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RAP/RCha/GEO/9(2016)

## **EUROPEAN SOCIAL CHARTER**

9<sup>th</sup> National Report on the implementation of the  
European Social Charter

submitted by

**THE GOVERNMENT OF GEORGIA**

- Articles 1, 10, 15, 18, 20 for the period 01/01/2010 – 31/12/2013
- Complementary information on Articles 2, 5, 6, 26 (Conclusions 2014)

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Report registered by the Secretariat on

9 November 2015

**CYCLE 2016**



**EUROPEAN SOCIAL CHARTER (revised)**

**9th National Report on the implementation of**

**The revised European Social Charter**

**Submitted by**

**The Government of Georgia**

**(Articles 1, 10, 15, 18 and 20**

**For the period 01/01/2011-31/12/2014)**

**CYCLE 2015**

Report  
Of Georgia for the implementation of Articles 1, 10, 15, 18 and 20  
of the European Social Charter (revised)

For the period 1 January 2011 to 31 December 2014 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

Tbilisi

## **Article 1 – The Right to Work**

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

1. To accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. To protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. To establish or maintain free employment services for all workers;
4. To provide or promote appropriate vocational guidance, training and rehabilitation.

Appendix to Article 1§2 This provision shall not be interpreted as prohibiting or authorizing any union security clause or practice

### **Information to be submitted**

#### **Article 1§1**

##### **GoG Response**

The employment programs department was registered on August 1, 2013, under the control of the Ministry of Labour, Health and Social Affairs of Georgia. It is responsible for promoting the emergence of employment services in the country. The Social Service Agency has a well-developed infrastructure; in particular, the central office is located in Tbilisi, with 69 municipal centers in every municipality. The citizens are given vast opportunities, including, free employment services for job seekers to register, job search, intermediary services, and in general- group and individual counseling.

#### **Article 1§2**

##### **GoG Response**

A labour market management information system ([worknet.gov.ge](http://worknet.gov.ge)) has been prepared for job seeking and tracking reasons and the development of the software. At web-portal [www.worknet.gov.ge](http://www.worknet.gov.ge) is allowed for a person who has a 11-digit identification code assigned by the State Services Development Agency, Georgian citizenship, is a stateless person, a refugee or humanitarian status holder, and foreign citizen legally

residing in Georgia. Objectives of the Labour Market Information Management System are: Reduce unemployment in the country; Provide effective mediation services.

The registration of job seekers in the system started on December 25, 2013. At present, the electronic system keeps record of 55 139 job seekers. Out of this number, 667 are registered already and among them 21 are listed as people with disabilities. The program is free of charge and is a platform for Georgian citizens and not only to freely choose their occupation.

Apart from that the employment forums are being held in Georgia for job seekers. The first employment forum was held in Tbilisi on October 20, 2014. The forum was attended by 141 employers, 10 vocational colleges and vouchers were issued for 3814 persons. The next employment forum was held in Kutaisi on July 10, 2015. The forum was attended by 64 employers from Imereti region and Tbilisi, 6 vocational colleges and vouchers were issued for 2029 persons. In 2015 vacancies week was organized in Tbilisi and Telavi aim of which was to organize massive meetings/interviews between job seekers and employers from various sectors in order for the job seekers to find a desired job and for employers to select a potential candidate. The vacancies' week was held within the preliminary published vacancies.

The first week (22-23 September, 2015) was held in Tbilisi, where 60 companies operating in Georgia participated and directly interviewed the jobs seekers. Applicants were given possibility to present themselves. The next meeting was held in Telavi on September 25, 2015, where around 20 companies participated.

### **Article 1§3**

#### **GoG Response**

A labour market management information system ([worknet.gov.ge](http://worknet.gov.ge)) has been prepared for job seeking and tracking reasons and the development of the software. The registration of job seekers in the system started on December 25, 2013. At present, the electronic system keeps record of 55 139 job seekers. Out of this number, 667 are registered already and among them 21 are listed as people with disabilities. The program is free of charge.

### **Article 1§4**

#### **GoG Response**

The state program on "professional training/retraining and qualification raising of job seekers" was drafted by the Ministry of Labour, Health and Social Affairs of Georgia and approved by the Georgian Government on August 21, 2015 with the #451 resolution. The program aims to offer vocational training for job seekers in the labour market, and afterwards, offers them

internships. Furthermore, this will guide participants to develop their professional skills and promote their employment. The development and implementation of the program is also planned in the upcoming years under the #199 resolution. Within the frames of the resolution N199 employment forums are being held throughout the country.

In order for citizens to develop their capabilities and knowledge, it is highly recommended to continue professional counseling, planning career services, and finally, implementing and developing universal access to these services. Therefore, the Ministry has established a concept of professional counseling and career planning, and at the same time, they will carry out the Action Plan (The resolution of the GOG № 721). This considers the state with providing continuous professional counseling and career planning, and on the other hand, ponders on the interests of each individual citizen.

In regard to the Action Plan, the Ministry of Labour, Health and Social Affairs of Georgia, the Ministry of Education and Science of Georgia, and the Ministry of Sport and Youth Affairs of Georgia have collaborated with Social Partners and other NGOs. Within the framework of the Technical Assistance Program of Employment and Vocational Educational Reform, a professional orientation, carrier planning service standard, and professional orientation and carrier planning standard procedure projects for job seekers are developed.

The given standard aims for universal access to continuous professional counseling and career planning to become publicly available to every Georgian citizen. The above mentioned, in accordance with the labour market changes, is a necessary prerequisite for development of competencies and skills of the citizens and for improvement of their living standards and welfare. All the services are free of charge.

