



Labyrinths of Georgian Mining Sector Development Planning

August 2020
Green Alternative

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Introduction

This study looks at the first attempt of developing a national mining sector policy in Georgia. It describes the process of policy development conducted with the support from the European Bank for Reconstruction and Development (EBRD) and its shortcomings. Chapter 1 of the study is an overview of some aspects of the policy carried out in the Georgian mining sector in the past 15 years; in Chapters 2, 3 and 4, we discuss the process of developing the Georgian mining sector policy which began in 2018, and the outcomes caused by the opacity of this process. Chapter 5 describes the most recent “revolving door” case in the mining sector known to the public and considers possible outcomes of this case. The Concluding Remarks provide opinions on the ways of rectifying the prevailing situation and preventing possible problems in the future.

1. National mining sector policy in 2005-2020: major features

It is well-known that Georgia is rich in some types of mineral resources, and the mining industry in the country counts many years. According to the International Council on Mining and Metals (ICMM),¹ in 2018, Georgia ranked 31st among 182 countries of the world in terms of the mining industry contribution in its economy (index of 71.3),² which means that Georgia’s economy significantly depends on the mining sector.

Georgia has never had a formalised national policy in the mining sector. Despite this, the government programmes and the management mechanisms established in this sector under normative acts nonetheless allow to portray the priorities of the national policy that have prevailed in this sector in the past 15 years. Several important features of the policy carried out in the mining sector so far are briefly discussed below.

● Legislation regulating the sector

After the end of the Soviet rule and disintegration of the industrial production systems, in a way similar to many post-Soviet countries, Georgia, too, chose mining and export of mineral resources as a way of getting its economy back on its feet and elimination of poverty. Naturally, a legislative basis had to be developed to this end. Thus, soon after the restoration of Georgia’s independence and adoption of the Constitution, the first laws regulating the use of natural resources were passed in the second half of the 1990s; among them was the Subsoil Law adopted in May 1996. This law determined the agencies

¹ International Council on Mining and Metals (ICMM), October 2018. *Role of Mining in National Economies: Mining Contribution Index 2018*. 4th edition. Available at: <https://bit.ly/3i9y75u>

² To compare, the top 20 countries that are strongly dependent on their mining industries (index above 80) include the countries of Africa and Latin America (e.g. the Democratic Republic of Congo, Ghana, Namibia, Zimbabwe, Suriname, Bolivia), Mongolia and some of the post-Soviet countries (Kyrgyzstan ranking 5th, Uzbekistan – 10th, Armenia – 14th and Tajikistan – 15th). Georgia is in the subsequent group with high index (60 to 80) along with such countries as: Russia (ranking 26th), Kazakhstan (27th), Columbia (30th), Australia (32nd), Chile (35th), Turkey (38th), Iran (40th) and Ukraine (47th).

responsible for the governance of the mining sector, decision-making procedures concerning the extraction of mineral resources, monitoring and oversight mechanisms and other fundamental issues. It is noteworthy that, until 1999, along with mineral resources, this law also regulated the issues related to the use of oil and gas resources and groundwater. In 1999, the adoption of the Oil and Gas Law established different regulations for the extraction of oil and gas resources (oil and gas operations); the extraction of groundwater, however, is still regulated by the Subsoil Law.

Numerous amendments have been made to the Subsoil Law since its adoption, most of which have concerned the rules of granting the mining rights. The Law on Licenses and Permits adopted in 2005 concerns the same issue. This so-called framework law defines the general rule of issuing any kind of license and permit in Georgia, including the mining license.

The adoption of the Law on Licenses and Permits was soon followed by a by-law which established detailed requirements for granting the mining license. This by-law is the Decree No 136 of the Government of Georgia (GoG) “On Approving the Regulation on Terms and Conditions for Granting a License for Extraction of Mineral Resources”, dated 11 August 2005³. This normative act is considered the key guideline in the mining sector today since the first two acts mentioned earlier only establish general principles and approaches whereas the regulation approved by the government determines specific mechanisms and important details. It is noteworthy that, as of August 2020, the decree was amended 75 times since its adoption in 2005. The diagram below shows the frequency of amendments by year.

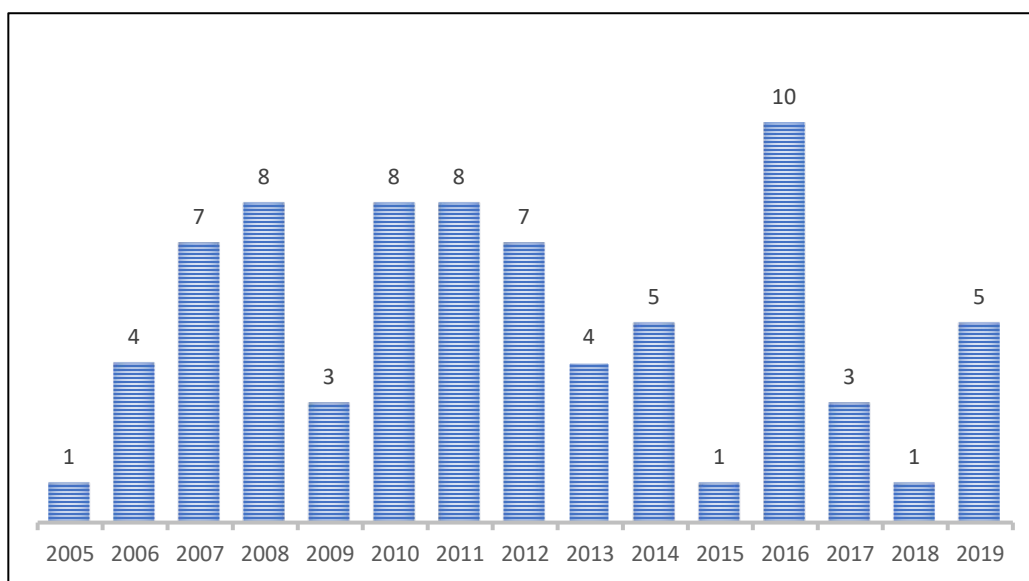


Diagram 1. Frequency of amendments made to the Decree No 136 of the Government of Georgia dated 11 August 2005 (2005-2020).

