

**LABOUR INSPECTION SERVICE
ASSESSMENT
2021**



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Social Justice Center

2021



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Introduction

The effective functioning of the Labor Inspection Service plays a vital role in protecting the labor rights and safety of employees in the country. Since January 1, 2021, the extension of the mandate of the Labor Inspection Service and its supervisory functions to all provisions guaranteed by the labor legislation of Georgia, has made even more important the effective exercise of its powers by the Labour Inspection Service.

The purpose of this study is analyzing the effectiveness of the Labor Inspection Service in the wake of the increased mandate and institutional strengthening as a result of the labor reform. This study, for the first time since its inception in 2015, will assess the performance of the Labor Inspection Service in order to identify existing challenges and measures that have to be taken for the improvement of the system. It is noteworthy that the study did not examine the activities carried out within the scope of the powers assigned to the Labor Inspection Service since March 2020, in connection with the supervising the enforcement of regulations imposed in relation to the pandemic.

The document is divided into two main parts. The first part deals with the institutional issues connected with the Labor Inspection Service and reviews important matters like: financial and human resources of the Inspection Service, transparency and accountability, inter-agency cooperation etc. The second part analyzes the inspection reports on labor rights and safety, which, on the one hand, clearly demonstrate the existing trends and, on the other hand, the key issues that need to be improved.

Methodology

For assessing the issues identified in the framework of the research, the process was carried out through the following tools: Analysis of International Standards; Analysis of National Legislation; Interviews with Relevant Actors; Collection of Public information and Analysis of Secondary Sources.

Analysis of National Legislation and International Standards

In the framework of the research the national legislative acts regulating the activities of the labor inspection were examined. In addition, international standards, primarily the provisions of the Labor Inspection Convention 1947 (No.81) and standards established by the International Labor Organisation, as well as its recommendations made towards various countries, have been analyzed.

Interviews with Relevant Actors

For the effective identification of the challenges in the Labor Inspection Service, several interviews were conducted during the research process.

Among them, a group interview was held with the staff of the Labor Inspection Service, which involved a total of 4 people, including the Chief Labor Inspector and his deputy. An in-depth interview was also conducted with the Public Defender's representative in the Advisory Board of the Labor Inspection – Board of Advisors. In the framework of the research individual meeting with former employees of the Labor Inspection Service were also conducted; however, it should be noted that the findings of the research are not based on the information provided by them and it was only used for the purpose of validation of the data or findings.

Collection of Public Information

One of the research tools was requesting public information from the Labor Inspection Service, which enabled the research team to obtain information on relevant statistics and various activities carried out by the Inspection Service in terms of labor rights and safety. The study material (Inspection reports) was obtained on the basis of a written request to the Labor Inspection Service. Moreover, the data processed by the Fair Labor Plat-

form was analyzed. In the process of working on research, the Labor Inspection Service provided the research team with 56 inspection report on 41 facilities drafted during the period of January-August 2021. As for the data provided by the Fair Labor Platform, 108 inspection reports processed in the field of occupational safety in 2020 were shared to the research team. Consequently, the data presented during the presentation of the study did not fully reflect the results of the inspections conducted in the field of labor rights in 2021. In addition, particular attention should be paid to the fact that the study did not examine the inspection reports of medical facilities (approximately 110 inspections), as all of them were shared with the organization only on December 23, 2021 and thus, they were not analyzed. Later, after the presentation of the initial findings of the study, at the end of 2021, on December 23, the Labor Inspection Service provided the research team with annual data, according to which 177 inspections were carried out in 2021 with the aim of supervising compliance with the labor rights. However, it should be noted that the inspection reports provided by the Inspection Service did not fully represent the 56 inspection data previously shared with the authors of study, making it even more difficult to determine the exact statistics on the number of inspections conducted in terms of labor rights. It also should be noted that in March 2022, the Labor Inspection Service published a report on the activities of 2021, according to which a total of 327 inspections were carried out in the field of labor rights. Almost twice as much as the data provided to the study authors on December 23rd.

With regard to labor safety, as it was already mentioned, for the purposes of the present study 108 inspection reports drafted by the Labor Inspection Service during 2020 have been analyzed. The data was analyzed on the basis of the inspection reports available to the Fair Labor Platform, which may be inaccurate due to the incomplete submission of the reports by the Labor Inspection Service and also due to the fact that the inspections conducted against individuals were not analyzed within the study. As for the statistics for 2021, the content of which was not analyzed in the study, according to the information provided by the Inspection Service in the form of public information, 401 facilities were supervised by the Inspection Service in order to oversee the compliance with the labor safety norms at the workplace. However, in the 2021 report on the activities of the Labor Inspection Service, different data were presented in the direction of labor safety, in particular, according to the report, a total of 1074 inspections were carried out at 446 facilities. It should also be noted that in the process of research it was found that in some cases the information presented in the annual reports on the activities of the Labor Inspection Service and provided to the authors of the study in the form of public information did not coincide with each other, which is probably explained by the internal difficulties and scarcity of resources in organizing and analyzing data in the Inspection Service. This is illustrated by the fact that the data provided to the study authors by the Inspection

Service on the number of labor rights inspections was 56 in the I-II quarters, 177 in the IV quarter, and 327 in the annual report on the activities of Labor Inspection Service.

Analysis of Secondary Sources

In the framework of the research, the sources relevant to the research subject, including, documents developed by international governmental and non-governmental organizations, academic papers and analytical documents, concerning the practical aspects of the Labor Inspection's functioning have been analyzed.

1. Institutional Development of Labor Inspection Service in Georgia

Abolition of Labor Inspection Service by the government in 2006 has been criticized for years by various labor rights organizations.¹ The abolition of the Labor Inspection Service has led to the increased number of death and injury at work.² The abolition of this institution was part of a broader change in the direction of social policy; During the same period, the Public Employment Service (merged with the Employment and Social Assistance Agency) as well as the Unemployment Benefit was abolished.³ Corruption was named as one of the reasons for the abolition of Labor Inspection,⁴ however, as it appears, this issue was not decisive and according to some, the decision was largely motivated by the ideological considerations.⁵ In addition, it was criticized that the Government, instead of abolishing the Labor Inspection Service, did not work on its reform and, what's more, did not think of the replacement of the inspection by another more effective mechanism in the coming years.⁶

The Labor Inspection Service was abolished through the introduction of new labor law. On May 25, 2006, the Parliament of Georgia adopted the Law on Labor Code of Georgia,⁷ repealing the Labor Code of Georgia, which has been in force since 1973 and related normative acts.⁸ Among the repealed acts was the "Statute of the Labor Inspection, a state sub-agency within the sphere of governance of the Ministry of Labor, Health and Social Affairs of Georgia". Prior to 2006, the Labor Inspection Service was responsible for overseeing compliance with the requirements of Labor Law and other labor protection legislation in all enterprises, institutions and organizations, regardless of their owner-

1 Human Rights Education and Monitoring Center (EMC), „An Assessment of the Labour Inspection Mechanism and a Study of Labour Rights Conditions in Georgia”, 2017, <https://bit.ly/3yJCUCH>; (hereinafter, EMC, An Assessment of the Labor Inspection Mechanism, 2017); Georgian Trade Union Confederation, „What consequences can the lack of labor inspection lead to? April 28, 2014, <https://bit.ly/3qW872R>.

2 Ibid, see also, Human Rights Watch, “No Year Without Deaths- A decade of Deregulations Puts Georgian Miners at Risk“, January 8, 2019, <https://bit.ly/3xp2Env>. „According to one study, deaths at work have soared by 74 percent.”

3 Ibid, 85.

4 Raisa Liparteliani, Review of the Law on Occupational Safety, Journal “My Advocate”, First Issue, June 6, 2021, <https://bit.ly/3wtbcIE>; (hereinafter, Liparteliani, 2021).

5 Ana Diakonidze, “Labor and Employment Policy in Georgia – Facade Institutions, International Actors and Fighting of Ideas”, 2018, pg. 86, <https://bit.ly/2VkSK8d>; (hereinafter, Diakonidze, 2018).

6 Liparteliani, 2021, see above, footnote 4.

7 Organic Law of Georgia, “Labor Code of Georgia”, <https://bit.ly/3xtzOT1>.

8 Ibid, Article 55.

ship and organizational form.⁹ This provision also indicates that the Labor Inspection Service formally had quite a wide range of powers, however in practice it was much less effective; Due to lack of financial resources and corruption, labor market institutions, including the Labor Inspection, were façade and “actually existed only on a paper”.¹⁰

There was no Labor Inspection Service in Georgia in the years of 2006-2015. At the same time, the Labor Code adopted in 2006 weakened employees’ protection guarantees; The literature suggests that the emphasis on “ease of doing business” and deregulation policies have sacrificed labor protection and led to extreme social tensions.¹¹ Moreover, some believe that, in parallel with the drastically negative impact on workers’ rights and labor safety, the abolition of the Labour Inspection Service has not had a noticeable positive effect on economic growth,¹² and the results of the current economic growth did not reach a significant part of the Georgian population and failed to have an impact on reducing unemployment and poverty.¹³

It should be noted that the establishment of the labor inspection system as one of the important mechanisms for the protection of labor rights stemmed from a number of international obligations of Georgia. Despite the fact that Georgia has not yet ratified ILO Conventions related to labor inspection, namely the Labor Inspection Convention¹⁴, the ILO itself estimates that the proper execution of obligations of already ratified conventions requires the existence of adequate and effective execution mechanisms which at the same time envisages the formation of efficient model of labor inspection¹⁵. Furthermore, Article 7 of the International Covenant on Economic, Social and Cultural Rights, which is binding for Georgia, recognize the right to just and favourable conditions of work.¹⁶ Commenting on this article, the Covenant Committee, which is the authoritative source for the interpretation of this international agreement, noted that in order to ensure ac-

9 Law of Georgia, “Labor Code of Georgia”, Article 2371, <https://bit.ly/3yGTOLA>.

10 Diakonidze, 2018, 119, see above, footnote 5.

11 Elza Jgerenaia, Ekaterine Kardava, “Labour Rights Protection as Part of the European Integration Policy – Perspectives of Developments within the AA, VLAP and Social Charter”, Friedrich-Ebert-Stiftung Foundation, 2016, 8, <https://bit.ly/3xwctjF>; (hereinafter, Jgerenaia, Kardava, 2016).

12 Giorgi Tchanturidze, “Abolition of Labour Inspection in Georgia, Consequences for Workers and Economy, September, 2018, <https://bit.ly/2UDW5yL>.

13 Government of Georgia, Social-economic Development Strategy of Georgia – “Georgia 2020”, 2014, 11, <https://bit.ly/3wuoxk5>.

14 Labour Inspection Convention, 1947 (No. 81), <https://bit.ly/3ALVTy7>.

15 International Labor Organization, Progress Assessment of the Labour Inspection System in the Republic of Georgia (2016); Chapter II. International Labour Standards; pg.3.

16 International Covenant on Economic, Social and Cultural Rights, December 16, 1966, Article 7, <https://bit.ly/3hsg2le>.

countability and fair working conditions, the Contracting Parties are obliged to establish an effective system of labor inspection.¹⁷

Although Georgia had an obligation to protect the right to fair work and enforce it effectively through a number of multilateral agreements and conventions, the Association Agreement between Georgia and the European Union has become a catalyst for the establishment of a labor inspection system in the country.

