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Addendum

**EUROPEAN SOCIAL CHARTER**  
**(revised)**

**REPLY TO SUPPLEMENTARY QUESTION**

1<sup>st</sup> National Report on the implementation of  
the European Social Charter

submitted by

***THE GOVERNMENT OF GEORGIA***

for the period from 1 October 2005 until 31st December 2006

on articles 1§1, 2, 3, 4, 10§2, 10§4, 15§3, 18§1, 2, 3, 4, 20

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Report registered by the Secretariat on 28 July 2008

## **Article 1**

### **1§1**

#### **Employment situation**

Although unemployment still remains a challenge for Georgia's economic and social development, it has to be mentioned that the structure of unemployment is in favour of women, i.e. unemployment rate of women is lower than that of men. The share of women in total unemployment is 45% (2006).

The unemployment rate is steadily decreasing from 13.8% (2005) to 13.3% (2007). Correspondingly, employment level grew from 53.8% (2006) to 54.1% (2007). Local and foreign nationals have equal rights according to the Georgian legislation, therefore no special statistics on unemployment of foreign nationals and persons with disabilities is produced by official agencies.

#### **Employment policy**

There is a strong link between the Government of Georgia's (GoG) social and employment policies due to the fact that the main source of poverty in Georgia is unemployment and the largest part of socially needy are unemployed persons (especially long-term unemployed persons). In 2008 the GoG allocated 1/3 of the State Budget for social policy and programs which covers a substantial part of unemployed persons.

Starting from 2005, the Government of Georgia implemented substantial reforms of the social security system. Previously the system was targeted at various categories of vulnerable population, while the new system is based on the needs assessment of households and takes into consideration their incomes and social-economic conditions, taking into account their employment. As the largest portion of the unemployed persons live under the poverty line they benefit from social assistance packages that include cash and other types of benefits (i.e. universal healthcare insurance package).

Nowadays 137 150 households receive cash benefits and more than 260 000 households receive various social assistance. From 2006 the system of unemployment benefits (up to that point unemployment benefit was about 12 USD per month and approximately 1500 unemployed per year received such benefits) was reformed. In 2008 nearly 55 mln USD (GEL 80 mln) is allocated for medical insurance and 63 mln USD (GEL 92 mln) – for cash transfers for the beneficiaries of the above mentioned State Social Assistance Program.

During the period of 2008-2010 GoG will gradually expand the number of persons covered by the state program up to 1 200 000 among which the unemployed persons prevail.

The share of employment policy expenditures (active and passive measures) in GDP has been steadily growing from 0.5% (2005) up to 0.8% (2007). It should be noted that GDP during the mentioned period (2005-2007) grew at fast pace. In nominal terms it increased by 46% whereby employment policy expenditures have more than doubled during the period of 2005-2007.

GoG implements several State Programs with the aim of stimulating jobs creation in rural areas and support of balanced regional economic development and improvement of professional skills of job-seekers by means of improving access to low interest credits, development of professional education and vocational training centres, and state employment programmes.

More than 163 800 job seekers took part in active labour market measures. This equals to 62% of the job-seekers who now are either employed or have acquired better skills to compete on the labour market. The number of beneficiaries of "Cheap Credit" and "100 New Agro Enterprises" (see below) exceeds 36 200 persons.

The **State Program "Vocational Training and retraining"** - training/retraining of job seekers was carried out in December 2007 – April 2008 in order to enhance professional skills and help job-seeker to meet the changing requirements of the labour market. The Program is supposed to contribute to the reduction of structural unemployment caused by structural changes in the economy, whereby a large number of vacancies exist in many sectors of the economy with job requirements that do not match the skills of the job seekers.

Under the Program, registered job-seekers received for three months vocational training scholarship from the State Budget while working in a private or municipal company. The private sector infrastructure was largely used as a facility for training/retraining of the job-seekers.

More than 113 800 job-seekers and more than 1 400 enterprises participated in the Program. Among the beneficiaries of the program women comprised 65% of total participants that is 7% more than the same indicator in 2006 Professional training/retraining programs.

The GoG has launched the State Program on "Development of Professional Training Infrastructure "Professional Education for Employment" in 2008 (see Article 10 1§4 below).

