. CRPD/C/MKD/CO/1. 29 October. <https://uhri.ohchr.org/en/document/7a6eedad-750d-4d4c-b081-85bf3ced3874>.

464 Kaltayeva, Lyazzat and Nurzhamal Prenova (2017). Analytical report on the rights of people with disabilities in Central Asia and Azerbaijan. USAID and ARGO. [http://cso-central.asia/wp-content/uploads/2018/11/P4I-Analytical-report-PwD-CA\\_AZ\\_en\\_final.pdf](http://cso-central.asia/wp-content/uploads/2018/11/P4I-Analytical-report-PwD-CA_AZ_en_final.pdf).

### 7.3.2. Women

Soviet-era stereotypes of gender equality show women in the region portrayed as equal and working hand in hand with men on the factory floor or driving tractors. However, the reality is much more complex. In countries of the region, women’s participation in the labour market grew rapidly.<sup>465</sup> However, in the Soviet era, the traditional division of paid and unpaid labour remained. Because of this, women had a double burden: participation in the labour market on an equal footing with men and the simultaneous performance of most of the housework. Determining the nature of gender relations in the Soviet period, sociologists unanimously qualify it as a “working mother contract”. In the Soviet family, gender asymmetry persisted. A woman was responsible for the birth and upbringing of children, for the day-to-day life of the family, bore all the domestic work and, in addition, supported the family financially with her salary.

Currently, in countries and territories of the region, women are underrepresented in the workforce, overrepresented in gender-segregated lower-paid jobs and are paid less than men, even in the same profession. They also have worse access to capital and financial services in general, affecting the level of their entrepreneurship. In addition to the gender pay gap, they experience discrimination and are underrepresented on corporate boards.

Data from 2016 and 2018 showed women in Eurasia earning 30 percent less on average than their male counterparts, with the gap being 22 percent in Ukraine, going up to 34 percent in Kazakhstan and 50 percent in Azerbaijan.<sup>466</sup> The evidence suggests that gender pay gaps tend to be larger in the informal economy.<sup>467</sup> Gender stereotypes, unpaid work at home, gender-segregated jobs, sexual harassment and being ‘discouraged’ from reaching senior management positions<sup>468</sup> impede the full achievement of equality at work. Concerns have been expressed by the UN Committee on the Elimination of Discrimination against Women in its comments on Armenia that “the significant gender pay gap and the horizontal and vertical segregation in the labour market, the concentration

...women had a double burden: participation in the labour market on an equal footing with men and the simultaneous performance of most of the housework.

465 In 1922, women comprised 22 percent of the workforce. In 1928, 24 percent of the industrial workforce was constituted by women which by 1932, grew to 32 percent. By 1940, it rose to above 39 percent. See KB, Usha (2005). “Political empowerment of women in Soviet Union and Russia: Ideology and implementation”. *International Studies*, 42(2), pp. 141–165. As a result, female labour force participation rates in Eastern Europe and the Soviet Union reached extremely high levels by international standards, around 80 percent of the female working-age population in many countries. See Brainerd, Elizabeth (2000). “Women in transition: changes in Gender wage differentials in Eastern Europe and the former Soviet Union”, *Industrial and Labor Relations Review*, Vol. 54, No. 1 (October), pp. 138–162.

466 UNESCAP (2018). *Обзор экономических прав и возможностей женщин в странах СПЕКА*. [https://www.unescap.org/sites/default/files/SPECA\\_WEE\\_final\\_RUS.pdf](https://www.unescap.org/sites/default/files/SPECA_WEE_final_RUS.pdf); [Обзор экономических прав и возможностей женщин в странах СПЕКА (2018)]; Khitarishvili, Tamar (2016). “Gender dimensions of inequality in the countries of Central Asia, South Caucasus, and Eastern Europe”, Working Paper, No. 858, Levy Economics Institute of Bard College, Annandale-on-Hudson, NY: ECONSTOR (ZBW). [https://www.econstor.eu/bitstream/10419/173467/1/wp\\_858.pdf](https://www.econstor.eu/bitstream/10419/173467/1/wp_858.pdf).

467 OECD (2021). *Informality and COVID-19 in Eurasia: The Sudden Loss of a Social Buffer*. Policy Insights. <https://www.oecd.org/eurasia/COVID-19-informality-Eurasia.pdf>.

468 According to the OECD, while on average women make up one third of managers and on average 25.5 percent of publicly listed company boards, in Eurasia, the number of women in managerial positions varies from 15 percent in Tajikistan to 40 percent in Mongolia, with women accounting for 9 percent of Central Bank board members, 15 percent of governing boards of trade unions, and less than 15 percent of board members of companies registered on the stock exchanges in Eastern Europe and the South Caucasus. At the same time, the OECD suggests that gender-diverse boards can engender better teamwork, and more effectively tackle issues such as rising inequalities and the gender pay gap, which are inherently widening due to the pandemic. See OECD (2021). *Gender Gaps in Eurasia: The daunting effects of COVID-19*. <https://www.oecd.org/eurasia/Gender%20gaps%20in%20Eurasia%20The%20Daunting%20effects%20of%20COVID%2019.pdf>.

of women in traditional and low-paid sectors of the economy (e.g. healthcare, education and agriculture sectors) and a glass ceiling that precludes most women” is valid for each country and territory in the region.<sup>469</sup> Its comments on Tajikistan are that “most of the women are engaged in the lowest paid segment: agriculture, education, healthcare, etc. Due to existing vocational segregation on the labour market, wages among women are in general much lower than those of men in all the sectors.”<sup>470</sup>

While the gender gap is on average higher in Central Asia and Caucasus, there is also significant room for improvement in the Western Balkans. In 2020, the US Department of State stated in its report on Bosnia and Herzegovina that “women and men generally received equal pay for equal work at government-owned enterprises but not at all private businesses.”<sup>471</sup> Another country from the region, North Macedonia, was recommended by the UN Committee on the Elimination of Discrimination against Women to “(a) Undertake comprehensive data collection, disaggregating those data by relevant factors, and research to identify and address the underlying causes of the gender pay gap; (b) Adopt effective control mechanisms to ensure compliance with the obligation of equal pay for work of equal value and ensure the enforcement of the provisions in the Law on Labour Relations, including article 107 thereof; (c) Adopt legislation and programmes to facilitate access to the formal labour market and give priority to the adoption of legislation and public policies to recognize caregiving as a form of work”.<sup>472</sup>

Evidence suggests that gender pay gaps tend to be larger in the informal economy,<sup>473</sup> even if overall both women and men have the same likelihood of working informally, albeit in different occupations: women work in services, domestic care and agriculture and men work in construction, trade and transport services. Women in the informal agricultural sector tend to produce or sell agricultural produce grown on their garden plots. They often undertake this work as contributing family workers, which is 28 percent of women’s employment compared to 9 percent of men’s in Central and Western Asia. In non-agricultural informal activities, women engage in garment production, shuttle trade and local market trade.

Lockdowns have halted much informal work, making it difficult to make ends meet, particularly without greater state support. As a result of COVID-19 restrictions and the economic repercussions, the UN estimated that the relative poverty rates of informal workers could rise from 34

469 United Nations, Human Rights Council (2020). Report of the Working Group on the Universal Periodic Review, Armenia. A/HRC/44/10. <https://digitallibrary.un.org/record/3863768>; United Nations Committee on the Elimination of Discrimination against Women (2019). [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKAZ%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKAZ%2fCO%2f5&Lang=en).

470 Coalition of nongovernmental organizations of Tajikistan (2018). Third Shadow Report of Nongovernmental Organizations of Tajikistan on implementation of the Convention on the Elimination of All Forms of Discrimination against Women. 28 September. [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT\\_CEDAW\\_CSS\\_TJK\\_32550\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT_CEDAW_CSS_TJK_32550_E.pdf).

471 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Bosnia and Herzegovina. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/bosnia-and-herzegovina/>.

472 United Nations Committee on the Elimination of Discrimination against Women (2018). Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia, CEDAW/C/MKD/CO/6, 14 November, para. 36.

473 OECD (2021). *Informality and COVID-19 in Eurasia: The Sudden Loss of a Social Buffer*. Policy Insights. <https://www.oecd.org/eurasia/COVID-19-informality-Eurasia.pdf>.

**Lockdowns have halted much informal work, making it difficult to make ends meet, particularly without greater state support.**

percent to 80 percent by the end of 2020.<sup>474</sup>

Women working in the informal sector, including women in rural areas and older women, are not covered by social and legal protection. Unpaid work at home, gender-segregated jobs, sexual harassment and gender-based violence, including domestic violence, also operate as significant barriers for women to access economic opportunities.

There are several reasons for women’s predominance in vulnerable employment, including discriminatory laws and lack of reliable and affordable childcare services. As a result, women, who are also under pressure from informal, social norms, choose positions that allow them to juggle employment with unpaid care work, informal activities and work based in the home or family.<sup>475</sup> The generous maternity leave in some countries and territories (e.g. the Republic of Moldova, Ukraine) and the lack of parental leave (paternity leave) further reinforces the unequal division of family responsibilities between women and men and is another factor that drives women into unemployment and, as a result, greater reliance on men or poverty.<sup>476</sup>

There is a lack of official statistics or other centralized mechanisms for collecting gender-segregated data, for example on the representation of women in company management, based on which States of the region could formulate policies. As the ADB points out, “Bridging financing gaps for women starts with better data and technology”;<sup>477</sup> the importance of collecting data is not to be dismissed.

There is also inequality in management. Women are managers predominantly in areas that conform to the stereotypes of traditionally female household and community activities: education and childcare, social assistance (as well as trade union activities), hotels, restaurants, food retailing and clothing, tailoring, beauty salons, tourism, arts and leisure, accounting and auditing. Areas where the vast majority (over 80 percent) of executives are men are transport, construction, agriculture, mining and energy.

According to the British Council in Ukraine, in the countries and territories of the Eastern Partnership (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), women are underrepresented in positions of economic responsibility. In 2015, the share of women on the boards of central banks was 9 percent, 15 percent of the leadership of trade unions, 10 percent of the leadership of associations of employers, and less than 15 percent on the boards of companies listed on stock exchange quotes.

### 7.3.2.1 Impact of COVID-19 on women

Sectors with higher shares of female employment—textile,

474 OECD (2021). *Gender Gaps in Eurasia: The daunting effects of COVID-19*. <https://www.oecd.org/eurasia/Gender%20gaps%20in%20Eurasia%20The%20Daunting%20effects%20of%20COVID%2019.pdf>.

475 Ibid.; See also OECD (2019). *SI-GI 2019 Regional Report for Eurasia*, Social Institutions and Gender Index, OECD Publishing, Paris. <https://doi.org/10.1787/f6d-fa21d-en>.

476 United Nations Committee on the Elimination of Discrimination against Women (2013). Concluding observations on the fourth and fifth periodic reports of the Republic of Moldova. CEDAW/C/MDA/CO/4-5. 29 October. <https://uhri.ohchr.org/en/document/b882b43e-9896-41f5-b6da-2f939b76588d>.

477 Asian Development Bank (2021). “Bridging financing gaps for women starts with better data and technology”, 12 August. <https://www.adb.org/news/features/bridging-financing-gaps-women-starts-better-data-and-technology>.

accommodation and food services— have been hit particularly hard by the COVID-19 pandemic, while at the same time childcare options outside the home were much reduced. As a result, women’s employment rates have fallen sharply. With COVID-19, women faced greater reductions in paid hours of work and more job losses than men, with 26 percent of women reporting a job loss in Kazakhstan compared to 22 percent of men.<sup>478</sup> In some countries and territories in Eurasia, initial data suggest that women’s employment rates have dropped: 10 percent of employed women in the region had to take unpaid leave compared to 8 percent of men. Over 40 percent of women in the region did less paid work during the lockdown period. The highest gender gap was observed in Azerbaijan with a difference of 13 percentage points. The pandemic has also hit self-employed women hard, with 81 percent in Kazakhstan and 77 percent in Kyrgyzstan reporting reduced working hours or job losses. The gender pay gap risks further widening due to rising unemployment rates, reduced working hours and pay cuts. One report found that the wider the wage gap between spouses, the higher the motivation for women to exit labour markets entirely in favour of unpaid caregiving duties at home.<sup>479</sup>

The following factors were considered critical in why women’s vulnerability increased during the COVID-19 pandemic: 1) women’s underrepresentation in company management, 2) gender-differentiated wages, 3) unequal distribution of household responsibilities, 4) high representation of women in occupations associated with a high risk of getting infected with COVID-19 (e.g. trade, services), 5) high representation of women in activities most affected by the COVID-19 crisis (e.g. tourism, services, catering), and 6) high representation of women in the informal economy.<sup>480</sup>

### 7.3.2.2 Unequal access to finance

Gender gaps also persist in financial inclusion and according to World Bank data are especially acute in Armenia, Kosovo, Türkiye, Tajikistan and Turkmenistan. In Türkiye, 83 percent of men having a bank account versus only 54 percent of women.<sup>481</sup> As being unbanked is also associated with a lack of labour force participation, this reflects the challenges facing women in the region in participating equally and fully in business and the economy. It is also an area of business opportunity: to tap into an unused market niche while empowering women. Access to finances can also contribute to a decrease in domestic and intimate partner violence against women.<sup>482</sup>

Another issue is the lack of equal access for women to financial instruments and capital and credit, such as through bank loans. CEDAW raised concern with regards to Azerbaijan, stating that “women face discrimination in their economic empowerment and are exposed to many

478 OECD (2020). “COVID-19 crisis response in Central Asia”. OECD Policy Responses to Coronavirus (COVID-19). Updated 16 November. <https://www.oecd.org/coronavirus/policy-responses/covid-19-crisis-response-in-central-asia-5305f172/>.

479 Bateman, Nicole and Martha Ross (2021). “The pandemic hurt low-wage workers the most—and so far, the recovery has helped them the least”, Brookings, 28 July. <https://www.brookings.edu/research/the-pandemic-hurt-low-wage-workers-the-most-and-so-far-the-recovery-has-helped-them-the-least/>.

480 Ombudsman of Ukraine (2020). *Business and Human Rights in Times of COVID-19*. [https://old.ombudsman.gov.ua/files/2020/UN/BHR\\_covid19\\_eng.pdf](https://old.ombudsman.gov.ua/files/2020/UN/BHR_covid19_eng.pdf).

481 Muller, Cyril and Demirgüç-Kunt, Asli (2019). “Financial inclusion in Europe and Central Asia — the way forward?”, World Bank Blogs, 5 April. <https://blogs.worldbank.org/allaboutfinance/financial-inclusion-europe-and-central-asia-way-forward>.

482 See, for example, Linda Scott (2020), *The Double X Economy: The Epic Potential of Women’s Empowerment*. Farrar, Straus & Giroux.

difficulties in gaining access to credit owing to traditional stereotypes of the role of women as a supplementary earner, lack of appropriate skills and institutional barriers that discourage women from taking out bank loans.”<sup>483</sup> Given that statistical data prove that women’s entrepreneurship is poorly stimulated in the country (in Azerbaijan, women make up only 21.5 percent of entrepreneurs, only 25.8 percent of the farmers receiving loans from banks and own 21.3 percent of the farms for which agricultural equipment is available),<sup>484</sup> it is not surprising that CEDAW recommended that “the State party increase its efforts to encourage and support women’s economic empowerment and entrepreneurship, especially among rural women, including by providing access to credit, land and other resources and training in microenterprise development and management, and monitor the impact of those initiatives on women.”<sup>485</sup> In Tajikistan, women are using commercial bank services less often than men, due to several obstacles. The key barriers for women in accessing loans include lack of collateral, high interest rates, uncertainty and low self-esteem, lack of experience and a lack of knowledge of how to use loans for entrepreneurial activity.<sup>486</sup>

A big part of the problem are traditional cultures and stereotypes. While data show that women generate a similar level of profit per unit of revenue as men,<sup>487</sup> they face a higher rate of loan rejection, as female borrowers are perceived by financial institutions and investors working in the region as riskier and less loyal than their male counterparts. Regional participants in the financial inclusion sector observe that, when data are held constant for capital and sector, there is no evidence that women-run businesses are less successful or that they generate a smaller return. This gender-based discrimination that results in denial of financing often leads to the “denial of land rights and decision ECA-making authority<sup>488</sup> over its use. In rural Central Asia, where agriculture remains the primary economic activity, local farming collectives are chiefly responsible for allocating land plots and determining how they will be used. Women are frequently denied decision ECA-making roles on these bodies and often lack the mechanisms necessary to make their voices, and their ideas, heard.”<sup>489</sup>

Empowering women in the region is also important since millions of men migrate not only within the country but also to other countries and territories for economic reasons, with millions of women left behind to

483 United Nations Committee on the Elimination of Discrimination against Women (2015). Concluding observations on the fifth periodic report of Azerbaijan. CEDAW/C/AZE/CO/5. 12 March. CEDAW Concluding observations on the fifth periodic report of Azerbaijan, para. 34. <https://uhri.ohchr.org/Document/File/facc9249-2c05-49ea-bf95-be3fb7f6d620/5E429916-EE0E-4D5E-AE62-4FC9BD1fE0D4>.

484 Ibid.

485 United Nations Committee on the Elimination of Discrimination against Women (2015). Concluding observations on the fifth periodic report of Azerbaijan. CEDAW/C/AZE/CO/5. 12 March. <https://uhri.ohchr.org/en/document/e5fa2406-1d47-4423-9a76-c13e04d673a4>.

486 Coalition of nongovernmental organizations of Tajikistan (2018). Third Shadow Report of Nongovernmental Organizations of Tajikistan on implementation of the Convention on the Elimination of All Forms of Discrimination against Women. 28 September. [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT\\_CEDAW\\_CSS\\_TJK\\_32550\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT_CEDAW_CSS_TJK_32550_E.pdf).

487 Sattar, Sarosh (2012). Opportunities for Men and Women in Emerging Europe and Central Asia. The World Bank. <http://documents.worldbank.org/curated/en/479131468250293544/pdf/659310WP00PUBL065737B0Gender0Report.pdf>.

488 Boqikhodjaeva, Dilorom (2016). The marginalization of rural women entrepreneurs in Tajikistan. The Central Asia Fellowship Papers No. 14. February. <http://centralasiaprogram.org/blog/2016/02/17/the-marginalization-of-rural-women-entrepreneurs-in-tajikistan/>.

489 Balson, Daniel (2017). “Gender-Based Financial Exclusion in Central Asia”, Center for Financial Inclusion, 26 July. <https://www.centerforfinancialinclusion.org/gender-based-financial-exclusion-in-central-asia>.

*While data show that women generate a similar level of profit per unit of revenue as men, they face a higher rate of loan rejection, as female borrowers are perceived by financial institutions and investors working in the region as riskier and less loyal than their male counterparts.*

raise children alone and work to supplement meagre remittances.<sup>490</sup>

### 7.3.2.3 Sexual harassment in the workplace

According to interviewees, there is a lack of effort to prevent sexual harassment and gender-based violence at the workplace in the region. Victims of sexual harassment often do not report incidents because of fear of social stigma. Women reporting sexual harassment face retaliation from their employers as well as scrutiny from their families and communities. Human rights activists noted that in most cases victims of sexual harassment prefer to remain silent due to fear and public shame. One human rights activist told media that six women visited her with harassment complaints, but none of them agreed to go to court.<sup>491</sup> For example, in Tajikistan, a court in Dushanbe found a young female fashion designer guilty of insulting honour and dignity. She accused her former employer of physical abuse and verbal threats to rape her. The newspaper that published her story was also found guilty of defamation. The court fined both the newspaper and the woman. Despite compelling evidence, the authorities did not investigate the allegations.<sup>492</sup>

### 7.3.3. People living with HIV

Europe and Central Asia is the only region in the world where the annual rate of HIV infections continues to rise at a concerning rate.<sup>493</sup> Due to significant stigmatization, people living with HIV face discrimination in housing and employment. For example, according to studies conducted among Ukrainians living with HIV in 2014–2017, 15 percent of respondents indicate having lost their jobs due to their HIV status,<sup>494</sup> 41 percent because of discrimination, and 35 percent because of a poor health condition caused by HIV.<sup>495</sup> In Kazakhstan, 20 percent of people living with HIV faced discrimination from employers.<sup>496</sup> Experts point to conservative and often punitive legislation around non-heterosexual relationships, drug use and sex work<sup>497</sup> as factors that fuel stigma, block the HIV response and deter HIV testing and treatment across the region. In Tajikistan, “practice shows that women living with HIV cannot find jobs (janitor, cook, including opening a trading spot as an individual entrepreneur) because many employers and local authorities require documents certifying on HIV status of these people when hiring them or when women attempt to

490 OECD (2021). *Gender Gaps in Eurasia: The daunting effects of COVID-19*. <https://www.oecd.org/eurasia/Gender%20gaps%20in%20Eurasia%20The%20Daunting%20effects%20of%20COVID%2019.pdf>.

491 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Tajikistan. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/tajikistan/>.

492 Amnesty International. ТАДЖИКИСТАН [Tajikistan]. <https://eurasia.amnesty.org/tajikistan/>.

493 AVERT (2019). HIV and AIDS in Eastern Europe and Central Asia – Overview. <https://www.avert.org/printpdf/node/2216>.

494 Gazeta (2007). “ВИЧ-инфицированному почти невозможно устроиться на работу”. [It is almost impossible for an HIV-infected person to get a job]. 1 December. [https://gazeta.ua/ru/articles/ukraine-newspaper/\\_vicinficirovannomu-pochti-nev-ozmozhno-ustroitsya-na-rabotu/194691](https://gazeta.ua/ru/articles/ukraine-newspaper/_vicinficirovannomu-pochti-nev-ozmozhno-ustroitsya-na-rabotu/194691).

495 Ministry of Justice of Ukraine, Yaroslav Mudryi National Law University and Danish Institute for Human Rights (2019). Business and Human Rights. National Baseline Assessment. Executive Summary. <https://minjust.gov.ua/files/gener-al/2019/07/10/20190710170813-19.pdf>.

496 Inform Buro (2018). “20% казахстанцев с ВИЧ сталкивались с дискриминацией со стороны работодателей”. [Inform Buro, 20% of Kazakhstanis with HIV faced discrimination from employers]. 1 February. <https://informburo.kz/nov-osti/20-kazahstancsev-s-vich-stalkivalis-s-diskriminaciy-so-storony-rabotodateley.html>.

497 AVERT, Global information and education on HIV and AIDS, HIV and AIDS in Eastern Europe and Central Asia – Overview, <https://www.avert.org/hiv-and-aids-eastern-europe-central-asia-overview>.

### Key statistics: child labour

Number (000s) and percentage of children in child labour and hazardous work, by age range, Europe and Central Asia region, 2016

	Children in child labour		Children in hazardous work		
	Number (000s)	%	Number (000s)	%	
World	151,622	9.6	72,525	4.6	
Europe and Central Asia, total	5,534	4.1	5,349	4.0	
Europe and Central Asia, age	5-11	19.84	2.7	1,931	2.6
	12-14	1,652	5.5	1,520	5.0
	15-17	1,898	6.2	1,898	6.2

Source: ILO (2017), p. 2.

open their own businesses. These actions are not appealed due to the legal illiteracy of women and their fear of disclosure of their status.”<sup>498</sup> The private sector, supported perhaps by leadership from multinational companies, could contribute to raising awareness of HIV, its prevention and destigmatization, or as part of a broader health awareness campaign that could cover cancer and tuberculosis prevention, particularly since tuberculosis infection rates also remain high in the region.

### 7.3.4. Children

Despite economic growth and poverty reduction efforts, along with the implementation of ILO’s International Programme on the Elimination of Child Labour (IPEC) in the ECA region, child labour remains endemic in some areas of the region. The good news is that with 4.1 percent of all children in the ECA region involved in child labour, the region ranks as the second lowest in the world (Fig. 1). The bad news is that almost all of these children are in hazardous work and the region has the second highest prevalence rate in the world of children’s hazardous work.<sup>499</sup>

The majority of cases of child or forced labour take place in the agricultural sector (about 77 percent of all child workers),<sup>500</sup> which involves heavy lifting and health risks related to fertilizers and pesticides, with the situation in Kazakhstan, Kyrgyzstan and Uzbekistan being the most serious. There is also child labour in manufacturing work, mainly in Türkiye, and in the extractive sector in Ukraine and some Western Balkan states, and many street children are subject to the worst forms of child labour. The US Bureau of International Labor Affairs points in its List of Goods Produced by Child Labor or Forced Labor<sup>501</sup> to the substantiated

498 Tajikistan Network of Women Living with HIV (n.d.) Alternative Thematic Report on implementation of the Convention on Elimination of all Forms of discrimination against Women on the issues related to women living with HIV from the affected groups. [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT\\_CEDAW\\_NGO\\_TJK\\_31230\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/TJK/INT_CEDAW_NGO_TJK_31230_E.pdf).

499 ILO (2017). 2017 Global Estimates Of Modern Slavery And Child Labour. Regional brief for Europe and Central Asia, p. 2. [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@ipec/documents/publication/wcms\\_597874.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@ipec/documents/publication/wcms_597874.pdf).

500 Ibid., p. 3.

501 U.S. Department of Labour. The Bureau of International Labor Affairs. List of Goods Produced by Child Labor or Forced Labor. <https://www.dol.gov/agencies/ilab/>



high risk of child labour in the production of cotton (in Azerbaijan, Turkmenistan, Tajikistan, Kazakhstan, Türkiye, Kyrgyzstan, Turkmenistan and Uzbekistan), tobacco (Kyrgyzstan), citrus, apparel, cumin, footwear, furniture, garments, hazelnuts, peanuts, pulses (legumes) and sugar beets (Türkiye), amber (Ukraine), pornography (Ukraine) and coal extraction (Ukraine). Incidences of the use of children in services (e.g. car washing, entertainment) and trade (retail) are also reported.<sup>502</sup> According to the ILO, there are reports of children from rural areas commonly being trafficked to urban centres or wealthier countries and territories for labour exploitation, including commercial sexual exploitation.<sup>503</sup>

In 2013, the UN Committee on Economic, Social and Cultural Rights noted the high proportion of children below the legal age of employment established by Albania (15 years) who work “in hazardous conditions in areas such as mining, construction or agriculture” in that country.<sup>504</sup> In the Western Balkans, the most visible form of child labour is begging on the streets. In Montenegro, for example, while many working children are from Montenegro, a large percentage of those between the ages of 7 and 16 are from nearby countries and territories, mainly Kosovo and Serbia.<sup>505</sup> Police generally returned the children they apprehended to their families.<sup>506</sup> Similarly, in Kosovo, the majority of children are exploited in the informal sector in hazardous conditions; 73 of the 116 cases of minors reported by NGO Terres Des Hommes were engaged in begging, 13 in street work and 14 in coal extraction.<sup>507</sup>

During the COVID-19 pandemic, the situation worsened. For example, the closure of the border between Kazakhstan and Uzbekistan led to labour shortages, and resulted in cases of children younger than 16 years of age working in cotton fields in the Turkestan region of southern Kazakhstan.<sup>508</sup> The joint 2017 report by the Uzbek Forum for Human Rights and Human Rights Watch exposed links between child and forced labour and World Bank investments,<sup>509</sup> pointing to the need to ensure that international organizations, and in particular finance and investment institutions, undertake proper due diligence that involves stakeholders, before venturing into business projects, particularly in countries and territories known for child and forced labour.

[reports/child-labor/list-of-goods.](#)

502 United Nations Committee on the Rights of the Child (2015). Concluding observations on the fourth periodic report of Kazakhstan, 30 October, CRC/C/KAZ/CO/4. <https://uhri.ohchr.org/en/document/e5fa2406-1d47-4423-9a76-c13e04d673a4>; United Nations Committee on Economic, Social and Cultural Rights (2015). Concluding observations on the combined second and third periodic reports of Kyrgyzstan, E/C.12/KGZ/CO/2-3, 7 July. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/150/29/PDF/G1515029.pdf>;

ILO (2021). Comments adopted by the CEACR: Kazakhstan. [http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13202:0::NO::P13202\\_COUNTRY\\_ID:103542](http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13202:0::NO::P13202_COUNTRY_ID:103542).

503 ILO. “Child labour in Europe and Central Asia”. <https://www.ilo.org/ipec/Regionsandcountries/europe-and-central-asia/lang--en/index.htm>.

504 UN Committee on Economic, Social and Cultural Rights (2013). Concluding observations on the combined second and third periodic reports of Albania, E/C.12/ALB/CO/2-3, 18 December, para. 24.

505 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Montenegro. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/montenegro/>.

506 Ibid.

507 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Kosovo. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kosovo/>.

508 Amnesty International. “Kazakhstan”, <https://eurasia.amnesty.org/kazakhstan/>.

509 Human Rights Watch (2017). “We Can’t Refuse to Pick Cotton”: Forced and Child Labor Linked to World Bank Group Investments in Uzbekistan”. 27 June. <https://www.hrw.org/report/2017/06/27/we-cant-refuse-pick-cotton/forced-and-child-labor-linked-world-bank-group>.

Activities aimed to tackle child labour are undertaken at least in some states. In Türkiye since 2013, the Fair Labour Association (FLA) in collaboration with its partners, the Turkish government, CSOs and FLA-affiliated companies have been working to understand and improve conditions for workers and their families in the Turkish hazelnut sector as well as to address the causes of child labour and find ways to stop the vicious cycle caused largely by poverty.<sup>510</sup> Kazakhstan in 2018 carried out a nationwide campaign with actions such as putting pressure on farmers to increase due diligence measures, e.g. verifying pickers’ ages before transporting them to fields; involving them in informing cotton pickers about laws and regulations prohibiting child labour and an increased number of inspections; and setting up mobile squads, comprising internal affairs officers, officials from local administrations, state labour inspectors, health professionals, youth workers and psychologists, in all regions.<sup>511</sup> Despite such efforts, the ILO and CSOs noted an increase in the number of children (mainly aged 15 to 17) in the 2020 harvest compared to earlier years, not least due to some pickers bringing teenage children to work in the fields to increase household income. Moreover, school closures related to the COVID-19 pandemic and the worsening of the economic situation of many families have contributed to the increase in children’s vulnerability to child labour.

Child labour is a problem recognized by the UN treaty bodies, with the Committee on the Rights of the Child (CRC) leading the way, describing as early as 2012 in its Concluding Observations to Türkiye<sup>512</sup> and Azerbaijan<sup>513</sup> the need to consider the rights of the child when exploring the relationship between Business and Human Rights and recommending specific actions for states to undertake. In the following years, relevant recommendations were also developed by the Committee in its Concluding Observations in the reports of Belarus,<sup>514</sup> Georgia,<sup>515</sup> the Republic of Moldova,<sup>516</sup> Kazakhstan<sup>517</sup> and Kyrgyzstan.<sup>518</sup> The CRC has recommended that States “take legislative and institutional measures

510 Fair Labor Association (2019). “FLA COMMENT ON THE APRIL 29 ARTICLE BY THE NEW YORK TIMES”, 2 May. <http://www.fairlabor.org/blog/entry/fla-comment-april-29-article-new-york-times>.

511 ILO (2021). Comments adopted by the CEACR: Kazakhstan. [http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13202:0::NO::P13202\\_COUNTRY\\_ID:103542](http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13202:0::NO::P13202_COUNTRY_ID:103542).

