



Targeted Surveys on application of core labour standards Armenia

**Written by Ergon Associates
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Ergon



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Directorate-General for Employment, Social Affairs and Inclusion
Directorate D — Labour Mobility
Unit D.3 — International Issues

E-mail: empl-d3-unit@ec.europa.eu

European Commission
B-1049 Brussels

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Targeted Surveys on application of core labour standards, Armenia

This report has been developed to provide a picture of the application of core labour standards in Armenia. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Improved legal framework on non-discrimination, right to strike, and forced labour (anticipated – pending adoption)
- Improved scope and competences of labour inspection service (anticipated – pending Charter of new body)

Challenges

- Lack of enforcement relating to CLS, principally due to ineffective labour inspection system
- Discrimination against women workers
- Increasing informality and precarity across the labour market
- Reduced government efforts to address forced labour and trafficking
- Lack of data on child labour

Key context

Armenia has seen substantial political upheaval in 2018. Following a series of popular protests, Nikol Pashinyan was appointed Prime Minister on 8 May. The programme of the new government may have significant implications for the labour rights enforcement environment – seeking to reinforce the rule of law, eliminate corruption, and achieve strong and inclusive economic growth.

A labour law reform process was initiated in early 2017, aiming to implement the goal of ‘simplifying regulations for small businesses’ that was set out in the government’s overarching policy programme adopted in October 2016. The ILO has also participated in the process, providing recommendations and clarifications on aligning reforms with international standards and best practice. The most recent draft amendments, reflecting a number of the ILO’s observations, were presented in February 2018. Although recent political upheaval has created some uncertainty, government representatives have indicated that labour law reform remains a priority, with core labour standards a focal concern.

Labour market conditions may also impede the application of core labour standards and wider access to decent jobs. Although the labour law reform seeks to promote negotiated outcomes, high levels of unemployment – estimated at 18.2% in 2017 – serve to diminish workers’ bargaining power. Workers in the large informal economy, estimated to account for 52% of all employment, face practical barriers to organising and collective bargaining. Enforcement of labour laws is also more difficult in the informal economy.

However, the lack of a fully-functioning labour inspectorate is the biggest overall constraint for the realisation of core labour standards in Armenia. It is generally

acknowledged that, since 2013, there has been no functioning labour inspection body to supervise and enforce the application of core labour standards. In 2017, the ILO expressed concern that the ongoing reorganisation of the labour inspectorate was not fully aligned with C81, as ratified by Armenia, with particular regard to Art. 4 and Art. 9.

There have been important developments in this area through 2018. A Health and Labour Inspectorate (HLI) was established under the 2018 Law on State Administration Bodies and came into effect on 9 April. However, a Charter setting out the specific roles and responsibilities of the HLI has not yet been adopted, and it is not yet clear whether it will address significant concerns about the scope, competences, and functioning of the previous inspection body (the Health Inspection Body – HIB). During the 9th round of the EU-Armenia Human Rights Dialogue in May 2018, Armenia indicated that it planned to reform the system of labour inspection to comply with international standards, including oversight of hours, wages and workers' rights.

Freedom of association and collective bargaining

Although basic foundations for social dialogue are in place, including a legal framework regulating collective bargaining and a tripartite commission for consultation between the government and social partners, there are several shortcomings regarding the legal framework on freedom of association and collective bargaining. Several specific concerns have been identified, largely reflected in the findings of the ILO CEACR (*see table, below*). Among the issues identified are: limitations on the right to strike; bans on organising for certain categories of workers; high minimum membership requirements for trade unions and employers' associations; and restrictions on organising outside current sectoral and national structures. Many of these issues should be addressed by planned reforms of the Labour Code.

Pending the adoption of the charter of the new Health and Labour Inspection (HLI), concerns persist that there is no central oversight body to ensure enforcement of national legislation transposing the terms of ILO C87 and C98. In addition, there are several reported concerns about the enjoyment of freedom of association and collective bargaining in practice. For example, reports suggest that the informal consent of the employer is required to establish a formal trade union. In addition, there is currently no official procedure for registering collective bargaining agreements.

Forced labour

The legal framework on forced labour is broadly adequate and in line with international standards. However, there remain some noteworthy gaps, especially the lack of a precise legal definition of forced labour. However, the latest draft of amendments to the Labour Code contains a definition of forced labour that is in line with international standards.

There are significant concerns about how relevant legislation is enforced. In the absence of a functioning labour inspectorate, there is no effective system to monitor and inspect workplaces to prevent and detect forced labour and trafficking. In addition, there are concerns that other supportive institutional mechanisms for tackling forced labour, such as formal provisions for victim support and mechanisms for overseeing and regulating labour recruitment agencies, are lacking or ineffective.

