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## Social Partnership without Governmental Support

### POLICY BRIEF

#### Executive Summary

The Association Agreement between Georgia and the EU includes the promotion of social partnership and the parties’ involvement in the labour policy elaboration process as a priority of labour policy development.<sup>1</sup> The actions of the Government of Georgia (GoG) should be focused on strengthening its social partners and advancing social partnership, including by supporting all other interested parties.<sup>2</sup> By signing the Association Agreement in 2014, Georgia took on the responsibility of harmonising Georgian legislation with in total about 300 legal acts of the EU. The Association Agreement covers the areas of employment, social policy and equal opportunity<sup>3</sup> and reflects the International Labour Organization’s standards in the areas of trade and sustainable development.<sup>4</sup>

In order to harmonise Georgian legislation with international standards and fulfil its international obligations, the GoG amended the Labour Code of Georgia in 2013, which provided the basis for the creation of the Trilateral Commission for Social Partnership. The mentioned amendment was a positive step toward the fulfilment of Georgia’s international obligations. Despite this positive beginning, the Trilateral Commission for Social Partnership has been ineffective. According to the provision of the Commission, the Trilateral Commission should meet quarterly.<sup>5</sup> However, the Commission has met only twice since its establishment in 2013.<sup>6</sup> Because the Parliament of Georgia should get approval from the social partners to finalise changes in the legislation, the Commission’s lack of activity delays the development of labour policy.<sup>7</sup>

## Introduction

The Association Agreement between Georgia and the EU covers social partnership and cooperation for the promotion of decent working conditions, employment policy, social involvement and corporate social responsibility among other important labour issues. All the above listed should foster social integration, sustainable development and improved living conditions.<sup>8</sup> The Parliament of Georgia adopted changes to the Labour Code of Georgia in 2013. One of the main improvements to the legislation was the establishment of the Trilateral Commission for Social Partnership. The mentioned amendment to the Labour Code of Georgia established the mechanism for the public, especially for social partners, to influence the labour policy development process in the country. Book IV1 of the Labour Code of Georgia is dedicated to the Trilateral Commission for Social Partnership. The GoG endorsed the statute of the Trilateral Commission for Social Partnership on 7 October 2013, which defined the main activities and principles for the Commission.<sup>9</sup> The main function of the Commission is the development of social partnership and social dialogue at all levels in the country among employees, employers and the GoG and to draft proposals and recommendations on different issues in labour and other concomitant relations.

On 12 March 2014, the Prime Minister issued a decree approving the Commission's members.<sup>10</sup> According to this decree, the Prime Minister of Georgia is the chair of the Commission and its work should be facilitated by the PM's administration. The Commission members include: the Prime Minister (chair) and a representative from the following five ministries: the Ministry of Labour, Health and Social Affairs (MoLHSA, who serves as the deputy chair), the Ministry of Justice, the Ministry of Economy and Sustainable Development, the Ministry of Regional Development and Infrastructure, and the Ministry of Education and Science. Additional members include six employee and six employer representatives. Commission members serve for one year.

According to a GoG decree dated 15 March 2016, the responsibility for facilitating the Commission was transferred to the MoLHSA in order to improve the effectiveness of the Commission.<sup>11</sup> This was a positive development; however, its effectiveness can still be improved. While the Commission should be meeting quarterly,<sup>12</sup> it has still only met twice in total, including one time since the facilitation responsibility was transferred to the MoLHSA.<sup>13</sup> The special working group of the Trilateral Commission for Social Partnership has met several times. To date, no decisions have been made or implemented by the Commission.

<sup>1</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part; chapter 14, Article 348. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:261:FULL&from=EN>

<sup>2</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part; chapter 14, Article 349, (g); Article 350. Available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0830\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0830(02)&from=EN)

<sup>3</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part; chapter 14 "employment, social policy and equal opportunities"

<sup>4</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part; chapter 15 "trade and sustainable development"

<sup>5</sup> The decree of the government of Georgia №258; 7 October 2013; on approval of the provision on the Trilateral Commission for Social Partnership; Article 6, available at: [http://gov.ge/files/276\\_38491\\_313895\\_25871013.pdf](http://gov.ge/files/276_38491_313895_25871013.pdf).