512 United Nations Committee on the Rights of the Child (2012). Concluding observations: Türkiye, 20 July, CRC/C/TUR/CO/2-3. <https://uhri.ohchr.org/en/document/16b5d4c1-96af-4fb7-844f-75cf25f8aa87>.

513 United Nations Committee on the Rights of the Child (2012). Concluding observations: Azerbaijan, 12 March, CRC/C/AZE/CO/3-4. <https://uhri.ohchr.org/en/document/6df04df4-efc5-46f5-abce-3ebe13cc06b1>.

514 United Nations Committee on the Rights of the Child (2020). Concluding observations on the combined fifth and sixth periodic reports of Belarus, 28 February, CRC/C/BLR/CO/5-6. <https://uhri.ohchr.org/en/document/fd0e9cbb-f832-4537-ae30-885fd8b44dd8>.

515 United Nations Committee on Economic, Social and Cultural Rights (2017). Concluding observations on the third periodic report of the Republic of Moldova, E/C.12/MDA/CO/3, 19 October. <https://digitallibrary.un.org/record/1318567?ln=en>.

516 United Nations Committee on the Rights of the Child (2017). Concluding observations on the fourth periodic report of the Republic of Moldova, 20 October, CRC/C/MDA/CO/4-5. <https://digitallibrary.un.org/record/131387?ln=ar>; United Nations Committee on the Rights of the Child (2017). Concluding observations on the fourth periodic report of Georgia, 9 March, CRC/C/GEO/CO/4. <https://uhri.ohchr.org/en/document/196b7db7-0d43-4af70-8d6d-c01a4170cde6>.

517 United Nations Committee on the Rights of the Child (2015). Concluding observations on the fourth periodic report of Kazakhstan. <https://uhri.ohchr.org/en/document/e5fa2406-1d47-4423-9a76-c13e04d673a4>.

518 United Nations Committee on Economic, Social and Cultural Rights (2015). Concluding observations on the combined second and third periodic reports of Kyrgyzstan. <https://uhri.ohchr.org/en/document/c547d2e7-b4bd-434e-b4c0-1d4449f-741ca>.

*While introduction of a living wage, or aligning the minimum wage with a living wage, certainly would not solve the whole problem, it would help to limit the prevalence of child labour...*

to ensure that the business sector in the country respect child rights”.<sup>519</sup> The CRC also recommended that States continue cooperation with the International Labour Organization International Programme on the Elimination of Child Labour and UNICEF in raising awareness on the negative consequences of child labour and the prevalence of child labour, particularly in the agricultural, sales and service sectors, through public educational programmes, organized in cooperation with government, business and community leaders, educators, families and the media.

While the reasons for child labour vary by country, in most cases, the main reason is the low income of adults. While introduction of a living wage, or aligning the minimum wage with a living wage, certainly would not solve the whole problem, it would help to limit the prevalence of child labour and thus is something that a responsible business sector should aspire to.

### 7.3.5. LGBTIQ+ people

LGBTIQ+<sup>520</sup> workers in the region face daunting barriers to attaining equality and safety on the job, among them exclusion, discrimination in obtaining employment, harassment and violence on the job, and poverty. Violence during the Tbilisi Pride Parade in 2021<sup>521</sup> reflects prevailing social attitudes across the region. In many countries and territories, discussing sexual orientation is a taboo. While many countries and territories in the region have repealed laws that prohibit same-sex sexual activity, it is still criminalized in Turkmenistan<sup>522</sup> and Uzbekistan.<sup>523</sup> However, in those countries and territories where non-heteronormativity is no longer penalized, this does not mean that it is accepted. For example, in Azerbaijan, the general anti-discrimination principle laid down in the Constitution and other legal acts such as the Law on Gender Equality and the Labour Law that applies to all aspects of employment do not include sexual orientation and gender identity among anti-discrimination grounds and thus offers no specific protection to LGBTIQ+ individuals.<sup>524</sup> Yet even in Ukraine, where the Labour Code specifically protects persons from discrimination based on sexual orientation and gender identity (the only piece of legislation in the country to do so), a lack of implementation has meant it is ineffective. Even though it entered into force in 2015, courts have never been presented with a case of discrimination based on these grounds, allegedly due to poor legal literacy and implementation mechanisms.<sup>525</sup>

519 United Nations Committee on the Rights of the Child (2012). Concluding observations: Azerbaijan, <https://uhri.ohchr.org/en/document/6c-f04df4-efc5-46f5-abce-3ebe13cc06b1>; United Nations Committee on the Rights of the Child (2012). Concluding observations: Türkiye, <https://uhri.ohchr.org/en/document/16b5d4c1-96af-4fb7-844f-75cf25f8aa87>.

520 While this study uses LGBTIQ+ people to describe lesbian, gay, bisexual, transgender, intersex and queer people and to be inclusive of diverse sexual orientation and gender identity, various organizations and body use a variation on the acronym, such as LGBT and LGBTI. The study will try to use the accurate acronym where necessary, for example, if no clear references are made to intersex and queer people, then it will use LGBT.

521 BBC News (2021). “Georgia: Tbilisi Pride cancelled amid violent protests”, 5 July. <https://www.bbc.com/news/world-europe-57720366>.

522 Najibullah, Farangis (2019). “LGBT In Turkmenistan: Go To Jail Or Live A Lie”, RFE/RL, 22 October. <https://www.rferl.org/a/lgbt-in-turkmenistan-go-to-jail-or-live-a-lie/30230788.html>.

523 Kiparoidze, Mariam (2021). “Uzbekistan’s law reforms still criminalize homosexuality. Campaigners say new legislation scapegoats and imperils the LGBTQ community”, .coda, 19 March. <https://www.codastory.com/disinformation/uzbekistan-lgbtq-rights/>; See also United Nations, Human Rights Committee (2020). Concluding observations on the fifth periodic report of Uzbekistan, 1 May, CCPR/C/UZB/CO/5. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/UZB/CO/5&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/UZB/CO/5&Lang=En).

524 Council of Europe (n.d.) Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity – Legal Report: Azerbaijan, [https://www.coe.int/t/Commissioner/Source/LGBT/AzerbaijanLegal\\_E.pdf](https://www.coe.int/t/Commissioner/Source/LGBT/AzerbaijanLegal_E.pdf).

525 United Nations, Human Rights Council (2020). Report of the Independent

*While implementation remains a key challenge in the Western Balkans and Türkiye, all countries and territories in the subregion have anti-discrimination legislation and policies in place that protect LGBTIQ+ people in the workplace from discrimination, harassment, unequal treatment and more.*

While implementation remains a key challenge in the Western Balkans and Türkiye, all countries and territories in the subregion have anti-discrimination legislation and policies in place that protect LGBTIQ+ people in the workplace from discrimination, harassment, unequal treatment and more.<sup>526</sup> Not surprisingly, however, according to the Rainbow ILGA Europe report and index<sup>527</sup> which tracks major positive and negative trends in relation to LGBTIQ+ equality and human rights in ECA, the countries and territories from the Western Balkans subregion are ranked high, with Montenegro at 11th place followed by Bosnia and Herzegovina (21) and Kosovo (24), compared with other countries and territories ranked in the middle ranges, and Belarus (44), Armenia (47), Türkiye (48) and Azerbaijan (49) at the bottom. The need to address prevalent stereotypes and prejudice against LGBTIQ+ persons was also stressed by UN treaty bodies including in Albania, Georgia, Montenegro, Kyrgyzstan, Türkiye, Ukraine and Uzbekistan.<sup>528</sup>

According to research by the LGBTQ Equal Rights Association (ERA) for Western Balkans and Türkiye,<sup>529</sup> an umbrella organization for more than 60 LGBTQ groups in the region, two thirds of workers who identify as LGBTQ hide their identity due to fears of losing their job, alienation and discrimination from other colleagues, violence and exploitation. ERA also reports that 16 percent of workers surveyed have experienced unfair treatment with respect to employment conditions, and 41 percent of workers have witnessed negative conduct toward their colleagues who identify as LGBTQ.<sup>530</sup> Not only workers can bear the brunt of negative stereotypes against LGBTQ people. In Armenia, an SAS Supermarkets courier allegedly published the home address of a transgender activist on Facebook after delivering groceries.<sup>531</sup>

Expert on protection against violence and discrimination based on sexual orientation and gender identity on his visit to Ukraine, A/HRC/44/53/Add.2, 19 May. <https://digital-library.un.org/record/3865689?ln=en>.

526 OnthewaytoEU.net (2021). “Solidarity with Lgbt + Workers – A Meeting Of Trade Union And Lgbt Organizations’ Representatives In The Western Balkans”, 23 March. <https://onthewaytoeu.net/en/news/solidarity-with-lgbt-workers-a-meeting-of-trade-union-and-lgbt-organizations-representatives-in-the-western-balkans>.

527 ILGA Europe (2021). Rainbow Europe Index 2021. [https://www.ilga-europe.org/sites/default/files/Attachments/Rainbow%20Europe%20Index%202021\\_0.pdf](https://www.ilga-europe.org/sites/default/files/Attachments/Rainbow%20Europe%20Index%202021_0.pdf); ILGA (2021). Rainbow Europe Country Ranking 2021. <https://www.ilga-europe.org/sites/default/files/Attachments/2021-country-ranking.png>.

528 United Nations, Human Rights Committee (2020). Concluding observations on the fifth periodic report of Uzbekistan; United Nations, Human Rights Committee (2013). Concluding observations on the second periodic report of Albania, 22 August, CCPR/C/ALB/CO/2. <https://uhri.ohchr.org/en/document/334fbd96-041b-4643-9065-9d9c473229fa>; United Nations, Human Rights Council (2021). Report of the Working Group on the Universal Periodic Review: Georgia, A/HRC/47/15, 1 April. <https://uhri.ohchr.org/en/document/52916659-af18-43b8-b65f-9e6f00df20fe>; United Nations, Human Rights Committee (2014). Concluding observations on the initial report of Montenegro, 21 November, CCPR/C/MNE/CO/1. <https://uhri.ohchr.org/en/document/93dec44c-ac0a-4e35-a1ad-e649f0a9419c>; United Nations, Human Rights Committee (2014). Concluding observations on the second periodic report of Kyrgyzstan; United Nations, Human Rights Council (2015). Report of the Working Group on the Universal Periodic Review, Türkiye, A/HRC/29/15, 13 April. <https://uhri.ohchr.org/en/document/3dcbf511-fde6-4fce-af86-47f8d0e9f639>; United Nations, Human Rights Committee (2013). Concluding observations on the seventh periodic report of Ukraine, 22 August, CCPR/C/UKR/CO/7. <https://uhri.ohchr.org/en/document/060c29d6-ecb2-43c1-89f6-a297ce0b8081>.

529 World Bank (2018). Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe. September. <https://www.lgbti-era.org/sites/default/files/pdffdocs/0354%20Life%20on%20the%20Margins%20Survey%20results%20of%20the%20living%20experiences%20of%20lgbti%20people%20in%20south%20eastern%20europe-ilovepdf-compressed.pdf>.

530 McCloud, Steven (2021). “SE EUROPE: UNIONS UNBLOCKING BARRIERS FOR LGBTQ WORKERS”, Solidarity Center, 23 June. <https://www.solidaritycenter.org/southeastern-europe-unions-breaking-down-barriers-for-lgbtq-workers/>.

531 Business & Human Rights Resource Centre (2020). “Armenia: SAS Supermarkets courier allegedly published home address of transgender activist on Facebook after delivering groceries; company did not respond”, 12 October. <https://www.business-humanrights.org/en/latest-news/armenia-a-courier-of-sas-supermarkets-published-home-address-of-transgender-activist-on-facebook-after-delivering-groceries>.

Yet, some action is being taken to stimulate change. For example, the Solidarity Center launched in 2021 a programme with the Southeast Europe regional trade union network Solidarnost,<sup>532</sup> participating unions in Albania, Bosnia and Herzegovina, Montenegro and Serbia, and Pride at Work,<sup>533</sup> which represents LGBTQ union members in the United States, to take on LGBTQ worker issues and build solidarity by addressing LGBTQ discrimination and harassment at work as part of larger efforts tied to improving occupational safety and health and eradicating gender-based violence and harassment on the job. The programme focuses on the intersection of LGBTQ rights with workers' rights to support safe and healthy workplaces free from violence and harassment.<sup>534</sup> There is also a potentially big role for international companies and initiatives such as the Partnership for Global LGBTIQ+ Equality (PGLIE),<sup>535</sup> the founding partners of which are leading multinational companies present across the subregion. If such a broad coalition of companies committed to leveraging their individual and collective advocacy to globally accelerate LGBTIQ+ equality and inclusion partnered with local civil society to address the underlying causes of LGBTIQ+ discrimination, it could contribute to driving positive change. For now, while some foreign international companies operating in the region do sometimes make small gestures like publicly supporting Pride Month in more tolerant countries and territories, more concrete actions are needed.

### 7.3.6. National and ethnic minorities

Although racial and ethnic discrimination is prohibited by law across the region, structural discrimination facing national and ethnic minorities, in particular the Roma, in a number of spheres of socio-economic life, including employment, remains an issue of concern across the region. Discrimination condemns members of these communities to a low socio-economic status, reflected in very high poverty and unemployment rates, low labour market participation rates and very low life expectancy.<sup>536</sup> Roma women and Roma persons with disabilities are particularly disadvantaged, with earning opportunities mainly in the informal economy, often making them vulnerable to exploitation.<sup>537</sup> UN treaty bodies have repeatedly made recommendations to States on actions to be undertaken to counter this situation. For example, in the Republic of Moldova, the CESCR had recommended that it should increase the employment of Roma people, including women, through improving vocational training and employment services; and encourage employers to hire persons with

[ies-company-did-not-respond/](#)

532 See onthewaytoeu.net., a cooperation project between the European Trade Union Confederation (ETUC) and the regional network "SOLIDARNOST". <https://onthe-waytoeu.net/en/>.

533 Pride at Work. <https://www.prideatwork.org/>.

534 ILO (2020). *Safe and healthy working environments free from violence and harassment*. Geneva: ILO. [https://www.ilo.org/global/topics/safety-and-health-at-work/resources-library/publications/WCMS\\_751832/lang-en/index.htm](https://www.ilo.org/global/topics/safety-and-health-at-work/resources-library/publications/WCMS_751832/lang-en/index.htm).

535 PGLIE is a joint initiative of Business for Social Responsibility, the UN Office of the High Commissioner for Human Rights and the World Economic Forum announced at the World Economic Forum's Annual Meeting on 22 January 2019 in Davos, Switzerland. Its founding members include leading multinational companies. See: <https://www.global-lgbti.org/who-we-are>.

536 United Nations Committee on Economic, Social and Cultural Rights (2016). Concluding observations on the combined second to fourth periodic reports of the former Yugoslav Republic of Macedonia, E/C.12/MKD/CO/2-4. 15 July. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuWyrx7Fk-T82OaLmWcthVYCrqrA%2BY%2FtyHCWbEnlUJ%2BFHv2JuMNdVKewCXcKOO5aj%-2Blu9sMD8wq%2FOWyGieQaHHIGwqxqk5xmTvmYHwu6fO12C5>.

537 Ibid.

disabilities and Roma persons, including through incentive programmes.<sup>538</sup>

In addition to the Roma, other ethnic and national minorities facing discrimination in specific countries and territories include the Luli in Uzbekistan,<sup>539</sup> Egyptians in Albania,<sup>540</sup> the Mugat and Uzbek ethnic minorities in Kyrgyzstan,<sup>541</sup> Kists, Kurds, Jews, Greeks and Assyrians in Georgia<sup>542</sup> and Kurds in Türkiye.<sup>543</sup>

While a change in mentality and changing historically rooted prejudices take time, so does the adoption of new legislation and its implementation. There is a case to be made for diversity and inclusion by companies operating in the region, pointing to the advantages of inclusive working spaces, an area where international companies are perfectly suited to take the lead.

### 7.3.7. Migrants

Most migration today is linked directly or indirectly to the search for decent work opportunities. This is particularly the case in the ECA region, which according to World Bank data contains 3 of the top 5 (Tajikistan, Kyrgyzstan and the Republic of Moldova) and the 7 of the top 25 (Armenia, Kosovo, Georgia, Bosnia and Herzegovina, Tajikistan, Kyrgyzstan and the Republic of Moldova) remittance-receiving economies in the world.<sup>544</sup> Moreover, according to the International Organization for Migration, the ECA region is home to some of the most common countries and territories of origin for migrant workers in the world,<sup>545</sup> with migrants being a group particularly vulnerable to forced labour in both host and transit states. For example, Ukrainians are among the largest migrant groups with valid residence permits in the EU. Experts estimate that there are approximately 3 to 4 million Ukrainian migrant workers abroad at any given time, the majority of which are in Europe with Poland, Italy, the Czech Republic and recently the Baltic states being the main destinations.

538 United Nations Committee on Economic, Social and Cultural Rights (2017). Concluding observations on the third periodic report of the Republic of Moldova, E/C.12/MDA/CO/3. <https://uhri.ohchr.org/en/document/b318d7c8-3d8f-4cfd-9a90-3148a1fdfac4>.

539 United Nations Committee on the Elimination of Racial Discrimination (2020). Concluding observations on the combined 10th to 12th reports of Uzbekistan. CERD/C/UZB/CO/10-12. 27 January. <https://digitallibrary.un.org/record/3863944?ln=en>.

540 United Nations Committee on the Elimination of Racial Discrimination (2019). Concluding observations on the combined ninth to twelfth reports of Albania. CERD/C/ALB/CO/9-12. 2 January. <https://uhri.ohchr.org/en/document/00c-5cf84-e154-4a33-b72a-34d0ef220dd4>.

541 United Nations Committee on the Elimination of Racial Discrimination (2018). Concluding observations on the combined eighth to tenth reports of Kyrgyzstan. CERD/C/KGZ/CO/8-10. 30 May. <https://uhri.ohchr.org/en/document/d189547b-5eb0-4af7-a232-f9fe43842034>.

542 United Nations Committee on the Elimination of Racial Discrimination (2018). Concluding observations on the sixth to eighth periodic reports of Georgia. CERD/C/GEO/CO/6-8. 13 May. [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GEO/CERD\\_C\\_GEO\\_CO\\_6-8\\_23906\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GEO/CERD_C_GEO_CO_6-8_23906_E.pdf).

543 United Nations Committee on the Elimination of Racial Discrimination (2016). Concluding observations on the sixth to eighth periodic reports of Türkiye. CERD/C/TUR/CO-4-6. 11 January. [https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2020/12/08/CERD\\_C\\_TUR\\_CO\\_4-6\\_E.pdf](https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2020/12/08/CERD_C_TUR_CO_4-6_E.pdf).

544 UNDP (2016). *Regional Human Development Report 2016 – Progress At Risk: Inequalities and Human Development in Eastern Europe, Türkiye, and Central Asia*, p. 41. <https://www.undp.org/eurasia/publications/regional-human-development-report-2016-progress-risk>.

545 International Organization for Migration (IOM) (2019). "South-Eastern Europe, Eastern Europe and Central Asia", In *Migration Initiatives 2020*, p. 296 of pp. 294–323. [https://publications.iom.int/system/files/pdf/mi\\_2020\\_south-eastern\\_europe\\_eastern\\_europe\\_and\\_central\\_asia.pdf](https://publications.iom.int/system/files/pdf/mi_2020_south-eastern_europe_eastern_europe_and_central_asia.pdf). See the whole publication for detailed information about IOM priorities in each of the countries of the region: International Organization for Migration (IOM) (2019). *Migration Initiatives 2020*. <https://publications.iom.int/books/migration-initiatives-2020#:~:text=Migration%20Initiatives%202020%20is%20structured,and%20well%20managed%20migration%20policies>

**The COVID-19 pandemic has exacerbated the extreme vulnerability of certain populations, especially migrant workers.**

At the same time, the region is assessed in the Global Slavery Index as strongly affected by modern slavery and related violations, such as bonded labour and human trafficking.<sup>546</sup> The COVID-19 pandemic has exacerbated the extreme vulnerability of certain populations, especially migrant workers. As described in the Department of State 2021 Trafficking in Persons report, “Low-wage and migrant workers and those in the informal economy faced riskier employment conditions, including restricted movement, minimal oversight mechanisms, withheld wages, and increasing debts—all indicators or flags for human trafficking. During stay-at-home orders, workers who lived at their worksites became particularly vulnerable to sex trafficking and forced labour while being restricted in their ability to seek assistance or leave their situation of exploitation.”<sup>547</sup> Migrant women and girls have also seen gender-based violence increasing significantly during the COVID-19 pandemic and a greater risk of being exploited and pushed into forced labour.<sup>548</sup> It is common for migrant workers, particularly those in an irregular situation, to not have access to education, health care or a social protection system in countries and territories of employment,<sup>549</sup> as well as facing discrimination, exploitation and unsafe working conditions when they arrive in destination countries and territories.

There are numerous examples of BHR violations against migrants, including domestic servitude, forced and bonded labour, and other employment-related abuse such as poor and hazardous working conditions, delayed payments and the confiscation of identity documents.<sup>550</sup> Kyrgyz migrant workers fall prey to deceptive or informal recruitment practices, including misrepresentations concerning the place and nature of the work to be performed, the amount of wages and employees’ legal status. In most cases, employers kept migrants’ identity documents and did not formalize the working relationship by signing employment contracts. Many migrant workers complained of restrictions on movement and the withholding of wages. They also reported hazardous working conditions, including excessive working hours, lack of protective equipment and medical care, and inadequate living conditions, such as excessive heat and lack of basic amenities. Migrant workers do not receive any social protections and often suffer from intimidation and threats.<sup>551</sup> They are rarely informed about their rights; it is critical to understand and be able to claim one’s rights.

Migrants are particularly vulnerable to human rights violations as they often have different rights due to their migration status to citizens (in terms of access to services such as access to health, education, housing and legal aid). They also suffer from intimidation and threats in

546 Global Slavery Index (2018). Regional Analysis – Europe and Central Asia. <https://www.globalslaveryindex.org/2018/findings/regional-analysis/europe-and-central-asia/>.

547 U.S. Department of State (2021). *Trafficking in Persons Report*. June, p. 11. <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.

548 International Organization for Migration (IOM) (2020). COVID-19 IMPACT ON UKRAINIAN MIGRANTS: SITUATION OVERVIEW, Updated on 31 March 2020. [https://iom.org.ua/sites/default/files/iom\\_ukraine\\_covid-19\\_impact\\_on\\_migration.pdf](https://iom.org.ua/sites/default/files/iom_ukraine_covid-19_impact_on_migration.pdf).

549 For example, see, United Nations Committee on Economic, Social and Cultural Rights (2015). Concluding observations on the combined second and third periodic reports of Tajikistan, E/C.12/TJK/CO/2-3. 25 March. <https://uhri.ohchr.org/en/document/5e8fee98-f991-46b5-83d4-532a7871cdec>.

550 ILO (2021). Comments adopted by the CEACR: Kazakhstan. [http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13202:0::NO::P13202\\_COUNTRY\\_ID:103542](http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13202:0::NO::P13202_COUNTRY_ID:103542).

551 Ibid.

***Migrants are particularly vulnerable to human rights violations as they often have different rights due to their migration status to citizens... They also suffer from intimidation and threats in the workplace, with few opportunities to stand up for their rights and hold employers accountable.***

the workplace,<sup>552</sup> with few opportunities to stand up for their rights and hold employers accountable. It is worth noting the development of the Migrant Workers’ Union, the founding congress which took place on 17 October 2019 in Kyrgyzstan. They union has since grown to more than 2,000 members, mainly migrant workers from Kyrgyzstan, who have joined together to protect their rights abroad.<sup>553</sup> The rights and protection of migrants were of concern to the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, which paid special attention to the obligations of States in the region,<sup>554</sup> while the Committee on Economic, Social and Cultural Rights raised concern about the working conditions of migrant workers, who have limited options for legal employment, are subject to quota systems and reportedly fear reporting violations due to mistrust in authorities.

Access to remedies remains very restricted for migrant workers. The very few cases in which migrant workers have been able to obtain some sort of compensation have been concerned with severe work-related injury or death. For example, in Türkiye, the majority of the limited number of complaints the Ombudsman institution has received to date from migrant workers or members of their families have been declared inadmissible. Undocumented migrant workers in Türkiye are reportedly rarely able to seek redress for violations of their rights without being punished on the grounds of their irregular migration status. The fear of retaliation, threat of deportation and monetary fines for carrying out unregistered work deter undocumented migrant workers from filing complaints.<sup>555</sup>

### 7.3.8. Human Rights Defenders and trade union members

As described in **Chapter 3**, the operating landscape for Human Rights Defenders and broader civil society is severely affected by a decline in the rule of law in the region. The use of the COVID-19 pandemic to impose oversight and limitation on freedoms has exacerbated the situation. According to the 2021 Business and Human Rights Resource Centre (BHRRC) report,<sup>556</sup> 129 cases of attacks against HRDs in Europe (including Russia) were reported on the online portal in 2020, with the majority in connection with the agribusiness and mining sectors. It is assumed that these cases represent a fraction of the real number.

Human rights defenders in the ECA region come from a variety of backgrounds and include civil society activists, environmental rights activists, professors and researchers working in academia, whistle-blowers in state institutions, students and others. The HRD groups most subjected to attacks related to their activities include journalists, civil

552 Ibid.

553 Connell, Tula (2019). “A First of Its Kind: Kyrgyz Migrant Workers’ Union”, Solidarity Center, 4 November. <https://www.solidaritycenter.org/a-first-of-its-kind-kyrgyz-migrant-workers-union/>.

554 For example, United Nations Committee on the Rights of All Migrant Workers and Members of Their Families (2019). Concluding observations on the second periodic report of Tajikistan, 9 May, CMW/C/TJK/CO/2. <https://uhri.ohchr.org/en/document/7a20a75d-f70c-43c9-ae7c-43dffe56dec>; United Nations Committee on the Rights of All Migrant Workers and Members of Their Families (2019). Concluding observations on the second periodic report of Albania, 8 May, CMW/C/ALB/CO/2. <https://uhri.ohchr.org/en/document/7c76acd9-71a1-4068-b1c9-a26596893f72>.

555 United Nations Committee on the Rights of All Migrant Workers and Members of Their Families (2019). Concluding observations on the initial report of Türkiye, 31 May, CMW/C/TUR/CO/1. <https://uhri.ohchr.org/en/document/aa91dca7-58cd-457b-ad9b-1b03a90c852d>.

556 Business & Human Rights Resource Centre (2021). “In the line of fire. Increased legal protection needed as attacks against business & human rights defenders mount in 2020”. March, p. 3. [https://media.business-humanrights.org/media/documents/HRD\\_2020\\_Snapshot\\_EN\\_v9.pdf](https://media.business-humanrights.org/media/documents/HRD_2020_Snapshot_EN_v9.pdf).

society and community activists, rule of law and democracy activists, environmental rights defenders and women HRDs.

Depending on the subregion, threats to the work of HRDs varies from judicial and media prosecutions, intimidation, arrest and detention, physical violence and death threats. The rights most at stake are the right to life; prohibition of torture; cruel, inhuman or degrading treatment or punishment; the right to a safe and healthy environment; the right to liberty and security; the right to fair trial; freedom of expression, assembly and association; and the prohibition of discrimination. The European Court of Human Rights has so far delivered many judgments against States in the region concerning their abuses of the rights of HRDs. There are many examples across the region of HRDs being harassed, intimidated and prosecuted.

In Belarus, in reaction to protests that followed the 2020 rigged presidential elections, the government cracked down not only on HRDs and civil society organizations, including the Belarus Helsinki Committee,<sup>557</sup> but also on society at large.<sup>558</sup> In Türkiye and Ukraine, dozens of cases of prosecutions of HRDs were reported in 2020.<sup>559</sup> The abuse of HRDs was also reported in Kazakhstan.<sup>560</sup> When examining the situation in the Western Balkans, the UN Human Rights Council found it necessary to recommend to North Macedonia in the Conclusions of the 2019 UPR review to provide a safe and secure environment for civil society activists, human rights defenders and journalists to carry out their work,<sup>561</sup> while the 2018 Concluding Observations on Serbia said it should recognize “the important role of human rights defenders, many of whom face particular risks and threats, and provide practical support for them to carry out their human rights work, including by preventing any acts of reprisal or intimidation against them.”<sup>562</sup>

An important decision to protect the rights of public organizations to publicly discuss business projects was made by the Supreme Court of Ukraine in May 2021. According to the Supreme court, “The provisions of international treaties enshrine and guarantee the rights of civil environmental organizations as forms of self-organization of civil society, to participate in the discussion and dissemination of environmental information, including the location, construction and reconstruction of facilities, that affect the state of the environment.”<sup>563</sup>

Trade unions are special actors whose role is to protect workers

557 IFEX (2021). “Belarusian Justice Ministry files lawsuit to dissolve Belarusian Helsinki Committee”, 29 September. <https://ifex.org/belarusian-justice-ministry-files-lawsuit-to-dissolve-belarusian-helsinki-committee/>.

558 Human Rights Watch. World Report 2021. “Belarus, Events of 2020”. <https://www.hrw.org/world-report/2021/country-chapters/belarus>.

559 Zmina (2020). “Since the beginning of 2020, human rights defenders have recorded 74 cases of persecution of activists”, 20 October. <https://zmina.ua/en/event-en/since-the-beginning-of-2020-human-rights-defenders-have-recorded-74-cases-of-persecution-of-activists/>.

560 Human Rights Watch (2021). World Report 2021. “Kazakhstan, Events of 2020”. <https://www.hrw.org/world-report/2021/country-chapters/kazakhstan>.

561 United Nations, Human Rights Council (2019). Report of the Working Group on the Universal Periodic Review, Serbia, A/HRC/41/1, 9 April, at 104.102. [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/1).

562 United Nations, Human Rights Council (2018). Report of the Working Group on the Universal Periodic Review, Serbia, A/HRC/38/17, 18 April, at 114.80 (recommendation by New Zealand), p. 20. [http://digitallibrary.un.org/record/1627323/files/A\\_HRC\\_38\\_17-EN.pdf](http://digitallibrary.un.org/record/1627323/files/A_HRC_38_17-EN.pdf).

563 Ukraine Unified State Register of Court DEurope and Central Asiaions (2021). JUDGMENT of the Supreme Court of 26 May 2021 in case N° 918/132/20. <https://reyestr.court.gov.ua/Review/97517292>.

and their rights and freedoms. According to interviewees, while in Western countries and territories trade unions are seen as legitimate representatives of the interests of workers, trade unions in the Europe and Central Asia region, with their heavy legacy of being under the control of and a de facto arm of the Communist Party implementing decisions made in advance (which is still the case of the official trade unions in Belarus), are, since the 1990s, in the process of transformation from how they worked under and what was expected from them from authoritarian regimes to what is expected of democratic trade unions. Thus, they need to be seen in a much more nuanced way.

