

# NEEDS ASSESSMENT REPORT ON SOCIAL RIGHTS IN GEORGIA FROM THE PERSPECTIVE OF WIDENING THE SCOPE OF RATIFICATION OF THE EUROPEAN SOCIAL CHARTER



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Conducted within the Framework of the Council of Europe Project  
*"Further Enhancement of Social and Economic Rights in Georgia"*

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## INTRODUCTION

Georgia ratified the Revised European Social Charter (hereinafter, “the Charter” or “ESC”) on 22 August 2005, accepting 63 of the Charter’s 98 paragraphs. It has not yet ratified the Additional Protocol providing for a system of Collective Complaints.

No further ratifications have taken place since 2005. However, in 2016-2017, the social partners engaged in discussions within the Tripartite Social Partnership Commission (TSPC) on the possibility of ratifying previously unaccepted provisions. At the meeting of the TSPC held on 10 February 2017, social partners unanimously agreed to ratify 10 provisions: 2§3, 3§1, 3§2, 3§4, 8§2, 9, 10§1, 10§3, 15§1, and 17§2. Despite the agreement, ratification was postponed due to internal disagreements within the government.

The discussion on this issue resumed in October 2023 during a roundtable organised within the framework of the Council of Europe Project “Strengthening Protection of Social and Economic Rights in Georgia”. During this discussion, relevant stakeholders acknowledged the need for a comprehensive analysis of preselected provisions to evaluate the country’s readiness for their ratification. As part of its ongoing efforts to promote the acceptance of non-accepted provisions, the Council of Europe Project “Further Enhancement of Social and Economic Rights in Georgia” (hereinafter, the “Project”), undertook the development of the present analysis.

Additionally, at the meeting of the TSPC on 15 December 2023, the social partners decided to establish a working group to further discuss the ratification process. Subsequently, in consultation with the relevant state authorities, the Project selected 18 provisions (2§3, 2§4, 2§6, 3§1, 3§2, 3§3, 3§4, 8§1, 8§2, 9§1, 10§1, 10§3, 10§5, 15§1, 17§2, 21, 22, 24) for the assessment and recommendations. These provisions were derived from the decision of the TSPC of 17 February 2017 and the third report of the European Committee of Social Rights (hereinafter also referred to as “ECSR” or the “Committee”) on the non-accepted provisions of the ESC, which identified provisions where major obstacles for the ratification had not been observed. Furthermore, at the request of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, Article 23 of the ESC was included within the scope of the assessment.

The goal of this assessment is to evaluate the country’s readiness for ratification of selected 19 provisions of the ESC. The document provides a comprehensive analysis of the current situation on the ground vis-à-vis the standards of the ESC, and makes specific recommendations on the feasibility and implications of ratifying each provision. Therefore, the assessment is intended to serve as a strategic roadmap for state authorities, guiding them in the ratification process and ensuring an evidence-based approach to decision-making.

## SUBSTANTIVE AREAS OF CONCERN

### ARTICLE 2 § 3 – THE RIGHT TO JUST CONDITIONS OF WORK: ANNUAL HOLIDAY WITH PAY

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia and recommended acceptance of Article 2§3 ESC. It, however, requested more information with regard to the required two weeks of uninterrupted annual holiday per year and the treatment of illness or injury during the annual holiday.

While assessing the situation in the country from the perspective of its compliance with Article 2§3 ESC, the ECSR takes into consideration especially the aspects discussed below.

#### 1. ARTICLE 2§3 ESC GUARANTEES THE RIGHT TO A MINIMUM OF FOUR WEEKS (OR 20 WORKING DAYS) ANNUAL PAID HOLIDAY.

##### Article 31 Labour Code – Duration of leave

1. An employee shall have the right to enjoy paid leave of at least 24 working days annually.
4. An employment agreement may define terms and conditions different from those provided for by this article. Such terms and conditions shall not worsen the condition of an employee.
6. A term in an employment agreement that either denies or ignores the right to enjoy paid leave annually shall be void.

##### Article 62 Civil Service Law

1. Annual paid vacation in the amount of 24 working days is established for the civil servant, except for the exceptions provided for in paragraph 11 of this article.
- 1(1). To the employee of the Ministry of Defence of Georgia:
  - a) After the expiration of the rotation period in the peacekeeping operation and return to Georgia, an additional paid vacation in the amount of 30 calendar days is given;

b) When participating in martial law and/or state of emergency or emergency measures, additional paid leave of no more than 15 calendar days is given once after their completion.

1(2). The conditions specified in paragraphs 2-4 of the same article do not apply to the case provided for in paragraph 1(1) of this article.

*\* Pursuant to Article 32(1) Labour Code, "An employee shall have the right to request leave after having worked for 11 months. By agreement between the parties, an employee may be granted leave even before the said period elapses" and pursuant to Article 62(2) of the Law on Civil Service (hereinafter, the "Civil Service Law"), "The employee's right to request vacation starts after 11 months from the appointment to the position".*

*The provisions do not violate the Charter's standards and are acceptable in the light of ECSR's Conclusions I (1969)<sup>3</sup> Statement of interpretation on Article 2§3 ESC according to which "The taking of annual holiday may be subject to the requirement that the twelve working months for which it is due have fully elapsed."*

- 2. UNDER ARTICLE 2§3 ESC, ANNUAL LEAVE MAY NOT BE REPLACED BY FINANCIAL COMPENSATION AND EMPLOYEES MUST NOT HAVE THE OPTION OF GIVING UP THEIR ANNUAL LEAVE.**

#### **ARTICLE 31 LABOUR CODE – DURATION OF LEAVE**

6. A term in an employment agreement that either denies or ignores the right to enjoy paid leave annually shall be void.

*There are no provisions in the Georgian Labour Code and in the Civil Service Law directly establishing that annual leave may not be replaced by financial compensation and that employees must not have the option of giving up their annual leave.*

*The established practises, however, seem to respect such a rule.*

- 3. UNDER ARTICLE 2§3 ESC, AT LEAST TWO WEEKS OF UNINTERRUPTED ANNUAL HOLIDAYS MUST BE USED DURING THE YEAR IN WHICH THE HOLIDAY IS DUE. ANNUAL HOLIDAYS EXCEEDING TWO WEEKS MAY BE POSTPONED IN PARTICULAR CIRCUMSTANCES DEFINED BY DOMESTIC LAW, THE NATURE OF WHICH SHOULD JUSTIFY THE POSTPONEMENT.**

#### **Article 32 Labour Code - Procedure for granting leave**

3. By agreement between the parties, an employee may use leave in parts.

#### **Article 35 Labour Code – Exceptional cases of carrying over paid leave**

1. If granting an employee paid leave for the current year may have a negative impact on the normal course of the work process, the leave may be carried over to the next year with the consent of the employee. A minor's paid leave shall not be carried over to the next year.
2. Paid leave shall not be carried over for two consecutive years.

#### **Article 62 Civil Service Law**

3. The civil servant has the right to partially use the vacations provided for in paragraphs 1 and 5 of this article.

*\* It should be noted that Article 2§3 ESC is supplemented by Article 7§3 ESC (accepted by Georgia) pursuant to which, in order not to deprive children of the full benefit of their education, States Parties must provide for a mandatory and uninterrupted period of rest during school holidays.<sup>4</sup> The assessment of compliance over the school year takes account of the length and distribution of holidays, the timing of uninterrupted periods of rest, the nature and length light work and the effectiveness of the Labour Inspection Service. The duration of the mandatory and uninterrupted period of rest shall not be less than two consecutive weeks during the summer holidays.<sup>5</sup>*

<sup>3</sup> See more at: <https://www.coe.int/en/web/european-social-charter/statements-of-interpretation1#%7B%22263561827%22%3A%5B%22263569639%22%3A%5B%22%22%7D%7D>, accessed 5 September 2024.

<sup>4</sup> Conclusions XVII-2 (2005), The Netherlands.

<sup>5</sup> Conclusions 2011, Statement of Interpretation on Article 7§3.

4. **WORKERS WHO SUFFER FROM ILLNESS OR INJURY DURING THEIR ANNUAL LEAVE ARE ENTITLED TO TAKE THE DAYS LOST AT ANOTHER TIME SO THAT THEY RECEIVE THE FOUR WEEKS' ANNUAL LEAVE PROVIDED FOR UNDER THIS PARAGRAPH, POSSIBLY UNDER THE CONDITION OF PRODUCING A MEDICAL CERTIFICATE.**

#### **Article 32 Labour Code – Procedure for granting leave**

4. Leave shall not include a period of temporary incapacity for work, maternity or parental leave, newborn adoption leave, or additional parental leave.

#### **Civil Service Law**

There are no provisions in the Civil Service Law directly establishing that civil servants suffering from illness or injuries during their annual leave can take the lost days at another time.

The established practises in civil service, however, seem to respect such a rule.

**Orders of the Minister of Labour N87/N and 281/N regulate the procedure for conducting a temporary incapacity for work examination and issuing a hospital certificate.**

**Article 1 of Resolution N87/N by the Minister of Labour “On approving the rules of deciding and issuing assistance due to temporary incapacity to work” provides that the Resolution is applicable to both the employees defined by the Labour Code of Georgia and defined by the Law of Georgia “On Public Service”. Article 4(6) of the Resolution, provides that in case of temporary incapacity for work while on vacation, incapacity benefit is granted for the entire period of temporary incapacity. In such a case, the days of leave covered by the incapacity for work due to illness, in a number equal to the number of days on which the incapacity for work falls, will be carried forward to a later period.**

ANALYSIS: Under Article 2§3 ESC, legislation and practice are assessed by the Committee.

1. In terms of Georgian legislation:
  - a. 24 working days of annual holiday with pay are guaranteed for both – employees and civil servants - **which complies with the standards of Article 2§3 ESC;**
  - b. there are no provisions directly establishing that annual leave may not be replaced by financial compensation – **which does not comply with the standards of Article 2§3 ESC. Therefore, amendments to both the Labour Code and the Civil Service Law shall be suggested to introduce this rule; the provision of Article 31§6 Labour Code pursuant to which “a term in an employment agreement that either denies or ignores the right to enjoy paid leave annually shall be void” does not guarantee the effect demanded under Article 2§3 ESC as it only prohibits concluding particular terms in the employment contract. However, what shall be added is the protection against providing compensation for unused leave (instead of using the leave as granted by the law and the employment contract), even with the employee’s consent or at the employee’s request.**
  - c. there are no provisions directly establishing that employees must not have the option of giving up their annual leave – **which does not comply with the standards of Article 2§3 ESC, so amendments to both the Labour Code and the Civil Service Law shall be suggested to introduce this rule;**
  - d. there are no provisions directly establishing that at least two weeks of uninterrupted annual leave must be used during the year in which the leave is due, which applies to adult employees and civil servants; this rule is guaranteed only to minors – **which does not comply with the standards of Article 2§3 ESC, so amendments to both the Labour Code and the Civil Service Law shall be suggested to introduce this rule;**
  - e. employees who suffer from illness or injury during their annual leave are entitled to take the days lost at another time so that they receive the four weeks’ annual holiday - **which complies with the standards of Article 2§3 ESC;**
  - f. there are no provisions directly establishing that civil servants who suffer from illness or injury during their annual leave are entitled to take the days lost at another time so that they receive the four weeks’ annual holiday – **which does not comply with the standards of Article 2§3 ESC, so an amendment to the Civil Service Law shall be suggested to introduce this rule.**
2. In terms of practise:
  - g. the established practises seem to respect the standards under Article 2§3 ESC.

**CONCLUSION:** The acceptance of Article 2§3 ESC is recommended as no major obstacles have been identified, however several amendments to both the Labour Code and the Civil Service Law is advised to fully adjust Georgian legislation to the Charter’s standards.

**GENDER MAINSTREAMING:** The existing legislation and the proposed amendments take into account both women’s and men’s interests and concerns.

## ARTICLE 2§4 ESC - ELIMINATION OF RISKS IN DANGEROUS OR UNHEALTHY OCCUPATIONS

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR, having regard to the fact that Georgia has accepted Article 11 of the Charter, gave a positive assessment of the situation in Georgia and recommended acceptance of Article 2§4 ESC.

From the perspective of the content it shall be noted that Article 2§4 ESC is divided into two parts, the first requiring States Parties to take the necessary measures to eliminate risks in inherently dangerous or unhealthy occupations and the second requiring them to provide for compensation in the event of residual risks.

While assessing the situation in the country from the perspective of its compliance with Article 2§4 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **NATIONAL LEGISLATURE HAS A CERTAIN MARGIN OF APPRECIATION WITH REGARDS TO THE CHOICE OF OCCUPATIONS TO BE CLASSIFIED AS DANGEROUS OR UNHEALTHY.<sup>6</sup> HOWEVER, SOME SECTORS AND OCCUPATIONS MUST BE DEEMED DANGEROUS OR UNHEALTHY, SUCH AS MINING, QUARRYING, STEEL MAKING AND SHIPBUILDING, AND OCCUPATIONS EXPOSING EMPLOYEES TO IONISING RADIATION, EXTREME TEMPERATURES AND NOISE.**

**The Order of the Minister of Labour, Health and Social Protection of Georgia No. 147/N, dated 3 May 2007**, lists heavy, harmful, and hazardous occupations. Its annex no. 1 enumerates professions deemed heavy, harmful, and dangerous. Additionally, appendix no. 2 provides a hygienic classification of working conditions, offering methodologies for determining the levels of harmfulness and specifying permissible indicators such as noise, ionizing radiation, and temperature. This appendix serves as a guide for assessing occupational risks and ensuring workplace safety.

**The Order of the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs No. 01-20/N, dated 14 February 2020**, provides definitions for work that is harmful and/or poses a special risk to the health of pregnant and breastfeeding women as well as women with newborns. It establishes factors, agents, and describes work processes that may have a negative impact on the health and development of pregnant and breastfeeding women as well as women with newborns, as well as on the health and development of the foetus and child.

**The Order of the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs No. 01-126/N, dated 30 November 2020**, "On Approving the List of Heavy, Harmful and Hazardous Occupations for Persons Under 18" establishes a comprehensive list of roles deemed heavy, harmful and hazardous, which are prohibited for individuals under the age of 18. Alongside this prohibition, the order provides recommendations and delineates the obligations of employers regarding the employment of minors. Furthermore, it outlines the procedure for conducting medical examinations and implementing training programmes for individuals under 18 years of age who are engaged in specific sectors of the economy.

**The Government Resolution No. 381, dated 27 July 2018**, on approving the list of heavy, harmful, and hazardous works, outlines specific types of work that are considered to pose significant risks to workers' health and safety.

2. **ARTICLE 2§4 ESC REQUIRES STATES PARTIES TO ELIMINATE RISKS IN INHERENTLY DANGEROUS OR UNHEALTHY OCCUPATIONS. IT IS CLOSELY LINKED TO ARTICLE 3§2 OF THE CHARTER, UNDER WHICH STATES PARTIES UNDERTAKE TO PURSUE POLICIES AND TAKE MEASURES TO IMPROVE OCCUPATIONAL HEALTH AND SAFETY. WHERE ELIMINATION OF RISKS IS NOT POSSIBLE OR WHERE RISKS HAVE NOT BEEN REDUCED OR ELIMINATED, ARTICLE 2§4 ESC MENTIONS TWO FORMS OF COMPENSATION, NAMELY REDUCED DAILY WORKING HOURS AND ADDITIONAL PAID HOLIDAYS.<sup>7</sup>**

### Article 31 Labour Code – Duration of leave

3. An employee shall be granted an additional paid leave:
  - a) for working under heavy, harmful, or hazardous labour conditions – 10 calendar days in a year;Georgian legislation does not envisage reduced daily working hours in case risk elimination is not possible or where risks have not been reduced or eliminated.

ANALYSIS: Under Article 2§4 ESC, mainly legislation is assessed by the Committee.

1. In terms of Georgian legislation:

<sup>6</sup> ECSR, Conclusions II (1971), Statement of Interpretation on Article 2§4; Conclusions XIV-2 (1998), Norway; STTK ry and Tehy ry v. Finland, Complaint No. 10/2000, decision on the merits of 17 October 2001, §27; Conclusions 2018, Bosnia and Herzegovina.

<sup>7</sup> Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §236.

- a. dangerous or unhealthy occupations have been listed in a regulatory act, the choice is in line with the ESC standards - **which complies with the standards of Article 2§4 ESC;**
- b. there is a provision directly establishing that an employee shall be granted an additional paid leave for work performed under arduous, harmful, or hazardous working conditions – 10 calendar days per year – **which complies with the standards of Article 2§4 ESC.**

**CONCLUSION:** Taking into account the Committee's assessment concerning both Article 2§4 and Article 3§2 of the Charter and having regard to the fact that Georgia has accepted Article 11 of the Charter, the acceptance of Article 2§4 of the Charter is recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation and the proposed amendments take into account both women's and men's interests and concerns.

## ARTICLE 2§6 ESC - WRITTEN INFORMATION ON EMPLOYMENT CONTRACTS

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR, having regard to the fact that Georgia has accepted Article 11 of the Charter, gave a positive assessment of the situation in Georgia and recommended acceptance of Article 2§6 of the Charter.

While assessing the situation in the country from the perspective of its compliance with Article 2§6 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. THE INFORMATION CAN BE INCLUDED IN THE EMPLOYMENT CONTRACT OR ANY OTHER MANDATORY DOCUMENTS GIVEN TO WORKERS UPON RECRUITMENT.<sup>8</sup> THIS INFORMATION MUST AT LEAST COVER ESSENTIAL ASPECTS OF THE EMPLOYMENT RELATIONSHIP OR CONTRACT, I.E. THE FOLLOWING:
  - the identities of the parties;
  - the place of work;
  - the date of commencement of the contract or employment relationship;
  - in the case of a temporary contract or employment relationship, the expected duration thereof;
  - the amount of paid leave;
  - the length of the periods of notice in case of termination of the contract or the employment relationship;
  - the remuneration;
  - the length of the employee's normal working day or week;
  - where appropriate, a reference to the collective agreements governing the employee's conditions of work.

### Article 12 Labour Code - Conclusion of employment agreements

1. An employment agreement may be oral or written, fixed-term or open-ended.
2. An employment agreement shall be concluded in writing if labour relations last longer than one month.

### Article 14 Labour Code – Content of employment agreements

1. The essential terms of an employment agreement shall be:
  - a. information on the parties to the employment agreement;
  - b. the employment commencement date and the duration of labour relations;
  - c. the working time and rest periods;
  - d. the place of work, and information on the different places of work of the employee if his/her regular or primary places of work are not determined;

### Article 80 – Content of agreements under public law entered into for the recruitment for public service

1. An agreement under public law entered into for the recruitment of persons for public service shall contain a detailed description of powers under public law to be exercised by them. The description shall correspond to the specific nature of the activities of the given public institution.
2. The standard forms of an agreement under public law defined in Article 78(1) of this Law shall be approved by the Government of Georgia.
3. Articles 27(2), 51, 55, 56, 57(1), 58, 60-62, 64, 66-68, 70-76 and 77(3) and Chapter X of this Law, as well as Articles 9, 31(5), 55-57, 61, 63-69, 75-78 and 80 of the Organic Law of Georgia – the Labour Code of Georgia, shall apply to persons employed on the basis of an agreement under public law.

<sup>8</sup> Conclusions 2014, Republic of Moldova; Conclusions 2018, Ukraine.



- e. the post (where applicable, with an indication of a rank, a grade, a category, etc.), the type and description of work to be performed;
  - f. the remuneration (with an indication of a salary and, where applicable, an increment), and the procedure for the payment thereof;
  - g. the procedure for compensating overtime work;
  - h. the duration of paid and unpaid leave and the procedure for granting said leave;
  - i. the procedure for the termination of labour relations by the employer and the employee;
  - j. the provisions of a collective agreement, provided that the employment conditions of employees are regulated differently under said provisions.
2. Upon the request of an employee, an employer shall issue a certificate of employment. A certificate of employment shall contain the details of the work performed, the remuneration, and the duration of the employment agreement.

#### **Article 81 Civil Service Law – Form and duration of agreements under public law concluded for the recruitment for public service**

1. An agreement under public law shall be made only in written form, in compliance with the procedures determined by the General Administrative Code of Georgia.

**ANALYSIS:** Under Article 2§6 ESC, mainly legislation is assessed by the Committee.

1. In terms of Georgian legislation:
  - a. both the Labour Code and the Civil Service Law require that the employment and civil service contract be in writing and contain the information on employment as listed in the respective provisions, which means that the scope of the information required is in line with the ESC standards - **which complies with the standards of Article 2§6 of the ESC.**

**CONCLUSION:** The acceptance of Article 2§6 ESC is strongly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns.

### **ARTICLE 3§1 ESC - HEALTH AND SAFETY AND THE WORKING ENVIRONMENT**

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR, having regard to the fact that Georgia has accepted Article 11 of the Charter, gave a positive assessment of the situation in Georgia and recommended acceptance of Article 3§1 of the Charter.

While assessing the situation in the country from the perspective of its compliance with Article 3§1 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **THE MAIN POLICY OBJECTIVE MUST BE TO FOSTER AND PRESERVE A CULTURE OF PREVENTION IN RESPECT OF OCCUPATIONAL HEALTH AND SAFETY AT NATIONAL LEVEL.<sup>9</sup> OCCUPATIONAL RISK PREVENTION MUST BE A PRIORITY. IT MUST BE INCORPORATED INTO THE PUBLIC AUTHORITIES' ACTIVITIES AT ALL LEVELS AND IN ALL AREAS, FOR EXAMPLE IN RESPECT OF EMPLOYMENT, DISABILITY, EQUAL OPPORTUNITIES AND GENDER.<sup>10</sup>**

The National Strategy for Labour and Employment Policy 2024-2027 has been drafted and adoption procedures are currently underway. The document covers all areas of labour and employment policy. The Strategy was discussed and endorsed by social partners during the Meeting of the Tripartite Social Partnership Commission held on 15 December 2023.

<sup>9</sup> Conclusions 2009, Armenia.

<sup>10</sup> Conclusions 2005, Lithuania; Conclusions 2009, Armenia.

**The Strategy's priorities include:**

1. Enhancing and broadening active labour market policies and employment services for all individuals.
2. Fostering the development of human capital and productivity across all stages of life.
3. Enhancing the enforcement system to protect the rights of employees, ensuring equitable employment and enhancing working conditions for all individuals.
4. Promoting gender equality within the labour market.

**The primary objectives of the strategy are as follows:**

Objective 1: Minimizing the gap between demand and supply in the labour market.

Objective 2: Reinforcing active labour market policies (ALMP).

Objective 3: Facilitating the inclusion of vulnerable groups and those with diverse needs in the labour market.

Objective 4: Enhancing the enforcement system to ensure compliance with labour standards.

Objective 5: Implementing effective management of labour migration (both emigration and immigration).

2. **WHEN DEVISING AND IMPLEMENTING NATIONAL POLICIES AND STRATEGIES CHOSEN BY THE RELEVANT AUTHORITIES, CONSULTATION WITH EMPLOYERS' AND WORKERS' ORGANISATIONS MUST TAKE PLACE AT NATIONAL, SECTORAL AND COMPANY LEVEL.**

Social partners are actively involved in the development of an occupational safety policy in the form of the Tripartite Social Partnership Commission and working groups. Article 16 of the Law of Georgia on Occupational Safety specifies the procedures for the development of the occupational health and safety policy, emphasizing the active engagement of social partners throughout the process, e.g. technical regulations to occupational health and safety were discussed within the Tripartite Social Partnership Commission; besides, the Labour Market and Employment Strategy was also endorsed by the Commission.

**ANALYSIS:** Under Article 3§1 ESC mainly practice is assessed by the Committee.

1. In terms of Georgian practice:

- a) fostering and preserving a culture of prevention in respect of occupational health and safety at national level is one of the main policy objectives - **which complies with the standards of Article 3§1 ESC;**
- b) social partners are actively involved in the development of an occupational safety policy in the form of the Tripartite Social Partnership Commission and working groups - **which complies with the standards of Article 3§1 ESC.**

**CONCLUSION:** The acceptance of Article 3§1 ESC is strongly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns.

## ARTICLE 3§2 ESC - HEALTH AND SAFETY REGULATIONS

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR, having regard to the fact that Georgia has accepted Article 11 of the Charter, gave a positive assessment of the situation in Georgia and recommended acceptance of Article 3§2 ESC.