The diagram shows that the decree was amended every year and, in most cases, several times a year. Amendments were especially frequent in 2007-2008, 2010-2012 and 2016. During these years, the decree

³ Available on the [website](#) of the Legislative Herald of Georgia. Registration code: 380.050.000.10.003.000.270

was amended almost every month, and sometimes – several times per month: for example, in November 2010, three amendments were made to the decree only a few days apart; in July and August 2016, the amendments were made twice with an interval of one week.

● **Competent authority**

The agencies responsible for the sector have changed many times too: between the adoption of the Subsoil Law in 1996 and 2008, the Ministry of Environment and Natural Resources Protection was the agency responsible for the sector. After 12 years of stability, from 2008, the responsibilities related to the sector were several times transferred from one agency to another. Specifically:

- In 2008, the Ministry of Economic Development became responsible for regulating the exploitation of mineral resources;
- In 2011, this responsibility migrated to the Ministry of Energy and Natural Resources;
- In 2013, it was transferred back to the Ministry of Environment and Natural Resources Protection;
- In December 2017, it was transferred to the Ministry of Economy and Sustainable Development where a specialised Legal Entity of Public Law – National Agency of Mines – was established.

It is important to note that each time the decision was made to remove this responsibility from the Ministry of Environmental Protection and Natural Resources, the issue of abolishing this ministry was also discussed. As a result of the most recent large-scale institutional changes in 2017, despite criticism, this ministry was merged with the Ministry of Agriculture. Thus, some issues related to the governance of environmental protection and natural resources are within the remit of the Ministry of Environmental Protection and Agriculture established in the late 2017.

● **Transparency**

It is also worthy of attention that no amendment made to the aforementioned government decree during these 15 years ever became a subject of public discussion. The issue regulated by this decree – the procedure of granting a mining license – does not envisage a possibility of public participation either. As a result, the mining licenses in Georgia are issued without the participation of individuals and communities affected by the mining projects and the public, in general.

As we shall see in the following chapters, the first attempt to define national policy in the mining sector in 2018-2019, unfortunately, also unfolded without public participation.

● **Environmental requirements**

As a result of the policy of universal deregulation which began in 2004, critically important changes took place in the mining sector as well. Thus, for example: in 2007, mining projects were exempt from environmental impact assessment (EIA). Those wishing to extract mineral resources simply had to purchase the mining right (license) at an auction; they were no longer required to conduct a preliminary

assessment of the possible negative impacts of mining on the environment and human health or on local communities and did not have to undertake preventive and mitigation measures.

This state of affairs remained in place until 1 January 2018 when a new act regulating EIA system, the Environmental Assessment Code, came into effect (adopted on 1 June 2017). After a 10-year pause, the Code subjected the mining projects to EIA again but, at the same time, once again left the loopholes allowing to evade the EIA procedures: the Code established very high thresholds for the cases when conducting an EIA was mandatory. In addition, the Code does not regulate the extraction of construction material, including sand and gravel;⁴ this was done in the situation when approximately half of all mining licenses (up to 5,000 licenses) currently being issued in Georgia is issued precisely for the extraction of construction materials⁵.

It is noteworthy that, in 2018, the issue of environmental efficiency of mining even became a subject of special examination by the State Audit Office⁶. The State Audit Office studied the measures implemented by the responsible agencies in 2014-2017 and the extent to which they ensured that the mining companies provided for the appropriate protection of the environment.

● **Protection of property rights**

The Georgian legislation, like the legislation of virtually all countries of the world, provides for the possibility of expropriation of property from a person by the state in the event of pressing public need. In 2005, the act regulating this issue – the Law of Georgia on the Procedure for the Expropriation of Property for Pressing Public Needs – was amended to allow expropriation for mining. Thus, in Georgia, commercial activities such as mining can be declared a pressing public need and, in the event the owner refuses to cede (sell) the property (e.g. land) for the benefit of a project, this property can be seized using the procedure of expropriation. This rule is still in force.

● **Regulatory fee for the use of natural resources**

In 2011, a regulatory fee for the use of natural resources was adopted. This is a fee paid by the mining licensees so that the regulatory body can effectively implement its public responsibilities. The introduction of the regulatory fee for the use of natural resources was unjustified from the legal point of view (it contradicts the Constitution of Georgia); the introduction of such a fee also created corruption risks⁷. Nevertheless, this fee is still in force.

⁴ For additional information, see: [Green Alternative's views on the execution of the environmental impact assessment \(EIA\) procedure envisaged by the Environmental Assessment Code](#), Green Alternative, 31 March 2020.

⁵ Adam Smith International and European Bank for Reconstruction and Development, March 2019. [Georgia's Mining Sector Policy: Final Draft](#).

⁶ State Audit Office, March 2018. Audit of Efficiency Report: [სასარგებლო წიაღისეულის მოპოვების სფეროს გარემოსდაცვითი მართვის ეფექტიანობის აუდიტის ანგარიში](#).