The transition economies of the region, which are characterized by having large informal economies, create a difficult environment for that process. The situation is certainly not helped by the fact that the “old” trade unions, being for decades detached from the labour rights and interests of workers, find it difficult to adjust to what is expected of trade unions in a capitalist system.<sup>564</sup> It is also worth noting that the main functions and focus of Soviet-type trade unions in a state-controlled system were different from the function of trade unions of Western European countries and territories.<sup>565</sup> Other factors are the lack of readiness of some trade unions to modernize in the face of changing economies and labour markets<sup>566</sup> and the situation where “the current legislation of Armenia, Azerbaijan and Georgia on labour, social dialogue and partnership, responding to market realities, provides only a minimum of social and labour guarantees, thereby influencing employers and workers to build labour relations on a contractual basis.”<sup>567</sup>

At the same time, there is a desperate need for legitimate representation of workers, to uphold and protect their rights and freedoms, and guarantee social dialogue and partnership. New trade unions and models of representation are forming. However, members of independent trade unions are frequently subjected to persecution, and the trade unions are weak and often subjected to pressures by businesses and government. Previously described examples include repression of independent trade unionists in Belarus and Azerbaijan. Yet even countries and territories such as Montenegro, where the government generally respects freedom of association<sup>568</sup> according to the Union of Free Trade Unions, the activities of labour rights defenders have in practice often been hindered by government and corporate actors<sup>569</sup>, with employers often intimidating workers engaged in union activity or trying to establish a trade union.

564 Aleksanyan, Ashot (2019). Trade Unions As an Actor of Regional Citizenship And European Social Integration Of The South Caucasus. EUCACIS Online Paper No. 5, February. Institut für Europäische Politik (IEP) and the Centre international de formation européenne (CIFE). [http://archiv.iep-berlin.de/wp-content/uploads/2019/10/EUCACIS\\_Online-Paper-No-5-Aleksanyan.pdf](http://archiv.iep-berlin.de/wp-content/uploads/2019/10/EUCACIS_Online-Paper-No-5-Aleksanyan.pdf).

565 United Nations, Human Rights Council (2015). Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Addendum: Visit to Azerbaijan, A/HRC/29/28/Add. 1, 3 June, para. 78. <https://digitallibrary.un.org/record/798339?ln=en>.

566 Aleksanyan, Ashot (2019); interview with government official (notes on file with the author), September 2021; interview with CSOs representative (notes on file with the author), September 2021.

567 Aleksanyan, Ashot (2019), p. 5.

568 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Montenegro. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/montenegro/>.

569 Friedrich Ebert Stiftung (2017). “2016 Annual Review of Labour Relations and Social Dialogue. Montenegro”, Vesna Simonić-Zvicer, February. <http://library.fes.de/pdf-files/bueros/bratislava/13214.pdf>; Friedrich Ebert Stiftung (2016). “2015 Annual Review of Labour Relations and Social Dialogue. Montenegro”, Aleksandra Visnjic, March. <https://library.fes.de/pdf-files/bueros/bratislava/12469.pdf>; Friedrich Ebert Stiftung (2011). “Annual Review 2010 on Labour Relations and Social Dialogue in South East Europe: Montenegro”, Vesna Simović, January. <https://library.fes.de/pdf-files/bueros/belgrad/07863.pdf>.

*Trafficking in human beings (sometimes referred to by its initials THB) including for forced labour is a widespread and highly profitable crime that generates globally an estimated US\$150 billion per year.*

Similarly in Kosovo, trade unions face challenges. The US Department of State noted in 2020 that, “According to the Association of Independent Labor Unions in Kosovo (BSPK), resources, inspections, and remediation were inadequate, and penalties were not commensurate with those for similar violations.”<sup>570</sup> It further noted that, “The BSPK reported continued difficulty in establishing unions due to employer interference in workers’ associations and unions, particularly in the banking, construction, and hotel sectors. Representatives from these sectors anonymously told the BSPK some employers used intimidation to prevent the establishment of unions.”<sup>571</sup>

Finally, trade unions’ work can be supported by initiatives like the Ethical Trading Initiative (ETI),<sup>572</sup> which has built a local platform in Türkiye of 30 brands and retailers, employer associations, trade unions and civil society organizations, which provides space for engagement and dialogue focused on three areas: Business and Human Rights, purchasing practices and social dialogue in the workplace.<sup>573</sup>

#### 7.4. Trafficking in human beings and forced labour<sup>574</sup>

Trafficking in human beings (sometimes referred to by its initials THB) including for forced labour is a widespread and highly profitable crime that generates globally an estimated US\$150 billion per year.<sup>575</sup> What is appalling is that a significant portion of those profits are being passed through legitimate financial service businesses, which makes it crucial for states to implement the Financial Action Task Force (FATF)<sup>576</sup> Recommendations. Member countries and territories of the FATF are required to identify, assess and understand money laundering and illicit finance risks and to mitigate those risks. Across the region, 10 countries<sup>577</sup> are covered by the FATF, aligned with MONEYVAL,<sup>578</sup> a permanent monitoring mechanism of the Council of Europe. Six are members of the Eurasian Group (EAG – an FATF-style regional body)<sup>579</sup> and Türkiye is covered by the FATF itself, with only Kosovo not being formally a member of these mechanisms. Membership is of crucial importance, as the ease

570 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Kosovo. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kosovo/>.

571 Ibid.

572 The Ethical Trading Initiative (ETI) is a leading alliance of companies, trade unions and NGOs that promotes respect for workers’ rights around the globe. <https://www.ethicaltrade.org/>.

573 Ethical Trading Initiative. “Syrian refugees working in Türkiye’s garment sector”. <https://www.ethicaltrade.org/programmes/syrian-refugees-working-turkiyes-garment-sector>.

574 In line with the ILO Forced Labour Convention No 29 (1930), forced labour is defined as “all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

575 U.S. Department of State (2021). Trafficking in Persons Report. June, p. 43. <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.

576 The Financial Action Task Force (FATF) is an intergovernmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. <https://www.fatf-gafi.org/>.

577 Countries covered by MONEYVAL include Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia and Ukraine.

578 Council of Europe. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). <http://www.coe.int/t/dghl/monitoring/moneyval/>.

579 The Eurasian Group members are Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. See FATF. “EAG”. <https://www.fatf-gafi.org/countries/#EAG>.

*...in 2016 an estimated 3.6 million people were living in modern slavery in the region, i.e. about 3.9 people per 1,000 with 36 percent of victims held in debt bondage and the region also accounting for 14 percent of forced sexual exploitation worldwide.*

with which traffickers operate depends on national legislation and on how dedicated financial institutions across the region are in preventing illicit financial flows, including via cryptocurrency channels.

In the ECA region, trafficking in human beings,<sup>580</sup> including for forced labour, remains a high risk, with only Georgia assessed in the Department of State report on this topic as a Tier 1 country, that is with relatively low risk of trafficking human beings and forced labour, with the government having undertaken steps to comply fully with the minimum standards for the elimination of trafficking and forced labour. It should be added that forced labour, according to ILO estimates from 2016, makes up to 91 percent of all modern slavery cases in the region, with the number comprising forced labour imposed by private actors, forced sexual exploitation and State-imposed forced labour.<sup>581</sup> The majority of countries and territories fall into Tier 2 category, i.e. they are deemed not to be fully compliant with the minimum standards but are making significant efforts to bring themselves into compliance, with only Turkmenistan falling into the Tier 3 category, a country that neither satisfies the minimum standards nor demonstrates significant effort to come into compliance (see [Annex 4](#) for details). However, the overall trend is positive, as six countries and territories, one third of the region, improved their rating from 2020 to 2021.

According to the Global Slavery Index, in 2016 an estimated 3.6 million people were living in modern slavery in the region, i.e. about 3.9 people per 1,000 with 36 percent of victims held in debt bondage and the region also accounting for 14 percent of forced sexual exploitation worldwide. While Belarus, North Macedonia and Turkmenistan were identified as the countries and territories with the highest prevalence of modern slavery, Türkiye and Ukraine were those with the highest absolute number.<sup>582</sup> In contrast, the Global Slavery Index 2018 highlighted Montenegro as one of the countries and territories that undertook the most actions to fight modern slavery and Georgia and the Republic of Moldova as countries and territories that undertook a strong response relative to their GDPs.<sup>583</sup>

The situation in the region has been exacerbated by the economic and health crisis caused by the COVID-19 pandemic, generating conditions that resulted in an increased number of people experiencing economic and social vulnerabilities, while adversely affecting anti-trafficking efforts by governments and decreasing the protection of and provision of services to victims; meanwhile, human traffickers have quickly adapted to the realities of the COVID-19 pandemic, including by making greater use of online tools.

In Central Asia, the sector most plagued by forced labour is agriculture. Cases of forced labour are linked to cotton production in Turkmenistan,<sup>584</sup>

580 “Trafficking in persons”, “trafficking in human beings” and “modern slavery” are umbrella terms, often used interchangeably, that refer to a crime where adults or children are compelled to perform labour or engage in commercial sex for the profit of the traffickers. U.S. Department of State (2021). Trafficking in Persons Report. June, p. 16. <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.

581 ILO (2017). 2017 Global Estimates Of Modern Slavery And Child Labour. Regional brief for Europe and Central Asia. [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@ipecc/documents/publication/wcms\\_597874.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_597874.pdf).

582 Global Slavery Index (2018). Regional Analysis – Europe and Central Asia. <https://www.globalslaveryindex.org/2018/findings/regional-analysis/europe-and-central-asia/>.

583 Global Slavery Index (2018). Highlights. <https://www.globalslaveryindex.org/2018/findings/highlights/>.

584 Anti-Slavery International (2018). “Let’s bring Turkmen Cotton Crimes out of the shadows”. <https://www.antislavery.org/bring-turkmen-cotton-crimes-shadows/>.

Kazakhstan and Tajikistan, and the production of silk cocoons in Uzbekistan.<sup>585</sup> In some cases, the State itself is involved in human rights violations related to business activity; Turkmenistan's<sup>586</sup> and Uzbekistan's governments were intimately involved with the extensive forced labour system used in cotton production,<sup>587</sup> having relied on the major state-owned enterprises and other organizations to supply their employees as cotton pickers during harvest time and bear the costs of their transportation, food, and accommodation. Even though the industry has since undergone privatization in Uzbekistan, forced labour remains endemic<sup>588</sup> and thus was a focus of attention during the country's UN Universal Periodic Review.<sup>589</sup>

Some signs of change can be noted, at least in Uzbekistan. The ILO was optimistic enough about progress to indicate in its 2020 report that although some local vestiges of child labour remain, "the systematic and systemic use of child labour and forced labour in Uzbekistan's cotton industry has come to an end".<sup>590</sup> But even though Uzbekistan has seen significant progress in this one area, the elimination of forced labour in cotton production, the number of cases of forced labour is still considerably high: 6.8 percent or 170,000 people, "mainly because

585 U.S. Department of Labour. The Bureau of International Labor Affairs. List of Goods Produced by Child Labor or Forced Labor. <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

586 ILO (2020). Application of International Labour Standards 2020. Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference 109th Session, 2020, p. 246. <https://www.ilo-emp.org/index.php?elD=dumpFile&t=f&f=146232&token=936890b82a8201f8257d-ccc14389c2ea004471ab>. UN CESCR has also expressed concern at the reported continued widespread use of forced labour among workers and students under threat of penalties during the cotton harvest. United Nations Committee on Economic, Social and Cultural Rights (2018). Concluding observations on the second periodic report of Turkmenistan, E/C.12/TKM/CO/2. 31 October, para. 23. <https://uhri.ohchr.org/en/document/fa405144-ad7c-4162-a45b-af3583a93aef>.

587 Uzbek-German Forum for Human Rights (UGF) (2019). *They said we wouldn't have to pick and now they send us to the fields: Forced Labor in Uzbekistan's Cotton Harvest 2018*. April. <https://www.uzbekforum.org/wp-content/uploads/2019/04/Cotton-Harvest-2018-4.pdf>.

588 See articles available at the Business & Human Rights Resource Centre portal, for example, Business & Human Rights Resource Centre (2020). "Governance, rule of law and corruption in Eastern Europe and Central Asia: Barriers to holding corporations accountable for human rights abuses", 15 December. <https://www.business-humanrights.org/en/blog/governance-rule-of-law-and-corruption-in-eastern-europe-and-central-asia-barriers-to-holding-corporations-accountable-for-human-rights-abuses/>.

589 United Nations Human Rights Council. Universal Periodic Review – Uzbekistan. <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UZIndex.aspx>.

590 ILO (2021). "Systemic forced labour and child labour has come to an end in Uzbek cotton", 26 January. [https://www.ilo.org/washington/news/WCMS\\_767753/lang-en/index.htm](https://www.ilo.org/washington/news/WCMS_767753/lang-en/index.htm); ILO (2021). *2020 third-party monitoring of child labour and forced labour during the cotton harvest in Uzbekistan*. Geneva: ILO. [https://www.ilo.org/wcms5/groups/public/---dgreports/---ilo-washington/documents/projectdocumentation/wcms\\_767756.pdf](https://www.ilo.org/wcms5/groups/public/---dgreports/---ilo-washington/documents/projectdocumentation/wcms_767756.pdf). According to ILO, which engages with various stakeholders in the country to help tackle the problem, Uzbekistan has reduced forced labour in the cotton harvest by 48 percent compared to 2017, with the vast majority of cotton pickers not being in forced labour. ILO (2021). "An end to child labour and forced labour in Uzbekistan's cotton harvest", ILO in action (video), 31 January. [https://www.ilo.org/global/about-the-ilo/multimedia/video/institutional-videos/WCMS\\_818200/lang-en/index.htm](https://www.ilo.org/global/about-the-ilo/multimedia/video/institutional-videos/WCMS_818200/lang-en/index.htm); see also ILO (2020). Application of International Labour Standards 2020. Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference 109th Session, 2020, p. 278. <https://www.ilo-emp.org/index.php?elD=dumpFile&t=f&f=146232&token=936890b82a8201f8257d-ccc14389c2ea004471ab>. According to the ILO, more than 96 percent of workers in the 2020 cotton harvest worked freely and the systematic recruitment of students, teachers, doctors and nurses has completely stopped. While the situation is mixed on the ground, particularly if reports by civil society organizations are to be believed, according to the ILO report of ILO third-party monitoring of child labour and forced labour during the 2018 cotton harvest: "there is a continued strong political commitment and clear communications from the Government of Uzbekistan to eradicate forced labour", which can be evidenced not only by the fact that systematic forced labour was not exacted by the Government during the 2018 cotton harvest, but also because other actions were undertaken, e.g. an increase in wages, public awareness campaigns, rolling out a complaints system, and strengthening the labour inspectorate with 200 inspectors, who received training by the ILO on forced labour investigations, with the result that "over 2,000 cases of forced labour were investigated and 206 hokims, officials and managers were sanctioned for forced labour violations, leading to fines, demotions and dismissals". ILO (2019). *Third party monitoring of child labour and forced labour during the 2018 cotton harvest in Uzbekistan*, p. 278.

the legacy of the centrally planned agriculture and economy (centrally set quotas) is still conducive to the exaction of forced labour"<sup>591</sup> with reforms and new national policies having been unevenly implemented, especially at the local level. Positive developments are overshadowed by an ongoing crackdown on HRDs who oversaw the implementation of ILO reforms during the harvest season,<sup>592</sup> as the country's authorities, citing economic difficulties caused by the COVID-19 pandemic, pressured the Cotton Campaign international coalition to approve the lifting of the boycott of Uzbek cotton.<sup>593</sup>

Unfortunately, the political will to eradicate forced labour is not evident in Turkmenistan, the ninth largest producer and seventh largest exporter<sup>594</sup> of the world's cotton. Even though the country has reported having purchased a large amount of harvesting equipment<sup>595</sup> to reduce the need for an involuntary labour force, as reported by the Turkmen Initiative for Human Rights<sup>596</sup> and media, cotton was again harvested in 2020 with forced labour, with students and public sector employees, including teachers, systematically forced into the cotton fields in four of Turkmenistan's five regions, with women especially vulnerable to forced labour because they comprise most of the public sector workforce traditionally involved in the cotton harvest.<sup>597</sup> Finally, in Kazakhstan, which allows compulsory prison labour imposed in line with the Criminal Code, this issue is at present under scrutiny by the ILO.<sup>598</sup>

In the Western Balkans, there are cases of trafficking for sex exploitation and forced begging, and there are likely other forms of forced labour. In particular, vulnerable groups include the marginalized Roma, Ashkali and Egyptian communities, with LGBTIQ+ persons, migrants, asylum seekers and refugees experiencing a higher risk of being trafficked.<sup>599</sup> Traffickers subject their victims to sex trafficking and forced labour not only in countries and territories in the subregion but throughout Europe. Both UN treaty bodies and the UN HRC regularly include among their recommendations for the countries and territories in the region the need to ensure that police and prosecution consistently identify and protect

591 ILO (2019). *Third party monitoring of child labour and forced labour during the 2018 cotton harvest in Uzbekistan*, p. 278. [https://www.ilo.org/wcms5/groups/public/---ed\\_norm/---ipecc/documents/publication/wcms\\_681372.pdf](https://www.ilo.org/wcms5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_681372.pdf).

592 In June 2021, police officers in the Namangan region detained and beat four independent observers who were documenting the labour of adolescents in the cotton fields. Law enforcement officers took their cameras, mobile phones and their notes, forcibly tested activists for COVID-19 and placed them in quarantine under supervision. See full report at Amnesty International. "Uzbekistan". <https://eurasia.amnesty.org/uzbekistan/>.

593 Amnesty International. "Uzbekistan". <https://eurasia.amnesty.org/uzbekistan/>.

594 Cotton Campaign. "Cotton Campaign: Leading the Fight Against State-Imposed Forced Labor in the Cotton Fields of Turkmenistan". <https://www.cottoncampaign.org/cotton-campaign-in-turkmenistan>.

595 Section 19 of the Labour Code of Turkmenistan provides that an employer may require a worker to undertake work which is not associated with his or her employment in cases specified by law.

596 Turkmen Initiative for Human Rights. "About Us". <https://en.hronikatm.com/about-tihr/>.

597 Human Rights Watch. "Turkmenistan". <https://www.hrw.org/europe/central-asia/turkmenistan>; Butler, Carolyn (2021). "Turkmenistan: Forced Labor Remains In Cotton Supply Chain", 25 March. <https://www.solidaritycenter.org/turkmenistan-forced-labor-remains-in-cotton-supply-chain/>; Turkmen.news and Turkmen Initiative for Human Rights (TIHR) (2021). *Review of the Use of Forced Labor in Turkmenistan During the 2020 Cotton Harvest*. March. [https://en.turkmen.news/wp-content/uploads/2021/03/TURKMENISTAN\\_COTTON\\_2020\\_WEB\\_ENG.pdf](https://en.turkmen.news/wp-content/uploads/2021/03/TURKMENISTAN_COTTON_2020_WEB_ENG.pdf).

598 ILO (2020). *Application of International Labour Standards 2020*. Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference 109th Session, 2020, p. 234. <https://www.ilo-emp.org/index.php?elD=dumpFile&t=f&f=146232&token=936890b82a8201f8257d-ccc14389c2ea004471ab>.

599 U.S. Department of State (2021). *Trafficking in Persons Report*. June, p. 346. <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.

...trafficking cases are dropped due to lack of evidence; and there is a lack of development of standard indicators, insufficient training of law enforcement officers and an absence of efforts aimed at empowering victims.

potential victims and ensure that crimes are investigated and those responsible persecuted (e.g. Albania UPR in 2019).<sup>600</sup>

There are a number of ways in which States are trying to tackle trafficking and lower the risk of people being lured into forced labour by deception. In Kosovo, the Ministry of Labour and Social Welfare maintains a legal framework for the registration and licensing of private sector employers, including foreign employment agencies,<sup>601</sup> where prospective employees can check the credibility of the agency. This is an important step, as networks of workforce agencies recruit workers to other countries and territories, including Israel, through a fraudulent asylum-claim process; charge workers high mediation fees, what often leads to debt bondage; and sell them fake documents, which further increases vulnerability of these workers to exploitation.<sup>602</sup> In Armenia, “the government developed a manual for local police on monitoring businesses for trafficking and engaging vulnerable communities”<sup>603</sup> and had labour inspections conducted by the Health and Labour Inspection Body (HLIB) for the first time since 2015, although at the same time limiting its potential impact by not extending its jurisdiction to conduct inspections of “non-legal” employers such as small farms or illegal businesses. A labour trafficker has not been convicted since 2014; trafficking cases are dropped due to lack of evidence; and there is a lack of development of standard indicators, insufficient training of law enforcement officers and an absence of efforts aimed at empowering victims.

Countries and territories of the region, and beyond, are actively supported in their efforts by the ILO<sup>604</sup> and other international organizations working in the region to address the root causes of vulnerability to human trafficking and forced labour. Even more could be done if both intergovernmental organizations and public administrations started to leverage the market and promote social and green public procurement, with one of the conditions linked to being clear of forced labour.

Finally, CSOs also have a role to play in fighting trafficking and forced labour. An NGO network worth noting is the International La Strada Association (La Strada International/LSI), which comprises eight independent member organizations that operate from a grass-roots level (including in Belarus, North Macedonia, the Republic of Moldova and Ukraine) and undertakes activities for advocacy, prevention and social support for trafficked persons and at-risk groups to empower them to exercise their rights. The US Department of State Trafficking in Persons Report 2021 notes the work of two networks: Religious in Europe Networking Against Trafficking and Exploitation (RENATE),<sup>605</sup> a network of European religious women from 21 countries and territories combating human trafficking, who in 2005 established the anti-trafficking

600 United Nations, Human Rights Council (2019). Report of the Working Group on the Universal Periodic Review, Albania, A/HRC/42/4, 3 July, para. 95.77. <https://digi-tallibrary.un.org/record/3823788?ln=en>.

601 U.S. Department of State (2021). Trafficking in Persons Report. June, p. 346. <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.

602 Note that the government’s policy of refusing to fast-track asylum claims has resulted in fewer Ukrainian and Georgian applications; however, they were replaced by increased numbers of Russian and Moldovan workers following the same pattern. Ibid.

603 Ibid., p. 98.

604 ILO. “Forced labour, modern slavery and human trafficking”. <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>.

605 Religious in Europe Networking Against Trafficking and Exploitation (RENATE). <https://www.renate-europe.net/>.

**Over the past two decades, EU-based investors have brought about positive changes in the respect for the rule of law and human rights in the Western Balkans and Türkiye... They are also seen in a more positive light than investors from other regions...**

NGO Mary Ward Loreto (MWL) in Albania<sup>606</sup> and the Legal Center for Women’s Initiatives Sana Sezim, the premier anti-trafficking organization in Kazakhstan that has greatly advanced efforts within the country to end human trafficking and help labour migrants.<sup>607</sup>

In conclusion, States need to revise or create legislative frameworks adjusted to their context that prohibit the trafficking of human beings and forced labour, or at the least, should adopt an expansive interpretation of such legislation to sanction practices that amount to forced labour. They should also raise awareness of all actors, but also undertake technical measures such as strengthening labour inspections, issuing fines and adjusting public procurement policies. Finally, dedicated actors should be provided with support free of charge via the ILO Decent Work Country Programmes (DWCPs).<sup>608</sup>

## 7.5. Investment

Countries and territories across the region are very welcoming to foreign investment, which they see as a source of new production technologies, jobs and funding, and can come with a highly skilled workforce. Foreign investors can be granted preferential tax benefits, special investor incentives and free economic zones,<sup>609</sup> such as the Belarussian IT sector-centric High Tech Park (HTP), the joint Belarus–China Great Stone Industrial Park or Alliance and Meridian Free economic zones in Armenia and the Alat Free Economic Zone in Azerbaijan, set for opening in July 2022. As stated in Section 4.5, in most countries and territories, except for Belarus, the change of economic systems has resulted in privatization in which foreign investors can play an important role. Unfortunately, in many countries and territories across the region, investor-friendly deregulation has led to situations where workers’ and citizens’ rights no longer receive an adequate level of protection in the face of irresponsible business practices.

Special attention should be paid to the impact of investments, in particular the role, positive and negative, of International Investment Agreements (IIAs). While investment, including foreign investment can be a tool for good, the UN Working Group on BHR noted, “most existing international investment agreements reflect an imbalance between rights and obligations of investors, which can have the unintended effect of facilitating irresponsible investor conduct or making it challenging for States to regulate such conduct.” As such, States should “ensure that all existing and future investment agreements are compatible with their international human rights obligations ... [and] should also invoke international investment agreements to encourage responsible business conduct on the part of investors and hold them accountable for abusing internationally recognized human rights.”<sup>610</sup>

606 U.S. Department of State (2021). *Trafficking in Persons Report*. June, p. 69.

607 Ibid., p. 71.

608 ILO. “Decent Work Country Programmes (DWCPs)”. <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/departments-and-offices/program/dwcp/lang--en/index.htm>.

609 Each of Belarus’s six regions has its own free economic zone (FEZ): Minsk, Brest, Gomel-Raton, Mogilev, Grodno Invest and Vitebsk. For details see: U.S. Department of State (2019). Investment Climate Statements: Belarus, <https://www.state.gov/reports/2019-investment-climate-statements/belarus/>.

610 United Nations General Assembly (2020). Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises: Human rights-compatible international investment agreements. A/76/238. 27 July. <https://undocs.org/A/76/238>.



The impact of foreign investments on the three subregions of the ECA region is substantially different. Over the past two decades, EU-based investors have brought about positive changes in the respect for the rule of law and human rights in the Western Balkans and Türkiye (see examples and discussion on best practices from the business sector in Section 5.5). They are also seen in a more positive light than investors from other regions in South Caucasus and Eastern Europe countries, although cases of negative impact are also reported.

On 6 October 2021, the EU announced the EUR 30 billion Economic and Investment Plan in the countries and territories of the Western Balkans, including Kosovo, subject to reforms in the rule of law and respect for human rights and environmental protection both in the public and private sector.<sup>233</sup> It notes “implementation of the Economic and Investment Plan (EIP), which sets out a substantial investment package and will generate more sustainable, green, digital and people-focused growth, benefiting the region and Europe as a whole intensifying regional cooperation.”<sup>234</sup> This investment package presents an opportunity for the EU to urge countries and territories in the Western Balkans to adopt National Action Plans on Business and Human Rights.

From a citizen’s perspective, the critical right to be secured in this context is the right to information, as in many countries and territories access to information about the terms of investment agreements and individual investment projects is either made difficult or denied. This is a major issue, for example, in Uzbekistan, where the general public and civil society do not have access to information about IIAs until they are already signed, and thus are unable to assess at the negotiations stage the impact on the daily lives of ordinary people. Nor do they have tools to enable meaningful participation in negotiating the IIAs. States do not conduct public consultations on IIAs and there is usually no assessment of their human rights impact.<sup>611</sup>

In other countries and territories of the region, the situation is very similar. For Tajik citizens, it is difficult to request information about investment projects. The information that is available in the public domain, including documents disclosed by development banks themselves, is usually only available in English, which the majority of Tajikistan’s population does not speak. Compounding the challenge, it is difficult to find information on official government websites in Russian or Tajik regarding ongoing investments. Although the majority of projects financed by development banks are in cooperation with government agencies, there is little information made available from official State websites or even upon request. Therefore, communities and civil society do not have access to information about development projects, country strategies, investment and debts.

There are examples in the region when human rights were violated because investors’ interests were prioritized by the State. In Uzbekistan, farmers claimed they did not receive fair compensation from cotton monopolies; some say they were never paid for their labour. The Uzbek Forum for Human Rights reports that under Uzbekistan’s privatization programme, farmers have been forced to “voluntarily” give up their

611 Polish Institute for Human Rights and Business (PIHRB) and Yaroslav Mudryi National Law University (2021). Summary of the discussions from the consultation on Human Rights-Compatible International Investment Agreements: Report from for Central and Eastern Europe and the Central Asia region held on April 21st, 2021. [https://www.ohchr.org/Documents/Issues/Business/2021\\_06\\_05\\_CEE\\_CA\\_Consultations\\_HR-Compliant\\_IAs\\_Summary.docx](https://www.ohchr.org/Documents/Issues/Business/2021_06_05_CEE_CA_Consultations_HR-Compliant_IAs_Summary.docx).

lands for use by cotton companies, leading to poverty and insecurity: the “private cluster operators have been able to take over vast swathes of farmland without having to pay a penny in compensation to farmers for their losses because, according to Uzbek law, there is no legal obligation to pay compensation as long as the land lease terminations are voluntary ... However, the term ‘voluntary’ in an authoritarian setting such as Uzbekistan [obscures] the degree of coercion exercised by government officials, who wield disproportionate and arbitrary power.”<sup>612</sup> The EBRD and World Bank are criticized for financing companies known as irresponsible in agribusiness in Uzbekistan, with the World Bank reported as having ties with investments profiting from child labour.

In Ukraine, communities and individuals affected by investments are locked out of commenting on disputes. Information provided by governmental agencies for preparation of the report on “Human Rights-Compatible International Investment Agreements”<sup>613</sup> included the official recognition that “IIAs concluded by the Government of Ukraine do not contain provisions that give affected individuals or communities the right to submit expert opinions during the arbitration of investment disputes. Instead, today, within the procedure of resolving investment disputes between investors and states, the application of a legal institution known as *amicus curiae* is becoming widespread. This institution provides for the submission by a person who is not a party to the arbitration process, information or expert opinions on the subject of consideration before the decision in the case.”<sup>614</sup>

NGOs have identified several alleged human rights violations associated with projects funded by intergovernmental development banks. One example is the Gazela Bridge reconstruction project in Belgrade, Serbia, which received funding from the European Investment Bank (EIB) in 2007.<sup>615</sup> The 2009 Bankwatch Central and Eastern Europe report, *Between a Rock and a Hard Place. How Locals Are Paying for EBRD-Financed Mining Projects*, highlighted the damage done to the environment and communities by three similar projects, including the Kapan Polymetal Mine in Armenia operated by Deno Gold Mining (part of Dundee Precious Metals) and the Kumtor Gold Mine in Kazakhstan operated by Centerra Gold.<sup>616</sup>

612 Business & Human Rights Resource Centre (2021). “Uzbekistan: Privatization and land grabs by cotton monopolies leave farmers destitute”. 23 March. <https://www.business-humanrights.org/my/latest-news/uzbekistan-privatization-and-land-grabs-by-cotton-monopolies-leave-farmers-destitute/>.

613 OHCHR (2021). “Call for inputs for the Report on human rights-compatible international investment agreements”. <https://www.ohchr.org/en/calls-for-input/calls-in-put/2021/call-inputs-report-human-rights-compatible-international>.

614 Permanent Mission of Ukraine to the UN Office and other International Organizations in Geneva (2021). Information from the governmental agencies of Ukraine related to the preparation of the report on “Human Rights-Compatible International Investment Agreements”. <https://www.ohchr.org/Documents/Issues/Business/WG/Submissions/States/Ukraine.docx>.

615 The project involved the resettlement of 175 predominantly Roma families living under the bridge. The NGO Bankwatch in Central and Eastern Europe and the Center for Environment and Sustainability filed a complaint through the EIB’s grievance mechanism, alleging that the bank mishandled repeated requests for information and inadequately assessed the complex social impacts of the project. In 2010, the EIB issued an opinion on the complaint, acknowledging that the EIB’s social standards had not been met and recommended that action be taken to remedy this. In October 2012, Bankwatch Network in Central and Eastern Europe reported that Roma families were resettled and lived in metal containers in Serbia so that the EIB (European Investment Bank)/EBRD (European Bank for Reconstruction and Development) bridges Gazela and Sava could be built.

