



21/11/2013

RAP/RCha/GEO/7(2014)

## **EUROPEAN SOCIAL CHARTER**

7<sup>nd</sup> National Report on the implementation of the  
European Social Charter

submitted by

**THE GOVERNMENT OF  
GEORGIA**

(Articles 2, 4, 5, 6, 26 and 29)  
for the period 01/01/2009 – 31/12/2012)

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Report registered by the Secretariat on 21 November 2013

**CYCLE 2014**



EUROPEAN SOCIAL CHARTER (revised)

7th National Report on the implementation of  
The revised European Social Charter  
submitted by

**The Government of Georgia**  
(Articles 2, 4, 5, 6, 26 and 29  
For the period 01/01/2009-31/12/2012)

CYCLE 2013

Report  
of Georgia for the implementation of Articles 2, 4, 5, 6, 26 and 29  
of the European Social Charter (revised)

Tbilisi

For the period 1 January 2009 to 31 December 2012 made by the Government of Georgia in accordance with Article C of the Revised European Social Charter and Article 21 of the European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was deposited on 01 July 2005.

In accordance with Article C of the Revised European Social Charter copies of this report have been communicated to the:

- Georgian Trade Unions Confederation
- Georgian Employers Association

**General remark: *GoG responses given in the report, in some cases refer to articles of the Labour Code that have been elaborated and drafted in 2012 and came into force during 2013.***

## **Article 2 – All workers have right to just conditions of work**

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

- 1 to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
- 2 to provide for public holidays with pay;
- 3 to provide for a minimum of four weeks' annual holiday with pay;
- 4 to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
- 5 to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
- 6 to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
- 7 to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

## **Information to be submitted**

### **Article 2§1**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

### **GoG response**

Workers' right to reasonable limits on daily and weekly working hours, including overtime is guaranteed through national legislation and collective agreements. Georgian Labour Code and Georgian Law on public Service define limits of working hours. According to the article 14 of the Labour Code:

1. The period during which an employee performs work defined by the employer shall not exceed 40 hours per week, while in the companies having specific working conditions where the operation/labour process requires more than 8 hours uninterrupted work regime – 48 hours per week. The list of specific

working conditions is established by the government. Rest and break time is not considered as working time. 2013

1<sup>1</sup>. If the employers have specific working conditions where the operation/labour process requires 24 hour of uninterrupted regime, the parties have right to conclude contract on shift work, according to the the 2<sup>nd</sup> paragraph of this article and with the conditions of giving adequate resting period to the worked hours by the employee. 2013

2. The duration of rest time between working days (shifts) shall not be less than 12 hours. The article 17 of the labour code implies amendment in relations to conditions of the overtime work, before overtime was regulated upon agreement between parties, with the changes it became obligatory to be regulated as following:

1. An employee shall fulfill overtime:
  - a) in order to prevent and/or liquidate results of natural disasters -without any remuneration
  - b) in order to prevent and/or liquidate results of industrial accident - with consequent remuneration.
2. Overtime employment of a pregnant woman, a woman in a postnatal period or a person with limited capabilities without the consent of her/his person shall be inadmissible.
3. Overtime work is the performance of work by the employee based on an agreement between parties in excess of the regular 40 hour per workweek.
4. Remuneration for overtime working hours should exceed remuneration for usual working hour. Amount of remuneration is determined by the agreement among parties.
5. Parties may agree on giving employee additional resting time instead of remuneration over-time work. 2013

It has to be considered that concerning the working time in public sector Article 40 of Georgian Law on Public Service defines that public servant is working 5 days in a week and weekly hours must not exceed 40 hours.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

### **GoG response**

The Ministry of Labour, Health and Social Affairs has actively worked on the EU Directives regarding the Labour and Health and Safety at work. The GoG has agreed with the EU on the Labour Directives via online discussions and the execution date of the designated directives was defined by the parties.

Issues related to the limitation of daily and weekly working hours are fully implemented. Every labour agreement must be in conformity with labour legislation. Accordingly, this issue is implemented in practice.

Additionally it is planned that MoLHSA will present the law on Labour Safety and Hygiene to the parliament for consideration.

*3) Please provide pertinent figures, statistics or factual information, in particular: average working hours in practice for each major professional category; any measures permitting derogations from legislation regarding working time.*

**GoG response**

The Labour Code of Georgia permitted the derogations from legislation regarding the working time, more specifically it allowed the parties to agree on the terms of the contract different from the law. This kind of permit is excluded by the Labour Code.

Government of Georgia does not have sector statistics related to this issue, but these issues are protected in absolute majority of the cases.

**Article 2§2**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

**GoG response**

As it was mentioned above, working time is determined by the Article 14 paragraph 1 of the Georgian Labour Code according to which working time does not include a break and leave (rest) time. The Paragraph 1 of Article 20 defines a list of public holidays. Georgian Labour Code defines public holidays with pay (Article 20). There are following public holidays in Georgia:

1. January 1st, 2nd – New Year Holidays;
2. January 7 – Christmas;
3. January 19 – Epiphany;
4. March 3 – Mother’s Day;
5. March 8 – International Women’s day;
6. April 9 – The Day of National Unity, Civil Consent and Commemorate of Citizens who Died for the country;
7. Eastern Holydays – Big Friday, Big Saturday, Eastern, Deceased Persons’ Commemorate, second day from Eastern – Monday (changing dates);
8. May 9 -- Victory Day;
9. May 12 – Commemoration Day of Saint Andrea Mediator;
10. May 26 – The Day of Independence of Georgia;
11. August 28 – Assumption of the Virgin Marry;
12. October 14 – “Mtskhetoba”;
13. November 23 – Saint George’s Day.

The employee is authorized to request other days-off instead of days-off specified by the law based on e.g. religious believes, which should be specified by the employment agreement. Additionally paragraphs 2

and 3 of this article define following:

*Article 20. 2.* It should be determined by a contract, that employee is authorized to take a holiday at the times different from the days prescribed by the law.

*Article 20. 3* Performance of work on holidays provided in the first paragraph of this Article shall be deemed overtime work and shall be reimbursed according to the paragraph 4 and 5 of the Article 17 of this Code. According to the paragraph 4 of the 17 article overtime work is reimbursed by the increased hourly salary. The amount of such payments shall be determined by the parties. According to the paragraph 5 of the 17 article the parties may agree on compensation for overtime work employee to give additional vacation time.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

#### **GoG response**

Issue related to public holidays with pay is fully implemented. Every labour agreement must be in conformity with labour legislation. Accordingly, this issue is implemented in practice.

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.*

#### **GoG response**

Government of Georgia does not have statistics related to this issue, but this issue is protected in absolute majority of the cases.

#### **Article 285**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

#### **GoG response**

According to Georgian Labour Code, any week day can be defined as a day off by the labour agreement between employer and employee according to the preferences of the parties of the agreement. It depends on the interests of parties and Sunday isn't obligatory to be a weekend.

According to the article 14 the duration of rest time between working days (shifts) shall not be less than 12 hours. Article 18<sup>1</sup> The working hours of a minor between the age of 16 to 18 shall not exceed 36 hours per week.

The working hours of a minor between the age of 14 to 16 shall not exceed 24 hours per week. According to the article 19, paragraph 1. An employee who feeds an infant under 1 shall be given an additional break of at least 60 minutes if she so requests. 2. A break to feed an infant shall be counted as working time and paid for.