⁷ For additional information, see: "Regulatory fee for the use of natural resources – lawfulness and corruption risks", Green Alternative, July 2015. Available [in Georgian] at: <https://bit.ly/3gmARec>

The events concerning the mining sector described above portray a general picture: the desire of the state to remove any obstacles for the investors interested in mining, while environmental and social safeguards are considered to be precisely such obstacles. Furthermore, the frequency with which the legislation and institutional order have been changed in the past 15 years, on the one hand, indicates the absence of the state's unified vision and long-term goals in this sector and, on the other, points to the institutional weakness.

2. Development of the mining sector policy – the government's priority

It seems that the GoG started thinking about the need to reform the mining sector and develop a national policy in this sphere in 2017. This was the time when the Ministry of Environment and Natural Resources Protection was still the agency responsible for the governance of the mining sector.

The 2018-2020 Government Programme⁸ approved by the Parliament of Georgia in December 2017 contains several sentences concerning the mining sector, too. Specifically, the Government Programme mentions the need to improve the natural resource management system and to refine the legislation to this end, which should ultimately promote the country's economic growth and development. Although this Government Programme does not directly prescribe the development of the policy, it does mention several directions of the sector reform (see Box 1).

Box 1. Excerpt from the December 2017 Government Programme "Freedom, Rapid Development, Welfare"

2.11 Natural Resource Management

"...the issues of studying and extraction of mineral resources as well as the oversight in this sphere shall be put in order, new services shall be introduced in order to maximise the interest of the private sector in this sphere and to form an attractive investment environment. Environmental aspects shall be considered in the process of licensing."

The fact that reforming the mining sector and development of the national policy was among the government priorities in 2017 is also confirmed the European Bank for Reconstruction and Development (EBRD) announcement⁹ of 1 November 2017 in which the Bank invites consulting companies to express interest to implement consultancy work in Georgia.

In the announcement, the European Bank for Reconstruction and Development (hereinafter "the EBRD" or "the Bank"), referring to the GoG, explains that, in order to increase the share of the mining sector in

⁸ Government of Georgia, 2017. Freedom, Rapid Development, Welfare: Government Programme 2018-2020. Available [in Georgian] at: <https://bit.ly/2P0FeiH>

⁹ European Bank for Reconstruction and Development, 1 November, 2017. [Georgia Mining Sector - Development Support Programme: Invitation for expression of interest.](#)

the country's economy, reduce the investor risk and enhance the investment climate, the GoG decided to reform this sector and developed a programme of mining sector development containing following three measures:

- Developing of a policy and strategy;
- Amending the legislation regulating the sector based on the new strategy and policy;
- Ensuring efficient and effective implementation of strategy, policy and law through institution strengthening and capacity building for relevant state agencies.

According to the Bank, the GoG requested the support of the EBRD; the Bank agreed and, to help implement the measures listed above, namely to carry out Phase I of the programme (development of a policy and strategy), announced an invitation for expression of interest for consulting companies. The recipients of the Bank's support would be the Ministry of Environment and Natural Resources Protection and LEPL National Environmental Agency under this ministry (as an agency responsible for mining issues) and the Ministry of Economy and Sustainable Development.

Interestingly, in June 2018, the GoG had to present to the Parliament a new government composition and, correspondingly, a renewed government programme¹⁰. Unlike the 2017 programme, in this programme, the government priorities in the mining sector are expressed more clearly and the development of the mining sector policy is mentioned directly (see Box 2).

Box 2. Excerpt from the 2018 Government Programme "Freedom, Rapid Development, Welfare"

2.12 Natural Resource Management

The improvement of the system of natural resource management will enable the country to enjoy significant economic benefits. The Government's goal is to ensure the use of all resources to the maximum degree of efficiency and, at the same time, to ensure that the resources are managed in a sustainable manner and based on the principles of environmental protection.

In terms of elaborating a comprehensive legislative framework for use of resources, several large-scale reforms should be noted:

- Developing mining sector policy – it is planned to **develop policy and strategy documents** compliant with the international standards based on which, during Phase II of the reforms, a corresponding legislative framework will be developed in 2019; during the concluding stage of the reforms, recommendations will be developed to strengthen human resources in the sector;
- Increasing access to information / opening digitised reports concerning mineral resources;
- Introducing modern methodology for deposit processing;
- Reforming the reserve commission;
- Introducing modern standards of calculating mineral reserves;
- Stimulating the studying of mineral resources.

¹⁰ Government of Georgia, 2018. [Freedom, Rapid Development, Welfare: Government Programme 2018-2020](#).

It should also be noted here that, by the time of approving the government programme in June 2018, the responsibility of the mineral resource management had already been transferred to the newly established National Agency of Mines (hereinafter - NAM) under the Ministry of Economy and Sustainable Development. Since January 2018 (the moment of establishment), the head of this Agency was Maia Zavrashvili – a public official who had already held several important posts in the Ministry of Environment and Natural Resources Protection in 2016-2017, prior to her appointment to this post; while holding these posts, she supervised the issues of mineral resource management¹¹.

Thus, the implementation of Phase I of the programme funded by the EBRD was started by the NAM rather than the Ministry of Environment and Natural Resources Protection, and the Agency at this time was led by Maia Zavrashvili who moved there from the Ministry.

3. Process of developing mining sector policy and public participation

Even though the June 2018 government programme mentioned the need to develop a policy for the mining sector, the process began without the Agency making an official statement about it.

The Agency did not make a public statement concerning the beginning of the process; neither did the Agency inform the stakeholders about the planned reform, the start of the policy development process, the schedule, a possibility to express opinions and other details which would allow them to form an idea of the process of the policy development and of the sector reform.