616 Business & Human Rights Resource Centre (2013). Предпринимательская деятельность в аспекте прав человека в Восточной Европе и Центральной Азии – Обзор последних событий, Май 2013 [Business and Human Rights in Eastern Europe and Central Asia – An Overview of Recent Developments, May 2013]. <https://media.business-humanrights.org/media/documents/files/media/documents/rus-regional-briefing-eeca-final.pdf>.

**As China has become the region’s primary source of development finance and its largest source of foreign direct investment... it has become more and more important for other international players... to ensure that Chinese enterprises respect human rights standards and to help promote them across the region.**

The local division of the Singaporean Indorama group, which has leased 24,000 hectares of land for cotton and wheat crops on a 49-year lease, has violated the rights of workers to create trade unions. Indorama Agro workers which organized the first independent union in Uzbekistan faced threats. And Indorama employees in the Syrdarya region of Uzbekistan have repeatedly expressed concern about massive job cuts, poor working conditions, unfair pay, gender discrimination and pressure on those who expressed dissatisfaction. Following these events, the company began a mass layoff. The European Bank for Reconstruction and Development has allocated a loan of \$70 million to Indorama Agro LLC.<sup>617</sup>

In the Central Asia region, China's Belt and Road Initiative has had a particular impact on the human rights situation. Parties engaged on all sides (not civil society) have benefited from a lack of transparency. All forms of Chinese enterprises operate in the region, and unlike in more advanced markets, they are subject to minimal regulation and often feel no obligation to comply with local standards.<sup>618</sup> Furthermore, in relation to dispute resolution and arbitration, Chinese firms take matters to international courts or use reprisals and threats, while local players are often fractured into various interest groups. This leaves little opportunity to pursue the public interest, with the result being that Chinese firms are not held accountable for environmental damages. As China has become the region's primary source of development finance and its largest source of foreign direct investment, mostly through China's state-owned enterprises,<sup>619</sup> it has become more and more important for other international players, and in particular development banks and agencies, to ensure that Chinese enterprises respect human rights standards and to help promote them across the region.

## 7.6. BHRs and conflict-affected areas

The situation of armed conflict and internal displacement exacerbates the need for the State to fulfil its positive obligations to prevent human rights violations by third parties. To this end, the State should clarify for economic actors how to assess their potential impact on human rights in conflict and internal displacement. According to the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, "in conflict contexts, while human rights due diligence requiring business to assess, avoid or mitigate adverse human rights impacts remains valid and necessary, it needs to be complemented by a conflict-sensitive approach."<sup>620</sup>

617 Radio Ozodlik (2021). "Расследование: Фермеры, у которых изъяли земли, и «эксплуатируемые словно рабы» узбеки. Является ли Indorama Agro «образцовым инвестором?»", [Investigation: Farmers from whom land was taken and "exploited as slaves" by Uzbeks. Is Indorama Agro a "model investor?"]. 17 January. <https://rus.ozodlik.org/a/31044248.html>.

618 Gül Berna (2021). "Chinese Business in Central Asia: How Crony Capitalism is Eroding Justice", Foreign Policy Research Institute. Central Asia Papers. Eurasia Program. 30 March. <https://www.fpri.org/article/2021/03/chinese-business-in-central-asia-how-crony-capitalism-is-eroding-justice/>. See also Crude Accountability (2021). "Road to China Report Attempts to Close Information Gap about Social and Environmental Impacts of Chinese Oil and Gas Ventures in Central Asia", 7 December. <https://crudeaccountability.org/road-to-china-report/>.

619 Toktomushev, Kemel (2021). "China and Central Asia: Warm Politics, Cold Public", Central Asia Program, 7 September. <https://www.centralasiaprogram.org/china-central-asia-warm-politics-cold-public>.

620 United Nations General Assembly (2020). Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises: Business, human rights and conflict-affected regions: towards heightened action. A/75/212. 21 July. <https://undocs.org/en/A/75/212>.

**Banks deny loans and other financial instruments to women more often, especially if this involves extra risks, such as their status as an IDP. Internal displacement may be an additional vulnerability factor in sexual harassment at work.**

With regard to Bosnia and Herzegovina, the UN Human Rights Council in 2014 in the 2nd cycle of the UPR recommended the Government to "Set up clear regulatory frameworks for the activities of the security companies in order to ensure their legal accountability regarding human rights abuses (Recommendation submitted by Iran (Islamic Republic of))."<sup>621</sup>

In Ukraine, there is a challenge to monitor the human rights situation in non-state controlled areas. Human rights violations taking place in business operations in such areas of Ukraine include wage arrears, illegal dismissals, forced labour (forcing employees to work extra hours with no compensation; introducing labour duty for persons who have utilities debts), overpricing, low quality of food products and distributing smuggled and other illegal products. Prices for some medical products are as high as 300 percent higher than the same products sold in the government-controlled territory of Ukraine. There is information about serious environmental accidents and problems with water supply in the non-government controlled areas of Ukraine in the Luhansk and Donetsk regions. The annual report of the Ukrainian Parliament Commissioner for Human Rights for 2018 drew attention to environmental problems in non-government controlled areas. In particular, there is evidence of exceedance of statutory limits of pollutant emissions into the atmosphere.<sup>622</sup>

Despite active fighting close to industrial areas in the government-controlled areas of the Donbas region, enterprises involved in mining, energy, media, retail, clay production and transportation continued to operate. Fighting resulted in damage to mines and plants through loss of electricity, destroyed transformers, physical damage from shelling and alleged intentional flooding of mines by combined Russia-led forces. Miners were especially vulnerable, as the loss of electrical power could have stranded them underground. The loss of electrical power also threatened the operability of mine safety equipment that prevented the build-up of explosive gases.<sup>623</sup>

### 7.6.1. Internally displaced persons and refugees

Internally displaced persons (IDPs) face discrimination in Ukraine.<sup>624</sup> Sociological surveys indicate that IDPs, compared to other job seekers, are more likely to be denied employment; female IDPs, especially those with young children and/or aged 40 and more, constitute a particularly vulnerable group. The State has introduced a number of provisions and measures to encourage employers to hire IDPs and to prevent discrimination against them in the labour market, such as the reimbursement of training and advanced training expenses incurred by the employer who hires registered unemployed from among IDPs

621 United Nations, Human Rights Council (2014). Report of the Working Group on the Universal Periodic Review, Bosnia and Herzegovina, A/HRC/28/17, 4 December, p. 21, para. 107.104. [https://www.ohchr.org/sites/default/files/HRBodies/HRC/Regular-Sessions/Session28/Documents/A\\_HRC\\_28\\_17\\_ENG.doc](https://www.ohchr.org/sites/default/files/HRBodies/HRC/Regular-Sessions/Session28/Documents/A_HRC_28_17_ENG.doc).

622 Ministry of Justice of Ukraine, Yaroslav Mudryi National Law University and Danish Institute for Human Rights (2019). Business and Human Rights. National Baseline Assessment [Full Text]. <https://minjust.gov.ua/files/gener-al/2019/07/10/20190710170838-51.pdf>.

623 U.S. Department of State (2021). 2020 Country Reports on Human Rights Practices: Ukraine, pp. 60–61. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/ukraine/>.

624 Discriminatory attitudes by landlords have even been recognized in the Executive Summary of the Draft Law on Amendments to the Tax Code of Ukraine (to eliminate discrimination against internally displaced persons when leasing housing). The code provides for exemption from taxation, applicable to personal income received from leasing housing to internally displaced persons. However, the draft law was withdrawn without consideration by the Parliament.

for at least 12 calendar months.<sup>625</sup> Banks deny loans and other financial instruments to women more often, especially if this involves extra risks, such as their status as an IDP. Internal displacement may be an additional vulnerability factor in sexual harassment at work. Furthermore, employees from among IDPs may be subjected to harassment in the workplace or varying degrees of bullying because of their status.

States affected by conflict need to promote and protect the human rights of IDPs. There is a lack of examples in the region where this issue is considered through the BHR lens. Ukraine incentivizes businesses to take measures in relation to equal opportunity for IDPs, including the compensation of the employer's labour costs (but not higher than the average level of wages in the region for the previous month) for employment of registered unemployed internally displaced persons on fixed-term employment contracts lasting no more than six calendar months, provided that employment guarantees are maintained for such a person during the period exceeding the duration of the payment twice.<sup>626</sup> States should find a natural ally in the NHRIs to protect IDPs. Some meetings have already been held involving representatives of all European NHRIs working in affected states (Armenia, Bosnia and Herzegovina, Georgia and Serbia),<sup>627</sup> to provide a platform to share their experiences of engagement in non-government-controlled areas in conflict-affected and post-conflict contexts, such as examples of community-led monitoring by local NGOs in Northern Ireland and Serbia.<sup>628</sup>

Despite the number of conflicts in the region, States have not taken any measures to ensure that businesses operating in conflict-affected areas are not involved in human rights abuses, which, during the round table initiated by the Ombudsperson of Ukraine, was indicated as a major problem.

625 See: Law of Ukraine "On Employment of Population", Art. 7, the <https://zakon.rada.gov.ua/laws/show/5067-17>.

626 Ibid.

627 Ibid.

628 European Network of National Human Rights Institutions. "Human Rights in (Post-)Conflict". <https://ennhri.org/our-work/topics/human-rights-in-post-conflict/>.

## 8. Conclusions and reflections

The capacity and willingness to advance Business and Human Rights have been low in Europe and Central Asia. This is due to weak rule of law, weak institutions, corruption, still existing region-specific State control of economic processes, the lack of business commitment to respect human rights in their operations and throughout their supply chains, shrinking space for civil society to hold business conduct accountable, and States that are not leading by example in their role as business actors.<sup>629</sup> Moreover, Business and Human Rights is generally not included in the curricula of higher education, which results in new generations of employees and employers entering their working life without being equipped with the necessary knowledge and skills related to BHR. These are just a few examples of current challenges, which can only be solved by decisive State actions and measures to promote business respect for human rights and by joint efforts of all stakeholder groups and international organizations aimed at building on positive practices and lessons learned, to support greater uptake and implementation of the UNGPs, and to create an enabling environment for responsible business conduct.

Most States in the ECA region have in the past embraced the formal standards of the rule of law, constitutional democracy and pluralism that were copied and translated from established liberal democracies. Most states have ratified general and regional (if existing) international human rights treaties. As a result, they have adopted normative standards, which, however, have not been translated into practice due to the persistence of the ruling elites or power groups and old ways of doing business. In the past decades, some countries and territories have adopted laws in wider areas that apply to Business and Human Rights that provide legal basis for protection of individuals against business-related human rights abuses such as concerning labour rights and non-discrimination. Nonetheless, those formal legal standards have encountered difficulties in being taken up by various stakeholders in state institutions, the private sector and beyond. In the region, state-owned corporations are very much subject to the influence of institutional and informal elites, which through corrupt practices employ state-owned enterprises to their private benefits.

Most countries and territories of the region continue to experience unstable democratic and human rights contexts. Despite their differences, all post-Soviet (or ex-communist) economies have shared for a long time the common features of a collectivist ideology, economic centralized

629 Popova, Maria (2012). *Politicized Justice in Emerging Democracies: A Study of Courts in Russia and Ukraine*. New York: Cambridge University Press; Popova, Maria and Vincent Post (2018). "Prosecuting High-Level Corruption in Eastern Europe", *Communist and Post-Communist Studies* 51(3), pp. 231–244; Letnar Cernič, Jernej (2018). "Impact of the European Court of Human Rights on the Rule of Law in Central and Eastern Europe", *Hague Journal on the Rule of Law*, vol. 10, no. 1, pp. 111–137.



planning and nationalization. For these economies, the “transition to capitalism” has often resulted in a strong oligarchic economic structure, where the market is often artificially monopolized and competition is limited. As a result, the business structures that have exercised effective control over much of the business sector over the past decades are “old boys’ networks”, i.e. made up of the same, limited group of men. An oligarchic economic structure significantly weakens the influence of investors who could contribute to the implementation of BHR standards.

Informal employment and the lack of employment-related protection is a problem encountered across the whole region, with unemployment rates also rising. At the same time, legislation is lagging behind the creativity of new business models, leaving those working in the gig economy vulnerable and unprotected, to the extent that even during the pandemic they were not covered under emergency legislation, and had to continue working through the quarantine, risking their health, without any protective guarantees from their companies.<sup>630</sup> Together with the large informal economy in all countries and territories in this region, the gig economy contributes to increased precarization of work, low if any social security and a rise in the number of self-employed entrepreneurs, who are self-employed only because companies contracting their services seek to externalize the costs of social insurance and other costs. An interesting development is the first cases of such workers creating associations and trade unions of self-employed personnel to collectively protect their rights and interests. Hopefully, this will in time turn into a trend.

Unfortunately, despite public procurement expenditure being a significant percentage of GDP of each country in the region, States are not using it to exert leverage to encourage more responsible business conduct, in particular, relating to human rights. This is partially still due to the low efficiency, transparency and accountability of existing public procurement processes as well as to a lack of awareness and willingness to use public procurement as a tool to achieve broader societal good and not just the purchase of goods and services.

Most states have not developed a stand-alone policy on Business and Human Rights nor any plans to do so have been published. Two countries (Georgia and Ukraine) have brief subchapters on BHR in the general national action plans on human rights, and have developed baseline assessments. There are efforts by the NHRI in Azerbaijan to encourage the government to develop a BHR strategy. Civil society in some states (Bosnia and Herzegovina, North Macedonia and Serbia) has developed baseline assessments on the state of BHR, but they have not been adopted by their governments. Even in those countries and territories that adopted subchapters on BHR in their National Action Plans on Human Rights, the transposition of BHR to concrete actions and implementation in practice is lacking. For example, in Ukraine one sign of the absence of political will is that the responsibility for UNGPs implementation has not yet been assigned to any governmental body; any proactive positions are taken by people who are not decision-makers.

Low awareness of an understanding of BHR and how to interpret the UNGPs, coupled with little, if any, understanding of how to transpose them into operational-level human rights due diligence processes, is a challenge faced by all stakeholder groups: business, public authorities,

630 Connell, Tula (2020). “Worker Rights Experts Field COVID-19 Queries in Ukraine”, Solidarity Center, 30 March. <https://www.solidaritycenter.org/worker-rights-experts-field-covid-19-queries-in-ukraine/>.

CSOs, trade unions and academia. This is partially caused by the language barrier, as the

majority of BHR literature and practical guidance is only available in English, which is of particular challenge to SMEs.

While there is the perception that the BHR agenda in the region is driven by civil society actors, this is both true and false. In some countries and territories, CSOs have spurred state administrations to undertake actions leading to NAP development, but it should be noted that the work is often done by individual CSOs who are trying to effect change within a comprehensive agenda. Many of the activities in the region have been prompted by foreign donors, mostly the EU and the Council of Europe.

It should be noted that CSOs may not all be familiar with and supportive of the BHR agenda. Given the legacy of the region and current rule of law challenges, some CSOs focus more on political and civil rights and do not see their role in economic, social and cultural rights, which traditionally was the realm of trade unions. One of the reasons for the low interest in the topic from civil society is that they consider the State to be the only addressee of demands in the field of human rights. However, there has been interest in BHR from a few civil society organizations in Bosnia and Herzegovina, Georgia, North Macedonia, Serbia and Ukraine. Trade unions, contrary to what might be the general perception, do not generally enjoy a high level of trust in the ECA region. High levels of trade union membership is sometimes simply a reflection of the ‘semi-obligatory’ nature of membership in state-backed unions, as in Belarus. According to interviewees, however, the credibility of trade unions has been compromised by their legacy from the Soviet era, their strong protection of their interests and not taking note of new forms of exploitation such as in the gig economy, and in some countries, still close ties with the government (e.g. Belarus and, less so, Azerbaijan).

Several countries in the region are going through an EU accession process. In theory, the accession and association process provide opportunities for the EU and its members to place ‘conditionalities’ on the state, i.e. policies or behavioural changes that must be implemented before accession is assured. Yet, BHR has not featured in discussion or BHR advocacy has been inactive. Some policy documents, as in the case of Central Asia, point to a willingness to address this area in line with the Joint Communication to the European Parliament and the Council: The EU and Central Asia: New Opportunities for a Stronger Partnership. The EU in October 2021 announced the EUR 30 billion Economic and Investment Plan in the countries and territories of the Western Balkans, subject to reforms in the rule of law and respect for human rights, sustainability and environmental protection, both in the public and private sector.<sup>631</sup> This plan could, together with the forthcoming project proposal of the EU Corporate Accountability and Due Diligence Directive, provide incentive for the states in the Western Balkans and Moldova to adopt and improve BHR standards.

The most common BHR-related abuses include: violations of labour rights of workers including poor working conditions, lack of guarantees of occupational health and safety; forced and child labour; restrictions of the freedom of association; violations of minimum and living wage legislation;

631 European Council and the Council of the EU (2021). “EU-Western Balkans summit, Brdo pri Kranju, Slovenia, 6 October 2021”. <https://tinyurl.com/y66jp6e8>.

human trafficking; environmental degradation; violations of land rights and enforced displacement; prosecution of human rights defenders; gender discrimination in a workplace (horizontal and vertical gender segregation in the labour market, the gender pay gap, sexual harassment and other). The most vulnerable groups are migrant workers, women, children, persons with disabilities, LGBTIQ+ people, refugees and IDPs, Roma people and people living with HIV. Special attention should be paid to BHR issues in conflict-affected areas including Armenia, Azerbaijan, Georgia, Moldova and Ukraine.

The norms and practices of gender discrimination still prevail across the region: women face discriminatory laws, are underrepresented in the workforce and overrepresented in gender-segregated lower paid jobs, are paid less than men even in the same professions and suffer from sexual harassment in the workplace, reflecting patriarchal societies and cultures. Women also lack equal access to capital and financial services in general, which affects the level of their entrepreneurship, despite being more reliable and loyal customers than men, and more likely to pay debts. Joint efforts are needed to ensure that relevant data on gender equality are gathered; that women entrepreneurs can access funds more easily; and that ways of accessing capital and managing one's account—perhaps with increased digitization via mobile applications—are made easier and more easily accessible, so that those living in more distant areas or under cultural norms that restrict their free movement still can access it. There is a lot that can and should be done not only at the state level, but in everyday operations of business enterprises and employers, who should take their obligation to ensure equal treatment seriously.

While the scoping study focuses on the role and obligations of the State as the primary actor responsible for ensuring respect for human rights within its jurisdiction, it is crucial not to relieve companies from their responsibility to respect human rights, as set out under Pillar II of the UN Guiding Principles on Business and Human Rights. However, introducing the concept of Business and Human Rights to the region is difficult in that it needs to compete with an outdated but well-established understanding of Corporate Social Responsibility, which some consider hardly more than philanthropy. There are instances of companies engaged in charity which do it not only for public relations and branding, but also to deflect attention from scandals related to their activities. One-time, non-strategic humanitarian or charitable assistance is often provided. The overwhelming majority of companies focus on philanthropy.

Even though there is no general BHR framework and policies in the Western Balkans, various stakeholders have in the past decades pushed forward normative development and have raised awareness about different BHR issues. Developments in Bosnia and Herzegovina, North Macedonia and Serbia have also been prompted by foreign investors, mostly EU-based corporations, who in the absence of government initiatives have started to assess their supply chain in terms of human rights issues. Interviewees from the Eastern Partnership countries and territories pointed to the perception of foreign companies offering better working conditions, at least for white collar jobs. Some EU-based corporations have brought the added value of respect for human rights in their supply chains in the region by not only reporting on it but also measuring it. Despite some positive examples, progress seems to be slow with a slight increase observed in better understanding of human rights due diligence.

*The norms and practices of gender discrimination still prevail across the region: women face discriminatory laws, are underrepresented in the workforce and overrepresented in gender-segregated lower paid jobs, are paid less than men even in the same professions and suffer from sexual harassment in the workplace, reflecting patriarchal societies and cultures.*

An assessment of the role and impact of international companies is mixed. On one hand, both desk research and interviews point to the positive influence of international companies in the region, bringing with them concrete standards (e.g. concerning non-financial reporting, Diversity & Inclusion) and policies (e.g. on human rights and procurement). On the other hand, most interviewees commented that Western companies seem to respect BHR standards in their home countries and territories, but do not apply or promote them in the host countries and territories of their subsidiaries. Some examples of the most significant violations of human rights in the region have been linked to international companies, for example in Azerbaijan and Tajikistan; many Western companies are indicated as involved in the extractive industries in Armenia, Georgia and Kazakhstan and impact on human rights in the region.

The impact of foreign companies, and more broadly foreign investors, is even more mixed in relation to International Investment Agreements. As described in the consultations held in April 2021 for Europe and Central Asia, IIAs are not necessarily perceived as contrary to the rule of law in this region; rather, they are perceived as contributing to the increase of good governance in the states concerned, or at least were perceived so in the past, in the early years of transformation. It is less of a concern that investors might try to block better legislation by the State, but more of a concern that access to information concerning investments and transparency surrounding them are lacking, particularly in States which put profits from investments before respect for human rights.

As far as access to remedy is concerned, rights-holders in the region formally have access to remedy concerning business-related human rights abuses through domestic judiciary. However, there are multiple concerns as to fairness, independence and impartiality in most countries and territories in the region. The European Court of Human Rights has so far delivered several hundreds of judgments to countries and territories in the region (apart from countries in Central Asia which are not state parties to the European Convention on the Protection of Human Rights and Fundamental Freedoms) concerning violations of the right to a fair trial. The judicial branch of governments in the regions has been notoriously weak and subject to corruption, nepotism and conflicts of interest. Most National Human Rights Institutions in the region do not have the jurisdiction to examine complaints against private actors. As a result, they do not have a mandate to investigate alleged business-related human abuses. Also, there are very few company-based grievance mechanisms; those that exist are mostly found in subsidiaries of global transnational corporations. There is some evidence that EU-based (the EU Ombudsman) and OECD-based (NCPs) non-judicial mechanisms could potentially bring about positive changes in the regions by examining allegations and delivering change. However, there is a lack of awareness about these mechanisms, particularly NCPs.

Only three countries in the region have OECD National Contact Points—Kazakhstan, Türkiye and Ukraine—which are located in ministries with an economic or investment portfolio. Despite some promotional work, NCPs are not well-used, for example, since 2008 the Turkish NCP has handled only six complaints, the most recent one having an initial assessment published in 2020, while the Ukrainian NCP has not had any complaints yet. Nonetheless, some NCPs outside the regions have considered complaints and delivered statements about violations of OECD Guidelines in States in the region. At the same time, evidence from other jurisdictions suggests that if used well, complaints procedures carried out by NCPs can

*Only three countries in the region have OECD National Contact Points—Kazakhstan, Türkiye and Ukraine—which are located in ministries with an economic or investment portfolio.*

have a good impact and lead to changes in the practice and behaviour of companies. For this to happen though, they need to be known to at least core stakeholders.

NHRIs are in some countries and territories perceived to be one of the most trusted state bodies. However, while the Edinburgh Declaration of 2010<sup>632</sup> has already recognized “the key role of NHRIs in implementing human rights protection in the corporate sphere and affirmed the commitment of NHRIs worldwide to integrate Business and Human Rights issues into their strategies and activities, at international, regional and national level”,<sup>633</sup> the BHR agenda is not a matter of priority for the majority of NHRIs in the region, the exception being in Armenia, Azerbaijan, Georgia and Ukraine, where they were the driving force behind UNGPs implementation activities undertaken by governments as well as awareness-raising in their respective countries and territories. In contrast, the position and legitimacy of NHRIs in the Western Balkans has been very weak and they often do not have power to bring about positive changes in the government and society at large. They are seen as very much connected to the governmental and informal elites and therefore subject to corruption. While NHRIs in the region are often underfunded and thus limited in what they can do, they can count on peer support from the European Network of National Human Rights Institutions (ENNHRI) and other NHRIs with greater experience.

The mandates of the NHRIs differ. Only some of them, including the Public Defender of the Republic of Moldova, can handle complaints against companies directly. Most mandates allow undertaking research and human rights awareness-raising activities. Some initiatives enable the cross-fertilization of thought and practical advice across the region, such as the Central and Eastern Europe and Central Asia Regional Resource Hub and the CEE Business and Human Rights Association.

632 ICC (2010). The Edinburgh Declaration. [https://www.ohchr.org/Documents/AboutUs/NHRI/Edinburgh\\_Declaration\\_en.pdf](https://www.ohchr.org/Documents/AboutUs/NHRI/Edinburgh_Declaration_en.pdf).

633 Faracik, Beata (2012). The Role of Non-EU National Human Rights Institutions in the Implementation of the UN Guiding Principles on Business and Human Rights, with a Focus on Eastern Partnership Countries. October. European Parliament Policy Paper EXPO/B/DROI/2012/08, p. 17. <https://ssrn.com/abstract=2549819>.

## 9. Recommendations

Advancing respect for human rights in the business context requires joint collaborative action by all stakeholders. Based on the findings of this scoping study, here are recommendations, organized according to the actors responsible for leading specific efforts to achieve them:

### 9.1. Short-term recommendations

#### 9.1.1. Improving policy coherence and efficiency in the protection of labour rights from violations by business

1. States should carry out National Baseline Assessments and work towards adopting National Action Plans.
2. Those states that have introduced moratoriums on scheduled and unannounced labour inspections in order to attract business and create a more “investment-friendly operating context” should lift those provisions and instead provide the resources needed to ensure the efficient operation of labour inspections, as well as to develop, in collaboration with the ILO and IOM, algorithms to support labour inspectors in identifying forced labour and trafficking in human beings.
3. States should refrain from undermining and restricting freedom of association, social dialogue and the right to collective bargaining and instead undertake measures to strengthen independent trade unions and other forms of workers’ representation, not least by leading by example in state-owned enterprises. States should introduce legislation enabling unionization or the formation of other forms of organizational structures for those in non-standard forms of employment, including self-employed people, to enable them representation and participation in processes shaping their working lives.
4. States should take effective measures to ensure that migrant workers and members of their families can fully exercise their right to form and be a member of associations and trade unions for the promotion and protection of their rights and their economic, social, cultural and other interests, which is something they are excluded from in some countries and territories. States should also revise legislation to remove any discriminatory provisions against migrants.
5. Bearing in mind that the fear of retaliation, threat of deportation and monetary fines for carrying out unregistered work deter undocumented migrant workers from filing complaints even in situations of forced labour, States should establish an accessible grievance mechanism or state-based judicial or non-judicial



mechanism, to secure access to remedy for migrant workers, including undocumented migrant workers, independent of whether they have permission to stay and work in the country. States should also ensure that in case of deportation (if unavoidable), migrant workers are provided with effective means of ensuring that their earnings from the abusive employer are paid.<sup>634</sup>

### 9.1.2. Driving the BHR agenda at the State-business nexus

1. States should use public procurement, responsible investment promotion and state-owned enterprises as levers to foster BHR. In particular, States should include social clauses in the requirements for public procurement awards with clear indicators to avoid situations where such a clause will be used for corruption purposes.
2. States, in their capacity as economic actors, should seize the opportunity to lead by example and establish clear expectations and objectives to respect and promote BHR standards in public procurement laws and through SOEs, and further improve the policy framework for state ownership in line with international best practices.
3. States should make it obligatory for SOEs to report non-financial information on an annual basis, based on a shared template to enable comparability of the data. They should also drive market transparency by the adoption of non-financial reporting obligations for corporations with clear human rights indicators, to enable comparison between companies, but also to avoid companies selecting indicators according to their interests.

### 9.1.3. Raising awareness of the UNGPs and building BHR capacities

1. States should equip relevant governmental institutions and local councils with knowledge and practical skills on Business and Human Rights to ensure policy coherence. In particular, human rights assessments of new regulations or strategic and programme documents should be provided, taking into consideration States' obligations to protect human rights from businesses' negative impact and the corporate responsibility to respect human rights (especially in cases of "making doing business easier").
2. States, if they have not done so yet, should start undertaking efforts to raise awareness and build capacity of both employers and workers, especially in SMEs and in high-risk sectors, such as the extractive, mining, chemical, agricultural, construction, garment and textile, food and retail industries, as well as develop recommendations for businesses on the potential risks associated with their economic activities.
3. States should support SMEs in their efforts to develop and implement relevant human rights policies and practices, taking into consideration their limited human and financial resources, especially in times of global emergencies.
4. States should provide their national legal systems with a sufficient

<sup>634</sup> Some employers hire workers without permission to work, and then call the police to avoid paying their salaries. Fines for employing unregistered workers are often much lower than the profit made out of not paying them for their work.

number of lawyers, e.g. judges and lawyers for free legal aid centres, and equip them with special knowledge on Business and Human Rights.

## 9.2. Long-term recommendations (over the next 10 years)

### 9.2.1. Ensuring policy coherence

1. States should follow best practices from leading corporate governance systems and create public bodies (public agencies and similar bodies) or public holding companies that will provide a normative BHR framework for state-owned enterprises through the adoption of codes of conduct and recommendations and by providing oversight over SOEs, which will curtail the direct influence of governments on state-owned corporations in the region.
2. States should ensure that state investments in the economy are managed in compliance with BHR standards, in particular, by providing public access to information about the intention to conclude investment agreements; conducting public consultations about possible impacts of such agreements on human rights; and providing human rights risk assessments of an agreement at the preliminary stage.
3. In the context of armed conflicts, States should investigate and establish which corporate actors participated in the conflict and how to facilitate better understanding by societies of what happened and to plan a post-conflict process of transitional justice. This does not exempt companies from the obligation to carry out heightened Human Rights Due Diligence when they operate in zones affected by armed conflict.
4. States should review the situation after the COVID-19 pandemic, drawing lessons from it, to review and extend the personal scope of application of national labour and social security legislation to ensure that protection is offered to all workers providing work regardless of employment status or contractual arrangements.
5. States, together with business associations, should raise awareness about the importance of establishing effective company-based grievance mechanisms to prevent and address adverse impacts of businesses on human rights.
6. States should strengthen OECD NCPs (where NCPs have been already founded) or, in the case such a mechanism does not yet exist, consider creating such a non-judicial institution.
7. States should provide awareness-raising campaigns to equip people with knowledge about their rights and the corresponding business obligations and instruments for them to be protected from negative impacts of business operations. Special attention should be paid to labour rights, environmental issues and anti-discrimination.

### NHRIs

1. NHRIs should expand their activity in the area of capacity-building on Business and Human Rights on their own or in collaboration with IGOs.
2. NHRIs should review and propose an extension of their mandates to their respective national authorities, which should propose

**States should provide awareness-raising campaigns to equip people with knowledge about their rights and the corresponding business obligations and instruments for them to be protected from negative impacts of business operations.**

amendments to legislation to cover the private sector and to build their capacities on Business and Human Rights issues.

## Business

1. Businesses should increase the transparency of business operations by undertaking reporting on non-financial indicators of their business operations (including in the area of corruption), measuring and reforming their business operations according to findings.
2. Businesses should take on their full obligations under the UN Guiding Principles on Business and Human Rights, including adopting a human rights policy; carrying out human rights due diligence processes; and introducing internal grievance mechanisms. Companies should be open to and follow guidance on how to comply with their responsibilities to respect human rights.
3. Companies more advanced in UNGPs implementation in their operations should be encouraged to share their experiences. Business networks and associations should engage in raising awareness of public and private actors.
4. Businesses should raise awareness of CEOs and employees of the corporate responsibility to respect human rights, and encourage them to contribute to awareness-raising of consumers, contractors, suppliers and communities in which the company operates.
5. Businesses should avoid using formal models of relationships with employees beyond labour contracts (e.g. a person could act as a de facto employee, but de jure could be an individual entrepreneur, or it could be a case of undeclared employment); all these models make employees vulnerable, especially in times of global emergencies.
6. Business associations, where relevant and supported by States, should raise awareness about the importance of effective company-based grievance mechanisms and the implementation of corrective measures to prevent and address adverse impacts of businesses on human rights.
7. Business should provide reasonable accommodation to the needs of vulnerable groups (e.g. persons with disabilities, persons with family responsibilities, people living with HIV, ethnic and national minorities, refugees and IDPs, and LGBTIQ+ people).