While assessing the situation in the country from the perspective of its compliance with Article 3§2 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **UNDER ARTICLE 3§2 ESC, THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS IMPLIES THE ISSUANCE OF HEALTH AND SAFETY REGULATIONS PROVIDING FOR PREVENTIVE AND PROTECTIVE MEASURES AGAINST WORKPLACE RISKS RECOGNISED BY THE SCIENTIFIC COMMUNITY AND LAID DOWN IN INTERNATIONAL REGULATIONS AND STANDARDS.<sup>11</sup>**

The Georgian Law on Occupational Safety was adopted in 2018, amended in 2019 and given the status of an organic law. The purpose of this law is to determine the main requirements and key principles of preventive measures related to occupational safety, existing and expected threats, ways to avoid occupational accidents and diseases, training of employees and provision of information and consultations to them, and equal participation of employees in issues related to health protection. In addition, two resolutions of the

<sup>11</sup> Conclusions 2005, Lithuania; Conclusions 2009, Armenia.



Government of Georgia and six decrees of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia were adopted to ensure safe and healthy working conditions.

In the years 2022-2023, the Government of Georgia developed and subsequently approved four technical regulations. These regulations were drafted in alignment with the standards set forth by five European directives: 89/654/EEC, 89/656/EEC, 90/270/EEC, 90/269/EEC, and 92/58/EEC.

2. **ALL WORKERS, ALL WORKPLACES AND ALL SECTORS OF ACTIVITY MUST BE COVERED BY OCCUPATIONAL HEALTH AND SAFETY REGULATIONS<sup>12</sup>, INCLUDING SELF-EMPLOYED PERSONS, ESPECIALLY AS THE LATTER ARE OFTEN EMPLOYED IN HIGH-RISK SECTORS<sup>13</sup>.**

The Georgian Law on Occupational Safety covers all sectors of the economy.

Pursuant to Article 2, the law shall apply, in the field of labour safety, to all areas of economic activity, including the labour relations as determined by the Organic Law the Labour Code and the Civil Service Law.

3. **REGULATIONS MUST BE DRAWN UP IN CONSULTATION WITH EMPLOYERS' AND WORKERS' ORGANISATIONS.**

Social partners are actively involved in the development of occupational safety policy in the form of the Tripartite Social Partnership Commission and working groups. The Tripartite Social Partnership Commission, operating at the national level, addresses various issues, including those concerning occupational health and safety. One of its key functions involves the preparation of draft legislative acts (i.e. Law on Occupational Health and Safety).

Additionally, the Tripartite Social Partnership Commission established a working group to address a range of issues, including those related to occupational health and safety. This working group is tasked with discussing matters such as the development of by-laws outlined in the draft of the Law of Georgia on Occupational Health and Safety. Comprising representatives from all three stakeholders - government, employers, and workers - the working group may also invite specialists in the field as needed to contribute expertise to these discussions.

Moreover, to facilitate the alignment of Georgian legislation with European Directives outlined in Annex XXX of the Association Agreement on Occupational Health and Safety at the workplace, the working group was convened as part of the European Union Twinning project. This collaborative effort involves the participation of social partners, representatives from state agencies, and specialized professionals in the field. Over the course of 2022-2023, this working group has successfully developed and received approval from the Government of Georgia for four technical regulations. These regulations are based on the standards set forth in five European directives (89/654/EEC, 89/656/EEC, 90/270/EEC, 90/269/EEC, 92/58/EEC), ensuring the harmonization of Georgian practises with European norms concerning workplace health and safety.

Social partners, along with a representative from the Public Defender's Office, are included in the Advisory Council of the Chief Inspector of the Labour Inspection Office. This advisory board comprises seven members in total, with two representatives from the employers' and two representatives from the workers' side.

**ANALYSIS:** Under Article 3§2 ESC, mainly legislation is assessed by the Committee.

1. In terms of Georgian legislation:
  - a) Occupational health and safety determines the main requirements and key principles of preventive measures related to occupational safety, existing and expected hazards, ways of preventing occupational accidents and diseases, training of employees and the provision of information and consultation to them, and equal participation of employees in issues related to health protection - **which complies with the standards of Article 3§2 ESC;**
  - b) Occupational health and safety applies to all areas of economic activity, including the labour relations as determined by the Organic Law the Labour Code and the Civil Service Law - **which complies with the standards of Article 3§2 ESC;**
  - c) social partners are actively involved in the development of occupational safety policy in the form of the Tripartite Social Partnership Commission and working groups - **which complies with the standards of Article 3§2 ESC.**

**CONCLUSION:** The acceptance of Article 3§2 ESC is strongly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and

<sup>12</sup> Conclusions II (1971), Statement of Interpretation on Article 3§2 (i.e. on Article 3§1 of the 1961 Charter).

<sup>13</sup> Conclusions 2005, Estonia.

concerns.

## ARTICLE 3§3 ESC - ENFORCEMENT OF SAFETY AND HEALTH REGULATIONS

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR, having regard to the fact that Georgia has accepted Article 11 of the Charter, gave a positive assessment of the situation in Georgia and recommended acceptance of Article 3§3 of the Charter.

While assessing the situation in the country from the perspective of its compliance with Article 3§3 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **THE ENFORCEMENT OF HEALTH AND SAFETY REGULATIONS BY MEASURES OF SUPERVISION IS CARRIED OUT IN LIGHT OF PART III ARTICLE A§4 OF THE CHARTER, WHEREBY STATES PARTIES SHALL MAINTAIN A SYSTEM OF LABOUR INSPECTION APPROPRIATE TO NATIONAL CONDITIONS. ARTICLE 3§3 ESC DOES NOT PRESCRIBE ANY STANDARD MODEL FOR THE ORGANISATION OF LABOUR INSPECTION. STATES PARTIES MUST ALLOCATE ENOUGH RESOURCES TO ENABLE THEM TO CONDUCT “A MINIMUM NUMBER OF REGULAR INSPECTIONS TO ENSURE THAT THE LARGEST POSSIBLE NUMBER OF WORKERS BENEFIT FROM THE RIGHT ENSHRINED IN ARTICLE 3 ESC” AND THAT THE RISK OF ACCIDENTS IS REDUCED TO A MINIMUM.**<sup>14</sup>

The Labour Inspection Service in Georgia, as a legal entity of public law, was established and began its operations on 1 January 2021. Before becoming a legal entity of public law under the control of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, labour inspections were conducted by one of the departments of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, namely, the Department of Labour Conditions Inspection.

The labour inspection system is a crucial mechanism for safeguarding labour rights. It plays a significant role in implementing national labour policies and serves as a key source of information for both employers and employees regarding labour laws, contributing to the enforcement of these laws. Given the important role and functions of the Labour Inspection Service, there is a high public interest in information related to its activities. The report **“Evaluation of the Transparency of the Labour Inspection Service”** conducted by the Center for Law and Public Policy, with the support of the Open Society Foundation, published on 20 December 2023, shows that there are challenges in both public disclosure and proactive transparency of the Labour Inspection.<sup>15</sup> However, it shall be noted, that the situation is improving due to the active attitude of the Civil Society Organisations (CSOs).

On 5 July 2023, the Social Justice Center, in cooperation with the Fair Labor Platform, filed a complaint with the Tbilisi City Court over the practice of concealing the names of employers in the inspection reports provided to the public. The filing came after the Labour Inspection Service began redacting employer details in reports that the Fair Labor Platform obtained via freedom of information requests. This made it impossible to determine which violations were being found in which enterprise. The Fair Labor Platform uploads the reports to its Labor Rights Monitor, a public database of the Labour Inspection Service's reports. After the Social Justice Center filed the case, the Labour Inspectorate reversed its policy and began providing the Fair Labor Platform with the information it requested, without redacting employer details. **The reversal came prior to the court taking any action on the case.**<sup>16</sup>

According to the EU-Georgia Association Agenda for 2021-2027, a short-term priority is to continue working on ensuring an effective labour inspection system so that any type of working conditions and labour relations can be inspected with the necessary competence, capabilities, and resources (financial, human, and administrative), and in accordance with the standards of the International Labour Organization.<sup>17</sup>

Between 1 January 2023 and 26 July 2023, the Labour Inspection Service conducted 196 (20%) unscheduled and 767 (80%) scheduled inspections under the Organic Law of Georgia on Occupational Safety. Within the unscheduled inspections 19 (10%) were based on the ground of complaint, 90 (46%) were based on the ground of accident and the remaining 87 (44%) were based on other grounds.<sup>18</sup>

2. **THE SYSTEM OF PENALTIES IN THE EVENT OF BREACHES OF THE REGULATIONS MUST BE EFFICIENT AND DISSUASIVE.**

Articles 20, 21, 22, and 23 of the Georgian Law on Occupational Safety outline the sanctions imposed in case of violations of the occupational health and safety standards. E.g. under Article 22 of the Law on Occupa-

<sup>14</sup> Conclusions XIV-2 (1998), Belgium.

<sup>15</sup> Report available at: <https://shroma.ge/en/reports-en/transparency-labor-inspection-service/>, accessed 5 September 2024.

<sup>16</sup> See more at: <https://shroma.ge/en/news-en/labor-inspectorate-court-case-update-en/>, accessed 5 September 2024.

<sup>17</sup> Association Agenda between the European Union and Georgia, p. 57, <https://shorturl.at/azFGV>

<sup>18</sup> Assessment available at: <https://shroma.ge/wp-content/uploads/2023/12/Assessment-of-the-Transparency-of-the-Labour-Inspection-Service.pdf>, accessed 5 September 2024.

tional Safety:

**ARTICLE 22 - VIOLATION OF THE OCCUPATIONAL HEALTH AND SAFETY NORMS ESTABLISHED BY THE TECHNICAL STANDING ORDER(S)**

approved by the Government of Georgia

1. Violation of the occupational health and safety norms established by the technical standing order(s) approved by the Government of Georgia if there are no cases of significant non-compliance will result in the issuing of a warning;
2. Noncompliance by the perpetrator with the warning issued according to paragraph 1 of this article will result in the following:

a. In case of insignificant noncompliance:

1. According to the previous calendar year a private person with income up to 100 000 Georgian lari (GEL) will be fined in the amount of GEL 100 for every unfulfilled condition, but not more than GEL 2 000, according to the technical standing order approved by the Government of Georgia;
2. According to the previous calendar year a private person with income exceeding GEL 100 000 will be fined in the amount of GEL 200 for every unfulfilled condition, but not more than GEL 4 000, according to the technical standing order approved by the Government of Georgia;
3. A person (except for individuals) registered as VAT payer, who has carried out without interruption, during the previous 12 calendar months transactions taxable with VAT not exceeding GEL 100 000 will be fined in the amount of GEL 200 for every unfulfilled condition, but not more than GEL 4 000, according to the technical standing order approved by the Government of Georgia;
4. A person (except for individuals) registered as VAT payer, who has carried out without interruption, during the previous 12 calendar months transactions taxable with VAT above GEL 100 000 but not exceeding GEL 500 000 will be fined in the amount of GEL 400 for every unfulfilled condition, but not more than GEL 6 000, according to the technical standing order approved by the Government of Georgia;
5. A person (except for individuals) registered as VAT payer, who has carried out without interruption, during the previous 12 calendar months transactions taxable with VAT exceeding GEL 500 000 will be fined in the amount of GEL 600 for every unfulfilled condition but not more than GEL 8 000, according to the technical standing order approved by the Government of Georgia;
6. A person who is not registered as a VAT payer (except for 25 individuals) will be fined in the amount of GEL 100 but not exceeding GEL 2 000 for each violation of the conditions laid out in the technical standing order.

b. In case of significant noncompliance:

1. According to the previous calendar year a private person with income up to GEL 100 000 will be fined in the amount of GEL 400 for every unfulfilled condition, but not more than GEL 3 000, according to the technical standing order approved by the Government of Georgia;
2. According to the previous calendar year a private person with income of GEL 100 000 or above will be fined in the amount of GEL 800 for every unfulfilled condition, but not more than GEL 6 000, according to the technical standing order approved by the Government of Georgia;
3. A person (except for individuals) registered as a VAT payer, who has carried out without interruption, during the previous 12 calendar months transactions taxable with VAT not exceeding GEL 100 000, for every unfulfilled condition, will be fined in the amount of GEL 800 but not more than GEL 6 000, according to the technical standing order approved by the Government of Georgia;
4. A person (except for individuals) registered as a VAT payer, who has carried out without interruption, during the previous 12 calendar months transactions taxable with VAT exceeding GEL 100 000, but not exceeding GEL 500 000 for every unfulfilled condition, will be fined in the amount of GEL 900 but not more than GEL 10 000, according to the technical standing order approved by the Government of Georgia;
5. A person (except for individuals) registered as a VAT payer, who has carried out without interruption, during the previous 12 calendar months transactions taxable with VAT above GEL 500 000 for every unfulfilled condition, will be fined in the amount of GEL 1 000 but not more than GEL 14 000, according to the technical standing order approved by the Government of Georgia;
6. A person, who is not registered as a VAT payer, except for the physical person/individual – will be fined in the amount of GEL 400, but not more than GEL 3 000 for every unfulfilled condition according to

the technical standing order approved by the Government of Georgia;

3. The critical noncompliance with the occupational health and safety norms established by the technical standing order(s) approved by the Government of Georgia will result in the suspension of the work process;
4. If within the two years from issuing the fine according to Article 22(3), the critical noncompliance is discovered again, the suspension of the work process will be accompanied by the fine:

a. Individuals with income of up to GEL 100 000 in the previous calendar year will be fined in the amount of GEL 10 000;

b. Individuals with income above 100 000 GEL in the previous calendar year will be fined in the amount of GEL 20 000;

c. Persons registered as paying VAT (except for individuals), who without interruption within the previous 12 months carried out transactions taxable with VAT not exceeding GEL 100 000 will be fined in the amount of GEL 20 000 GEL;

d. Persons registered as paying VAT (except for individuals), who without interruption within the previous 12 months carried out transactions taxable with VAT above GEL 100 000 but not exceeding GEL 500 000 will be fined in the amount of GEL 30 000;

e. Persons registered as paying VAT (except for individuals), who without interruption within the previous 12 months carried out transactions taxable with VAT above GEL 500 000 will be fined in the amount of GEL 50 000;

f. Persons who are not registered as VAT payers, except individuals, will be fined in the amount of GEL 10 000;

5. If the violation stipulated in Article 22(1) is committed again within one year from the imposition of the fine it will result in a doubling of the fine for failing to fulfil the instructions.

**The Labour Inspection Service in Georgia** is empowered to detect (without employers' consent) breaches in the provisions of the Labour Code and the Law of Georgia on Public Service and impose sanctions in case the breach is detected.

According to the Law of Georgia on Labour Inspection, the purpose of the Labour Inspection Service is to ensure the effective application of labour norms.<sup>19</sup> To achieve this aim, the Labour Inspection Service uses the following mechanisms:

- a) providing consultations and/or information upon request regarding compliance with labour norms;
- b) providing the public with information contributing to the observance of labour regulations and facilitating public awareness raising through informational campaigns and other effective measures;
- c) receiving and reviewing complaints related to possible violations of labour regulations;
- d) conducting inspections;
- e) drawing up proposals to improve Georgia's labour legislation and enhance its implementation.<sup>20</sup>

According to current legislation, the following administrative penalties may be applied for the violation of labour norms:

- a) warning;
- b) fine;
- c) suspension of work processes.<sup>21</sup>

Between 1 January 2023 and 26 July 2023, according to the information provided by the Labour Inspection Service in Georgia for the purposes of the study prepared by the Law and Public Policy Center, out of 196 sites inspected without scheduling, follow-up inspections were conducted at 144 sites. The Labour Inspection Service imposed fines on 52 sites due to the failure to fulfil instructions, and 92 sites fully eliminated violations towards which inspection acts were drawn up.<sup>22</sup>

### 3. THE ENFORCEMENT OF THE REGULATIONS IN LAW AND IN PRACTICE MUST BE DONE IN CONSULTATION WITH EMPLOYERS' AND WORKERS' ORGANISATIONS.

According to Article 349 of the Association Agreement between Georgia, on the one hand, and the European Union and the European Atomic Energy Community and their Member States, on the other hand (herein-

<sup>19</sup> Law of Georgia on Labour Inspection, Article 5, Paragraph 1.

<sup>20</sup> Ibid, Article 5, paragraph 2.

<sup>21</sup> Ibid, Article 20, paragraph 3.

<sup>22</sup> Assessment available at: <https://shroma.ge/wp-content/uploads/2023/12/Assessment-of-the-Transparency-of-the-Labour-Inspection-Service.pdf>, accessed 5 September 2024.

after, the “Association Agreement”)<sup>23</sup>, strengthening cooperation and dialogue to promote decent working conditions, as well as health and safety at work, is an obligation of the country.

**ANALYSIS:** Under Article 3§3 ESC, mainly the enforcement of legislation is assessed by the Committee.

1. In terms of the enforcement of Georgian occupational health and safety legislation:
  - a) the labour inspection system as described above shall be assessed as **complying with the standards of Article 3§3 ESC**, however its gradual improvement (concerning allocating enough resources to enable it to conduct “a minimum number of regular inspections”) is also inevitable;
  - b) the system of penalties in the event of breaches of the regulations as described in Articles 20, 21, 22, 23 of the Law on Occupational Safety seems efficient and dissuasive - **which complies with the standards of Article 3§3 ESC;**
  - c) social partners are actively involved in the enforcement of the regulations - **which complies with the standards of Article 3§3 ESC.**

**CONCLUSION:** The acceptance of Article 3§3 ESC is strongly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women’s and men’s interests and concerns.

## ARTICLE 3§4 ESC - OCCUPATIONAL HEALTH SERVICES

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR, having regard to the fact that Georgia has accepted Article 11 of the Charter, gave a positive assessment of the situation in Georgia and recommended acceptance of Article 3§4 of the Charter.

While assessing the situation in the country from the perspective of its compliance with Article 3§4 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **ARTICLE 3§4 ESC BELONGS TO THE PROVISIONS WHICH INCLUDE COMPLEX AND ONEROUS OBLIGATIONS TO BE IMPLEMENTED PROGRESSIVELY. ANY STRATEGY TO PROMOTE THE PROGRESSIVE DEVELOPMENT OF OCCUPATIONAL HEALTH SERVICES MUST INCLUDE THE FULL NATIONAL TERRITORY, COVER NATIONALS OF OTHER STATES PARTIES, AND NOT ONLY SOME BRANCHES OF ACTIVITY, MAJOR ENTERPRISES OR ESPECIALLY SEVERE RISKS, BUT ALL TYPES OF WORKERS.**<sup>24</sup>

**Article 6 of the Law on Occupational Safety** envisages that employers should, at every stage of the work in order to reduce and eliminate the risk to the occupational safety, according to the size of the enterprise and the nature of the work, assess this risk according to the rules set by the administrative-legal act of the Minister, revise the risk assessment document, and take necessary steps based on the following general principles:

- a. Make sure that the existing risks are avoided;
- b. Evaluate those risks and threats, which cannot be avoided;
- c. Make sure that the risks are reduced, including the elimination of their sources;
- d. Within their capacities, according to the specifics of the work, replace the risk factors with safe or less dangerous factors;
- e. Elaborate a consistent policy of the preventive measures, which considers the nature of the workplace and work process;
- f. Based on the subparagraph ‘e’ of this paragraph and on the analysis of the risk factors, elaborate a written document, which should contain the measures aimed at reducing and eliminating risks against the health of the persons at the workplace and other persons, which should be carried out in the case of every type of work and at every level of enterprise management, also the time frame for their implementation, as well as the budget for their implementation;
- g. Prioritise collective protection measures over individual protection measures, unless the Georgian legislation prescribes differently;
- h. Conduct relevant training to the employees;

<sup>23</sup> The Association Agreement entered into force in 2016.

<sup>24</sup> Conclusions 2013, Ukraine. Conclusions 2009, Ukraine.



- i. Ensure that the work is adapted to the employee, especially from the perspective of the arrangement of the work area, work equipment, and selection of work and enterprise methods, with the aim of easing monotonous work and reducing the impact of the work on the health of the employee.

Furthermore, **Article 7 of the Law on Occupational Safety** regulates the organisation and management of occupational health and safety:

1. According to the objectives of occupational health and safety and Article 6(e) and (f), the employer is obliged to designate one or more employees as occupational safety specialist(s), or set up a unit with this purpose. The occupational safety specialist and the employee representative can be the same person.
2. Employers having less than 20 employees can personally fulfil professional duties of an occupational safety specialist provided that s/he has completed the programme accredited according to paragraph 6 of this article. In case of 20-100 employees, the employer is obliged to appoint at least one occupational health and safety specialist. In case the number of employees is over 100 a special occupational health and safety unit needs to be set up, with no less than two occupational health and safety specialists.
3. The occupational safety specialist/unit should be equipped with the respective technical appliances and instruments; appropriate time should be dedicated to performing its duties to avoid the interruption of the production process. The aforementioned will be considered as work time and will be remunerated. The occupational health and safety specialist should not be put in the worse condition than other employees with regards to occupational health and safety;
4. If the employer does not have a respective number of qualified employees considering the size of the enterprise, number of employees, working conditions, extent, nature and structure of hazard, and respective risks, the employer should invite specialists/organisations of the respective field.
5. The person responsible for occupational safety should possess relevant professional experience and qualifications (skills and technical experience which are confirmed by the special certificate issued after the completion of the certified course according to the paragraph 6 of this article).
6. Occupational health and safety specialists should have attended a relevant accredited programme for occupational health and safety specialists at the relevant accredited institution. The volume of the programme, the rules and conditions of its implementation are defined by the administrative-legal act of the Minister.
7. Considering the nature of the enterprise and the number of the employees, the enterprise may have an occupational physician. The occupational physician should possess a state certificate proving the right to conduct medical work in one of the following areas: 'internal medicine', 'general practitioner', 'public health', or 'occupational pathology'.

2. **OCCUPATIONAL HEALTH SERVICES HAVE ESSENTIALLY PREVENTIVE AND ADVISORY FUNCTIONS, AND ARE SPECIALISED IN OCCUPATIONAL MEDICINE<sup>25</sup>, BEYOND MERE SAFETY AT WORK. THEY CONTRIBUTE TO CONDUCTING WORKPLACE-RELATED RISK ASSESSMENTS AND RISK PREVENTION, WORKER HEALTH SUPERVISION, TRAINING IN MATTERS OF OCCUPATIONAL HEALTH AND SAFETY, AS WELL AS TO ASSESSING THE IMPACT OF WORKING CONDITIONS ON WORKER HEALTH.<sup>26</sup> THEY MUST BE TRAINED, ENDOWED AND STAFFED TO IDENTIFY, MEASURE AND PREVENT WORK-RELATED STRESS, AGGRESSION AND VIOLENCE.<sup>27</sup>**

According to the Law of Georgia on Labour Inspection, the purpose of the Labour Inspection Service is to ensure the effective application of labour norms. To achieve this aim, the Labour Inspection Service uses the following mechanisms:

- a) providing consultations and/or information upon request regarding compliance with labour norms;
- b) providing the public with information contributing to the observance of labour regulations and facilitating public awareness raising through informational campaigns and other effective measures;
- c) receiving and reviewing complaints related to possible violations of labour regulations;
- d) conducting inspections;
- e) drawing up proposals to improve Georgia's labour legislation and enhance its implementation.<sup>28</sup>

As established during the needs assessment discussions, occupational health services have essentially preventive and advisory functions.

25 Conclusions 2009, Ukraine.

26 Conclusions 2003, Bulgaria.

27 Conclusions 2013, Statement of Interpretation on Article 3§4.

28 Article 5, paragraph 2.

**ANALYSIS:** Under Article 3§4 ESC mainly policies and practice are assessed by the Committee.

1. In terms of Georgian policy and practise in the area of occupational health services:
  - a) the organisation and management of occupational health services, as described above, seems to **comply with the standards of Article 3§4 ESC;**
  - b) occupational health services have essentially preventive and advisory functions - **which complies with the standards of Article 3§4 ESC.**

**CONCLUSION:** The acceptance of Article 3§4 ESC is strongly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns.

## ARTICLE 8§1 ESC – PAID MATERNITY LEAVE

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia and recommended acceptance of Article 8§1 of the Charter.