#### **Article 10 – The Right to Vocational Training**

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organizations, and to grant facilities for access to higher technical and university education, based solely on individual

- aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
  3. to provide or promote, as necessary: a) adequate and readily available training facilities for adult workers; b) special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
  4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
  5. to encourage the full utilization of the facilities provided by appropriate measures such as:
    - a) reducing or abolishing any fees or charges; b) granting financial assistance in appropriate cases; c) including in the normal working hour time spent on supplementary training taken by the worker, at the request of his employer, during employment;
    - d) ensuring, through adequate supervision, in consultation with the employers' and workers' organizations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

### **Information to be submitted**

#### **Article 10§2**

#### **GoG Response**

Since 2005, Georgia started to modernize VET system in compliance with modern requirements of a market economy and the common European approaches. In 2007, the Georgian law of Vocational Education came into force and in 2010 law on education quality development was launched. In the same year National Qualifications Framework and occupational standards were approved. In 2009-2012 the mid-term VET reform strategy was implemented and in 2013, the VET system reform strategy for 2013-2020 was developed. As the mid-term as well as the long term strategy development and implementation was/is being supported by the Ministry's Partner - EU delegation to Georgia. In the framework of implemented and ongoing reform the Ministry of Education and Science of Georgia ensured the formation of VET at public VET institutions. The ministry developed quality insurance mechanisms, developed and implemented the programs oriented on VET teacher's professional development. The ministry developed VET institutions infrastructure, arranged workshops and laboratories in accordance

with the modern standards, implemented professional orientation and carrier guidance services and etc. With the supported of ministry, social partnership mechanisms started to operate, innovative teaching approaches were implemented, practical learning was turned into mandatory component. The MoES started implementation of modular programs, which is oriented on employment/self-employment and key competences development. The ministry is oriented on the partnership with private sector, in order to retraining employee, also ministry started to work on Work-based learning approach.

Currently, the Ministry of Education and Science of Georgia is intensively working on draft VET law, which will extend its opportunities related to Vocational Education, Vocational training system will be formalized and the flexible mechanisms will be developed in order to move on further levels of education, also the implementation of credit accumulation and transfer mechanisms will be supported, the validation of non-formal education will be implemented.

#### **Article 10§4**

##### **GoG Response**

“The State Program for Training and Retraining of Job Seekers” was drafted by the Ministry of Labour, Health and Social Affairs of Georgia and approved by the Georgian Government on August 21, 2015 with the #451 resolution. The program aims to offer vocational training for job seekers in the labour market, and afterwards, offers them internships. Furthermore, this will guide participants to develop their professional skills and promote their employment.

#### **Article 15 – The Right of Persons with Disabilities to Independence, Social Integration and Participation in the Life of the Community**

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialized bodies, public or private;

2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialized placement and support services;
3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

#### **Information to be submitted**

##### **Article 15§3**

##### **GoG Response:**

Social inclusion of persons with disabilities is one of the top priorities in country's social policy. Since the previous country report significant developments have been achieved in this regard. In order to promote realization rights of persons with disabilities, in December 26, 2013 Parliament of Georgia ratified UN Convention on the rights of persons with disabilities. (UNCRPD) In order to promote implementation UNCRPD, the government of Georgia in January 20, 2014 adopted the new Action Plan 2014-2016 for equal opportunities of persons with disabilities. The action plan, developed jointly with NGO, DPO and Governmental representatives, indicates 14 directions and 141 activities to be implemented by the different state agencies. These activities include: Development and approval of the anti-discrimination law, considering the issues of PWD; harmonization of the Georgian legislation with CRPD standards, changing of disability assessment methodology from the medical to the social model, involvement of PWD in decision making process; accessibility of environment and services, rehabilitation, healthcare, participation, promotion of the inclusive education, promotion of the employment, individual mobility, access to information raise public awareness on disability issues, etc. Special chapter in the action plan is devoted to the provision of the equal rights and participation of PWD in cultural, recreation, leisure and sport activities, which imply: Promotion of the realization of the creativity and intellectual potential of PwD for

equal involvement in the cultural life, without being subjected to discrimination on the basis of gender, age or any other reason, provision of the access to the cultural institutions, among them the theatres, cinemas, museums, libraries, travel agencies and national cultural monuments, Introduction of the relevant technologies and equipment, provision of the accessible format of the TV programs, theatre and other cultural events, among them by sign language interpretation, sub-titles, Braille print, communication augmenting and other special devices, organization and development of special sporting and recreation activities, development of Para Olympic and special Olympic movement and promotion of the participation in international events/competitions (also, for deaf and persons with hearing impairment) etc.

Government of Georgia promotes wide participation of people with disabilities in the development process of the strategies, action plans or programs addressing the needs of people with disabilities. Persons with disabilities and their representative organizations are involved in the process of development of policy, programs and in provision of social welfare services for the people with disabilities. The Concept Paper on Social Integration of the People with Disabilities, National Action Plan for Social Integration of People with Disabilities in 2010-2012, National Action Plan 2014-2016 of Equalization of Opportunities for the People with Disabilities and annual state programs for people with disabilities were developed by the working groups, which was open to all persons with disabilities and non-governmental organizations. For instance, 56 non-governmental organizations and more than 300 persons were involved in the development of National Action Plan 2014-2016 of Equalization Opportunities for the People with Disabilities.

The Government Council working on the problems of PWDs established in 2010 had continued its work. The council is composed of the representatives of GoG and non-government organizations (unions and associations) founded by PWDs. The council is chaired by Prime Minister of Georgia. The main function of the council is to elaborate relevant policy and coordinate the implementation of state policy throughout the country. The council has been designated as coordination body and main focal point for implementation of UNCRPD.

In April 02, 2014 the Parliament of Georgia adopted the law „On elimination of all forms of discrimination”. The Law prohibits all forms of discrimination in the country, including on the basis of disability.

On January 06, 2014 GoG adopted the ordinance N41, „On technical conditions for adaptation space and design for the persons with disabilities”. According to the ordinance, all public buildings, including private ones, must be designed and built with the principle of universal design.

According to the Tax Code of Georgia, amended on July 30 of 2013 by the article 82 (tax exemption) paragraph 2 - the taxable income earned during a calendar year of a person with a disability, which is not taxed , increased from GEL 3 000 to GEL 6 000.

According to the Law on State Pensions of Georgia, working PWDs are not deprived of the entitlement to the state pension in contrast to other pensioners. The system of assessing social economic standing of households applying for social assistance in Georgia (under the Law on Social Assistance) provides for special treatment of the fact of having a PWD as a household member. Under the revised in 2014 means-testing system, households with disabled member have increased chances to social assistance along with state funded health insurance compared to households with no member with disability.