Green Alternative first learnt about the beginning of the policy development in June 2018 when the NAM directly informed the organisation about a visit to Georgia by EBRD Senior Counsel Paul Moffatt. The Agency said in its letter that, during his visit, it was planned to inform the stakeholders about the Bank's project, and this was precisely the reason why Green Alternative was being invited to the Agency. As it turned out later, this was not a general meeting with the stakeholders but separate meetings with individual organisations. The meeting was facilitated by Paul Moffatt, and two representatives of the international consulting company Adam Smith International participated in it as well. No Agency representative attended the meeting.

Paul Moffatt said at the meeting that the company selected by the Bank, Adam Smith International, would implement the project under which, in the course of six to nine months, a policy and strategy for the mining sector would be developed. He also clarified that the process of consultations with the public

¹¹ Between April 2016 and 26 September 2017, Maia Zavrashvili was the first deputy head of LEPL National Environmental Agency; afterwards, from 26 September until 15 December 2017, she briefly held the post of a deputy minister of environment and natural resources protection. During the transition period (when the responsibilities related to the management of mineral resources were removed from the Ministry of Environment and Natural Resources Protection and given to the Ministry of Economy and Sustainable Development), for three weeks, Maia Zavrashvili held the post of an advisor to the minister of economy and sustainable development. After that, starting from 8 January 2018, she was the head of the National Agency of Mines under the same ministry. (Sources: National Agency of Mines, Civil Service Bureau).

concerning the contents of the document would be led by the Ministry of Economy and Sustainable Development and the NAM rather than the Bank or the consulting company. After Paul Moffatt presented an overview of the project, the problems prevailing in the Georgian mining sector were discussed for the rest of the meeting; representatives of the Bank and the consulting company were interested in what problems Green Alternative identified in the mining sector. Meetings with other stakeholders are likely to have been held in a similar manner.

Why are we drawing attention to the details of the meeting? The point is that the first meeting in June 2018 was followed by two identical meetings at the Agency in September and December that year. These meetings, as well as the first meeting, were individual; no Agency representatives participated in them; the meetings were held with the experts of Adam Smith International consulting company and concerned the issues in which they were interested and wished to receive information (all meetings were held in the format: “tell us your opinion about the problems prevailing in the sector”); and not a single sentence from the document being developed was shared during any of these meetings.

After these individual meetings, in February 2019, the NAM (together with the experts of Adam Smith International) held the only public meeting with invited companies and non-governmental organisations working in the mining sector to discuss “the working version of the mining sector policy and strategy document”. Expectations were high that, at least this time, some version of the document would be available but the Agency did not make the document public before, during or after the meeting. At the meeting, a representative of Adam Smith International made a presentation on which the attendees were asked to express their views; virtually all speakers requested to share the document in order to be able to offer their opinions.

Several months passed after this public meeting and, on 31 May 2019, in one of the sub-sections of the Agency website (‘Public Information’/‘Reports’) where various kinds of information are, to this day, posted without any system or dates, a Green Alternative employee discovered a several-paragraph long entry about the EBRD project and the mining sector policy document. This undated overview ended with the Agency’s request to comment within one week and provided a link to the document. By the time we saw the information, the deadline for submitting comments had passed while the link to the policy document was not working (there was no policy document linked).

After communication with the head of the NAM on Facebook with regard to this discovery, a link to the document “Georgian Mining Sector Policy: Final Draft” dated March 2019 appeared on the Agency website and a new date was provided for submitting comments – 20 June. Thus, the Georgian Mining Sector Policy draft (the only version of the draft) became available for commenting on 31 May 2019 but without the Agency making a public statement about it.

By the deadline set by the Agency, Green Alternative submitted its comments on the published document¹² but what happened to them is unknown. The Agency never published any information about the remarks it received on the draft policy and whether or not it considered them; it is unknown what were the opinions expressed by the stakeholders, including state agencies and mining companies, and how they influenced the content of the draft policy document.

Two other documents that were developed within the framework of the EBRD project and published together with the draft policy should also be mentioned here; these are:

- “Georgia Mining Sector Development Programme, Phase I, Policy and Strategy: Status Report” dated November 2018 – a report which describes the state of affairs in the Georgian mining sector by the time of the policy document development; and
- “Georgia Mining Sector Development Programme, Phase I, Policy and Strategy: Best Practice Report” dated September 2018 – a report describing the best practices and other countries’ experience in the mining sector development.

These reports are still only available in English. It is likely that they were prepared by the consultants for the NAM to use during the dialogue and consultations with the stakeholders. Naturally, this did not happen this way: they are not available in Georgian and have never been made a subject of discussion.

4. From policy to strategy: where is the policy?

As mentioned earlier, the process of developing the draft Georgian mining sector policy was not open. Furthermore, the NAM never informed the public about the procedure and timeframe for reviewing and adoption of the document. Despite this, there were expectations that, in accordance with the requirements of the Georgian legislation and existing practice, the national mining sector policy would be presented to the Parliament of Georgia and the Parliament would be the one to approve it. This, in turn, allowed for a possibility to participate in the discussion of the policy document at least at that stage, before it was finalised and formally adopted.

According to the Georgian Constitution, the Parliament of Georgia, as a supreme representative body, defines the main directions of the country’s domestic policy (the Constitution of Georgia, Article 36). The Rules of Procedure of the Parliament of Georgia specifies the procedures of defining the main directions of the state policy by the Parliament¹³. According to the Rules of Procedure, one of the forms of the Parliament’s decisions on the main directions of the state policy is *a concept* which is approved by the Parliament in accordance with the prescribed rule. This rule provides the interested public with a

¹² See [Green Alternative’s Remarks and Views on the Draft Georgian Mining Sector Policy](#), Green Alternative, 20 June 2019.