Pursuant to the "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" (hereinafter "Association Agreement"), which was signed in 2014 and came into full force since 2016 „the Parties recognise full and productive employment and decent work for all as key elements for managing globalization, and reaffirm their commitment to promote the development of international trade in a way that is conducive to full and productive employment and decent work for all.¹⁸ According to some authors, it is noteworthy that Article 229 is part of the Chapter 4 of the Association Agreement, which deals with trade issues.¹⁹ Moreover, Article 229 emphasizes, on the one hand, the right to decent work and, on the other hand, the development of international trade, which may be interpreted in such a way that, according to the agreement, labor and employment policy should protect the rights of both employees and employers and „they are the most important subjects in the field of production and trade”.²⁰

Under Article 349 of the Association Agreement, the Parties undertake to strengthen dialogue and cooperation aiming at promotion of decent working conditions and health and safety at work. Annex XXX to the Association Agreement also contains a list of EU regulations in the field of labor, which Georgia has undertaken to implement under the Agreement.²¹

Following the signing of the Association Agreement, the Parties also developed an Association Agenda, which set out the priority areas for the cooperation between the Par-

17 UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), 7 April 2016, E/C.12/GC/23, 54, <https://bit.ly/36utSwY>.

18 "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", Article 229 (I), <https://bit.ly/3y-FoyD5>.

19 Jgerenaia, Kardava, 2018, 10, see above, footnote 11.

20 Ibid.

21 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, Annex XXX, Employment, Social Policy and Equal Opportunities https://www.asocireba.ge/show_article.php?id=91&id=91#danarti30

ties and the implementation of the Agreement.²² The Association Agenda for 2014-2016 contained a direct reference to the need of establishing Labor Inspection Service. More specifically, according to the document, in addition to improving safety at work, Georgia should also focus on creation of institution with adequate capacities for the inspections of working conditions in the spirit of the International Labour Organisation (ILO) standards.²³

The establishment of the Labor Inspection in Georgia was preceded by the adoption of labor conditions monitoring program.²⁴ The Government of Georgia adopted a resolution on the approval of the State Program for monitoring working conditions on February 5, 2015. The aim of the program was to prevent violations of labor safety norms,²⁵ and the target group of the program was those employers who “gave their written consent to participate in the program”.²⁶ The activities of the program mainly included raising awareness, informing and advising employers and employees on the identified violations.²⁷

In 2015, almost ten years after its abolition, the Labor Inspection Service was re-established in Georgia; More precisely, on April 21, 2015 the Department of Labor Conditions Inspection was established within the Ministry of Labor, Health and Social Affairs of Georgia (hereinafter referred to as the “Ministry of Health”). The function of this department, inter alia, was to exercise state supervision on the compliance of working conditions with occupational health and safety requirements as well as on the observance of labor legislation.²⁸ According to the Regulation, the department was authorized to make recommendation to the employer to eliminate the violations revealed as a result of the inspection.²⁹ However, it should be noted that the mandate of the Labor Inspection was limited from the outset.³⁰ The regulation approved by the order of the Minister stated that the powers of the Labor Conditions Inspection Department, which were related

22 Association Agenda between the European Union and Georgia, 2014-2016, <https://bit.ly/3wu1l1S>.

23 Ibid, 7.

24 EMC, An Assessment of the Labor Inspection Mechanism, 2017, 109, see above, footnote 1.

25 “State Program for monitoring working conditions” approved by the #28 resolution of Georgian Government adopted on February 5, 2015. Article 1, <https://bit.ly/3yGG4Hf>.

26 Ibid, Article 2.

27 Ibid, Article 3.

28 Order #01-10/N of the Minister of Labor, Health and Social Affairs of Georgia of April 21, 2015 on Amendments to the Order #01-10/N of the Minister of Labor, Health and Social Affairs of January 6, 2015 “On Approval of the Regulations of Structural Subdivisions of the Ministry of Labor, Health and Social Affairs of Georgia, „Regulation on Labor Conditions Inspection Department”, Article 2, <https://bit.ly/2TX-mx6x>.

29 Ibid.

30 EMC, An Assessment of the Labour Inspection Mechanism, 2017, 109; see above, footnote 1.

to the inspection of safety at work, overseeing compliance of working conditions with occupational health and safety requirements, as well as investigation and registration of accidents, would come into force only after making the amendments to the relevant legislation.³¹ The exception in the limitation of the mandate, and therefore the operational sphere of inspection, is the State supervision for the purposes of prevention and response to forced labour and labour exploitation in labour relations.³² In addition, the department was empowered to detect and study cases of discrimination in the workplace. As of the end of 2016, the department had not applied its competence to establish the fact of discrimination.³³

According to a study by the Social Justice Center, from July of 2015 to October of 2016 the Department of Inspection of Labour Conditions with the preliminary consent obtained from the companies inspected a total of 161 companies.³⁴ In the assessment report provided by ILO about the number of inspected companies in 2015, it is highlighted that the inspection in 2015 covered only 0,07% of total number of companies.³⁵

As of 2016, 28 people were employed in the department. A working group was set up to study Labor Inspection models in EU countries.³⁶

In this and following period the existing mechanism of labor inspection was criticized mainly for the issues listed below: 1) State supervision by the Labor Conditions Inspection Department was essentially connected with labor safety and did not cover a wide range of labor rights; 2) The Labor Inspection Service did not have an unconditional access to the place of employment and could not carry out inspections without the prior consent of the employer; 3) There was no effective sanctioning mechanism and the department could only issue a non-binding recommendation. Furthermore, the inspection

31 Order #01-10/N of the Minister of Labor, Health and Social Affairs of Georgia of April 21, 2015 on Amendments to the Order #01-10/N of the Minister of Labor, Health and Social Affairs of January 6, 2015 "On Approval of the Regulations of Structural Subdivisions of the Ministry of Labor, Health and Social Affairs of Georgia, „Regulation on Labor Conditions Inspection Department", Article 7, <https://bit.ly/2TX-mx6x>.

32 Resolution N112 of the Government of Georgia of March 7, 2016 "On Approval of the Rule of State Supervision of the Prevention of and Response to Forced Labor and Labor Exploitation", Article 1, <https://bit.ly/2SY178U>.

33 EMC, An Assessment of the Labor Inspection Mechanism, 2017, 137; see above, footnote 1.

34 Ibid, 111.

35 Progress Assessment of the Labour Inspection System in the Republic of Georgia, 2016, 15.

36 Europe for Georgia, "The Labor Inspection and the Polish Experience- Learning Examples from Eastern Europe", November 15, 2017, <https://bit.ly/3yLEkFX>.

was criticized for the lack of transparency,³⁷ ineffective response to labor exploitation, forced labor and discrimination and other issues.³⁸

It should be noted that at the same time, the European Union called on Georgia to strengthen labor inspection. A report released by the High Representative of the European Union for Foreign Affairs and Security Policy in late 2016 stated that the labor inspection model in Georgia did not constitute a fully-fledged labor inspection system and did not allow for the fulfilment of Georgia's obligations under the respective ILO conventions on labor rights and the Association Agreement.³⁹

On May 1, 2017, which is International Workers' Day, three rallies were held in Tbilisi demanding the establishment of an effective labor inspection.⁴⁰ In May 2017, four miners died at work in Tbilisi.⁴¹ While responding to the incident, the Prime Minister, George Kvirikashvili stated that the Labor Inspection Service might be needing "activation". On June 1, 2017, the Draft Law of Georgia on Labor Safety was submitted to the Parliament of Georgia.⁴² The Law, the adoption of which, according to the Social Justice Center, was unreasonably delayed,⁴³ was adopted by the Parliament of Georgia on March 7, 2018. The new law on labor safety applied only to heavy, harmful and hazardous work involving an increased level of danger.⁴⁴ Moreover, except for exceptional cases,⁴⁵ the inspection could carry out inspections only with the permission of the court.⁴⁶ The lack of unrestricted access to the workplace and the limited scope of the law, among other things, have been criticized by the human rights organizations.⁴⁷

37 Human Rights Education and Monitoring Center (EMC), "Closure of the results of the inspection of working conditions", May 23, 2016, <https://bit.ly/3hrqKZh>.

38 EMC, *An Assessment of the Labor Inspection Mechanism*, 2017, 155; see above, footnote 1.

39 High Representative of the Union for Foreign Affairs and Security Policy, Joint Staff Working Document, Association Implementation Report on Georgia, November 26, 2016, <https://bit.ly/3kfHivF>.

40 "Establish an effective labor inspection" – three demonstration with one demand, Netgazeti, May 1, 2017, <https://bit.ly/2UFgTpy>.

41 "Four miners who died in Tkibuli were buried today", Netgazeti, May 14, 2017, <https://bit.ly/3yKdNiP>.

42 Human Rights Education and Monitoring Center (EMC), Evaluation of Draft Law of Georgia on Occupational Safety, June 19, 2017, <https://bit.ly/3qYOSpa>.

43 Human Rights Education and Monitoring Center „EMC Express Concern over Delay in Consideration of Draft Law on Occupational Safety and Calls on Parliament to Adopt New Law Immediately" December 21, 2017, <https://bit.ly/3yIuriS>.

44 The Law of Georgia "On Occupational Safety", Article 2, <https://bit.ly/36qaiCf>.

45 Exceptions provided by the law are the following: a) Random control once per calendar year; b) repeated inspection; c) conducting an enquiry of an accident in the working area.

46 Ibid, Article 16. Also, Law of Georgia "On Control of Entrepreneurial Activity", Article 3, <https://bit.ly/3e1Yqus>.

47 Human Rights Education and Monitoring Center (EMC), "What was the content of the Parliament's Law on Occupational Safety?", March 21, 2018, <https://bit.ly/2SYqebE>.

The Parliament of Georgia soon adopted a new law in the field of labor safety, thus repealing the Law on Labor Safety enacted in 2018. More precisely, on March 4, 2019, according to the requirements of the new edition of the Constitution of Georgia⁴⁸, the Organic Law of Georgia on Occupational Safety was adopted. Under the new law, the scope of the law has been expanded and state supervision in the field of occupational safety has been extended to all sectors of employment from September 1, 2019.⁴⁹ In addition, the Labor Inspection Service was granted unrestricted access to the place of employment and the requirement for a court permit to carry out the inspection was revoked.

Following the extension of the mandate of Labor Inspection Service in terms of labor safety inspection since 2019, the lack of effective labor rights enforcement mechanism remained a major challenge at the legislative level. The fact that the Department of Labor Inspection was authorized to oversee only labor safety, trafficking and labor exploitation and its mandate did not extend to the enforcement of other labor standards, was considered problematic.⁵⁰ At the same time, the subject of criticism was the narrow, technical understanding of occupational safety provided by the law, which neglected the connection of occupational safety with issues such as working hours, overtime, night work, etc.⁵¹

According to the Labor Inspection Convention, the mandate of the labor inspection shall cover issues such as working hours, wages, safety, health and welfare, the employment of children and young persons and other connected matters.⁵² At the end of 2019, Human Rights Watch was critical of the fact that most of the issues listed above did not fall within the current mandate of the Labor Inspection Office.⁵³

48 Constitution of Georgia, Article 26.1: "The right to safe working conditions and other labor rights are protected by organic law.", <https://bit.ly/3hw73j7>.