While assessing the situation in the country from the perspective of its compliance with Article 8§1 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **THE RIGHT TO MATERNITY LEAVE OF AT LEAST 14 WEEKS MUST BE GUARANTEED BY LAW.<sup>29</sup> IT MUST BE GUARANTEED FOR ALL CATEGORIES OF EMPLOYEES<sup>30</sup> AND THE LEAVE MUST BE MATERNITY LEAVE AND NOT SICK LEAVE.**

### Article 37 Labour Code – Maternity leave and parental leave

1. An employee shall, upon **her** request, be granted **paid maternity leave** of 126 calendar days, and in the case of complications during childbirth or the birth of twins, maternity leave of 143 calendar days.
2. Employees may distribute the period of leave under paragraph 1 of this article at their discretion over the pregnancy and postnatal periods.
3. An employee shall, upon **his/her** request, be granted **parental leave** of 604 calendar days, and in the case of complications during childbirth or the birth of twins, a parental leave of 587 calendar days. 57 calendar days of the leave shall be paid.
4. A period of **parental leave** as provided for by paragraph 3 of this article may be enjoyed in whole or in parts **by the mother or the father** of the child. Enjoyment of maternity leave as provided for by paragraph 1 of this article is an exclusive right of the mother of the child, although the father of the child has a right to enjoy the days of said leave which have not been used by the mother of the child.
5. When taking a period of parental leave, an employee shall notify the employer thereof two weeks prior to taking the leave. The employee shall use the paid part of maternity leave and parental leave in sequence, for 183 or 200 calendar days, respectively.

### Article 64 Civil Service Law - Employee's leave due to pregnancy, childbirth and child care and adoption of a newborn

1. On the basis of their request, an official is granted leave for pregnancy, childbirth and child care in the amount of 730 calendar days.
3. The official has the right to distribute the leave provided for in the first paragraph of this article at their discretion to the pregnancy and postpartum periods.

<sup>29</sup> Conclusions III (1973), Statement of Interpretation on Article 8§1.

<sup>30</sup> Conclusions XV-2 (2001), Addendum, Malta.

2. **MATERNITY LEAVE MUST BE ACCOMPANIED BY THE CONTINUED PAYMENT OF THE INDIVIDUAL'S REMUNERATION OR BY THE PAYMENT OF SOCIAL SECURITY BENEFITS OR BENEFITS FROM PUBLIC FUNDS. THE MODALITY OF COMPENSATION IS WITHIN THE MARGIN OF APPRECIATION OF THE STATES PARTIES AND MAY BE, EITHER, PAID LEAVE (CONTINUED PAYMENT OF WAGES BY THE EMPLOYER), SOCIAL SECURITY MATERNITY BENEFIT, ANY ALTERNATIVE BENEFIT FROM PUBLIC FUNDS OR A COMBINATION OF SUCH COMPENSATIONS IN ANY RATIO.<sup>31</sup> REGARDLESS OF THE MODALITY OF PAYMENT, THE LEVEL SHALL BE ADEQUATE.<sup>32</sup> IT SHOULD NOT BE REDUCED SUBSTANTIALLY COMPARED TO THE PREVIOUS WAGE,<sup>33</sup> AND NOT BE LESS THAN 70% OF THAT WAGE. MOREOVER, THE MINIMUM RATE OF COMPENSATION SHALL NOT FALL BELOW THE POVERTY THRESHOLD DEFINED AS 50% OF THE MEDIAN EQUIVALISED INCOME, CALCULATED ON THE BASIS OF THE EUROSTAT AT-RISK-OF-POVERTY THRESHOLD VALUE.<sup>34</sup>**

#### **Article 39 Labour Code – Payment of maternity leave, parental leave and newborn adoption leave**

Maternity leave, parental leave, and newborn adoption leave shall be paid from the State Budget of Georgia, in accordance with the procedures established by the legislation of Georgia. The cash allowance for a period of paid maternity leave and paid parental leave, as well as paid newborn adoption leave, shall be determined by an ordinance of the Government of Georgia. Employers and employees may agree on extra pay for said periods of leave.

Resolution No. 33, issued by the Government of Georgia on 24 January 2023, outlines provisions for monetary assistance during paid leave related to pregnancy, childbirth, child care, and adoption of newborns. The Resolution specifies the amount of monetary aid to be provided during these periods of leave, along with any additional measures or requirements. The Resolution provides a maximum of GEL 2 000 for the leave related to the pregnancy, childbirth, child care and adoptions of newborn.

**Order No. 01-133/N, issued by the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia on 29 December 2020, provides rules for reimbursement related to pregnancy, childbirth, child care, and adoption of a newborn.**

Public school teachers are eligible for filling up of the salary to the full amount, along with the additional compensation defined by Article 39 of the Labour Code of Georgia.

The relevant norms related to maternity and child care leaves in the public sector remain unchanged from those provided in the 3rd report.

#### **Article 64 Civil Service Law - Employee's leave due to pregnancy, childbirth and child care and adoption of a newborn**

2. From leave due to pregnancy, childbirth and childcare 183 calendar days are paid and 200 calendar days in case of childbirth complications or the birth of twins. Remuneration is issued from the budget of the relevant public institution, taking into account the official salary and class allowance, and the official who has been awarded a military rank or state special rank, together with the official salary/rank salary, is given a supplement, food compensation and other allowances stipulated by the legislation of Georgia.

**ANALYSIS:** Under Article 8§1 ESC, mainly legislation is assessed by the Committee.

1. In terms of Georgian legislation:
  - a) maternity leave is provided for all categories of employees, the length of which is **in line with the standards of Article 8§1 ESC;**
  - b) Article 64 LSC, which provides for 183 calendar days of leave for pregnancy, childbirth and childcare, as well as 200 calendar days in the event of childbirth complications or the birth of twins (to be paid in accordance with the official salary and class allowance of the civil servant) – **complies with the standards of Article 8§1 ESC;**

<sup>31</sup> Conclusions 2015, Statement of Interpretation on Article 8§1.

<sup>32</sup> Conclusions 2015, Statement of Interpretation on Article 8§1.

<sup>33</sup> Ibidem.

<sup>34</sup> Conclusions XVII-2 (2005), Latvia.



- c) the Labour Code does not include a regulation according to which maternity leave shall be accompanied by the continued payment of the individual's remuneration or by the payment of social security benefits or benefits from public funds – **which does not comply with the standards of Article 8§1 ESC, so amendments to the Labour Code shall be suggested to introduce this rule;**
- d) there is no regulation establishing that the due amount shall be adequate and should not be reduced substantially compared to the previous wage, and not be less than 70% of that wage – **which does not comply with the standards of Article 8§1 ESC, so amendments to both the Labour Code and the Civil Service Law shall be suggested to introduce this rule.**

**CONCLUSION:** The acceptance of Article 8§1 ESC is recommended as although some important amendments to both the Labour Code and the Civil Service Law is advised to fully adjust Georgian legislation to the Charter's standards, still no major obstacles have been identified by the Committee and the proposed amendments are crucial from the perspective of the protection of human rights of both the mother and the child and inevitable in the process of EU accession.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns.

## ARTICLE 8§2 ESC – ILLEGALITY OF DISMISSAL

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia and recommended acceptance of Article 8§2 of the Charter.

While assessing the situation in the country from the perspective of its compliance with Article 8§2 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **UNDER ARTICLE 8§2 ESC, IT MUST BE UNLAWFUL TO DISMISS EMPLOYEES BETWEEN THE TIME THEY NOTIFY THE EMPLOYER OF THEIR PREGNANCY AND THE END OF THEIR MATERNITY LEAVE. ARTICLE 8§2 ESC APPLIES EQUALLY TO WOMEN ON FIXED-TERM AND OPEN-ENDED CONTRACTS.<sup>35</sup> HOWEVER, IT IS NOT CONTRARY TO THIS PROVISION TO DISMISS A PREGNANT WOMAN WHEN SHE HAS COMMITTED A FAULT JUSTIFYING THE TERMINATION OF THE EMPLOYMENT CONTRACT<sup>36</sup>, WHEN THE UNDERTAKING CEASES ITS ACTIVITY OR WHEN THE TERM PROVIDED FOR IN THE EMPLOYMENT CONTRACT HAS EXPIRED.<sup>37</sup>**

### Article 47 Labour Code – Grounds for terminating employment agreements

1. The grounds for terminating employment agreements are:
  - a) economic circumstances, and/or technological or organisational changes requiring downsizing;
  - b) the expiry of an employment agreement;
  - c) the completion of the work under an employment agreement;
  - d) the voluntary resignation of an employee from a position/work on the basis of a written application;
  - e) a written agreement between parties;
  - f) the incompatibility of an employee's qualifications or professional skills with the position held/work to be performed by the employee;
  - g) the gross violation by an employee of his/her obligations under an individual employment agreement or a collective agreement and/or of internal labour regulations;
  - h) the violation by an employee of his/her obligations under an individual employment agreement or a collective agreement

### Article 107 Civil Service Law - Mandatory grounds for dismissal of an employee

1. Mandatory grounds for dismissal of an employee are:
  - a) termination of Georgian citizenship;
  - b) recognition as having limited capacity in accordance with the procedure established by the Civil Code of Georgia;
  - c) to be recognised by the court as missing, to be declared dead or to be recognised as a recipient of support, unless otherwise determined by the court's decision;
  - d) entry into legal force of the final guilty verdict of the court against the official;
  - e) commission of a serious disciplinary offense, if dismissal from the job was determined as a measure of disciplinary responsibility;
  - f) assessment twice in a row with the result provided for in Article 53(3) (d) of this Law;
  - g) during the probationary period of the official, to evaluate the result twice in accordance with Article 53(3)(d) of this law;
  - h) appointment to another position in the state service or public service;

<sup>35</sup> Conclusions XIII-4 (1996), Austria.

<sup>36</sup> Conclusions X-2 (1990), Spain.

<sup>37</sup> Conclusions 2005, Estonia.

and/or of internal labour regulations, if any of the disciplinary steps under the said individual employment agreement or collective agreement and/or internal labour regulations have already been taken against the employee during the last year;

- i) long-term incapacity for work, unless otherwise determined by an employment agreement, if the incapacity period exceeds 40 consecutive calendar days, or the total incapacity period exceeds 60 calendar days within a period of six months, and, at the same time, the employee has already used his/her leave under Article 31 of this Law;
- j) the entry into force of a court judgment or other decision precluding the possibility of performing the work;
- k) a decision on declaring a strike illegal that was delivered by a court in accordance with Article 67.3 of this Law and that became final;
- l) the death of an employer who is a natural person, or of an employee;
- m) the initiation of liquidation proceedings against an employer who is a legal person;
- n) other objective circumstances justifying the termination of an employment agreement.

**5. Terminating labour relations shall be inadmissible:**

- a) on grounds other than those referred to in paragraph 1 of this article;
- b) on the grounds of discrimination referred to in Article 4 of this Law;
- c) **during the period under Article 46(2)(g) of this Law from notification to the employer from a female employee about her pregnancy, except for the termination of an employment agreement on the grounds referred to in paragraph 1(b), (c), (d), (e), (g), (h), (j) or (l) of this article.**

- i) confirmation of the fact of consumption of narcotic drugs, except for the case of its use by an official for the purpose of treatment, as well as evasion for inspection based on the principle of periodic, random sampling;
- j) death.

**Article 108 Civil Service Law - Other grounds for dismissal of an employee**

An official may be dismissed:

- a) on the basis of a personal statement, except for the case provided for in Article 54(6) of this law;
- b) in connection with the reduction of staff due to the reorganisation, liquidation and/or merger of a public institution with another public institution;
- c) due to health condition and/or long-term incapacity;
- d) in the case provided for by Article 112 of this law, if there is a circumstance excluding the official's legal trust;
- e) in case of violation of the requirements of the Law of Georgia "On Combating Corruption".

**Article 110 Civil Service Law - Dismissal of an employee due to the reorganisation, liquidation of a public institution and/or its merger with another public institution in connection with the reduction of staff**

1. An official may be dismissed from service due to the reorganisation, liquidation and/or merger of a public institution with another public institution in connection with the reduction of staff, if the mobility of the official provided for in Article 52 of this law is impossible.
2. In the case provided for in the first paragraph of this article, the dismissal of an official does not lead to the termination of the status of an official before the expiration of the term of being in the reserve of officials.

**Article 111 Civil Service Law - Dismissal of an employee due to a health condition and/or long-term incapacity**

1. An official may be dismissed from work due to long-term incapacity confirmed by a relevant medical report in case of non-appearance at work for four consecutive months or six months during a calendar year.
2. An official shall also be dismissed from service if his health condition, based on a medical report, does not allow him to continue working in the position he holds and it is impossible to transfer him to a position corresponding to his health condition in accordance with the rules established by this law.

**Article 112 Civil Service Law - Dismissal of the civil servant in case of violation of the requirements established by the legislation of Georgia during the appointment of the civil servant**

1. An official may be dismissed if:

- a) the rules established by this law for admission to public service are violated or the requisites of the individual administrative-legal act on the appointment of an official do not meet the requirements established by the legislation of Georgia;
- b) the individual administrative-legal act on the appointment of the civil servant was issued by an unauthorised person.

**Article 116 Civil Service Law - Limitation of dismissal of an official**

A female civil servant cannot be dismissed from her job during pregnancy or raising a child up to the age of three due to the reorganisation of the public institution and/or its merger with another public institution or the results of the evaluation of the civil servant.

2. IN CASES OF ILLEGAL DISMISSAL, DOMESTIC LEGISLATION MUST PROVIDE FOR ADEQUATE AND EFFECTIVE REMEDIES, EMPLOYEES WHO CONSIDER THAT THEIR RIGHTS IN THIS RESPECT HAVE BEEN VIOLATED MUST BE ENTITLED TO TAKE THEIR CASE BEFORE THE COURTS. IN THE CASE OF DISMISSAL CONTRARY TO **ARTICLE 8§2 ESC**, THE REINSTATEMENT OF THE WOMEN SHOULD BE THE RULE.<sup>38</sup> EXCEPTIONALLY, IF THIS IS IMPOSSIBLE (E.G. WHERE THE ENTERPRISE CLOSES DOWN) OR THE WOMAN CONCERNED DOES NOT WISH TO BE REINSTATED, ADEQUATE COMPENSATION MUST BE ENSURED.

**Article 48 Labour Code – Procedure for terminating employment agreements**

4. An employee may, within 30 calendar days from receiving an employer's notification about terminating an employment agreement, request the employer in writing to be provided with a written substantiation of the grounds for terminating the employment agreement.
5. An employer shall provide a written substantiation of the grounds for terminating an employment agreement within seven calendar days after an employee submits a request.
6. An employee may, within 30 calendar days from receiving an employer's written substantiation, appeal in court against the employer's decision on terminating the employment agreement. Where a court refuses to accept or dismisses a claim filed by the employee, the employee may file again the same claim with a court within 30 calendar days from receiving a ruling on refusing to accept the claim or a ruling on dismissing the claim.
7. If an employer fails to provide a written substantiation of the grounds for terminating an employment agreement within seven calendar days after an employee submits the request, the employee may appeal in court against the employer's decision on terminating the employment agreement within 30

**Article 114 Civil Service Law - Warning of the employee about dismissal**

1. In the case provided for by subsection (b) or (c) of Article 108 of this law, the employee must be notified in writing about the dismissal one month before the dismissal.
2. In case of violation of the term stipulated in the first paragraph of this article, the official shall be given one month's official severance pay, in addition to the compensation provided for by this law.

**Article 115 Civil Service Law - Compensation in case of dismissal of an employee**

In the case provided by subsection (c) of Article 108 of this law, the dismissed official is given compensation in the amount of one month's official severance pay.

**Article 118 Civil Service Law - Protection of the employee's right**

1. An official has the right to appeal any decision made on an official matter, as well as an action, in accordance with the procedure established by the administrative legislation of Georgia.
2. An appeal against an individual administrative-legal act on the dismissal of an employee does not result in the suspension of the contested act.

38 Conclusions 2005, Cyprus.

calendar days after the period of seven calendar days elapses. In such cases, the burden of proof for determining facts of the dispute shall rest with the employer. Where an employee does not request from an employer a written substantiation of the grounds referred to in paragraph 4 of this article, the employee may appeal in court against the employer's decision on terminating the employment agreement within 30 calendar days from receiving the employer's notification about terminating the employment agreement.

8. If an employer's decision on terminating the employment agreement is declared void by the court, the employer shall, under the court decision, reinstate the person whose employment agreement was terminated, or provide the person with an equal job, or pay compensation in the amount determined by the court.
9. An employee may, in addition to being reinstated, or to receiving an equal job, or receiving compensation in exchange therefor, as provided for by paragraph 8 of this article, request compensation for lost earnings from the date when the employment agreement was terminated up to the date when the final court decision declaring void the employer's decision on terminating the employment agreement was enforced. In determining compensation for lost earnings, a court shall take into account any severance pay granted to the employee by the employer in accordance with paragraph 1 or 2 of this article.

According to the Article 48(8) Labour Code, if the court nullifies the employer's decision to terminate the employment contract, the employer is obligated to reinstate the individual to their original workplace, offer an equivalent position, or provide compensation as determined by the court. However, in practice, the problem arises when employers cancel the positions where the worker should be reinstated, often in an attempt to evade compliance with the court's decision. As raised during the fact-finding mission, such cases are widespread and present a major challenge. As a result, in practice, employees often receive compensation and are not able to be reinstated.

3. In case of annulment of the decision on the dismissal of an official by a superior authority or a court, the public institution is obliged to immediately restore the official to the same position, and in the absence of such a position - to an equal position in the system of the same public institution. If an illegally dismissed official cannot be reinstated due to the lack of an equivalent vacant position in the system of the same public institution, the public institution is obliged to immediately apply to the Bureau to find an equivalent vacant position in the public service system. Reinstatement of an illegally dismissed official to an equal position in another public institution is allowed with the consent of the illegally dismissed official and this public institution.
4. In the case provided by paragraph 3 of this article, the reinstated official is given a probationary official salary and class allowance, as well as a years of service allowance and rank salary (if any) determined in accordance with the legislation of Georgia.
5. In the case provided by paragraph 3 of this article, when the civil servant cannot be reinstated, he is enrolled in the reserve of civil servants and is given a probationary official salary and class allowance, as well as a service allowance and rank salary determined in accordance with the legislation of Georgia (if any), as well as compensation for the full amount of official salary for six months.

**ANALYSIS:** Under Article 8§2 ESC, mainly legislation is assessed by the Committee.

1. In terms of Georgian legislation:

- a) Article 47(5)(c) Labour Code, pursuant to which terminating labour relations shall be inadmissible during the period referred to in Article 46(2)(g) of this Law **from notification to the employer by a female employee about her pregnancy**, except for the termination of an employment agreement on the grounds referred to in paragraph 1(b), (c), (d), (e), (g), (h), (j) or (l) of this article – **complies with the standards of Article 8§2 ESC, however introducing an amendment defining the end of the time of protection against termination of the employment contract shall be advisable;**
- b) Article 116 Civil Service Law, according to which a female civil servant cannot be dismissed from her job during pregnancy or while raising a child up to the age of three due to the reorganisation of the public institution and/or its merger with another public institution or the results of the evaluation of

the civil servant – **complies with the standards of Article 8§2 ESC from the perspective of protection of women’s rights, however – as there is no provision establishing protection for male servants – Article 116 Civil Service Law seems to break the rule of the equality of sexes. Therefore, an amendment to the Civil Service Law shall be suggested providing equal protection against dismissal from work to both parents or one parent (mother or father – to be chosen by the employees) raising a child up to the proper age;**

- c) adequate and effective remedies, as described above, are provided to employees/civil servants in cases of illegal dismissal, and Georgian legislation provides also the right to take the case before the courts – **which complies with the standards of Article 8§2 ESC;**
- d) there is no provision that the reinstatement of women should be the rule in the event of dismissal in violation of the above provisions, since, according to Article 48§8 Labour Code, it is up to the court to decide whether the employer should reinstate the person whose employment contract has been terminated or provide the person with an equivalent job or pay compensation in an amount determined by the court - **so amendments to the Labour Code shall be suggested to introduce this rule.**

**CONCLUSION:** The acceptance of Article 8§2 ESC is recommended as although some important amendments to both the Labour Code and the Civil Service Law is advised to fully adjust Georgian legislation to the Charter’s standards, still no major obstacles have been identified by the Committee and the proposed amendments are crucial from the perspective of protection of human rights of both the mother and the child and inevitable in the process of EU accession.

**GENDER MAINSTREAMING:** The existing legislation generally takes into account the interests and concerns of both women and men. However, Article 116 Civil Service Law, according to which a female civil servant cannot be dismissed during pregnancy or while raising a child up to the age of three due to the reorganisation of the public institution and/or its merger with another public institution, or due to the results of the evaluation of the civil servant which complies with the standards of Article 8§2 ESC from the perspective of protection of women’s rights, must be considered as discriminatory against men – as there is no provision establishing protection for male civil servants. Therefore, it shall be stressed that Article 116 Civil Service Law seems to break the rule of the equality of sexes. It is therefore proposed that the Civil Service Law be amended to provide equal protection against dismissal from work for both parents or one parent (mother or father – to be chosen by the employees) raising a child up to the age of three or other appropriate age.

## ARTICLE 9 ESC - VOCATIONAL GUIDANCE

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, stating that Georgia was in a position to meet the conditions enabling it to comply with the requirements of Article 9 of the Charter in the near future and thus encouraging the authorities to pursue their policy in this direction.

While assessing the situation in the country from the perspective of its compliance with Article 9 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **THE RIGHT TO VOCATIONAL GUIDANCE MUST BE GUARANTEED WITHIN THE SCHOOL SYSTEM (INFORMATION ON TRAINING AND ACCESS TO TRAINING) AND WITHIN THE LABOUR MARKET (INFORMATION ON VOCATIONAL TRAINING AND RETRAINING, CAREER PLANNING, ETC.). VOCATIONAL GUIDANCE - WITHIN THE EDUCATION SYSTEM AND IN THE LABOUR MARKET - MUST BE PROVIDED BY QUALIFIED STAFF (COUNSELLORS, PSYCHOLOGISTS AND TEACHERS) AND IN SUFFICIENT NUMBER, AIMING TO REACH AS MANY PEOPLE AS POSSIBLE AND WITH AN ADEQUATE BUDGET.**<sup>39</sup>

According to **Article 2(i) of the Law of Georgia on Vocational Education**, the development of a system of career guidance, counselling and career planning in formal education is one of the main objectives of State policy in the field of vocational education. The system shall consist of a wide range of measures that help a person, at any stage of their formal education, to determine their abilities, competences and interests in order to be able to make decisions related to their education and choosing a profession, as well as to manage their career.

On 14 July 2020, the Parliament of Georgia adopted **the Law on Promotion of Employment**, establishing procedural measures such as the registration as a job seeker and the data processing of registered persons. It also includes provisions on providing information and advice to job seekers, assessing employment opportunities, drawing up an individual career development plan, training and employing job seekers, assessing the needs of the employers, increasing motivation and access to finance.

<sup>39</sup> Conclusions 2005, Estonia.



**The State Employment Support Agency** (hereinafter also, the “SESA”) has the obligation to provide vocational guidance within the labour market in Georgia. Within the school system it is provided by vocational education institutions.

The SESA was established in 2020 and is a legal entity of public law that consists of two main departments. The Department of Employment Support executes most activities and the Labour Migration Department is responsible for issues related to labour migration. There are 12 SESA centres in Georgia - five in Tbilisi and seven in the regions. There are some regions that are not covered by any SESA centre.