Since September 2011 pensions (social package) for disabled persons has increased several times and by September 2015 reached for persons with severe disabilities (I group) 160 GEL (24 460 beneficiaries) and for disabled children (9200 beneficiaries) and disabled persons of moderate disabilities (II-nd group) –100 GEL (76 103 beneficiaries). Only 14 349 persons with mild disability (III group) are entitled for disability pension (social package) and majority of persons with mild disability (III group), are not entitled for pensions and therefore are not registered in data base, but all of them are entitled for social services provided by the state for PWD-s.

Questions on disabled members of households and on their impairment type was included in the national census that has been held in 2014. After publication of the results of the census, more exact statistical data will be available on PWD-s living in the country.

Based on the European Common Aviation Area Agreement (ECAA), and within the European Parliament and the European Council of 5 July 2006 N1107 / 2006 (EC) of the Regulation, Civil Aviation Agency has developed "the rule about air transportation control assistance for people with disabilities", with the aim of the provision of assistance and protection of the rights of persons with disabilities during the air transportation process.

This rule came into force on April 1, 2013, during this period the airport operators and air carriers were ordered to prepare the material-technical base and required activities to fulfill the obligations stipulated in the normative act.

During the process of rebuilding the airport, LLC "United Airports of Georgia" considered accessibility issues for people with disabilities.

In order to ensure the participation of People with disabilities in the elections, the Central Election Commission held a number of events each year, 302 polling stations in Georgia were adapted for people with disabilities for the 2013 presidential elections. 800 voting cabins were adapted for people in wheelchairs.

Blind voters independently participated in the voting process using the voting ballot paper frame/form. Blind voters ballot paper frame / form were spread over 3 655 polling stations of 73 District Election Commission's election polling stations.

4284 638 voters using wheelchairs and 638 voters with hearing impairment were informed by the short text messages (SMS). 2020 persons using wheelchairs and 347 with visual impairment were informed by phone calls.

Central Election Comission (CEC) made 9 commercials on public television, as well as TV's live broadcast for hearing impaired voters. Two TV debate between qualified actors have been broadcasted on sign language. The abovementioned clips and debates were placed in the regional TV channels for national minority voters.

Special program is implemented by the Ministry of Culture and Monument Protection of Georgia in 2012, which helps people with disabilities to participate in the cultural, creative and spectacular events.

In order to participate in the Paralympic movement and the development of international events / competitions, the Ministry of Sport and Youth Affairs of Georgia ensures preparation and participation of the Georgian athletes in the International Paralympic competitions (World and European championships, international competitions and Paralympic Games). The Ministry ensures operation of Domestic national competitions (including regional festivals) and Paralympic sports, activities and other related events. To improve the living and material conditions of the Paralympic athletes and coaches provides scholarships.

In recent years the state promoted development and provision of a wide range of social services, from residential - to community or family type services. The services include: rehabilitation services and aid devices for disabled, day care centers, early intervention programs, community living services. As a result only 5 big residential institutions for persons with disabilities are functioning: 2 for children with disabilities (87 children in total) and 3 for persons with disabilities (181 pwd in total). Replacement of those facilities with community based services is a planned in the upcoming years.

Abovementioned services include:

**Child rehabilitation program** aimed at rehabilitation, improvement of physical health, increase of adaptation ability and social integration of children with cerebral palsy, spinal muscular atrophies and syndromes, muscle dystrophy, congenital myopathy, other primary injures of muscles(including non-defined), hemi-, para- and tetraplegia, etc.

interdisciplinary group of specialists (physical therapy,occupational therapy, speech therapy, psychological assistance) provides needed services according to individual habilitation/rehabilitation plan.

Budget of the program:

year	2012	2013	2014	2015
Budget	828 888 GEL	1 241 000 GEL	1 424 530 GEL	1 651 600 GEL

**Child early development program** is aimed at support of mental and physical development of children with mental and physical retardation (including, Down's syndrome, cerebral palsy and etc.) their early rehabilitation and disability prevention.

Activities of the program includes development of social, motoric, cognitive, self-care and communication skills, development and support in social integration; moral and physical support of the parents of children.

Budget of the program:

year	2012	2013	2014	2015
Budget	96 150 GEL	232 500 GEL	438 000 GEL	754 100 GEL

**Community organizations program** for PWDs implies supporting of independent living, creating conditions close to the family environment and promoting social rehabilitation. Activities of the program are: provision of housing, food, daily service and organization of medical help and psychologic service, developing vocational skills, training and promoting its practical application etc.

Budget of the program:

year	2012	2013	2014	2015
Budget	358 470 GEL	686 600 GEL	836 000 GEL	984 300 GEL

**War Veterans Rehabilitation program** includes provision of medical-prophylactic and rehabilitation services to the registered in the informational database of the Veterans Affairs Department of Armed Forces of Georgia war veterans. Program activities are the followings: consultation of the doctor-specialists; physiotherapy and instrumental-laboratory diagnostics; balneology procedures; remedial exercises and manual therapy procedures.

Budget of the program:

year	2012	2013	2014	2015
Budget	40 000 GEL	40 000 GEL	40 000 GEL	40 000 GEL

**Day care center program** includes drafting and realization of individual habilitation and/or rehabilitation programs, 2-time meal daily (except weekend and holidays), detection and compliance of the needs of beneficiaries, development of vocational abilities, inclusion of beneficiaries in cultural, sport and recreational activities, teaching of proper time organization,

efficient communication, making of a choice, participation in the decision-making process, preparing of disabled children for inclusive education etc.

Budget of the program:

year	2012	2013	2014	2015
Budget	2 175 066 GEL	2 838 200 GEL	2 762 400 GEL	3 185 900 GEL

**Communication supporting program for persons with hearing impairments** implies assistance in social integration of deaf persons. The program activities include: Service provision of the sign language interpreters in general public institutions (local self-government organs, Georgian Courts, Georgian Ministry of Internal Affairs Police Department, active public law entities in the sphere of the Ministry of Justice of Georgia – Civil Register Agency and Public Register Agency, also LEPL – Social Service Agency's territorial organs of the Ministry of Labour, Health and Social Affairs of Georgia); Informing of deaf persons about state services.