According to the Georgian Law on Public Service, the working days of public servants are defined as 5 days per week and Saturday and Sunday are considered as days off work. It should be emphasized that in educational institutions (public as well as private) Saturday and Sunday are considered as days off work.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

#### **GoG response**

Every labour agreement must be in conformity with labour legislation. Accordingly, this issue is implemented in practice.

*3) Please provide pertinent figures, statistics or any other relevant information, in particular: circumstances under which the postponement of the weekly rest period is provided.*

#### **GoG response**

Government of Georgia does not have statistics related to this issue, but Saturday and Sunday are considered as days off work in absolute majority of the cases.

#### **Article 2§7**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

#### **GoG response**

According to the Georgian Labour Code the night work is defined from 22.00 to 6.00 (Article 18). It shall be impermissible to employ a minor, a pregnant woman, a woman in a postnatal period, a breastfeeding woman or a person with limited capabilities, on a night work. A baby sitter who takes care of a child under age of three and/or a person with limited capabilities can be employed on a night job only with consent of her/his person.

As for the medical check ups According to Georgian Labour Code the article 54 - Georgian Ministry of Labor, Health and Social Affairs should elaborate and adopt:

b) List of hard, hazardous and dangerous jobs, labor safety rules, including the rules and cases of periodic obligatory medical test of an employee at the expense of an employer, within four months after the law is put into force in 2007

e) The list of activities connected to the safety of person's life and health – have to be elaborated before November 1, 2013.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response**

Every labour agreement must be in conformity with labour legislation. Accordingly, this issue is implemented in practice.

*3) Please provide pertinent figures, statistics or any other relevant information, in particular: the hours to which the term 'night work' applies.*

**GoG response**

Government of Georgia does not have statistics related to this issue.

**Article 4 – The right to a fair remuneration**

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

- 1 to recognise the right of workers to remuneration such as will give them and their families a decent standard of living;
- 2 to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
- 3 to recognise the right of men and women workers to equal pay for work of equal value;
- 4 to recognise the right of all workers to a reasonable period of notice for termination of employment;
- 5 to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

**Information to be submitted****Article 4§2**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

**GoG response**

According to the Article 17 of the Labour Code an employee shall fulfill overtime:

- a) In order to prevent and/or liquidate results of natural disasters - without any remuneration;
- b) In order to prevent and/or liquidate results of industrial accident -- with consequent remuneration.

2. Overtime employment of a pregnant woman, a woman in a postnatal period, a person with limited capabilities or minor without the consent of her/his person shall be inadmissible.
3. Overtime work is the performance of work by the employee based on an agreement between parties in excess of the regular 40 hour per work week, there is determined 36 work hours for 16 - 18 years old and 24 work hours for 14-16 years old minor.
4. Remuneration for overtime working hours should exceed remuneration for usual working hour. Amount of remuneration is determined by the agreement among parties.
5. Parties may agree on giving employee additional resting time instead of remuneration over-time work.

Conditions for overtimes can be determined by an agreement between parties. It should be emphasized, that overtime employment of a pregnant woman or a woman in the postnatal period, a person with limited capabilities or minor shall be inadmissible without her/his consent.

According to the above-mentioned, Labour Code specifies the limitation of weekly and daily working time and gives the parties the opportunity to agree on the longevity of overtime work on the basis of their interests and with the agreement between parties.

Also it must be underlined that Labour Code stipulates the duration of working time for specific work. According to part 1 article 14,

1. The period during which an employee performs work defined by the employer shall not exceed 40 hours per week, while in the companies having specific working conditions where the operation/labour process requires more than 8 hours uninterrupted work regime – 48 hours per week. The list of specific working conditions is established by the government. Rest and break time is not considered as working time.
2. The duration of rest time between working days (shifts) shall not be less than 12 hours.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

#### **GoG response**

Issue related overtime is fully implemented. Every labour agreement must be in conformity with labour legislation. Accordingly, this issue is implemented in practice

*3) Please provide pertinent figures, statistics (estimates, if necessary) or any other relevant information, in particular: methods used to calculate the increased rates of remuneration; impact of flexible working time arrangements on remuneration for overtime hours; special cases when exceptions to the rules on remuneration for overtime work are made.*

#### **GoG response**

Government of Georgia does not have statistics related to this issue.

## Article 4§3

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

### GoG response

Gender equality is guaranteed by Georgian legislation and it protects them from any kind of discrimination. According to the Article 14 of Georgian Constitution, everyone is free by birth and is equal before law regardless of race, color, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence.

Article 2, Paragraph 3 of Labour Code stipulates that discrimination of any kind as to race, color, language, ethnic and social belonging, nationality, origin, economic condition or status, property and position, residence, age, gender, sexual orientation, limited capability, membership of religious or any other union, including professional unions, marital status, political or other views are prohibited in employment and pre-contractual relationship.

Paragraph 4 of the same Article stipulates that Direct or indirect oppression of a person that aims to or causes the creation of a frightening, hostile, disgraceful, dishonorable and insulting environment is considered to be discrimination. Creation of conditions that directly or indirectly worsens a person's condition in comparison to other person in the same conditions is also considered to be discrimination.

According to an Article 40<sup>o</sup> of Labour Code:

1. It is prohibited to discriminate employees because of the employees' activity in association/union and /or due to other actions aimed at:

- a) Hiring employees or maintaining their jobs under the conditions that these employees refuse to become the members of an association/union or leave an association/union;
- b) Terminating employment relations with employees or enacting some other restrictions against employees because of their participation in the activities of such association/union. The employees participation in the association/union activities during working time is permitted under an agreement with the employer;

According to the Georgian law on General Education Article 13, any kind of discrimination is prohibited during the entry into schools.

According to the Law of Georgia on Higher Education, Article 3: One of the main goals of higher education in Georgia is to prohibit all kind of discrimination in the educational system.

According to the Georgian Law on Broadcasting, Public Broadcaster shall reflect ethnic, cultural, linguistic, religious, age and gender diversity in programs.

According to the Georgian Law on Police, the police shall protect human rights and freedoms regardless of nationality, property, race, social and ethnic belonging, gender, age, education, language and religion, political or other opinions.

According to the Georgian Law on the Procedures of Execution of Non-imprisonment Sentences and Probation, the employee of the National Service of Probation is obliged to protect human rights and freedoms regardless of nationality, property, race, social and ethnic belonging, gender, age, education, language and religion, political or other opinions.

The discrimination due to gender is the violation of the Georgian labour legislation. The Code of Administrative Violations, section 42 punishes violations of labour legislation and labour protection rules by a penalty, namely: the violation of labour legislation and labour protection rules by the authorized official enterprise, legal entity, organization will result in a penalty in amount of a minimum 100 times the labour remuneration and the same violation committed within one year following the imposition of an administrative penalty will result in a penalty in amount of a minimum of 200 times the labour remuneration.

According to the Article 142 of the Criminal Code, breaking the equality of people because of the race, color, language, gender, attitude towards religion, faith, political or other opinions, national, ethnic, social, belonging to any rank or public unions, origin, place of residence or property, having encroached the person's right is punished with penalty or compulsory work for a year or imprisonment for two years.

The same action:

- a) Using the authority;
- b) Causing a hard result, is punished with penalty or imprisonment for three years, taking the right of activity or dismissing for three years or without it.