2. **EQUAL TREATMENT WITH RESPECT TO VOCATIONAL GUIDANCE MUST BE GUARANTEED TO EVERYONE, INCLUDING NATIONALS OF OTHER PARTIES LAWFULLY RESIDENT OR REGULARLY WORKING ON THE TERRITORY OF THE PARTY CONCERNED.**

#### **ARTICLE 5 LABOUR CODE – SCOPE OF PROHIBITION OF DISCRIMINATION**

Discrimination in labour relations and pre-contractual relations (including when publishing a vacancy and at a selection stage), and in employment and occupation, shall be prohibited. The prohibition of discrimination shall apply, inter alia, to:

- b) access to all types of vocational guidance, advanced training, vocational training and retraining (including practical work experience) at all levels of the professional hierarchy.

#### **ARTICLE 4 LABOUR CODE – DEFINITION OF LABOUR DISCRIMINATION**

1. For the purposes of this Law, discrimination is the intentional or negligent discrimination or exclusion of a person, or preferential treatment, on the grounds of race, skin colour, language, ethnic or social affiliation, nationality, origin, property or titular status, employment status, place of residence, age, gender, sexual orientation, disability, health status, religious, public, political or other affiliation (including affiliation to trade unions), marital status, political or other opinions, or on any other grounds, with the purpose or effect of denying or breaching equal opportunities or treatment in employment and occupation.

Vocational guidance and support in career planning that are offered by the SESA are free of charge to all persons registered in the SESA system. Registration is the only precondition to be able to benefit from the SESA services. The SESA has categories of consultants: general employment consultants and support consultants for people with disabilities and other vulnerable individuals (Internally Displaced Persons, 16-29-year-olds from deprived families, single mothers). Vocational guidance that is offered includes individual and group consultations on occupational qualifications and support in career planning.

**ANALYSIS:** Under Article 9 ESC, mainly practical information is assessed by the Committee.

1. In terms of Georgian state of affairs:
- a) the system of vocational guidance consists of a wide range of measures that help people, at any stage of their formal education, to determine their abilities, competences and interests in order to be able to make decisions related to their education and choice of occupation, as well as to manage their career – **which complies with the standards of Article 9 ESC;**
  - b) the State Employment Support Agency (hereinafter also, the “SESA”) has the obligation to provide vocational guidance within the labour market in Georgia. Within the school system it is provided by vocational education institutions - **which complies with the standards of Article 9 ESC;**
  - c) there are 12 SESA centres in Georgia - five in Tbilisi and seven in the regions, which do not cover the territory of the entire country, there are some regions that are not covered by any SESA centre – **which is not in line with the standards of Article 9 ESC, so progressive development and expansion of the system as well as building its capacities is recommended.**
  - d) Article 4 and 5 Labour Code guarantee equal treatment with respect to vocational guidance in the labour market in Georgia - **which complies with the standards of Article 9 ESC.**

**CONCLUSION:** Acceptance of Article 9 ESC is recommended as no major obstacles have been identified. No amendments to the Labour Code are needed, however, to fully align Georgian practice with the Charter’s standards, the progressive development and expansion of the system of vocational guidance and building the capacities of its employees is recommended.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women’s and men’s interests and concerns. In practice, no discrimination concerning sex has been identified in the area.

## ARTICLE 10§1 ESC - TECHNICAL AND VOCATIONAL TRAINING; ACCESS TO HIGHER TECHNICAL AND UNIVERSITY EDUCATION

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared that Georgia is in a position to meet the conditions enabling it to comply with the requirements of Article 10§1 of the Charter in the near future and thus encouraged the authorities to pursue its policy in this direction.

While assessing the situation in the country from the perspective of its compliance with Article 10§1 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **THE RIGHT TO VOCATIONAL TRAINING MUST BE GUARANTEED TO EVERYONE.**<sup>40</sup> **THE NOTION OF VOCATIONAL TRAINING UNDER ARTICLE 10§1 ESC COVERS: INITIAL TRAINING – SUCH AS GENERAL AND VOCATIONAL SECONDARY EDUCATION, UNIVERSITY AND NON-UNIVERSITY HIGHER EDUCATION AND VOCATIONAL TRAINING ORGANISED BY OTHER PUBLIC OR PRIVATE ACTORS, INCLUDING CONTINUING TRAINING (WHICH IS DEALT WITH UNDER ARTICLE 10§3 ESC). UNIVERSITY AND NON-UNIVERSITY HIGHER EDUCATION IS CONSIDERED AS VOCATIONAL TRAINING TO THE EXTENT THAT IT PROVIDES STUDENTS WITH THE KNOWLEDGE AND SKILLS NECESSARY TO EXERCISE A PROFESSION.**<sup>41</sup>

The Ministry of Education, Science and Youth of Georgia started implementation of the inclusive vocational education within Georgia's vocational education system in 2013. In order to increase access to vocational education for persons with special educational needs and persons with disabilities, an alternative approach of enrolment has been developed since 2013. To support the learning process of vocational education and training (hereinafter, "VET") students with special educational needs and disabilities various types of services are available: inclusive vocational education specialists, learning process assistants, individual assistants, sign-language interpreters, as well as orientation and mobility specialists. Adapted learning materials, individual study plans, transportation and more are constantly provided.

Since 2013, studying in state VET institutions is fully financed by the state as is, since 2019, studying in private VET institutions in accordance with the priorities determined by the Minister of Education and Science of Georgia. Since 2017, VET students with special educational needs and disabilities are provided by the state with additional funding in the amount of GEL 1 000 in a quarterly voucher. The mentioned amount is used to provide services tailored to the individual needs of abovementioned students. The VET institutions are fully adapted, since the adapted environment of the institution is one of the important prerequisites for compliance with authorisation standards. To support the education of VET students with special needs, educational resources were developed, such as the electronic bank of Georgian sign-language (which is located on a special web page) and a mobile application of the aforementioned bank, audio versions of vocational textbooks, and guidelines related to vocational education.

In 2021-2022 a regulation on providing inclusive vocational education has been developed. The regulation aims to support principles of inclusiveness and ensures involvement of persons with disabilities and special education needs in VET. It also considers the provision of orientation services for persons with special educational needs, which will help beneficiaries to make informed decisions regarding future career pathways through practical testing of different elements of a profession, throughout the year.

The service was piloted in 2023. It takes into account participants' individual needs, abilities and interests and offers various activities, such as, for example, information about the profession and labour market, meetings with employers and graduates, visits to practice sites and, of course, practical testing of the profession, which promotes the profession directly on the spot, in a real environment. A career orientation service is crucial for persons with special education needs and disabilities, because practice shows that they choose professions randomly and when their expectations don't meet the reality, they are frustrated and leave the learning process. The implementation of the career orientation service aims to avoid the mentioned threats, helps persons with special education needs and disabilities to make an informed career decision, reduces the risks of dropping out of college and increases the rate of likelihood of employment in one's profession.

In 2021, a unified rule of enrolment in educational institutions was introduced in the vocational education system (The Order of the Minister of Education and Science of Georgia 42/N "On the approval of the rules and conditions of enrolment in the professional educational programme", dated 2 July 2021), according to which, in 2021, for the first time it became possible to enrol VET students with unified enrolment procedures not only in public but in all private institutions. Thus, all authorised (including private) institutions accept students only through a single admission procedure, through a common platform. In accordance with the new enrolment rule, 15% of the announced places are offered to people with special needs. The application process uses a variety of mechanisms, which, depending on the specifics of the programme, provide a much more flexible approach to student selection. Those wishing to enrol in vocational education programmes

40 Conclusions I (1969), Statement of Interpretation on Article 10§1.

41 Conclusions 2003, France.

have to pass the test organised by the National Assessment and Examinations Center (NAEC). Following the completion of the selection procedures, the rule requires the formation of ranking lists of applicants, considering the relevant criteria for each programme. The registration of applicants is carried out online, through registration on the portal - vet.emis.ge. Similar to other applicants, individuals with special educational needs and disabilities are given the opportunity to select three preferred programmes, enhancing their chances of enrolment in any of the chosen programmes. In order to confirm a special educational need during online registration on the portal - vet.emis.ge, the applicant must check the box "person with special educational needs" in the registration column. A member of the multidisciplinary team will contact a person with a disability status within approximately five working days of registration and provide an assessment of the applicant and prepare a relevant report, which will be reflected in the Education Management Information System (EMIS) database. After the confirmation of the status, the selection of the person with special educational needs will be conducted according to the rules established by the institutions, based on a practical testing. Practical testing involves the practical performance of the activity/activities that most characterise the programme in conditions adapted to the individual needs and abilities of the applicant. This is accompanied by a reflection process which serves to better clarify the applicant's own abilities and professional interests, as well as to determine the strengths and weaknesses of a person in a specific occupation/programme by observers. It is recommended that an applicant with special educational needs takes a practical test in all programmes selected during the registration. If a person is not registered during the admission procedure as a person with special educational needs and is enrolled as a person with typical ability and has some kind physical restriction, this person has the opportunity to apply to the VET institution after the enrolment and to submit the report of a multidisciplinary team and a document confirming the limited capability (issued by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia). Upon the application, the status of the person is reflected in the EMIS data base and the above-mentioned additional funding in the amount of GEL 1 000 is available for him/her for the support services.

It should be mentioned that in order to increase access to vocational education and facilitate the teaching of Georgian to non-Georgian-speaking beneficiaries, ethnic minorities have been able to undertake the selection procedure in Armenian, Russian and Azerbaijani since 2016. After passing the selection procedure, they are offered a Georgian language module upon the completion of which they are able continue their studies at the desired vocational education programme. Currently, the development of a new state language programme in VET is underway and after its implementation, the vocational education system will provide a new programme for learning the state language for non-Georgian language applicants, including ethnic minorities.

Moreover, enrolment procedures are also differentiated and adjusted to socially vulnerable people. The education management and information system generates the ranked list of applicants, considering the results of the applicant's assessment, the status of the person in the unified database of socially disadvantaged families, and the achieved level of education. If the applicant is a person receiving subsistence allowance in the unified database of socially vulnerable families, his/her rating score is determined by multiplying the received evaluation scores to 1.1. coefficient, which is specially designated to this target group.

Furthermore, people who received secondary education in the occupied territories of Georgia can enrol in the vocational educational programmes without passing the tests. This initiative includes people who completed their secondary education in the general educational institution of the occupied territories (according to the Law of Georgia "On Occupied Territories").

## 2. EQUAL TREATMENT WITH RESPECT TO ACCESS TO VOCATIONAL TRAINING MUST BE GUARANTEED TO NON-NATIONALS.<sup>42</sup>

### ARTICLE 4 LABOUR CODE – DEFINITION OF LABOUR DISCRIMINATION

1. For the purposes of this Law, discrimination is the intentional or negligent discrimination or exclusion of a person, or the giving to him/her a preference, on the grounds of race, skin colour, language, ethnic or social affiliation, nationality, origin, property or titular status, employment status, place of residence, age, gender, sexual orientation, disability, health status, religious, public, political or other affiliation (including affiliation to trade unions), marital status, political or other opinions, or on any other grounds, with the purpose or effect of denying or breaching equal opportunities or treatment in employment and occupation.

### ARTICLE 5 LABOUR CODE – SCOPE OF PROHIBITION OF DISCRIMINATION

Discrimination in labour relations and pre-contractual relations (including when publishing a vacancy and at a selection stage), and in employment and occupation, shall be prohibited. The prohibition of discrimination shall apply, inter alia, to:

- b) access to all types of vocational guidance, advanced training, vocational training and retraining (including practical work experience) at all levels of the professional hierarchy.

<sup>42</sup> Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§1.



**ANALYSIS:** Under Article 10§1 ESC, mainly legislation is assessed by the Committee.

1. In terms of Georgian legislation:
  - a) the right to vocational training is guaranteed to everyone and the notion of vocational training **is in line with the standards of Article 10§1 ESC;**
  - b) Articles 4 and 5 Labour Code guarantee equal treatment with respect to vocational guidance in the labour market in Georgia - **which complies with the standards of Article 10§1 ESC.**

**CONCLUSION:** The acceptance of Article 10§1 ESC is highly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## ARTICLE 10§3 ESC - VOCATIONAL TRAINING AND RETRAINING OF ADULT WORKERS

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared that Georgia is in a position to meet the conditions enabling it to comply with the requirements of Article 10§3 of the Charter in the near future and thus encouraged the authorities to pursue its policy in this direction.

Paragraph 3 concerns measures designed to make access to vocational training effective in practice. When assessing the situation in the country from the perspective of its compliance with Article 10§3 ESC, the ECSR takes into consideration especially the aspects discussed below.

1. **THE RIGHT TO CONTINUING VOCATIONAL TRAINING MUST BE GUARANTEED TO EMPLOYED AND UNEMPLOYED PERSONS, INCLUDING YOUNG UNEMPLOYED PEOPLE. SELF-EMPLOYED PERSONS ARE ALSO COVERED BY THIS PROVISION. ARTICLE 10§3 ESC TAKES INTO CONSIDERATION ONLY THOSE ACTIVATION MEASURES FOR UNEMPLOYED PEOPLE THAT STRICTLY CONCERN TRAINING, WHILE ARTICLE 10§1 ESC DEALS WITH GENERAL ACTIVATION MEASURES FOR UNEMPLOYED PEOPLE. THE NOTION OF CONTINUING VOCATIONAL TRAINING INCLUDES ADULT EDUCATION.**<sup>43</sup>

In 2019, the educational system of Georgia introduced a new opportunity to certify and approve short-term training and retraining programmes, which were previously housed under the umbrella of non-formal education. According to these amendments, any legal entity (such as a private company, training centre, association, or educational institute) is eligible to become a VET provider and issue State Certificates.

This opportunity for adult learners is relatively short in time. Short-term training and retraining programmes are particularly attractive for employers, who are expecting to hire qualified personnel for performing specific tasks, as well as for people who want to improve their professional skills and advance their careers rapidly.

The aforementioned change in the formal education system has several objectives: (1) meeting the needs of the labour market in a relatively short period of time; (2) involving employers in the implementation of programmes to improve their quality and relevance and (3) activating the adult population in the labour market.

All short-term programmes are conducted in the form of work-based learning and meet the following criteria: programme efficiency, human resource availability, and institutional efficiency. The vocational training and retraining programmes electronic system, developed in 2019 by the Legal Entity of Public Law (LEPL) Education Management Information System, supports the conduction of processes in an electronic format.

It is worth noting that a systematised service, flexible quality assurance mechanisms, and state funding opportunities stimulate the involvement of the private sector in delivering short-term programmes. As a result, the number of private sector providers is increasing annually.

Short-term training and retraining courses are available to all interested persons. Information on the programmes can be obtained on the electronic platform [www.vet.emis.ge](http://www.vet.emis.ge). Any person wishing to apply to the programme can register on the mentioned web portal and then go through the selection procedure defined for each specific programme, which may include a motivational interview, written tests, practice testing, etc. Programmes are available year-round. The concept of vocational training and retraining programmes was developed with the concept of microcredentials in mind, providing students with the opportunity to utilise these credits towards diploma programmes through an official recognition process.

There are two mechanisms of state funding, namely the Skills Agency fully or partially financing courses in priority sectors and the State Employment Support Agency focusing on the provision of upskilling for job seekers. The funding mechanism of the Skills Agency is particularly proactive for engaging the private sec-

<sup>43</sup> Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§3.

tor in VET provision. Additional support services are available for persons with disabilities and special education needs (sign language interpreters, mobility orientation specialists, transportation, etc.). Most training and retraining programmes are tailored to the needs of adults and offer students a flexible schedule.

The ecosystem of non-formal VET providers is very diverse in Georgia. Non-formal vocational programmes are offered by private centres as well as by various VET institutions, non-governmental organisations, and community centres, which are supported by state actors (e.g. Georgia Innovation and Technology Agency (GITA), municipalities etc.). Non-formal courses for basic employability skills (e.g. business writing, communication and social skills, ICT and entrepreneurship) are supported.

As part of the second phase of the EU Skills4Jobs programme (started in 2020) nine grants (with a total EU contribution of €7 million) had been allocated to the private and public sector as well as civil society organisations to further enhance employment opportunities, particularly in the regions. The projects focus on ensuring that relevant skills matching services, training and entrepreneurship capacity building opportunities are available for youth, women and vulnerable populations.

The USAID Industry-led Skills Development Program is a five-year initiative designed to create pathways between skills training and high-value employment opportunities, empowering Georgians to reduce unemployment and catalyse sustainable economic growth across the country. The Skills Development Program incentivises businesses in high growth industries to systematically engage in innovative skills development, while engaging skills training providers to implement high quality training programmes aligned with labour market demand and extend access to their offerings throughout Georgia. Training programmes target underrepresented members of society, including residents of rural communities, women, and ethnic minorities through formal and non-formal trainings.

One of the biggest non-governmental providers of non-formal programmes is DVV international, which offers vocational, civic and cultural education as well as community activities to more than 12 000 beneficiaries per year through its 10 adult education centres in the country. Beneficiaries are mainly vulnerable groups (unemployed persons, national minorities and Internally Displaced Persons).

Vocational training and retraining programmes target a specific segment of the population who want to acquire and/or update their knowledge/skills in a short period of time, which makes these programmes especially attractive to long-term unemployed people. As it was mentioned above, the total enrolment in short-term training and retraining programmes is growing in Georgia. However, in addition to the availability of such programmes, effective reintegration of long-term unemployed persons requires the existence of specific intermediary services, which inform potential beneficiaries about available opportunities and prepare them for the transition to education.

Such mediation and support services are currently provided by the State Employment Support Agency. The agency offers training and retraining programmes, as well as individual and group career planning services to job seekers, who are registered as unemployed at [www.worknet.gov.ge](http://www.worknet.gov.ge). Services include career planning and counselling, basic skills programmes, internships in private companies, compiling job vacancies, as well as arranging employment forums and fairs.

## 2. EQUAL TREATMENT WITH RESPECT TO ACCESS TO CONTINUING VOCATIONAL TRAINING MUST BE GUARANTEED TO NON-NATIONALS.

As established during the fact finding mission, non-nationals can study for free in state-sponsored VET programmes if they meet the prerequisites for admission to the programme and speak the state language.

**ANALYSIS:** Under Article 10§3 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation and its enforcement:
  - a) the right to continuing vocational training is guaranteed to employed and unemployed persons, including young unemployed people – **which is in line with the standards of Article 10§3 ESC;**
  - b) non-nationals can study free of charge in state-sponsored VET programmes if they meet the requirements for admission to the programme and speak the state language - **which complies with the standards of Article 10§3 ESC.**

**CONCLUSION:** The acceptance of Article 10§3 ESC is highly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## ARTICLE 10§5 ESC - FULL USE OF FACILITIES AVAILABLE FOR VOCATIONAL TRAINING

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared that there are no major obstacles for Georgia to accept Article 10§5 of the Charter and thus encouraged the authorities to pursue its policy in this direction.

Article 10§5 ESC provides for complementary measures which are fundamental to make access to vocational education effective in practice. While assessing the situation in the country from the perspective of its compliance with Article 10§5 ESC, the ECSR takes into consideration especially the complementary measures discussed below.

1. **REDUCING OR ABOLISHING ANY FEES OR CHARGES. STATES PARTIES MUST ENSURE THAT VOCATIONAL TRAINING, AS DEFINED IN PARAGRAPH 1, IS PROVIDED FREE OF CHARGE OR THAT FEES ARE PROGRESSIVELY REDUCED.<sup>44</sup> ACCORDING TO THE APPENDIX TO THE CHARTER, EQUALITY OF TREATMENT SHALL BE PROVIDED TO NATIONALS OF OTHER STATES PARTIES LAWFULLY RESIDENT OR REGULARLY WORKING ON THE TERRITORY OF THE STATE PARTY CONCERNED.<sup>45</sup>**

According to the Ordinance of the Government of Georgia N244 of 19 September 2013 on the determination of the rules and conditions of financing vocational education and approving the maximum amount of tuition fees to be allocated by the state for educational institutions implementing vocational education programmes<sup>46</sup>, state funding is ensured in all state educational institutions for the citizens of Georgia. Students are also funded in the private VET institutions implementing the priority programmes that are defined by the order of the Minister of Education and Science of Georgia, with the maximum amount of vouchers determined by the state. Funding is also provided for foreign citizens with the status of compatriot living abroad, asylum seekers, persons with refugee or humanitarian status and also, for a non-citizen student with a residency status in Georgia, who is or has been under state care.

Vocational guidance and support in career planning that are offered by the SESA are free of charge to all persons registered in the SESA system. The registration is the only precondition to be able to benefit from the SESA services.

2. **GRANTING FINANCIAL ASSISTANCE IN APPROPRIATE CASES. THE GRANTING OF FINANCIAL ASSISTANCE IN APPROPRIATE CASES MEANS PROVIDING FINANCIAL ASSISTANCE TO PERSONS WHO WOULD NOT OTHERWISE BE IN A POSITION TO UNDERTAKE AN APPRENTICESHIP OR TRAINING.<sup>47</sup> IT ENTAILS, IN ADDITION TO FREE OR LOW-COST TRAINING, THE PROVISION OF ASSISTANCE IN THE FORM OF GRANTS, ALLOWANCES OR OTHER ARRANGEMENTS WHERE NECESSARY.<sup>48</sup> ALL ISSUES RELATING TO FINANCIAL ASSISTANCE ARE COVERED BY ARTICLE 10§5 ESC, INCLUDING ALLOWANCES FOR TRAINING PROGRAMMES IN THE CONTEXT OF THE LABOUR MARKET POLICY.<sup>49</sup> STATES PARTIES MUST PROVIDE FINANCIAL ASSISTANCE EITHER UNIVERSALLY, OR SUBJECT TO A MEANS-TEST, OR AWARDED ON THE BASIS OF THE MERIT.<sup>50</sup> IN ANY EVENT, ASSISTANCE SHOULD AT LEAST BE AVAILABLE FOR THOSE IN NEED AND SHALL BE ADEQUATE.<sup>51</sup> IT MAY CONSIST OF SCHOLARSHIPS OR LOANS AT PREFERENTIAL INTEREST RATES.<sup>52</sup> THE NUMBER OF BENEFICIARIES AND THE AMOUNT OF FINANCIAL ASSISTANCE ARE ALSO TAKEN INTO CONSIDERATION FOR ASSESSING COMPLIANCE WITH THIS PROVISION.<sup>53</sup>**

In 2019, the education system of Georgia introduced a new opportunity to certify and approve short-term training and retraining programmes, which were previously housed under the umbrella of non-formal education. According to these amendments, any legal entity (such as a private company, training centre, association, or educational institute) is eligible to become a short-term training and retraining programmes provider and issue State Certificates.

This opportunity to teach adult learners certain competencies and skills in a relatively short period of time through short-term training and retraining programmes is particularly attractive for employers, who are expecting to hire qualified personnel for performing specific tasks, as well as for people who want to improve their professional skills and advance their careers rapidly.

Systematised service, flexible quality assurance mechanisms, and state funding opportunities stimulate the involvement of the private sector in delivering short-term programmes.

44 Conclusions 2020, Malta.

45 Conclusions, XVI-2 (2004), United Kingdom.

46 Available at: <https://matsne.gov.ge/ka/document/view/2021412?publication=26>, accessed 5 September 2024.

47 Conclusions XIII-1 (1993), Türkiye.

48 Conclusions XIII-1 (1993), Türkiye.

49 Conclusions 2016, Italy.

50 Conclusions XIX-1 (2008), Türkiye.

51 Conclusions XIX-1 (2008), Türkiye.

52 Conclusions 2016, Italy, Conclusions XIV-2 (1998), Ireland.

53 Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§1.

Short-term training and retraining programmes are available to all interested persons. Information on the programmes can be obtained on the electronic platform [www.vet.emis.ge](http://www.vet.emis.ge). Any person wishing to apply to short-term training and retraining programmes can register on the web portal and then go through the selection procedure defined for each specific programme. Programmes are available year-round. There are two mechanisms of the state funding, namely the Skills Agency which fully or partially finances courses in priority sectors and the State Employment Support Agency which focuses on upskilling job seekers. The funding mechanism of the Skills Agency is particularly proactive for engaging the private sector in the provision of short-term training and retraining programmes. Additional support services are available for persons with disabilities and special education needs (sign language interpreters, mobility orientation specialists, transportation, etc.). Most training and retraining programmes are tailored to the needs of adults and offer students a flexible schedule.

