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## **EUROPEAN SOCIAL CHARTER**

Addendum to the  
7<sup>th</sup> National Report on the implementation of  
the European Social Charter  
submitted by

## **THE GOVERNMENT OF GEORGIA**

(Article 2§2 and 26§2  
for the period  
01/01/2009 – 31/12/2012)

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19 June 2014

**CYCLE 2014**



# The European Social Charter

## Article 2

**The 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: to provide for public holidays with pay;**

According to the Labor Code of Georgia, Article 6, the essential terms of the employment agreement, together with other relations, shall include the amount and payment rules of the remuneration. According to the Article 13, the time, place and rule of remuneration can be determined by the labor routine.

The amount of the monthly remuneration is determined by employer in accordance with the current practice, existing in Georgia. Consequently, public holidays, provided by the law, are included into the monthly amount of remuneration.

According to the same law, Article 20, paragraph 2, employee is entitled to request other public holidays instead of those, established by this law, which shall be defined by the employment agreement and according to the paragraph 3 of the above article: job performance by the employee on public holidays is considered as overtime work and compensation shall be determined by the provisions of Article 17, Paragraphs 4 and 5, which means: overtime work will be paid with the hourly rate of wages. The amount of the remuneration is determined by the agreement between the parties. In addition, the parties may agree on giving extra rest time in exchange for the overtime work.

## Article 26 (2)

**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' organizations: 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**

According to the national legislation, the mentioned issue is mainly regulated by the Labor Code of Georgia, based on the requirements of the organic law, namely: according to the Article 2 (labor relationship), paragraphs 3 and 4, any form of discrimination in labor and pre-agreement relations, which means direct and indirect harassment of a person, aiming or resulting an intimidating, hostile, humiliating, degrading or offensive environment, or conditions, which directly or indirectly deteriorates their conditions comparing with the other persons, working in the same conditions, is prohibited. In addition, the parties shall abide the basic human rights and freedoms, determined by the Legislation of Georgia, while labor relations.

As for the issue of informational provision, according to the amendments (12.06.2013 N729) to the Labor Code of Georgia (Article 5, Paragraph 6), employer is obliged to provide the candidate with the range of information and among them on his/her legal standing in terms of employment relations. In addition, according to the same amendment, the grounds of the dispute in the employment relations were clearly defined, which may be: violation of human rights and freedoms envisaged by Georgian Legislation (Article 47, Paragraph 3).

Also, on the basis of the legislative changes, individual dispute resolution and review procedure was imposed (Article 48), which means solving dispute by means of amicable settlement procedures between parties, which is solving disputed by the direct negotiations between employer and employee. In such case, the party sends a written notice to the other party on commencement of the amicable procedure which should exactly reflect the grounds of dispute origin and claims. The other party must review the written notice and send decision in

writing to the first party in ten calendar days after the acceptance of the notice. Representatives or parties make written decision which becomes a part of the existing employment agreement. If a party avoided participation in the amicable settlement in fourteen calendar days after receiving a written notice, the burden of proof of factual conditions of a dispute is heard by them. If in the course of dispute the agreement is not reached for fourteen calendar days, the other party is entitled to go to court or the parties may agree on arbitration of the dispute.

It should be noted that these amendments to the Labor Code significantly reduced the court referral rate of labor disputes and introduced a practice of resolving disputed by negotiation and agreements in place.

At the same time, the Labor Code of Georgia established financial responsibility for damages (Article 44) that damage incurred by one party to another in the course of employment shall be reimbursed consistent with the rule provided by Georgian Legislation.

In addition, the issues, related to labor relations, are not regulated by the Labor Code of Georgia or other special law, are regulated by the norms of Civil Code of Georgia: A person is entitled to demand in court the retraction of information that defames his honor, dignity, privacy, personal inviolability or business reputation (Article 18).

In addition, the Criminal Code of Georgia regulates the criminal acts, committed by officer or equivalent person or by using the official position, such as torture, threat of torture, degrading or inhuman treatment, coercion or intimidation, causing the inhuman, degrading condition and which brings a strong physical and mental pain or moral distress (Articles 144, 150 and 151).

Official offenses, determined under the Criminal Code of Georgia should be discussed separately – abuse of official authority (Article 332) and exceeding official powers (Article 333) causing the insult of a personal dignity.

As for the information, regarding the individual facts or graceful response measures and outcomes on unambiguously negative and offensive actions directed against the employees in the workplaces, the Ministry of Labour, Health and Social Affairs does not possess.

And last, in the current year (2014), the Law on Elimination of All Forms of Discrimination, entered into force in Georgia, aiming elimination of all forms of discrimination and provision of equal enjoyment of rights, established by the Legislation of Georgia for any individual or legal entity, despite of their race, color, language, sex, age, nationality, descent, place of birth, place of residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health condition, disability, sexual orientation, gender identity and expression, political or other opinion or any other characteristic. It should be noted that the monitoring on elimination of discrimination and provision of equality is provided by the Public Defender of Georgia.