



Targeted Surveys on application of core labour standards Georgia

**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, Georgia

This report has been developed to provide a picture of the application of core labour standards in Georgia. 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

- Labour law reform process (through development of a draft action plan in coordination with ILO).
- Labour inspection relating to “hard, harmful and hazardous” conditions.
- Application of CLS in court judgements.

Challenges

- Overall lack of enforcement relating to CLS.
- Company participation in the pilot labour monitoring programme.
- Lack of information on child labour and forced labour
- Reported anti-union discrimination

Key context

Following the ‘Rose Revolution’ in 2003 Georgia introduced wide-ranging reforms to its business environment, including significant de-regulation of the labour market. The Labour Code that was in place during the period 2006-2013 provided for maximum flexibility in employment relations and was described by international observers as “the most liberal in the world”. While the Labour Code was significantly amended in 2013, representing considerable progress towards international standards, stakeholders report that the legacy of this period, particularly the abolition of the labour inspectorate and subsequent failure to re-instate an effective labour standards’ oversight agency with adequate mandate and competences, continues to affect the application of core labour standards in 2018.

The Georgian labour market is characterised by high levels of unemployment and informality. This overall lack of dynamism in the labour market significantly affects the application of core labour standards because it leads to reluctance on the part of the government to introduce reforms which it perceives may increase the burden on employers. For example, stakeholder discussions on the introduction of a fully-fledged labour inspectorate are dominated by concerns that it would ‘kill jobs’ and lead to higher levels of informality.

The lack of a fully-functioning labour inspectorate constitutes a major challenge for the realisation of core labour standards in Georgia. The labour inspectorate was abolished in 2006 and there is currently no competent state body with responsibility for supervising and monitoring the application of labour rights and standards in the workplace, and no clear timeline for when one might be established.

There are, however, some indications of recent progress. In January 2018, the scope of the Labour Conditions Inspection Department's pilot labour monitoring programme through which it carries out voluntary inspections of workplaces was expanded to cover the full range of labour rights and labour conditions (previously it had been limited to observing health and safety conditions). In March 2018, a new Law on Labour Safety was passed which will allow labour inspectors to enter workplaces which are defined as involving "hard, harmful and hazardous" (HHH) conditions and carry out inspections relating to OSH issues.

Freedom of association and collective bargaining

Following significant reforms in 2013, Georgia has a relatively comprehensive legal framework in relation to freedom of association that provides for the right of most workers to form and join independent unions and to strike and bargain collectively, although there are some outstanding gaps. In general, key issues raised by trade unions and the ILO CEACR relate to the lack of enforcement and the absence of a fully-functioning labour inspectorate, with the result that there is currently no legal mechanism to supervise and monitor the application of C87 and C98.

Overall, trade unions report that there has been a significant improvement in freedom of association since 2013 and that trade unions no longer face direct repression or harassment by the government. However, employer and worker representatives also report that the government does little to actively enforce or promote freedom of association and collective bargaining and that this undermines their enjoyment in practice. There is no up-to-date information on collective bargaining coverage rates, but it is reported that existing agreements tend to replicate the law without providing significant additional provisions. It is also reported that employers generally comply with the terms of CBAs, but that violations are not uncommon, particularly given the lack of supervision or enforcement from the government.

Forced labour

The legal framework on forced labour is broadly adequate but there are some outstanding gaps with relevant ILO conventions, notably relating to circumstances in which authorities can impose punishments involving compulsory labour.

Although Georgia reintroduced state supervision for the prevention of forced labour in 2016, there are significant concerns around its effectiveness. In particular, while inspectors are authorised to enter any place of employment to ascertain whether forced labour and/or trafficking is present, they are not empowered to issue sanctions for violations and their enforcement power is limited to informing relevant authorities. According to the US Department of State (USDOS), the labour inspectorate operates with an unclear mandate that inhibits inspectors' ability to effectively investigate workplaces for forced labour violations, while actions to enforce trafficking legislation have so far focused primarily on sexual rather than labour exploitation.

While Georgia is generally considered a source rather than a destination country for victims of forced labour and trafficking, there is evidence that forced labour does occur and that migrant workers are particularly vulnerable. Cases of forced labour have been identified in recent years involving foreign nationals exploited in agriculture, construction and domestic service.