3. THE TIME SPENT ON SUPPLEMENTARY TRAINING TAKEN BY THE WORKER, AT THE REQUEST OF HIS EMPLOYER, IS INCLUDED IN THE NORMAL WORKING HOURS DURING EMPLOYMENT. SUPPLEMENTARY TRAINING MEANS ANY KIND OF TRAINING THAT MAY BE HELPFUL IN CONNECTION WITH THE CURRENT OCCUPATION OF THE WORKERS AND AIMED AT INCREASING THEIR SKILLS. IT DOES NOT IMPLY ANY PREVIOUS TRAINING. THE TERM "DURING EMPLOYMENT" MEANS THAT THE WORKER SHALL BE CURRENTLY IN A WORKING RELATIONSHIP WITH THE EMPLOYER REQUIRING THE TRAINING.<sup>54</sup>

#### Article 22 of the Labour Code:

1. Employers shall facilitate the upgrading of employees' qualifications.
2. After the end of a period of maternity leave, parental leave, or newborn adoption leave, upon the request of the employee, the employer shall ensure that the qualifications of the employee are upgraded if this is necessary for the performance of the work under the employment agreement, and does not impose a disproportionate burden on the employer.
3. If a decision on an employee's participation in a vocational retraining, an advanced training, or another training course is made by an employer, the employee's participation in such a course shall be included in working time and shall be paid.

#### Article 54 of the Law on Public Service:

1. Public servants are obligated, in accordance with the goals of the public service, to enhance their professional skills by participating in official professional development programmes provided by the public service.
2. The objective of a public servant's professional development is to advance their expertise and ensure the effective operation of the public institution.
3. Public institutions, in alignment with their objectives, guarantee employees' participation in mandatory professional development programmes and encourage their engagement in professional development opportunities outside the public service system.
4. At the outset of each year, the public institution assesses the need for professional development among its officials based on the approved professional development standard established by the Government of Georgia. This evaluation considers both institutional needs and individual performance assessments.
5. Civil servants reserve the right to identify additional training needs essential for their professional growth. With mutual agreement with the public institution, they can request appropriate leave, adhering to the regulations outlined in this law.
6. In instances where the duration of a professional development programme exceeds three months and is financed by a public institution, an official cannot voluntarily resign from their position for one year following the programme's completion, as stipulated in the contract between the official and the public institution. This provision is void if the official reimburses the public institution for incurred expenses related to their professional development.
7. The process for assessing the professional development needs of officials, as well as the standards and procedures for professional development, are established and endorsed

by the Government of Georgia through resolution.

8. Public institutions are required to submit a report on the professional development needs of civil servants to the unified electronic system of human resources management in the public service. This report aligns with the guidelines outlined in paragraph 7 of this article.

4. ENSURING THE EFFECTIVENESS OF APPRENTICESHIPS AND OTHER TRAINING ARRANGEMENTS FOR YOUNG WORKERS THROUGH ADEQUATE SUPERVISION, IN CONSULTATION WITH EMPLOYERS' AND WORKERS' ORGANISATIONS AND THE ADEQUATE PROTECTION OF YOUNG WORKERS GENERALLY.<sup>55</sup> STATES PARTIES MUST EVALUATE THEIR VOCATIONAL TRAINING PROGRAMMES FOR YOUNG WORKERS, INCLUDING THE APPRENTICESHIPS.<sup>56</sup> IN PARTICULAR, THE PARTICIPATION OF EMPLOYERS' AND WORKERS' ORGANISATIONS IS REQUIRED IN MONITORING THE EFFECTIVENESS OF TRAINING SCHEMES.<sup>57</sup>

No information was found and delivered on the issue.

**ANALYSIS:** Under Article 10§5 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation and its enforcement:
  - c) All state educational institutions provide state funding to Georgian citizens. Students also receive funding from private VET institutions - **which is in line with the standards of Article 10§5 ESC;**
  - d) pursuant to Article 22(3) Labour Code, if a decision on an employee's participation in a vocational retraining, advanced training or other training courses is taken by an employer, the employee's participation in such courses shall be considered as working time and shall be remunerated - **which is in line with the standards of Article 10§5 ESC, so no amendments are required.**

**CONCLUSION:** The acceptance of Article 10§5 ESC is highly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## ARTICLE 15§1 ESC – VOCATIONAL TRAINING FOR PERSONS WITH DISABILITIES

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared that there are no major obstacles for Georgia to accept Article 15§1 of the Charter and thus encouraged the authorities to pursue its policy in this direction.

Under Article 15§1 ESC, all persons with disabilities, irrespective of their age and the nature and origin of their disabilities, have the right to receive guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised public or private bodies. As in Article 10 of the Charter, vocational training under Article 15 encompasses all forms of higher education, including university education.<sup>58</sup> When assessing the situation in the country from the perspective of its compliance with Article 15§1 ESC, the ECSR takes into consideration especially the three aspects discussed below namely the existence of non-discrimination legislation, measures that promote inclusiveness and quality in education, and the effectiveness of the access to education.

<sup>55</sup> Conclusions 2020, Türkiye.

<sup>56</sup> Conclusions 2020, Lithuania.

<sup>57</sup> Conclusions XIV-2 (1998), United Kingdom.

<sup>58</sup> Digest..., p. 135.



1. **THE EXISTENCE OF NON-DISCRIMINATION LEGISLATION.** SUCH LEGISLATION SHOULD, AS A MINIMUM, REQUIRE A COMPELLING JUSTIFICATION FOR SPECIAL OR SEGREGATED EDUCATIONAL SYSTEMS AND CONFER AN EFFECTIVE REMEDY FOR THOSE FOUND TO HAVE BEEN UNLAWFULLY EXCLUDED OR SEGREGATED OR OTHERWISE DENIED AN EFFECTIVE RIGHT TO EDUCATION.<sup>59</sup> LEGISLATION MAY CONSIST OF GENERAL ANTI-DISCRIMINATION LEGISLATION, SPECIFIC LEGISLATION CONCERNING EDUCATION, OR A COMBINATION OF THE TWO. **ARTICLE 15§1** OF THE **CHARTER** MAKES IT AN OBLIGATION FOR **STATES PARTIES** TO PROVIDE EDUCATION FOR PERSONS WITH DISABILITIES, TOGETHER WITH VOCATIONAL GUIDANCE AND TRAINING, IN ONE OR OTHER OF THE PILLARS OF THE EDUCATION SYSTEM, IN OTHER WORDS MAINSTREAM OR SPECIAL SCHOOLS. **PRIORITY IS TO BE GIVEN TO EDUCATION IN MAINSTREAM ESTABLISHMENTS.**<sup>60</sup>

Protection against discrimination in the sector of education is guaranteed by the Law of Georgia on the Elimination of All Forms of Discrimination. The purpose of this law is to eliminate all forms of discrimination and to ensure the equal enjoyment of the rights prescribed by law for every person, irrespective of the various protected characteristics, including health status and disability (Article 1). The law distinguishes between direct and indirect discrimination and introduces the concept of multiple discrimination. It establishes the Public Defender of Georgia and the court as legal mechanisms for the protection of the right to equality.

#### **ARTICLE 4 LABOUR CODE – DEFINITION OF LABOUR DISCRIMINATION**

1. For the purposes of this Law, discrimination is the intentional or negligent discrimination or exclusion of a person, or preferential treatment, on the grounds of race, skin colour, language, ethnic or social affiliation, nationality, origin, property or titular status, employment status, place of residence, age, gender, sexual orientation, disability, health status, religious, public, political or other affiliation (including affiliation to trade unions), marital status, political or other opinions, or on any other grounds, with the purpose or effect of denying or breaching equal opportunities or treatment in employment and occupation.

#### **ARTICLE 5 LABOUR CODE – SCOPE OF PROHIBITION OF DISCRIMINATION**

Discrimination in labour relations and pre-contractual relations (including when publishing a vacancy and at a selection stage), and in employment and occupation, shall be prohibited. The prohibition of discrimination shall apply, inter alia, to:

- b) the access to all types of vocational guidance, advanced training, vocational training and retraining (including practical work experience) at all levels of the professional hierarchy.

#### **ARTICLE 9 LABOUR CODE – REASONABLE ACCOMMODATION**

In order to guarantee compliance with the principle of reasonable accommodation and in particular the principle of equal treatment in relation to persons with disabilities, employers shall take measures, where needed, to enable a person with a disability to have access to or advance in employment, or to undergo advanced training and vocational training and retraining, unless such measures would impose a disproportionate burden on the employer. This burden shall not be deemed disproportionate where adequate state support programmes, benefits and/or other alternative remedies are available for persons with disabilities in relation to the measure in question.

2. **MEASURES AIMED AT PROMOTING INCLUSION AND QUALITY IN EDUCATION.** **STATES PARTIES** MUST DEMONSTRATE THAT TANGIBLE PROGRESS IS BEING MADE IN SETTING UP INCLUSIVE AND ADAPTED EDUCATION SYSTEMS.<sup>61</sup> INCLUSIVE EDUCATION IMPLIES THE PROVISION OF SUPPORT AND REASONABLE ACCOMMODATIONS WHICH PERSONS WITH DISABILITIES ARE ENTITLED TO EXPECT IN ORDER TO HAVE EFFECTIVE ACCESS TO SCHOOLS.<sup>62</sup> SUCH REASONABLE ACCOMMODATIONS RELATE TO AN INDIVIDUAL AND HELP TO REDRESS FACTUAL INEQUALITIES.<sup>63</sup> APPROPRIATE REASONABLE ACCOMMODATIONS MAY INCLUDE: ADAPTATIONS TO THE CLASSROOM AND ITS LOCATION, THE PROVISION OF DIFFERENT FORMS OF COMMUNICATION AND EDUCATIONAL MATERIALS, THE PROVISION OF HUMAN OR ASSISTIVE TECHNOLOGY IN LEARNING OR ASSESSMENT SITUATIONS, AS WELL AS NON-MATERIAL ADJUSTMENTS, SUCH AS ALLOWING A STUDENT MORE TIME, REDUCING LEVELS OF BACKGROUND NOISE, SENSITIVITY TO SENSORY OVERLOAD, ALTERNATIVE EVALUATION METHODS OR REPLACING AN ELEMENT OF THE CURRICULUM BY AN ALTERNATIVE ELEMENT.<sup>64</sup> ASSISTANCE AT SCHOOL IS A PARTICULARLY IMPORTANT MEANS OF KEEPING CHILDREN AND ADOLESCENTS WITH AUTISM IN MAINSTREAM SCHOOLS.

**GEORGIA RATIFIED THE UNITED NATION CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES IN 2014.**

**ON 14 SEPTEMBER 2023, A UN EXPERT LAUDED GEORGIA'S PROGRESS TOWARDS AN INCLUSIVE AND RIGHTS-BASED ENVIRONMENT FOR**

59 Conclusions 2007, Statement of Interpretation on Article 15§1.

60 Conclusions, XVI-2 (2004), United Kingdom.

61 Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§1.

62 Conclusions 2020, Andorra.

63 Conclusions 2020, Andorra.

64 European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, decision on the merits of 11 September 2013, §85.

"In recent years, Georgia has undertaken legislative and policy reforms at an unprecedented pace to apply human rights standards in line with the UN Convention on the Rights of Persons with Disabilities, which the country ratified in 2014," said Gerard Quinn, Special Rapporteur on the rights of persons with disabilities, in a statement at the end of a 10 day official visit to the country.

"In particular, the 2020 Law on the Rights of Persons with Disabilities is a ground-breaking step forward that can generate concrete change if practically implemented," Quinn said.

"There is genuine willingness to move away from the historical legacy of a medical approach to disability based on ableism and paternalistic attitudes," the expert said. "The effort now is to replace them with core values for an inclusive society in which persons with disabilities can be active citizens on an equal basis with others," he said.<sup>65</sup>

"While recent legislative reforms are trending in the right direction, implementation remains a key challenge. Much remains to be done, for example on accessibility to the physical and digital environment, labour inclusion and economic empowerment, education, mental health, legal capacity, and access to justice" the expert said.<sup>66</sup>

**In the 9th Special Report on Equality published on 22 April 2024, the Public Defender of Georgia** noticed that, even though there have been several positive legislative changes in recent years, providing inclusive education tailored to individual needs of children with disabilities remains a challenge.<sup>67</sup> In the case of children with special educational needs, from the point of view of providing an adequate physical environment, it remains a challenge to arrange schools in accordance with the requirements of the universal design principle. In some cases, the minimum needs of children are mostly met, but this does not correspond in any way to the requirements of an accessible environment.<sup>68</sup> This significantly hinders the full realisation of the right to education, which is one of the main challenges in the country, autonomously, in the direction of protecting the rights of the child.

Along with the problem of accessibility of a physical environment, in relation to children with special educational needs, it is also necessary to consider the unsatisfactory level of providing the school staff with appropriate information, which often leads to discrimination against students. In some cases, parents themselves have to provide detailed information about their children to the school staff and teachers. Often, no special teacher or psychologist is involved, which is vital for the sufficient and healthy development of the processes. In similar cases, schools must ensure advocacy of the rights of the child, to guarantee an accessible physical environment, and must plan appropriate measures through active cooperation with the responsible agencies, so that students have equal access to education.<sup>69</sup>

**However, several initiatives have been taken to improve the situation.** To support the learning process of VET students with special educational needs and disabilities, various types of services are available. Inclusive vocational education specialists and learning process assistants are involved to ensure access to quality inclusive education in VET colleges. Students can study with individual study plans. According to the students' individual needs, service providers such as sign language interpreters, personal assistants and mobility assistants are offered by VET institutions. Also, colleges provide transportation for vocational students with special needs and disabilities, depending on the need. The need for additional services is determined during the assessment of the educational needs of the person interested in vocational education by a multidisciplinary team.

Since 2005, the Ministry of Education, Science, and Youth started to develop inclusive education at a general education level. **The Law on General Education and National Curriculum** recognises the individual and alternative forms of education. For accessible and quality education additional services for special education needs in public schools were developed.

In Georgia, special education needs of a pupil are identified based on the assessment and conclusion of a multidisciplinary team. A multidisciplinary team was created which consists of 50 members and covers the whole of Georgia. The team consists of different specialists (psychologists, special teachers, occupational therapists, and psychiatrists), whose function is to determine special educational needs in accordance with standardised tests and to develop recommendations for schools in teaching and learning.

The procedures for the introduction, development and monitoring of inclusive education were approved as well as the mechanism for the identification of students with special educational needs. The mechanism regulated the progression of inclusive education in the school as well as the process of determining the sta-

<sup>65</sup> See more at: <https://www.ohchr.org/en/press-releases/2023/09/georgia-un-expert-hails-policy-progress-disability-rights-urges-practical>, accessed 5 September 2024.

<sup>66</sup> Ibidem.

<sup>67</sup> Report available at: <https://www.ombudsman.ge/res/docs/2024042216453494204.pdf>, p. 7, accessed 5 September 2024.

<sup>68</sup> Case No. 12572/22 studied by the Public Defender's Office described in the Public Defender's 9th Special Report on Equality, p. 7.

<sup>69</sup> Ibidem, p. 7-8.

tus of special education needs students by a multidisciplinary team. The additional specialists who should work with the special education needs student were defined – psychologists, occupational therapists, speech therapists, sign language interpreters, sign language specialists, orientation and mobility specialists, and assistants of a person with special educational needs.

The Ministry is developing numerous auxiliary resources, guides, and manuals, which serve to promote the education of special education needs students and are intended for specialists, teachers, and parents. Alternative curricula are a part of the National Curriculum. If it is impossible for a special education needs student to learn some of the subjects specified in the National Curriculum, the Alternative Curriculum is a document that includes and sets out the standard of the subjects, the teaching recommendations, the means of achievement, the functional skills and the knowledge acquisition. According to the Alternative Curriculum, each subject is taught using a variety of learning strategies and gives the student functional and academic knowledge. Part of the National Curriculum is an alternative curriculum for students with severe and multiple mental disorders and autism spectrum disorders; a Sensory Curriculum for students with severe and multiple mental and physical development disorders; an Advanced Curriculum for students with visual impairments; and a Mobility-Orientation Standard. Moreover, there is a standard for teaching Georgian sign language at the elementary level and a curriculum for lowering and accelerated learning for those who are left out of compulsory education. Textbooks are printed in Braille for visually impaired students, and audio versions of the textbooks are also prepared. The Ministry ensures the purchase of technical equipment in order to support the education of visually impaired students. Furthermore, infrastructural projects are implemented, and educational institutions are adapted. The special education needs students are provided with transportation services.

The Ministry of Education, Science, and Youth has created an electronic support tool for the Georgian Braille font in order to foster access to education for blind pupils and students. The electronic braille support tool is integrated into the open-source, free software “liblvi”, which is built into various screen readers such as NVDA, JAWS, and others. As a result, blind people can read information displayed on a computer screen using an electronic braille display. It has also become possible to type text using the braille keyboard, which allows blind people to fully use computers both in study and working environments, as well as in everyday life.

In order to support inclusive education, the LEPL–Teacher professional development center (TPDC) provides a variety of training modules, which aim to strengthen the school administration, special teachers, teachers, and parents in the field of inclusive education.

The LEPL-Education and Science Infrastructure Development Agency (ESIDA) carries out construction and rehabilitation works of educational buildings, taking into account the priorities agreed with the Ministry of Education, Science and Youth. The construction and rehabilitation process is regulated by the technical regulations of the “National Accessibility Standards” approved by Resolution N734 of the Government of Georgia of 4 December 2020 and the Resolution No. 41 of the Government of Georgia of 28 January 2016 “On the Regulation and Technical Approval of the Arrangement of Space and Architectural and Planning Elements”. Accordingly, the rehabilitation and construction of educational institutions is implemented in compliance with the requirements of the mentioned regulation. As a result, newly built educational institutions (schools, colleges) are fully adapted and equipped with an environment adapted for disabled people. In relation to partially adapted schools, it should be noted that, if the arrangement of an adapted environment may endanger the stability of the existing building of the educational institution, the mentioned technical regulation is taken into account as far as possible, within the technical capabilities of the building.

In addition, based on the information provided by the schools in the regions of Georgia, as of January 2023, 443 public school buildings have been fully adapted, about 1551 public school buildings have been partially adapted, and the necessary procedures for construction and rehabilitation are underway and/or planned for about 200 school buildings.

Material provision:

In order to promote general education, ESIDA implements various programmes within the framework of which beneficiaries, regardless of their gender, ethnic origin, religion, disability or whether they come from remote areas, are provided with necessary equipment depending on various needs, namely:

Within the framework of the programme **“Provision of textbooks for students and teachers”**:

1. Students of I-XII grades are provided with school textbooks.
2. Braille and relief printing manuals as well as audio versions of manuals for blind and partially sighted students are provided, along with modern assistive devices (portable video magnifiers, mechanical braille, scanners with Georgian print optical (OCR) recognition, tactile drawing boards with brackets, touch braille note takers) designed for blind and partially sighted students.

Within the framework of the **“Provision of Transportation for Public School Students”** programme, ESIDA provides the transportation for children attending public schools in Tbilisi. Public school students, re-



ardless of gender, ethnic origin, or religion, can use the transport service if needed. It is worth noting that in Tbilisi, the service provision for children with special needs and disabilities is carried out separately, where different circumstances are considered, namely: if necessary, adapted transport is provided for children using wheelchairs. Also, a special accompanying person is present in the car during the transportation of disabled students.

In order for general educational institutions to provide the appropriate educational environment and teaching-learning process for students with special educational needs, the Ministry of Education, Science and Youth of Georgia has required the registration of students with special educational needs to be the first stage of the registration of first graders since 2019. As a result, the multidisciplinary team is able to evaluate the registered first graders and then identify their special educational needs. This procedure allows for schools to have information about the educational needs of future first-graders before the start of the new academic year. The given information is instrumental to determine what is required to be provided in order to organize an educational process tailored to the student's needs.

To strengthen the quality and inclusiveness of the educational system, since 2021, the Ministry, in cooperation with the Government of Norway and the United Nations Children's Fund, has been implementing a joint three-year programme called "No Child Without Education". Within the framework of the programme, with the involvement of the stakeholders and foreign and Georgian experts, a new model of inclusive education support system has been developed. It entails the mobilisation of various responsibilities and services in a single space, which will greatly contribute to the coordinated management of existing resources, their efficient usage, and strengthening of required competencies. In addition, the new system ensures the strengthening of schools' resources, the improvement of the counselling and transition components of public schools, the formation of effective operational teams, and the development of new support services, dependent upon the needs identified. The new system envisages consistent, multitiered educational support, tailored to the individual needs and abilities of each child, which on its own helps to improve the quality of inclusive educational practices in the learning environment. In November 2023, an amendment was introduced to the Law of Georgia "On General Education", which, based on best Norwegian practice, creates the basis for the implementation of a new system supporting inclusive education in the Office of Resource Officers of Educational Institutions (ORO). The new model supporting inclusive education will enter into force from 1 June 2024. In the meantime, the process of setting up an Inclusive and Special Education Support Center is underway at the Office of Resource Officers of Educational Institutions (ORO). The Center will coordinate the identification of special educational needs, counselling services, transition support processes, etc.

To support the learning process of VET students with special educational needs and disabilities, various types of services are available. Inclusive vocational education specialists and learning process assistants are involved to ensure access to quality inclusive education in VET colleges. Students can study with individual study plans. According to the students' individual needs, service providers such as sign language interpreters, personal assistants and mobility assistants are offered by VET institutions. Also, colleges provide transportation for vocational students with special needs and disabilities, depending on the need. The need for additional services is determined during the assessment of the educational needs of the person interested in vocational education by a multidisciplinary team.

Last year, a model of continuous professional development of inclusive education staff was developed. It aims to provide continuous professional development of inclusive vocational education team members, which will create the basis for quality inclusive education. The model was based on both international good practices and local experience. The concept includes ongoing changes in the system, inclusive vocational education support systems, opportunities for continuous team development and career advancement.

Recently, a vocational education teachers' inclusion and gender mainstreaming standard has been created, which is a constituent part of the developed standards and represents the main determining regulatory framework of the teacher's work. Also, based on the mentioned standard, an inclusion and gender mainstreaming module was prepared as part of the vocational education teacher training programme, which takes into account the recommendations of the European Agency for the Development of Special Education, and its main goal is to develop practical skills and relevant attitudes among teachers for planning and implementing an inclusive and gender-sensitive learning process.

**3. EFFECTIVENESS OF THE ACCESS TO EDUCATION. TO ASSESS THE EFFECTIVE EQUAL ACCESS OF CHILDREN AND ADULTS WITH DISABILITIES TO EDUCATION AND VOCATIONAL TRAINING, THE FOLLOWING KEY FIGURES ARE TAKEN INTO CONSIDERATION:**

- **total number of persons with disabilities, including the number of children;<sup>70</sup>**
- **number of students with disabilities in mainstream classes, special unites within mainstream schools (or with complementary activities in mainstream settings) in special schools and vo-**

<sup>70</sup> Conclusions 2012, Russian Federation.

cational facilities;<sup>71</sup>

- the number and proportion of children with disabilities out of education;<sup>72</sup>
- the percentage of students with disabilities entering the labour market following mainstream or special education or/and training;<sup>73</sup>
- the number of persons with disabilities (children and adults) living in institutions;<sup>74</sup>
- any relevant case law and complaints brought to the competent bodies with respect to discrimination on the ground of disability in relation to education and training;<sup>75</sup>
- the number of children with disabilities who do not complete compulsory schooling, as compared to the total number of children who do not complete compulsory schooling;<sup>76</sup>
- the number and proportion of children with disabilities in other types of educational settings, including home-schooled children; children attending school on a part-time basis or in residential care institutions, whether on a temporary or long-term basis;<sup>77</sup>
- the drop-out rates of children with disabilities compared to the total school population.<sup>78</sup>

The total number of persons with disabilities, including the number of children, in Georgia is 129 499. Within this number there are 113 638 adult persons with disabilities (in three categories: Persons with severe disabilities – 30 297; Persons with significant disabilities – 73 305; Persons with moderate disabilities – 10 036) and 15 811 children with disabilities.

The Ministry of Education, Science and Youth of Georgia started the implementation of inclusive vocational education within Georgia's vocational education system in 2013 and since then, more than 2 500 students with special education needs have been enrolled in vocational educational programmes.