<sup>6</sup> The video of the meeting of the Trilateral Commission for Social Partnership, available at the official page of the prime minister: <http://irakligaribashvili.ge/?p=3648> (meeting I). The second meeting held on 11 April at MoLHSA, available at: [http://www.moh.gov.ge/index.php?lang\\_id=GEO&sec\\_id=29&info\\_id=2688](http://www.moh.gov.ge/index.php?lang_id=GEO&sec_id=29&info_id=2688). Last accessed 04 September 2016.

<sup>7</sup> The decree of the government of Georgia №258; 7 October 2013; on approval of the provision on the Trilateral Commission for Social Partnership; available at: [http://gov.ge/files/276\\_38491\\_313895\\_25871013.pdf](http://gov.ge/files/276_38491_313895_25871013.pdf)

<sup>8</sup> See footnote 1.

<sup>9</sup> The decree of the government of Georgia №258; 7 October 2013; on approval of the provision on the Trilateral Commission for Social Partnership; Article 6, available at: [http://gov.ge/files/276\\_38491\\_313895\\_25871013.pdf](http://gov.ge/files/276_38491_313895_25871013.pdf)

<sup>10</sup> №55 dated 12 March 2014, Tbilisi. The decree on the appointment of the Trilateral Commission of Trade Union Rights and Core Labour Standards Social Partnership; available at: [http://gov.ge/files/383\\_41199\\_801983\\_55.pdf](http://gov.ge/files/383_41199_801983_55.pdf)

## Analysis

There is no official reason for the Commission's lack of activity. According to a representative of the MoLHSA, the Commission members are unable to fit the work of the Commission into their current busy schedules. Only the second meeting on the Commission on 11 April 2016 was dedicated to the development of labour policy with no decisions made during that meeting.<sup>14</sup>

The Commission approved the working strategy after its second meeting on 11 April 2016.<sup>15</sup> A special working group of the Trilateral Commission for Social Partnership composed of social partners and external experts is preparing topics for the Commission, such as the confirmation of the working plan for 2016-2017. The working plan should include improvement of the Labour Code of Georgia, labour inspection, mediation institute, minimum salary, educational and investment matters.<sup>16</sup> However the agenda and concrete dates of future meetings of the Trilateral Commission for Social Partnership is unknown. It is vital that the Commission meet regularly in accordance with its strategy in order to improve labour legislation with the involvement of social partners.

The Trilateral Commission for Social Partnership must approve the mediators' registry,<sup>17</sup> an important component in resolving collective labour disputes. The mediators are independent experts with knowledge of and experience in conducting negotiations on labour relations and should be impartial. As of September 2016, the registry had not been approved with no official explanation from the MoLHSA.<sup>18</sup>

The effectiveness of the mediation institution is under question. Early in 2016, the MoLHSA failed to involve mediators during the largest miners' strike in Tkibuli<sup>19</sup> despite that obvious need. More recently, in the labour dispute involving workers on a railway construction project in the village Zvare, the ministry quickly appointed a mediator, though he had very limited resources.<sup>20</sup> When negotiations broke down, workers went on strike on 19 September 2016.<sup>21</sup>

The effectiveness of the use of mediation to resolve labour disputes greatly depends upon legislative regulation and support from governmental institutions. Recent incidents have revealed that the government plays a minimal role in resolving labour disputes. Part of the reason for this is the underdeveloped state of social partnership in the country and the inactivity of the Commission.

All the discussions and work of the social partners in cooperation with civil society organisations is for naught, since the main body responsible for defining labour policy is paralysed. The role and involvement of civil society organisations in social partnership is crucial. Unfortunately, the involvement of independent experts and other non-governmental organisations working on the topic is minimal and is not obligatory for the government.

<sup>11</sup> Decree #122 of the Government of Georgia issued on 15 March 2016 on approval of the changes in provision on the Trilateral Commission for Social Partnership. Available at: [http://gov.ge/files/439\\_54661\\_648933\\_122.pdf](http://gov.ge/files/439_54661_648933_122.pdf).