Budget of the program:

year	2012	2013	2014	2015
Budget	19 200 GEL	12 800 GEL	28 000 GEL	48 000 GEL

**Program of provision supportive devices** implies provision of assistive aids:

- a) wheelchairs;
- b) prosthesis –orthopedic devices;
- c) hearing devices;
- d) cochlear implantation and rehabilitation.

Budget of the program:

year	2012	2013	2014	2015
Budget	4 087 742 GEL	3 576 700 GEL	3 543 870 GEL	2 310 800 GEL

The MOLSHA supported the development of **foster care services** as one of the means of deinstitutionalization of the state childcare services, including those devoted to children with

disabilities. Monthly salary of a foster parent taking care of a child with disabilities is set 33% higher than that of a foster parent taking care of a child without disability.

**A new, home care service** for children with the profound disabilities who cannot visit day care centers, has been piloted in 2015 for 40 children.

All abovementioned services including supportive devices are free of charge for children. Minimal copayment might be in the case of some services for disabled adults, living in the households being above poverty line.

Compliance of social services with the standards are monitored by the Program's Monitoring Division established in the 2014 in Ministry of Labour, Health and Social Affairs of Georgia (MOLSHA) . After considering the monitoring results the division provides each organization with the relevant recommendation and determines the timetable for their implementation. The monitors, involved in the monitoring process, are guided by the monitoring tools, developed with participation of the international and local non-government organizations. To ensure the quality of the social services, it is important as well, that the services for disabled persons are funded through the vouchers. In particular, a person, in need of the services, is given the relevant service voucher on the basis of the conclusion of a social worker and according to the decision of the multidisciplinary board of the Social Service Agency. (Ngo-s and other representatives of society may participate in the discussions of the board) The beneficiary is able to apply to any of the desired service provider. Voucher based financing promotes competitiveness and consequently influences on quality of provided services.

It should be emphasized that, budgetary allotments for the program has increased gradually from 5,152,600 GELs in 2010 to 8,376,000 in 2015.

#### **Article 18 – The Right To Engage In A Gainful Occupation In The Territory Of Other Parties**

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

1. to apply existing regulations in a spirit of liberality;
2. to simplify existing formalities and to reduce or abolish chancery dues and other charges

- payable by foreign workers or their employers;
3. to liberalise, individually or collectively, regulations governing the employment of foreign workers; and recognise:
  4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

### **Information to be submitted**

#### **Article 18§1**

##### **GoG Response**

The Georgian legislation guarantees equal rights for engaging in gainful occupation on the territory of Georgia both for the nationals and the foreigners residing in the county.

The Georgian legislation guarantees protection from any kind of discrimination in labour relations: "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 the Labour Code "in the course of employment relations the parties should adhere to basic human rights and freedoms as defined by the Georgian legislation (Article 2, Paragraphs 2, 3, 4, 6 of the Labour Code (2006)). The Constitution of Georgia does not provide with any kind of limitation on the rights related to employment: "Foreigners and non-citizens residing in Georgia have equal rights of the citizens of Georgia" including rights related to labour relations.

Pursuant to Article 1 of the Georgian Law on " THE ELIMINATION OF All FORMS OF DISCRIMINATION" defines that this Law is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal persons under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.

The Law of Georgia on the Legal Status of Aliens and Stateless Persons regulates the legal basis and mechanisms for entry, stay, transit, and departure of aliens into/in/through/from Georgia; defines the rights and obligations of aliens and stateless persons, etc. Pursuant to the Article 1 The Law establishes legal guarantees for aliens and stateless persons in Georgia according to universally recognized human rights and freedoms, and in line with state interests; protects universally recognized rights of aliens and stateless persons irrespective of race, color, language, gender, religion, political, and other views, nationality, ethnic and social belonging, origin, property status and rank. Besides, the Law stipulates that aliens in Georgia shall enjoy equality of treatment with citizens of Georgia in relation to rights, freedoms and obligations, unless otherwise provided for by the legislation of Georgia, that aliens shall be equal before the law irrespective of origin, social and property status, race, nationality, gender, education, language, religion, political, or other views, activity, and other circumstances. Aliens in Georgia may carry out investment and business activity under the legislation of Georgia. In that case they shall have the same rights and duties as the citizens of Georgia, unless otherwise provided for by the legislation of Georgia. Labour activities of aliens shall be governed by the legislation of Georgia. The Labour Code of Georgia regulates labour and its concomitant relations in the territory of Georgia, unless they are otherwise governed by other special law or international agreements of Georgia.

As to the membership to trade unions, the Law of Georgia on “Professional Unions” applies to not only citizens of Georgia but to citizens of foreign countries residing in Georgia.

## **Article 18§2**

### **GoG Response**

Pursuant to Article 39 of Law of Georgia on the Legal Status of Aliens and Stateless Persons defines that aliens residing in Georgia shall be taxed in the same manner as citizens of Georgia, unless otherwise prescribed by the legislation of Georgia. There are no additional taxes or dues to be paid neither by a foreign employed person nor by an employer who hired a foreign worker.

## **Article 18§3**

### **GoG Response**

The Government of Georgia approved Resolution no.417 “on approving the rule on employment by a local employer of a labour immigrant (alien not holding a Georgian permanent residence permit) and performance of paid labour activities by such immigrant” on 7<sup>th</sup> of August 2015. The resolution defines conditions for employment by a local employer of a labour immigrant and performance of paid labour activities by such immigrant, guarantees, obligation to provide information about the employment, rights and responsibilities of a labour immigrant and a local employer. According to the resolution (Article 2), in case of employment of a labour immigrant (alien legally staying) the employer is obliged to inform Social Service Agency within 30 calendar days after the entry into force of the labour contract. The information should contain data on the professions/qualifications and specialties of the labour immigrant. The GoG Resolution came into force on 1<sup>st</sup> of November 2015.

As to the international cooperation, the Ministry of Labour, Health and Social Affairs of Georgia is actively working in terms of interstate collaboration in the sphere of labour migration. The agreement of circular migration between Georgia and France has been signed. Currently negotiations on signing circular migration agreement with Greece, Romania, Austria, and Germany are in progress. The Ministry of Labour, Health and Social Affairs of Georgia represents one of the main partners in the IOM project: “Piloting Temporary Labour Migration of Georgian Workers to Poland and Estonia.”