#### Statistics as of May 2024

The number of students with special educational needs/disabilities in general education schools:

Student Status	Private School	Public School	Total
Special Education Needs	273	11621	11894
Disability	4	116	120
Special Education Needs-Disability	6	1412	1418
<b>Total</b>	<b>283</b>	<b>13149</b>	<b>13432</b>

The number of students with special educational needs/disabilities in profiled education schools:

Group of students	Number at the end of the academic year	could not complete the class	%
All students	46845	109	0.23%
Special Education Needs/Disability	1042	3	0.29%

Student Status	Private School	Total
Special Education Needs	133	133
Special Education Needs/Disability	329	329
<b>Total</b>	<b>462</b>	<b>462</b>

71 Conclusions 2020, Andorra; Conclusions 2012, Russian Federation.

72 Conclusions 2020, Andorra.

73 Conclusions 2012, Russian Federation.

74 Conclusions 2008, Lithuania.

75 Conclusions 2008, Lithuania.

76 Conclusions 2020, Andorra.

77 Conclusions 2020, Andorra.

78 Conclusions 2020, Andorra.

According to a 2023 tracer study, the employment rate for graduates with special education needs from VET programmes stands at 82%, while for persons with disabilities (PWD), it is 62%.

Additionally, special education needs graduates from short-term training and retraining programmes have an employment rate of 87%, while for PWD, it is 75%.

\*Completion of basic education academic year 2022-23.

The share of students enrolled in the last 9th grade of basic education at the end of the academic year who did not complete the class for the same academic year.

As established during the needs assessment, seven specialized schools operate in Georgia, including four schools for students with profound mental impairment and multiple disorders, two for students with hearing impairments and one for students with visual impairment. Out of those, six schools provide additional boarding services on school days. 462 students study in these schools and 65 students out of 460 are receiving boarding services.

The number of students who stopped studying in general education schools during or after the academic year, before the start of the new academic year and did not continue their studies in next academic year.

2022-23 academic year:

Group of students	Enrolment at the beginning of the academic year	stopped studying	%
All students	634547	6244	0.98%
Special Education Needs/Disability	12330	392	3.18%
Comment: Excluded from the count are deceased individuals, students who pursued further studies in professional programmes, or those who relocated abroad with their families.			

**ANALYSIS:** Under Article 15§1 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation and its enforcement:
  - a) protection against discrimination in the field of education is guaranteed by the Law of Georgia on the Elimination of All Forms of Discrimination, the scope of protection **is in line with the standards of Article 15§1 ESC;**
  - b) education for persons with disabilities, together with vocational guidance and training, in one or other of the pillars of the education system, in other words mainstream or special schools, is guaranteed and the priority is given to education in mainstream establishments - **which is in line with the standards of Article 15§1 ESC and no amendments are required;**
  - c) inclusive education, which implies the provision of support and reasonable accommodations to access schools effectively is guaranteed for persons with disabilities - **which is in line with the standards of Article 15§1 ESC and no amendments are required;**
  - d) measures to promote inclusion and quality in education are conducted by Georgian authorities - **which is in line with the standards of Article 15§1 ESC and no amendments are needed.**

**CONCLUSION:** The acceptance of Article 15§1 ESC is highly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## ARTICLE 17§2 ESC - FREE PRIMARY AND SECONDARY EDUCATION, REGULAR ATTENDANCE

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR could not give an assessment on the possibility of accepting Article 17§2 ESC by Georgia as the national report did not contain clear information on the situation in the country on this point.

Article 17 ESC requires States Parties to establish and maintain an education system that is both accessible and effective. The number of children enrolled in school should reach 100% of those of the relevant age group. There

must be a mechanism to control the quality of teaching and the methods used. Education must be compulsory up to the minimum age for admission to employment. In assessing the situation in the country from the perspective of its compliance with Article 17§2 ESC, the ECSR takes into consideration especially the complementary measures discussed below.

**1. EQUAL ACCESS TO EDUCATION MUST BE ENSURED FOR ALL CHILDREN, INCLUDING CHILDREN FROM VULNERABLE GROUPS THAT MUST BE INTEGRATED INTO MAINSTREAM EDUCATIONAL FACILITIES AND ORDINARY EDUCATIONAL SCHEMES.<sup>79</sup>**

According to the Law of Georgia “On General Education”, the Ministry of Education, Science and Youth of Georgia ensures the openness of general education in public schools and its equal access to everyone throughout life.

According to Article 22 of the same law, the state ensures provision of full general education. The state funding of the student’s education in the general educational institution continues for 12 years. The financing of a full general education applies to a citizen of Georgia, to a person with a temporary identification card, to a person provided for in Article 2013 of the Law of Georgia “On the Procedure for Issuing Registration, Identity (Residence) Certificates and Passports of Georgian Citizens and Foreigners Living in Georgia”, to foreign nationals (including citizens of other countries with compatriot status living abroad), stateless persons, and persons with international protection.

**ACCORDING TO ARTICLE 9 OF THE LAW OF GEORGIA “ON GENERAL EDUCATION”:**

- “1. Everyone has an equal right to complete full general education in order to fully develop their personality and acquire the knowledge and skills necessary for equal opportunities for success in private and public life. Primary and basic education is mandatory.
2. To ensure general education, the state creates a general education system and appropriate socio-economic conditions.
3. An alternative curriculum, an individual curriculum based on the national curriculum and/or an extended curriculum is used for a student with special educational needs, according to which their education process, social adaptation and integration into public life are carried out.”

The order No. 04/N of the Minister of Education and Science of Georgia dated 11 January 2017 approves the “Rule for enrolling a student in a general educational institution and suspending the status of a student”. According to the mentioned rule, registration of first-graders in the school is carried out electronically. A student’s parent has the freedom of choice to enrol their child in any school. It should be noted that the registration of first graders is carried out step by step and students with special educational needs are registered first (as the first stage).

**2. STATES PARTIES MUST ENSURE THE QUALITY OF EDUCATION, WHICH INCLUDES A SUFFICIENT NUMBER OF SCHOOLS EQUITABLY DISTRIBUTED THROUGHOUT THE COUNTRY AND CLASS SIZES THAT ALLOW TEACHERS TO WORK EFFECTIVELY WITH EACH CHILD.<sup>80</sup>**

As established during the fact finding mission, there is a school in every settlement of Georgia. If there is no school near the home of a child, the state provides students with a free transportation service to the nearest school.

According to the national curriculum, the maximum number of students in a class in a public school is set at 25 students (Article 9(18) of Order N40/N of the Minister of Education and Science of Georgia dated 18 May, 2016).

**3. PRIMARY AND SECONDARY EDUCATION MUST BE FREE OF CHARGE. ARTICLE 17§2 ESC IMPLIES THAT ALL HIDDEN COSTS, SUCH AS BOOKS OR UNIFORMS, MUST BE REASONABLE, AND ASSISTANCE MUST BE AVAILABLE TO LIMIT THEIR IMPACT ON THE MOST VULNERABLE POPULATION GROUPS SO AS NOT TO UNDERMINE THE GOAL PURSUED.<sup>81</sup>**

As established during the fact finding mission, all public-school students are provided with school textbooks free of charge by the state. Uniforms are not required in public schools.

**ARTICLE 14 OF THE LAW OF GEORGIA “ON GENERAL EDUCATION” STATES:**

- “6. The school has the right to introduce or set the school uniform in a way that does not restrict the freedom of expression of a student and a teacher. The student and the teacher have the right to refuse to wear the school uniform.

<sup>79</sup> Digest..., p. 155-156.

<sup>80</sup> Digest..., p. 155; Conclusions 2003, Bulgaria.

<sup>81</sup> European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 82/2012, decision on the merits of 19 March 2013, §31.

7. When introducing a school uniform, a school shall consider the student's financial background, and if they are unable to purchase a uniform, the school shall provide them with a uniform."

The Social Service Agency and local municipalities have targeted financial assistance allocated to help vulnerable families with children, including for providing school supplies.

**ANALYSIS:** Under Article 17§2 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation and its enforcement:
  - a) the equal right to complete a full general education is guaranteed to everyone, especially under Article 9 of the Law of Georgia "On General Education" - **which is in line with the standards of Article 17§2 ESC, so no amendments are needed;**
  - b) there is a school in every settlement of Georgia and if there is no school near the home of a child, the state provides students with a free transportation service to the nearest school - **which is in line with the standards of Article 17§2 ESC;**
  - c) all public schools are free of charge and pupils are provided with school textbooks free of charge by the state - **which is in line with the standards of Article 17§2 ESC.**

**CONCLUSION:** The acceptance of Article 17§2 ESC is highly recommended as no obstacles have been identified.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## ARTICLE 21 ESC - THE RIGHT TO INFORMATION AND CONSULTATION

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared that there are no major obstacles for Georgia to accept Article 21 of the Charter and thus encouraged the authorities to pursue its policy in this direction.

Consultation at the enterprise level is covered by Article 6§1 and Article 21 of the Charter.<sup>82</sup> For the States Parties that have ratified both provisions, consultation at enterprise level is examined under Article 21 of the Charter.<sup>83</sup> While assessing the situation in the country from the perspective of its compliance with Article 21 ESC, the ECSR takes into consideration especially the complementary measures discussed below.

1. **ARTICLE 21 ESC APPLIES TO ALL UNDERTAKINGS, WHETHER PRIVATE OR PUBLIC. STATES PARTIES MAY EXCLUDE FROM THE SCOPE OF THIS PROVISION THOSE UNDERTAKINGS EMPLOYING LESS THAN A CERTAIN NUMBER OF WORKERS, TO BE DETERMINED BY NATIONAL LEGISLATION OR PRACTICE. WORKERS AND/OR THEIR REPRESENTATIVES (TRADE UNIONS, WORKERS' DELEGATES, HEALTH AND SAFETY REPRESENTATIVES, WORKS' COUNCILS) MUST BE INFORMED ON ALL MATTERS RELEVANT TO THEIR WORKING ENVIRONMENT EXCEPT WHERE THE CONDUCT OF BUSINESS REQUIRES THAT CERTAIN CONFIDENTIAL INFORMATION BE WITHHELD.**<sup>84</sup>

### ARTICLE 70 LABOUR CODE – PROMOTING THE PROVISION OF INFORMATION AND CONSULTATION BETWEEN THE EMPLOYER AND THE EMPLOYEE

1. In undertakings regularly employing at least 50 employees, employers shall ensure the provision of information and consultation in accordance with the procedure established by this chapter.

### ARTICLE 71 LABOUR CODE – PROCEDURES FOR THE PROVISION OF INFORMATION AND CONSULTATION

1. Employers shall provide employee representatives with information and consultation on the following issues:
  - a) the recent and probable development of the undertaking's activities and economic situation;
  - b) the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged which might significantly affect the employees' remuneration and employment conditions, and/or pose a threat to the continuation of labour relations;
  - c) decisions likely to lead to substantial changes in work organisation.

<sup>82</sup> Conclusions 2018, Latvia, citing Conclusions 2004, Ireland.

<sup>83</sup> Conclusions 2018, Latvia, citing Conclusions 2004, Ireland.

<sup>84</sup> Conclusions 2010, Belgium.



*\* Pursuant to Article 70(1) Labour Code, "In undertakings regularly employing at least 50 employees, employers shall ensure the provision of information and consultation in accordance with the procedure established by this chapter." The provision does not violate the Charter's standards and is acceptable in the light of the ECSR's 2010 Conclusions XIX-3 concerning Croatia on Article 21 ESC, according to which "States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. For example, undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state may be excluded from the scope of this provision, as per the thresholds established by Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002."*

2. **WORKERS MUST BE CONSULTED IN GOOD TIME WITH RESPECT TO PROPOSED DECISIONS THAT COULD SUBSTANTIALLY AFFECT THE WORKERS' INTERESTS, IN PARTICULAR THOSE WHICH MAY HAVE AN IMPACT ON THEIR EMPLOYMENT STATUS.**<sup>85</sup>

#### **ARTICLE 71 LABOUR CODE – PROCEDURES FOR THE PROVISION OF INFORMATION AND CONSULTATION**

2. An employer shall provide relevant information to employee representatives within a reasonable time, but not later than 30 days before the employer makes a decision that might affect the interests of the employees. Said information shall be provided in writing. The content of information shall enable employee representatives to conduct an adequate study and prepare for consultation.
3. The employer and the employee representatives shall, on the basis of information provided by the employer, hold a consultation on issues referred to in paragraph 1 of this article.

Note: For the purposes of this chapter, consultation shall be the exchange of views, and a dialogue, in good faith, between the employer and the employee representatives, with a view to reaching a possible agreement for deciding a relevant issue to the extent possible.

4. Consultation shall take place through meetings between the director of an undertaking or a representative of the relevant management line (if any) and the employee representatives. The duration and periodicity of such meetings shall be adequate. Said meetings shall enable employee representatives to obtain information about the employer's responses to the opinions and recommendations of the employees and on the reasons for such responses.
5. The employer and the employee representative may agree in writing on practical mechanisms for providing information and consultation. Where this is not already required by special law, a collective agreement may provide for a mechanism to establish a committee on site for the provision by an employer of information and consultation to an employee representative.

3. **IN ORDER TO EFFECTIVELY GUARANTEE THE WORKERS' RIGHTS UNDER ARTICLE 21 ESC, THERE MUST BE A SUPERVISORY MECHANISM SUCH AS A LABOUR INSPECTORATE THAT CAN IMPOSE SANCTIONS FOR THE VIOLATION OF THE PROVISIONS ON ACCESS TO INFORMATION AND CONSULTATION. ADMINISTRATIVE AND/OR JUDICIAL PROCEDURES MUST BE AVAILABLE TO EMPLOYEES OR THEIR REPRESENTATIVES WHO CONSIDER THAT THEIR RIGHT TO INFORMATION AND CONSULTATION WITHIN THE UNDERTAKING HAS NOT BEEN RESPECTED. IN PARTICULAR, ALL EMPLOYEES OR THEIR REPRESENTATIVES MUST HAVE LEGAL CAPACITY TO TRIGGER AN ADMINISTRATIVE ACTION AGAINST THEIR EMPLOYER AND HAVE A SUBSEQUENT RIGHT OF APPEAL BEFORE A COURT. THERE MUST ALSO BE SANCTIONS FOR EMPLOYERS WHO FAIL TO FULFIL THEIR OBLIGATIONS UNDER THIS ARTICLE.**<sup>86</sup>

#### **ARTICLE 75 LABOUR CODE – STATE SUPERVISION OVER COMPLIANCE WITH THE LABOUR LEGISLATION OF GEORGIA**

1. The Legal Entity under Public Law called the Labour Inspection Service under the state control of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia ('the Labour Inspection') shall have the power to ensure the effective application of the Constitution of Georgia, international agreements of Georgia, this Law, the Organic Law of Georgia on Occupational Safety, the Law of Georgia on Labour Migration, the Law of Georgia on Public Service, provisions of the legislation of Georgia prohibiting forced labour and trafficking in the workplace, ordinances of the Government of Georgia, orders of Ministers, any other normative acts of Georgia on labour rights and employment conditions, employment agreements, collective employment agreements, as well as agreements reached as a result of mediation in collective disputes, and rules of arbitration awards ('labour norms').

#### **ARTICLE 76 LABOUR CODE – POWER OF THE LABOUR INSPECTION TO IMPOSE ADMINISTRATIVE SANCTIONS**

1. Administrative liability and administrative penalties for the violation of labour norms shall be determined by this Law, the Organic Law of Georgia on Occupational Safety and the Law of Georgia on Labour Migration.

<sup>85</sup> Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§1.

<sup>86</sup> Conclusions 2018, Republic of Moldova; Conclusions 2018, Ukraine; Conclusions 2003, Romania; Conclusions 2005, Lithuania.

2. The Labour Inspection shall have the right to review cases of administrative offences related to the violation of labour norms and to impose administrative sanctions provided for by Articles 77-80 of this Law, the Organic Law of Georgia on Occupational Safety and the Law of Georgia on Labour Migration.

**ARTICLE 80 LABOUR CODE – VIOLATION ARISING FROM COLLECTIVE LABOUR RELATIONS**

2. An employer's:

- b) failure to fulfil obligations relating to the provision of information and consultation as provided for by Chapter XV of this Law, including refusal to provide information or participate in consultation, – shall result in a warning, or a fine, with the procedures and amount determined by Article 77(1) of the Labour Code.
3. The commission of the same act within one calendar year after the imposition of an administrative sanction for the violation provided for by paragraph 1 or 2 of this article, – shall result in a fine of double the amount of a fine for a respective violation.

Georgia ratified Article 6§1 ESC so the aspects connected with consultation at the enterprise level are already assessed by the Committee under Article 6§1 ESC. In their Conclusions 2022, the European Committee of Social Rights decided that the situation in Georgia is not in conformity with Article 6§1 of the Charter on the grounds that joint consultation does not take place at several levels, joint consultation does not cover all matters of mutual interest of workers and employers, and joint consultation does not take place in the public sector including the civil service.

**ANALYSIS:** Under Article 21 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation:
  - a) the right to information and consultation is guaranteed to workers and their representatives - **which is in line with the standards of Article 21 ESC, so no amendments are needed;**
  - b) according to the provisions of the Labour Code analysed above, workers shall be consulted in good time with respect to proposed decisions - **which is in line with the standards of Article 21 ESC;**
  - c) state supervision of compliance with the labour legislation of Georgia, including the provisions establishing the right to information is exercised by the Labour Inspection Service and there are sanctions for employers who fail to fulfil their obligations under the analysed Articles of the Labour Code - **which is in line with the standards of Article 21 ESC;**
2. In terms of enforcement:
  - a) the right is not effective in practise, awareness-raising activities on the right to information and consultation shall be conducted by the state and the provision of a code of good practise could be suggested.

**CONCLUSION:** The acceptance of Article 21 ESC is recommended as no major obstacles have been identified. The legislation reflects ESC standards, and its enforcement could be improved with proper promotion and awareness raising actions.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## **ARTICLE 22 - THE RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND WORKING ENVIRONMENT**

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared that there are no major obstacles for Georgia to accept Article 22 of the Charter and thus encouraged the authorities to pursue its policy in this direction.

The workers' right to take part in the determination and improvement of the working conditions and working environment implies that workers can contribute, to a certain extent, to the employer's decision-making process. The great majority of workers (at least 80 %) must be granted a right to participate in the determination and improvement of the working conditions and the working environment within the undertaking. This provision applies to all undertakings, whether private or public.<sup>87</sup> In assessing the situation in the country from the perspective of its compliance with Article 22 ESC, the ECSR takes into consideration especially the complementary measures discussed below.

<sup>87</sup> Conclusions 2005, Estonia; Conclusions 2007, Italy; Conclusions 2018, Latvia.

1. **WORKERS AND/OR THEIR REPRESENTATIVES (TRADE UNIONS, WORKER'S DELEGATES, HEALTH AND SAFETY REPRESENTATIVES, WORKS' COUNCILS) MUST BE GRANTED AN EFFECTIVE RIGHT TO PARTICIPATE IN THE DECISION-MAKING PROCESS AND THE SUPERVISION OF THE OBSERVANCE OF REGULATIONS REGARDING THE PROTECTION OF HEALTH AND SAFETY WITHIN THE UNDERTAKING<sup>88</sup>.**

**ARTICLE 9 OF THE LAW ON OCCUPATIONAL SAFETY: CONSULTATIONS AND PARTICIPATION OF EMPLOYEES IN THE ISSUES ON OCCUPATIONAL SAFETY AND HEALTH**

1. Before taking a decision, the employer shall ensure the participation of employee(s) and/or their representative(s) in resolving the issues about occupational health and safety, which implies:
  - a) consultations with employees;
  - b) the right of an employee or employee representative to initiate proposals on occupational health and safety;
  - c) balanced participation.
2. When initiating a new occupational health and safety system, the employer is obliged to conduct consultations with the employee representative on occupational health and safety.
3. The employer is obliged to consult with the employee representative on occupational health and safety on the issues of the work process, work content or when planning such changes in the organisation, which can impact the occupational safety of the employee.
4. With the purpose of conducting consultations, effective cooperation and communication between the employer and employees on occupational health and safety, the employees elect their representative on the issues of occupational health and safety, based on the recommendation of a respective trade union, if there is any. The person can only be an elected and appointed employee representative if he or she consents to this.
5. In enterprises and institutions with 20 or more employees, the employee representatives for occupational health and safety issues are elected by the employees for a specific period of time, by simple majority. The employer is obliged to assist the employees in holding the elections.
6. The employee representative is authorised to:
  - a. represent the interests of employees to the employer, before the occupational health and safety specialist and supervisory bodies, concerning the occupational health and safety issues;
  - b. inspect the working area and check adherence to occupational health and safety regulations at the workplace so that this does not interfere in the production process, and in case of identifying any violations, immediately inform the employer;
  - c. request information from the employer, and the employer is obliged to provide such information, about the facts that affect maintaining occupational health and safety at the work space and discuss them with the employer and employees;
  - d. cooperate with the employer and submit proposals to him/her on improving the quality of health and safety at work area and eliminating/reducing increased threat;
  - e. participate in discussions organised by the employer which deal with the health and safety at the workplace, and in investigations that identify the causes of industrial injuries, occupational diseases and other incidents that took place during the working process;
  - f. submit comments and proposals to the supervisory body and other competent bodies, when the latter inspect labour conditions in the employer's company.
  - g. address relevant bodies if the measures taken by the employer and allocated funds are not sufficient to ensure safe working conditions at the workplace.
7. the employer shall display the list of employee representatives at a visible place, specifying the respective work positions.
8. the representative of employees should not be fired nor put at a disadvantaged position for carrying out his/her duties.
9. the employer is obliged to allocate at least two and no more than five hours a week to the employee representative(s) for occupational health and safety and provide them with the relevant equipment, so that they are able to carry out their duties.
10. the time for the employee representative(s) to carry out their duties based on the size of the enterprise, work-

ing conditions and other circumstances is defined by the collective agreement or other written document.

2. **THE RIGHT TO TAKE PART IN THE ORGANISATION OF SOCIAL AND SOCIO-CULTURAL SERVICES AND FACILITIES APPLIES ONLY IN UNDERTAKINGS WHERE SUCH SERVICES AND FACILITIES ARE PLANNED OR HAVE ALREADY BEEN ESTABLISHED. ARTICLE 22 OF THE CHARTER DOES NOT REQUIRE THAT EMPLOYERS OFFER SOCIAL AND SOCIO-CULTURAL SERVICES AND FACILITIES TO THEIR EMPLOYEES BUT REQUIRES THAT WORKERS MAY PARTICIPATE IN THEIR ORGANISATION, WHERE SUCH SERVICES AND FACILITIES HAVE BEEN ESTABLISHED.**<sup>89</sup>

No information was found and delivered on the issue.

3. **WORKERS MUST HAVE LEGAL REMEDIES WHEN THESE RIGHTS ARE NOT RESPECTED. THERE MUST ALSO BE SANCTIONS FOR EMPLOYERS WHICH FAIL TO FULFIL THEIR OBLIGATIONS UNDER THIS ARTICLE.**<sup>90</sup>

No information was found and delivered on the issue.

**ANALYSIS:** Under Article 22 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation:
  - a) pursuant to Article 9(1) of the Law on Occupational Safety, before taking a decision, the employer must ensure the participation of employee(s) and/or their representative(s) in resolving the issues relating to occupational safety and health - **which is in line with the standards of Article 22 ESC, so no amendments are needed;**
  - b) no information was found and provided on the other issues taken into consideration by the Committee.

**CONCLUSION:** Taking into consideration the scope of the information analysed on Georgia, and in the light of the criteria used by the Committee for its assessment, the acceptance of Article 22 ESC could be recommended as no major obstacles have been identified. However, the lack of information on the employees' involvement in the organisation of social and socio-cultural services and facilities and the lack of information concerning legal remedies in case of violations of the assessed right should be stressed.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. In practise, no discrimination concerning sex has been identified in the assessed area.

