



## EMC AND GYLA RESPOND TO ILLEGAL DECISION OF LLC GEORGIAN MANGANESE TO UNILATERALLY CUT OF SALARIES

Our organizations respond to a statement by LLC Georgian Manganese of March 20, 2020, in protest of Shukruti population, about the partial suspension of the production process of Chiatura mining enterprise and reduction of salaries of employees and consider that the above-mentioned decision grossly violates the norms of the Labour Code of Georgia, is an apparent attempt to confront the population of Shukruti and

the people employed in the company and is the result of non-compliance of the government with the obligations for proper monitoring on Company's licensing requirements.

According to a statement released by the company, due to the protest of the population of Shukruti village of Chiatura municipality, the mines of the company have been suspended since February 17, 2020, and by the decision of the company, due to the financial situation, employees will receive only 60% of the salaries for an idle time from March 1 to March 20. If the employee wishes, during this period, in case of paid leave their payment will be 100%. From March 20 to the end of April, employees will receive only 60% of their contractual pay.

First of all, the essence of the protest of the inhabitants of Shukruti village of Chiatura municipality should be mentioned. Since September and November 2019, the inhabitants of Shukruti have been asking LLC Georgian Manganese to compensate for the damage that the company's activity caused to their homes and living environment. Inhabitants of Shukruti say verbal damages agreements reached with the company have been repeatedly violated, causing renewed resistance from locals since February, blocking mines of Shukruti and hampering their work.

There have been numerous calls to the State to uphold the right of the population to live in a healthy environment throughout the State, to study the damage caused to the villages by underground operation, to ascertain legally responsible party and to take appropriate action. Unfortunately, nothing has been done to meet the fair demands of the locals.

The neglect of its obligations by the State, including failing to exercise proper control on the protection of the condition of license issues in the name of LLC Georgian Manganese, the refusal to take social responsibility for the problems of the affected local population and the constant inaction put the Chiatura municipality and the population in severe environmental and social disaster.

For its part, on the background of the fair protest of the population and the suspension of the activities of miners, the company's decision to cut the salaries of its employees represents a gross violation of the law. Also, with this decision, the company is creating a conflict between the population of Shukruti and its employees and seeks to find additional leverages in the negotiation process.

Labour rights are protected by the Constitution of Georgia, the Labour Code of Georgia and international legal instruments. The existing legal framework obliges the employer to make every effort to eliminate the barriers to labour relations.

When LLC Georgian Manganese chooses to suspend activities instead of eliminating and resolving problems, the step should be considered as forced idle time through the fault of an employee. During this period, according to the Labour Code of Georgia<sup>1</sup>, the employee shall maintain a job and shall be fully remunerated.

According to the legislation, the essential terms of a labour agreement shall be the amount of labour remuneration and the payment procedure.<sup>2</sup> Whereas the essential terms of an employment agreement shall be changed only by agreement of the parties.<sup>3</sup> Changing the amount of salary or the terms of payment by the employer without the consent of the employee is a void decision.<sup>4</sup>

Given the current situation and the lack of proper response by the company, the decision of LLC Georgian Manganese to reduce their salaries without the consent of the employees should be considered as an illegal and legally void decision.

It is incomprehensible the term of company, by which it provides employers with 100% payment only when they are on paid leave on the period of forced idle time, from March 1 to March 20, 2020. According to the Labour Code of Georgia,<sup>5</sup> an employee shall have the right to enjoy a paid leave of absence of at least 24 working days annually. Paid leave is the right employee and cannot replace the obligation employer to pay employees the salaries fully.

In view of all the above, we call on:

LLC Georgian Manganese:

- do not violate the Labour Code of Georgia and remunerations should be paid employees for idle time.

Ministry of Economy and Sustainable Development:

- Inquire about the concerns of the population of Shukruti and other villages Chiatura and create a special commission and study the extent and forms of environmental and social (including health) impacts of people, develop a methodology for the calculation of damages and ensure the publicity of the final documents of the Commission;

The National Agency of Mines:

- To study the geological impact of the operation of mines in Shukruti and other villages and to determine if there is a link between this and the damage to property and infrastructure of the population.

- To check whether the rules and norms for the use of mines of Shukruti and other villages of Chiatura municipality and the terms of the license granted to LLC Georgian Manganese are fulfilled;

LEPL Technical and Construction Supervision Agency:

- Conduct periodic special technical inspections of mines in other villages of Shukruti and other villages of Chiatura municipality.

The State Sub-Agency Department of Environmental Supervision of Ministry of Environmental Protection and Agriculture of Georgia:

- to exercise state control over the protection of the environment and the use of natural resources in Shukruti and Itkhvisi in order to suspend and prevent irrational (and possibly illegal) use of natural resources.

The Human Rights and Monitoring Center (EMC) and the Georgian Young Lawyers' Association continue to monitor the situation on the ground and, if they wish, will provide legal assistance to the residents of Shukruti and the employees of LLC Georgian Manganese, including through proceeding judicial dispute.

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



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- 1Article 32(1) of Labour Code of Georgia
  - 2 Article 6(9) of Labour Code of Georgia
  - 3 Article 11(2) of Labour Code of Georgia
  - 4 Article 45 of Civil Code of Georgia
  - 5 1Article 21(1) of Labour Code of Georgia