## **Article 18§4**

### **GoG Response**

On 1<sup>st</sup> of April 2015 the President of Georgia signed a Law on Labour Migration. The Law establishes the general framework for exercising the government authority in the field of labour migration and defines issues, relations and entities in the field of labour migration, bodies exercising government regulation and their powers. The Law aims to regulation of labour migration processes in Georgia and protection of rights of labour emigrants. Pursuant to the law, there are financial sanctions established for the legal persons/individual entrepreneur who are performing activities related to employment and/or facilitation of employment abroad

without being registered to the Ministry of Justice of Georgia. The failure to submit to the ministry the information established by the law it is also punished with a fine. The Ministry of Labour, Health and Social Affairs is currently working on drafting bylaws for full implementation of this law. The issues those bylaws will cover are: defining the competent authority to review the cases of administrative breaches of the requirements in the field of labour migration; the rules and format of accessing data among public institutions; the rules of reporting to the Ministry of Labour, Health and Social Affairs on the measures taken in the field of migration; rules on filling out and submitting penalty notice form. The law came into force on 1<sup>st</sup> of November 2015.

#### **Article 20 – The Right to Equal Opportunities and Equal Treatment in Matters of Employment and Occupation without Discrimination on the Grounds of Sex**

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognize that right and to take appropriate measures to ensure or promote its application in the following fields:

- a) Access to employment, protection against dismissal and occupational reintegration;
- b) Vocational guidance, training, retraining and rehabilitation;
- c) Terms of employment and working conditions, including remuneration;
- d) Career development, including promotion.

#### Appendix to Article 20

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article.
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.
3. This article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.
4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the

scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

**GoG Response:**

A labour market management information system ([worknet.gov.ge](http://worknet.gov.ge)) has been prepared for job seeking and tracking reasons and the development of the software. The registration of job seekers in the system started on December 25, 2013. At present, the electronic system keeps record of 55 139 job seekers. Out of this number, 667 are registered already and among them 21 are listed as people with disabilities.

In order for citizens to develop their capabilities and knowledge, it is highly recommended to continue professional counseling, planning career services, and finally, implementing and developing universal access to these services. Therefore, the Ministry has established a concept of professional counseling and career guidance, and at the same time, they will carry out the Action Plan (The resolution of the GOG № 721). This considers the state with providing continuous professional counseling and career guidance, and on the other hand, ponders on the interests of each individual citizen.

In regard to the Action Plan, the Ministry of Labour, Health and Social Affairs of Georgia, the Ministry of Education and Science of Georgia, and the Ministry of Sport and Youth Affairs of Georgia have collaborated with Social Partners and other NGOs. Within the framework of the Technical Assistance Program of Employment and Vocational Educational Reform, a professional orientation, carrier guidance service standard, and professional orientation and carrier guidance standard procedure projects for job seekers are developed.

The given standard aims for universal access to continuous professional counseling and career guidance to become publicly available to every Georgian citizen. The above mentioned, in accordance with the labour market changes, is a necessary prerequisite for development of competencies and skills of the citizens and for improvement of their living standards and welfare.

EUROPEAN SOCIAL CHARTER (revised)

National Report (requested) on the implementation of

The revised European Social Charter

Submitted by

**The Government of Georgia**

(Articles 2, 5, 6, and 26

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CYCLE 2015

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

Tbilisi

## **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:

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§2**

#### **GoG Response**

Holidays with pay are listed under Article 20 of the Labour Code and that the employee can request other days off instead of those specified by the law. The public holidays are included in the monthly remuneration. According to the Labor Code of Georgia, performance of the work by the employee during the holidays shall be deemed as the overtime work and must be reimbursed due to the rule of compensation for overtime work (amendment N 729 of June 12, 2013). It means that it shall be compensated by increasing the amount of hourly pay rate and concerning the Article 17 Paragraph 5 the parties can also agree to compensate such work by additional time off.

## **Article 2§5**

### **GoG Response**

According to the Article 6 Paragraph 9 of the Labour Code the rest time shall be the essential of the Labour Agreement. The paragraph 7 of the same Article states that a labour agreement may determine the internal regulations to be part of the agreement. In this case, **the employer shall be obliged to make available the internal regulations (if any) and later any changes made into it, to the person for reading before concluding the labour agreement. Therefore the conditions of rest time may be defined according to the preferences of the parties.** Supplementary considering the Labour Code a condition in an individual labour agreement or in the document under the third paragraph of this article that contradicts this Law or a collective agreement with the same employee shall be void, except when the individual labour agreement improves the condition of the employee.

The article 14 of the Labour Code stipulates that the duration of rest time between working days (shifts) shall not be less than 12 hours.

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.

## **Article 2§7**

### **GoG Response**

The Georgian Labour Code defines the limitations on the night work, namely Article 18 of the Code states that employing minors, pregnant women, women having recently given birth, or nursing mothers for a night job (from 22:00 to 6:00), as well as babysitter of children under the age of three, or persons with limited capability without their consent shall be prohibited.

According to the article 54 of the Labour Code the Order No. 147/N of the Minister of Labor, Health and Social Affairs 2007 **“On Approving the List of Heavy, Harmful and Hazardous Work” was adopted in 2007, May 3.**

In 2007 July 11, the Order No 215 “**On approving the list and rule of the occasions of obligatory periodic medical examination at the expense of the employer**” was adopted by the Minister of Labour, Health and Social Affairs of Georgia.

As for the list of activities related to the safety of human life and health, the amended Labour Code envisaged to adopt the list in 2013. Consequently, in December 2013, the Order No 01-43/n “**On approving the list of activities related to human health and safety**” was approved by the Minister of Labour, Health and Social Affairs of Georgia. This order is linked with the Article 51 of the Code (Illegal strike and lockout). Concretely, the right to strike cannot be exercised during working process by the employees whose work activity is connected with safety of human life and health, or if the activity cannot be suspended due to the type of a technological process.

#### **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**

#### **Article 5**

##### **GoG Response**

The Constitution of Georgia recognizes the right of association, as one of the main principles of a democratic society, in particular:

The first paragraph of Article 26 of the Constitution of Georgia provides: “Everyone shall have the right to form and to join public associations, including trade unions”.