49 The Law of Georgia "On Occupational Safety", Article 24.1, <https://bit.ly/3hw73j7>.

50 Human Rights Education and Monitoring Center, "EMC responds to the adoption of the Law on Occupational Safety by the Parliament of Georgia", February 20, 2019, <https://bit.ly/36xMYIT>.

51 Human Rights Education and Monitoring Center (EMC), "Fragmented Labour Inspection – Labour Rights Left without Oversight", 5, 2020, <https://bit.ly/3qXBilY>.

52 Labour Inspection Convention, 1947 (No. 81), <https://bit.ly/3ALVTy7>.

53 Human Rights Watch, "No Year Without Deaths- A decade of Deregulations Puts Georgian Miners at Risk", January 8, 2019, <https://bit.ly/3xy56Ie>.

2. Autumn 2020 Reform and the Expansion of Powers of the Labor Inspection

In September 2020, labor law reform was carried out in Georgia. Adoption of the reform was preceded by lengthy consultations with stakeholders⁵⁴. The attitude towards the changes introduced by the reform was and remains controversial; Part of the civil society criticizes the reform because a number of issues raised by certain groups have been left out of the reform.

As in previous cases of changes in labor legislation, the September 2020 reform was preceded by, on the one hand, severe cases of the death of workers in the workplace⁵⁵ and related pressure from local labor right organizations⁵⁶ and, on the other hand, referring to the obligations under the Association Agreement and other international documents⁵⁷ and thus attempting to influence the government in the decision-making process. The labor reform of 2020 was distinguished from changes of the previous years by the fact that the reform was adopted in the context of the coronavirus pandemic; The Covid-19 pandemic, unfortunately, further aggravated the situation of the Georgian labor market; Moreover, it has brought to the surface already existing problems⁵⁸ and has become a trigger for large-scale violations of labor rights.

Finally, following the delay of the reform⁵⁹ and the expectations of its possible failure, the Parliament of Georgia supported the legislative changes in the third reading on September 29, 2020. The amendments adopted by the Parliament addressed various issues, including working hours, overtime work, shift work and night shifts, reasonable accommodation, internships and other issues;⁶⁰ however, the most important changes is be-

54 Human Rights Education and Monitoring Center, "Labor Reform Under Threat", July 3, 2020, <https://bit.ly/3hK26mo>.

55 Human Rights Education and Monitoring Center, "Human Rights Organizations Call on Parliament to Accelerate Labor Reform", June 11, 2020, <https://bit.ly/3EnkET4>. Human Rights Education and Monitoring Center, "EMC responds to death of worker in Chiatura mine", September 1, 2020, <https://bit.ly/3Cndsof>. Fair Labor Platform, "The deaths of two railway workers are a result of the weak labor safety policy", September 18, 2020, <https://bit.ly/2XuuLo1>.

56 Human Rights Education and Monitoring Center, "EMC & GYLA: We Call on Parliament to Carry out Labor Reform", June 22, 2020, <https://bit.ly/3tSNGp2>.

57 Human Rights Education and Monitoring Center, "The European Parliament calls on Georgia to support the labor law reform", September 17, 2020, <https://bit.ly/39wHmu1>.

58 Human Rights Education and Monitoring Center, "Labor Relations and Social Protection During the Pandemic – Report on Georgia, December 11, 2020, <https://bit.ly/2Zegptb>.

59 Fair Labor Platform "Labor Inspection Reform is Delayed", September 14, 2020, <https://bit.ly/3klh97D>.

60 Human Rights Education and Monitoring Center, "EMC: despite the positive changes, problems remain in labor law ", September 29, 2020, <https://bit.ly/3ce3qez>.

lieved to be the expansion of powers of the Labor Inspection Service and the extension of its mandate to the enforcement of labor rights.

Existing mandate of the Labor Inspection Service

As a result of the reform, since January 1st, 2021, a legal entity under the public law (LEPL) “Labor Inspection Service” was established, which is a unit under the control of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs. The transformation of the Labor Inspection Service into a legal entity under the public law has further strengthened the Inspection Service institutionally, with the aim of developing the system and ensuring it greater efficiency. Institutional strengthening of labor inspection is of paramount importance, given that a strong Labor Inspection Service, equipped with appropriate powers and resources will become a guarantee of the improvement of labor rights protection in the country.

According to the Labor Code of Georgia, the Labor Inspection Service shall have the power to ensure the effective application of “labor norms”.⁶¹ Given that the content of labor norms is quite broad under the code, the mandate of Labor Inspection Service includes not only state supervision of labor rights and safety issues, but also issues such as the effective enforcement of prohibitions on forced labor and trafficking.

According to the law on Labour Inspection Service, the Labor Inspection Service in order to ensure the effective application of labor norms is using the following mechanisms: a) provide consultation and/or information on compliance with labor norms; b) provide the public with information promoting the observance of labor norms; c) review complaints related to possible violation of labor norms; d) conduct inspections and e) draw up proposals to improve the labor legislation of Georgia.⁶² It should be noted that this sequence of activities of the labor inspection, which is given in the law is self-explanatory and, in a way, reflects the development of the mandate of the Labor Inspection Service and its predecessors, when the inspection only had the authority to make recommendations, raise awareness etc. As for conducting the inspection without the prior consent of the employer, it was not part of the mandate. Even after the expansion of the mandate of Labor Inspection Service, it seems that the legislator still sees the leading, first-line powers of the Inspection Service in raising public awareness and providing information to employers on compliance with labor norms and raising public awareness. Clearly, ideally, such activities should help prevent labor rights violations, but in a situation where

61 Organic Law of Georgia – Labor Code of Georgia, Article 75.1, <https://bit.ly/3nN7sBd>.

62 Law of Georgia on the Labor Inspection Service, Article 5, 2, <https://bit.ly/3IEVN4B>.

labor rights are being massively violated and the statistics of injuries and deaths in the workplace are still alarming,⁶³ it is essential that the Inspection Service focus on active inspections and have the impact of prevention on future violations through it.

It is noteworthy that the mandate of the Labor Inspection extends to both private and public sectors, which means that the Labor Inspection is authorized to check the effective enforcement of labor norms in the public service as well.⁶⁴

Grounds for Initiating Labor Inspections

The Labor Inspection is authorized freely, without prior notice, to enter any workplace or workplace subject to inspection at any time of the day or night. This authority applies both to the inspection of labor safety⁶⁵ and to the supervision of the implementation of other labor norms.⁶⁶

Inspection may be carried out either on the basis of a complaint of an interested person or at the initiative of the Inspection Service itself. In the latter case, the planned inspection is conducted according to the list of priority sectors approved by the Government of Georgia and the list of specific organizations working in the priority sectors that are subject to the planned inspection is determined by the Chief Labour Inspector.⁶⁷ The legislation does not specify what criteria are used to compile a list of sectors and organizations to be inspected as part of a planned inspection and to what extent (it at all) does the information disseminated by the public or other sources about the violation of labor legislation affect the content of this list.⁶⁸ Moreover, it is noteworthy that the Resolution of the Government of Georgia on the priority sectors subjected to the inspections and the relevant legal act of the Labor Inspection Service are not sought in the Legislative Herald of Georgia and information on the status of drafting/approval of these documents or changes in them is not available

63 In 2019, 45 people were killed and 168 injured in the workplace. See the 2019 Report of the Labor Conditions Inspection Department, pg.21. Available: https://moh.gov.ge/uploads/files/2019/Failebi/LCID_Geo_a4_1.pdf. In the first quarter of 2020 alone, 6 employees were killed and 45 injured, according to the LEPL Labor Inspection's Service short report of the period on 01.01-31.03 of 2021.

64 The exception may be so called Law Enforcement Agencies, see the Law of Georgia on Labor Inspection Service, Article 5.4. <https://bit.ly/3IEVN4B>.

65 The Law of Georgia on Occupational Safety, Article 16.5, <https://bit.ly/3Cslhla>.

66 The Law of Georgia on Labor Inspection Service, Article 16.2, <https://bit.ly/3IEVN4B>.

67 Resolution N99 of the Government of Georgia of February 10, 2020 "On Approval of the rules and conditions of entry and inspection of the locations subject to inspection", Article 11.1, <https://bit.ly/2Xv6luL>.

68 EMC, Evaluation of the Labor Inspection Mechanism, 2017, 126, <https://bit.ly/3yJCUCH>.

in the form of public information either. The Chief Labor Inspector said in an interview with the authors of the study that it is inadmissible to make public relevant legal acts or to obtain statistical data about them. According to the Chief Labor Inspector, an electronic program is in the process of being developed, which will automatically select the companies to be inspected based on the principle of random selection, using the relevant criteria; However, the Chief Inspector did not explain why the development of this program was delayed.

As for unscheduled inspection, it can be carried out at the initiative of the inspection or other entities. On the one hand, the authority of the Labor Inspection Service to proactively conduct inspections on its own initiative should be positively assessed, but, on the other hand, the risks of abuse of power by the Labor Inspection Service and the use of this tool as a means of prosecution should be minimized by proposing a high legislative standard for substantiating unscheduled inspections.

It should be noted that the legislation separates the persons authorized to report violations of labor safety and other labor norms. More precisely, the Labor Inspection Service regarding the labor safety can initiate an inspection on the basis of a notification from any identifiable person, while in other cases it is required an interested person to be present.⁶⁹ The law⁷⁰ also defines who the interested person might be

- an employee in respect of whom a right under labor norms has been violated;
- other employee who works in the same establishment and to whom the fact of violation of the right under labour norms has become known;
- or an employees' association formed for the purposes determined, and in accordance with the procedure established, by the Organic Law of Georgia on Trade Unions;
- the Public Defender's Office of Georgia.

The rule of entry and inspection of the objects subject to inspection approved by the Resolution of the Government of Georgia additionally stipulates that unscheduled inspection of the particular object on the basis of notifications, including, citizens' appeals, complaints, and hotline notifications, will be carried out "in case of presence of reasonable suspicion".⁷¹ In cases where an interested person notifies the Labor Inspection regarding the violation of labor rights, it is unclear what can be considered as a standard of "reasonable suspicion"; In other words, it is not clear what should determine the "rea-

69 Law of Georgia on Labour Inspection Service, Article 13, <https://bit.ly/3IEVN4B>.

70 Ibid, Article 3, "m" sub-paragraph.

71 Resolution N99 of the Government of Georgia of February 10, 2020 "On Approval of the rules and conditions of entry and inspection of the locations subject to inspection", Article 11.2, <https://bit.ly/2Xv6luL>.

sonableness” of the suspicion and what methods should be used to verify the accuracy of the information in the notification, if not by inspecting the place.