¹³ See Rules of Procedure of the Parliament of Georgia, article 132. Concept. Available on the [website](#) of the Legislative Herald of Georgia. Registration code: 010190030.06.001.016054.

possibility to participate in the discussion of a concept. This is precisely how the Parliament of Georgia approved on 11 December 2013 the country's main forest policy document – “National Forest Concept of Georgia”^{14,15}.

Since the national policy concerning one type of the natural resources – forest – was defined by the Parliament of Georgia, it would be logical and required by the law for the national policy for mineral resources to be defined by the Parliament, too. Unfortunately, in case of mineral resources, this did not happen. After several months of silence, without any explanations, on 5 December 2019, Natia Turnava, minister of economy and sustainable development, said that the government approved the Georgian mining sector development strategy at the government session held on 5 December. Several days later, the strategy was published on the website of the NAM¹⁶.

If we compare the Georgian Mining Sector Strategy¹⁷ approved by the GoG and the Georgian Mining Sector Policy (Final Draft) dated March 2019 published on the website of the NAM, it is easy to notice that they are very similar. The Strategy essentially repeats the provisions of the Policy; the key difference is the structure of the documents. Apparently, the Agency tried to shape the policy document as a strategy in accordance with the general rule of developing strategies adopted by the GoG;¹⁸ however, despite the effort, the Strategy – the process of its development as well as the final product – nonetheless does not comply with the rule established by the government, contains serious inconsistencies (for example, does not have an action plan) and even inaccurate information (for example, the Strategy says that “communication with the broad public and participation of stakeholders were ensured” during the elaboration of the Strategy).

The appearance of the Strategy, naturally, raised questions: where did the policy go?! Why was the policy titled a strategy?! The EBRD-funded project envisaged the development of a policy and strategy; so, why did Adam Smith International fail to complete the work and develop both the policy and the strategy?!

Neither the Ministry of Economy and Sustainable Development nor the NAM considered it necessary to offer an explanation. Agency head Maia Zavrashvili responded to the question posed to the Agency on Facebook by a Green Alternative representative, confirming that the government approved the policy document with a changed structure and title; she said that the reason for it was allegedly the fact that “the measures defined by the action plan corresponded to the requirements of the Strategy”. With regard

¹⁴ [Forest Policy Department, 2013-2014 Report.](#)

¹⁵ Parliament of Georgia, 11 December 2013 Decree “On Approval of the Georgian National Forest Concept”. Available on the [website](#) of the Legislative Herald of Georgia. Registration code: 390010000.09.001.016190.

¹⁶ National Agency of Mines, 10 December 2019. [National Mining Strategy Approved.](#)

¹⁷ The Georgian Mining Sector Strategy approved by the GoG Decree No 2575, dated 9 December 2019, is available on the website of the National Agency of Mines: http://www.nam.gov.ge/files/file_6473324.pdf and the GoG website: http://gov.ge/files/524_74604_339761_2575.pdf

¹⁸ The GoG Decree No 629, “On Approval of the Policy Planning Document ‘Policy Planning Manual’”, dated 30 December 2016. Available on the [website](#) of the Legislative Herald of Georgia. Registration code: 010240010.10.003.019696.

to this explanation, we should recall that neither the draft policy nor its version transformed into a strategy had an action plan.

Based on the long-term observation of the process of developing the mining sector policy and, generally, the work of the Ministry of Economy and Sustainable Development and the NAM, we can make a reasonable assumption as to what caused the transformation of the policy document into the strategy: in our opinion, the reason for it is that the Ministry and the Agency avoided the discussion of both the current and the planned policy in the mining sector in the Parliament. It is easy to imagine a very broad circle of stakeholders who would want to express their views with regard to the policy document. These would definitely include MPs, political parties, companies, local self-government bodies, non-governmental organisations and community groups that incurred losses due to the activities of the mining companies.

Thus, by closing the process of the mining sector policy development, then transforming the policy document into a strategy and by formalising the document through the government instead of the Parliament, the Ministry and the Agency as well as the EBRD (as the funder of the process and a potential investor in Georgia's mining sector), skipped "unnecessary discussions" and adopted the kind of a document they wanted.

Here, we could have finished description of the labyrinths of planning of the Georgian mining sector development if not for a new circumstance which has added a new overtone to the situation and revealed the risks that were unknown before. We are talking about the recent resignation of NAM head Maia Zavrashvili and her new businesses. This is discussed in the next chapter.

5. From public service to private sector

On 20 May 2020, five months after the approval of the Georgian Mining Sector Strategy, Maia Zavrashvili, head of the NAM, wrote a post in the social network, stating that she resigned from her post. About one month after the resignation, on 1 July 2020, she wrote in the social network again, saying that she started working as a legal advisor at Adam Smith International (see Image 1) – the very company which had developed the draft Georgian mining sector policy within the framework of the Phase I of the EBRD-funded programme.