The most important function of Article 26 of the Constitution of Georgia is ensuring the formation and functioning of the free social groups in a democratic society by the persons with the sense of civic responsibility.

Public Association is a voluntary union of persons, having common ideas and goals. Currently, there are many public associations in Georgia in the form of associations and unions, including the unregistered unions. For example, it can be professional and creative unions, women, veterans, children, cultural-educational, sport, religious and charitable public organizations.

The Constitution of Georgia, Article 26, Paragraph1 specially highlights the right to create the public association, among them trade unions and the right to join them. Although, trade union is the same as the social group in essence, the fact of clearly emphasizing them in the first paragraph of Article 26 of the legislation indicates the significance of the trade unions.

General constitutional fundamental principles of the Constitution of Georgia, Article 26 are amplified further in various legal acts according to their content and structure. The organic law Labour Code of Georgia, Law on Trade Unions and Organic Law on termination and banning the activities of public organizations, are particularly noteworthy. The major issues, related to the freedom of association, are reflected in these regulations.

The Law of Georgia on Trade Unions sets the legal basis, rights and working warranties for establishment of the trade unions and regulates:

- a) Social relations pertained to the establishment and implementation of the guarantees of the rights and activities of the trade unions;
- b) Relations of the trade unions, associations (federation) of the trade unions with the bodies of the state authority and local self-governing bodies, employers, associations (unions) of the employers, other voluntary associations, natural and legal persons.

Article 2 of this law affirms the right to establish the trade unions and to be united in them, recognized by the Constitution of Georgia and clarifies that “A trade union means a voluntary public association (organization) of persons (workers), linked by common production and professional interests by nature of their activities, whose objective is to protect and represent labour, socio-economic rights and interests.”

The right to create public association is a right of individuals and legal entities, including the legal entities of public laws, established and guaranteed by the legislation.

Due to the fact that foundation of public organizations and their activities do not have any public-state aim, the legislation allows any person to have an opportunity to found a union and participate in their activities. However, the benefit, protected by Article 26 of the Constitution of Georgia does not apply to corporations, which exist in the form of entrepreneurial public organizations.

Establishment and registration conditions for non-profit (non-commercial) legal entities are determined by the Civil Code of Georgia and the Law on Entrepreneurs of Georgia.

One of the sections of the Civil Code of Georgia – Legal Entity – Article 28 establishes the right of the registration of a legal person, namely, according to the paragraph 1 of the same Article - non-entrepreneurial (non-commercial) legal person, branch (representation) of the foreign non-entrepreneurial (non-commercial) legal person shall be registered at Registry of Entrepreneurial and non-entrepreneurial (non-commercial) legal persons. The Same Article, Paragraph 2 determines the registration authority of non-entrepreneurial (non-commercial) legal person - National Agency of Public Registry: registration of entrepreneurs and non-entrepreneurs (non-commercial) legal persons is carried out by the Legal Entity of Public Law – National Agency of Public Registry (hereinafter – registration authority) under the Ministry of Justice of Georgia.

The Civil Code, Article 29 establishes the conditions for registration of non-entrepreneurial (non-commercial) legal person, according to which, an interested party to found such legal person, shall submit an agreement of founders/members and the application, which shall contain the mandatory data, established for registration of entrepreneurial legal person by the Entrepreneurs Law of Georgia. In addition, in accordance with the Paragraph 2 of the same Article, the following shall be indicated:

- a. The purpose of non-entrepreneurial (non-commercial) legal person activity;
- b. The rules of accepting members of non-entrepreneurial (non-commercial) legal person, their resignation and exclusion, if it is a non-entrepreneurial (non-commercial) legal person, based on membership;

- c. Name of a decision-making body (person) on reorganization or liquidation, decision-making rules and procedure;
- d. The rule of creation (electing) the managerial body (manager) of non-entrepreneurial (non-commercial) legal person and the date of the authority;

According to the Civil Code, Article 29, Paragraph 3, the other rules for registration of a non-entrepreneurial (non-commercial) legal person is determined by Entrepreneurs Law and Law on Trade Unions.

Entrepreneurs Law of Georgia, Article 5 contains a detailed list of documents to be submitted for registering entrepreneurial legal persons, such as:

- Registration application, duly certified and signed by all partners of enterprise;
- The Management body and decision-making procedure of enterprise;
- Statute of enterprise;
- Minutes of the Constituent Assembly (or decision, if the founder is one) of enterprise;
- Samples of Signature(s) of person or persons, authorized to manage or represent enterprise;
- Legal address of enterprise;
- And others.

Law on Trade Unions, Article 2 determines the conditions, which are necessary for the establishment of the trade unions, namely:

Paragraph 1 determines the legal form of trade union and its goals – “A trade union means a voluntary public association (organization) of persons (workers), linked by common production and professional interests by nature of their activities, whose objective is to protect and represent labour, socio-economic rights and interests”.

Paragraph 3 of the designated law explains, where a trade union can be founded – “A trade union can be established at any enterprise, institution, organization and in other places of work”.

Paragraph 4 refers to the issue of forming the trade unions in defense, internal affairs, state security, tax, customs and judicial bodies – “The peculiar features of forming trade unions in the bodies of defense,

internal affairs, state security, in the tax, customs and judicial bodies and in the offices of public prosecutor, shall be prescribed by the legislation on these bodies”.

Paragraph 5 ascertains who can become a member of a trade union – “A person (worker), who reached the age of 15 years or over, engaged in labour activity or studying at higher educational, specialized secondary and vocational training institutions, shall be entitled to form trade unions and join the trade union, take part in trade union activities and leave freely the trade union. Temporary disabled persons and pensioners can continue to be members of a trade union”.

Therefore, the right to enjoy the constitutional right, established by the first paragraph of Article 26 of the Constitution of Georgia, is not necessarily connected with the capacity of a person. According to this paragraph of the Law on Trade Unions, such capacity arises from 15 years. This means that a worker, who is employed or studying at university, can set up a trade unions, join those unions and participate in their activities or leave the unions as a member.

According to the Civil Code of Georgia, Article 25, the capacity of a legal person shall arise from the moment of its registration, which includes the registration at registering authority – LEPL National Agency of Public Registry.