During the interview with the authors of the study, the representative of the Labor Inspection Service reviewed the practical issues related to the receipt of the notification of the interested person by the Labor Inspection Service. In particular, she noted that often it is impossible to identify the employer and its exact address through the complaint. Thus, in order to clarify the details of the content of the notification, the Labor Inspection Office starts written communication, explaining to the author of the notification what issues need to be clarified (for example, identifying the employer) as well as providing information on the principle of confidentiality. After passing this formal stage, the Labor Inspection Service plans to conduct inspection of the employer. Therefore, in order for the Labor Inspection Service to inspect the particular object on the basis of a complaint from an interested person, it is essential that the information provided in the complaint revealed a reasonable suspicion of a breach of labor norms and identified the company where the employers’ labor rights are allegedly violated. However, during an interview with the Chief Labor Inspector the explanation regarding the grounds for reasonable suspicion was not provided. The introduction in the legislation of the general standard of the “reasonable suspicion” arises the risk of inconsistent and arbitrary interpretation, which may become the basis for an unjustified refusal by the labor inspection office to inspect a particular employer; thus, the above-mentioned legislative provision, at least, needs additional clarification. It should be noted that Georgian legislation provides guarantees for the protection of confidentiality during the inspection process; According to the Law of Georgia on Labor Inspection, complaints received by the Labor Inspection Service and/or the interviewing of the persons by a labor inspector shall be fully protected by a guarantee of confidentiality. A labor inspector and all the employees of the Labor Inspection Service are obliged not to disclose the identity of the author of a complaint and/or an interviewee. Moreover, when carrying out an inspection, the Labor Inspection Service shall not indicate whether the inspection has been initiated on the basis of a complaint or on its own initiative.⁷² Failure to comply with this obligation results in the dismissal of the labor inspector or other disciplinary liability.⁷³

The basis for unscheduled inspection can also be the information about the accidents or existence of occupational diseases at the workplace. In any case, the decision to inspect a particular organization is made by the Chief Labor Inspector.⁷⁴ In addition, according to the Law of Georgia on Occupational Safety the Labor Inspection Service has broad

72 Law of Georgia on Labour Inspection Service, Article 19.3, <https://bit.ly/3IEVN4B>.

73 Ibid, Article 19.6.

74 Ibid.

powers to ensure safety at work, namely it controls the enforcement and application of occupational safety standards and conduct enquiries into cases of accidents and occupational diseases in the workplace and make records thereof.⁷⁵

Sanctioning Powers and Appeals against Administrative Offence Reports of the Labor Inspection Service

In case of violation of labor norms, the Labor Inspection Service is authorized to impose administrative liability on the violating organization. In particular, the Labour Inspection Service may apply the following administrative penalties: a) a warning; b) a fine; c) a suspension of the work process.⁷⁶ The Labor Inspection Service enjoys a discretionary power, which means that when legislation provides alternative administrative penalties, the Inspection Service is authorized to decide which administrative penalty apply in particular case.⁷⁷ In parallel with the imposition of administrative liability, the Labor Inspection Service instructs the employer to remedy the identified violation within a reasonable time determined by the Labour Inspection Service. A reasonable time for remedying the identified violation is determined on the basis of consultations with the employers' or the employees'. After the lapse of the time established by an instruction, the Labor Inspection Service is obliged to inspect the offender and indicate the status of the fulfilment of the said instruction.⁷⁸ The following chapters will discuss various trends that have emerged in terms of the use of sanctioning powers by the Labor Inspection Service as a result of an analysis of the reports drawn up by the Inspection Service after inspecting organizations in the field of labor safety and labor rights in 2020 and 2021 respectively.

In addition, the statistics on the appeal of the administrative offence reports drawn up by the Labor Inspection Service is of particular interest. First of all, it is noteworthy that during the interview with the staff of the Labor Inspection Service, in terms of appeal of labor inspection reports it was found that if in the first stages of the activities of Inspection Service there was no uniform practice between filing an administrative complaint in the Inspection Service and filing a complaint in the court, nowadays, due to the efforts of the inspection staff, a uniform practice has been established, according to which the interested party submits a complaint first to the Labor Inspection Service and then to the court. In this way, the necessary precondition for the admissibility of an administrative

75 The Law of Georgia on Occupational Safety, Article 16.4., <https://bit.ly/3CsIhIa>.

76 Organic Law of Georgia Labor Code of Georgia, Chapter XVIII, <https://bit.ly/3CznEKz>.

77 Law of Georgia on Labor Inspection Service, Article 20.4, <https://bit.ly/3lEVN4B>.

78 Ibid.

complaint in an administrative proceeding is realized, according to which the interested person has the right to apply to the court only after he/she uses the opportunity of a single appeal in the administrative body.⁷⁹ Thus, the administrative offence reports issued by the Labor Inspection Service are first appealed to the Labor Inspection Service itself and then to the court. However, there are exceptions when it is possible to apply directly to the court and this is the case when the Chief Labor Inspector issues individual administrative-legal act regarding the penalty. The Chief Labor Inspector issues the above act when the person fails to pay the fine within the 30-day period fixed by law, imposing penalty in the amount of two times of the fine. With the aim of reviewing filed complaints, Commission for Complaints Review has been set up in the Labor Inspection Service; They make a decision, which is signed by the Chief Labor Inspector. This document is a resolution that can be appealed in court.

As for the statistics, the authors of the study requested public information, which includes statistics regarding the appeals against Labor Inspection Service's reports filed in the Labor Inspection Service as well as before the common courts. According to the mentioned data, for the reporting period of 2021, 105 reports on administrative offence have been appealed to the Labor Inspection Service. Namely:

- 17 administrative offence reports (probably approximately 9-10%) – drawn up as a result of violation of the Organic Law of Georgia on the Labour Code of Georgia;
- 54 administrative offence reports (probably approximately 14%) – drawn up as a result of violation of the Organic Law of Georgia on Occupational Safety;
- 34 administrative offence reports – drawn up as a result of the violation of protocol developed for the prevention of the spread of new coronavirus in the workplace.

As for the statistics of administrative offence reports appealed by employers/companies before the common courts of Georgia, according to the information provided to the authors of the study by the Labor Inspection Service, in the reporting period of 2021 following number of reports were appealed:

- 3 administrative offence reports drawn up on the ground of the violation of the Organic Law of Georgia on the Labor Code of Georgia (one was withdrawn by the complainant);
- 10 administrative offence reports drawn up on the ground of the violation of the Organic Law of Georgia on Occupational Safety;
- 14 administrative offence reports drawn up on the ground of violation of protocol

⁷⁹ Administrative Procedure Code of Georgia, Article 5, paragraph 2. Available at: <https://www.matsne.gov.ge/ka/document/view/16492?publication=84>

developed for the prevention of the spread of new coronavirus in the workplace (10 of which were compiled for violations committed before June 23, 2021, therefore, it will be exempted from administrative penalty – a fine⁸⁰, in accordance with the Law of Georgia on Exemption from Administrative Penalties⁸¹.

The Social Justice Center will continue to monitor these statistics in the future, as, on the one hand, it reveals the attitude of employers towards the imposed sanctions, and, on the other hand, it shows whether the practice of Labor Inspection has been shared, and to what extent, by common courts.

Cooperation with Governmental Agencies

The Labor Inspection Service cooperates with various state agencies. Information on cooperation of the Labor Inspection Service with other agencies is available in annual reports on the activities of the Labor Inspection Service. The Labor Inspection Service has signed a Memorandum of Mutual Cooperation with the LEPL National Agency of State Property under the Ministry of the Economy and Sustainable Development of Georgia. Under the framework of cooperation the parties will issue pertinent recommendations to state enterprises upon discovery of infringements in the workplace during the inspection by the Ministry.⁸² In addition, according to the Report for 2018, a joint monitoring group of the Labor Conditions Inspection Department and the Agency for Technical and Construction Supervision of the Ministry of the Economy has been created, which should carry out inspections at organizations with jobs that are hazardous, strenuous, injurious and dangerous to human health and life.⁸³ According to the Annual Report 2019, Labor Conditions Inspection Department signed Cooperation Memorandums with the following local bodies: Tbilisi State Medical University, the Ministry of the Economy and Sustainable Development of Georgia and Tbilisi City Hall as well as Georgian Bar Association and LEPL 112 Emergency and First Response Centre of the Ministry of Internal Affairs of Georgia. It is not known what this cooperation means in practice and whether for example the above-mentioned joint monitoring group of Labor Inspection Service and the Agency for Technical and Construction Supervision actually function.

80 At the initiative of the Prime Minister of Georgia, Covid-Related penalties will be waived. Available at: <https://www.radiotavisupleba.ge/a/31323741.html>

81 Available at: <https://www.matsne.gov.ge/ka/document/view/5252493?publication=0>; The purpose of the law adopted on September 7, 2021 is to exempt a person from an administrative penalty – a fine, as a one-time, temporary and special measure.

82 The 2018 report on the activities of the Labor Conditions Inspection Department, pg. 22.

83 Ibid.

It is noteworthy that the Labor Inspection Service has not signed a memorandum of cooperation with the Ministry of Internal Affairs, which would be especially important for the investigation of deaths and injuries of employees at the workplace and collection of statistics on these cases. The Statistical data on occupational accidents and work-related deaths is collected by both the Ministry of Internal Affairs and the Labor Inspection Service, with the exception that the Ministry of Internal Affairs records statistics only when criminal law cases are initiated; As for the Labor Inspection Service, it pays attention to whether there was an employment relationship between the victim and the relevant enterprise/company and also whether an accident occurred on the territory of a particular company. The collection of statistics based on different methodologies results in the errors in statistical data produced by the two agencies.

The importance of cooperation between the two agencies in facilitating the investigation of work-related deaths and injuries was emphasized as far back as 2020, in a policy document of the Social Justice Center⁸⁴, which addressed the investigation of the deaths of employees at the workplace. It is noteworthy that the challenges identified in the above-mentioned document, as well as the implementation of the recommendations developed for this purpose, are still relevant at the end of 2021 within the framework of this study.

The above-mentioned policy document stated that the Law of Georgia on Labor Inspection envisaged the possibility of the coordination between the Labor Inspection Service and investigative bodies⁸⁵. More specifically, the law stipulates that the procedure for coordinated work and functioning of the Labor Inspection Service and investigative bodies may be established by a joint order of the Minister and an authorized person of a relevant body. Nevertheless, the relevant order has not been issued so far.

In 2020, in the wake of the pandemic, cooperation of the Labor Inspection Service with other agencies was mainly related to the management of Covid-19 and the restoration of economic activities. In the light of the fact that the Labor Inspection Service still has to take a number of steps in terms of cooperation with other agencies, as well as other activities in the field of labor rights and safety, the inappropriateness of giving the Labor Inspection Service the power to monitor the enforcement of restrictions imposed by the pandemic is even more obvious.

84 Human Rights Education and Monitoring Center (EMC), "Assessment of the Investigation regarding Fatal Occupational Accidents", 2020, https://socialjustice.org.ge/uploads/products/pdf/%E1%83%A8%E1%83%A0%E1%83%9D%E1%83%9B%E1%83%98%E1%83%A1_%E1%83%A3%E1%83%A1%E1%83%90%E1%83%A4%E1%83%A0%E1%83%97%E1%83%AE%E1%83%9D%E1%83%94%E1%83%91%E1%83%90_1609312748.pdf.

85 Article 17, paragraph 8.

3. The Resources of Labor Inspection Service

In order to ensure the proper functioning of the Labor Inspection Service and effective state supervision of labor norms, it is essential the state to furnish Labor Inspection Service with appropriate financial, administrative⁸⁶ and human resources,⁸⁷ so that the Inspection Service can actually fulfill its important task of improving labor rights.