The Law on Entrepreneurship is gender-neutral. The law does not have specific provisions concerning women's entrepreneurial activities.

According to the Georgian legislation, women and men are equal before the law with regard to property. Women have the right to independently apply for, and receive financial resources (credit, loans).

The Labor Code stipulates the following principles regarding women rights at work:

- It is prohibited to conclude a contract with an underage, a pregnant woman or a nursing mother, on performance of hard, unhealthy and dangerous work. (Article 4, part 5 of the Labour Code) An employer shall ensure the protection of a pregnant woman from a labor that endangers the welfare, physical and psychological health of the woman and fetus. (Article 35, part 7 of the Labour Code)
- Overtime employment of a pregnant woman, a woman in a postnatal period or a person with limited capabilities without the consent of her/his person shall be inadmissible. (Article 17, part 2, of the Labour Code)
- It shall be impermissible to employ a minor, a pregnant woman, a woman in a postnatal period, a breastfeeding woman on a night job (22 pm to 6 am). A baby sitter who takes care of a child under age of three and/or a person with limited capabilities can be employed on a night job only with consent of her/his person. (Article 18 of the Labour Code)
- An employee, upon request, is entitled to a total maternity leave of 477 calendar days to cover pregnancy, delivery and child care. 126 calendar days will be paid, while in case of a complicated delivery or if mother gives a birth to two or more infants – 140 calendar days of paid leave will be granted. The leave envisaged by the item 2 of this Article may be utilized by an employee during both the pregnancy and postpartum periods (Article 27 of the Labour Code).

Compensation of pregnancy, maternity or adoption leaves is paid from the State Budget according to the rule set by the legislation. An employer and an employee can reach an agreement regarding an additional compensation paid by an employer. (Article 29 of the Labour Code) During the five years following the birth of a child, the employee, upon her/his request, shall have the right to an additional 12 weeks of unpaid child care leave. Child care leave can be taken either all at once or incrementally, but not less than 2 weeks of leave should be used per year. (Article 30 of the Labour Code)

Accordingly, equality of gender is guaranteed by the Georgian legislation. The Georgian labour legislation is neutral to sex. *Georgian legislation contains provisions of positive discrimination:*

- According to the Tax code, favourable treatment for personal income tax is granted to the single mothers. The legislation does not envisage any concessions for a single father.

According to Civil Code the court shall be bound to determine which parent shall be awarded the custody of child and although the decision of the court must be gender neutral, in child custody disputes women have been treated more favourably.

- There is a difference between retirement age of men and women. According to the Georgian legislation a retirement age for man is 65 and for woman – 60.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

### **GoG response**

It should be emphasised, that in 2004 the Gender Advisory Council under the Chairperson of the Parliament of Georgia was created. The Advisory Council was the first institutional mechanism aiming at enhancement of gender equality. The Council for Gender Equality meets on a regular basis to discuss gender equality related issues and policies.

The “Action Plan on Gender Equality” (NAP) for 2011-2013 was elaborated in cooperation with the Gender Advisory Council and on May 5, 2011 was approved by the parliament. The “Action Plan on Gender Equality” includes the following objectives:

- 1) Maintenance of institutional strengthening of Gender Advisory Council.
- 2) Further integration of the gender equality principle in economic and employment policies.
- 3) Exchanging information between state agencies on implementation of activities considered by Gender Equality Action Plan, relevant analysis of activities implemented on inter-ministerial level takes place, building the capacity of the representatives of the inter-ministerial group on gender equality issues with the trainings on national and international levels.
- 4) Increasing public awareness on gender equality by popularizing gender issues and information spreading; discussing gender issues on TV and radio programs, showing problematic and actual gender issues in newspaper and magazine articles.
- 5) Substituting gender related stereotypes by new gender equality oriented views at various levels of education: incorporating gender issues in educational programs and textbooks by developing educational standards for the Ministry of Education - 58 and by developing educational programs for boys and girls with

the regard to their differences and equality, integrating a gender education component in the teachers' lifelong learning system.

It should be emphasized, that according to the Charter of the Tripartite Social Partnership Commission, the tripartite Commission is entitled to discuss and study all issues related to labour relations, including equal remuneration for men and women, equality of opportunity and treatment in employment and occupation, etc

Also the NAP focuses on analyzing regulatory legislation of the social security field, evaluating it with gender specific assessment and making recommendations in collaboration with the Gender Equality Council, line ministries, local government bodies concerned international, donor and non-governmental organizations.

*3) Please supply detailed statistics or any other relevant information on pay differentials between men and women not working for the same employer by sector of the economy, and according to level of qualification or any other relevant factor.*

## GoG response

GoG on the basis of the statistical information from the Department of Statistics provides in this report information on the average salaries for men and women in the various sectors and occupations:

### Average monthly nominal salary of the male employees by economic activity (by 2009-2013 quarters)

	2009_I	2009_II	2009_III	2009_IV	2010_I	2010_II	2010_III	2010_IV	2011_I	2011_II	2011_III	2011_IV	2012_I	2012_II	2012_III	2012_IV	2013_I	GEL
<b>Total</b>	673,6	706,1	720,4	791,4	705,0	751,9	763,3	829,8	785,8	848,7	847,7	926,5	828,4	890,0	927,9	998,0	880,9	
Agriculture, hunting and forestry	422,6	359,5	356,0	343,7	403,4	377,3	375,6	424,1	371,7	420,9	466,5	399,2	508,3	750,8	613,8	591,2	421,0	
Fishing	239,4	214,4	243,7	238,6	402,0	320,8	407,4	459,8	650,9	286,2	319,9	401,5	330,6	248,2	245,0	297,3	438,8	
Mining and quarrying	666,4	688,3	706,4	697,2	706,2	845,9	851,5	842,6	879,9	880,7	975,2	1003,7	968,9	899,2	971,0	846,5	926,7	
Manufacturing	514,9	521,1	545,9	614,2	536,6	636,5	634,7	685,4	631,0	680,9	750,4	782,0	654,2	736,0	819,4	814,5	725,4	
Production and distribution of electricity, gas and water	697,1	740,5	784,2	908,8	868,6	812,3	834,3	916,5	845,8	863,5	884,1	1008,1	960,8	897,9	954,2	1038,8	904,4	
Construction	595,5	739,1	776,3	803,4	639,0	787,2	839,0	854,6	688,7	818,5	925,4	1052,7	841,2	1043,2	1156,5	1136,4	860,2	
Wholesale and retail trade; repair of motor vehicles and personal and household goods	601,3	617,6	636,8	690,2	654,9	700,4	765,9	853,5	749,0	788,5	842,8	922,9	745,8	814,8	840,7	932,8	823,8	
Hotels and restaurants	459,2	472,7	503,5	558,6	441,2	461,7	523,5	622,6	690,9	612,1	609,7	595,0	472,1	533,7	580,2	586,2	623,8	
Transport and communication	710,7	774,1	760,8	846,8	782,5	808,1	804,5	874,0	819,4	926,8	878,7	1023,0	1031,1	1055,0	1057,2	1125,2	1067,4	
Financial intermediation	1627,2	1701,3	1739,7	2063,3	1717,5	1867,5	1644,6	1723,5	1727,5	1933,3	1688,5	1710,8	1713,5	1714,8	1648,5	2024,7	2161,8	
Real estate, renting and business activities	617,0	708,2	727,7	880,7	585,9	621,2	600,9	664,3	842,3	803,6	810,0	984,3	925,5	921,0	991,9	1096,2	863,3	
Public administration	900,3	903,3	899,4	961,7	969,2	991,3	982,7	1102,7	973,8	1088,3	981,8	1079,1	972,3	1036,9	1023,6	1184,2	1102,7	
Education	297,3	312,7	306,9	371,1	345,0	354,3	369,3	423,7	377,1	406,7	432,6	441,1	386,9	430,7	424,2	485,1	459,2	
Health and social work	506,0	554,0	600,4	640,0	535,9	602,1	615,7	713,5	713,5	767,0	833,9	805,1	767,5	899,9	815,8	920,7	841,8	
Other community, social & personal service activities	426,7	438,1	450,2	496,3	474,1	509,7	571,1	574,4	613,2	684,9	687,8	754,2	709,7	777,5	772,3	863,0	686,6	