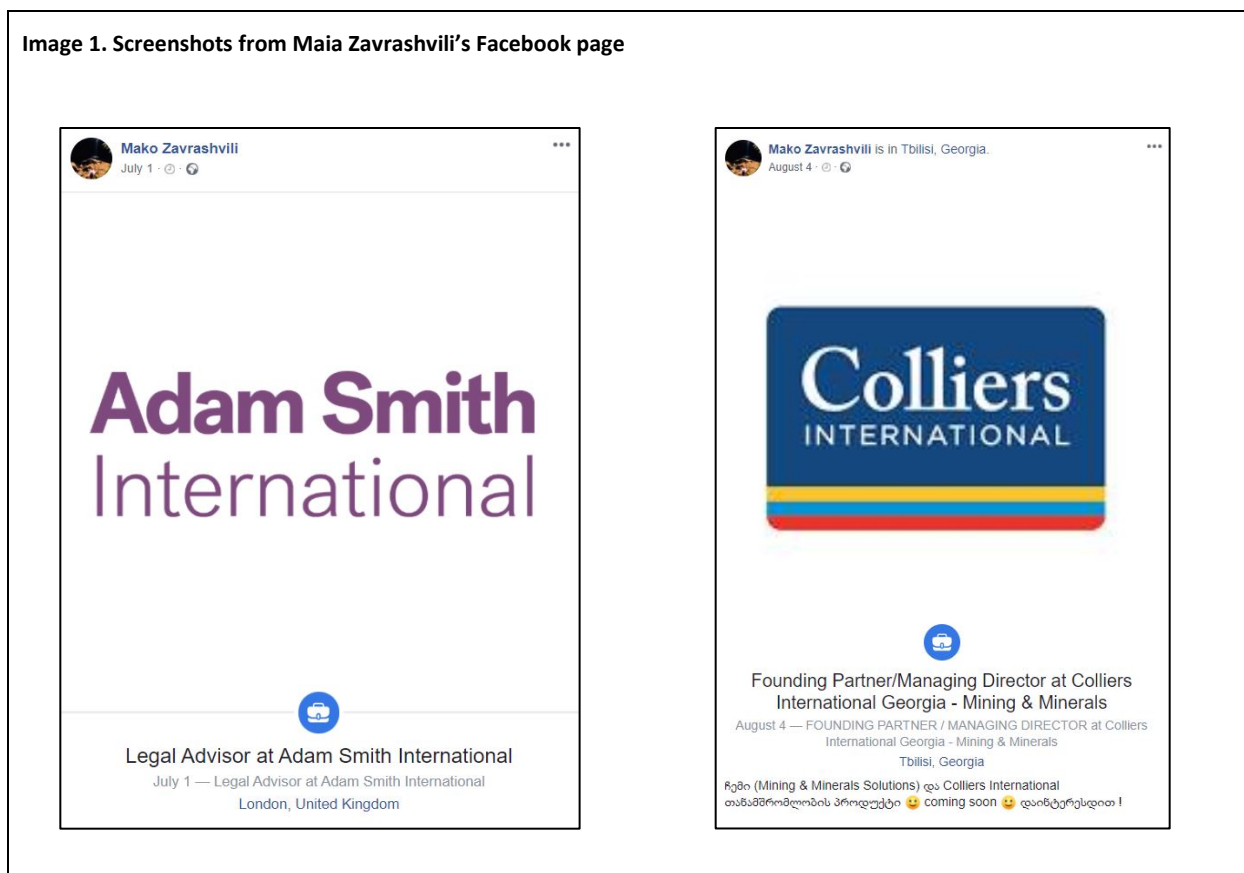
One month later, on 4 August 2020, Maia Zavrashvili made another statement about a job in another company (see Image 1). Zavrashvili said that, as a result of cooperation between Mining & Minerals Solutions, LLC¹⁹ founded by her and the international company Colliers International Georgia²⁰, a new

¹⁹ Identification number attributed by the Registry of entrepreneurial and non-entrepreneurial (non-commercial) legal entities: 405404334

²⁰ The company is working in the field of real estate service provision and investment management. See the company website: <https://www2.colliers.com/en-GE>

company, Colliers International Georgia – Mining & Minerals, would be established in which she would be a founding partner and managing director.

Image 1. Screenshots from Maia Zavrashvili's Facebook page



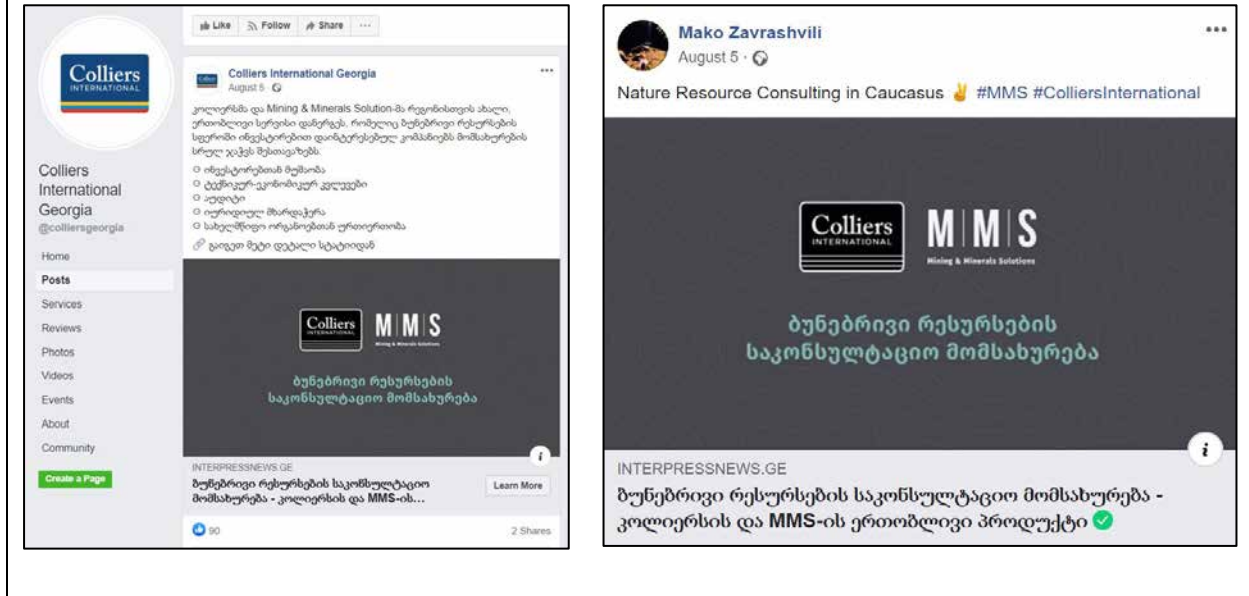
The following day, Maia Zavrashvili and Colliers International Georgia disseminated an advertisement of the companies' joint product (see Image 2) – launching consulting services in the field of natural resources.