## Investors

1. Investors should undertake human rights risk assessment of projects during all stages and invite independent experts to provide such an assessment.
2. Investors should guarantee mechanisms for individuals and communities that could be negatively impacted by the project they have invested in to be able to complain about human rights breaches, including anonymously, within a clear, accessible, efficient and transparent system.
3. Development banks and other international organizations should make accessible and available on their websites extensive information about projects undertaken in collaboration with governments, to ensure the transparency of those processes, at least from their

side. Information about the possibility of submitting complaints via complaint systems (such as the EBRD's Independent Project Accountability Mechanism) should be provided to communities and stakeholders which are potentially impacted by such projects.

## Civil society and other human rights defenders

1. Civil society and other human rights defenders should ensure that they stay independent of government, but also that they set in place procedures that prevent conflict of interest, for example, where NGOs that monitor companies are at the same time the only actors who can provide support to them on BHR.
2. Civil society and other human rights defenders should make businesses and not just States the subject of human rights monitoring and assessments, in particular in the context of the State–business nexus.
3. Civil society and other human rights defenders should build their capacity on BHR and HRDD.
4. Civil society and other human rights defenders should avoid actual or potential conflicts of interest.
5. Civil society and other human rights defenders should consider establishing a regional network working group to analyse the situation of BHR in the region and to develop recommendations with special attention to the specific challenges of the region.

## Academia

1. Academic institutions and academics should promote awareness and knowledge about BHR standards through university courses and short courses on BHR.
2. Academic institutions and academics should increase integration of higher education institutions in the region to the European and global scientific and teaching discourses on BHR.
3. Academic institutions and academics should conduct comparative studies on the impact of legal, historical, political and economic contexts on the implementation of recognized standards on Business and Human Rights.

## IGOs: UNDP, EU, OHCHR and ILO

1. These four IGOs should assist in research, organization of conferences and roundtables, and supporting the development of BHR strategic documents with their expertise.
2. IGOs should partner with local bar associations and conduct capacity-building on BHR to create greater uptake by lawyers and encourage them to start including elements of BHR in their advice for business clients.
3. IGOs should conduct and support the conducting of research into the best approaches for implementation of the UNGPs.
4. IGOs should provide financial support to local NGOs to enable them to drive the BHR agenda locally.



5. IGOs should provide a platform for exchange of best practices on BHR across the region.

#### European Union

1. The EU should subject aid packages to reforms with respect of the rule of law, including compliance with BHR standards.
2. The EU should require countries and territories with EU accession agreements to introduce non-financial reporting obligations for large corporations.
3. The EU should design funding opportunities and programmes to support national-level NGOs to drive the BHR agenda at the national level.

#### Mixed responsibility of various actors

To build the BHR community across the region:

1. Various actors should develop peer review processes or other methods of assessing and benchmarking best practices in National Action Plans, their implementation and BHR development.
2. Various actors should implement training of trainers to promote understanding of the HRDD concept and help future teachers and trainers to understand its operations.

#### All actors should engage in awareness-raising and capacity-building efforts aimed to advance the BHR agenda

- Actors should address the overall lack of awareness of human rights needs, laying the ground for further work. The current lack of a sufficient number of trainers and organizations that can assist various actors on their HRDD journey is a major obstacle in moving the BHR agenda forward.
- Actors should develop more geographic and scope-specific studies.
- Intergovernmental organizations should partner with civil society and form public–private partnerships to create an environment for various actors to work together.
- Actors should translate key standards and tools, at a minimum, into local languages to make them accessible to entrepreneurs who do not speak English. Funding for translation should be provided.
- Actors should try to better understand sectoral perspectives and dynamics, in particular in the textiles, food and manufacturing sectors, and try to develop more targeted and concrete sectoral guidance.

***Various actors should implement training of trainers to promote understanding of the HRDD concept and help future teachers and trainers to understand its operations.***

## 2022 Addendum to the Scoping Study

Business conduct in times of war – Trends in Europe and Central Asia

# 1. Introduction

Russia launched a full-scale invasion of Ukraine on 24 February 2022 in violation of international law,<sup>635</sup> and raising several human rights issues.<sup>636</sup> Businesses in the region have reacted differently to Russian aggression. Some of them have disinvested and disengaged from the Russian market, whereas others have continued business as usual. This report highlights different practices and reactions among countries in the ECA region following the Russian aggression against Ukraine to map out recent developments in relation to business and human rights.

While the reaction of all actors in EU member states was relatively uniform<sup>637</sup> in the ECA region, there are significant differences in how governments have reacted to the Russian aggression. This is not least for geopolitical reasons, but also due to the impact suffered by their economies following disruption of transport routes and global supply chains of manufactured goods and basic food supplies as a result of the armed conflict in Ukraine and sanctions imposed on Russia and Belarus. The South Caucasus and Central Asia subregions have been also hit by a drop in remittances from their nationals working in Russia. A few countries in the region decided to join Western countries in adopting sanctions. While many have adopted simplified procedures to enable the setting up or relocation of the companies from Ukraine, some countries—Armenia, Georgia, Kazakhstan, Kyrgyzstan and Serbia—attracted more companies and individuals fleeing Russia.

The war and the increased danger from Russia have expedited applications by Ukraine, the Republic of Moldova and Georgia for EU membership, with Ukraine and the Republic of Moldova obtaining EU candidate country status.<sup>638</sup> Despite so much pressure currently being placed by the EU on responsible business conduct and the transition to the Green Economy, there were, however, no direct questions concerning the policy of Business & Human Rights in the application questionnaire. Given that obtaining EU candidate country status was one of the key drivers for Ukraine and the Republic of Moldova (in 2021) to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) (“Istanbul Convention”),<sup>639</sup> the fact that in the accession questionnaires, EU chose

635 ECCJ and Frank Bold, From rushed reactions to proper preparedness: Corporate due diligence in times of armed conflict, 2022, [https://corporatejustice.org/wp-content/uploads/2022/06/ECCJ\\_Due-Diligence\\_in\\_Armed\\_Conflict\\_final.pdf](https://corporatejustice.org/wp-content/uploads/2022/06/ECCJ_Due-Diligence_in_Armed_Conflict_final.pdf).

636 Rapid Human Rights Due Diligence during Political and Armed Conflict: A Business Response to Ukraine, <https://www.bsr.org/en/our-insights/blog-view/rapid-hrdd-during-political-and-armed-conflict-business-response-ukraine>.

637 See, e.g., Y. Mudryi National Law University and Polish Institute for Human Rights and Business, Business Conduct in Times of War. Report from the webinar held on 10 March 2022, <https://pihrb.org/wp-content/uploads/2022/04/Final-Report-Webinar-Business-Conduct-in-Times-of-the-War-10.3.2022.pdf>.

638 European Council Conclusions on the membership applications, 23 June 2022, <https://www.consilium.europa.eu/en/press/press-releases/2022/06/23/european-council-conclusions-on-ukraine-the-membership-applications-of-ukraine-the-republic-of-moldova-and-georgia-western-balkans-and-external-relations-23-june-2022/>.

639 Council of Europe Convention on preventing and combating violence

not to include legislation of relevance to responsible business conduct standards sends a strong message and puts a question mark on whether the EU treats this area seriously.

While extensive disinvestment and disengagement from the Russian market is visible in Western European countries, the picture in the ECA region is much more complex. Only a few countries in ECA joined Western nations in introducing sanctions, with correspondingly few companies disinvesting from the Russian market. Drivers include governance and regulatory, reputational, business and human rights risks and risks connected to the weak rule of law.<sup>640</sup> Several initiatives open to partners from around the globe were developed to track the conduct of international companies which operate in the Russian market. Many are copies of or based on the Yale CELI List of Companies Leaving and Staying in Russia.<sup>641</sup> But some initiatives such as a survey by the Business for Ukraine Coalition,<sup>642</sup> which is asking businesses “to meet their responsibility to respect rights and ... to undertake heightened human rights due diligence” (hHRDD), are original.<sup>643</sup> The coalition has also developed a list of questions to be answered by a company to indicate if it provides essential services.<sup>644</sup> The Business & Human Rights Resource Centre surveyed companies operating or investing in Ukraine and operating or investing in Russia, including questions on the company’s capacity to conduct hHRDD.<sup>645</sup> Key findings show that despite engaging, in many cases heightened human rights due diligence is still missing. Companies also continue to fail to regularly report on their due diligence efforts. And there is disconnect between public commitments and actual performance.<sup>646</sup> Also, following recent tensions in the region, there has barely been any reactions from business that would indicate that lessons were learned from the war in Ukraine, including that businesses consider the impact that their actions can have during times of political and armed conflict.

The war in Ukraine has increased understanding of the gaps in the existing and forthcoming BHR regulatory framework.<sup>647</sup> In particular, the draft proposal of the Directive on Corporate Sustainability Due Diligence (CSDDD) presented by the European Commission just a day before the Russian invasion does not pay sufficient attention to the risks at play in conflict-affected and high-risk areas.

against women and domestic violence (CETS No. 210), <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatyid=210>.

640 Jernej Letnar Čerňič, Russia, disinvestment, business and human rights, Cambridge Core Blog, 9 March 2022, <https://www.cambridge.org/core/blog/2022/03/09/russia-disinvestment-business-and-human-rights/>.

641 Yale CELI List of Companies (yalerussianbusinessretreat.com). See, for example, [squeezingputin.com](https://www.squeezingputin.com), [leave-russia.org](https://www.leave-russia.org), the Ukraine Corporate Index, [dontfundwar.com](https://www.dontfundwar.com), [stop-rf.com](https://www.stop-rf.com), [coalitionforukraine.com](https://www.coalitionforukraine.com), and [boycotttrussia.info](https://www.boycotttrussia.info).

642 Business4Ukraine, <https://businessforukraine.info/about>.

643 See, e.g., <https://www.business-humanrights.org/en/latest-news/group-of-csos-launches-business4ukraine-coalition-to-call-for-accelerate-sustained-business-exit-from-russia/>.

644 <https://businessforukraine.info/learn/reasons/essential-goods-services>.

645 BHRRC, Company Survey, March 2022, [https://media.business-humanrights.org/media/documents/Company\\_survey\\_Business\\_and\\_Human\\_Rights\\_Resource\\_Centre\\_March\\_2022.pdf](https://media.business-humanrights.org/media/documents/Company_survey_Business_and_Human_Rights_Resource_Centre_March_2022.pdf).

646 Corporate due diligence timeline: Monitoring companies’ human rights practices related to Russian aggression against Ukraine, <https://www.business-humanrights.org/en/big-issues/russian-invasion-of-ukraine/>.

647 “From rushed reactions to proper preparedness. Corporate due diligence in times of armed conflict” prepared by the European Coalition for Corporate Justice and Frank Bold [https://corporatejustice.org/wp-content/uploads/2022/06/ECCJ\\_Due-Diligence\\_in\\_Armed\\_Conflict\\_final.pdf](https://corporatejustice.org/wp-content/uploads/2022/06/ECCJ_Due-Diligence_in_Armed_Conflict_final.pdf).

*...there has barely been any reactions from business that would indicate that lessons were learned from the war in Ukraine, including that businesses consider the impact that their actions can have during times of political and armed conflict.*

Overall, the following trends can be observed:

- The imposition of sanctions by several international actors as a signal that companies need to apply heightened HRDD in conflict zones is “just one of many indicators of heightened risk triggering their heightened due diligence”,<sup>648</sup> ... “but not a substitute for a business to exercise heightened due diligence.”<sup>649</sup> It is essential to prevent a trend of sanctions being considered a replacement for hHRDD. However, sanctions have since the start of Russian aggression against Ukraine provided incentive for companies to conduct hHRDD.
- A need to conduct hHRDD arises only when sanctions have already been introduced. Sanctions have also changed the manner of doing business in Europe and beyond. They have triggered a movement to responsible business conduct.
- The war in Ukraine significantly increased the risk of human trafficking and exploitation.<sup>650</sup> Even before Russia’s invasion, the region was already facing an increase in the scale of human trafficking caused by the COVID-19 pandemic and ongoing displacement from other conflict-affected areas. The population is highly vulnerable, an issue severely exacerbated by Russia’s aggression and millions of people are internally displaced or have left Ukraine to seek protection abroad. Fraudulent labour intermediaries and recruiters may exploit the war to exploit at-risk people, in particular women with young children, elderly, persons with disabilities and displaced persons.<sup>651</sup>
- With the overall increase in military expenditure in the region and certain weapons, like drones, becoming crucial components of international armed conflict, border control and surveillance, there is a risk on one hand that such increases in military budgets will result in cuts in social expenditure, and on the other that companies in countries that are keeping less oversight on arms sales will not meet their responsibility to do checks on their clients, thus leading to increased human rights risks.
- The significant rise of public calls for responsible business conduct in a crisis. The war demonstrates clearly that human lives could directly depend on companies’ behaviour, as at the global level when businesses are called to exit from the Russian market and don’t contribute to the war in Ukraine, as well as at the personal level when an individual could be saved thanks to a responsible company’s actions, such as, e.g., evacuation organized by an employer; provision of mobile and internet connection because a mobile company makes all possible efforts to continue to operate even during active

648 Corporate due diligence in times of armed conflict ECCJ and Frank Bold, p. 10, [https://corporatejustice.org/wp-content/uploads/2022/06/ECCJ\\_Due-Diligence\\_in\\_Armed\\_Conflict\\_final.pdf](https://corporatejustice.org/wp-content/uploads/2022/06/ECCJ_Due-Diligence_in_Armed_Conflict_final.pdf).

649 United Nations Development Programme and UN Working Group on Business and Human Rights (2022). Heightened Human Rights Due Diligence for business in conflict-affected contexts; A Guide. New York, United States of America, p. 20.

650 US DOS, Trafficking in Persons Report July 2022, [https://www.state.gov/wp-content/uploads/2022/08/22-00757-TIP-REPORT\\_072822-inaccessible.pdf](https://www.state.gov/wp-content/uploads/2022/08/22-00757-TIP-REPORT_072822-inaccessible.pdf); The war in Ukraine and associated risks of human trafficking and exploitation – Insights from an evidence gathering roundtable, <https://www.antislaverycommissioner.co.uk/media/1801/ucl-iasc-2022-roundtable-report-the-war-in-ukraine-human-trafficking-and-exploitation.pdf>; Ivana Kottasová and Ana Sârbu, Millions of women and children have fled the war in Ukraine. Traffickers are waiting to prey on them, 2022, <https://humantraffickingsearch.org/resource/millions-of-women-and-children-have-fled-the-war-in-ukraine-traffickers-are-waiting-to-prey-on-them/>.

651 Trafficking in Persons, <https://reliefweb.int/report/ukraine/trafficking-persons>.

military actions or occupation; and ensuring the provision of food and pharmaceuticals by retailers continuing to deliver and sell goods amid disrupted supply chains.

- The conflict has seen damage across many regions of Ukraine, with incidents at nuclear power plants and facilities; energy infrastructure, including oil storage tankers, oil refineries, drilling platforms and gas facilities and distribution pipelines; mines and industrial sites; and agro-processing facilities.<sup>652</sup> Despite some initiatives to involve business in the discussion about environmental damage caused by the war,<sup>653</sup> there is no evidence that there was any impact of the war on how businesses approach their responsibilities to environmental due diligence. But companies are involved in the calculation of damages to the environment, and also provide calculations of damages caused to their facilities to justify later reparations.<sup>654</sup> As companies state, it is now impossible to carry out environmental due diligence measures because of danger to employees and/or contractors, caused by unexploded ammunition, lack of bomb shelters, ongoing hostilities and occupied areas.
- The development of understanding of the importance of cooperation and coordination efforts between the state authorities at the national level, municipalities, business, civil society organizations (CSOs) and volunteers in situations when a rapid reaction is needed. CSOs and volunteers have been able to quickly identify the main challenges for human rights, assist the most vulnerable groups and help coordinate efforts. It is becoming clear that engaging with local CSOs and volunteers is essential in identifying potential risks to human rights in times of war and identifying the most effective ways to help people and avoid contributions by companies to conflict development and the negative impact of conflict on human rights. Some initiatives like Tech for Ukraine,<sup>655</sup> are assisting in matching IT companies from around the world willing to help with CSOs and grass-roots initiatives aimed to coordinate assistance and other actions in Ukraine or for people fleeing war. Other initiatives, by engaging in stakeholder consultations and adjusting their activities to respond better to the conflict situation, are (unwittingly) taking steps to doing human rights impact assessments, and more broadly HRDD.
- The negative impact of the war on the economy is felt globally and by each national economy of the region. Liberalization of the economy and deregulation of business activities, critical regulatory trends in most countries of the region before the war, have intensified strongly. Economic reforms and plans of post-war recovery proposed by national governments do not seem to consider or be aligned with the business and human rights framework.

652 UN warns of toxic environmental legacy for Ukraine, region, 4 July 2022, <https://www.unep.org/news-and-stories/press-release/un-warns-toxic-environmental-legacy-ukraine-region>.

653 The Ministry of Environmental Protection and Natural Resources of Ukraine, the State Environmental Inspection of Ukraine and the UN Global Compact called on business in Ukraine to document and report the facts of crimes against the environment caused by Russia’s military aggression, <https://globalcompact.org.ua/news/%d0%b7%d0%b1%d1%96%d1%80-%d1%81%d0%b2%d1%96%d0%b4%d1%87%d0%b5%d0%bd%d1%8c-%d0%bf%d1%80%d0%be-%d0%b7%d0%bb%d0%be%d1%87%d0%b8%d0%bd%d0%b8-%d0%bf%d1%80%d0%be%d1%82%d0%b8-%d0%b4%d0%be%d0%b2%d0%ba%d1%96/>.

654 According to the interview. This information is not publicly disclosed anywhere.

655 Tech to the Rescue – Tech for Ukraine, <https://www.techtotherescue.org/tech/tech-for-ukraine>.

Finally, a positive development that should be noted is that several countries in the region, e.g. Kazakhstan, Kyrgyzstan, Türkiye and Ukraine, will benefit from support provided by the UNDP within the BHR project funded by Japan and aimed to advance respect for human rights in business globally.<sup>656</sup> Other actors are also undertaking efforts to build BHR expertise in the region, for example the CEE & Central Asia Summer Academy organized by the Polish Institute for Human Rights and Business and Yaroslav Mudryi National Law University of Ukraine in cooperation with the UNDP Istanbul Hub. A high level of interest in attending the academy is a good signal that professionals in the region are starting to recognize BHR as an important area of expertise.

This addendum is divided into three main sections. After the introduction, Section II addresses BHR developments since Russia's invasion of Ukraine in the Western Balkans and Türkiye, South Caucasus and Eastern Europe, and Central Asia. Section III provides conclusions and recommendations.

*...A high level of interest in attending the academy [CEE & Central Asia Summer Academ] is a good signal that professionals in the region are starting to recognize BHR as an important area of expertise.*

656 UNDP news, UNDP promotes responsible business by strengthening human rights standards across 17 countries, with support from Japan, 4 April 2022, <https://www.undp.org/press-releases/undp-promotes-responsible-business-strengthening-human-rights-standards-across-17-countries-support-japan>.

## 2. Business and human rights context in times of the war in Ukraine: the impact on the region

### 2.1. Ukraine

#### 2.1.1. Introduction

Companies in Ukraine were not prepared for a large-scale Russian invasion. Despite information that appeared in the media in the autumn of 2021 on the accumulation of Russian troops on the borders of Ukraine and other signals of the potential invasion, few assumed that events would escalate so rapidly. The start of the war was particularly dramatic in the first two months, as Ukrainian cities drastically transformed from peace to massive shelling, with more than 20 percent of the territory of the whole country being occupied in the first week only. Thousands of civilians were killed and injured, massive destruction was wrought on critical infrastructure and housing, and there were reports of arbitrary detention and enforced disappearance, torture and ill treatment, and conflict-related sexual violence.<sup>657</sup> In addition to these and other grave violations of international human rights, at the current stage of the conflict, international humanitarian and refugee law can capture only incomplete records of violations taking place.<sup>658</sup> There is evidence that private military companies (e.g. the so-called Wagner Group) are implicated in the war. Some experts expect that these companies “can be used by the Russian government to deflect responsibility for sexual violence and other war crimes during conflict”.<sup>659</sup> In general, there is a lack of capacity of state and non-state actors to identify and document the facts of possible involvement of companies in severe human rights abuses and violations of international humanitarian law during the Russian aggression in Ukraine, in particular in territories where there are intensive military actions and in temporarily occupied territories. Ukraine was already facing many challenges concerning the respect of corporate responsibility for human rights before the war.<sup>660</sup> Therefore, the conflict

657 The situation of human rights in Ukraine in the context of the armed attack by the Russian Federation, 24 February to 15 May 2022, <https://reliefweb.int/report/ukraine/situation-human-rights-ukraine-context-armed-attack-russian-federation-24-february-15-may-2022-enuk>.

658 The Business Response to the War in Ukraine, <https://investorsforhumanrights.org/business-response-war-ukraine>.

659 “Russia’s reliance on mercenaries in Ukraine points to the weakness of its military – and Putin’s strategy of deflecting blame”, 15 September 2022, <https://theconversation.com/russias-reliance-on-mercenaries-in-ukraine-points-to-the-weakness-of-its-military-and-putins-strategy-of-deflecting-blame-190612>. See, also, “Worse Than Nazis – PMC Wagner’s Role in Ukraine”, 2 August, <https://www.kyivpost.com/russias-war/worse-than-nazis-pmc-wagners-role-in-ukraine.html>.

660 BUSINESS AND HUMAN RIGHTS IN UKRAINE ACCELERATING SUSTAINABLE AND EQUITABLE DEVELOPMENT THROUGH IMPLEMENTATION OF THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS, 16 June 2022, <https://>

has exacerbated some human rights challenges by making them more tangible, e.g. risks to personal safety, lack of access to essential goods and services, risks of forced labour and human trafficking, labour rights abuses, and different types of discrimination.

### 2.1.2. State obligation to protect

After more than six months of war in Ukraine, there are still no state guidelines outlining responsible company conduct during hostilities, temporary occupation, relocations of companies or other difficult circumstances directly linked to Russia's invasion, particularly concerning massive internal displacement. To embed a human rights-based approach to decision-making, guidance is needed. Most specifically, guidance is necessary for sectors characterized by a high level of informal employment (e.g. retail and construction companies) which have been forced to halt operations and have mostly passed on the negative consequences to their employees.

A priority in Ukraine's state regulation of business is making "doing business" easier. A vivid example of this is legislative changes to labour law.<sup>661</sup> In particular, an employer has the right to transfer an employee to another job, not stipulated by the employment contract, without their consent (except for transfer to another area where active hostilities are ongoing). The possibility of suspending the employment contract is provided. As the law states, reimbursement of salary for the period of suspension could be requested from the aggressor state by an employee. By another law passed in July 2022, zero-hour contracts (an employment agreement with non-fixed working hours) were legalized — i.e. without a specific time of work performance, and without a guarantee from the employer that the work will be provided on a permanent basis. The law moved towards removing up to 70 percent of the country's workforce from protections guaranteed by national labour law.<sup>662</sup>

It should be noted that international human rights law admits derogations from international human rights obligations by states "in time of public emergency which threatens the life of the nation",<sup>663</sup> and "in time of war or other public emergencies threatening the life of the nation."<sup>664</sup> The possibility of derogation is not mentioned by the International Covenant on Economic, Social and Cultural Rights. Ukraine made the notification about the derogation according to the International Covenant on Civil and Political Rights because of imposition of martial law in Ukraine,<sup>665</sup> which are also related to certain labour issues. Despite the controversy of the possibility of derogation from international human rights obligations in the labour sphere, there is a universal rule according to which any human rights limitation should not lead to the levelling of the human right itself.

[www.undp.org/ukraine/publications/business-and-human-rights-ukraine-accelerating-sustainable-and-equitable-development-through-implementation-un-guiding](https://www.undp.org/ukraine/publications/business-and-human-rights-ukraine-accelerating-sustainable-and-equitable-development-through-implementation-un-guiding).

661 Закон України «Про організацію трудових відносин в умовах воєнного стану» [The Law of Ukraine "On the Organization of Labor Relations in the Conditions of Martial Law"], <https://zakon.rada.gov.ua/laws/show/2136-%D0%86%D0%A5#Text>.

662 Ukraine: Govt. passes laws on labour liberalization prompting fears 70% of the workforce will be exempted from workplace protections, <https://www.business-humanrights.org/en/latest-news/labour-liberalisation-to-further-deteriorate-the-difficult-socio-economic-situation-in-ukraine/>.

663 International Covenant on Civil and Political Rights, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

664 European Convention on Human Rights, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).

665 <https://treaties.un.org/doc/Publication/CN/2022/CN.65.2022-Eng.pdf>.

The BHR framework is not being applied as a cross-cutting element for developing programme documents by the Ukrainian government for the post-war time. The Draft Ukraine Recovery Plan prepared by the National Council for the Recovery of Ukraine from the Consequences of the War at the request of the Ukrainian government does not uncover the BHR perspective for post-war reconstruction.<sup>666</sup>

Transitional justice issues are discussed without considering the role of private actors, in particular companies, in war and post-war times. In the context of BHR, the question that should be discussed transparently and inclusively is: can transitional justice instruments be applied to state actors in situations of interstate war without making a state (aggressor) part of this process? If so, what mechanisms could be used for non-state (business) actors who are not under the jurisdiction of a state that seeks remediation for the victims?<sup>667</sup>

### 2.1.3. Corporate responsibility to respect, in particular in the context of hHRDD

As a general trend, CSR still dominates over BHR; companies publish reports on humanitarian aid provided, but not about their actions to identify and avoid negative impact on human rights and conflict escalation.<sup>668</sup> There are only a few examples of companies that were able to provide a quick assessment of the situation and develop a plan of action based on a human rights approach. These companies evacuated their employees before or immediately after the invasion and provided measures for the personal safety of workers (access to bomb shelters, providing food, drinking water, medicines, etc.). These examples came from international companies<sup>669</sup> and large Ukrainian companies, which are members of business associations<sup>670</sup> and had built human rights knowledge and expertise before the war.

Even among those companies that organized the evacuation of employees or took measures to ensure their safety, it is difficult to find examples of actions that would demonstrate that the company would determine the special needs or possible vulnerabilities of employees and their families. For instance, in most cases, the evacuation plans did not consider the possibility of an employee's family member with limited mobility or mental health issues. In some cases, this made it impossible

666 Composition of the National Council for the Recovery of Ukraine from the War, <https://www.president.gov.ua/documents/2662022-42225>.

667 The view on the Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises "Implementing the third pillar: lessons from transitional justice guidance by the Working Group" prepared by the OECD National Contact Point in Ukraine (Non-official position) and the International Lab on Business and Human Rights, Yaroslav Mudryi National Law University, was voiced during the panel discussion which launched this report of the UN Working Group on Business and Human Rights, <https://www.law.virginia.edu/node/1671241>.

668 Як звільняють працівників під час війни. Поради HR роботодавцям, як не схибити [How workers are fired during wartime. HR tips for employers, how not to make a mistake], <https://life.liga.net/porady/article/kak-uvolnyayut-rabotnikov-vo-vremya-voyny-i-kak-rabotodatelnyam-ne-nalajat-sovety-hr>.

669 For example, in its response to the BHRRC, Uber noted it established a steering committee several weeks prior to the invasion to identify risks, take mitigating action and plan for potential further escalation, <https://www.business-humanrights.org/en/latest-news/russian-invasion-of-ukraine-what-companies-have-to-say-about-their-human-rights-due-diligence/>.

670 How does business help the country during the war?, <https://eba.com.ua/en/tyzhden-4-yak-biznes-dopomagaye-krayini-v-period-vijny/>; Examples of CSR initiatives see <https://eba.com.ua/sotsialna-vidpovidalnist-biznesu-u-period-voyennogo-stanu/>, <https://eba.com.ua/eva-dyakuye-biznesu-za-pidtrymku-krayiny-v-period-vijny/>; Corporate social responsibility during martial law, <https://eba.com.ua/en/sotsialna-vidpovidalnist-biznesu-u-period-voyennogo-stanu/>.

*...companies did not take into account the fact that employees with family responsibilities cannot work full-time immediately after relocation due to the time and effort necessary to settle into a new place, especially for families with young children.*

to evacuate the entire family. In other cases, companies did not take into account the fact that employees with family responsibilities cannot work full-time immediately after relocation due to the time and effort necessary to settle into a new place, especially for families with young children. Moreover, kindergartens did not operate until the beginning of June 2022 in the entire territory of Ukraine; they opened in some regions in June but access to them remains limited, especially for internally displaced persons.

Proper access to communication, drinking water, food, banking services, transport, electricity, healthcare and medicine, sanitation and garbage collection is essential in many contexts during the war on Ukraine.<sup>671</sup> These services are provided by different business actors: SMEs and large companies; national and international companies; and private, state-owned (SOEs) and municipality-owned entities (MOEs). Their business conduct during the war and ability to meet the vulnerabilities of employees, clients and residents of local communities varied. In many cases, local companies, especially SMEs, displayed a much better understanding of the local context, crucial for ensuring the respect of human rights. SOEs and MOEs, which are providers of essential services and goods, did not stop their work. This showed the trend in which, in many cases, prioritizing public interest implied the foregoing of the personal safety of employees involved in the provision of essential services. In some sectors, the risks to personal safety of workers increased, particularly in the agricultural sector, where work in the field is now associated with a high risk to life: farmers and tractor drivers have died from exploding mines, shelling, fires and trying to save burning crops.

A separate issue is the safety of workers who remained in temporarily occupied territories to provide access to vital services and goods for the local population. The most striking example is Energoatom, whose employees working at the Zaporizhzhia Nuclear Power Plant were not allowed to leave because this could have led to a catastrophic nuclear incident. Furthermore, it is reported that workers succumbed to violence and torture by representatives of the occupying authorities,<sup>672</sup> and several workers were killed or died during shelling.<sup>673</sup>

Although some companies have demonstrated better staff protection and retention practices during the conflict—such as the evacuation of employees, relocation support, payment of salaries in advance, flexible working and provision of psychological assistance—the general trend has been prioritizing financial survival over the respect of corporate responsibilities for employees. This demonstrates how, while operating in conflict-affected contexts, businesses often make decisions based on peacetime dynamics, in which the aim remains to minimize financial losses. As for the exit from the Russian market, “273 Ukrainian companies still have connections with 251 Russian enterprises. In addition, 40 Ukrainian companies are part of well-known financial and industrial groups.”<sup>674</sup>

671 See Uvarova, O., Responsible Business Conduct in Times of War: implications for essential goods and services providers in Ukraine, 2022.