Overall, social partners do not consider forced labour within Armenia a pressing issue in practice. However, there are reports that forced labour and trafficking for the purposes of labour exploitation occur, both within the country and involving Armenian nationals

abroad, primarily in Russia and Turkey. There are few indications of specific efforts to address forced labour and the US Department of State's Trafficking in Persons Report for 2018 downgraded Armenia to 'Tier 2', indicating comparably less serious and sustained efforts than during the previous reporting period.

Child labour

The legal framework concerning child labour, including its worst forms, is broadly adequate and in line with international standards. However, key legislation does not apply outside the formal sector, while definitions of 'light' and 'hazardous' work are either absent or insufficiently developed. In practice, there are significant enforcement limitations concerning child labour laws, primarily due to the absence of an effective labour inspection system.

According to the most recent National Survey on Child Labour, conducted in 2015 with the support of the ILO, 8.7% of children aged 5-17 are involved in child labour in Armenia, the majority of which (79.4%) are engaged in hazardous work. The survey found child labour to be most prevalent among older age groups and in rural areas, and that the majority of child labour (91%) occurs in agriculture. The ILO CEACR has raised further concerns relating to the increasing number of children involved in begging and heavy manual labour, as well as a growing risk of street children becoming involved in worst forms of child labour.

Discrimination

There is no comprehensive anti-discrimination law, and existing legislation does not provide effective protection against discrimination. A draft Law on Ensuring Equality was published in March 2018, and in May 2018 Armenia reconfirmed its commitment to adopting a comprehensive anti-discrimination law in line with international standards. The draft law contains a comprehensive definition of discrimination and prohibited grounds for discrimination, as well as the responsibilities of employers in terms of preventing and prohibiting discrimination in the workplace.

In practice, most discrimination issues identified by stakeholders relate to gender. Women reportedly face discrimination at every stage of the employment relationship. At the recruitment stage, job advertisements frequently state preferences relating to gender or physical appearance, while employers often prefer to employ male candidates, even if they have lower levels of qualifications than women candidates. Upon commencing employment, there are reports that employers offer women (but not men in equivalent situations) short-term or 'service delivery' contracts rather than permanent employment contracts, primarily as a means to avoid their obligations relating to maternity pay and leave. During employment there are reports that sexual harassment is widespread and often goes unreported, while women are often the first to be dismissed during retrenchment processes. There are also some reports relating to discrimination on other grounds, including in relation to sexual orientation, age, disability, religion, and ethnicity.

Status of ratification and reporting

Armenia has ratified all ILO fundamental (core) labour conventions without reservations and maintains their ratification. Armenia has also ratified three ILO governance (priority) conventions (C81, C122 and C144). Armenia is up-to-date with all of its reporting obligations to the monitoring bodies of the ILO in relation to these conventions.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2017): Noted that several categories of workers are excluded from establishing and joining organisations of their own choosing; that national law sets excessive minimum membership requirements and prescriptive organisational requirements for the establishment of employers' organisations and trade unions; that there are excessive thresholds for declaring a legal strike, and; that the process for determining minimum service during strikes does not include the participation of social partners.
	C98	(2017): Noted that the Labour Code provides for the possibility that in case no trade union exists at enterprise level, or if existing unions represent less than half of all employees, other representatives can be elected to negotiate collective agreements, and; that the Labour Code specifies that collective agreements will be considered unilaterally terminated if an enterprise is restructured or privatised.
Forced Labour	C29	(2016): Noted that members of the armed forces are only explicitly permitted to leave their service on expiration of their contract, for medical reasons, or on reaching an age limit. It is unclear if they also have the right to leave the service at their own request.
	C105	<i>No specific application issues raised.</i>
Child labour	C138	(2016): Noted that provisions in the Labour Code relating to child labour do not apply to work performed outside a formal labour relationship, such as self-employment or non-remunerated work.
	C182	(2016): Noted that the Criminal Code prohibits the involvement of a child in the commission of a crime but that it appears to only to apply to children below the age of criminal responsibility (16 years).
Discrimination	C100	(2017): Noted that following the abolition of the State Labour Inspectorate in 2015, that there is no state body with responsibility for supervising the application of legislation relating to discrimination. Noted that while the Labour Code provides for "equal pay for the same or equivalent work", that "same or equivalent work" is narrower than the principle of "work of equal value".
	C111	(2017): Noted that national legislation does not set out a comprehensive definition of discrimination, does not explicitly prohibit direct and indirect discrimination, and does not cover all the grounds for discrimination set out in C111. Further noted that there is no longer legal protection of workers against sexual harassment in employment and that the government maintains a list of jobs deemed to be dangerous or harmful in which women may not be employed.

References

ILO CEACR, [Observations and Direct Requests for Armenia](#)