



**Approved by
Chairman of the NCP
of the Republic of Kazakhstan,
Minister
of National Economy of the
Republic of Kazakhstan
Kuantyrov A.S.**

**Preliminary assessment
of the National Contact Point
of the Republic of Kazakhstan**

1. The Organization for Economic Cooperation and Development Guidelines for Multinational Enterprises (*the Guidelines*) are a set of recommendations for responsible business conduct addressed by Governments to multinational enterprises operating in or from complying States.

The Guidelines are part of the 1976 Organization for Economic Cooperation and Development (*the OECD*) Declaration on International Investment and Multinational Enterprises, a political commitment by the acceding states to provide an open and transparent environment for international investment and to encourage the positive contribution of multinational enterprises to social and economic progress.

The Government of the Republic of Kazakhstan (*the RK*) has established a National Contact Point (*the NCP*) aimed at promoting Guidelines and considering specific instances concerning the activities of multinational enterprises based or operating in the RK.

2. On December 5, 2022, the NCP Secretariat registered an appeal from the Industrial Professional Union of Machine Builders NGO (*the Appellant*) in relation to KAZAKHSTAN PARAMOUNT ENGINEERING LLP (*the Enterprise*).

3. The subject of the appeal is a potential violation of the terms of the Industry Agreement regarding the obligations to transfer social contributions in accordance with the Law of the Republic of Kazakhstan "On Trade Unions".

Thus, the Appellant believes that the company does not comply with the provisions of the OECD Guidelines in the areas of Concept and Principles (*Chapter I*), General Policy (*Chapter II*), Human Rights (*Chapter IV*), Labor and Industrial Relations (*Chapter V*).

4. When making an initial assessment regarding whether an issue that has arisen needs further investigation, the NCP assessed the case against the following criteria:

1) The identity of the affected party and the multinational enterprise.

The Industrial Professional Union of Machine Builders NGO is an independent, public association established on the basis of the common labor, industrial and professional interests of its members. Its purpose is to protect the labor, professional, as well as other social and economic rights and interests of the members.

KAZAKHSTAN PARAMOUNT ENGINEERING LLP is the largest enterprise in Central Asia manufacturing modern armored wheeled vehicles. The

enterprise has an innovative technology that allows it to manufacture armored vehicles with enhanced mine protection of the MRAP type.

According to the information provided by the Ministry of Justice of the Republic of Kazakhstan, the founders of the enterprise are:

- KazPetromash LLP (RK);
- InterTehAudit LLP (RK);
- Paramount Group Limited (UAE).

2) The existence of a link between the activities of the multinational enterprise and the appeal.

The Industrial Professional Union of Machine Builders NGO is a trade union of the Republic of Kazakhstan, which carries out trade union activities at the enterprise.

Thus, there is a direct connection between the Appellant and the multinational enterprise.

3) Materiality and reasonableness of appeal.

The Appellant provided additional information proving the validity of the appeal, namely:

a) Letter of the Sectoral Trade Union to the Head of the State Institution "Urban Environment Control and Quality Department of Nur-Sultan" - D. B. Doskulov with a request to carry out an inspection of KAZAKHSTAN PARAMOUNT ENGINEERING LLP on the above fact and bring officials to administrative responsibility in accordance with paragraph 3. art. 97 of the Code of Administrative Offenses of the Republic of Kazakhstan (*dated 11.10.2022*);

b) The Urban Environment Control and Quality Department of Nur-Sultan in its letter informs that an unscheduled inspection has been carried out and violations of Article 154 of the Labor Code of the Republic of Kazakhstan have been revealed. c) Letter of the Urban Environment Control and Quality Department of Astana regarding issuance of the Inspection Certificate to KAZAKHSTAN PARAMOUNT ENGINEERING LLP and provision of required documents related to the appeal. KAZAKHSTAN PARAMOUNT ENGINEERING LLP was brought to administrative responsibility (09.12.2021)

c) A letter from Urban Environment Control and Quality Department of Astana regarding issuance of the Inspection Certificate to KAZAKHSTAN PARAMOUNT ENGINEERING LLP and provision of required documents related to the appeal. However, the documents were not provided within the specified period and materials in relation to the legal entity were sent to the Specialized Interdistrict Administrative Court on Administrative Offences of Astana city for bringing the legal entity to responsibility in accordance with Article 462 of the Code of Administrative Offences of the Republic of Kazakhstan (*dated 23.11.2022*);

d) Determination on acceptance of proceedings and initiation of civil proceedings (*dated 20.12.2022*).