672 «Пытают и заставляют молчать»: работники ЗАЭС рассказали The Telegraph, как Россия готовит их к приезду МАГАТЭ [“Tortured and silenced”: ZNPP workers told The Telegraph how Russia is preparing them for the arrival of the IAEA], 26 August 2022, <https://zn.ua/UKRAINE/pytajut-i-zastavljajut-molchat-rabotniki-zaes-rasskazali-the-telegraph-kak-rossija-hotovit-ikh-k-priezdu-mahate.html>.

673 Минимум шесть выстрелов: россияне ударили по Энергодару, погиб сотрудник ЗАЭС [At least six shots: the Russians hit Energodar, a ZNPP employee died], <https://news.liga.net/politics/news/minimum-shest-vystrelov-rossiyane-udari-li-po-energodaru-pogib-sotrudnik-zaes>.

674 Понад 270 українських компаній є співвласниками російських

#### 2.1.4. Access to remedies

During martial law, according to Article 10 of the Law of Ukraine, “On the Legal Regime of Martial Law,”<sup>675</sup> the powers of the courts cannot be suspended. The constitutional right to access justice is not limited. There are no shortened or accelerated procedures for the administration of justice. All courts, where possible, as long as they do not have significant technical damage or are not destroyed by bombing and shelling, are operational.<sup>676</sup>

#### 2.1.5. State, business and civil society solidarity

It is described that, “Millions of Ukrainians are contributing to the fight against Putin’s invasion. This has led to the rapid development of volunteer networks that can be further developed to serve as part of the civil society infrastructure necessary for the country’s transformation.”<sup>677</sup> Ukraine’s civil society has reoriented its activities and strategies in response to Russia’s invasion, adapting and innovating to meet people’s humanitarian needs, aid the country’s military, and monitor human rights abuses and atrocities.<sup>678</sup> Some CSOs are also tracking companies’ actions during the war.<sup>679</sup>

One example of a joint effort between companies, local authorities and CSOs is the creation of an online platform to coordinate actions. The European Business Association, receiving requests from the authorities, medical workers and representatives of the territorial defence, with recommendations for assistance, transformed the first online reuse centre in Ukraine, the Second Chance Bank (a bank for used items), to meet the needs of the war. The platform is wholly focused on finding the products that are needed for those who request them.<sup>680</sup>

## 2.2. Western Balkans and Türkiye

### 2.2.1. Introduction

Since 24 February 2022, the situation in the Western Balkans has become more tense and unstable. The national situation of Western Balkan countries has been increasingly unstable in recent months and in Bosnia and Herzegovina, Serbia and Kosovo has become more toxic with ethnic conflicts re-emerging.<sup>681</sup> As elsewhere, the war has impacted

підприємств [More than 270 Ukrainian companies are co-owners of Russian enterprises] 05.05.2022, <https://youcontrol.com.ua/data-research/spivvlasnyky-rosiyskykh-pidpryemstv/>.

675 Закон України «Про правовий режим воєнного стану» [the Law of Ukraine “On the Legal Regime of Martial Law”], <https://zakon.rada.gov.ua/laws/show/389-19#Text>.

676 Звернення до суду: позовне провадження у цивільному процесі [Appeal to court: civil proceedings], <http://surl.li/pymw>.

677 Mykhailo Zhernakov, “Ukraine’s vibrant civil society deserves key role in post-war transformation”, 19 July 2022, <https://www.atlanticcouncil.org/blogs/ukrainealert/ukraines-vibrant-civil-society-deserves-key-role-in-post-war-transformation/>.

678 Ukraine’s civil society adapts to ‘war between systems’, <https://www.demdigest.org/ukraines-civil-society-adapts-to-war-between-systems/>.

679 Каталог дій компаній у російсько-українській війні [Catalog of actions of companies in the Russian-Ukrainian war], <https://csr-ukraine.org/catalog-actions-of-companies-in-the-russian-ukrainian-war/>.

680 Роль соціальних мереж у кризовій комунікації в умовах війни [The role of social networks in crisis communication in war conditions], <https://eba.com.ua/rol-sotsialnyh-merezh-u-kryzovij-komunikatsiyi-v-umovah-vijny/>.

681 Marton Dunai, Western neglect, and homegrown troubles afflict the Balkans, Financial Times, 27 August 2022, <https://www.ft.com/content/60f877b4-fed9-49d7->

ordinary people's daily lives, worsening their socio-economic livelihood.<sup>682</sup> It has affected the supply chains of companies in the Western Balkans and Türkiye. The economies of Western Balkan countries have been characterized by the risk of pressures on socio-economic livelihoods, brain drain, high unemployment, comparatively low salaries and low economic growth.<sup>683</sup> The establishment of business and human rights standards have been deficient in the region, where states are still to take a leadership role in business and human rights in state-owned enterprises. More positive signs have been observed in those businesses that are part of the global supply chains of EU-based companies.<sup>684</sup> While the Turkish government, at the rhetorical level, condemned Russia's aggression as "unacceptable" and voted in favour of its removal from the UN Human Rights Council,<sup>685</sup> it was reluctant to undertake other steps. The Turkish government cited commercial cooperation in agriculture, energy and tourism<sup>686</sup> with Russia as the reason for being the only NATO state not imposing sanctions.<sup>687</sup>

Türkiye has also seen a significant increase in the number of residence permits for Russian (from just under 70,000 before the war to more than 105,000), properties sold to Russian citizens (6,000 between March and June 2022, which is four times more than in the same period of 2021) and also several companies with Russian capital founded in Türkiye (601 according to the Union of Chambers of Commerce between January and July 2022, of which over 50 percent registered under the heading "Commerce" (which includes import and export activities) and over a hundred dedicated to communication and technological activities. Unsurprisingly, "these new Turkish citizens play a key role in intermediating between EU producers and the Russian market."<sup>688</sup>

Not surprisingly, Türkiye is mentioned in the June 2022 Financial Crimes Enforcement Network (FinCEN) and the US Department of Commerce's Bureau of Industry and Security (BIS) joint alert as a potential transshipment point through which exports restricted or controlled by United States may reach Russia and Belarus.<sup>689</sup>

[bfb8-087e380601cb](#).

682 IISS, The effects of the war in Ukraine on the Western Balkans, August 2022, <https://www.iiss.org/publications/strategic-comments/2022/the-effects-of-the-war-in-ukraine-on-the-western-balkans>; Nemanja Rujević, "Poor become poorer": Western Balkans Hit hard by War in Ukraine, Helvetas Eastern Europe, June 2022, <https://www.helvetas.org/en/eastern-europe/about-us/follow-us/helvetas-mosaic/article/June%202022/poor-become-poorer-western-balkans-hit-hard-by-war-in-ukraine>.

683 Ibid.

684 International Crisis Group, Managing the Risks of Instability in the Western Balkans, 7 July 2022, <https://www.crisisgroup.org/europe-central-asia/balkans/managing-risks-instability-western-balkans>.

685 UN General Assembly votes to suspend Russia from the Human Rights Council, UN News, 7 April 2022, <https://news.un.org/en/story/2022/04/1115782>; see also UN News Centre, Voting results photo, Twitter, 7 April 2022, [https://twitter.com/UN\\_News\\_Centre/status/1512095779535609862/photo/1](https://twitter.com/UN_News_Centre/status/1512095779535609862/photo/1)

686 "In 2021, with over 4.7 million people, Russian citizens represented 19% of foreign tourists who visited Türkiye." ANSAMed, "Türkiye: 'rubles for Russian tourists to be OK'd,' Erdogan," 25 March 2022, <https://www.ansamed.info/ansamed/en/news/sections/tourism/2022/03/25/Turkiye-rubles-for-russian-tourists-to-be-okd-erdogan-Od291adf-935b-4df4-ae2c-6d2390b04f19.html>.

687 Russia makes Türkiye the main gateway to evade Western sanctions – The Limited Times (newsrnd.com), 28 August 2022, <https://newsrnd.com/news/2022-08-27-russia-makes-Turkiye-the-main-gateway-to-evade-western-sanctions.rJb5ZzuP1s.html>

688 Ibid.

689 FinCEN and BIS Issue Joint Alert on Potential Russian and Belarusian Export Control Evasion Attempts, 28 July 2022, <https://www.fincen.gov/news/news-releases/fincen-and-bis-issue-joint-alert-potential-russian-and-belarusian-export-control>; <https://www.fincen.gov/sites/default/files/2022-06/FinCEN%20and%20BIS%20Joint%20Press%20Release%20508%20FINAL.pdf> and full joint statement <https://www.fincen.gov/sites/default/files/2022-06/FinCEN%20and%20BIS%20Joint%20Alert%20FINAL.pdf>; DELEGATION OF THE EUROPEAN UNION TO ARMENIA, Armenia – Econom-

The events since 24 February 2022 reflect divided interests in the region. Some countries have followed the EU and imposed sanctions against the Russian Federation. Serbia and Bosnia and Herzegovina have abstained from imposing restrictions and have continued to do business with Russian-based companies. Several other countries have, in contrast, explored the usefulness of sanctions as a standard-setting measure of business and human rights.

### 2.2.2. Reactions of governments and changes in state business and human rights conduct

The Russian Federation has influenced Western Balkan countries in political and economic arenas. The Russian Federation has, in the past, heavily invested in the region, mainly in the extractive industry. The influence has been particularly felt in Bosnia and Herzegovina, North Macedonia and Serbia, which also extract gas from the Russian Federation.<sup>690</sup> The ties between Albania, Montenegro and Kosovo have been less apparent. Those countries have been less dependent on the Russian Federation and more under the influence of the United States.<sup>691</sup> Nonetheless, trade between Western Balkan countries, the Russian Federation and Ukraine has not exceeded a few percent annually.<sup>692</sup> As for sanctions against the Russian Federation, Albania, Montenegro, North Macedonia and Montenegro have joined the EU's restrictive measures.<sup>693</sup>

The EU remains the largest trade partner of most countries in the region. The presence of Russian investors in countries such as Kosovo is almost non-existent; therefore, the impact of sanctions will not be very substantial.<sup>694</sup> As a result, it is unsurprising that most countries have chosen to follow the EU in sanctioning Russian natural and legal persons. However, Bosnia and Herzegovina and Serbia have, due to long-standing relationships with the Russian Federation, chosen not to impose any sanctions, even though, for instance, the Serbian government has condemned the Russian aggression on Ukraine. Nonetheless, the Serbian government concluded a new gas supply deal under favourable conditions with the Russian government in May 2022. On the other hand, support for Russia has been particularly apparent in Republika Srpska, the Serbian part of Bosnia and Herzegovina.<sup>695</sup> Much of the support for the Russian Federation in the region is also due to the lack of a firm timetable for countries of the Western Balkans to start negotiations to join the EU.<sup>696</sup>

ic Report for July 2022, 02 August 2022; Russia makes Türkiye the main gateway to evade Western sanctions – The Limited Times (newsrnd.com), 28 August 2022, <https://newsrnd.com/news/2022-08-27-russia-makes-Turkiye-the-main-gateway-to-evade-western-sanctions.rJb5ZzuP1s.html>.

690 Branislav Stanicek, Martin Russell, Russia's influence in the Western Balkans, 9 June 2009, European Parliamentary Research Service, <https://epthinktank.eu/2022/06/09/russias-influence-in-the-western-balkans/>.

691 Ibid.

692 Ibid.

693 EU Western Balkans, North Macedonia, Kosovo, Albania join sanctions on Russia, Montenegro announces them, 28 February 2022, <https://europeanwestern-balkans.com/2022/02/28/north-macedonia-kosovo-albania-join-sanctions-on-russia-montenegro-announces-them/>. See also Jakub Lachert, Western Balkans and the War in Ukraine, Warsaw Institute, 4 July 2022, <https://warsawinstitute.org/western-balkans-war-ukraine/>.

694 Xhorxhina Bami, BIRN Fact-Check: Kosovo Sanctions on Russia – Serious or Symbolic?, Balkan Insight, 10 August 2022, <https://balkaninsight.com/2022/08/10/fact-check-kosovo-sanctions-on-russia-serious-or-symbolic/>.

695 Saša Dragoljo, Serbia, Bosnian Serb Entity, Salute Russia on Victory Day, Balkan Insight, 9 May 2022, <https://balkaninsight.com/2022/05/09/serbia-bosnian-serb-entity-salute-russia-on-victory-day/>.

696 Andi Hoxhaj, Russia's influence in the Balkans is growing just as the re-

*The establishment of business and human rights standards have been deficient in the region, where states are still to take a leadership role in business and human rights in state-owned enterprises.*

*The EU remains the largest trade partner of most countries in the region... As a result, it is unsurprising that most countries have chosen to follow the EU in sanctioning Russian natural and legal persons.*

Risks are present that lack of commitment on the part of the EU will open doors for even more influence of the Russian Federation.

Most Western Balkan states have joined in the sanctions against Russian businesses, with the import of fossil fuels being an exemption. Recent months have confirmed theoretical arguments that sanctions can be valuable in enforcing business and human rights standards.<sup>697</sup> Apart from sanctions, not much progress has been observed in the conduct of state institutions in business and human rights. Nonetheless, some business and human rights events have been organized across the region.

The OSCE Mission to Bosnia and Herzegovina organized a workshop on 10 June 2022 on “Assessing the Risks and Prevention of Trafficking in Human Beings (THB) in Supply Chains.” The workshop aimed to raise awareness and initiate a dialogue on the importance of developing and implementing policies and practices aimed at the prevention of THB in supply chains; present guidelines and recommendations developed by the OSCE and discuss the most feasible ways of translating them into legal and policy framework best suited to Bosnia and Herzegovina’s context, among other aims.<sup>698</sup>

Bosnia and Herzegovina has prepared “BiH Framework Guidelines for implementing the UNGP 2021–2025”, which aims to meet Bosnia and Herzegovina’s obligations to adopt a National Action Plan on Business and Human Rights.<sup>699</sup> It is reported that they were included in the working plan of the Federal Ministry of Human Rights and Refugees.<sup>700</sup> However, they will reportedly not be discussed and adopted by the government before the parliamentary elections in September 2022.<sup>701</sup>

### 2.2.3. Business reactions and corporate responsibilities

After the Russian aggression on Ukraine started on 24 February 2022, most foreign companies have disinvested or disengaged from the Russian market. In contrast, some regional companies took advantage of the new economic possibilities. This is true, particularly for companies based outside Europe. Corporations based in Western Balkan countries did not have significant investments in Russia before the aggression. Russian assets, on the contrary, were more present in the Balkans. Therefore, there was not much need for disinvestment and disengagement. Serbia’s major oil and gas companies have continued business in the Russian Federation. Several companies based in the region have also continued business in the Russian Federation. These include Air Serbia (Serbia, airline industry), Naftna Industrija Srbije (Serbia, oil and gas industry), Anadolu Efes (Türkiye, consumer staples), Colin’s (Türkiye, consumer discretionary), Corendon Airlines (Türkiye, airline industry), Koton (Türkiye,

gion’s fragile peace is threatened, 18 July 2022, <https://theconversation.com/russia-influence-in-the-balkans-is-growing-just-as-the-regions-fragile-peace-is-threatened-185345>.

697 Jernej Letnar Čerňič, 2021, The Reformed EU Human Rights Sanctions Regime: A Step Forward or an Empty Threat?, *Business and Human Rights Journal*, 6, issue 3, p. 559–566.

698 OSCE Bosnia and Herzegovina, “Assessing the Risks and Prevention of Trafficking in Human Beings in Supply Chains”, Conference 9 June 2022 Sarajevo, Bosnia and Herzegovina, Concept Note, p. 2 (on file with authors).

699 Mirela Geko, Business and Human Rights in Bosnia Herzegovina in Taygeti Michalakea, Jernej Letnar Čerňič (eds.), Report of the Workshop on Business and Human Rights in Southeast Europe on 3 December 2021 8 (on file with authors).

700 Ibid.

701 C. Anthony Pfaff, Proxy war or not, Ukraine shows why moral hazards matter, 9 June 2022, <https://www.atlanticcouncil.org/expert/c-anthony-pfaff/>.

consumer discretionary), Pegasus (Türkiye, airline industry), Sisecam (Türkiye, industrials) and Turkish Airlines (Türkiye, airline industry).<sup>702</sup>

The negative impact of the war in Ukraine has been felt more in those countries with strong EU investors’ presence and less in those countries that do not have it. For instance, the most prominent Serbian and Turkish companies have continued business in Russia. In Serbia, which has not imposed sanctions on Russia, Russian nationals have been increasing migration. It is reported that more than 1,000 companies have been established since the aggression.<sup>703</sup> Nonetheless, the Serbian government has also sought measures to nationalize Russian businesses in Serbia to avoid the EU sanctions. There were reports that the Serbian government would have to nationalize Naftna Industrija Srbije, an oil and gas company with its headquarters in Novi Sad.<sup>704</sup> At least in Serbia, Russian influence has been quite substantial. Also, the presence of investors outside the EU has increased in the regions. Recently, the government of Republika Srpska awarded a significant contract to a Chinese company to build a new road.<sup>705</sup> Nonetheless, most of the consequences of the war in Ukraine have been indirect in the Western Balkans, resulting in inflation, recession and populations struggling to meet the bare minimum of socio-economic existence.<sup>706</sup>

Several challenges remain in the regions concerning the protection of the environment and socio-economic rights. Bankwatch, a Central and European NGO, has continued to raise awareness of the risks of hydropower projects in several Western Balkan countries.<sup>707</sup> Direct suppliers of German companies in the Western Balkans are reported to take into account the adoption of the German Human Rights in Global Supply Chains Law.

### 2.2.4. Reactions of non-state actors and access to remedy for business-related human rights abuses

As there have not been many reactions by non-state actors, this section addresses access to remedies for business-related human rights abuses. There has not been much improvement since 24 February 2022, as access to remedy for business-related human rights abuses has not seen much improvement in the past few months. State institutions remain weak and cannot (fully) provide victims with effective remedies. Old challenges have persisted. The European Court of Human Rights has continued to find violations of one or more articles of the European Convention on Human Rights and Fundamental Freedoms.<sup>708</sup> Whereas

702 Yale School of Management, Chief Executive Leadership Institute, Over 1,000 Companies Have Curtailed Operations in Russia—But Some Remain, 26 August 2022, <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>.

703 Blic, Rusi u Srbiji otvorili preko 1.000 firmi: Čime se sve bave, 4 June 2022, <https://nova.rs/vesti/biznis/rusi-u-srbiji-otvorili-preko-1-000-firmi-cime-se-sve-bave/>.

704 Milica Stojanovic, Serbia Mulls ‘Taking Over’ Mainly Russian-owned Oil Company, *Balkan Insight*, 14 July 2022, <https://balkaninsight.com/2022/07/14/serbia-mulls-taking-over-mainly-russian-owned-oil-company/>.

705 Daria Sito-Sucic, Chinese firm wins \$330m road deal in Serb Republic, *Reuters News*, 25 August 2022, <https://www.zawya.com/en/projects/bri/chinese-firm-wins-330m-road-deal-in-serb-republic-yft00xvm>.

706 China-CEE Institute, Early assessment of the economic consequences of the war in Ukraine, *Weekly Briefing*, Vol. 49. No. 2 (MK) March 2022, 22 April 2022, <https://china-cee.eu/2022/04/22/north-macedonia-economy-briefing-early-assessment-of-the-economic-consequences-of-the-war-in-ukraine/>.

707 See, for example, Bankwatch, Why hydropower in southeast Europe is a risky investment, July 2022, <https://bankwatch.org/wp-content/uploads/2022/07/Why-hydropower-in-southeast-Europe-is-a-risky-investment.pdf>.

708 ECHR, Violations by Article and State, <https://www.echr.coe.int/Documents/>



the state institutions in the regions have not made steps forwards, there is also a visible gap at the business level where there are no industry-level and business-level grievance mechanisms. Also, National Human Rights Institutions have not expanded their mandates to cover potential abuses from the private sector.

## 2.3. South Caucasus (Armenia, Azerbaijan, Georgia) and Moldova

### 2.3.1. Introduction

The reactions of governments in the South Caucasus subregion to the war, which has adversely affected their socio-economic situation to a greater degree than in other subregions, reflect not only those countries' relations with Russia but also past conflicts in the subregion. The spectrum of government positions is extremely wide, from the Republic of Moldova condemning the aggression to Belarus which supported it,<sup>709</sup> with other South Caucasus countries, in particular Armenia,<sup>710</sup> taking more cautious approaches to avoid antagonizing Russia.

Fear of Russia's ability to destabilize the situation at their borders and high reliance on its energy and wheat supplies are among the reasons why no South Caucasian country has imposed sanctions against Russia;<sup>711</sup> only the Republic of Moldova has announced the intention to do so later.<sup>712</sup> It is thus unsurprising, given this context, that none of the subregion's governments have voiced expectations for companies to cease or suspend their operations in Russia or Belarus.

While all of the subregion's countries, except for Belarus, supported the resolution demanding that Russia immediately end its military operations in Ukraine,<sup>713</sup> the Republic of Moldova and Georgia are the most vocally critical of Russia: voting in support of the exclusion of Russia from the UN Human Rights Council (Belarus<sup>714</sup> voted against; Armenia and Azerbaijan

[Stats\\_violation\\_2021\\_ENG.pdf](#).

709 Michael Emerson et al., Russia's invasion of Ukraine and its impacts on Eastern Europe, Eastern Partnership Bulletin No. 19, 18 March 2022, <https://www.ceps.eu/ceps-publications/russias-invasion-of-ukraine-and-its-impacts-on-eastern-europe/>.

710 Armenia is Moscow's closest military ally in the region, hosting Russia's 102nd military base and 3,500 Russian troops and relying on Moscow for mediation following the 2020 hostilities. Armenia is also a member of the Russia-led Collective Security Treaty Organization (CSTO), and the Eurasian Economic Union. Also, Ukraine's support of Azerbaijan during the 2020 hostilities resulted in some Armenians staying silent regarding the events in Ukraine. For details, see: Tatevik Hovannisyan, Why Armenia is neutral on the war in Ukraine, 12 April 2022, <https://neweast-erneurope.eu/2022/04/12/why-armenia-is-neutral-on-the-war-in-ukraine/>; Arshaluys Mgdesyanyan, Ukraine Crisis Proves Tense for Armenia. Yerevan faces an uncomfortable choice between political and diplomatic alliances, 23 February 2022; OC Media, Silent and uneasy: Armenia's response to the Russian invasion of Ukraine. For many, this silence is justified, 8 March 2022, <https://globalvoices.org/2022/03/08/silent-and-uneasy-armenias-response-to-the-russian-invasion-of-ukraine/>.

711 See: Taras Kuzio, Azerbaijan is Ukraine's only strategic ally in the South Caucasus, Eureporter, 20 July 2022, <https://www.eureporter.co/world/azerbaijan-world/2022/07/20/azerbaijan-is-ukraines-only-strategic-ally-in-the-south-caucasus/>.

712 Moldova will join EU sanctions against Russia – parliament speaker, 25 June 2022, <https://www.ukrinform.net/rubric-polytics/3514981-moldova-will-join-eu-sanctions-against-russia-parliament-speaker.html>; Ukrainska Pravda, The EU does not require Moldova to join sanctions but would welcome such a step – EU Ambassador, 9 July 2022, <https://www.pravda.com.ua/eng/news/2022/07/9/7357212/>.

713 Michael Emerson et al., Russia's invasion of Ukraine and its impacts on Eastern Europe, Eastern Partnership Bulletin No. 19, 18 March 2022, <https://www.ceps.eu/ceps-publications/russias-invasion-of-ukraine-and-its-impacts-on-eastern-europe/>.

714 Belarus's role in the conflict also led to the termination or suspension of Belarus from the Council of Europe and the Council of the Baltic Sea States. See: EEAS, Russia/Belarus: Members suspend Russia and Belarus from Council of the Baltic Sea States, 5 March 2022, [https://www.eeas.europa.eu/eeas/russiabelarus-members-suspend-russia-and-belarus-council-baltic-sea-states\\_en](https://www.eeas.europa.eu/eeas/russiabelarus-members-suspend-russia-and-belarus-council-baltic-sea-states_en); The decision of the Committee of Ministers of the CoE nr CM/Del/Dec(2022)1429/2.5 concerning Relations between the Council of Europe and Belarus, 1429th meeting, 17 March 2022, <https://search>.

did not take part)<sup>715</sup> and together with Azerbaijan to suspend Russia's representation at the Council of Europe (Armenia voted against this).<sup>716</sup> Georgia also joined the countries that submitted a joint referral to the Office of the ICC Prosecutor concerning alleged crimes committed in the context of the situation in Ukraine.<sup>717</sup> Yet being critical of Russian aggression in words is not necessarily followed by actions—what led to several countries in the subregion being listed by the FinCEN and the US BIS in their June 2022 joint alert, as potential transshipment points.<sup>718</sup>

And yet, the war has sped up EU membership applications by Georgia, the Republic of Moldova and Ukraine (3 March 2022) with Ukraine and the Republic of Moldova being granted EU candidate country status at the European summit, while Georgia was given “European perspective”, a prelude to formal candidacy.<sup>719</sup>

Across the subregion, refugee and migrant movements are resulting in complex issues and challenges, putting pressure on social services as well as on local markets and the economy, particularly in the Republic of Moldova, which has received more Ukrainian migrants per capita than even Poland. The Republic of Moldova, which in 2021 adopted gender equality legislation and ratified the Istanbul Convention, has continued to assist women and other vulnerable people who suffered during the war. Yet, the uncontrolled inflow of refugees in only the first days of the war has put anti-trafficking and women's rights NGOs like Moldovan La Strada and the Women Law Centre on alert due to “an increased risk of human trafficking at border crossings, with young women and unaccompanied teenagers at particular risk”.<sup>720</sup> Least affected by migrant and refugee

[coe.int/cm/pages/result\\_details.aspx?objectid=0900001680a5dcfb](https://coe.int/cm/pages/result_details.aspx?objectid=0900001680a5dcfb).

715 UN General Assembly votes to suspend Russia from the Human Rights Council, UN News, 7 April 2022, <https://news.un.org/en/story/2022/04/1115782>.

716 <https://oc-media.org/armenia-stands-alone-in-support-for-russia-in-council-of-europe/>.

717 International Criminal Court, Situation in Ukraine, <https://www.icc-cpi.int/ukraine>.

718 On 20 May, the head of the Ukrainian Presidential Administration, Andriy Yermak, said in an online interview organized by the Atlantic Council and published on its YouTube channel that Georgia is on the blacklist of countries that are helping Russia to bypass the sanctions. Yermak said that influential Georgian businessmen who own shares of Russian companies are involved in this, but he did not provide any specific data. Quoted by Górecki, Wojciech, Having your cake and eating it. Georgia, the war in Ukraine and integration with the West. Centre for Eastern Studies, OSW Commentary No 454, 7 June 2022, available at [https://www.osw.waw.pl/sites/default/files/OSW\\_Commentary\\_454.pdf](https://www.osw.waw.pl/sites/default/files/OSW_Commentary_454.pdf) referring to ‘A conversation with Head of the Office of the President of Ukraine Andriy Yermak’, Atlantic Council, 20 May 2022, youtube.com (excerpt from 50:35). <https://www.youtube.com/watch?v=ick6LJ3tFvA>.

719 See: T. Jansen, H. Ahamad Madatali, Association agreement between the EU and Georgia, European Parliament, March 2022, [europarl.europa.eu](http://europarl.europa.eu); Michael Emerson et al., Interpreting the Commission Opinions on the membership applications of Ukraine, Moldova, and Georgia, and next steps for the European Council, 22 June 2022, <https://www.ceps.eu/ceps-publications/interpreting-the-commission-opinions-on-the-membership-applications-of-ukraine-moldova-and-georgia-and-next-steps-for-the-european-council/>; See also: The Eastern Partnership under the test of war in Ukraine, European Issue n°624, 14 March 2022, <https://www.robert-schuman.eu/en/european-issues/0624-the-eastern-partnership-under-the-test-of-war-in-ukraine>. One of the reasons why Georgia was not yet offered candidate status was that the past two years saw a deterioration in the situation about democratic reforms, with increased concerns being raised by the arrests of opposition leaders. See: Why was Georgia not granted EU candidate status? Euronews, <https://www.euronews.com/my-europe/2022/06/24/why-was-georgia-not-granted-eu-candidate-status/>; for a generic overview of the EU and subregional relations, see [https://www.eeas.europa.eu/eeas/eastern-europe\\_en#12225](https://www.eeas.europa.eu/eeas/eastern-europe_en#12225).

720 UN Women – Europe and Central Asia, Executive Director meets with Ukrainian refugees and Moldovans leading the humanitarian response, 12 April 2022; <https://eca.unwomen.org/en/stories/feature-story/2022/04/executive-director-meets-with-ukrainian-refugees-and-moldovans-leading-the-humanitarian-response>; CNN, UN warns of rape, and sexual violence against women and children in Ukraine, 12 April 2022, <https://edition.cnn.com/2022/04/12/europe/ukraine-sexual-violence-united-nations-intl/index.html>; Millions of women and children have fled the war in Ukraine. Traffickers are waiting to prey on them, <https://humantraffickingsearch.org/resource/millions-of-women-and-children-have-fled-the-war-in-ukraine-traffickers-are-waiting-to-prey-on-them/>.

*...none of the subregion's governments have voiced expectations for companies to cease or suspend their operations in Russia or Belarus.*

*...refugee and migrant movements are resulting in complex issues and challenges, putting pressure on social services as well as on local markets and the economy...*

movements is Belarus,<sup>721</sup> which due to its role in Russian aggression and earlier record of human rights abuses is instead experiencing an outflow of individuals and companies fleeing the restrictions and tighter control. At the same time, particularly in the first weeks of the war, Armenia and Georgia received large numbers of Russian migrants.<sup>722</sup>

### 2.3.2. The reaction of governments and BHR developments

The first months of 2022 did not see any significant BHR developments as far as National Action Plans on Business and Human Rights, their implementation or other reforms of relevance to BHR. This might however soon change in Georgia, where the government-approved second National Human Rights Strategy, of which BHR is a part, is now at the Parliament for adoption. With BHR being part of the Strategy, it is expected that if the strategy is adopted by the Parliament, BHR will be later translated into the action plan.

Apart from Human Rights Action Plans, other activities and strategy documents focused on advancing general human rights could provide the necessary basis for BHR work in the future. Two examples are the Council of Europe Action Plan for Azerbaijan 2022–2025<sup>723</sup> and the train-the-trainer training provided to legal professionals by the CoE Human Rights Education for Legal Professionals (HELP) Programme.<sup>724</sup>

In Armenia, three EU-funded studies<sup>725</sup> concerning labour rights were carried out to diagnose the situation before proposing changes to the legislative framework; they revealed numerous problems.<sup>726</sup> All studies stressed the lack of awareness of employees of their labour rights and provided recommendations to raise public awareness regarding benefits and entitlements upon work separation; safeguards against arbitrary dismissal and available remedies, especially in marzes (regions), for those employed in private businesses and women to empower them to stand up for their rights.<sup>727</sup>

Despite its fragile economy, the Republic of Moldova took measures to facilitate access to its labour market to Ukrainians by issuing

721 UNHCR Ukraine situation Belarus: Inter-agency operational update (31 July 2022). <https://data.unhcr.org/en/documents/details/95024>.