Human Resources

According to the staff list of the Labor Inspection Service⁸⁸, The Labor Inspection Service employs a total of 168 people. This information was also confirmed by the Chief Labor Inspector during an in-depth interview. However, it should be noted that some of this individuals are responsible for administrative-financial and other types of support, therefore, according to the Chief Labor Inspector, as of November 12, 2021, 84 employees are working directly on inspection issues. As a Chief Labor Inspector stated, the Inspection Service has announced vacancies and plans to increase that number to 110 by the end of the year (including management). It should be noted that annual reports on the activities of the Labor Inspection Service do not explicitly provide information on the number of inspectors. This information is provided only in the 2019 report, which indicates that the Labor Conditions Inspection Department includes 40 staff members.⁸⁹ Therefore, according to the latest information available through open sources, the number of labor inspectors was 40. The lack of this information raise doubts that the number of inspectors in the Labor Inspection Service is insufficient, which is why the Labor Inspection Service refrains from disclosing the available data, as this would further indicate the problem of lack of human resources in the Inspection Service and opened the door to open criticism. Lack of human resources as one of the challenges the Labor Inspection Service is facing is also highlighted in the recent "Report on the Needs As-

86 Labor Inspection Convention, 1947 (No. 81), მუხლი 11, <https://bit.ly/3ALVTy7>.

87 UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), 7 April 2016, E/C.12/GC/23, 54, <https://bit.ly/36utSwY>.

88 Order #01-659/O of the Minister of Internally Displaced persons from the Occupied Territories, Labor, Health and Soccial Affairs of Georgia of December 31, 2020 "On the agreement about the staff list, the salaries and the remuneration fund in 2021 of the LEPL- Labor Inspection Service under the Ministry of Internally Displaced persons from the Occupied Territories, Labor, Health and Soccial Affairs of Georgia".

89 Annual Report on the activities of Labor Conditions Inspection Department, 2019, pg.8, https://www.moh.gov.ge/uploads/files/2019/Failebi/LCID_Geo_a4_1.pdf.

essment in respect of Social Rights in Georgia” prepared within the framework of the Council of Europe project.⁹⁰

Article 10 of Convention No. 81 on Labor Inspection calls for a “sufficient number” of inspectors to secure the effective discharge of the duties of the Labor Inspection Service. As each country assigns different priorities of enforcement to its inspectors, there is no official definition for a “sufficient” number of inspectors. Amongst the factors that need to be taken into account are the number and size of establishments, the total size of the workforce and number and complexity of the legal provisions that should be enforced. The number of inspectors per worker is currently the only internationally comparable indicator available. The ILO has taken as reasonable benchmarks that the number of labor inspectors in relation to workers should approach: 1/10 000 in industrial market economies; 1/ 15 000 in industrializing economies; 1/ 20 000 in transition economies; and 1/ 40 000 in less developed countries.⁹¹ In Georgia, as a country with a transitional economy with 1,763,300 workers, the minimal amount of labor inspectors has been determined as not less than 80 inspectors in line with the International Labor Organization methodology, meaning one inspector per 20 000 workers.⁹² Thus, if it is confirmed that the number of inspectors is 84, as a summary of 2021, it can be concluded that the Labor Inspection Service meets the minimum standard set by the International Labor Organization. However, the question is, how adequate and sufficient is the number of inspectors in relation to the amount of work they have to perform? Analysis of the inspection reports reviewed as part of the study revealed that quite a few inspections were carried out in the field of labor rights which is partly explained by the staff shortages. At the same time, it is difficult to see the big picture due to the fact that a large part of the inspections was conducted with regard to the enforcement of Covid-19 regulations. It should also be noted that the Chief Inspector does not consider the human resources of the Labor Inspection Service to be deficient and stated that the number of inspectors is sufficient. It distinguishes between police and disciplinary models of the Labor Inspection Service and links the assessment of the adequacy of labor inspectors to this factor. In particular, according to him, if the Labor Inspection Service is considered to be a police force that responds to certain needs on a daily basis, this number of inspectors may not be enough. However, conforming to the methodology according to which the Labor Inspection Ser-

90 Monika Smusz-Kulesza- Report on the Needs Assessment in respect of Social Rights in Georgia, Conducted within the Framework of the Council of Europe Project “Strengthening Protection of Social and Economic Rights in Georgia”, 2021, pg.37, <https://rm.coe.int/needs-assessment-report-georgian/1680a4b2de>.

91 International Labour Organization, International Labour Office, Committee on Employment and Social “Policy strategies and practice for labour inspection”, 13, Geneva, 2006, <https://bit.ly/3CtGxyd>.

92 Monika Smusz-Kulesza- Report on the Needs Assessment in respect of Social Rights in Georgia, Conducted within the Framework of the Council of Europe Project “Strengthening Protection of Social and Economic Rights in Georgia”, 2021, pg.32, <https://rm.coe.int/needs-assessment-report-georgian/1680a4b2de>.

vice can inspect any company at any time without prior notice and, in turn, any company expects that it can be inspected by the Labor Inspection Service, the number of labor inspectors in Georgia is sufficient and adequate. Despite this explanation given by the Chief Labor Inspector, there is no distinction in the literature between the “police” and “disciplinary” models of the inspection service and, consequently, this methodology is not relevant in determining the adequacy of the number of labor inspectors.

Moreover, the International Labor Organization explicitly states that the number of labor inspectors should be increased in case inspectors are called on to exercise additional functions, not related to the supervision of labor rights and safety.⁹³ In the present case, when a significant proportion of labor inspection resources is directed at overseeing pandemic regulations, far fewer people are directly involved in labor law enforcement activities than can be seen from official data; thus, despite the increase in the number of staff, state supervision of labor right and safety remains weak and fragmented.

In addition, it is interesting what are the qualification requirements that labor inspectors must meet. The Law of Georgia on Labor Inspection Service stipulates that Chief Labor Inspector, in compliance with the requirements of the Law of Georgia on Public Service, determines the qualifications requirements necessary for the appointment to a post of labor inspector.⁹⁴ During the interview with the Chief Labor Inspector, it was found that the qualification requirement necessary for the inspectors employed in the field of labor rights is legal education and for the labor safety inspectors – technical education or relevant work experience in this field.

Along with the number of inspectors, conducting proper trainings for labor inspectors and maintaining high professional standard is of paramount importance, especially in view of the expansion of the mandate of the Labor Inspection Service. The annual reports on the activities of the Labor Inspection Service provides information regarding the trainings conducted for the employees of the Labor Inspection Service. The topics of the trainings were mainly labor rights, labor safety, forced labor/labor exploitation/ trafficking, standard operating procedures and various technical areas. In the 2020 report of the Labor Inspection Service it was emphasized that the Labour Condition Inspection Department in terms of personnel’s continuous education program closely

93 International Labor Organization (ILO), International Labor Conference, 95th session, General Survey of the reports concerning the Labor Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labor Inspection Convention, 1947, and the Labor Inspection Recommendation, 1947 (No. 81), the Labor Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labor Inspection (Agriculture) Convention, 1969 (No. 129), and the Labor Inspection (Agriculture) Recommendation, 1969 (No. 133), Geneva, 2006, 174, <https://bit.ly/3FhnbyS>.

94 Law of Georgia on Labor Inspection Service, Article 8.1, <https://bit.ly/3IEVN4B>.

cooperates with thematically related international and local organizations, including International Labor Organization (ILO). Moreover, since October 2019 the Labour Conditions Inspection Department has been the beneficiary of EU Twinning Project. As for the current legislation and basic requirements, according to the Chief Labor Inspector, new employees' are **trained through internal staff**, which ensures the maintenance of professional qualifications in parallel with the outflow of staff and the expansion of the mandate of the Inspection Service.

This study did not address the issue of competence of the staff of the Labor Inspection Service, although it will be interesting to see the summary reports and final evaluations of these international organizations in this regard.

Financial Resources

According to the standard of the International Labor Organization, States must take all necessary measures to provide labor inspection with the financial resources necessary to carry out its functions. In some countries, sums received in the form of fines imposed as a result of violations of the legal provisions enforced by labor inspection are entirely or partly paid back into the labor administration budget. This is the case, for example, in Argentina, where the funds received are used towards improving the labor administration services.⁹⁵ However, as a rule, in most countries the main source of funding for labor inspection is the state budget⁹⁶, Georgia is no exception.

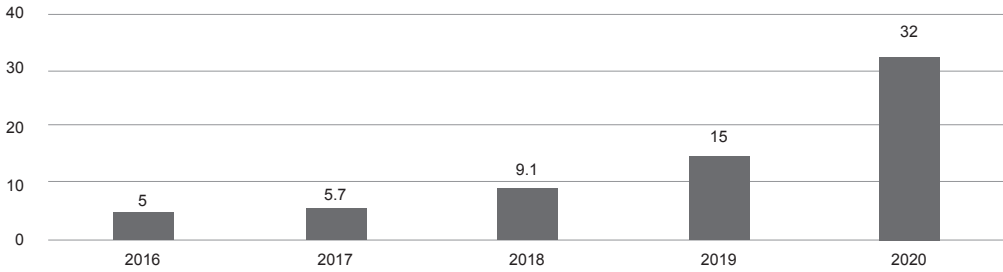
The law of Georgia on Labor Inspection Service provides that the sources of funding of the Labour Inspection Service are: special-purpose funds allocated from the State Budget of Georgia; grants and other revenues permitted by the legislation of Georgia.⁹⁷ The state program for inspection of working conditions is approved annually by a resolution of the Government of Georgia. Analysis of these programs reveals that the budget of the Labor Inspection Service was increasing every year. In 2016 it was five hundred thousand Gel and in 2020 it amounted to three million two hundred ten thousand Gel. As mentioned above, the funding was provided from the annual state budget of Georgia, more specifically within the framework of the allocations provided for the "Labor and Employment Reform Program". The diagram below shows the labor inspection budget by years.

95 International Labour Conference 95th Session, 2006 Report III (Part 1B), pg.77 <https://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-iii-1b.pdf>.

96 <https://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-iii-1b.pdf>, pg.77.

97 Law of Georgia on Labor Inspection Service, Article 6.2, <https://bit.ly/3lEVN4B>.

Labor Inspection budget by years (100 000 GEL)



Consequently, the increase in funding of the Labor Inspection Service was closely linked to its institutional strengthening and the establishment of the Labor Inspection as a stronger, more autonomous agency. Adequacy of financial resources is essential for the smooth operation of the Labor Inspection Service. Adequate financial resource is also a guarantee of independence, which is of pivotal importance for each labor inspector and the labor inspectorate itself.

The support that the Labor Inspection Service receives from the international donor organizations deserves a special mention. The role of the International Labor Organization (ILO) in developing Georgia's labor inspection mechanism is of particular note. As a result of the aforesaid support the following projects were fulfilled: creation of the Labor Conditions Inspection Department's management system (LIMS) and its technical/program development; preparation of normative acts; preparation of video materials; conduction of training for the new employees of the department, etc. Other donor organizations also cooperate with the Labor Inspection Service: The German Society for International Cooperation, The United Nations Entity for Gender Equality and the Empowerment of Women, European Union, European Agency for Safety and Health at Work, etc. Thus, the strong financial, technical and expert support of international organizations is directed towards the institutional strengthening of labor inspection, which the Labor Inspection Service should properly use to establish an effective labor inspection system.

Regional Offices

According to the International Labor Organization, labor inspection should be furnished by local offices, equipped in accordance with the requirements of the service, and accessible to all persons concerned.⁹⁸ According to the regulations of the Labor

⁹⁸ Labour Inspection Convention, 1947 (No. 81), მუხლი 11, <https://bit.ly/3ALVTy7>.