**State Program "Cheap Credit"** was launched in 2008 after successful implementation of a pilot State Program, "Employment Program 2007 – Development of Small and Medium Size Businesses" which started in 2007 with the aim to stimulate jobs creation in rural areas, and namely in agricultural farms, agricultural processing enterprises, handicraft and export oriented enterprises thus supporting decrease of long-term unemployment.

The budget of the "Cheap Credit" State Program is equal to GEL 35 million (2008) and GEL 5 million for the program "Employment Program 2007 – Development of Small and Medium Size Businesses." Currently with GEL 28 million credit portfolio, the number of new jobs and beneficiaries of approved projects exceeds 31 400 persons.

Under the program private sector enterprises receive low interest credits that are provided for implementation of the projects that ensures creation of new jobs. Therefore, the main selection criterion of cheap credit projects is number of new jobs created.

The **Program "100 new Agro Industry Enterprises"** was launched in 2007-2008 in order to stimulate establishment of new agricultural processing enterprises and support to jobs creation in rural areas. Within the program an entrepreneur has an opportunity to purchase state owned land at a price lower than market price with obligation of creation of

processing infrastructure and employment. One of the criteria for the selection of applications is a number of new jobs to be created.

## 1§2

There are no exceptions from the principle of the prohibition of discrimination according to the Georgian Legislation.

According to the Georgian Labour Code “Any kind of discrimination In labour relations is forbidden because of race, colour, language, ethnic and social belonging, nationality, origin, property and rank situation, place of residence, age, gender, sexual orientation, limited possibilities, religious or membership to any unions, marital status, political and other opinions” (paragraph 2, part 3). According to the same code “While the labour relations parties must protect the main rights and freedoms of a human being determined by Georgian Legislation” (paragraph 2, part 6).

There is no ceiling on the amount of compensation determined by the Georgian legislation. Amount of compensation is not defined by law. It is decided on case by case basis by courts.

The issue of the *burden of proof* is in Georgia regulated according to best international practice. Burden of proof is shared among the parties.

The law or the Constitution does not provide any kind of limitation on the rights related to employments. According to the Constitution the State has the right to limit political activity of foreigners and non-citizens.

Foreigners and persons without citizenship, legally residing on the territory of Georgia, have equal rights and guarantees secured with the same guarantees, as citizens of Georgia (Georgian Law on “The Legal Status of Foreigners”) except of work in Public services, in military structures and police.. According to the paragraph 11, 6 of the Law of Georgia on “The Trade Unions”, discrimination of workers by the employers based on trade union membership is prohibited.

## 1§3

Public employment service and programs on employment are free of charge.

Most private employment agencies are small enterprises and they operate in a favourable business environment provided by the Georgian Legislation. They can easily be registered (at the moment of submission of application) and as private companies are exempt of VAT (in case their financial annual turnover is less than mln 69 000 USD (GEL 100 000)).

Reliable statistics on the total placements rate, the ratio between the numbers of placement made by the public employment services is not available. However, the rate of placement of the State Employment programs was approximately 10%.

## **Article 10**

### **10§2**

Length of apprenticeship varies case by case and depends on the agreement between on the one hand education institutes and VET centers and, on the other hand, employers.

Conditions of termination of apprenticeship vary on case by case basis and may be subject to negotiation.

According to the Georgian legislation, apprenticeship period in both public and private sectors can not exceed 6 months.

Remuneration for apprenticeship is equal to monthly salary of the employed on the same position.

### **10§4**

The **State Program “Development of Professional Training Infrastructure “Professional Education for Employment”**” has been launched. The Program contributes to the reduction of structural unemployment caused by structural changes of economy, whereby there are a large number of vacant jobs in many sectors of the economy with job requirements that do not match the skills of the jobless.

Development of two professional education centers was launched. The goals of this program are: establishment of at least 50 professional centers, establishment and development of infrastructure for professional education of job-seeker and thus creation of employment opportunities for the latter. Under the program the Government provides physical infrastructure (buildings) for establishing new training centers.

The program is conducted in close and effective cooperation between the public and private sectors (PPP). This program provides the sides with more flexibility and adjustability to market conditions as the spheres and training programs, as well as the number of students of the professional education centers are determined by the private companies, i.e. potential employers of long-term unemployed.

Currently the impact of employment programs has not been fully evaluated since their implementation was recently completed. However, an independent study of labour market of Georgia, to be financed by the UNDP, will evaluate the impact of these measures on long-term unemployment.