<sup>12</sup> The decree of the Government of Georgia №258; 7 October 2013; on approval of the provision on the Trilateral Commission for Social Partnership; Article 6, available at: [http://gov.ge/files/276\\_38491\\_313895\\_25871013.pdf](http://gov.ge/files/276_38491_313895_25871013.pdf).

<sup>13</sup> The video of the meeting of the Trilateral Commission for Social Partnership, available at the official page of the prime minister: <http://irakligaribashvili.ge/?p=3648>. The second meeting was held on April 11 at MoLHSA, available at: [http://www.moh.gov.ge/index.php?lang\\_id=GEO&sec\\_id=29&info\\_id=2688](http://www.moh.gov.ge/index.php?lang_id=GEO&sec_id=29&info_id=2688). Last accessed 04 September 2016.

<sup>14</sup> Official webpage of the Ministry of Labour, Health and Social Affairs. Available only in Georgian at: <http://jandacva.ge/jandacvis-saministroshi-socialuri-partnioro-bis-sammkhrivi-komisija-gaimarta/>

<sup>15</sup> The second meeting of the Trilateral Commission for Social Partnership was held on April 11 at MoLHSA, available at: [http://www.moh.gov.ge/index.php?lang\\_id=GEO&sec\\_id=29&info\\_id=2688](http://www.moh.gov.ge/index.php?lang_id=GEO&sec_id=29&info_id=2688).

<sup>16</sup> See footnote 14.

<sup>17</sup> Resolution of the GoG on collective dispute resolution, Article 5.2 available at: <https://matsne.gov.ge/ka/document/view/2091854#DOCUMENT:1>. Last accessed 04 September 2016.

<sup>18</sup> See footnote 14.

<sup>19</sup> Letter N01/17767 from the Ministry of Labour, Health and Social Affairs of Georgia to the NGO Article 42 of the Constitution dated 07 March 2016.

<sup>20</sup> Available at: [http://www.moh.gov.ge/index.php?lang\\_id=GEO&sec\\_id=29&info\\_id=2781](http://www.moh.gov.ge/index.php?lang_id=GEO&sec_id=29&info_id=2781). Last accessed 04 September 2016.

<sup>21</sup> The workers on the tunnel construction went on strike. Available only in Georgian: <http://netgazeti.ge/news/141969/>. Last accessed 22 September 2016.

## Conclusion

Despite the fact that the Trilateral Commission for Social Partnership was established in 2013, there is no dialogue among the social partners through this advisory body. The two meetings that have taken place, one introductory and another a very broad discussion, constitute a slow and insufficient approach to labour policy reform. It is urgently necessary that the GoG make concrete legislative changes and engage in social dialogue in order to solve collective bargaining through mediation and improve working conditions.

It is important to improve the country's current legislation and fulfil its existing obligations. Because of the important role the Trilateral Commission for Social Partnership plays in this, it must become more effective. While government action is vital, the complexity of the subject requires collaboration among the GoG, Georgian civil society and the donor community. Domestic and international organisations should be involved in the process of developing the legislative framework regarding the Trilateral Commission for Social Partnership.

## Recommendations

- The Government of Georgia should actively participate in the work of the Trilateral Commission for Social Partnership by promoting discussions on urgent labour issues.
- The work of Trilateral Commission for Social Partnership should be regulated by more detailed procedures. Each member ministry should be required to submit an opinion on major labour issues in writing on a quarterly basis. The provisions should be clarified and the work structure of the advisory body more predictable.
- Civil society representatives should always be included in discussions and they should have an advisory voting right during the pre-discussions for the meeting of the Trilateral Commission for Social Partnership.
- The Association Agenda 2017-2019 should include the effective implementation of the Trilateral Commission for Social Partnership and oblige the GoG to actively participate in social discussions.
- The Action Plan for the Association Agenda 2017 should include a detailed list of the issues to be discussed by the Trilateral Commission for Social Partnership and the actions required to implement these issues.