## Average monthly nominal salary of the female employees by economic activity (by 2009–2013 quarters)

	2009 I	2009 II	2009 III	2009 IV	2010 I	2010 II	2010 III	2010 IV	2011 I	2011 II	2011 III	2011 IV	2012 I	2012 II	2012 III	2012 IV	2013 I
<b>Total</b>	377,6	399,2	397,5	446,5	413,4	430,2	433,8	477,6	456,7	486,2	493,0	554,0	488,7	518,1	525,2	574,5	548,2
Agriculture, hunting and forestry	350,7	353,2	345,9	279,2	308,9	297,0	260,3	326,2	266,1	274,4	330,6	249,4	329,8	424,4	558,7	466,0	368,5
Fishing	230,7	165,3	184,9	171,6	215,8	202,8	261,1	181,8	239,9	205,0	225,9	207,6	142,8	172,5	200,9	299,8	763,9
Mining and quarrying	600,9	694,1	814,7	799,3	810,3	914,4	605,7	591,3	556,7	545,5	626,7	552,8	647,5	618,4	594,7	686,9	756,2
Manufacturing	417,5	375,6	366,3	376,8	354,0	396,5	386,8	422,6	396,8	406,9	409,1	429,8	424,6	470,4	464,0	509,6	488,7
Production and distribution of electricity, gas and water	687,1	741,4	763,9	852,0	784,0	753,2	769,2	822,8	802,7	855,4	883,8	797,9	880,6	875,9	876,8	994,4	899,9
Construction	512,5	541,8	602,3	553,9	501,3	539,6	554,3	589,1	554,6	716,2	659,1	805,6	590,6	683,7	711,1	633,8	683,4
Wholesale and retail trade; repair of motor vehicles and personal and household goods	436,0	437,5	436,0	473,5	415,6	422,2	434,7	491,3	489,3	515,3	510,8	604,5	449,1	454,8	468,4	509,1	498,2
Hotels and restaurants	279,3	298,1	266,0	329,7	325,4	362,5	387,0	410,4	399,9	408,5	449,4	467,6	339,6	360,4	395,6	367,0	357,4
Transport and communication	569,3	633,4	586,1	604,3	604,3	652,0	653,7	710,5	684,3	716,9	725,9	780,5	675,1	714,4	699,6	836,4	786,5
Financial intermediation	1085,9	1049,6	931,7	1067,2	1036,4	1033,6	1024,4	1032,5	1037,4	1151,9	1143,0	1124,6	1194,1	1228,8	1134,7	1079,1	1197,8
Real estate, renting and business activities	454,3	507,6	477,8	549,6	485,9	553,6	558,5	581,7	683,2	631,9	680,2	899,3	714,7	678,2	757,8	841,8	651,6
Public administration	709,0	770,3	788,6	931,0	791,3	829,7	801,2	991,5	789,8	919,5	882,5	1044,5	881,0	992,9	826,7	1113,0	1008,0
Education	242,5	251,4	248,2	287,0	284,0	281,9	279,0	311,1	292,6	299,9	301,1	336,5	311,3	329,9	322,8	368,3	377,8
Health and social work	255,7	302,7	298,1	359,7	318,2	354,6	383,7	414,1	371,4	428,6	429,3	523,5	459,1	502,9	515,9	559,8	526,5
Other community, social and personal service activities	336,0	338,2	354,2	388,9	372,3	380,9	368,1	386,6	461,5	450,9	458,9	502,3	444,5	499,6	498,7	536,3	498,5

**Article 4§4.**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

**GOG response**

The Labour code provides provisions on the right of the employee to be informed on the termination of labour contract in advance. The Article 38 stipulates that if employer terminates the labour contract on the basis of Economic circumstances, technological or organizational changes entailing a reduction the workforce, Incapacity of an employee to occupy his/her position due to a lack of qualification, professional skills and experience; Unless otherwise provided in the employment contract, long-term disability if the period incapacity exceeds more than 40 consecutive calendar days or if, within 6 months, the period of incapacity exceeds more than 60 calendar days and any other objective circumstances justifying dismissal employer is entitled to send 3 days prior written notification to the employee. In the given situation employer shall pay at least two month severance compensation within 30 calendar days from the contract termination.

Paragraph 2 of the same article defines that in case of termination of an employment contract by an employee due to the resignation; the employee shall send a written prior notice of at least 30 calendar days to the employer.

The paragraph 3 stipulates that the employee has the right within seven (7) calendar days from receiving a notification from the employer on the termination of contract to submit a written request to

substantiate the ground of termination of employment contract to the employer and paragraph 4 defines that the employer shall substantiate in writing the basis for termination of the employment contract within seven (7) calendar days from submission of a written request by the employee.

It should be added that the labour code also stipulates the regulation on the probationary period.

Article 9. Probation Period

1. In order to ascertain the capacity of an applicant to carry out a job, by mutual agreement of the parties, a labor contract for a probation period can be concluded with an applicant only once, provided that the probation period does not exceed 6 months. A labor contract for a probation period can only be concluded in writing.

1<sup>1</sup>. The work for a probahion period is paid and the conditions of the payment will be agreed by the parties.

2. During the probation period the employer shall be authorized to conclude a labor contract with the applicant, or to terminate the labor contract concluded for a probation period.

3. In case of termination of a labor contract concluded for a probation period, the norm envisaged by the third part of Article 38 shall not be applied unless otherwise envisaged by the labor contract concluded for a probation period. In case of termination of a labor contract concluded for a probation period, employee's work will be reimbursed in accordance with working hours.

In public sector, employment termination is regulated by the Georgian Law on Public Service due to which, employee must be informed about employment termination according to different reasons 1 month prior to termination and amount of compensation in case of termination of employment is equal 2 month salaries.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response**

Every labour agreement must be in conformity with labour legislation. Accordingly, this issue is implemented in practice.

**Article 5 – The right to organise**

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

**Information to be submitted**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

### **GoG response**

Georgian legislation stipulates independence and protection of associations including trade unions:

Article 26 of the Constitution stipulates that “Everyone shall have the right to form and join civil associations, including trade unions.”

According to 51st paragraph of Georgian Law “About the public service”, an employee has a right to join the trade unions and has a right to take part in those activities outside work.

According to the Article 2, Paragraph 3 of Law on Trade Unions, trade union can be established in any enterprise, establishment, organization and other working place.