722 The number of refugees from Ukraine recorded in Moldova as of August 2022 was 90,785, in Azerbaijan 4,639, Armenia 489 and Georgia 26,377. For up-to-date data concerning refugees from Ukraine, see the UNHCR website – <https://data.unhcr.org/en/situations/ukraine>. See also Michael Emerson et al., Russia's invasion of Ukraine and its impacts on Eastern Europe, CEPS, 21 March 2022, <https://www.ceps.eu/ceps-publications/russias-invasion-of-ukraine-and-its-impacts-on-eastern-europe/>.

723 Council of Europe Action Plan for Azerbaijan 2022–2025, February 2022, <https://rm.coe.int/action-plan-azerbaijan-2022-2025-eng/1680a59aa3>. The Action Plan will contribute to advancing the SDGs, which are in turn closely connected with the BHR agenda. “The Action Plan will also contribute to the implementation of the UN 2030 Agenda for Sustainable Development by supporting the UN Sustainable Development Goals (SDGs), notably Goal 3 – on good health and well-being, 4 – on quality education; 5 – on gender equality; 10 – on reduced inequalities; and 16 – on peace, justice and strong institutions”.

724 Increasing Human Rights Multipliers in Eastern Partnership Countries: Training of Trainers for Legal Professionals, 26 March 2022, <https://iaied.az/2022/03/26/increasing-human-rights-multipliers-in-eastern-partnership-countries-training-of-trainers-session-for-legal-professionals/>.

725 The three projects referred to are the “Research on the Situation of Labour Rights Protection in Armenia” (Report), the “Comprehensive Needs Assessment Research” and the “Evidence Collection on the Real Cases of Labour Rights Violations and Court Cases”.

726 See, e.g., Armenia: Presentation of key findings of studies on labour rights, Project EU4LabourRights, 17 February 2022, Recording from a webinar, <https://www.youtube.com/watch?v=8RGtPt01Dk&t=4s>.

727 UEICT, Discussion of the labour rights situation in Armenia within the framework of the EU-funded projects, 17 February 2022, <https://ueict.org/en/labour-rights/>.

national identification numbers and providing free education, including kindergartens, for Ukrainian refugees, thus making it easier for parents to find a job.<sup>728</sup>

Belarus has itself become a subject of sanctions,<sup>729</sup> which apply to various items, including technology and software, in the defence, aerospace and maritime sectors, dual-use products and high-tech exports,<sup>730</sup> due to its role in the conflict.<sup>731</sup> Sanctions coupled with the loss of the Ukrainian market (the third most important for Belarus) and the expected collapse of the Russian economy has led to a drop in average wages from US\$560 to US\$330, 30 percent inflation and a doubled unemployment rate,<sup>732</sup> thus turning the economic and financial crisis into a social one, affecting the social and economic rights of citizens.

Particularly in the first weeks of the war, Armenia and Georgia<sup>733</sup> were receiving large numbers of Russian and Belarusian migrants,<sup>734</sup> both individuals and companies (mainly IT companies) who were relocating to avoid the impact of sanctions and increasingly repressive and limiting regulation aimed to prevent outflow of capital from Russia but also to silence voices critical of the war. In the case of Armenia, Russian citizens could cross the border only with their ID.<sup>735</sup> Armenia adopted simplified procedures for relocating companies<sup>736</sup> while Georgia, which even before the Russian invasion of Ukraine, had been known for simple registration procedures and low business registration fees, as well as no requirement for Russian citizens to have special visas, and enabling them to stay in Georgia for up to one year.<sup>737</sup> After 24 February, Georgia “had developed

728 The government has set up a dedicated portal to ease the settling process of refugees in Moldova – <https://dopomoga.life/>.

729 For details, see Andre Yahora, BELARUS, in Michael Emerson et al., Russia's invasion of Ukraine and its impacts on Eastern Europe, Eastern Partnership Bulletin No. 19, 18 March 2022, p. 12, <https://www.ceps.eu/ceps-publications/russias-invasion-of-ukraine-and-its-impacts-on-eastern-europe/>.

730 See BIS Press Release, “Commerce Imposes Sweeping Export Restrictions on Belarus for Enabling Russia's Further Invasion of Ukraine,” 2 March 2022. See also: Andre Yahora, BELARUS, *ibid.*

731 Council of the EU, EU restrictive measures against Belarus, <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-belarus/>. Belarus's role in the conflict also led to the termination or suspension of Belarus from international organizations including the Council of Europe and the Council of the Baltic Sea States. See: EEAS, Russia/Belarus: Members suspend Russia and Belarus from Council of the Baltic Sea States, 5 March 2022, [https://www.eeas.europa.eu/eeas/russia-belarus-members-suspend-russia-and-belarus-council-baltic-sea-states\\_en](https://www.eeas.europa.eu/eeas/russia-belarus-members-suspend-russia-and-belarus-council-baltic-sea-states_en) and the Europe and Central Asia of the Committee of Ministers of the Council of Europe nr CM/Del/Dec(2022)1429/2.5 concerning Relations between the Council of Europe and Belarus, March 2022, [https://search.coe.int/cm/pages/result\\_details.aspx?objec-tid=0900001680a5dcfb](https://search.coe.int/cm/pages/result_details.aspx?objec-tid=0900001680a5dcfb).

732 Andre Yahora, BELARUS, in Michael Emerson et al., Russia's invasion of Ukraine and its impacts on Eastern Europe, Eastern Partnership Bulletin No. 19, 18 March 2022, p. 13, <https://www.ceps.eu/ceps-publications/russias-invasion-of-ukraine-and-its-impacts-on-eastern-europe/>.

733 The number of newly registered companies in Georgia has risen by 70 percent since the start of the aggression, which is being linked partially to the activity of Russian and Belarusian citizens who fled their respective countries. See: 3,386 Russian entrepreneurs registered in Georgia since Russian invasion of Ukraine, Jam News, 23 May 2022, jam-news.net; OSW Commentary 454, [https://www.osw.waw.pl/sites/default/files/OSW\\_Commentary\\_454.pdf](https://www.osw.waw.pl/sites/default/files/OSW_Commentary_454.pdf).

734 For up-to-date data concerning refugees from Ukraine, see the UNHCR website – <https://data.unhcr.org/en/situations/ukraine>. See also Michael Emerson et al., Russia's invasion of Ukraine and its impacts on Eastern Europe, Eastern Partnership Bulletin No. 19, 18 March 2022, <https://www.ceps.eu/ceps-publications/russias-invasion-of-ukraine-and-its-impacts-on-eastern-europe/>.

735 Viktorya Muradyan, Armenia a Safe Haven for Russians and Ukrainians, 10 March 2022, <https://evnreport.com/politics/armenia-a-safe-haven-for-russians-and-ukrainians/>.

736 OC Media, Silent and uneasy: Armenia's response to the Russian invasion of Ukraine. For many, this silence is justified, 8 March 2022, <https://globalvoices.org/2022/03/08/silent-and-uneasy-armenias-response-to-the-russian-invasion-of-ukraine/>. See also <https://www.azatutyun.am/a/31730405.html>.

737 See also practical, market-oriented promotional materials: <https://amg-trans.ru/en/news/relocation-of-business-from-russia-to-georgia-in-2022/>.

a ‘specific strategy’ to attract foreign investment”,<sup>738</sup> with the Deputy Economy Minister pointing out at a public event that “International companies leaving the Russian and Belarusian markets due to the war in Ukraine is an ‘opportunity’ for Georgia to attract new businesses and new investments, and create new jobs in the country”.<sup>739</sup>

In Armenia, the Ministry of Economy published “a guide for Russian businesses seeking to relocate to Armenia, explaining everything from how to register a business to renting an apartment to bringing pets across the border. It also has set up a working group to answer queries from businesses interested in relocating”, while a Telegram channel associated with the Ministry “published advice on how to transfer money into Armenia using cryptocurrency”<sup>740</sup> after Russia introduced strict limits on how much money can be transferred abroad; however, it would be hard to look for BHR requirements in those documents.

Moreover, some Armenian companies will operate as intermediaries between sanctions-struck Russia and companies from the EU and US. Given that the overall impact of sanctions against Russia will have a negative impact, particularly on Armenia’s economy (e.g. VTB Bank Armenia is explicitly named among the subsidiaries of Russian banks affected by sanctions),<sup>741</sup> it is easy to see why Armenia is trying to offset the collateral damage suffered as a result of sanctions on Russia.

Countries in the region are increasing their military spending. This area is particularly prone to corruption. For example, Azerbaijan saw a 10 percent rise in such expenditure from 2021 to 2022, with the 2021 figure already representing 5.3 percent of the country’s GDP, the fifth highest figure in the world, followed by Armenia with military expenditure reaching 4.4 percent of its GDP in 2021.<sup>742</sup> Yet, in its 2021 report, Transparency International judged Georgia to be at a “moderate risk,” Armenia at “high risk” (despite earlier efforts to develop an anti-corruption policy, i.e. expansion of the scope of actual beneficiaries required to reveal and provide information)<sup>743</sup> and Azerbaijan falling into the “critical risk” category.<sup>744</sup> This is hardly surprising in a situation when even “Azerbaijan’s public procurement legislation explicitly forbids the use of open tenders in defence procurement, making the acquisition process highly opaque”.<sup>745</sup>

### 2.3.3. Business reaction and corporate responsibility

738 Deputy Economy Minister: int’l companies leaving Russia, Belarus an opportunity for Georgia, Agenda.ge, 14 April 2022, <https://agenda.ge/en/news/2022/1280>.

739 Ibid.

740 Arshaluis Mgdesyanyan, Armenia anticipates an influx of Russian businesses, capital, Eurasianet, 20 March 2022, <https://eurasianet.org/armenia-anticipates-influx-of-russian-businesses-capital>.

741 Justin Tomczyk, Collateral Damage: Armenia and Post-SWIFT Russia, ENV Report, 4 March 2022, <https://envreport.com/economy/collateral-damage-armenia-and-post-swift-russia/>.

742 Stockholm International Peace Research Institute (SIPRI), SIPRI Facts Sheet: Trends In World Military Expenditure – 2021, [https://www.sipri.org/sites/default/files/2022-04/fs\\_2204\\_milex\\_2021\\_0.pdf](https://www.sipri.org/sites/default/files/2022-04/fs_2204_milex_2021_0.pdf).

743 Chambers and Partners, *Technology M&A 2022 – Armenia | Global Practice Guide*, <https://practiceguides.chambers.com/practice-guides/technology-ma-2022/armenia>.

744 Transparency International, Urgent action needed to prevent corruption in Central and Eastern Europe defence sectors, 9 December 2020, <https://ti-defence.org/urgent-action-needed-to-prevent-corruption-in-central-and-eastern-europe-defence-sectors/>.

745 Transparency International, Azerbaijan, 2021, <https://ti-defence.org/gdi/countries/azerbaijan/>.

The disruption of imports and increases in prices<sup>746</sup> have pushed companies to seek to diversify their supply countries, particularly in countries like the Republic of Moldova, which relied heavily on Ukraine, Russia and Belarus for the supply of grain, flour products, butter, poultry and dairy products.<sup>747</sup> However, there are no reports of applying a BHR lens when selecting replacement suppliers. There are no direct reports of companies applying HRDD, not to mention heightened HRDD. Instead, media reports suggest that the problems with respecting human rights while doing business persist.

In the context of the war in Ukraine, the narrative of business reaction and corporate responsibility are about businesses providing humanitarian aid or collecting funds and goods for Ukrainian people, providing accommodation, free medical services and offering job opportunities for them. Examples include the Georgian state and municipality-run services (e.g. post services, transport)<sup>748</sup> that were made free for Ukrainians and providing fuel for ambulances and vehicles operated by Ukraine’s State Emergency Service by SOCAR Energy Ukraine, the subsidiary of the Azerbaijani State Oil Company.<sup>749</sup>

Examples of business organizations guiding companies are scarce. One of the few examples is the Global Compact Network Georgia (GCNG)<sup>750</sup> promoting to companies a brief business guide concerning Ukraine co-developed by the UN Global Compact.<sup>751</sup> Education and training on BHR issues remains scarce, with a few trainings organized by GCNG<sup>752</sup> and a BHR training organized by a private company in Azerbaijan<sup>753</sup> being the exceptions.

The global trend towards divestment from Russia (and Belarus) reflected in Yale’s CELI List of Companies database and the KSE Institute database<sup>754</sup> is not noticeable in the subregion, with only a handful of companies either suspending or divesting from Russia and Belarus:<sup>755</sup> one from Georgia (Tbilivino),<sup>756</sup> two from Azerbaijan (Azerbaijan Airlines/AZAL

746 <https://unimedia.info/ro/news/e076365851e35b72/video-popescu-cest-raz-boi-afectea-za-dur-economia-nu-suntem-in-stare-de-penurie-dar-unele-importuri-vor-deveni-mai-scumpe.html>.

747 Radio Europa Moldova, Liliana Barbarosie, The government ensures that food is available, although the war disrupts imports, 10 March 2022, <https://moldova.europalibera.org/a/alimente-economie-razboi-rusia-ucraina/31745789.html>.

748 International Assistance Headquarters for Ukrainians, “Which countries have made free rail travel for Ukrainians?” 18 March 2022, <https://dopomoha.org.ua/en/which-countries-have-made-free-rail-travel-for-ukrainians/>; GEORGIA TODAY, “Tbilisi Mayor: Public Transport, Museums, Theaters, Swimming Pools to be Free for Ukrainians”, 9 March 2022, <https://georgiatoday.ge/tbilisi-mayor-public-transport-museums-theaters-swimming-pools-to-be-free-for-ukrainians/#:~:text=Tbilisi%20municipality%20has%20decided%20that%20things%20such%20as,said%20at%20a%20meeting%20of%20the%20capital%E2%80%99s%20government>.

749 SOCAR supplied 100 tons of fuel to Ukraine, Azernews, 12 April 2022, [https://www.azernews.az/oil\\_and\\_gas/192168.html](https://www.azernews.az/oil_and_gas/192168.html).

750 <https://globalcompact.ge/>; <https://csrgeorgia.com/en/csr-in-georgia/public-policy?id=1>.

751 OCHA, UNGC and Connecting Business Initiative, BUSINESS GUIDE UKRAINE HUMANITARIAN CRISIS, April 2022, [https://www.connectingbusiness.org/sites/default/files/downloads/publication/UN%20Business%20Guide\\_Ukraine\\_1.pdf](https://www.connectingbusiness.org/sites/default/files/downloads/publication/UN%20Business%20Guide_Ukraine_1.pdf).

752 For details see the GCNG homepage (<https://globalcompact.ge/en/>) i.a. Workshop on the topic – Labour Standards (June 2022).

753 Information from private communication, 27 August 2022.

754 KSE Institute, Leave Russia portal, <https://leave-russia.org/>; Yale School of Management, <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>.

755 Ibid. Yale School of Management.

756 <https://leave-russia.org/tbilivino>; Tbilivino website, Statement – Tbilivino suspends exports to Russia, <https://tbilivino.ge/en/tbilivino-suspends-exports-to-russia/>.

*The disruption of imports and increases in prices have pushed companies to seek to diversify their supply countries...for the supply of grain, flour products, butter, poultry and dairy products.*

*Meanwhile, companies that are subsidiaries of Russian companies covered by sanctions struggled to provide their usual services to nationals of their own countries, maintain their standard level of operations or maintain employment levels...*

and Buta Airways which suspended flights to Russia)<sup>757</sup> and—surprisingly—also one company headquartered until the war in Minsk, Belarus: Wargaming.<sup>758</sup> While it is unknown whether human rights concerns played a role in Wargaming’s decision, it did state that while it expected to incur substantial losses, which are likely to result in job losses, it will “be providing as much severance and support as possible to our employees affected by the change”.<sup>759</sup> The company’s decision to abandon its Minsk HQ studio and spin-off operations in Russia and Belarus followed earlier decisions such as firing a creative director for making pro-Russian statements online.<sup>760</sup> It is also reported that a former World of Tanks (a multiplayer online game) developer urged the company to use in-game communication messaging to inform Russian players about the war and crimes committed by Russia’s army.<sup>761</sup>

Meanwhile, companies that are subsidiaries of Russian companies covered by sanctions<sup>762</sup> struggled to provide their usual services to nationals of their own countries, maintain their standard level of operations or maintain employment levels,<sup>763</sup> despite operating formally as separate legal entities.<sup>764</sup> This was in particular for banks, including the VTB-Armenia bank—a subsidiary of VTB Bank, Russia’s second-largest financial institution with Russian state capital—and enterprises in which it has a controlling interest, such as the Teghut Copper-Molybdenum mine; and in particular in Armenia, where Russia accounted for 40 percent of all FDIs and where a large part of household budgets came from remittances from Armenians working in Russia (and where a weakened Russian economy affects the level of remittances).

## 2.4. Central Asia

### 2.4.1. Introduction

Central Asia is being significantly affected by the war in Ukraine. The transport infrastructure crossing Russia, Ukraine and Belarus has been disrupted. In particular, “these transit corridors are becoming both complex and risky. The ongoing Russian naval blockade against Ukrainian ports has compromised alternative shipping routes across the Black Sea.”<sup>765</sup> Though the US has exempted the Chevron-led Caspian Pipeline Consortium (CPC)<sup>766</sup> from sanctions, these hydrocarbon-rich Central

Asian countries are finding it difficult to channel their oil and gas exports through Russia.<sup>767</sup> A large share of crude oil exports from Kazakhstan (the CPC accounts for about 78 percent) goes to EU countries and covers 10 percent of the total oil demand of the European market.<sup>768</sup> However, this year, the work of the CPC, the largest source of tax revenues to the budget of Kazakhstan, has been interrupted four times.

Thus, “the war in Ukraine is aggravating efforts by Central Asian governments to broaden ties with other neighboring regions and to overcome infrastructural, trade and socio-cultural limitations inherited from their shared Soviet past.”<sup>769</sup> Interest in the region and its resources that can potentially be export has increased significantly among third countries. For example, Kyrgyz companies testify that they feel a substantially higher interest in exporting honey because the supply chains of honey from Ukraine have been broken.<sup>770</sup>

Another consequence of the war is the relocation of several companies from Russia to the countries of Central Asia. In particular, Kazakhstan has announced relocating 45 international companies from Russia to Kazakhstan. Kazakhstan’s most interesting and attractive business prospect is the relocation of international and global information technology companies.<sup>771</sup>

The migration of the population from the subregion, and also from Russia to the countries of the subregion, has significantly increased. The position of labour migrants from Central Asian countries in Russia has become more vulnerable. The dependence of the economies of some countries in the region on transfers that labour migrants make to their countries of origin may be used by Russia as one of the levers of influence. Remittances from migrant workers contribute 26.7 percent and 31.3 percent to the GDPs of Tajikistan and Kyrgyzstan, respectively. Remittances account for 11 percent of the Uzbek GDP.<sup>772</sup>

The influence of the war is also manifested in the significant strengthening of the role of China in the region,<sup>773</sup> in the more tangible impact of India,<sup>774</sup> and other countries of the Pacific region.<sup>775</sup> On 16 and 17 August 2022, the Economic Forum of the Shanghai Cooperation Organization (SCO) member countries was held in Tashkent, Uzbekistan. On 19 August 2022,

757 AZAL and Buta Airways suspend flights to Russia, 5 March 2022, <https://apa.az/en/infrastructure/azal-and-buta-airways-suspend-flights-to-russia-370266/>.

758 See: <https://www.yalerussianbusinessretreat.com/>; Alex Evans, “World of Tanks dev Wargaming to leave Belarus and Russia”, *Wargamer*, 4 April 2022, <https://www.wargamer.com/world-of-tanks/wargaming-leaving-belarus-russia>.

759 Ibid.

760 See at <https://www.wargamer.com/world-of-tanks/creative-director-fired-russia-statement>.

761 Alex Evans, World of Tanks ex dev urges Wargaming to speak out on Putin’s war, *Wargamer*, 3 March 2022, <https://www.wargamer.com/world-of-tanks/ex-dev-urges-wargaming-to-speak-out-on-putins-war>.

762 EU sanctions against Russia explained – Consilium (europa.eu), <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/sanctions-against-russia-explained/>.

763 Arshaluis Mghdesyan, Sanctions Hit Russian Investments in Armenia Hard, *IWPR*, 27 April 2022, <https://iwpr.net/global-voices/sanctions-hit-russian-investments-armenia-hard>. For example, employees of the aforementioned mine (the 10th largest taxpayer in Armenia), that according to reports, had to suspend its operations officially for technical reasons, but unofficially because of the difficulties in delivering products due to disrupted transport routes and transshipment international sanctions, were sent on leave with two thirds of their salary for an indefinite period.

764 Ibid.

765 Akram, Umarov, “How the War in Ukraine is Hampering Connectivity for Landlocked Central Asia”, 8 June 2022, <https://oxussociety.org/how-the-war-in-ukraine-is-hampering-connectivity-for-land-locked-central-asia/>.

766 A major international crude oil transportation project with the participation of

Russia, Kazakhstan and foreign mining companies.

767 The Ukraine war weighs down on the Central Asian Republics, <https://www.orfonline.org/expert-speak/the-ukraine-war-weighs-down-on-the-central-asian-republics/>.

768 The War in Ukraine: What Impact on Central Asia? 29 April 2022, <https://cabar.asia/en/war-in-ukraine-what-impact-on-central-asia>.

769 Ibid.

770 According to the interviews.

771 Казахстан пытается привлечь западные компании, покинувшие Россию, когда началась война в Украине [Kazakhstan is trying to attract Western companies that left Russia when the war broke out in Ukraine], 22 July 2022, [https://central.asia-news.com/ru/articles/cnmi\\_ca/features/2022/07/22/feature-01](https://central.asia-news.com/ru/articles/cnmi_ca/features/2022/07/22/feature-01).

772 The Ukraine war weighs down on the Central Asian Republics, <https://www.orfonline.org/expert-speak/the-ukraine-war-weighs-down-on-the-central-asian-republics/>.

773 Китай-Центральная Азия: китайские игроки проявляют все большую активность [China-Central Asia: Chinese players are increasingly active], 23 August 2022, <https://inlnk.ru/NDNE5R>.

774 The Ukraine war weighs down on the Central Asian Republics, <https://www.orfonline.org/expert-speak/the-ukraine-war-weighs-down-on-the-central-asian-republics/>.

775 How the War in Ukraine is Hampering Connectivity for Landlocked Central Asia, 8 June 2022, Akram Umarov, <https://oxussociety.org/how-the-war-in-ukraine-is-hampering-connectivity-for-land-locked-central-asia/>.

a women's forum of the SCO member countries was held. Saudi Arabia is showing interest in the region.<sup>776</sup>

At the same time, Russia is making significant efforts to maintain and increase its regional influence. Kazakhstan and Kyrgyzstan are members of the Russian-led Eurasian Economic Union (EAEU). It is easier for citizens of an EAEU member state to obtain a work permit in Russia than for citizens of Tajikistan and Uzbekistan, which are not a part of the EAEU. And Bishkek seems to have agreed with Moscow to exempt Kyrgyzstan from a recent Russian export ban on essential goods in response to international sanctions.<sup>777</sup> Kazakhstan, Kyrgyzstan and Tajikistan are members of the Russian-led Collective Security Treaty Organization (CSTO). There is a CSTO base under Russian command at Kant, Kyrgyzstan, some 40 kilometres from Bishkek. Central Asia is also tied to Russia by energy infrastructure and energy export routes.<sup>778</sup>

Several escalations took place in 2022. However, there are no examples of companies having strategies to respond to the possible negative impact of a conflict on human rights.

#### 2.4.2. The reaction of governments and BHR developments

Central Asian countries have chosen neutrality on the situation in Ukraine and appealed for resolving the issue with dialogue.<sup>779</sup> During the emergency UN General Assembly session on 2 March 2022, which condemned Russia's invasion of Ukraine, all five Central Asian Republics abstained or did not participate in the vote.<sup>780</sup>

All countries of the subregion are facing problems providing their markets with certain types of products, primarily essential food products. For example, police officers in Turkmenistan are tightening control over the sale of bread in state-owned stores due to a shortage of flour and bread.<sup>781</sup>

Among significant BHR developments not related to the war, Tajikistan was recommended recently to develop a National Action Plan on Business and Human Rights during the Universal Periodic Review (a recommendation from Japan),<sup>782</sup> and Uzbekistan received the same recommendation from the Committee on Economic, Social and Cultural Rights.<sup>783</sup> Uzbekistan was also called on "to develop and implement a

<sup>776</sup> Саудовская Аравия планирует построить в Узбекистане крупнейшую в мире ветряную электростанцию [Saudi Arabia plans to build the world's largest wind farm in Uzbekistan], 20 August 2022, <https://inlnk.ru/n0MkKk>.

<sup>777</sup> Россия будет продавать зерно Кыргызстану, несмотря на запрет экспорта – Минэконом 23.03.2022, [Russia will sell grain to Kyrgyzstan despite export ban – Economy Ministry], <https://kloop.kg/blog/2022/03/23/rossiya-budet-prodavat-zerno-kyrgyzstanu-nesmotrya-na-zapret-eksporta-minekonom/>.

<sup>778</sup> Understanding Central Asia's Cautious Approach to Russia's Invasion of Ukraine, 25 March 2022, <https://www.fpri.org/article/2022/03/understanding-central-asias-cautious-approach-to-russias-invasion-of-ukraine/>.

<sup>779</sup> Ibid.

<sup>780</sup> FPRI BMB Ukraine: Central Asia surprisingly neutral on Russian war in Ukraine, <https://www.bne.eu/fpri-bmb-ukraine-central-asia-surprisingly-neutral-on-russian-war-in-ukraine-249167/>.

<sup>781</sup> Центральная Азия и война в Украине-2. Кыргызстан и Туркменистан 03.05.2022 [Central Asia and the war in Ukraine-2. Kyrgyzstan and Turkmenistan], <https://hvylya.net/analytics/251825-centralnaya-aziya-i-voyna-v-ukraine-2-kyrgyzstan-i-turkmenistan>.

<sup>782</sup> Universal Periodic Review – Tajikistan, 3d circle, <https://www.ohchr.org/en/hr-bodies/upr/tj-index>.

<sup>783</sup> UN ECOSOC, Concluding observations on the third periodic report of Uzbekistan, E/C.12/UZB/CO/3, 31 March 2022, <https://uhri.ohchr.org/en/document/b1e83154->

*All countries of the subregion are facing problems providing their markets with certain types of products, primarily essential food products.*

regulatory framework on human rights due diligence and to adopt measures to ensure the legal liability of companies based in or managed from the State party's territory for abuses of economic, social, and cultural rights, as a result of its activities, and to provide adequate remedies to victims, to collect information on claims filed by victims of abuses of economic, social, and cultural rights committed by business entities".<sup>784</sup>

The Ombudsperson's office in Kyrgyzstan made a statement about initiating the development of a National Action Plan on business and human rights.<sup>785</sup> It should also be noted that Uzbekistan and its civil society reached a historic turning point in efforts to combat forced labour in the country's annual cotton harvest.<sup>786</sup> On 10 March 2022, the Cotton Campaign – Government of Uzbekistan Joint Statement on Ending the Call for a Global Boycott of Uzbek Cotton was published.<sup>787</sup>

#### 2.4.3. Business reaction and corporate responsibility

The "exit position" of large companies from the subregion operating in the Russian market varies. Air Astana<sup>788</sup> and Uzbekistan Airways<sup>789</sup> are still flying to Russia. Freedom Holding, based in Kazakhstan, is still working in Russia<sup>790</sup> but the Holding announced its plans to sell its Russian subsidiaries: the Freedom Finance brokerage and the Freedom Finance Bank.<sup>791</sup>

On 3 March 2022, the Uzbekistan-based Promcomplektlogistic Private Company became the first company in the subregion to which the sanctions were applied. The US government underscored that Radioavtomatika specializes in procuring foreign items for Russia's defence industry. The Promcomplektlogistic Private Company has actively supported Radioavtomatika in its effort to evade US sanctions.<sup>792</sup>

Some banks in Uzbekistan have suspended international currency payments with several Russian banks that fell under Western sanctions.<sup>793</sup> The Russian tour operator, Vedi Group, has launched tours (flights on

[a3e8-4146-b69c-fd86acaf5cff](https://www.ohchr.org/en/hr-bodies/upr/tj-index).

<sup>784</sup> Ibid.

<sup>785</sup> UNDP supported the training "Business and Human Rights: Global Trends and the National Policy of Kyrgyzstan", 28 January 2022, [https://ombudsman.kg/index.php?option=com\\_content&view=article&id=2688&catid=18&lang=ru&Itemid=330](https://ombudsman.kg/index.php?option=com_content&view=article&id=2688&catid=18&lang=ru&Itemid=330).

<sup>786</sup> Uzbekistan Ends Systemic Forced Labor, Civil Society Says. 330 Companies Lift Boycott of Using Uzbek Cotton, <https://www.hrw.org/news/2022/03/11/uzbekistan-ends-systemic-forced-labor-civil-society-says>.

<sup>787</sup> Cotton Campaign – Government of Uzbekistan Joint Statement on Ending the Call for a Global Boycott of Uzbek Cotton, 10 March 2022, <https://www.cottoncampaign.org/news/cotton-campaign-government-of-uzbekistan-joint-statement-on-ending-the-call-for-a-global-boycott-of-uzbek-cotton>.

<sup>788</sup> Air Astana suspends all flights to Russia, 11 March 2022, <https://airastana.com/kaz/en-us/About-Us/Overview/Air-Astana-News/air-astana-suspends-all-flights-to-russia>.

<sup>789</sup> Over 1,000 Companies Have Curtailed Operations in Russia—But Some Remain, 31 August 2022, <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain>.

<sup>790</sup> Freedom Holding, <https://web.archive.org/web/20200924123143/https://d1i-o3yog0oux5.cloudfront.net/34073b2598267fb1a75eb0f1b398389/freedomholding-corp/db/357/3101/pdf/2020-02-02+FRHC+corp+pres+3Q+2020FY+%28eng%29+.pdf>.

<sup>791</sup> Freedom Holding Corp. withdraws from the Russian market, <https://en.freedom24.com/news/12500-freedom-finance-corp-withdraws-from-russian-market>.

<sup>792</sup> Targeting Russia's War Machine, Sanctions Evaders, Military Units Credibly Implicated in Human Rights Abuses, and Russian Federation Officials Involved in Suppression of Dissent, 28 June 2022, <https://www.state.gov/targeting-russias-war-machine-sanctions-evaders-military-units-credibly-implicated-in-human-rights-abuses-and-russian-federation-officials-involved-in-suppression-of-dissent/>.