In the advertising article²¹, they said that the companies will provide joint service to the companies interested in investing in the sphere of natural resources, offering them the following services: working with investors, technical and economic research, legal support and interaction with state agencies.

In addition, in their 15-page joint brochure, the companies describe possibilities and benefits of investing in Georgia's mining industry. They also contain information about the team's experience and short biographies of its members (see Image 3).

²¹ Interpressnews News Agency, 5 August 2020. *Natural Resource Consulting Services – A Joint Product of Colliers and MMS*. Available at: <https://bit.ly/2EhFzNG>

Image 2. Screenshots from the Facebook pages of Colliers International Georgia and Maia Zavrashvili



When describing Maia Zavrashvili’s achievements, the brochure underscores that, as the head of the NAM, she coordinated the work of the Agency as a whole, signed agreements and licenses concerning the extraction of natural resources and issued legal acts. Maia Zavrashvili’s strong connections with ministries and the legal sector in Georgia, since she had held high-ranking posts in ministries, are listed among her merits; it is mentioned that she was a deputy minister of environment and natural resources protection.²²

Of course, public officials can resign and work wherever they want but moving from the public to the private sector (as well as vice versa – moving from the private to the public sector) involves certain risks which we will discuss below.

If we recall the process of the mining sector policy development (see previous chapters) and discuss the current jobs of the now former head of the NAM in this context, the following picture starts to emerge:

Maia Zavrashvili was the head of the NAM from the day of its establishment and led the process of developing the national policy for the mining sector; the process of the policy development was funded by the international financial institution – the EBRD – which is interested in investing in the sector, and the document was created by the consulting company Adam Smith International which it employed.

²² “Maia Zavrashvili, Partner | Mining and Minerals Solution (MMS). Maia Zavrashvili is an experienced Georgian Lawyer with over 12 years of experience of interacting with key government ministries, private sector counterparts and legal entities in Georgia. As the Head of the National Agency of Mines, Maia was the key in all coordination of the work of Agency. One of the critical aspects of Maia’s role as Head of NAM was signing the agreements and issuance of licenses for the use of mineral resources and within the competence issuance of administrative-legal acts. Along with her strong technical knowledge, Maia has strong networks across Georgian ministries and in the legal sector given the breadth of engagement with various ministries in key positions such as Deputy Minister of the ministry of environment and natural resources throughout the last few years.” Source: Colliers International and Mining & Minerals Solutions. Natural Resources Consulting: Product Leaflet.

The process of the national mining sector policy development, which was supposed to be as transparent as possible, was completely opaque. Moreover, the final draft of the policy was called a “strategy” and approved by the GoG, which allowed to avoid the discussion of the document in the Parliament.

Image 3. Sections from the information brochure of Colliers International and Mining & Minerals Solutions

Natural Resources Consulting Product Leaflet

Colliers Services Mining & Minerals Consulting

Prefeasibility Studies
Our Studies combine high level technical, economic and financial analysis along with environmental and legal inquiries that provide the client with preliminary insights to support them in complex decision-making process.
The studies are fulfilled by the diverse team of individuals including Colliers Global network professionals as well as local technical third-party experts.

Government Relations
Our team of government relations experts and skilled communicators work to protect your interests at every level through a full spectrum of services. We apply our deep industry and policy knowledge to build meaningful government relationships and shape public opinion regarding the issues that affect your business.
Clients utilize our government relations skills and support on a wide range of topics, including: legislation, tax incentives, policy, government liaison, project planning.

Mine Audit & Valuation Advice
Our valuations take into consideration different aspects of mining business. We analyse historical financial performance of the operational entity, market data, mining & production methods, maintenance and reliability of the operations. In addition we take into consideration different assets associated to the mining territory, such as mineral reserves, plant & equipment, structures & buildings etc.
We generate a fair and objective valuation, valid for the various purposes including financial reporting, secured lending, decision making etc. The finished product is delivered as a comprehensive written report.

Legal Advice
Our team's expertise extends to legal advising clients in a range of businesses from mining (non-ferrous and precious metals, coal and other minerals) to processing (smelting, refining) and trading.
Our aim is to find best legal solutions for investors in complex regulatory regimes through consulting clients about mining jurisdiction across the geography covered by Colliers Georgia, Civil and commercial litigation and arbitration, Administrative litigation, Representing companies interests in government institutions.

Team Experience

Irakli Kilanidze
MBCS, Managing Partner | Colliers Georgia
Senior real estate executive and entrepreneur with 15+ years' experience leading real estate investment, development, sales, construction and operations. He has successfully built and managed high performance international teams to facilitate and close large real estate transactions in Georgia.
He has experience of developing large scale commercial, mixed use and resort projects in Georgia. He has closely worked with international consultants and major players to develop several close to 5 million square meters of land area and circa 1.2 million square meters of development.
He has been responsible for investor search and fund raising negotiations, in last 10 years he has raised and negotiated more than US\$500 million for the projects in Georgia from institutional investors and IF's such as CIG, EBRD, IFC and private real estate funds operating from New York, London and Moscow.