Acquisition of right of legal entity for employees’ and employers’ associations has a compulsory character.

The Law on Trade Unions, Article 2 directly determines the legal form of a trade union, according to which a trade union is a non-entrepreneur (non-commercial) legal entity, established according to the procedures, determined by the Constitution of Georgia.

Georgia undertook to carry out the provision of 87<sup>th</sup> Convention on Freedom of Association and Protection, by ratification of it in 1999. The changes were made in the following legislative acts during 2011-2014 in order to ensure the mentioned obligations:

The following was added to the Labour Code of Georgia, as a result of changes of June 12, 2013:

- New Chapter IX1–Freedom of Association–which regulates the right to association of employee and employer;

- New Section IV1 – Tripartite Social Partnership Commission, which explains the essence of the social partnership, which is a system of dialogue and relationship between social partners – employer (employers' association), employee (employees' association) and state authorities. Also, the composition and principles of activities of Tripartite Commission, rights and functions, aiming development of social partnership in the country, also supporting the social dialogue at all levels between employees, employers and the Government of Georgia;

Also, a new by-law has been adopted:

- The Order №01-43/N of the Minister of Labour, Health and Social Affairs of Georgia of December 6, 2013 on approval of the list of activities, related to the safety of human life and health, which establishes the limitation to the right to assembly for a certain category of persons, provided by Convention 87.

**In 2012 June 22 the Law on Trade Unions of Georgia, Article 2 and paragraph 9 was amended, which redefined the amount of persons, necessary for the establishment of trade unions. As a result of the amendments, at least 50 persons can initiate the formation of a trade union, instead of 100 persons.**

#### *Freedom to join or not to join a trade union*

As a result of the amendments of June 12, 2013, Chapter IX<sup>1</sup> on Freedom of Association was added to the Organic Law Labour Code of Georgia, which provides protection of employees from anti-union discrimination and prohibits the interference in each other's activities by employers and employees. The in Article 40<sup>1</sup> determines that "Employees and employers may form associations and/or join other associations without any preliminary permission", which means their free choice to establish an organization, freely determine its structure and composition. The same article indicates what is meant by interference with union activities and explains: "**For the purposes of this article, interfering in the activities of an association implies any act aimed at impeding the association activities through financial or other means for exercising control over it**" (Article 40<sup>3</sup>, Paragraph 2).

A new Article 40<sup>2</sup> – **Prohibition of Discrimination** was added to the code in the frameworks of the freedom of association, according to which, it shall be prohibited to discriminate against employees for being members of an employees association or for participating in the activities of a similar association, and/or to perform any other act aiming at:

- a) **Hiring** employees or retaining jobs for them in exchange for their refusal to join or for withdrawal from the employees association;

b) **Terminating** labour relations with or otherwise harassing employees for being members of an employees association or for participating in the activities of a similar association.

The burden of proof for the claim submitted in the case provided for by the above mentioned subparagraph (b) and/or in the claims, submitted on the basis of discrimination in labor and pre-contractual relations **shall lie with employers if employees allege the circumstances providing a reasonable cause to believe that employers acted in breach of the requirement(s) of non-discrimination.**

According to the amended Labour Code a collective agreement shall be concluded between one or more employers, or one or more employers' associations and one or more employees associations. (Article 41, Paragraph 1).The state or local self-government bodies shall not interfere in the process of concluding a collective agreement. An agreement concluded as a result of similar interference shall be void. (Article 41, Paragraph 6). Article 43 of the Code states that obligations under a collective agreement shall apply to the parties to the agreement. If a collective agreement is concluded between an employer and one or more employees associations and over 50 per cent of the above enterprise employees are members of the above one or more employees associations, then any other employee of the same enterprise may request the employer in writing that he/she also become a party to that collective agreement. An employer shall be obliged to grant the above written request within 30 calendar days after receiving it. The provisions of this paragraph shall not prohibit any other employees association with less than 50 per cent of the above 20 enterprise employees from separately negotiating with the employer and from concluding a separate collective agreement. (Article 43, Paragraph 7). Also the purpose of a collective agreement is explained in the Labour Code, according to which, a collective agreement shall:

- a. Establish labour conditions;
- b. Regulate relations between an employer and an employee;
- c. Regulate relations between one or more employers, or one or more employers' associations and one or more employees associations. (Article 41, Paragraph 2).

**This Article also establishes the obligations of the parties when one of the parties comes up with an initiative to conclude a collective agreement, the parties shall be obliged to bargain collectively in a good faith (Article 41, Paragraph 4).**

#### *Representatives*

**According to the Labour Code when concluding or terminating a collective agreement or changing its conditions, or for protecting the rights of employees, an employees association shall act through its representatives.** Representation shall be confirmed by a written power of attorney signed by the employees

concerned and by the person vested with the right of representation. A representative may be any legally capable natural person and shall act in the interests of only the employees who granted him/her the right of representation.

#### *Personal scope*

The right to association of persons, belonging to the armed forces and police, are regulated differently. In spite of the fact that everyone has a right to form and join the public associations, among them the trade unions according to the Constitution of Georgia, Article 1, Paragraph 5 of the same Article establishes: "A person who is enrolled in the personnel of the armed forces or the forces of the bodies of internal affairs or a person having been designated as a judge or a prosecutor shall cease his/her membership of any political association."

The Law on the Status of Military Servant, Article 5, Paragraph 1 provides a right of a military servant to participate in the activities of non-entrepreneur (non-commercial) legal persons, though Paragraph 2 of the same Article prohibits military servant's organization or/and participation in assemblies and manifestations.

As for the police, Police Law of Georgia, Article 36, Paragraph 2 establishes that a police officer may not go on strike or participate in meetings and demonstrations.

Considering the Labour Code of Georgia, Articles 50 and 51 and the Order №01-43/N of the Minister of Labour, Health and Social Affairs of Georgia of December 6, 2013 on approval of the list of activities, related to the safety of human life and health, in services, providing national defense, law and order, among them at the institutions of the Ministry of Defense and Ministry of Internal Affairs of Georgia, issued on the basis of Article 54, application of the right to strike is forbidden.