Inspection Service, the inspection office consists of a central office and territorial bodies, which form a unified centralized system of the service. The Labor Inspection Service has two territorial bodies: a) Imereti Regional Division; b) Adjara Regional Division.⁹⁹ The information on the staff employed in above-mentioned two regional divisions was obtained jointly in the form of public information. In accordance with the document, "Adjara and Imereti Inspection Division" employs a total of 30 people.¹⁰⁰ According to the information received during the interview with the Chief Labor Inspector, at this stage there are only two regional divisions mentioned above: Adjara and Imereti, which fully cover the local needs. The Chief Labor Inspector stated that labor inspectors are sent to other regions from the central office located in Tbilisi, which, on the one hand, is due to the fact that it is easier to control them from the central level and, on the other hand, in this way the corruption risks are reduced. In addition, the Chief Labor Inspector highlighted the lack of suitably skilled staff in regions.

It is noteworthy that the authors of the study tried to seek international experience or assessments of international organizations, which would discuss the risks of corruption in the regional offices of the Labor Inspection Service, however, similar arguments and conclusions were not presented in the assessments of international organizations. It is also interesting to share the experience of foreign countries in relation to regional offices. It is true that there is no international standard that sets the number of regional offices based on any criteria, but the experience of foreign countries indicate that a fairly large number of regional labor inspection offices function successfully in many countries. For instance, there is 24 regional offices of the Labor Inspection Service in Ukraine,¹⁰¹ 16 in Poland¹⁰², 8 in the Czech Republic¹⁰³, 7 in Hungary¹⁰⁴, 5 in Latvia¹⁰⁵ and so on.

99 Article 5 of the "Statute of the Legal Entity of Public Law- Labor Inspection Service" approved by the Order N01-119/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labor and Health Protection of Georgia, <https://bit.ly/3ExwtWW>.

100 Order #01-659/O of the Minister of Internally Displaced persons from the Occupied Territories, Labor, Health and Soccial Affairs of Georgia of December 31, 2020 "On the agreement about the staff list, the salaries and the remuneration fund in 2021 of the LEPL- Labor Inspection Service under the Ministry of Internally Displaced persons from the Occupied Territories, Labor, Health and Soccial Affairs of Georgia".

101 Labour Inspection Structure and Organization in Ukraine https://www.ilo.org/labadmin/info/WCMS_209371/lang--en/index.htm

102 A mapping report on Labour Inspection Services in 15 European countries- European Federation of Public Service Unions (EPSU), 2012, pg.60.

103 Ibid. pg. 28.

104 Ibid. pg. 49.

105 Ibid. pg. 56

Thus, based on the information provided by the Chief Labor Inspector, there are no plans to increase the number of regional offices due to the high risks of corruption. However, the experience of other countries shows that in most countries, the regional coverage of the Labor Inspection Service is ensured by many local offices. We would like to remind public that various heavy, harmful and hazardous employment places in the country are mostly represented in the regions, namely: Chiatura, Tkibuli, Zestaponi, Rustavi. Against this background, the special activities in the capital need to be expanded and redistributed in the regions. Nowadays, the regional activities of the Labor Inspection presents a challenge especially in terms of providing maximum information to the employees on the protection of labor safety and labor rights.

Labor Inspection Service and the Covid-19 Pandemic

The Covid-19 pandemic not only posed unprecedented challenges to public health and the economy, but also lead to massive violations of labor rights, since the crisis made Georgia's labor market issues even more pressing. As a result of it, especially in the early stages of the pandemic, we saw unjustified layoffs, employees' being forced to take unpaid leave,¹⁰⁶ to be present at work despite health risks,¹⁰⁷ leaving employees' overnight at work and other similar unlawful practices. Unfortunately, the pandemic has become a challenge to the enforcement of labor rights in the country, not only because of the above-mentioned illegal practices, but also because the state has instructed the Labor Inspection Service to control pandemic regulations when its proper functioning was most needed. Consequently, much of resources of the Labor Inspection Service, the body responsible for the supervision of labor rights, have been used to control the enforcement of pandemic-related regulations.

This decision shows the low priority of labor rights in the country; Despite massive violations of workers' rights, which were evident even before the pandemic, instead of seeking additional resources or engaging other agencies more actively, the state has tasked the Labor Inspection Service with such a large-scale work as enforcing covid regulations, making it virtually impossible for the Labor Inspection Service to fulfill its mandate.

According to the information provided by the Labor Inspection Service, out of 12 534 activities carried out by the Inspection Service in the first quarter of 2021, 12 276 e.g.

106 Human Rights Education and Monitoring Center, "Does the employer have the right to force employee to take unpaid leave or to terminate an employee?", March 19, 2020, <https://bit.ly/2XvVBfl>.

107 Human Rights Education and Monitoring Center, „Does the employer have the right to summon a self-isolated employee to appear at work?", March 19, 2020, <https://bit.ly/39pjmJe>.

almost 98% were related to the implementation of measures designed to prevent the spread of the new coronavirus.¹⁰⁸ In the first quarter of 2021, the Labor Inspection Service conducted a total of 45 inspection to enforce the norms set by the Labor Code. During the same period, the Inspection Service received 30 complaints of labor rights violations.¹⁰⁹

According to the annual statistics for 2021, the Labor Inspection Service carried out 57 290 activities at 12 778 facilities in order to implement the measures taken to prevent the spread of the new coronavirus. Among them, it is noteworthy that 616 facilities were given license to operate, 196 facilities were fined¹¹⁰ and 35 facilities were sealed for violating the protocol defined by the Government Resolution N322. As for the annual rate of activities carried out by the Labor Inspection Service in terms of enforcement of labor rights/norms and labor safety, 446 inspections were carried out on labor safety and 327 on labor rights – these figures clearly indicate that only approximately 2% of the activities of the Labor Inspection Service were dedicated to the performance of the main legislative duty assigned to it.

Such an imbalance between inspection activities leaves no choice but to conclude that the Labor Inspection Service has become a “Covid Inspection” and labor safety and labor rights issues have been relegated to the background.

It should be noted that since January 1, 2021, expanding the mandate of the Labor Inspection Service and equipping it with labor rights supervision was an extremely important and turning point, which has been demanded by trade unions, human rights organizations and international actors in Georgia for years. At this stage, the Labor Inspection Service does not adequately meet its expectations and fair demands of the above-mentioned organizations, as evidenced by the monitoring of its activities.

108 Short report of the activities of LEPL Labor Inspection Service of the period of 2021 01.01.-31.03. http://shroma.ge/wp-content/uploads/2021/10/%E1%83%9B%E1%83%9D%E1%83%99%E1%83%9A%E1%83%94_%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98.-1.pdf

109 Ibid.

110 On the ground of Government Resolution N322 “On the approval of the rules of isolation and quarantine”; Available at: <https://matsne.gov.ge/ka/document/view/4877009?publication=160> and Order N01-227/O of the Minister of Health “On the approval of recommendations to prevent the spread of the new coronavirus in the workplace”; Available at: <https://www.matsne.gov.ge/ka/document/view/4883653?publication=31>

4. Consultative Body of the Labor Inspection Service – Board of Advisors

This chapter discusses the purpose of the Labor Inspection Consultative Body – Board of Advisors, its activities and composition, as well as information on their meetings and issues discussed at these meetings. At the same time, it is emphasized that it is difficult to assess its effectiveness as the implementation of the recommendations submitted by the Council is not observed.

The Board of Advisors is a consultative body for a chief labor inspector, which produces recommendations for the Labor Inspection Service on the strategy, functioning and activities of the Labor Inspection Service.¹¹¹ According to the Law on Labor Inspection Service, the term of office of a member of the Board of Advisors shall not exceed 2 years and the same person may be nominated as a member of the Board of Advisors only twice in a row. The Board of Advisors is composed of 7 members, namely:

- Parties to the Tripartite Social Partnership Commission – 2 representatives on behalf of the employees' and employers' associations;
- One member from the Healthcare and Social Issues Committee of the Parliament and 1 member of the Human Rights and Civil Integration Committee of the Parliament of Georgia
- 1 representative of the Public Defender of Georgia.

The procedures for the activities of the Board of Advisors is drawn up and approved by the Board itself by a simple majority of votes. According to the rules of procedure of the Board, it meets once in 3 months; It is also possible to hold an extraordinary session. Board meetings are held in accordance with a pre-arranged agenda, which is sent to the member of the Board of Advisors no later than 1 week before the meeting. It should be noted that there is not much open source information available on the activities and content of the meetings of the Board of Advisors. To this end, the authors of the study met with the representative of the Public Defender in the Board of Advisors and tried to get more information about the activities of the Board.

The Board of Advisors has met three times so far. According to the official Facebook page of the Labor Inspection Service, the first meeting of the Board took place in March, 2021. At the meeting, the members of the Board got acquainted with the report on the activities of the Labor Inspection Service for 2020 and future plans. Information about

111 Law of Georgia on Labor Inspection Service, Article 9, <https://bit.ly/3IEVN4B>.

the second meeting of the Board of Advisors is not available either on the relevant web-page of the Ministry of Health or on the Facebook page of the Labor Inspection Service. As a result of the communication with the representative of the Public Defender, it was established that the second meeting took place in July 2021; during the meeting the following issues were discussed: Mandatory documentation of the origin of labor relations in relation to both current and future employees of legal entities of public law; Mandatory documentation of the origin of labor relations; The need for special rule for change in the mining fields e.g. "Vakhturi regime"; Issues connected with anti-discrimination campaign and separating labor and service contract in the field of courier services.

As for the third meeting of the Board of Advisors with the Chief Labor Inspector, according to the Facebook page of the Labor Inspection Service, the board members met in November to discuss the accredited labor safety program and criteria for choosing examination center as well as incentives for the vaccination process; members also evaluated the process of inspection conducted by the Labor Inspection Service.

It is noteworthy that the role of the Board of Advisors is quite important in terms of defining strategy of the Labor Inspection Service and its effective functioning. The active involvement of the board members and the development of appropriate recommendations by them is essential to improve the effectiveness of labor inspection activities and to establish an effective labor inspection system in the country. However, at this point, given that the Board of Advisors has met a total of three times (instead of four times), it is difficult to assess its effectiveness. Nevertheless, it should be noted that the Board of Advisors does not have any mechanism, which would determine whether the Labor Inspection Service has complied with the recommendations made by the Board.

It should also be noted that tripartite format participants (employers, employees and government officials) are members of the board, however representatives of independent trade unions are not the part of it. They are important organizations fighting for workers' rights and improvement of working conditions and legislation and they have repeatedly expressed a desire to participate in tripartite formats.

5. Accountability and Transparency of the Labor Inspection Service

The international standard defines the mechanisms of the accountability and transparency of the Labor Inspection Service. One of the most important forms of accountability is the Reports of Labor Inspection, which the Labor Inspection Service submits to the central government agency¹¹². This chapter reviews the form of accountability of the Labor Inspection Service in Georgia as well as what steps the Labor Inspection takes to ensure accountability. This chapter focuses on the achievements and challenges of transparency and suggests ways to tackle them.

The Labor Inspection Service in Georgia is accountable to the Board of Advisors and the Parliament of Georgia. The Law of Georgia on Labor Inspection Service lays down an obligation to the chief labor inspector to submit a report on the activities of the Labor Inspection Service to the Board of Advisors and the Parliament of Georgia once a year, no later than 6 months after the end of the calendar year.¹¹³ Consequently, according to this provision, the Labor Inspection Service is obliged to report to the Parliament no later than June 2022.