## **Article 15**

### **15§3**

Georgian legislation clearly prohibits any type of discrimination, including anti-union dismissals and protects against violations of these rights. Therefore, the Georgian Government does not see a need at this point to initiate amendments to the Labour Code.

Georgian legislation is in compliance with the requirements of the Charter as it prohibits discrimination on the ground of membership:

- 1) **Constitution of Georgia.** According to Article 14, “Everyone is free by birth and is equal before law regardless of race, colour, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence.” Article 26 of the Constitution regulates that “**Everyone shall have the right to form and to join public associations** (See the following Argument in Section #2), **including trade unions.**”
- 2) **Law of Georgia on Trade Unions.** According to Article 11, “**No discrimination** shall be admitted against an employee on the part of an employer by reason of **membership or non-membership to a trade union**”.
- 3) **Labour Code of Georgia.** According to Article 2, paragraph 3, “**Any type of discrimination due to race, colour, ethnic and social category, nationality, origin, property and position, residence, age, gender, sexual orientation, limited capability, membership of religious or any other union, family conditions, political or other opinions are prohibited in employment relations**”. According to the Code “in the course of employment relations the parties should adhere to basic humans’ rights and freedoms as defined by Georgian legislation” (Article 2, paragraph 6).
- 4) **Criminal Code of Georgia.** According to Article 142, “**Violation of human equality** based on race, colour of skin, language, sex, attitude to religion, confession, political or other view, national, ethnic, social belonging, or **based on membership to any association**, origin, place of residence and material condition, that violates their human rights, - **shall be punished** by a penalty or by corrective labour for a period up to one year, or by imprisonment for up to two years”.

Thus, **dismissal of employee** because of his/her **membership in trade unions** is subject to punishment by the criminal code of Georgia. If an employer discriminates employee’s right to join a trade union, employer will be **criminally liable**.

- 5) **No application** has been submitted to the relevant governmental agencies for the last several years **regarding the restriction of the rights of trade union members**. The new Labour Code prohibits anti-union discrimination.

The Ministry of Justice introduced pilot project to train and employ disabled persons in public service. Ministry of Labour, Health and Social affairs is planning to start a new project in order to support full integration of disabled persons on the labour market.

Newly introduced regulations in construction sphere were approved by the Government. It provides for physical access of the persons with disabilities to any building with public access.

## **Article 18**

### **18§1**

#### **Statistics on Figures on Applications for the Granting and Renewal of the Residence Permits for Reasons of Work Made by Nationals of States Party of the Charter and the Revised Charter**

	<b>2006</b>	<b>2007</b>
<b>Number of Applications, among which</b>	1,073	1,543
<b>Approved</b>	902	1,016
<b>Rejected</b>	171	527

### **18§2**

The fee for obtaining a Permanent Residence Permit is equal to GEL 60 (USD 42), while foreigners are charged fee of GEL 180 for a Temporary Residence Permit (USD 125).

### **18§3**

The aim of the GoG is to support of inward investments and all aspects related to FDI promotion is a matter of high importance. Therefore, the legislation does not limit employment of foreigners and non-citizens in any way and investors can easily hire foreigners in Georgia. The foreigners can look for a job and invest into the economy before the residence permit is issued.

There is no limitation or prohibition for foreign nationals in obtaining new job or investing in economy until the Residence Permit expires. In practice the Ministry of Justice renews the Residence Permit based on the same condition under which it was issued (based on the Article 19§2, Law of Georgia on Legal Status of Foreign Nationals). I.e if the Residence Permit was issued based on occupational or labour relationship and after their termination the foreigner obtains new labour contract with the previous or new employer, the Residence Permit is a subject of renewal.

### **18§4**

The Law of Georgia on “Right of Georgia to Temporary Exit from and Entry to the Country” was amended March, (21.2008 Law N 5975) based on which the paragraph mentioned in this section of the Questionnaire (the third case) was annulled.

## **article 20**

Georgia has ratified ILO convention on Equal Remuneration (#100) and Georgian legislation is in conformity with the provisions of this convention.

The issue of the *burden of proof* in Georgia is regulated according to best international practice. Burden of proof is shared among the parties.

Discrimination cases are subject to court decision.