### **Article 6 – The right 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§2**

#### **GoG Response**

Article 41 of the chapter “Collective Labour Agreement” determines the parties of a collective agreement, content, rights and duties of the parties, providing bargain in good faith in the case of initiating a collective agreement by one of the parties (Article 41, paragraph 4), which means voluntary, real, not apparent effort to negotiate and reach the desired result – conclude a collective agreement.

By paragraph 5 of the same Article, the law establishes obligations of the parties, concerning the principle of confidentiality in the process of negotiations. Namely, “When bargaining collectively, the parties shall provide each other with information on the issue(s) of the bargain. A party may not give the other party confidential information but when providing confidential and/or other information, the party may require keeping the information confidential” (Article 41, Paragraph 5).

Also, the legislation prohibits interfere of governmental bodies in the process of concluding a collective agreement and establishes that “The state or local self-government bodies shall not interfere in the process of concluding a collective agreement. An agreement concluded as a result of similar interference shall be void” (Article 41, Paragraph 6).

According to the Labour Code a collective agreement shall be concluded only in writing and shall be fixed-term and open-ended. A fixed-term collective agreement must contain its effective and expiry dates. As for an open-ended collective agreement must contain clauses for its revision, modification, and termination.

Existence of a collective agreement shall not limit employers' or employees' right to terminate labour relations. That fact shall not entail termination of labour relations with other employees being parties to the same agreement. Obligations under a collective agreement shall apply to the parties to the agreement. If a

collective agreement is concluded between an employer and one or more employees associations and over 50 per cent of the above enterprise employees are members of the above one or more employees associations, then any other employee of the same enterprise may request the employer in writing that he/she also become a party to that collective agreement. An employer shall be obliged to grant the above written request within 30 calendar days after receiving it. The provisions of this paragraph shall not prohibit any other employees association with less than 50 per cent of the above enterprise employees from separately negotiating with the employer and from concluding a separate collective agreement. Provisions of a collective agreement shall be an integral part of individual labour agreements of employees under this agreement.

## **Article 6§4**

### **GoG Response**

According to the Constitution of Georgia the right to strike shall be recognized. Also Article 33 of the Constitution states law shall determine the procedure for exercising this right and establish the guarantees for the activity of offices of vital importance.

According to the Labour Code Article 49 no lockout may last for more than 90 calendar day. Hence, the new Code does not limit the duration of a strike.

During individual disputes the parties shall notify each other 3 calendar days prior to the strike or lockout about the time, place and character of the strike, and during the collective dispute, the parties shall notify each other and the Minister of Labour, Health and Social Affairs in written form 3 calendar days prior to the strike or lockout about the time, place and character of the strike. During the strike, the parties are obliged to continue with the conciliatory procedures. According to the Code, the strike is not grounds for termination of labor relations

The right to strike, determined by Article 51, Paragraph 5 of the Labour Code of Georgia, according to which "The right to strike cannot be exercised during working process by the employees whose work activity is connected with safety of human life and health, or if the activity cannot be suspended due to the type of a technological process", is specified by the Order №01-43/N of December 6, 2013 of the Minister of Labour, Health and Social Affairs of Georgia "on approval of the list of work activities, connected with the safety of

human life and health". The mentioned order includes a list of activities, on which ones it is prohibited to use the right to strike during the working process.

According to the mentioned Order, the activities, connected with the safety of human life and health include:

- a) Working at emergency medical service;
- b) Working at inpatient facilities or/and emergency services of outpatient facilities;
- c) Working in a system of electricity generation, distribution, transmission and dispatch;
- d) Working in the sector of water supply and sanitation;
- e) Working in the field of telecommunication;
- f) Working in the sector of safety provision in aviation, railway, maritime and land transport;
- g) Working in services providing national defense, legality and order, including:
  - g.a) Working at the Ministry of Defense of Georgia and its institutions;
  - g.b) Working at the Ministry of Internal Affairs and its institutions;
  - g.c) Working at the Ministry of Connections and Legal Assistance of Georgia and its institutions;
- h) Working in juridical authority;
- i) Working in cleaning municipal services;
- j) Working in fire safety and rescue services;
- k) Working in the field of transportation and distribution of natural gas;
- l) Working in the field of oil and gas extraction, production, oil refining and gas processing.

As a result of the amendments to the Labour Code of Georgia, paragraphs 4 and 5 of the Article 51 have been withdrawn and currently the Article 51 reads as follows:

***Article 51 - Illegal strike and lockout***

1. During martial law, the right to strike or lockout may be limited by decree of the President of Georgia. During a state of emergency, the right to strike or lockout may be limited by decree of the President of Georgia requiring the countersignature of the Prime Minister of Georgia.
2. The right to strike cannot be exercised during working process by the employees whose work activity is connected with safety of human life and health, or if the activity cannot be suspended due to the type of a technological process.
3. If one of the parties has avoided participating in conciliation procedures or has staged a strike or a lockout, the strike or the lockout shall be deemed illegal.

4. (Deleted – 12.6.2013, No 729).
5. (Deleted – 12.6.2013, No 729).
6. The court shall make a decision to declare a strike or a lockout illegal that shall be promptly notified to the parties involved. A court decision on declaring a strike or a lockout illegal shall be executed without delay.

## **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:

- 1to 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;
- 2to 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§2**

#### **GoG Response**

Georgian legislation forbids the sexual harassment according to the Article 137, 138, 139 of the Georgian Criminal Law (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 relation to work. The designated crime committed in the labour relations is settled by above mentioned articles of the Georgian Criminal Law.

1. 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. In case of sexual harassment, the plaintiff can submit a claim in the Court. If the defendant is founded guilty the plaintiff is entitled to submit a new claim for reparation of moral damages as well as reinstatement 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.

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 considers the moral harassment aspects.

According the law on public service an official or institution who/which has the right to appoint a civil servant on the position, may impose the following disciplinary sanctions against him/her for disciplinary offences:

- a) notice;
- b) warning;
- c) detention of the salary for not more than ten working days;
- d) suspension from working duty and the salary payment for not more than ten working days;
- e) transferring to a lower level remuneration , not exceeding one year;
- f) dismissal on the basis of the law on public service;

The sexual harassment may be considered as the one of the disciplinary offence varieties'.