It should be pointed out that the International Labor Organization Convention No.81 on Labor Inspection¹¹⁴ envisages the obligation of the Labor Inspection Service to publish annual report. According to the Convention, the report shall be published within a reasonable time after the end of the year to which they relate and in any case within twelve months. At first glance, the Georgian legislation reflects the requirement of the Convention, however after the thorough analysis of the provision, it is obvious that according to the law, the Labor Inspection Service is obliged not to publish an annual report but to submit it to the Board of Advisors and the Parliament of Georgia. This weakens its public accountability and creates the possibility that the Labor Inspection Service will not publish an annual report at all.

The Convention also stipulates what information should be included in the annual report published by the Labor Inspection Service. The Law of Georgia on Labor Inspection also defines the issues that should be reviewed in the annual report of the Labor Inspection. It should be emphasized that this provision is almost identical to the one

112 Labour Inspection Convention, 1947 (No. 81), Art 19(1), <https://bit.ly/3ALVTy7>.

113 Law of Georgia on Labor Inspection Service, Article 10.1, <https://bit.ly/3lEVN4B>.

114 Article 20, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C081

of the Convention and mostly lists the same issues as those given in the Convention. In particular,

- a review of the legislation of Georgia and other regulatory norms related to the activities of the Labor Inspection Service;
- the future vision and strategy of the Labor Inspection Service;
- information on the number of employees of the Labor Inspection Service;
- statistical data on workplaces that are subject to inspection, on visits carried out for inspection purposes as well as on identified violations and measures of liability imposed;
- also statistical data on accidents and occupational diseases.

According to the Law on Labor Inspection Service, an annual report of a chief labor inspector is public information¹¹⁵. The General Administrative Code of Georgia provides definition of the public information¹¹⁶; Public information is an official document (including a drawing, model, plan, layout, photograph, electronic information, or video- and audio-recording), i.e. any information stored at a public institution, as well as any information received, processed, crated or sent by a public institution or public servant in connection with official activities; also, any information proactively published by any public institution. In order to proactively publish the information, it is necessary for the Labor Inspection Service to have a user-friendly website, where any interested person can easily find the relevant information.

Unfortunately, the Labor Inspection Service in Georgia does not have its own website so far and, in accordance with the regulations approved by the order of the Minister of Health, uses the webpage of the Ministry of Health, Labor and Social Affairs of Georgia.

Similarly, a common hotline of the Ministry of Health is used to contact the Labor Inspection Service, which in light of the intensified communication with the Ministry due to the Covid-19 pandemic, should be considered as a barrier in terms of providing information on labor rights violations to the Labor Inspection Service.

Thus, in order to increase the degree of transparency of the labor inspection service, it is advisable to have its own website, where the finding information about the labor inspection's activities will be very easy. The Chief Labor Inspector stated in an in-depth interview that the webpage is under development and it is planned to launch it in the nearest future. However, it should be noted that the creation of user-friendly website and

115 Law of Georgia on Labor Inspection Service, Article 10.5, <https://bit.ly/3IEVN4B>.

116 General Administrative Code of Georgia, Article 2.

“Youtube” channel was in the future plans in the 2019 report on labor inspection activities, but nevertheless, their implementation is still an ongoing issue at the end of 2021.

Since the Labor Inspection Service does not have its own website, the annual reports are published on the website of the Ministry of Health. It should be noted that until November 2021, only 3 annual reports on the activities of the Labor Inspector Service were published on the above-mentioned website¹¹⁷, in particular, on the activities of 2015-2017, 2018 and 2019 years, and the report for 2020 year, even after the approximately 11 months after the end of the calendar year, was still not available. Consequently, interested persons did not have access to the activities carried out by the Labor Inspection during the 2020s. The Chief Labor Inspector said in an interview with the authors of the study that the reason for the delay of publishing the report was their desire to make a presentation, which was delayed due to a pandemic; While waiting for the epidemiological situation to improve, so much time has passed that making presentation on the 2020 report made no sense. Publishing recent reports without unjustified delays is especially important, as it makes possible to identify the current challenges of the Labor Inspection Service, which, in turn, will help to mobilize institutional support.

In addition, the Labor Inspection Service does not maintain digital databases, which would also allow the inspection to develop analytical activities, which would increase the level of awareness, interest and trust towards the labor inspection activities.

117 <https://www.moh.gov.ge/ka/728/>

6. Awareness Raising Campaign

This chapter reviews the importance of awareness raising campaigns by the Labor Inspection Service as well as the activities involved in raising awareness campaigns in general. As a result of the study of the reports on the activities of the Labor Inspection Service, this chapter analyzes the activities carried out by the Labor Inspection Service in terms of raising awareness among the employers and employees; it also reviews the trends revealed by the aforementioned analysis.

All national labor inspections have certain responsibilities for raising awareness and this is an integral part of their work. According to the Article 3 of the Convention on the Labor Inspection (No.81)¹¹⁸, one of the functions of the system of labour inspection is supplying technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions. The target group of the Labor Inspection Service's awareness raising campaign is both employers and employees.

The website of the International Labor Organization (ILO) contains information on Good Practices examples of labor inspection, with a separate section devoted to approaches to the dissemination of information:

"Labor inspection systems around the world have adopted measures to keep workers and employers regularly informed of the requirements of labour legislation, and specifically of problems of safety and health. The methods employed include the organization of courses, seminars, conferences, radio broadcasts, exhibitions and the distribution of posters, pamphlets and other publications and films."¹¹⁹

Therefore, the awareness-raising activities carried out by the Labor Inspection Service differ from one another and may include the publication of materials as well as the use of television, radio and the press, the organizing of conferences, meetings and seminars. Another less commonly used method of awareness-raising campaigns is to mark symbolic dates (such as World Health and Safety Day at Work). The involvement of social partners and specific sectors in the campaign is also important.¹²⁰

As it was mentioned at the beginning of the study, the leading role of the Labor In-

118 Article 20, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C081

119 https://www.ilo.org/labadmin/info/WCMS_113344/lang--en/index.htm

120 European Agency for Safety and Health at Work – Labour inspectorates' strategic planning on safety and health at work

spection Service in Georgia is to provide information to employers on the observance of labor norms and to raise public awareness. It is true that, after the expansion of the mandate of the Labor Inspection Service, we believe that the Inspection Service should make inspections its primary task and in this way have the effect of preventing future violations of labor rights, but this does not mean that the role of awareness raising should not be properly assessed. In order to improve labor rights and conditions, it is essential that employees and employers have adequate information about their rights and responsibilities as well as the activities of the Labor Inspection Service.

In the framework of the present study, the reports on the activities of the Labor Inspection Service were examined, which provides information on the public awareness campaigns carried out by the Labor Inspection Service. It should be noted that the information in the reports is presented in unsystematic and inconsistent manner, which made it difficult to identify the target group of the campaigns, as well as its goals and results.

According to the report for 2015-2017 years, since 2016 staff of the Labor Conditions Inspection Department, for the purpose of raising awareness, have conducted trainings on occupational safety for various companies and associations. According to the report, the trainings were adapted and took into account the specifics of the companies as well as the field of their activities. According to the information contained in the report, in 2016-2017 years, 165 representatives of 5 companies were trained on working conditions and the protection of labor rights. The 2018 report no longer presents a quantitative indicator of activities, but rather generalizes that for the purposes of raising awareness, the Labor Conditions Inspection Department has conducted meetings both in Tbilisi and in the regions with business associations, employers' associations and local authorities with regard to:

- new safety regulations, their enforcement, activities to be carried out by enterprises and changed in the country's approach to occupational safety;
- registration of hazardous, strenuous, injurious and dangerous jobs;
- approval of the scope, regulations for implementation and terms of the accredited safety specialist programme;
- workplace accident insurance.

According to the report, the following methods were used in order to raise awareness: Tv news/advertising and open meetings with stakeholders throughout Georgia. Moreover, in October 2019, an official Facebook page- Georgian Labour Inspection- of the Labor Inspection Service was created to increase public awareness and publicity.¹²¹

121 <https://www.facebook.com/Labourinspection>.

As for 2019 year, the Labour Conditions Inspection Department organized up to 30 public awareness meetings attended by 4 400 persons. The objective of these meetings was to provide information about the obligations stipulated in the Organic Law of Georgia “On Occupational Safety”, about recent changes in the law and in EU Directives stipulated by the Association Agreement and about the issues of forced labor, labor exploitation and human trafficking. In addition, a general meeting with the representative on the construction industry was prompted by the challenges it faced and was scheduled in order to provide information on joint inspections of construction sites in the future.

The awareness-raising campaigns reported in the 2020 report were mainly related to raising awareness of business in terms of prevention of coronavirus infection in the workplace. This indicates once again that a large part of the resources of the agency responsible for state supervision of labor rights was directed to control the enforcement of pandemic-related regulations, instead of the improvement of labor rights and safety of employees.

The analysis of the reports on the activities of the Labor Inspection Service reveals that initially the target group of the campaign was only employers and the Inspection Service was entirely focused on informing them. This is probably due to the fact that the main task of the Labor Inspection Service initially was to supervise labor safety and employers play a key role in ensuring safety at workplace. At the initial stage, the scale of awareness raising campaign was much smaller; according to the report, in 2016-2017 years included employees of only 5 companies. However, in the following years, the scale of the campaign as well as its target group expanded and it included both employers and employees. Since January 1, 2021 the expansion of the mandate of the Labor Inspection Service and the extension of its supervisory functions to all provisions guaranteed by the labor legislation of Georgia, made it even more important for employees to be properly informed about their labor rights and the activities of the Inspection Service. It is of paramount importance the Labor Inspection Service to conduct large-scale campaigns in this regard and provide employees with information on the guarantees provided by the Law of Georgia on Labor Inspection Service and the practical aspects of their activities. This, in turn, will increase filing of complaints regarding the violation of labor rights to the Labor Inspection Service by the employers and therefore promote effective protection of employees' rights.

In addition, it should be noted that the fact that the Labor Inspection Service does not have its own website poses serious problems not only in terms of openness and transparency, but also in terms of raising awareness, given that information posted on the website of the Ministry of Health is scarce. Also, there is no separate section of the news

field, where employees could find information about the latest activities carried out by the Labor Inspection Service. It is true that the official Facebook page of the Labor Inspection Service¹²² is created, where the above-mentioned information is placed, but it cannot replace the need of the website, especially considering that the social network is not user-friendly and does not allow searching the information through various filters.

122 <https://www.facebook.com/Labourinspection>

7. Accredited Program of Occupational Safety Specialist

The Law of Georgia on Occupational Safety laid down the obligation of the employers' to appoint one or more employees as an occupational safety specialist or establish an occupational safety service, in order to organize the completion of tasks in the field of occupational safety.¹²³ It is important to clarify to whom this obligation applies, to all types of employers or only to heavy, harmful and hazardous works involving an increased level of danger? From September 1, 2019, the scope of the law on occupational safety has expanded. If under the previous regulation it only applied to heavy, harmful or hazardous works involving an increased level of danger, according to the new regulation the scope of the law was extended to the supervision of labor safety of persons employed in all sectors of economic activity.¹²⁴ Therefore, the employer regardless of its field of activity and legal form, should have a labor safety specialist in its organizational structure, who is responsible for creating safe working conditions in the workplace and complying with the requirements of the legislation in the field of labor safety. The Law on Occupational Safety stipulates that if an employer has 20 employees or less, may personally fulfil the professional duties of an occupational safety specialist, provided that he/she has completed an accredited programme provided for by paragraph (6) of this article¹²⁵. An employer who has from 20 to 100 employees is obliged to appoint no less than one occupational safety specialist and in the case of 100 or more employees, the employer is obliged to establish an occupational safety service with no less than two occupational safety specialists.