## ARTICLE 23 – THE RIGHT OF ELDERLY PERSONS TO SOCIAL PROTECTION

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a negative assessment of the situation in Georgia declaring it was not in line with Article 23 of the Charter and encouraged the authorities of Georgia to continue their work towards providing the appropriate legal framework and its implementation in practice to ensure the respect of the right of older persons to social protection.

Article 23 ESC is the first human rights treaty provision to specifically protect the rights of older persons. The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for older persons, obliging the Parties to devise and carry out coherent actions in the different areas covered.<sup>91</sup> While assessing the situation in the country from the perspective of its compliance with Article 23 ESC, the ECSR takes into consideration especially the complementary measures discussed below.

1. **WITH REGARD TO THE LEGISLATIVE FRAMEWORK, ARTICLE 23 ESC REQUIRES STATES PARTIES TO COMBAT AGE DISCRIMINATION IN A RANGE OF AREAS OUTSIDE EMPLOYMENT, NAMELY REGARDING THE ACCESS TO GOODS, FACILITIES AND SERVICES.**<sup>92</sup> **IT REQUIRES THE STATES PARTIES TO MAKE SURE THAT THEY HAVE APPROPRIATE LEGISLATION TO, FIRSTLY, COMBAT AGE DISCRIMINATION OUTSIDE EMPLOYMENT AND TO, SECONDLY, PROVIDE FOR A PROCEDURE OF ASSISTED DECISION MAKING.**

<sup>93</sup>**ANTI-DISCRIMINATION LEGISLATION SHOULD EXIST, AT LEAST IN CERTAIN AREAS, TO PROTECT PERSONS AGAINST DISCRIM-**

<sup>89</sup> Conclusions 2018, Latvia; Conclusions 2007, Italy; Conclusions 2007, Armenia.

<sup>90</sup> Conclusions 2003, Bulgaria; Conclusions 2003, Bulgaria, Slovenia.

<sup>91</sup> Conclusions XIII-3, Statement of Interpretation on Article 4 of the Additional Protocol (Article 23).

<sup>92</sup> Conclusions 2009, Andorra.

<sup>93</sup> Conclusions 2017, Andorra.

In 2014, Georgia adopted an anti-discrimination law, article 1 of which clearly prohibits discrimination on the basis of a person's gender identity or sexual orientation, or on the basis of race, colour, language, national, ethnic or social belonging, sex, pregnancy or maternity, marital or health status, disability, age, nationality, origin, place of birth, place of residence, internal displacement, material or social status, religion or belief, political opinion, or any other ground.

The provisions of the above-mentioned law provide for the elimination of all forms of discrimination, be they direct, indirect or multiple, and for the protection of all persons to ensure their equal enjoyment of rights. According to the law, discrimination must be prohibited in all spheres, both public and private, including labour relations, social security and health care, access to education and learning processes, culture and creative art, science, elections, civil and political activities, justice, state services, use of goods and services, housing, entrepreneurship and banking, and use of natural resources.<sup>95</sup>

In 2023, significant amendments have been made to the Labour Code of Georgia. According to the Explanatory Note accompanying the draft law,<sup>96</sup> the bill regulates previously unregulated or imperfectly regulated labour issues. In order to ensure the harmonisation of national legislation with the legislation of the European Union and international standards, the bill envisages the regulation of the following issues: prohibition of discrimination; oral and fixed-term employment agreement; substantial terms of the employment agreement; legal status of an intern; part-time working time; working time; the right to rest breaks; overtime; shift work; night work; pregnancy and maternity leave, childcare leave, which also includes the right of fathers to take leave; remuneration and minimum wage; mass dissolution; transfer of enterprises; the right to strike; collective labour mediation; information and consultation in the workplace and exercise of state supervision over labour rights.

2. **OLDER PERSONS MAY AT TIMES HAVE LIMITED OR NO CAPACITY AT ALL TO MAKE DECISIONS.<sup>97</sup> THEREFORE, THERE SHOULD BE A NATIONAL LEGAL FRAMEWORK RELATED TO ASSISTED DECISION MAKING FOR OLDER PERSONS GUARANTEEING THEIR RIGHT TO MAKE DECISIONS FOR THEMSELVES. THIS MEANS THAT OLDER PERSONS SHOULD NOT BE PRESUMED INCAPABLE OF MAKING THEIR OWN DECISIONS JUST BECAUSE THEY HAVE A PARTICULAR MEDICAL CONDITION OR DISABILITY, OR BECAUSE THEY LACK LEGAL CAPACITY.<sup>98</sup> IN THIS CONNECTION, THE NATIONAL LEGAL FRAMEWORK MUST PROVIDE APPROPRIATE SAFEGUARDS TO PREVENT THE ARBITRARY DEPRIVATION OF AUTONOMOUS DECISION MAKING BY OLDER PERSONS, INCLUDING IN INSTANCES OF REDUCED DECISION-MAKING CAPACITY. IT MUST BE ENSURED THAT ANY PERSON ACTING ON BEHALF OF OLDER PERSONS INTERFERES TO THE LEAST POSSIBLE DEGREE WITH THEIR WISHES AND RIGHTS.<sup>99</sup>**

#### **ARTICLE 13 OF THE CIVIL CODE - INADMISSIBILITY OF LIMITING CAPACITY BY TRANSACTION**

Limitation of legal capacity shall be allowed only in cases provided for by law. It is not allowed to limit capacity by transaction.

#### **ARTICLE 14 CIVIL CODE - LIMITED CAPACITY**

1. A minor shall have limited legal capacity from seven to eighteen years.
2. An adult over whom a court has established a custodianship shall also be deemed to be a person with limited legal capacity. A person with limited legal capacity and a minor shall be equal in their legal capacities.
3. Limitation of legal capacity shall be annulled when there are no grounds for which a person has had their legal capacity restricted.

#### **ARTICLE 15 CIVIL CODE - CONSENT OF A REPRESENTATIVE IN CASE OF LIMITED CAPACITY**

For the authenticity of the identification of the will of a person with limited legal capacity, the consent of his/her legal representative shall be required, except when a person with limited legal capacity receives the benefit of the transaction.

As a result of the 2014 decision of the Constitutional Court of Georgia (*"Citizens of Georgia – Irakli Kemoklidze and Davit Kharadze v. the Parliament of Georgia"*), the guardianship system was abolished and a new model – supported decision-making – was introduced in the country.<sup>100</sup> The process of assigning support to a person

<sup>94</sup> Fellesforbundet for Sjøfolk (FFFS) v. Norway, Complaint No. 74/2011, decision on the merits of 2 July 2013, §115.

<sup>95</sup> A/HRC/39/50/Add.1, 2018, available at: <https://www.ohchr.org/en/documents/country-reports/ahrc3950add1-report-independent-expert-enjoyment-all-human-rights-older>, accessed 5 September 2024.

<sup>96</sup> <https://info.parliament.ge/file/1/BillReviewContent/247835>

<sup>97</sup> Conclusions 2003, France.

<sup>98</sup> Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making.

<sup>99</sup> Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making.

<sup>100</sup> Analysis based on the information provided in the CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.



is characterised by a number of challenges. Furthermore, both the general coordination of policies in the field of support and the effective supervision of specific cases remain a challenge. Research conducted by the Council of Europe has shown that there are practical, institutional and legislative barriers in this area. Among the important challenges in this direction are the non-consideration of the monitoring mechanism for individual cases of support by the legislation, the scarcity of human resources in the guardianship and care body and the lack of expertise on issues of capacity, the inconsistency of the monitoring tool with the essence of capacity and the absence of tangible mechanisms for strengthening the support recipient and his family. The effective implementation of capacity reform without overcoming the existing barriers is practically an unattainable goal.

3. **ARTICLE 23 ESC ALSO REQUIRES STATES PARTIES TO TAKE APPROPRIATE MEASURES AGAINST THE ABUSE OF OLDER PERSONS. ABUSE CAN TAKE VARIOUS FORMS: PHYSICAL, PSYCHOLOGICAL OR EMOTIONAL, SEXUAL, FINANCIAL OR SIMPLY REFLECT INTENTIONAL OR UNINTENTIONAL NEGLECT. STATES PARTIES MUST THEREFORE TAKE MEASURES TO EVALUATE THE EXTENT OF THE PROBLEM, RAISE AWARENESS ON THE NEED TO ERADICATE ABUSE AND NEGLECT OF OLDER PERSONS, AND ADOPT LEGISLATIVE OR OTHER MEASURES.**<sup>101</sup>

According to the **Report of the Independent Expert on the enjoyment of all human rights by older persons on her mission to Georgia**, violence against and abuse of older persons are frequently committed, including by family members.<sup>102</sup> In the light of the general underreporting of cases of violence, maltreatment and abuse involving older persons, the Independent Expert emphasises that the dissemination of information to older persons about their rights could help to counter this trend.

Common forms of abuse include neglect and physical and psychological abuse, which also includes humiliation and denial of contact with other people and other forms of financial abuse. According to domestic violence statistics (regarding restraining orders) produced by the Ministry of Internal Affairs of Georgia during 2022, 323 male and 813 female victims aged 61+ have been identified. According to the statistics of types of violence, psychological and physical types of domestic violence are the most frequent. Unfortunately, the statistics of types of domestic violence are not broken down by age; therefore, it is difficult to see the complete picture. The challenge is the lack of psychosocial services and separate programmes for the protection and assistance of older persons who are victims of violence, both at the level of central and local municipalities. It is important to have a comprehensive approach to the problem of domestic violence against older persons, coordinated work between state agencies and to take specific steps.<sup>103</sup>

Over the years, problems of an unchanged and systemic nature are related to such important issues as the identification of risk factors provoking violence and mistreatment, inhuman or degrading treatment or other types of violence, and the production of full-fledged statistics, adequate response to them, and the absence of an effective supervision system. The following challenges remain: perception of the fact of violence by the victims, low referral of victims of violence to relevant agencies, absence of existing psychosocial and economic rehabilitation programmes for victims of violence. According to the Public Defender's assessment, the existing programmes cannot fully respond to the needs of the older persons, and therefore it is challenging to protect them from violence long term and to provide assistance services.<sup>104</sup>

4. **THE PRIMARY FOCUS OF THE RIGHT TO ADEQUATE RESOURCES IS ON PENSIONS. PENSIONS AND OTHER STATE BENEFITS MUST BE SUFFICIENT IN ORDER TO ALLOW OLDER PERSONS TO LEAD A 'DECENT LIFE' AND ACTIVELY PARTICIPATE IN PUBLIC, SOCIAL AND CULTURAL LIFE. HOWEVER, WHEN ASSESSING THE ADEQUACY OF RESOURCES FOR OLDER PERSONS UNDER ARTICLE 23 ESC, ALL SOCIAL PROTECTION MEASURES GUARANTEED TO OLDER PERSONS AND AIMED AT MAINTAINING AN INCOME LEVEL ALLOWING THEM TO LEAD A DECENT LIFE AND PARTICIPATE ACTIVELY IN PUBLIC, SOCIAL AND CULTURAL LIFE ARE TAKEN INTO ACCOUNT.**<sup>105</sup>

Georgia has a universal old age pension system – a state pension (non-contributory pension scheme), which provides a flat benefit that has a significant impact on poverty alleviation among vulnerable groups of the old age population.<sup>106</sup> According to the Law of Georgia on State Pensions, the ground for entitlement to a pension is the attainment of the retirement age of 65. Nevertheless, women are entitled to a pension from the age of 60.

State pension plays an important role in alleviating poverty among vulnerable families. When a household member starts receiving state pension, the household income rises by over 30% and the risk of poverty decreases by 3-4 percentage points. If pension income is deducted from household expenses, the extreme

101 Conclusions 2009, Andorra.

102 A/HRC/39/50/Add.1, 2018, available at: <https://www.ohchr.org/en/documents/country-reports/ahrc3950add1-report-independent-expert-enjoyment-all-human-rights-older>, accessed 5 September 2024.

103 Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, 2022.

104 Special report of the Public Defender of Georgia on the legal status of the elderly in Georgia, 2020.

105 Conclusions 2013, Statement of Interpretation Article 23 – adequate resources for the elderly.

106 Analysis based on the information provided in the CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.

poverty rate among pensioners will increase from 3.7% to 34.1%.<sup>107</sup>

According to the amendment to the Law of Georgia on State Pension in 2020, the pension of all pension aged people shall increase no less than the inflation rate (the Rule of Pension Indexation, 2021). In case of pensioners aged 70 and over, inflation shall add up to 80% of real economic growth. At the same time, despite inflation and economic growth, the increase in pensions shall not be less than GEL 20 (US\$6.4), and for pensioners aged 70 and over - less than GEL 25 (US\$8).<sup>108</sup>

In addition, the law of Georgia on the development of the high mountainous regions determines a monthly bonus (supplement to the state pension) being at least 20% of the state pension set for permanent residents of high mountainous settlements who reached the retirement age and receive the monthly state pension (as well as persons with disabilities that receive a social package).

On 1 January 2024 the pension for those under 70 increased to GEL 315, and for those over 70 it increased to GEL 415. Pensioners living in mountainous areas will receive GEL 355 and GEL 440 (US\$131 and US\$162) respectively.

In 2019, Georgia introduced a new funded pension scheme (pension saving system) (defined as a contribution scheme), which operates together with the universal old age pension system (state pension). Joining the funded pension scheme is mandatory for all employees, except for employees who have attained the age of 60 (in the case of female employees, the age of 55). Joining the pension scheme is voluntary for the older age group. In addition, employees who have attained the age of 40 before the Law of Georgia on Funded Pension entered into force, and do not wish to participate in the pension fund, have an option to leave the scheme.

Contributions in the funded pension scheme have the following structure (2+2+2 Scheme): employed participants pay 2% of their taxable salary, employers contribute to the pension fund a further 2% of the taxable salary (self-employed participants just pay 4% of their annual income on behalf of employers and employees), and the state transfers an extra 2% of the amount of the taxable salary of an employed person and/or of the income of a self-employed person. The state does not make a pension contribution if the amount of the annual taxable salary of an employed person and/or of the income of a self-employed person exceeds GEL 60 000 (US\$19 108.3).

The Pension Agency is responsible for the implementation, management and administration of the funded pension scheme, and investment activities are regulated by the National Bank of Georgia (NBG). The pension agency is an independent public law legal entity established on the basis of the law, which is responsible for the implementation, management and administration of the funded pension scheme. The structure, powers, activity rules and other organisational matters of the Pension Agency are determined by the statute of the Pension Agency, which is approved by the Government of Georgia.

Despite the small income replacement rate of the current government pension, private pension schemes hold a small share of the total pension funds (private and public). In 2020, there were three private pension schemes in Georgia with 15 842 participants and total contributions of approximately GEL 5 million (US\$1.6 million). The combined pension reserves of these companies were about GEL 22 million (US\$7 million), which constituted only 0.04% of the 2020 GDP. The income from investment of pension reserves amounted to GEL 2 million (US\$0.6 million).<sup>109</sup>

- 5. ARTICLE 23 ESC** REFERS TO THE PROVISION OF INFORMATION ABOUT SERVICES AND FACILITIES AVAILABLE FOR OLDER PERSONS AND THEIR OPPORTUNITIES TO MAKE USE OF THEM, HOWEVER PARAGRAPH 1B PRESUPPOSES THE EXISTENCE OF SERVICES AND FACILITIES. THEREFORE, IT IS NOT ONLY INFORMATION RELATING TO THE PROVISION OF INFORMATION ABOUT THESE SERVICES AND FACILITIES THAT IS EXAMINED BUT ALSO THE SERVICES AND FACILITIES THEMSELVES. IN DOING SO, THE COMMITTEE EXAMINES THE EXISTENCE, EXTENT AND COST OF HOME HELP SERVICES; COMMUNITY-BASED SERVICES; SPECIALISED DAY CARE PROVISION FOR PERSONS WITH DEMENTIA AND RELATED ILLNESSES; AND SERVICES SUCH AS INFORMATION, TRAINING AND RESPITE CARE FOR FAMILIES CARING FOR OLDER PERSONS, IN PARTICULAR, HIGHLY DEPENDENT PERSONS; AS WELL AS CULTURAL LEISURE AND EDUCATIONAL FACILITIES AVAILABLE TO OLDER PERSONS.<sup>110</sup>

Georgia introduced the State Programme of Social rehabilitation which is administered by the State Care and Assistance Agency for Victims of Trafficking (ATIP Fund) - a public law legal entity under the control of the Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia.

The purpose of the programme is to promote the improvement of the physical and social condition of dis-

<sup>107</sup> UNICEF, The Wellbeing of Children and their Families in Georgia, Tbilisi, (2018b).

<sup>108</sup> [www.mof.ge/images/File/economical-analysis/indexation-2020.pdf](http://www.mof.ge/images/File/economical-analysis/indexation-2020.pdf), accessed on 27 September

<sup>109</sup> Insurance State Supervision Service, 2021.

<sup>110</sup> Conclusions 2003, France.

abled and older persons and their integration into society.

The sub-programmes included in the programme are:

- a sub-programme for the provision of services in day care centres;

Day Care Centres are functioning in some municipalities: some of them are funded by local municipalities (Tbilisi, Kutaisi, Rustavi); others are managed by NGOs through donor funding/co-funding from municipalities.

- an assistive technology sub-programme;
- a deaf communication promotion sub-programme;
- a sub-programme for the provision of services in community organisations which includes several components, inter alia:
  - a component of providing community services for the older persons and people with disabilities;
  - a Component of the provision of services supporting family-type independent living of persons with disabilities;
  - a component of providing alternative housing for persons with mental disorders aged 18 and over;
- a sub-programme for providing personal assistant services (mainly to children with disabilities).
- a sub-programme for the provision of Home Care.

**6. THE SUPPLY OF ADEQUATE HOUSING FOR OLDER PERSONS MUST BE SUFFICIENT.<sup>111</sup> POLICIES SHOULD HELP OLDER PERSONS TO REMAIN IN THEIR OWN HOMES FOR AS LONG AS POSSIBLE THROUGH THE PROVISION OF SHELTERED/SUPPORTED HOUSING AND ASSISTANCE FOR THE ADAPTATION OF HOMES.<sup>112</sup>**

Pursuant to Article 25(1) of Georgian Constitution, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”.

According to the **Public Defender (Ombudsman) of Georgia’s Annual Report to the Parliament 2022**<sup>113</sup>, challenges identified regarding the realisation of the right to proper housing for homeless people have not changed for years. The state does not have a governmental strategy for homeless persons nor a corresponding action plan, a full-fledged legal definition of a homeless person, and the necessary framework legislation for the realisation of the right to adequate housing. The state does not process information to study the factors causing homelessness and the extent of homelessness in the country, and as a result, the government does not have the necessary policies for the prevention of homelessness based on the results of the research. There is still no unified database of homeless persons and minimum standards for arranging social housing for homeless persons in the country. The challenge in municipalities is the heterogeneity of the definition of a homeless person and the inappropriate definition of international standards, the lack of full-fledged local databases, the lack of budgetary and infrastructural resources, the adequacy of social housing for homeless people, the absence of socioeconomic integration programmes for people placed in shelters and social housing, and, in individual municipalities, their ineffectiveness. Along with systemic challenges, it is significant that on 5 September 2022, the Georgian government approved the 2022-2030 national strategy for human rights protection, however unfortunately, despite the recommendation of the Public Defender of Georgia, issues related to the realisation of the right to proper housing were not included in the document.<sup>114</sup>

Social Housing is a long-term service, which is implemented only in certain municipalities. For example, Ozurgeti municipality provides social housing for the homeless and the normative acts adopted by Tbilisi municipality prioritize persons with disabilities, however, based on the category of their disability and not their individual needs.

Household subsidies are a monthly monetary payment intended for the provision of household and communal needs for a circle of people belonging to different social categories (veterans, persons who became disabled in the course of specified military activities, etc.) to cover the cost of household utilities. Household subsidy is assigned to individuals if they are registered as a recipient of the state pension with the Social Service Agency at the time of the household subsidy appointment. The amount ranges from GEL 100 to GEL 40 depending on the category of the beneficiary.

This programme is also administered by the Social Service Agency.

<sup>111</sup> Conclusions 2003, France.

<sup>112</sup> Conclusions 2013, Andorra; International Federation of Associations of the Elderly (FIAPA) v. France, Complaint No. 145/2017, decision on the merits of 25 May 2019, §45.

<sup>113</sup> Report of the Public Defender On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022: <https://www.ombudsman.ge/eng/saparlamento-angarishebi>, accessed 5 September 2024.

<sup>114</sup> Analysis based on the information provided in the CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.

7. IN THE CONTEXT OF THE RIGHT TO ADEQUATE HEALTH CARE FOR OLDER PERSONS, **ARTICLE 23 ESC** REQUIRES THAT HEALTH CARE PROGRAMMES AND SERVICES (IN PARTICULAR PRIMARY HEALTH CARE SERVICES INCLUDING DOMICILIARY NURSING AND HEALTH CARE SERVICES) SPECIFICALLY AIMED AT THE OLDER PERSONS MUST EXIST, TOGETHER WITH GUIDELINES ON HEALTH CARE FOR OLDER PERSONS.<sup>115</sup> IN ADDITION, THERE SHOULD BE MENTAL HEALTH PROGRAMMES FOR ANY PSYCHOLOGICAL PROBLEMS IN RESPECT OF OLDER PERSONS, AND ADEQUATE PALLIATIVE CARE SERVICES.<sup>116</sup>

The regulation of health care is provided mainly in the Law of Georgia on Health Care.<sup>117</sup>

In February 2013, the Government of Georgia established the Universal Health Care Programme (UHCP). The purpose of introducing a new programme was to cover the whole population and reduce their out-of-pocket expenditures (Georgia moved from covering specific groups of people to universal coverage). The programme is quite inclusive in terms of covering health care costs, including planned ambulatory care, emergency in-patient and out-patient services, elective surgeries, chemotherapy, hormonotherapy, radiotherapy, obstetrical care, and even funded essential medicines (medicines for chronic diseases<sup>118</sup>: treatment for cardiovascular diseases, chronic lung diseases, diabetes (type II), chronic thyroid disease, Parkinson's disease and epilepsy) for targeted groups of the population (including pensioners).

The Georgian population receiving an old age pension is completely covered by the UHCP,<sup>119</sup> regardless of their income, social or insurance status, which indicates Georgia is achieving the targeted value of the Sustainable Development Goals (SDG) indicator 3.8.2. – the percentage of people covered by health insurance or a public health system. Furthermore, health care services covered by the UHCP are provided equally to all citizens of retirement age, 10% co-payment is required for planned surgical services (not more than GEL 500), no co-payment is needed for emergency services except intensive therapy and oncology services (with the annual limit of GEL 23 000), and the rehabilitation from conditions developed as a result of brain blood circulation disorders and brain and spinal cord traumatic injury also requires 10% co-payment.

Still, regional and individual inequalities are observed: Substantial inequalities further undermine equal health outcomes for all.<sup>120</sup>

The need for qualified care for people living with Alzheimer's disease and other forms of dementia is likely to increase over the coming years, and these cases require particular services. The recently approved Mental Health Strategy 2022-2030 mentions Alzheimer's disease in the context of the need for deinstitutionalisation and strengthening of community services, stressing that the guidelines for family doctors have been approved for the management of such conditions.

8. THE FINAL PART OF **ARTICLE 23 ESC** DEALS WITH THE RIGHTS OF OLDER PERSONS LIVING IN INSTITUTIONS. IN THIS CONTEXT, IT PROVIDES THAT THE FOLLOWING RIGHTS MUST BE GUARANTEED: THE RIGHT TO APPROPRIATE CARE AND ADEQUATE SERVICES, THE RIGHT TO PRIVACY, THE RIGHT TO PERSONAL DIGNITY, THE RIGHT TO PARTICIPATE IN DECISIONS CONCERNING THE LIVING CONDITIONS IN THE INSTITUTION, THE PROTECTION OF PROPERTY, THE RIGHT TO MAINTAIN PERSONAL CONTACT WITH PERSONS CLOSE TO THE OLDER PERSON, AND THE RIGHT TO COMPLAIN ABOUT TREATMENT AND CARE IN INSTITUTIONS.<sup>121</sup> THERE SHOULD BE A SUFFICIENT SUPPLY OF INSTITUTIONAL FACILITIES FOR OLDER PERSONS (PUBLIC OR PRIVATE), CARE IN SUCH INSTITUTIONS SHOULD BE AFFORDABLE, AND ASSISTANCE MUST BE AVAILABLE TO COVER THE COSTS. ALL INSTITUTIONS SHOULD BE LICENSED, AND SUBJECT TO INDEPENDENT INSPECTION.<sup>122</sup>

In 2023, the Public Defender's Office monitored privately funded long-term care facilities for older persons in Tbilisi, Shida Kartli and Kvemo Kartli. The monitoring revealed several major important problems that require an urgent response.<sup>123</sup>

Among the highlighted issues, the lack of awareness of the state about privately funded institutions for older persons in the country is particularly acute. It should be noted here that there are no established legal standards for the activities of such an institution and they are not subject to state control. Even the heads of the institutions do not have information about the established minimum standards of care for older persons.