<sup>793</sup> Центральная Азия и война в Украине-3. Узбекистан и Таджикистан [Central Asia and the war in Ukraine-3. Uzbekistan and Tajikistan], <https://hvylya.net/analytics/251973-centralnaya-aziya-i-voyna-v-ukraine-3-uzbekistan-i-tadzhikistan>.

planes of Uzbekistan Airways and Uzbekistan Express) to Uzbekistan for those wishing to issue bank cards on Visa and Mastercard systems. According to the advertisement, “this will allow Russian citizens to ‘freely use non-cash payments abroad to pay for goods and services’.”<sup>794</sup>

There are some examples of humanitarian aid by companies from the subregion.<sup>795</sup>

#### 2.4.4. The reaction of other non-state actors

Since the beginning of Russia’s full-scale war against Ukraine, the authorities of the subregion’s countries have not expressed support for Ukraine. Still, they have not supported Russian aggression either. However, it does not prevent civil society in these countries from taking a pro-Ukrainian position—local NGOs provide humanitarian aid to Ukrainian refugees who arrived in these countries and also transfer money and send help to Ukraine.<sup>796</sup> Mass demonstrations in support of Ukraine took place in Kazakhstan.<sup>797</sup>

794 Ibid.

795 14 августа 2022, Как Казахстан помог Украине машинами и лекарствами [August 14, 2022, How Kazakhstan helped Ukraine with cars and medicines], <https://arbat.media/vaznoe-v-kazaxstane/kazaxstan-pomog-vooruzhen-nyim-silam-ukrainy-masinami-i-lekarstvami-705/>; Украина получила еще одну партию помощи из Узбекистана, 6 June 2022 [Ukraine received another batch of aid from Uzbekistan], <https://yep.uz/2022/06/ukraina-poluchila-eshhe-odnu-partiju-pomosh-hi-iz-uzbekistana/>.

796 Война в Украине глазами Центральной Азии [The war in Ukraine through the eyes of Central Asia], <https://www.praguecivilsociety.org/news-items/voyna-v-ukraine-glazami-centralnoy-azii/>; Центральная Азия и война в Украине-2. Кыргызстан и Туркменистан [Central Asia and the war in Ukraine-2. Kyrgyzstan and Turkmenistan], <https://hvylya.net/analytics/251825-centralnaya-aziya-i-voyna-v-ukraine-2-kyrgyzstan-i-turkmenistan/>.

797 Kazakhstan’s balancing act, 22 March 2022, <https://www.ips-journal.eu/topics/foreign-and-security-policy/kazakhstans-balancing-act-5819/>.

### 3. Concluding remarks and recommendations

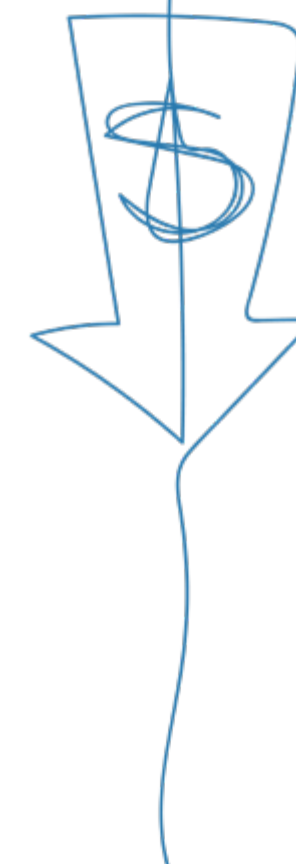
This addendum illustrates that state and business practices and reactions to the aggression of the Russian Federation on Ukraine have varied among subregions and even among countries in the area of business and human rights.

The war has turned economies in the region upside down. On the macro level, it has negatively affected the functioning of domestic and regional economies and tested their resilience. On a micro level, it has affected the general population through the increased prices of essential commodities and higher living expenses. Such negative consequences have been even more problematic in a region where ordinary persons struggle even more than in other parts of Europe to make ends meet. Since 24 February 2022, no states in the region have intensified their efforts to adopt National Action Plans on Business and Human Rights.

The reactions of states and companies to the aggression have varied across the region. Some countries (mainly in the Western Balkans—Albania, Kosovo, Montenegro and North Macedonia) have joined sanctions imposed by the EU, thereby affecting the business relations of companies based in those countries with the Russian Federation. In contrast, other countries in the region—Armenia, Bosnia and Herzegovina, Georgia, Kazakhstan, Kyrgyzstan and Serbia—have offered safe havens for Russian businesses and nationals.

The systematic and widespread disinvestment and disengagement of Western companies from the Russian Federation have not been as present in Europe and Central Asia. Nonetheless, the war in Ukraine—and the havoc it has wreaked on transport routes, production facilities and supply chains—has directly and indirectly affected the ways of doing business in Europe and Central Asia. The consequences are both direct and indirect. The conflict has negatively affected the socio-economic livelihoods of ordinary people. It has raised the costs of doing business in the region.

At the same time, it has indirectly disrupted and interfered with the global supply chains of companies based in the region. Some companies have addressed the heightened risks of doing business in the Russian and Ukraine markets. Others have attempted to avoid sanctions, including some Russian businesses establishing shell companies in countries including Serbia and Türkiye. There is some evidence that corporations in the regions that are part of the global supply chains of EU investors have been preparing to adapt their policies to the newly adopted German Supply Chain Law and new transparency regulations (SFRD, CSRD) and future EU human rights and environmental due diligence.



### Recommendations to governments

- Make expectations on companies explicit to undertake Human Rights Due Diligence.
- Ensure that state-owned companies lead by example and conduct enhanced human rights due diligence in the areas affected by conflict.
- Develop NAPs with elements concerning heightened HRDD.
- Tighten oversight over dual-use products.
- As state authorities are limited in their capacities to monitor the impact of legislative changes, they should closely communicate with civil society organizations, human rights defenders and trade unions to respond promptly to cases of human rights abuses related to business conduct.
- Liberalization of business activity, notably to support the economy, should not risk negative impact on human rights. Courts should, where national legislation does not comply with international human rights standards, prioritize such standards.

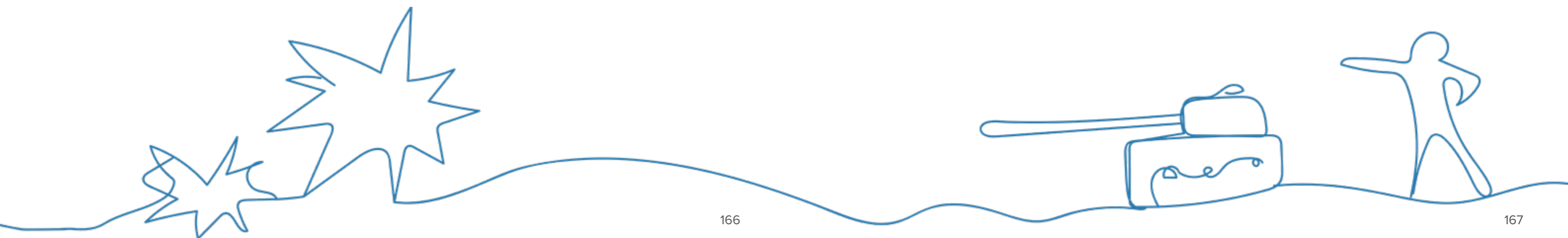
### Recommendations to EU member states

- Ensure that BHR standards are explicitly integrated into accession conditionalities and EU Candidate Countries' implementation requirements as a condition in the accession process and according to the EU acquis, e.g. under Chapter 23 about human rights adherence and fundamental rights requirements which are equally applicable to all Member States.
- Include detailed BHR standards in the sanction regime of the EU and its Member States.
- Include heightened HRDD in Corporate Sustainability Due Diligence.

### Recommendations to companies

- Follow guidance on HRDD developed by UNDP and the UN Working Group on Business and Human Rights and guidance by the ICRC.
- Undertake meaningful HRDD and introduce measures to prevent and minimize the negative impacts of your company's operations as well as those taking place in your company's supply chain.

- Develop a strategy that provides clear step-by-step guidelines for responsible conduct in the urgent situation of high human rights risks.
- Follow developments and seek information from a diversity of sources and initiatives in connection with HRDD (e.g. B4Ukraine).
- In stressful environments, ensure that your company communicates with NGOs regarding the vulnerability of some groups and how to protect them.
- Companies that operate in states with low levels of human rights respect should have a strategy to exit from the very beginning of their operation in such conditions.
- Companies should strive to balance the safety of their employees and the needs of local communities that might be dependent on their business during the war.



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## Annexes

### Annex 1 – List of interviewees

- Nodira Abdulloeva, Human Rights Centre, Tajikistan
- Ani Baramidze, Project Coordinator, EAP SME Platform, SMEDA SME Development Association, Georgia
- Fjori Caka, Associate Professor of Law, University of Tirana, Albania
- Çiğdem Cimrin, Founder and Lead Consultant, CCLegal Co, Minerva Business and Human Rights Association, Türkiye
- Alexander Curasov, Executive Director, CSR Association of Moldova
- Ana Dangova Hug, Lawyer, Law firm INTER PARTES Skopje, North Macedonia
- Ekaterina Deikalo, Associate Professor, International Law Chair, Faculty of International Relations of the Belarusian State University and Expert of the Belorussian Helsinki Committee, Belarus.
- Mirvari Gahramanli, Oil Workers’ Rights Protection, Azerbaijan
- Mirela Geko, BHR Expert, Institut za razvoj mladih Kult, Bosnia and Herzegovina
- Budimka Golubovic, Program Officer, Asocijacija poslovnih zena Crne Gore/Business Women Association, Montenegro
- Habit Hajredini, Director, Office for Good Governance, Human Rights, Equal Opportunities and Anti-Discrimination, Office of the Prime Minister Republic of Kosovo
- Dirk Hoffmann, Danish Institute for Human Rights
- Aleh Hulak, Director, Belorussian Helsinki Committee, Belarus
- Ruhyya Isayeva, Lawyer, LL.M. student at Lund University, Azerbaijan
- Tolekan Ismailova, Bir Duino, Kyrgyzstan
- Alket Janpi, Office of the Ombudsperson, Associate Commissioner, Albania
- Srdja Kekovic, General Secretary, Union of Free Trade Unions of Montenegro
- Nurmahmad Khalilov, Human Rights Centre, Tajikistan
- Muatar Khaydarova, Country Director/Senior Legal Consultant, ICNL Tajikistan
- Nevena Kostic, Consultant and BHR Expert, Serbia
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## Annex 2 – Overview of BHR indicators

**Table 1** provides the general context for Business and Human Rights in the region, while Table 2 covers indicators of UNGPs implementation in individual countries and territories. The tables provides an overview of the presence of the UN Global Compact Network and the number of companies that are active members of the UN Global Compact (which could be considered as an indicator of the commitment of businesses to the BHR agenda).

Table 1: Core country indexes

Name of country (link to the UNDP HDR country profile)	Human Development Index <sup>1</sup>	Country Economic Ratings			Human Rights Indexes						Rule of Law ratings	
		Index of Economic Freedom (2021) <sup>2</sup>	BDO IBC Overall ranking (2018) <sup>3</sup>	Unemployment rate (2021) <sup>4</sup> / Employment in the informal sector <sup>5</sup>	World Press Freedom Index (2021) <sup>6</sup>	Freedom House rating (2021) <sup>7</sup>	ITUC Global Rights Index <sup>8</sup>	The Global Gender Gap Report (2021) <sup>9</sup>	Women, Business and the Law (2021) INDEX <sup>10</sup>	Environmental Performance Index <sup>11</sup>	The World Justice Project Rule of Law Index (2020) <sup>12</sup>	Corruption Perception index (2020) <sup>13</sup>
		Overall score / World Rank	Overall score / World Rank		Score (S) Rank (R)	Score (total: 100) and Status		Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)
<a href="#">Albania</a>	Index: 0.795	OS: 65.2	OS: 52.87	UR: 11.5 %	S: 30.59	6	Regular violations of rights	S: 0.770	S: 91.3	S: 44.5	S: 0.50	S: 36/100
	Rank: 69	WR: 66	WR: 78	IS: 61%	R: 83/180	Partly Free		R: 25/156		R: 86/180	R: 78/128	R: 104/180

- 1 UNDP. "Global Human Development Indicators". [http://hdr.undp.org/en/countries\\_and\\_territories/profiles/](http://hdr.undp.org/en/countries_and_territories/profiles/).
- 2 The Heritage Foundation. "2021 Index of Economic Freedom, Country Rankings". <https://www.heritage.org/index/ranking>.
- 3 BDO. "International Business Compass, Overall ranking". <https://www.bdo-ibc.com/index.php?id=35&L=1>.
- 4 ILO. "Statistics on unemployment and supplementary measures of labour underutilization". <https://ilostat.ilo.org/topics/unemployment-and-labour-underutilization/>.
- 5 ILO (2018). Women and Men in the Informal Economy: A Statistical Picture. Third Edition. Geneva: ILO. [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_626831.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_626831.pdf).
- 6 Reporters Without Borders. "2021 World Press Freedom Index". <https://rsf.org/en/ranking>.
- 7 Freedom House. "Freedom on the Net report". [https://freedomhouse.org/countries\\_and\\_territories/freedom-net/scores](https://freedomhouse.org/countries_and_territories/freedom-net/scores).
- 8 International Trade Union Confederation. "2021 ITUC Global Rights Index". [https://files.mutualcdn.com/ituc/files/ITUC\\_GlobalRightsIndex\\_2021\\_EN\\_Final.pdf](https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN_Final.pdf).
- 9 World Economic Forum 2021. Global Gender Gap Report 2021: Insight Report. March 2021. [https://www3.weforum.org/docs/WEF\\_GGGR\\_2021.pdf](https://www3.weforum.org/docs/WEF_GGGR_2021.pdf).
- 10 The World Bank (2021). Women, Business and the Law 2021. Washington DC: World Bank. [https://www.worldbank.org/content/dam/sites/wbl/documents/2021/02/WBL2021\\_ENG\\_v2.pdf](https://www.worldbank.org/content/dam/sites/wbl/documents/2021/02/WBL2021_ENG_v2.pdf).
- 11 Wendling, Z.A., J.W. Emerson, A. de Sherbinin, D.C. Esty et al. (2020). 2020 Environmental Performance Index. New Haven, CT: Yale Center for Environmental Law & Policy. <https://epi.yale.edu/downloads/epi2020report20210112.pdf>.
- 12 World Justice Project. "WJP Rule of Law Index 2020". <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020>.
- 13 Transparency International (2021). Corruption Perceptions Index 2020. [https://images.transparencycdn.org/images/CPI2020\\_Report\\_EN\\_0802-WEB-1\\_2021-02-08-103053.pdf](https://images.transparencycdn.org/images/CPI2020_Report_EN_0802-WEB-1_2021-02-08-103053.pdf).



		Country Economic Ratings			Human Rights Indexes						Rule of Law ratings	
Name of country  (link to the UNDP HDR country profile)	Human Development Index	Index of Economic Freedom (2021)	BDO IBC Overall ranking (2018)	Unemployment rate (2021) Employment in the informal sector	World Press Freedom Index (2021)	Freedom House rating (2021)	ITUC Global Rights Index	The Global Gender Gap Report (2021)	Women, Business and the Law (2021) INDEX	Environmental Performance Index	The World Justice Project Rule of Law Index (2020)	Corruption Perception index (2020)
		Overall score / World Rank	Overall score / World Rank		Score (S) Rank (R)	Score (total: 100) and Status		Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)
<a href="#">Armenia</a>	Index: 0.776	OS: 71.9	OS: 53.84	UR: 18.3 %	S: 28.83	55	Repeated violations of rights	S: 0.673	S: 82.5	S: 52.3	n/a	S: 49/100
	Rank: 81	WR: 32	WR: 73	IS: 52.1%	R: 63/180	Partly Free		R: 114/156		R: 53/180		R: 60/180
<a href="#">Azerbaijan</a>	Index: 0.756	OS: 70.1	OS: 54.23	UR: 6.27%	S: 58.77	10	n/a	S: 0.688	S: 78.8	S: 46.5	n/a	S: 30/100
	Rank: 88	WR: 38	WR: 68		R: 167/180	Not Free		R: 100/156		R: 72/180		R: 129/180
<a href="#">Belarus</a>	Index: 0.823	OS: 61.0	OS: 52.54	UR: 4.2%	S: 50.82	11	No guarantee of rights	S: 0.758	S: 75.6	S: 49	S: 0.51	S: 47/100
	Rank: 53	WR: 95	WR: 80	IS: n/a	R: 158/180	Not Free		R: 33/156		R: 53/180		R: 68/128
<a href="#">Bosnia and Herzegovina</a>	Index 0.780	OS: 62.9	OS: 48.86	UR: 15.7%	S: 28.34	53	Regular violations of rights	S: 0.713	S: 85.0	S: 45.4	S: 0.52	S: 35/100
	Rank: 73	WR: 82	WR: 107	IS: 30.1%	R: 58/180	Partly Free		R: 76/156		R: 78/180		R: 64/128
<a href="#">Georgia</a>	Index: 0.812	OS: 77.2	OS: 60.43	UR: 18.5%	S: 28.64	60	Repeated violations of rights	S: 0.732	S: 85.6	S: 41.3;	S: 0.60	S: 56/100
	Rank: 61	WR: 12	WR: 47	IS: 39.7%	R: 60/180	Partly free		R: 49/156		R: 102/180		R: 42/128
<a href="#">Kazakhstan</a>	Index: 0.825	OS: 71.1	OS: 55.38	UR: 4,8%	S: 50.28	23	No guarantee of rights	S: 0.710	S: 69.4	S: 44.7	S: 0.52	S: 38/100
	Rank: 51	WR: 34	WR: 65	IS: 7.2%	R: 155/180	Not Free		R: 80/156		R: 85/180		R: 62/128
Kosovo	N/A	OS: 66.5	OS: 54.22	UR: 25.6%	S: 30.32	54	n/a	n/a	S: 91.9	n/a	S: 0.54	S: 36/100
		WR: 58	WR: 69	IS: n/a	R: 78/180	Partly Free		R: 78/180		R: 104/180		
<a href="#">Kyrgyzstan</a>	Index: 0.697	OS: 71.9	OS: 51.46	UR: 4.5%	S: 30.37	28	Systematic violations of rights	S: 0.681	S: 76.9	S: 39.8	S: 0.48	S: 31/100
	Rank: 120	WR: 32	WR: 87	IS: 48.6%	R: 79/180	Not Free		R: 108/156		R: 105/180		R: 87/128
<a href="#">Moldova</a> (Republic of)	Index 0.750	OS: 62.5	OS: 50.93	UR: 3.8%	S: 31,61	61	Repeated violations of rights	S: 0.768	S: 84.4	S: 44.4	S: 0.50	S: 34/100
	Rank: 90	WR: 85	WR: 90	IS: 28.9%	R: 89/180	Partly Free		R: 28/156		R: 87/180		R: 81/128
<a href="#">Montenegro</a>	Index 0.829	OS: 63.4	OS: 52.91	UR: 15.1%	S: 34.33	63	Repeated violations of rights	S: 0.732	S: 88.1	S: 46.3	n/a	S: 45/100
	Rank: 48	WR: 80	WR: 77	IS: n/a	R: 104/180	Partly Free		R: 48/156		R: 74/180		R: 67/180
<a href="#">North Macedonia</a>	Index: 0.774	OS: 68.6	OS: 55.62	UR: 17.2%	S: 31.67	66	Regular violations of rights	S: 0.715	S: 85.0	S: 55.4	S: 0.53	S: 35/100
	Rank: 82	WR: 46	WR: 64	IS: n/a	R: 90/180	Partly Free		R: 73/156		R: 43/180		R: 58/128

Name of country (link to the UNDP HDR country profile)	Human Development Index	Country Economic Ratings			Human Rights Indexes						Rule of Law ratings	
		Index of Economic Freedom (2021)	BDO IBC Overall ranking (2018)	Unemployment rate (2021)	World Press Freedom Index (2021)	Freedom House rating (2021)	ITUC Global Rights Index	The Global Gender Gap Report (2021)	Women, Business and the Law (2021) INDEX	Environmental Performance Index	The World Justice Project Rule of Law Index (2020)	Corruption Perception index (2020)
		Overall score / World Rank	Overall score / World Rank		Score (S) Rank (R)	Score (total: 100) and Status		Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)	Score (S) Rank (R)
<a href="#">Serbia</a>	Index 0.806 Rank: 64	OS: 67.2 WR: 54	OS: 53.61 WR: 74	UR: 9% IS: 22.1%	S: 32.03 R: 93/180	64 Partly Free	Systematic violations of rights	S: 0.780 R: 19/156	S: 93.8	S: 55.2 R: 45/180	S: 0.50 R: 75/128	S: 38/100 R: 94/180
<a href="#">Tajikistan</a>	Index: 0.668 Rank: 125	OS: 55.2 WR: 134	OS: 45.58 WR: 128	UR: 6.9% IS: 74.8%	S: 55.52 R: 162/180	8 Not Free	n/a	S: 0.650 R: 125/156	S: 78.8	S: 38.2 R: 114/180	n/a	S: 25/100 R: 149/180
<a href="#">Turkey</a>	Index: 0.820 Rank: 54	OS: 64.0 WR: 76	OS: 54.64 WR: 67	UR: 12% IS: 34.8%	S: 49.79 R: 153/180	32 Not Free	No guarantee of rights	S: 0.638 R: 133/156	S: 82.5	S: 42.6 R: 99/180	S: 0.43 R: 107/128	S: 40/100 R: 86/180
<a href="#">Turkmenistan</a>	Index: 0.715 Rank: 111	OS: 47.4 WR: 167	OS: 38.26 WR: 159	UR: N/A IS: n/a	S: 80.03 R: 178/180	2 Not Free	n/a	n/a	n/a	S: 43.9 R: 92/180	n/a	S: 19/100 R: 165/180
<a href="#">Ukraine</a>	Index: 0.779 Rank: 74	OS: 56.2 WR: 127	OS: 45.27 WR: 131	UR: 8.2% IS: n/a	S: 32.96 R: 97/180	60 Partly Free	No guarantee of rights	S: 0.714 R: 74/156	S: 79.4	S: 49.5 R: 60/180	S: 0.51 R: 72/128	S: 33/100 R: 117/180
<a href="#">Uzbekistan</a>	Index: 0.720 Rank: 106	OS: 58.3 WR: 108	OS: 44.36 WR: 135	UR: 9.0% IS: n/a	S: 50.74 R: 157/180	11 Not Free	n/a	n/a	S: 70.6	S: 44.3 R: 88/180	S: 0.47 R: 92/128	S: 26 R: 146/180

Table 2. Selected indicators reflecting level of national BHR implementation

Country	NAP or BHR chapter or NBA	National Human Rights Institution (Status in line with Paris Principles) <sup>1</sup>	OECD Member/ OECD NCP	UN Global Compact Local Network (# of UNGC active members/ # of companies among them) <sup>2</sup>	SDG Achievement	Trade union density rate <sup>3</sup> (year of data)
Albania	No	Yes (A)	No/No	(4/3)	64/165 71.02/100	13.3% (2013)
Armenia	No	Yes (A)	No/No	No (1/1)	58/165 71.8/100	32.2% (2015)
Azerbaijan	No	Yes (B)	No/No	No (11/3)	55/165 72.41/100	-
Belarus	No		No/No	Yes (26/21)	24/165 78.82/100	-
Bosnia and Herzegovina	No	Yes (A)	No/No	(2/0)	47/165 73.70/100	30% (2012)
Georgia	BHR chapter	Yes (A)	No/No	Yes (114/80)	56/165 72.23/100	-
Kazakhstan	No	Yes (B)	No/Yes	No (7/6)	59/165 71.64/100	49.2% (2012)
Kosovo*	No		No/No	No (4/2)	N/A	-
Kyrgyzstan	No		No/No	No (0)	44/165 74.00/100	-
Moldova (Republic of)	No	Yes (A)	No/No	No (2/2)	48/165 73.68/100	23.9% (2016)
Montenegro	No	Yes (B)	No/No	No (5/1)	85/165 68.21/100	25.9% (2012)
North Macedonia	No	Yes (B)	No/No	Yes (15/11)	54/165 72.53/100	28% (2010)
Serbia	No	Yes (A)	No/No	Yes (29/11)	34/165 75.59/100	27.9% (2010)
Tajikistan	No	Yes (B)	No/No	No (0)	78/165 69.76/100	-
Turkey	No	Yes	Yes/Yes	Yes (294/211)	70/165 70.38/100	9.9% (2019)
Turkmenistan	No		No/No	No (0)	117/165 61.14/100	-
Ukraine	BHR chapter in HR NAP (quite general)	Yes (A)	MoU for Strengthening Cooperation (extended till 2025) /Yes	Yes (86/64)	36/165 75.51/100	43.8% (2015)
Uzbekistan	No	Yes (B)	No/No	No (2)	77/165 69.84/100	-

<sup>1</sup> See also GANHRI. "Our members". <https://ganhri.org/membership/> and OHCHR (2021). "Accreditation of National Human Rights Institutions. Last update: 20 January 2021". [https://www.ohchr.org/Documents/Issues/HRIndicators/NHRI\\_map.pdf](https://www.ohchr.org/Documents/Issues/HRIndicators/NHRI_map.pdf).

<sup>2</sup> United Nations Global Compact. "Our Participants". <https://www.unglobalcompact.org/>

<sup>3</sup> ILOSTAT. "Statistics on union membership". <https://ilostat.ilo.org/topics/union-membership/>.

Table 3. Membership in international organizations and economic unions and initiatives

Country / Territory	Council of Europe Member	OSCE Member	OECD Member	EU Membership status or Association agreement, EaP	Community of Independent States	Eurasian Economic Union/ Eurasian Customs Union
Albania	Yes	Yes	No	Candidate Country	No	No/No
Armenia	Yes	Yes	No	CEPA <sup>1</sup> /EaP	Yes	Yes/Yes
Azerbaijan	Yes	Yes	No	No/EaP	Yes	No/No
Belarus	Special Guest status suspended	Yes	No	No/EaP (suspended)	Yes	Yes/Yes
Bosnia and Herzegovina	Yes	Yes	No	Potential Candidate Country	No	No/No
Georgia	Yes	Yes	No	EU–Georgia Association Agreement <sup>2</sup> / Eastern Partnership (EaP)	No	No/No
Kazakhstan	No	Yes	No	No	Yes	Yes/Yes
Kosovo*	No	No	No	Potential Candidate Country	No	No/No
Kyrgyzstan	No	Yes	No	No	Yes	Yes/Yes
Moldova (Republic of)	Yes	Yes	No	EU–Moldova Association Agreement <sup>3</sup> /EaP	Yes	No/No
Montenegro	Yes		No	Candidate Country	No	No/No
North Macedonia	Yes	Yes	No	Candidate Country	No	No/No
Serbia	Yes	Yes	No	Candidate Country	No	No/No
Tajikistan	No	Yes	No	No	Yes	No/No
Turkey	Yes	Yes	Yes	Candidate Country	No	No/No
Turkmenistan	No	Yes	No	No	No	No/No
Ukraine	Yes	Yes	MoU for Strengthening Co-operation (extended until 2025) <sup>4</sup>	Association Agreement with DCFTA <sup>5</sup> /EaP <sup>6</sup>	No	No/No
Uzbekistan	No	Yes	No	No	Yes	No/No

1 European Commission (2021). “The EU and Armenia Comprehensive and Enhanced Partnership Agreement enters into force”. Press release. 28 February. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_782](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_782).

2 In June 2014, the EU and Georgia signed an Association Agreement, which entered into force on 1 July 2016. The text of the agreement is available at Official Journal of the European Union L 261, Volume 57, 30 August 2014. [https://eeas.europa.eu/sites/default/files/association\\_agreement.pdf](https://eeas.europa.eu/sites/default/files/association_agreement.pdf).

3 The Association Agreement between the European Union and the Republic of Moldova was signed in June 2014 and has been in full effect since July 2016. It is available at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.260.01.0004.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.260.01.0004.01.ENG).

4 OECD Global Relations Brief, OECD and Ukraine, [https://www.oecd.org/eurasia/countries\\_and\\_territories/Global-Relations-Brief-Ukraine-ENG.pdf](https://www.oecd.org/eurasia/countries_and_territories/Global-Relations-Brief-Ukraine-ENG.pdf).

5 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, OJ L 161, 29 May 2014, p. 3–2137. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22014A0529%2801%29>.

6 European Union External Action Service (EEAS) 2021. “EU-Ukraine relations – factsheet”. 16 November. [https://eeas.europa.eu/diplomatic-network/eastern-partnership/4081/eu-ukraine-relations-factsheet\\_en](https://eeas.europa.eu/diplomatic-network/eastern-partnership/4081/eu-ukraine-relations-factsheet_en).

## Annex 3 – NHRIs status in line with Paris Principles

Chart of the Status of NHRIs accredited by the Global Alliance of NHRIs (Accreditation status as of 3 August 2021)<sup>1</sup>

National Institution	Status
Albania: <a href="#">People's Advocate</a>	A
Bosnia and Herzegovina: <a href="#">Institute of Human Rights Ombudsmen</a>	A
Serbia: <a href="#">Protector of Citizens</a>	A
Montenegro: <a href="#">Protector of Human Rights and Freedoms</a>	B
North Macedonia: <a href="#">The Ombudsman</a>	B
Armenia: <a href="#">Human Rights Defender</a>	A
Georgia: <a href="#">Public Defender's Office</a>	A
Moldova: <a href="#">The Office of the People's Advocate of Moldova</a>	A
Ukraine: <a href="#">Ukrainian Parliament Commissioner for Human Rights</a>	A
Azerbaijan: <a href="#">Human Rights Commissioner (Ombudsman)</a>	B
Kazakhstan: <a href="#">The Commissioner for Human Rights</a>	B
Kyrgyzstan: <a href="#">The Ombudsman</a>	B
Tajikistan: The Human Rights Ombudsman	B
Turkmenistan: the Ombudsman of Turkmenistan	C
Uzbekistan: <a href="#">Authorized Person of the Oliy Majlis of the Republic of Uzbekistan</a>	B

### Classification

- A - Fully compliant with the Paris Principles
- B - Partially compliant with the Paris Principles
- C - no status

<sup>1</sup> OHCHR and GANHRI (2021). "Chart of the Status of National Institutions Accredited by the Global Alliance of National Human Rights Institutions". [https://www.ohchr.org/Documents/Countries\\_and\\_territories/NHRI/StatusAccreditationChartNHRIs.pdf](https://www.ohchr.org/Documents/Countries_and_territories/NHRI/StatusAccreditationChartNHRIs.pdf).

## Annex 4 – Trafficking in Human Beings and Forced Labour Ranking

Trafficking in Human Beings and Forced Labour Ranking by the US Department of State (2021)		
Country	DoS 2020 <sup>1</sup>	DoS 2021 <sup>2</sup>
Albania	Tier 2	Tier 2
Armenia	Tier 2 Watch list	Tier 2
Azerbaijan	Tier 2 Watch list	Tier 2 Watch list
Georgia	Tier 1	Tier 1
Belarus	Tier 3	Tier 2 Watch list
Moldova (Republic of)	Tier 2	Tier 2
Turkey	Tier 2	Tier 2
Bosnia and Herze-govina	Tier 2 Watch list	Tier 2
Kosovo*	Tier 2	Tier 2
Montenegro	Tier 2	Tier 2
Serbia	Tier 2	Tier 2
North Macedonia	Tier 2	Tier 2
Kazakhstan	Tier 2 Watch list	Tier 2
Kyrgystan	Tier 2 Watch list	Tier 2
Tajikistan	Tier 2	Tier 2
Turkmenistan	Tier 3	Tier 3
Ukraine	Tier 2	Tier 2
Uzbekistan	Tier 2 Watch list	Tier 2

<sup>1</sup> U.S. Department of State (2020). 2020 Trafficking in Persons Report. <https://www.state.gov/reports/2020-trafficking-in-persons-report/>.

<sup>2</sup> U.S. Department of State (2021). Trafficking in Persons Report. June 2021. <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.