According to Article 11 of Law of Georgia on Trade Unions, no discrimination shall be admitted against a employer on the part of an employer by reason of membership or non-membership to a trade union.

According to Article 5, Paragraph 1 of Law of Georgia on Trade Unions stipulates the independence of trade unions. Trade unions, coalitions (associations) of professional unions are independent from bodies of state and local government, employers, employers’ unions (unions, associations), political parties and organizations, are not accountable towards them and are not under their control except the cases envisaged by the legislation.

According to the Article 22, Paragraph 1 of Law of Georgia on Trade Unions, trade union, coalition (association) of trade unions, in accordance with their own statute, possess, uses and manages the property and financial means accumulated by them. Property and monetary means of the trade union are inviolable. Nobody has the right to use, take away or transfer its property and financial means without the consent of the collegial (selective) body envisaged by the respective trade union statute, except the cases specified by the legislation.

According to the Article 22, Paragraph 6 of Law of Georgia on Trade Unions, trade union independently determines the rule and directions of utilizing material values and property, specifies salaries and conditions of labor remuneration from monetary means existing under its control in accordance with the legislation.

According to the Article 22, Paragraph 11 of Law of Georgia on Trade Unions, financial activities of the professional union, carried out in accordance with its statute, are not subject to reporting towards state bodies, except the cases envisaged by the legislation .

Law on Trade Unions stipulates protection of the rights of the trade union. The state provides protection of the rights of professional unions in accordance with the legislation. The case on violating the rights granted by the acting legislation for the professional union is discussed by the court.

According to Article 2, Paragraph 3 the Labour Code, any type of discrimination due to race, color, 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 Article 142 of the Criminal Code, violations of the equality based on membership of any public association is punishable either by the fine, or probation for the period up to 1 year or imprisonment for the period up to 2 Years

Existing legislation (e.g. Constitution, Labour Code, Civil Code, Law on Trade Unions) provides for freedom establishment of association and membership to any association, including trade unions. Under the Georgian legislation, procedures of establishment of an association are simple.

The Law on Trade Union stipulates the following:

Article 2. The right to create Trade unions (associations)

1. Trade union is an enterprise based on common activities of the professionally related persons (workers) and is public associations (organization) on voluntary basis, which aims at protection of working, social economic and legal rights and interests of its representatives.
2. According to the Georgian Constitution everyone has a right to form and be the member of the trade union.
3. A trade union can be created in any enterprise, institutions, organizations and other workplace.
4. The creation of the Trade Unions in the Ministry of Defense, Ministry of Internal Affairs, State Security, courts and prosecutor's offices is determined by the legislation on these entities.
5. A 15 year or older person (employee) who performs labour (professional job) or studies at the university, special secondary or vocational educational institution has the right to form and join trade union, trade union activities and to freely leave the trade unions. Temporary unemployed and pensioners have right to stay in the union.
6. A trade union is established by a sectoral, industrial, territorial or professional specific other features.
7. The trade unions have the right to establish:
  - A) The primary trade union organizations in enterprises, institutions, organizations and other workplaces
  - B) National, regional, district, city, enterprise, institution, organization, trade union organizations and unions (associations) in Autonomous Republics of Abkhazia and Ajara.
8. For the creation of the Trade union, trade union (association), the Initiative (organizational) group shall convene a constituent assembly (conference, congress), which receives the charter and elects trade union bodies.
9. A trade union can be formed on the initiative of at least 100 persons.
10. All trade unions have equal rights.

Georgia is characterized with one of the highest association density in the region. At the same time **Georgian legislation does not limit activities of associations unless it violates basic rights and freedoms of others and/or public order.**

**The civil association means any type of association including trade union and all the rights of civil association are applicable to the trade unions to full extent.**

**The discrimination based on membership to any association is a subject of a criminal liability.**

According to section 142 of the Criminal Code, violations of the equality based on membership of any civil association is punishable by imprisonment for a period of up to two years.

According to the Georgian Law on Trade Unions, peculiarities of establishing professional unions within certain categories employed in law enforcement agencies and prosecutors' offices are determined by the legislation on these bodies.

The Georgian labour legislation has been improved and modernized with regard to the norms of right to strike compared to the soviet laws. Soviet Labour Code adopted in 1973 was replaced by the Georgian Labour Code in 2006. Soviet Labour Code did not provide the right to strike at all.

Whereas the old law on the rule of collective labour dispute settlement provided for the exercise of right to strike only in case of occurrence of collective (employees) labour dispute. According to the Labour Code: right to strike may be individually exercised in case of violations of both collective and individual agreements.

Consequently, the Labour Code provides a better regulation of exercising right to strike by an employee in case of any kind of agreement.

Article 49 of the Labour Code. Strike and Lockout

1. Strike is a temporary voluntary refusal by an employee to partially or fully fulfill his/her obligations under the labour contract, with the purpose of regulating subsequent relations within the frames of a labour dispute. The Georgian legislation has specified the persons who do not have a right to participate in strikes.
2. Lockout is a temporary voluntary refusal of an employer to partially or fully perform his/her obligations under a labour contract with the purpose of regulating subsequent relations within the frames of a labour dispute.
3. In case of collective dispute, the right to strike or lockout is acquired twenty-one (21) calendar days from the moment of sending the written notification to the Minister pursuant to Paragraph 2 of Article 48<sup>1</sup> of this Code or twenty-one (21) calendar days from the moment the Minister has appointed a mediator pursuant to the Paragraph 3 of the Article 48<sup>1</sup> of this Code.
4. In case of individual dispute, the parties must send a written notification to each other regarding the time, location and character of a strike/lockout within not less than three (3) calendar days prior to starting strike/ lockout.
5. In case of collective dispute, the parties must send a written notification to each other and to the Minister of Labour, Health and Social Affairs of Georgia regarding the time, location and character of a strike/lockout within not less than three (3) calendar days prior to starting of strike/token
6. During the period of strike or lockout the parties shall continue with the conciliatory procedures.
7. A strike or lockout cannot continue for more than ninety (90) calendar days.
8. During the period of a strike/lockout an employer shall not have any obligations to pay remuneration to an employee.
9. A strike/lockout shall not serve as the grounds for termination of labour relations.

As for the concern related to the solidarity strikes, the legislation ensures rights for solidarity and protest manifestations and gatherings:

Georgian Labour Code does not stipulate that only directly affected person has the right to strike.

Therefore, it permits any employee to use the right to strike on the basis of solidarity or protest.

Georgian Law on Trade Unions ensures the rights of trade unions to participate in the discussions and settlements of individual and collective labour disputes related to the violation of labour legislation and conditions of collective agreements. Article 13 of the above-mentioned law stipulates the organization of strikes, demonstrations and other manifestations by the trade unions in order to protect the labour and social-economic rights of the employees.

*Article 13 of the Labour Code: The right to participate in collective labour dispute*

1. A trade union is entitled, according to law, to participate in the discussion and resolution of individual and collective labour disputes, labour law and collective agreements, on issues related to violation of the terms of the agreement.
2. According to Georgian Legislation in order to protect worker's social and economic issues a trade union has a right to prepare and carry out the strike, meetings, demonstrations and other mass protest actions.