<sup>115</sup> Conclusions 2003, France; Conclusions 2017, Ukraine.

<sup>116</sup> Conclusions 2003, France.

<sup>117</sup> Analysis based on the information provided in the CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.

<sup>118</sup> Since July 2017, the Government of Georgia covers costs related to purchasing medicines for chronic diseases. Implementation of this programme was inspired by the high mortality rate due to non-communicable diseases (97%), the burden of disease, as well as a large proportion of the out-of-pocket payments for these medicines.

<sup>119</sup> According to Goginashvili, Nadareishvili and Habicht (2021), UHCP covers 91% of the population, and 100% of pensioners.

<sup>120</sup> CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.

<sup>121</sup> Conclusions 2017, Malta; Portugal.

<sup>122</sup> Conclusions 2005, Slovenia; Conclusions XX-2 (2013), Czech Republic.

<sup>123</sup> Analysis based on the information provided in the CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.

As the inspection showed, the rights of older persons are already violated at the enrolment procedure in the institution. In particular, the application for enrolment does not clearly state the will of the older person, and often, the application is signed by a family member of the older person instead.

Regarding infrastructure, parts of the institutions are not properly equipped and the beneficiaries are in severe unsanitary, degrading conditions. Caring for them is mainly limited to meeting their hygienic and physiological needs, which does not even meet the minimum requirements for care.

Older persons are often discriminated against, in a situation that violates their dignity, and most of them do not know anything about their rights. Moreover, health care is neglected in institutions and food standards are violated. The composition of the menu is poor, inferior and monotonous.

Services do not take into account the emotional vulnerability of older beneficiaries and mental health is not adequately addressed, despite the high number of beneficiaries with psychiatric problems.

Challenges related to the qualifications and labour rights of the personnel employed in the institutions were also highlighted. Caregivers do not have specialist knowledge about the care and care needs of the older persons, nor do they have opportunities for professional development. In addition, the standards of distribution duties are violated, which leads to the overburdening of some employees.

Article 23 ESC overlaps with other provisions of the Charter which protect older persons as members of the general population, such as Article 11 (Right to protection of health)<sup>124</sup>, Article 12 (Right to social security)<sup>125</sup>, Article 13 (Right to social and medical assistance) and Article 30 (Right to protection against poverty and social exclusion)<sup>126</sup> ESC. Article 23 ESC requires States Parties to make focused and planned provisions in accordance with the specific needs of older persons. The focus of Article 23 ESC is on the social protection of older persons outside the employment field. Questions of age discrimination in employment are primarily examined under Articles 152 (non-discrimination in employment) and 24 (right to protection in cases of termination of employment) of the Charter.<sup>127</sup>

From the above-mentioned articles, Georgia has ratified Articles 11§1, 11§2, 11§3, 12§1 and 12§3 ESC. As a result, the situation in the country is already monitored by the ECSR from the perspective of these five articles. In its Conclusions 2021, the Committee gave a negative assessment of the situation in Georgia, noting a failure to comply with Articles 11§1, 11§2, 11§3 and 12§1 ESC. Due to a lack of sufficient information, the Committee was unable to assess the situation from the perspective of Article 12§3 ESC.

Articles 12§2, 12§4, 13§1, 13§2, 13§3, 13§4 and 30 ESC have not yet been ratified by Georgia.

**ANALYSIS:** Under Article 23 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation:
  - a) Protection against discrimination on the grounds of age is guaranteed in the legal system - **which is in line with the standards of Article 23 ESC and no amendments are needed;**
  - b) Limitation of legal capacity is possible only by the court – which is in line with the standards of Article 23 ESC;
2. In terms of enforcement of legislation:
  - a) older persons are often discriminated against, in a situation that violates their dignity, and most of them are not aware of their rights - **which is against the standards of Article 23 ESC** – better enforcement of the prohibition of discrimination must be recommended;
  - b) the national legal framework related to assisted decision making for older persons guarantees their right to make decisions for themselves - **which is in line with the standards of Article 23 ESC, however enforcement of the law in this area is weak;**
  - c) the enforcement of the provisions establishing the rights of older persons in institutions is not effective in practices, so that several major and important problems have been identified by different actors assessing the situation (Council of Europe and Public Defender (Ombudsman) of Georgia) that require an urgent response – **which is not in compliance with Article 23 ESC.**

**CONCLUSION:** Taking into consideration the significant inconsistencies with the standards of the Charter, the acceptance of Article 23 ESC might result in a negative assessment of the situation in the country and to the Committee's conclusions of non-compliance. Before accepting Article 23

<sup>124</sup> Statement of Interpretation on the right to protection of health in times of pandemic, 20 April 2020.

<sup>125</sup> General Introduction to Conclusions 2017.

<sup>126</sup> Conclusions 2017, Ukraine.

<sup>127</sup> Conclusions 2009, Andorra.



ESC, Georgian legislation shall be adapted, and its enforcement shall be improved.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns. However, in practise, discrimination concerning age and sex has been identified in the assessed area. Mainly regional and individual inequalities are observed which undermine equal health outcomes for all. In income distribution, Georgia seems to be one of the most unequal countries in the South Caucasus and Central Asia, with a Gini coefficient of 0.38. Inequalities are multidimensional and determined by ethnicity, gender, and regional differences.<sup>128</sup>

## ARTICLE 24 - THE RIGHT TO PROTECTION IN CASES OF TERMINATION OF EMPLOYMENT

In the Third Report on Non-Accepted Provisions of the European Social Charter, published in 2021, the ECSR gave a positive assessment of the situation in Georgia, declared there are no major obstacles for Georgia to accept Article 24 of the Charter and thus encouraged the authorities to pursue its policy in this direction.

Article 24 ESC concerns the termination of employment at the initiative of the employer and establishes, in an exhaustive manner, the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid: those connected with the capacity or conduct of the employee, and those related to the operational requirements of the enterprise (economic reasons). In assessing the situation in the country from the perspective of its compliance with Article 24 ESC, the ECSR takes into consideration especially the complementary measures discussed below.

1. CONCERNING REASONS CONNECTED WITH THE CAPACITY OR CONDUCT OF THE EMPLOYEE, A PRISON SENTENCE HANDED DOWN BY A COURT MAY CONSTITUTE A VALID GROUND FOR THE TERMINATION OF AN EMPLOYMENT CONTRACT IF SUCH A SENTENCE IS DELIVERED FOR EMPLOYMENT-RELATED OFFENCES. THIS IS NOT THE CASE WITH PRISON SENTENCES FOR OFFENCES UNRELATED TO THE PERSON'S EMPLOYMENT, WHICH CANNOT BE CONSIDERED A VALID REASON UNLESS THE LENGTH OF THE CUSTODIAL SENTENCE PREVENTS THE PERSON FROM CARRYING OUT THEIR WORK.<sup>129</sup>

### ARTICLE 47 LABOUR CODE – GROUNDS FOR TERMINATING EMPLOYMENT AGREEMENTS

1. The grounds for terminating employment agreements are:

- a) economic circumstances, and/or technological or organisational changes requiring downsizing;
- b) the expiry of an employment agreement;
- c) the completion of the work under an employment agreement;
- d) the voluntary resignation of an employee from a position/work on the basis of a written application;
- e) a written agreement between the parties;
- f) the incompatibility of an employee's qualifications or professional skills with the position held/work to be performed by the employee;
- g) the gross violation by an employee of his/her obligations under an individual employment agreement or a collective agreement and/or of internal labour regulations;
- h) the violation by an employee of his/her obligations under an individual employment agreement or a collective agreement and/or of internal labour regulations, if any of the disciplinary steps under the said individual employment agreement or collective agreement and/or internal labour regulations has already been taken against the employee during the previous year;
- i) long-term incapacity for work, unless otherwise determined by an employment agreement, if the incapacity period exceeds 40 consecutive calendar days, or if the total incapacity period exceeds 60 calendar days within a period of 6 months, and, at the same time, the employee has already used his/her leave under Article 31 of this Law;
- j) the entry into force of a court judgment or other decision precluding the possibility of performing the work;
- k) a decision declaring a strike illegal that was delivered by a court in accordance with Article 67(3) of this Law and that became final;
- l) the death of an employer who is a natural person, or of an employee;

<sup>128</sup> CoE, Social and Economic Rights of Older Persons in Georgia – background information about legislation, policies, programmes. Report for the CoE, 2024.

<sup>129</sup> Conclusions 2008, Lithuania.

- m) the initiation of liquidation proceedings against an employer who is a legal person;
- n) other objective circumstances justifying the termination of an employment agreement.

2. **ECONOMIC REASONS FOR DISMISSAL MUST BE BASED ON THE OPERATIONAL REQUIREMENTS OF THE UNDERTAKING, ESTABLISHMENT OR SERVICE. THE ASSESSMENT RELIES ON THE DOMESTIC COURTS' INTERPRETATION OF THE LAW. THE COURTS MUST HAVE THE COMPETENCE TO REVIEW A CASE ON THE ECONOMIC FACTS UNDERLYING THE REASONS FOR DISMISSAL AND NOT ONLY ON ISSUES OF LAW. ARTICLE 24 OF THE CHARTER REQUIRES A BALANCE TO BE STRUCK BETWEEN THE EMPLOYER'S RIGHT TO DIRECT/RUN THE ENTERPRISE AS HE/SHE SEES FIT AND THE NEED TO PROTECT THE RIGHTS OF EMPLOYEES.**<sup>130</sup>

#### **ARTICLE 47 LABOUR CODE – GROUNDS FOR TERMINATING EMPLOYMENT AGREEMENTS**

1. The grounds for terminating employment agreements are:

- a) economic circumstances, and/or technological or organisational changes requiring downsizing;

3. **ANY EMPLOYEE WHO BELIEVES THAT HE OR SHE HAS BEEN DISMISSED WITHOUT JUST CAUSE SHOULD HAVE THE RIGHT TO APPEAL TO AN IMPARTIAL BODY. EMPLOYEES WHO HAVE BEEN DISMISSED WITHOUT VALID REASON MUST BE GRANTED ADEQUATE COMPENSATION OR OTHER APPROPRIATE RELIEF. IN ORDER TO BE CONSIDERED APPROPRIATE, COMPENSATION SHOULD INCLUDE REIMBURSEMENT OF FINANCIAL LOSSES INCURRED BETWEEN THE DATE OF DISMISSAL AND THE DECISION OF THE APPEAL BODY RULING ON THE LAWFULNESS OF THE DISMISSAL, THE POSSIBILITY OF REINSTATEMENT AND/OR COMPENSATION SUFFICIENT TO DETER THE EMPLOYER AND PROPORTIONATE TO THE DAMAGE SUFFERED BY THE VICTIM.**<sup>131</sup> **THE BURDEN OF PROOF SHOULD NOT REST ENTIRELY ON THE COMPLAINANT, BUT SHOULD BE THE SUBJECT OF AN APPROPRIATE ADJUSTMENT BETWEEN EMPLOYEE AND THE EMPLOYER.**<sup>132</sup>

#### **ARTICLE 48 LABOUR CODE – PROCEDURE FOR TERMINATING EMPLOYMENT AGREEMENTS**

6. An employee may, within 30 calendar days from receiving an employer's written substantiation, appeal in court against the employer's decision on terminating the employment agreement. Where a court refuses to accept or dismisses a claim filed by the employee, the employee may file again the same claim with a court within 30 calendar days from receiving a ruling on refusing to accept the claim or a ruling on dismissing the claim.
7. If an employer fails to provide a written substantiation of the grounds for terminating an employment agreement within seven calendar days after an employee submits the request, the employee may appeal in court against the employer's decision on terminating the employment agreement within 30 calendar days after the period of seven calendar days elapses. In such cases, the burden of proof for determining facts of the dispute shall rest with the employer. Where an employee does not request from an employer a written substantiation of the grounds referred to in paragraph 4 of this article, the employee may appeal in court against the employer's decision on terminating the employment agreement within 30 calendar days from receiving the employer's notification about terminating the employment agreement.
8. If an employer's decision on terminating the employment agreement is declared void by the court, the employer shall, under the court decision, reinstate the person whose employment agreement was terminated, or provide the person with an equal job, or pay compensation in the amount determined by the court.
9. An employee may, in addition to being reinstated, or to receiving an equal job, or receiving compensation in exchange therefor, as provided for by paragraph 8 of this article, request compensation for lost earnings from the date when the employment agreement was terminated up to the date when the final court decision declaring void the employer's decision on terminating the employment agreement was enforced. In determining compensation for lost earnings, a court shall take into account any severance pay granted to the employee by the employer in accordance with paragraph 1 or 2 of this article.

**ANALYSIS:** Under Article 24 ESC, legislation and its enforcement are assessed by the Committee.

1. In terms of Georgian legislation:
  - a) Pursuant to Article 48.6 Labour Code, any employee who believes that he or she has been dismissed without just cause should have the right to appeal to a court - **which is in line with the standards of Article 24 ESC and no amendments are needed;**
  - b) Pursuant to Article 48.8 and 48.9 Labour Code, if an employer's decision to terminate an employment

<sup>130</sup> Conclusions 2016, Latvia; Conclusions 2016, Latvia citing Conclusions 2012, Türkiye; Conclusions 2012, Türkiye; Conclusions 2016, Latvia.

<sup>131</sup> Conclusions 2016, North Macedonia, Finnish Society of Social Rights v. Finland, decision on the merits of 8 September 2016.

<sup>132</sup> Conclusions 2008, Statement of Interpretation on Article 24 and Statement of Interpretation on the burden of proof in discrimination cases.

agreement is declared null and void by a court, the employer shall, in accordance with the court's decision, reinstate the person whose employment agreement has been terminated, or provide the person with an equivalent position, or pay compensation in the amount determined by the court - **which is in line with the standards of Article 24 ESC, so no amendments are needed;**

2. In terms of enforcement:

- a) no information was found and provided on the enforcement of the assessed Georgian legislation, especially the case-law of the national courts.

**CONCLUSION:** Taking into consideration the scope of the analysed information concerning Georgia in the light of the criteria used by the Committee for its assessment, the acceptance of Article 24 ESC can be recommended as no major obstacles have been identified from a legislative point of view. However, the lack of information on its enforcement should be highlighted.

**GENDER MAINSTREAMING:** The existing legislation takes into account both women's and men's interests and concerns.

## CONCLUSIONS AND KEY RECOMMENDATIONS

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The above provisions and facts, analysed in the light of the European Committee of Social Rights' conclusions concerning Georgia, provided within the procedure on non-accepted provisions and also in the light of the Charter's standards as interpreted in the Committee's case-law lead to the following conclusions:

1. Due to the positive assessment of the situation in Georgia, it is advisable to recommend the acceptance of further provisions of the Charter in respect of the following Articles:
  - a. Article 2§3 ESC
  - b. Article 2§4 ESC
  - c. Article 2§6 ESC
  - d. Article 3§1 ESC
  - e. Article 3§2 ESC
  - f. Article 3§3 ESC
  - g. Article 3§4 ESC
  - h. Article 8§1 ESC
  - i. Article 9 ESC (as most of the difficulties mentioned in the section "Article 15§1 ESC – Vocational training for persons with disabilities" concern the inaccessibility of buildings which is mainly assessed under Article 15§3 ESC, which has already been accepted by Georgia, so accepting §1 can help to improve the situation more efficiently)
  - j. Article 10§1 ESC
  - k. Article 10§3 ESC
  - l. Article 10§5 ESC
  - m. Article 15§1 ESC (especially as Georgia ratified the United Nations Convention on the Rights of Persons with Disabilities in 2013 and thus has already undertaken the obligations arising from Article 15§1 ESC)
  - n. Article 17§2 ESC
  - o. Article 22 ESC (although no information was found and delivered on the employees' involvement in the organisation of social and socio-cultural services and facilities and on legal remedies in the event of violations of the right to participate in the determination and improvement of the working conditions and the working environment, which shall be taken into consideration in the decision-making process);
  - p. Article 24 ESC (although no information was found and delivered on the enforcement of the assessed Georgian regulations, especially the case-law of the national courts, which shall be taken into consideration in the decision-making process).
2. Due to a fairly positive assessment of the situation in Georgia, it would be advisable to recommend the acceptance of further provisions of the Charter, subject to adjustments in law and practise, for the following Articles:
  - a. Article 8§2 ESC
  - b. Article 21 ESC.
3. Due to a negative assessment, it would be advisable to recommend the acceptance of further provisions of the Charter, subject to major adjustments in law and practice, in respect of the following Articles:

- a. Article 23 ESC.
4. To improve the level of protection and reach the highest European standards recognised under Article 2§3 ESC, it is advisable to consider introducing the amendments to the Labour Code and the Law on Civil Service which provide that:
  - a. annual leave may not be replaced by financial compensation;
  - b. employees must not have the option of giving up their annual leave;
  - c. at least two weeks of uninterrupted annual leave must be used during the year in which the holidays are due.
 and into the Law on Civil Service the amendment providing that:
  - d. leave does not include a period of temporary incapacity for work, maternity or parental leave, newborn adoption leave, or additional parental leave (in parallel to Article 32(4) of the Labour Code).
5. To improve the level of protection and reach the highest European standards recognised under Article 3§3 ESC it is advisable to eliminate the existing deficiencies described in section "Article 3§3 ESC - Enforcement of safety and health regulations" and thus to:
  - a. improve the quality of transparency and openness of the Labour Inspection Service in Georgia;
  - b. continue to work towards ensuring an effective labour inspection system in which any type of working conditions and labour relations can be inspected with the necessary competence, capabilities, resources (financial, human, and administrative) and in accordance with the standards of the International Labour Organisation
  - c. continue to strengthen cooperation and dialogue to promoting decent working conditions, as well as health and safety at work, which is also an obligation of Georgia under the "Association Agreement between Georgia, on the one hand, and the European Union and the European Atomic Energy Community and their Member States, on the other hand".
6. To support the effective implementation of the provisions bringing the Georgian legal system in line with the standards of protection recognised under Article 8§1 ESC, it is advisable to draft and distribute to both employers' organisations and workers' representatives materials (leaflets, manuals) providing interpretation of the provisions regulating maternity leave and other leaves and benefits connected with taking care of children.
7. To improve the level of protection and bring the situation in Georgia in line with European standards recognised under Article 8§2 ESC, it is advisable to consider introducing amendments to the Law on Civil Service providing that:
  - a. the limitation of dismissal of a civil servant guaranteed by Article 116 of the Law on Civil Service shall be extended to men raising a child up to the age of three, in order to secure equal treatment of both sexes;
  - b. in case of illegal dismissal, contrary to provisions securing rights of pregnant women and parents on maternity leave, the reinstatement of women/men should be the rule;
  - c. in exceptional cases where compensation is provided instead of reinstatement, the level of compensation shall be dissuasive.
8. To improve the standards of protection and to bring the situation in Georgia in line with European standards recognised under Article 21 ESC, it is advisable to consider eliminating nonconformities enumerated in the ECSR's Conclusions concerning Article 6§1 of the Charter, i.e. non-conformities on the grounds that joint consultation does not take place at several levels, that joint consultation does not cover all matters of mutual interest of workers and employers, and that joint consultation does not take place in the public sector including the civil service.

To summarise, the assessment has found no obstacles for the ratification of the following 11 provisions:

- 2§4
- 2§6
- 3§1
- 3§2
- 3§3
- 3§4
- 10§1
- 10§3
- 10§5
- 15§1
- 17§2

Therefore, concerning this set of provisions, full compliance with the ESC standards has been observed, and the ratification of these provisions is strongly recommended.

Furthermore, no major obstacles for the ratification and a high degree of compliance have been identified regarding the following seven provisions:

- 2§3
- 8§1
- 8§2
- 9
- 21
- 22
- 24

It is important to note that the analysis has identified particular areas where a few changes can ensure full compliance with the ESC standards. Given the high level of compliance observed, social partners can review the assessment's findings on these provisions and consider their ratification, potentially endorsing several of them.

As for Article 23 ESC, the current level of compliance with ESC standards must be perceived as insufficient.

## **IMPACT ASSESSMENT OF RATIFICATION OF FURTHER PROVISIONS OF THE EUROPEAN SOCIAL CHARTER**

### **KEY RISKS AND BURDENS**

1. **The full implementation of the Charter's provisions discussed above requires:**
  - a. the amendments to legislation enumerated and described in parts 2 and 3 of the analysis;
  - b. support for the effective enforcement of the provisions bringing the Georgian legal system in line with the standards of protection recognised in the article of the Charter discussed;
  - c. continue work to ensure an effective labour inspection system in which any type of working conditions and labour relations could be inspected with the necessary competence, capacities and resources;
  - d. continue to strengthen cooperation and dialogue between the social partners in order to promote decent working conditions, as well as health and safety at work;
  - e. provide training and awareness raising in the area of protection of social rights – this requires training for social partners, labour inspectors, legal professionals and judges;
2. **A positive assessment of the situation in Georgia in the light of the Charter's provisions (especially those additionally ratified) by the European Committee of Social Rights within the reporting procedure requires the submission of comprehensive and properly prepared national reports and, where appropriate, comments on these reports by National Human Rights Institutions, National Equality Bodies or Non-Governmental Organisations. If the information provided in the national report is not sufficient for the Committee to examine the situation, this may lead the Committee to conclude that there is a situation of non-conformity or deferral until the receipt of further information.**

### **KEY BENEFITS**

1. **Strengthening Georgia's position at the international level – as Georgia will be the first country in the region to implement further provisions of the Charter, since:**
  - a. Georgia ratified the Revised European Social Charter on 22 August 2005, accepting 63 of the Revised Charter's 98 paragraphs; no further provisions have been accepted by the country;
  - b. Armenia ratified the Revised European Social Charter on 21 January 2004, accepting 67 of the 98 paragraphs; no further provisions have been accepted by the country;
  - c. Azerbaijan ratified the Revised European Social Charter on 2 September 2004, accepting 47 of the 98 paragraphs; no further provisions have been accepted by the country;
  - d. The Republic of Moldova ratified the Revised European Social Charter on 8 November 2001, accepting 63 of the 98 paragraphs of the Charter; no further provisions have been accepted by the country;
  - e. Türkiye ratified the Revised European Social Charter on 27 June 2007, accepting 91 of the revised Charter's 98 paragraphs; no further provisions have been accepted by the country;
  - f. Ukraine ratified the Revised European Social Charter on 21 December 2006, accepting 76 of the 98 paragraphs of the Charter; no further provisions have been accepted by the country.



2. Strengthening Georgia's position at the international level – as Georgia will be one of the leading countries in the region in terms of the number of ratifications. After further ratification of the discussed and recommended provisions Georgia will be the second country in the region with the highest number of ratified provisions.
3. Strengthening cooperation with the Council of Europe, which will provide further opportunities for the country's sustainable development in the area of social rights.
4. Strengthening Georgia's position in the process of accession to the European Union by bringing the standards of protection in the field of social rights up to the European level.
5. Strengthening the protection of social rights and also all human rights by providing regular analysis of the situation in the country from the perspective of social rights in the light of European standards in additional areas.
6. Strengthening the protection of social rights and also all human rights by requiring the judiciary to interpret national law in the light of European standards in additional areas.
7. Strengthening the protection of social rights and also all human rights by giving the social partners, National Human Rights Institutions, National Equality Bodies and Non-Governmental Organisations with the possibility to use, promote and discuss European standards in additional areas.
8. Enhancing transparency and access to information on social rights and reviving social dialog.





The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