The Appellant has not provided facts confirming the infringement, restriction or violation of the rights of employees of the enterprise or the Local Trade Union.

4) *Consideration of similar appeals under other domestic or international procedures.*

Since 2000, the OECD NCP has considered 62 specific instances under the sections "Concepts and principles"¹, "General Policy" – 10 specific instances², "Human rights" – 248 specific instances³, "Labor and Industrial relations" – 294 specific instances⁴.

Moreover, 223 labor union specific instances were considered.⁵ Among them, 157 specific instances were accepted, 49 specific instances were not accepted and 17 specific instances are in pending status.

However, none of the above specific instances is subject to analogy because of the different factual circumstances and subject matter of the dispute.

5) *Applicability of other legal procedures (including court proceedings) in the situation described by the Appellant.*

According to the information provided, parallel lawsuits are being conducted between the parties to the appeal within the Specialized Interdistrict Economic court of Astana, which ended in favor of the Appellant.

6) *Whether the participation of the NCP in the consideration of the appeal contributes to the introduction of new best practices in the field of responsible business conduct.*

Not revealed.

Decision:

As part of the work to identify all the circumstances of the case, the company rejected the NCC's offer of cooperation due to disinterest, justifying its decision by the fact that the conflict has been resolved through litigation.

It should be emphasized that one of the NCPs' functions is to facilitate the resolution of issues arising from the application of the Guiding Principles through conciliation procedures on a case-by-case basis.

According to the Guidelines, the consideration of appeals on a case-by-case basis is a voluntary process wherein all parties involved in the proceedings are expected to cooperate in good faith.

Thus, given that the enterprise refuses to cooperate with the NCP, it is not possible to conduct further conciliation procedures without the second party to the appeal.

Accordingly, it is not possible to assist the NCP in resolving the situation.

Based on the above, **the NCP dismisses the appeal.**

¹[https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Fconcepts+and+principles&q=!H!all&s=desc\(mne_datereceived\)](https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Fconcepts+and+principles&q=!H!all&s=desc(mne_datereceived))

²[https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Fgeneral+policies&q=!H!all&s=desc\(mne_datereceived\)](https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Fgeneral+policies&q=!H!all&s=desc(mne_datereceived))

³[https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Fhuman+rights&q=!H!all&s=desc\(mne_datereceived\)](https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Fhuman+rights&q=!H!all&s=desc(mne_datereceived))

⁴[https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Femployment+and+industrial+relations&q=!H!all&s=desc\(mne_datereceived\)](https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_theme%2Femployment+and+industrial+relations&q=!H!all&s=desc(mne_datereceived))

⁵[https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_source%2Ftrade+union&q=!H!all&s=desc\(mne_datereceived\)](https://mneguidelines.oecd.org/database/searchresults/?hf=10&b=0&r=%2Bf%2Fmne_mne_source%2Ftrade+union&q=!H!all&s=desc(mne_datereceived))

Nevertheless, the NCP, guided by the Guidelines, **recommends** that the enterprise take into account the following recommendations of the OECD Guidelines in the policies implemented by the enterprise:

1. Respect internationally recognized human rights in its activities, as well as prevent human rights violations and remedy negative impacts with regard to respect for human rights.

2. Respect the right of employees working in a multinational enterprise to form or join trade unions or representative offices of employees for the purpose of negotiating collective agreements.

3. Allow authorized representatives of the employees of the enterprise to negotiate the collective agreement, or industrial and labor relations, and allow the parties to consult on matters of mutual interest with representatives of the management of the enterprise authorized to make decisions on these matters.

4. Conduct due diligence on risks in order to identify, prevent and mitigate actual and potential adverse human rights impacts.

In addition, the NCP draws the attention of the parties to the need to comply with the approved procedures for handling appeals to the NCP, as well as the OECD Guidelines. The NCP also encourages the parties to respect the decisions of the parties and the NCP to ensure and preserve the principles of party equality, impartiality, and transparency of the appeals process.

November 28, 2023