*Article 165 of the Criminal Code: infringement of the right to strike*

For the illegal obstruction of the right to strike with the use of violence or with the threat of violence, or use of material, work related or any other kind of attitude on person to refrain from strike is:

- Punishable by fine or by probationary work for a term of one year or imprisonment for a term of two years.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework*

**GoG response**

GoG would like to underline that very positive trend regarding trade union is that during the last years there have been established various trade unions that are independent from the Georgian Trade Unions Confederation and this is an indicator that the right to organize is protected and implemented in practice.

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate*

**GoG response**

Tripartite Commission on Social Partnership reviews the cases related on the freedom of association and the right to organize.

## Article 6 – The right of workers to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

- 1 to promote joint consultation between workers and employers;
- 2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
- 3 to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

- 4 the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

### Information to be submitted

#### Article 6§1

*1) Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.*

#### GoG response

*The Labour code in relations to collective bargaining stipulates the following:*

Article 41. General Provision:

1. Collective agreements shall be concluded between one or more employers or one or more employers' organizations and one or more professional trade unions.
2. Collective agreements:
  - a) Stipulate working conditions;
  - b) Regulates relations between employers and employees;
  - c) Regulates relations between one or more employers or one or more employers' organizations and one or more professional unions.
3. Either party can initiate negotiations on the terms of a collective agreement.
4. When one party initiates negotiations for the conclusion of a collective employment agreement, both parties are obliged to negotiate in good faith and make all sensible efforts to conclude an agreement.
5. The parties will provide each other with the information relevant to the issues being discussed during negotiations. A party has the right not to provide the other party with confidential information or request confidentiality when delivering confidential information.

6. Interference of any governmental body or local authority in concluding or amending a collective agreement is prohibited. Any collective agreements that have been subjected to such interference shall be deemed null and void.

Government of Georgia cooperates and holds active social dialogue with all the interested parties to study various labour related issues, including legal basis of it in depth. With this Employers and Trade Unions get possibility to enter into social dialogue. On March 2, 2010 Georgian Prime Minister issued an order №57 on “The Tripartite Social Partnership Commission’s regulations and its composition” according to which the commission members were: the State Chancellery of Georgia; Ministry of Justice; Ministry of Economy and Sustainable Development, Ministry of Infrastructure and Regional Development and Trade Unions and Employers Association. The aim of the commission was to ensure good communication and to create a platform for exchanging the views on labour relations issues.

In addition the Governmental Decree of 19 November 2012 established the “The labour relations and social dialogue commission” that consisted of 9 governmental members, Prime Minister of Georgia; Representatives from: Minister of Economy and Sustainable Development; Ministry of Environmental Protection; Ministry of Regional Development and Infrastructure; Ministry of Labour, Health and Social Affairs; Parliament; Ministry of Internal Affairs; Ministry of Finance. Aims of this governmental commission were: to resolve issues of labour disputes of Georgia; to promote reconciliation between employers and employees; to develop proposals and recommendations about the issues in the labour and accompanying relations.

Furthermore the labour Code, Article 52<sup>1</sup> defines general provisions of the Tripartite Commission on Social Partnership:

Article 52<sup>1</sup>. General Provisions:

1. The Tripartite Social Partnership Commission (hereinafter referred to as Tripartite Commission) is a consultative body, which is accountable to the Chairperson of Tripartite Social Partnership Commission – Prime Minister of Georgia.
2. In its activities the Tripartite Commission shall be guided by the Constitution of Georgia, International Agreements that Georgia is part of, Georgian laws, decrees of Parliament of Georgia, decrees and resolutions of President of Georgia, decrees and resolutions of Government of Georgia, decrees of Prime Minister of Georgia and other legislative norms.
3. The Tripartite Commission is comprised of the following constituent parties: Government of Georgia, nation-wide employers’ associations and trade unions.
4. Each party is represented by six members in the Tripartite Commission; those members can represent various organizations. Participation of the representatives of those organizations in the work of the Tripartite Commission will be decided by Chairperson of the Tripartite Commission.<sup>4</sup>
5. Each nation-wide employers’ association and professional union that will be represented in the Tripartite Commission shall decide who will represent them in the Tripartite Commission.

6. There will be individuals in the Tripartite Commission who will be correspondingly authorized to represent the parties in the Commission and they will present the other five members (from each party) to the Chairperson of the Tripartite Commission.

7. Besides the Chairperson of the Tripartite Commission, Government of Georgia shall be represented in the Tripartite Commission by high-ranking officials from the following state agencies:

- a) Ministry of Labour, Health and Social Affairs of Georgia;
- b) Ministry of Justice of Georgia;
- c) Ministry of Economic and Sustainable Development of Georgia;
- d) Ministry of Regional Development and Infrastructure of Georgia;
- e) Ministry of Education and Science of Georgia;

The functions are defined by the Article 52<sup>3</sup>:

- a) Encouragement of development of social partnership in Georgia and supporting dialogue between employees, employers and Government of Georgia at all levels;
- b) Elaboration of proposals and recommendations on labour relations and related issues.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response**

The term of office of a member of the Tripartite Commission shall be for one year. The new composition of the Tripartite Commission shall be defined before the term of office of the previous make-up of the Commission is expired. The regulation of the Tripartite Commission defining the composition, structure, activity and composition rule is approved by a decree of the Government of Georgia.

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.*

**GoG response:**

The cases of collective disputes that have been discussed by the governmental commission on labour relations and social dialogue are following:

1. LLC Geosteel
2. Georgian Post
3. Poti Seaport Corporation
4. Kulevi Oil terminal
5. Tbilisi Transport Company

6. Chiatura Manganum
7. Maudi factory; Maudi Stakeholders Association
8. Barvil Transport Company - workers strike
9. Agara Sugar Factory
10. Zestafoni Ferro-alloy plant
11. Tkibuli mine

## **Article 6§2**

*1) Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.*

### **GoG response**

The Georgian legislation clearly stipulates working conditions that are in compliance with the ILO core conventions. It is prohibited to worsen the minimal working conditions envisaged by the Labour Code. Employer shall take into account the minimal working conditions envisaged by the Labour Legislation in case he/she is elaborating labour routine (internal labour charter). In case working conditions are regulated by labour agreement (either individual, or collective), labour agreement prevails over internal routine.

The preference to the labour routine (internal labour charter) is given only in case when working conditions are not regulated by labour agreement (either individual, or collective). Even in this case, working conditions defined by employer must be in full compliance with the requirements of the Labour Code, which stipulates minimal working conditions in compliance with the ILO core conventions.

Accordingly, the employer is authorized to introduce internal labour routine if working conditions are not regulated by labour agreement (either individual, or collective).

The working conditions could be regulated by the individual and/or collective agreement. As concerning the collective agreements the Labour code stipulates the provisions on collective agreement that defines obligations for the parties of the agreement.

#### Article 43. Collective Agreements

1. A collective agreement shall be concluded solely in writing.
2. Collective agreement shall be concluded for a determinate or indeterminate duration.
3. The collective agreement concluded for a determinate duration shall stipulate the date of its coming into force and its expiry date.
4. The collective agreement concluded for an indeterminate duration shall stipulate when and in which manner it may be terminated, renewed or revised.
5. Presence of the collective agreement does not limit the right of the employer or employee to terminate employment relations which does not cause termination of employment relations of other employees engaged by the same agreement;
6. A collective agreement shall specify the group of employees covered by the agreement.