Child labour

The legal framework on child labour is broadly compatible with ILO standards, although the ILO and local stakeholders have raised concerns that 'light work' and 'hazardous work' are not properly defined in legislation and that the labour code does not offer adequate protection for children working in the informal economy. While regulations relating to 'light work' and 'hazardous work' for children and young workers have reportedly been drafted, there is little indication of when they might be adopted.

In general, the most significant concerns relate to the almost total lack of enforcement, given the absence of a functioning labour inspectorate to observe the implementation of child labour provisions. The USDOS has noted that the government did not identify any cases of child labour violations during 2017, raising significant questions over whether and how legislation is enforced.

A national child labour survey was conducted in 2015 and found that 4.2% of all children aged 5-17 are engaged in child labour, of whom just over half (52%) are below the age of 13 (the permissible age for light work) and 64% are engaged in hazardous work. The survey also found that the majority of child labour occurs in rural areas (84%) and usually involves children helping out on family-owned farms and enterprises (63%) (ILO, 2016). Similarly, the main concerns raised by stakeholders relate to the prevalence of child labour in primary agriculture, particularly in small, family-owned farms.

Discrimination

Georgia's legal framework offers relatively comprehensive protection against discrimination, although there are still some outstanding legal gaps with ILO conventions, particularly around the definition of sexual harassment and equal pay for work of equal value. The government reported to the ILC in May 2018 that work is ongoing to strengthen the legal framework on non-discrimination and to transpose EU Directive 2006/54/EC of 5 July 2006 "On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation" into national legislation.

In general, the most significant concerns raised by local stakeholders and international observers, including the ILO CEACR, relate to the lack of an effective enforcement mechanism, and that the 'burden of proof' for establishing a discrimination case generally rests with the worker (except in relation to dismissal). In addition, trade union representatives report that provisions in the Labour Code which state that an employer is not obliged to justify its decision to refuse to hire a candidate effectively prevent candidates from bringing forward a case relating to discrimination in recruitment.

Most reports of discrimination in respect to employment relate to gender, present at every stage of the employment relationship. At the pre-employment stage there are reports, including by the Georgia Public Defender, that job vacancy announcements frequently contain non-gender-neutral language and specify or imply that only candidates of a specific gender are eligible to apply and that during interviews women are often asked question about their marital status and their plans for having children, or even to provide medical proof that they are not pregnant. Stakeholders have also reported discrimination issues relating to age, national and ethnic minorities, disability and sexual orientation.

Status of ratification and reporting

Georgia has ratified all eight ILO fundamental (core) labour conventions without reservations and maintains their ratification. Georgia has also ratified two of four ILO governance (priority) conventions (C122 and C144). Georgia 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	(2018): There is a minimum membership requirement for establishing a trade union set at 50 persons which may inhibit the establishment of organisations in small and medium enterprises. (2018): There are some restrictions on the right to strike including a restrictive definition of collective labour disputes; a prohibition on strikes in some non-essential services; and the ability of courts to postpone or suspend strikes which affect third-party companies.
	C98	(2018): There are no provisions to protect workers from the non-renewal of short-term contracts on the basis of anti-union discrimination; the government can terminate conciliatory procedures at any time during collective disputes.
Forced Labour	C29	(2017): <i>No specific application issues raised</i>
	C105	(2017): The Criminal Code allows for penal sanctions involving compulsory labour for participating in strikes.
Child labour	C138	(2016): 'Light work' activities which are permissible for children aged 14-16 are not defined in legislation; the Labour Code only applies to hired labourers and therefore does not sufficiently protect children working on family farms in the agricultural sector.
	C182	(2016): <i>No specific application issues raised.</i>
Discrimination	C100	(2018): There is no legislation giving full expression to the principle of equal remuneration for men and women for work of equal value; absence of enforcement mechanism relating to non-discrimination.
	C111	(2018): Employers are not required to provide reasons for not hiring candidates, which may effectively bar candidates from successfully bringing discrimination cases; except in cases of dismissal, the burden of proof for establishing a case of discrimination rests with the worker; there is no explicit definition of sexual harassment in national legislation.

References

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

ILO, 2016, [Georgia National Child Labour Survey 2015 - Analytical Report](#).