



## The Council's work under the human rights criterion

Section 3 of the GPFG's guidelines states that "Companies may be put under observation or be excluded if there is an unacceptable risk that the company contributes to or is responsible for serious or systematic human rights violations."

In 2019, the Council continued to focus on labour rights in the textiles industry in Southeast Asia and conditions bordering on forced labour for migrant workers in the Gulf States and Malaysia. The Council has also worked on cases where infrastructure projects have come into conflict with the rights of indigenous peoples, as well as issues relating to surveillance technology. In addition, the Council has drawn up a new plan for its work in the human rights field.

**Working conditions in the textiles industry:** The Council has been systematically investigating companies producing yarn, fabrics and garments in certain countries where the risk of labour rights violations is particularly high since as far back as 2015. The Council's efforts have been focused on companies in the GPFs portfolio that produce textiles themselves. These companies employ thousands of people in many countries, and are directly responsible for the working conditions at their factories. Working conditions at the factories are examined by external consultants on the basis of interviews with employees in places where they feel secure and, when the companies' give permission, on factory inspections.

So far, around 30 factories have been investigated in Cambodia, Vietnam, Bangladesh, Myanmar, Lesotho, Ethiopia, India and Haiti. Working conditions at many of these factories have proved to be extremely poor, and often violate national law, despite them being regularly inspected by their customers. The majority of the companies that have been sent a draft Council recommendation to exclude them from the GPF have, after contact with the Council, started implementing measures to improve working conditions. The Council attaches importance to companies not only remedying the norm violations that have been uncovered, but also making changes in their organisations and management systems that can contribute to permanent improvements both at the factory that has been examined and at their other production facilities.

Two textiles companies have been excluded to date, while three companies have been placed under observation. In 2019, the exclusion of a further two companies was recommended. The Council remains engaged in a dialogue with several textiles companies, and will continue to investigate working conditions in this industry in 2020.

**Infrastructure projects in indigenous areas:** In recent years, portfolio monitoring efforts have picked

up several media reports relating to infrastructure projects in indigenous areas, particularly in South America. The cases that the Council has considered in 2019 affect indigenous peoples' rights to land and natural resources, cultural rights and the right to self-determination.

**Surveillance technology:** In 2019, the Council became aware of cases where surveillance technology was linked to human rights violations. The Council has started assessing three companies, and has commissioned external consultants to investigate technology companies' contribution to human rights violations more generally. The Council will decide how this issue will be further followed up in 2020.

**Conditions bordering on forced labour:** Since 2016, the Council has investigated nine companies in the construction and service sectors in the Gulf States to determine whether they contribute to migrant workers being placed in a coercive situation. In 2019, the Council issued its first recommendation to exclude a company on the basis of this issue. G4S was excluded because the company's employees in Qatar and the UAE, the bulk of whom are migrant workers, were placed in a situation bordering on forced labour. The Council attached particular importance to the use of recruitment fees, misleading employment contract terms and salaries, as well as restrictions on the workers' freedom of movement. In sum, these norm violations constitute a situation where the workers are, in practice, unable to leave their jobs if they should want to. In its recommendation, the Council based its assessment on ILO standards for workers' rights, particularly the ILO's indicators for forced labour and the ILO's principles for fair recruitment. These rest, inter alia, on ILO Forced Labour Convention (No. 29) from 1930. The Council also attaches importance to the fact that migrant workers are in a particularly vulnerable situation while they are staying in a foreign country far from home.

The Council has reason to believe that other companies also make use of recruitment fees, provide misleading information about employment contract terms and salaries, and impose restrictions on workers' freedom of movement. As a result, the Council will, in 2020, undertake new studies of working conditions in several Gulf States. The Council will also focus on other countries and business sectors that employ many migrant workers, and where similar working conditions have been reported in recent years, for example in Malaysia.

## A new Human Rights strategy 2020–2023

In 2018, the Council decided that it should draw up a strategy to guide its endeavours under the human rights criterion over the coming three years. The purpose of this effort was to identify issues, regions or countries, business sectors and companies where there was a particular risk that listed companies are responsible for, or contribute to, human rights abuses. During 2019, work on the strategy was extended to include the Council's interpretation of the human rights criterion and its methods in the field.

During its strategy development process, the Council has held meetings with UN organisations, as well as trade unions and human rights organisations. The Council also organised a seminar in London in the summer of 2019, where experts were invited to present and discuss the risk of human rights violations associated with migrant workers, forced relocation and land rights, and new technology. In addition, a meeting was held with NGOs in Norway, where human rights issues were discussed. The Council also commissioned external consultants to perform two studies. The Danish Institute for Human Rights (DIHR) was commissioned to evaluate the Council's application of the human rights criterion, while Shift reviewed the Council's work with supply chains.

The objective of the DIHR study was to evaluate the Council's work under the human rights criterion since 2005 and offer advice on its future application. DIHR delivered its report in June 2019. Its main conclusion was that the Council should lean more heavily on the UN Guiding Principles for Business and Human Rights in its application of the human rights criterion.

The objective of the commission given to the consultancy Shift was to assess how the Council can deal with supply chain cases in the human rights field. Shift delivered its report in September 2019. In line with the DIHR report, Shift recommended that the Council adjust its practice to fall more in line with the UN Guiding Principles for Business and Human Rights.

Shift also recommended a number of factors/assessment points that the Council can use in its assessment of companies' contribution to norm violations in supply chain cases.

On the basis of the reports from DIHR and Shift, the Council will take greater account of the UN Guiding Principles in its work going forward. At the same time, the Council is bound by the current wording of the GPF's guidelines for observation and exclusion. The issue of harmonisation with international frameworks such as the UN Guiding Principles and the OECD Guidelines for Multilateral Enterprises will probably be addressed by the committee currently evaluating the Guidelines for Observation and Exclusion from the GPF, which is due to publish its report in the summer of 2020.

As part of the strategy development process, considerable efforts were made to identify countries/regions and business sectors where the risk of human rights violations is particularly high. On the basis of this assessment, the Council decided to give priority to several issues in the coming years. The Council will continue working on labour rights, including conditions bordering on forced labour, extremely poor working conditions and hazardous work, both in business sectors the Council has previously studied and other labour-intensive industries. The Council will also take a closer look at sectors where there is a risk of child labour, and will assess certain supply chains. Other issues that the Council will work on include indigenous peoples' rights and forced relocation. Indigenous peoples possess some special rights relating to land, and can be particularly vulnerable to abuse, for example in connection with construction projects. Other groups with traditional lifestyles may also suffer severe disadvantage in connection with forced relocation. Finally, the Council will address the matter of surveillance technology. The Council will also continue, on an ongoing basis, to assess new cases that are picked up via portfolio monitoring in other areas.