7. A collective agreement shall bind the parties to the agreement. If the collective agreement is concluded between the employer and one or more employee's associations and the members of such one or more employees' associations are more than 50 % of employees of the given company, any other employee in that company has the right to request from the employer to become the party of the collective agreement. The employer is obliged to accept such a request within 30 days. The provisions of this article does not exclude the opportunity for other employee's association, which comprises less than 50 % of employees of this company, to conduct separate negotiations and conclude separate collective agreement with the employer.

8. The provisions of a collective agreement shall become an integral part of the individual employment contracts of the employees covered by the agreement.

9. A provision of a collective agreement which is contrary to this Code shall be null and void.

As concerning the non- ratification of the Convention 154 - this decisions was made before the parliamentary elections 2012, this does not exclude the probability that the new parliament and government might review the issue of ratification.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

#### **GoG response**

Issues related to collective agreements are fully implemented.

*3) Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in the private and public sector at national and regional or sectoral level, as appropriate.*

Government of Georgia does not have statistics related to this issue.

#### **Article 6§3**

*1) Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.*

#### **GoG response:**

The Labour Code implies following provisions on labour dispute, its conciliation and arbitration procedures, article 48<sup>1</sup> defines following:

*Article 48<sup>1</sup>. Resolution of Collective Labour Disputes*

1. A collective labour dispute shall be resolved through direct negotiations between the concerned group of employees (at least 20 employees) and the employer or between the concerned professional union and the employer, through direct negotiations and/or mediation; in case if a written notification has been sent to the Minister of Labour, Health and Social Affairs of Georgia.
2. Either party sends the written notice to the other party on starting the conciliatory procedures, the notice shall define exactly the reason for starting the dispute and the requests from the disputing side.
3. At any stage of negotiation and in order to reach an agreement, either of the parties may request in writing the Minister of Labour, Health and Social Affairs of Georgia to designate a mediator to undertake mediatory procedures. Written notice of such request must be given to the other party on the same day.
4. Upon receiving such request, the Minister shall designate a mediator in accordance with the mediatory procedure established by a Government Decree. At any stage of a collective labour dispute, if there is a high public interest, the Minister of Labour, Health and Social Affairs may, with its own initiative, designate a mediator and must inform the parties in writing of such appointment.
5. At any stage of the dispute the Minister has the right to make decision on termination the conciliatory procedures.
6. The parties are obliged to participate in conciliatory procedures and attend the mediation meetings appointed by the mediator
7. Upon request by the Minister the mediator is obliged to send him/her the report concerning the dispute.
8. On any stage of the dispute parties may agree to arbitration of the procedures.
9. The mediator shall not disclose any information or document which he, as a mediator for the dispute became famous.

In addition the Labour Code implies provisions on creation of Social Partnership Tripartite Commission, which shall deal the issues connected with Labour Relations, its regulations and resolution. Article 52<sup>2</sup> states that: Social partnership is system of dialogue and negotiations among employers (employers' associations), employees (employees' associations) and state institutions on labour and its accompanying relations.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response:**

Issues related to the resolution of Collective Labour Disputes are fully implemented

*3) Please provide pertinent figures, statistics or any other relevant information, in particular on the nature and duration of Parliament, Government or court interventions in collective bargaining and conflict resolution by means of, inter alia, compulsory arbitration.*

**GoG response**

The cases of collective disputes that have been discussed by the governmental commission on labour relations and social dialogue are following:

1. LLC Geosteel
2. Georgian Post
3. Poti Seaport Corporation
4. Kulevi Oil terminal
5. Tbilisi Transport Company
6. Chiatura Manganum
7. Maudi factory; Maudi Stakeholders Association
8. Barvil Transport Company - workers strike
9. Agara Sugar Factory
10. Zestafoni Ferro-alloy plant
11. Tkibuli mine

**Article 6§4**

*1) Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible*

**GoG response:**

The Labour code article 49 regulates strike and lockout: Provision 5 states that: In case of Collective dispute; parties are obliged to send written notice prior to 3 days, on the place, time and the type of the Strike or Lockout to each other and to the Labour, health and Social Affairs Minister

6. During the period of strike or lockout the parties shall continue with the conciliatory procedures.
7. A lockout cannot last for more than ninety (90) calendar days. In case it lasts the party shall apply to the court for approval of the new 90 days,
8. During the period of a strike/lockout an employer shall not have any obligations to pay remuneration to an employee.
9. A strike/lockout shall not serve as the grounds for termination of labour relations.

**Article 50. Suspension or Termination of a Strike/Lockout**

1. A court has a right to postpone a strike/lockout for no more than thirty (30) days or to suspend the already started strike or lockout for the same period if there exists a danger to a human being's life or health, environment safety or a third party's property as well as to the activities of vital importance.
2. A court decision on illegality of a strike or a lockout shall be executed without delay.

**Article 51. Illegal Strike and Lockout**

1. During the state of emergency or the martial law, the right to strike or lockout can be limited based on a presidential decree.
2. The right to strike during the working process shall not be enjoyed by the employees whose work is related with human life and health; or due to its technological mode their work cannot be suspended.

3. If either party of the labour relations avoids participating in the conciliatory commission and conducts a strike/lockout, such action shall be considered illegal.

6. A decision on the illegality of a strike/lockout shall be taken by a court and the parties shall be informed about it without delay.

As for the the Employees guarantees, *the Article 52 of the Labour code defines following:*

1. Participation of employees in a strike shall not be considered as a violation of the work discipline, and shall not serve as the grounds for terminating the labour contract, except if the strike is illegal.

2. If a court makes a decision on the illegality of a lockout, the employer shall restore the labour relations with the employee and remunerate the missed working hours.

3. An employer may transfer the employees not participating in a strike, but unable to perform their work because of the strike, to other jobs; or remunerates the stoppage at an hourly rate.

*As for the concern related to the solidarity strikes, the legislation ensures rights for solidarity and protest manifestations and gatherings:*

Georgian Labour Code does not stipulate that only directly affected person has the right to strike. Therefore, it permits any employee to use the right to strike on the basis of solidarity or protest. The right to strike can be used individually, by any employee (article 49), in case of violation of both collective and individual agreement.

In addition it has to be underlined that in practice when requested, Trade Unions could protect rights of the workers even if they are not members; however according to law on trade unions, the trade union could enter the enterprise, organization or company only where it has members (Article 16, Par.4).

*Georgian Law on Trade Unions* ensures the rights of trade unions to participate in the discussions and settlements of individual and collective labour disputes related to the violation of labour legislation and conditions of collective agreements. Article 13 of the above-mentioned law stipulates the organization of strikes, demonstrations and other manifestations by the trade unions in order to protect the labour and social-economic rights of the employees. The Article 14 states that Trade Unions (Associations) have right to oversee the necessary information for their statutory activities from enterprises, employers and employers associations, state institutions and local self-government bodies, on labour and social economic issues, in case no other situation is considered by the law. The article 16 gives right to the trade unions and the trade unions associations to enter the enterprise, organization and other work places where their members are working.

*The Law on Gatherings and Manifestations* stipulates the organization of citizens “gatherings”, “manifestations” for the protest and solidarity manifestations and gatherings. The initiator of such gathering may be the political party, association (including trade union), enterprise, and organization. The impediment of legitimate strikes is punished as a criminal liability. According to the Georgian Criminal Code, the action, which impedes or infringes the right to strike, is punishable by the fine, or probation for the period up to 1 year or imprisonment for the period up to 2 Years.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response:**

The legal framework regarding collective action in the private as well as the public sector is protected and implemented in practice.