Maia Zavrashvili
Partner | Mining and Minerals Solution (MMS)
Maia Zavrashvili is an experienced Georgian Lawyer with over 12 years of experience of interacting with key government ministries, private sector clients and foreign legal entities in Georgia. As the Head of the National Agency of Mines, Maia was the key in all coordination of the work of Agency. One of the critical aspects of Maia's role as Head of MMS was signing the agreements and issuance of licenses for the use of mineral resources and within the competence issuance of administrative-legal acts. Along with her strong technical knowledge, Maia has strong relations across Georgian mineral and metal sector from the breadth of engagement with various ministries in key positions such as Deputy Minister of the Ministry of Environment and Natural Resources throughout the last few years.

Chris Monkhouse
B.Sc. Head of Waste, Energy & Minerals | Colliers London
Chris has specialised in the niche sectors of waste, minerals and energy during his career which has experienced many changes over the last 10 years, his recent Colliers' Department is one of the market leaders he has provided joined up thinking for these niche markets with a variety of work covered including specialist valuation advice for loan security, company purchase and company accounts, royalty/rent reviews, business rate guidance, complex due diligence, UK inventory valuation, asset management, disposal of local properties and trading entities, co-ordinating estate restructuring, asset restructurings together with the development of investment opportunities in his core niche sectors to the alternative investment market using Colliers International's global platform.

Katie Perle-Beattie
B.Sc. (Hons), M.B.A., Associate Director | Colliers London
Katie joined Colliers International in October 2015 providing specialist advice in the niche waste, energy and mineral sectors throughout the UK and internationally. She specialises in providing valuation, agency, landlord & tenant and estate management advice.
Katie started her career in commercial property practice gaining broad professional experience predominantly in London and the South East. She then focused her career on the specialist waste, energy and minerals sectors developing the niche and experience.
Valuation experience includes loan security valuations for banks (including corporate recovery work), investment funds and a wide variety of operating, accounting valuations for occupiers, funds and Local Authorities, along with strategic property advice for occupiers, investors and banks.

Services
Valuation, Agency, Site search, Investment, Rent & royalty reviews, Business rates, Due diligence, Wayleave & access rights.

Why Choose Us?
Specific experience with an extensive library of market evidence to enable accurate analysis and benchmarking. Understanding buyer priorities allows us to target the right private and corporate purchasers in order to achieve the best price.
Approved valuers for all major lenders. Drawing upon the Colliers International global platform, our clients also have access to research, rating, building consultancy, sustainability and investment services.

Our dedicated Waste, Energy and Minerals specialists provide expert advice to operators, developers and investors on the sale, acquisition, disposal and valuation of these niche assets.

In 2016 / 2017 we have sold £30,000,000 of waste and waste to energy opportunities

In 2016 / 2017 we valued over £400,000,000 of waste, energy and mineral assets

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Shortly after the adoption of the document defining the sector strategy (the Agency referred to it as “the primary guideline document in the mining sector which will serve as the basis for updating the legislative framework”), the head of the NAM left her post and started working for the consulting company (Adam Smith International) which had developed the policy document that was transformed into a strategy. Maia Zavrashvili’s employment by Adam Smith International as a legal advisor is likely to be related to Phase II of the EBRD’s Mining Sector Development Programme which implies updating the legislation regulating the mining sector based on the policy/strategy²³. So far, neither the EBRD, nor the NAM have made a statement about the beginning of Phase II of the programme; thus, it is unknown whether or not Adam Smith International will implement (or is implementing) Phase II – updating the legislation. If our

²³ EBRD, 25 Jun 2019. [Georgia - Mining Sector Development Programme Phase II - Legislative Framework Development.](#)

assumption is correct, Maia Zavrashvili will be able to influence the content of the new legislation and the process of its development.

Possible results of the influence over the development of the new legislation regulating the sector become a lot more adverse when we recall that Maia Zavrashvili has simultaneously started working for a company which is going to assist the companies interested in investing in the mining sector.

Maia Zavrashvili's "merits" listed in the Colliers International Georgia brochure, rather than portraying her from a favourable angle, work to the contrary by raising rather substantiated suspicions concerning her new job; specifically, would she, by any chance, take advantage of the connections that she still has with the ministries and of the information she acquired while working as the head of the NAM and use these for lobbying and for gaining unfair advantage for the companies to which she will be providing services (or for the organisations in which she will work)?!..

Unfortunately, the Georgian legislation is unable to properly prevent the conflict of interest and corruption risks caused by the practice of the so-called "revolving door" (moving between the jobs in the public and private sector)²⁴. Therefore, public monitoring of the work of this particular former public official in the coming years will be important.

Concluding Remarks

The Georgian Mining Sector Strategy approved by the GoG is not a national policy adopted with participation of stakeholders; therefore, it must be revoked. At the same time, the final draft of the Georgian mining sector policy must be published, broadly disseminated, and public consultations must be held (the way it happened during the development of the Georgian National Forest Concept).

The process of developing the documents defining the policy and the strategy, as well as the process of updating the legislation on their basis, must be as transparent as possible. All meetings, agendas, protocols, participant lists and opinions presented must be documented; the process must be open, so that the participants can see on what grounds the decisions are made.

As for the former head of the NAM, the Agency must take every measure to make sure that, for a certain period of time (one year at the very least) she is completely removed from the processes unfolding within the Agency, including those concerning the development of legislation and granting mining licenses.

²⁴ See Transparency International Georgia, 9 July 2019. ["Revolving door' problem in Georgia: shortcomings of legislation and enforcement"](#).

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