*3) Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of Parliament, Government or court.*

**GoG response:**

Government of Georgia does not have exact statistics on strikes and lockouts as well as information on the nature and duration.

**Article 26 – The right to dignity at work**

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

- 1 to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;
- 2 to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

**Information to be submitted****Article 26§1**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms*

**GoG response**

Georgian legislation forbids the sexual harassment according to the Article 137, 138, 139 of the Georgian Criminal Code (Chapter 22). The Article 137 of the Law foresees the punishment for rape by imprisonment from 4 to 6 years. The same action committed with the use of work position is punished by imprisonment from six to nine years.

Article 138 notifies sanctions for violent actions of sexual nature.

The Article 139 (Sexual intercourse or other type of sexual coercion) states that: " Making the sexual connection, gayness, Lesbians or other kind of contract by threatening to announce the secret or property

damage or using material, work and other kind of attitude is punished with penalty or compulsory work for a year or imprisonment for two years.”

It should be noted that the Georgian legislation does not include the separate articles regulating the prevention of sexual harassment in the workplace or in labour relations. The designated crime committed in the labour relations is settled by above mentioned articles of the Georgian Criminal Law.

On the basis of the claim, the Court is obliged to make the right decision in accordance with the law and regulations, considering the information of the investigation and individual case evidences. It gives the possibility of justice restoration to the victims of a sexual harassment.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

#### **GoG response**

In case of sexual harassment, the plaintiff can submit a claim in the City Court. If the defendant is founded guilty the plaintiff is entitled to submit a new claim for reparation of moral damages according the Article 18 (in case of dignity violation) and the Article 413 (in case of injuries or health damages) of the Georgian Civil Code. So far as the Georgian Criminal Code does not provide provision for such kind of compensation.

As for the burden of proof, it rests on the plaintiff. The claimer must prove whether or not she/he was a victim of sexual harassment.

*3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.*

#### **GoG response:**

The City Court of Tbilisi produces the statistics on case law since 2010. For better or worse during the period 2010-2012, there was no precedent for sexual harassment moral damages reparation, because a claim on such a case was not submitted.

#### **Article 26§2**

*1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.*

#### **GoG response:**

Regarding the moral harassment it should be emphasized that Georgian Criminal Law contains the crime-regulating Articles such as torture, coercion and intimidation, which essentially involves the moral harassment aspects in themselves.

Article 144 (Torture) of Georgian Criminal law states:

1) Torture is creating such conditions or such treatments for a person, for his/her close relative, which by its nature, intensity or duration provokes physical pain or **mental or moral suffering** aimed to provide information, evidence or a confession, intimidation or coherence of a person, or punishing a person for the presumably committed act, alleged by him/her or by a third person.

Torture is punished by imprisonment from seven to ten years, or with the fine.

2) The same action committed by the officer or by the equivalent person to the officer who uses official position for committing offences, is punished by imprisonment for nine to fifteen years, or by the deprivation of the right for 5 years to occupy a position or continue activity.

The provisions about coercion (Article 150) and intimidation (151) are also enriched with the principles of moral harassment prevention, which guarantees that the rights of the person will be fully protected in any case of moral disturbance.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response:**

Legal actions against harassment in the work place are fully implemented

*3) Please supply any relevant statistics or other information on awareness-raising activities and programmes and on the number of complaints received by ombudsmen or mediators, where such institutions exist.*

**GoG response:**

Government of Georgia does not have statistics related to this issue.

**Article 29 – The right to information and consultation in collective redundancy procedures**

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

## Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

## GoG response

According to the Georgian Law on Trade Unions, employers, coalitions of employers (unions, associations) provide respective trade unions **at least two months in advance with the information** about temporary termination of liquidation, reorganization or operation of enterprises, establishments and organizations, which will lead to reduction of working places or conditions to provide protection of rights and interests defined by the legislation, collective agreements (treaties) for the employees. The trade union has the right to submit proposals for the discussion of respective bodies of state authority on extending the terms of measures related with mass freeing of employees or temporary termination.(Article 11)

In public sector, when the reorganization of the establishment is accompanied by staff reduction, the servants should be notified one month before about the dismissal from the job due to the liquidation of the establishment, reduction of the position, unsatisfactory results of the attestation or the age.

In private sector labour code defines following:

### *Article 38' Collective redundancies*

1.Any employer terminating the employment relations during a period of 15 days with at least 100 employees in accordance with sub-Paragraph “a” of the first Paragraph of Article 37 (The grounds for termination of an employment contract are:a) Economic circumstances, technological or organizational changes entailing a reduction the workforce required for production or service.) of this code is obliged to send 45 days prior written notification to the Minister of Labour, Health and Social Affairs and to the concerned employees.

2. The terms of warning designated by the provisions 1 and 2 of Article 38 shall not apply to the conditions specified by provision 1 of this article.<sup>1</sup>

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### <sup>1</sup> Article 38. Procedure for Termination of Employment Relations

1. In case of termination of an employment contract based on Article 37 (1) „a” “f”, “i” and “n” the compensation for at least one month shall be paid to the employee within 30 calendar days;

1<sup>1</sup>. If employer terminates the contract on the grounds of points a), f), i), n) of Article 37.1, employer is entitled to send 3 days prior written notification to the employee. In the given situation employer shall pay at least two month severance compensation within 30 calendar days from the contract termination.

**Article37:** **a)** Economic circumstances, technological or organizational changes entailing a reduction the workforce required for production or service; **f)** Incapacity of an employee to occupy his/her position due to a lack of qualification, professional skills and experience; **i)** Unless otherwise provided in the employment contract, long-term disability if the period incapacity exceeds more than 40 consecutive calendar days or if, within 6 months, the periodof incapacity exceeds more than 60 calendar days. In addition, the employee is entitled take a paid as well as unpaid leave of absence as provided by the Labour Code; **n)** Any other objective circumstances justifying dismissal.

Article 42: representations

1. While concluding, changing or termination a collective contract, or for the purpose of protecting the employees' rights, the unions of employees shall act through their representatives.
2. The confirmation of representation shall be made through a written power of attorney drafted in a simple manner, and signed by the concerned employees.
3. Any physical person can act as a representative.
4. A representative shall act in the best interests of the employees who have authorized him/her to act as their representative.

Article 43: Collective Agreements

5. Presence of the collective agreement does not limit the right of the employer or employee to terminate employment relations which does not cause termination of employment relations of other employees engaged by the same agreement;
6. A collective agreement shall specify the group of employees covered by the agreement.
7. A collective agreement shall bind the parties to the agreement. If the collective agreement is concluded between the employer and one or more employee's associations and the members of such one or more employees' associations are more than 50 % of employees of the given company, any other employee in that company has the right to request from the employer to become the party of the collective agreement. The employer is obliged to accept such a request within 30 days. The provisions of this article does not exclude the opportunity for other employee's association, which comprises less than 50 % of employees of this company, to conduct separate negotiations and conclude separate collective agreement with the employer.

*2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.*

**GoG response**

The right to information and consultation in collective redundancy procedures are fully implemented.

*3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.*

**GoG response**

Government of Georgia does not have statistics related to this issue.