The statutory obligation for all types of employers, in response to existing challenges in the field of occupational safety, to appoint one or more employees as an occupational safety specialist, or establish an occupational safety service, has put on the agenda the development of an accredited occupational safety program. This program should train qualified personnel who would be directly involved in adhering to occupational safety standards and developing organizational occupational safety policies in the workplace.

123 Law of Georgia on Occupational Safety, Article 7.1. <https://matsne.gov.ge/ka/document/view/4486188?-publication=0>.

124 Human Rights Education and Monitoring Center (EMC), "What has changed since September 1 in terms of occupational safety?", September 5, 2019, <https://socialjustice.org.ge/ka/products/ra-sheitsvala-1-sektembridan-shromis-usaftrtkhoebis-datsvis-tvalsazrisit>

125 An occupational safety specialists shall have completed an appropriate accredited programme. The length of the programme and the procedures and conditions of the implementation of the programme, shall be determined by an administrative act of the Minister.

On October 31, 2018,¹²⁶ the scope, regulations for implementation and terms of the accredited occupational safety specialist programme was approved. In order to obtain the right to implement the program, the training organization had to apply to the Ministry of Labor, Health and Social Affairs of Georgia and, together with the training program, provide information on the persons providing the training, their qualifications and the minimum material resources required to implement the program. The accredited program can be implemented in the form of a full accredited program, accredited program for low and medium risk objects and accredited special program.

As for the content of the accredited program, the rules for the implementation of the accredited program include Tables N1 and N2, which define the basic subjects that the program should include: International standards in the field of occupational safety; identification of threats; risk assessment and management; industrial accidents and the investigation of the incidents – accounting, registration, reporting, etc.

The cost of the program is also very interesting. According to the open source information, the price of a 230-hour fully accredited program at Safety Academia depends on the schedule and periodicity of the groups and its price ranges from GEL 1987 TO GEL 2487.¹²⁷ This amount is paid either by a person who wants to specialize in occupational safety or by the company, this is a subject of the agreement.

According to the 2019 report on the activities of the Labor Inspection Service, 12 organizations have registered to conduct training and two organizations were qualified to conduct training in the implementation of internationally recognized programs. By the end of the year, 5,026 persons had been trained and became certified occupational health and safety specialists.

In an in-depth interview, the Chief Inspector noted that the accreditation program had some shortcomings; inter alia, he highlighted the problem of insufficient qualification of the specialists among the first-year graduates as well as the fact that the training implementing company was responsible for both providing the training and examining the participants of the training.

126 Order N01-25/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

127 <https://www.safetyacademia.com/copy-of-%E1%83%90%E1%83%99%E1%83%A0%E1%83%94%E1%83%93%E1%83%98%E1%83%A2%E1%83%94%E1%83%91%E1%83%A3%E1%83%9A%E1%83%98-%E1%83%9E%E1%83%A0%E1%83%9D%E1%83%92%E1%83%A0%E1%83%90%E1%83%9B%E1%83%90>

In order to correct the deficiencies, the Labor Inspection Service made a change in the order¹²⁸ and tightened the requirements for the training organization; However, none of the companies were able to meet the updated requirements, which resulted in the suspension of training permits. After that, since the permit was suspended for all training companies, the Labor Inspection Service, with the involvement of the European Union and the International Labor Organization, began work on a draft amendment, which was finally approved by order of the Minister of September 13, 2021.¹²⁹ The break in the Accreditation Program lasted about 2 years (2019-2021), which is unjustifiably long time. According to the Labor Inspection Service, the purpose of the Labor Inspection Service throughout this time has been to refine the accredited program of the Occupational Safety Specialist (e.g., separating the training center from the examination center, etc.). However, eventually this has led to a long-term delay in the activities of the training companies as well as in the preparation of occupational safety specialists.

Finally, the major changes in the accreditation program approved by the Minister on September 13, 2021 addressed the following issues:

- **The number of teaching hours has been increased.** In particular, the new accredited program implies a training program of at least 230 academic hours per occupational safety specialist, while the old program provided only 130 hours;
- **The training organization and the examination center was separated.** Thus, conducting training and examining the participants of the training will no longer be possible in the same organization;
- **The Labor Inspection Service will coordinate** the qualification examination of the trainers as well as the passing of the certification examination by the students of the Accreditation Program of the Occupational Safety;
- **An electronic program has been developed** through which the exam will be passed. The certification exam is considered passed after passing the 61% threshold of the total number of tests.

128 Order N01-67/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs "On Approval of the Scope, Terms and Conditions of Accredited Occupational Safety Specialist Program" on Amending the Order N01-25/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs, October 16, 2019.

129 Order N01-81/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of September 13, 2021 "On Approval of the Scope, Terms and Conditions of Accredited Occupational Safety Specialist Program" on Amending the Order N01-25/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of October 13, 2018. <https://matsne.gov.ge/ka/document/view/5255143?publication=0>.

It is essential that the accredited program equips the occupational safety specialist with high-quality knowledge, which includes both theoretical and practical components. At this stage it is difficult to assess whether the changes in the accreditation program will actually address the challenges associated with the qualification of occupational safety specialists.

Speaking about the weaknesses of the competence of occupational safety specialists, the Chief Labor Inspector did not mention that the refinement of the program was due to the scarcity of technical regulations on occupational safety. However, it is interesting whether the shortcomings of the occupational safety accreditation program were related to the lack of technical regulations.

8. Analysis of the Labor Rights Inspection Reports

The study examined 56 inspection reports on 41 facilities drafted by the Labor Inspection Service in terms of labor rights during the period of January-August 2021. This chapter will discuss the main findings and trends revealed by the analysis of these reports. This, in turn, will provide an opportunity to discuss the challenges and achievements of the Labor Inspection Service since the expansion of its mandate on January 1, 2021.

Administrative Penalty Applied by the Labor Inspection Service

Examination of the reports related to the violation of labor rights revealed that the Labor Inspection Service in all cases, regardless of the severity of the violation, used only a warning as an administrative penalty. As noted at the beginning of the study, the Labor Inspection Service has the discretion to apply administrative penalties to employers, including warnings, fines and suspension of the work process. In addition, the rules and conditions of entry and inspection of the objects subject to inspection approved by the resolution of the Government of Georgia¹³⁰ additionally stipulates that in case of the first violation as an administrative penalty should be applied a warning/fine. Accordingly, if an object is inspected for the first time and substantial or non-substantial irregularities are found, it will be given a warning or a fine will be imposed. At the same time, the application of light penalties by the Labor Inspection Service is related to the fact that the purpose and function of the Labor Inspection Service is not to impose punitive measures, but to oversee the compliance with labor norms by the employers. However, it should be emphasized that the administrative penalty should be proportionate to the seriousness of the violation. Consequently, applying only warnings by the Labor Inspection Service, regardless of the gravity of the breach, raises questions about the proportionality of the penalty. An analysis of the inspection reports reviewed as part of the study indicated that the highest rate of violations found by the Labor Inspection Service was 19. Nevertheless, the Labor Inspection Service applied the same measures against the company with 19 violations and the company with the lowest rate of violation, namely- 3; This might arise the sense of injustice among the employers. At the same time, it becomes a matter of debate whether the application of lenient penalty will contribute to the effectiveness of the Labor Inspection Service.

130 Resolution N99 of the Government of Georgia of February 10, 2020 "On Approval of the rules and conditions of entry and inspection of the locations subject to inspection", Article 22.a., <https://bit.ly/2Xv6luL>

Inspection Based on Discriminatory Job Vacancies

The analysis of the inspection reports revealed that 6 out of 41 inspected companies were inspected on the basis of posting vacancies with discriminatory requirements on the employment website. The grounds of discrimination were mainly gender and age and sometimes both. Vacancies invited potential employees to perform specific task, although certain groups of individuals had limited access to the right to work provided for by the Georgian legislation.

When reviewing cases of breaches of the prohibition of discrimination in the vacancy text, the labor inspector first determined which right was breached potentially, then analyzed whether different treatment of persons in a similar situation has taken place as well as whether the different treatment had an objective and reasonable justification or legitimate aim and only after assessing these circumstances, he/she was making a decision. When discussing the violation, the labor inspector referred to the judgments of the Constitutional Court¹³¹, as well as to the Constitution of Georgia¹³², The Labor Code¹³³ and the EU Directive 2000/78/EC¹³⁴.

It is interesting what was the position of the employers regarding these violations. Employers often claimed that the restrictions in the vacancy text were connected with their personal experience of working with different people, which was reflected in the fact that women over the age of 30, for example, did not demonstrate skills such as agility and responsiveness and they often lose interest and quit their jobs. As for male employees, the employers explained that they had less experience in terms of hiring male candidates, in most of the cases they were irresponsible; Thus, the employers no longer wanted to waste their time on interviewing them. Consequently, in order to save time and resources, employers directly indicated the sex and age of the preferred candidate and did not consider that this would arise feelings of inferiority capable of humiliating representatives of the groups ruled out from the vacancy text.

131 Judgment of the Constitutional Court of Georgia of December 27, 2010 in the case No. 1/1/493 on "Political Associations of Citizens": "The New Rights Party" and "Conservative Party of Georgia" against the Parliament of Georgia, II-2. Judgment of the Constitutional Court of Georgia of October 26, 2007 in the case No. 2/2/389 Citizen of Georgia Maia Natadze and others against the Parliament of Georgia and the President of Georgia", II, P.18.

132 Constitution of Georgia, Article 11.

133 Organic Law of Georgia "Labor Code of Georgia, Article 2 and Article 6.

134 European Union Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

The labor inspector explained in the relevant reports that the wording of the vacancy texts reinforces the prevailing stereotypes in the society that a certain job can only be performed by a person of a certain age or a gender. Therefore, arguments put forward by the company could not be considered to serve a legitimate aim, justifying the restriction of persons' access to work on the grounds of age and sex.

It is noteworthy that the approach of employers to discriminatory job vacancies reveals the urge to strengthen the activities of Labor Inspection Service in the field of raising awareness in terms of the equal treatment. The representative of the Public Defender's Office told the authors of the study that a conclusion of memorandum of cooperation was planned between the Labor Inspection Service and the Ombudsman's Department of the Equality. It is important this memorandum to be concluded in the near future and as a result of joint work of the Labor Inspection Service and the Public Defender's Office, an awareness-raising strategy towards the equality will be defined.

Complaint as a Basis for Initiating an Inspection

The Labor Inspection Service can also carry out unscheduled inspections to supervise the enforcement of labor rights on the basis of the complaint of an interested person. According to the Georgian legislation, complaints received by the Labor Inspection Service is protected by a guarantee of confidentiality. A labor inspector and all the employees of the Labor Inspection Service is obliged not to disclose the identity of the author if a complaint. In addition, when carrying out an inspection, the Labor Inspection Service shall not indicate whether the inspection has been initiated on the basis of a complaint or on the initiative of the Labor Inspection Service. However, in an interview with the staff of the Labor Inspection Service, the authors of the study found out that there is a procedure for removing the protection of confidentiality. If the author of the complaint decides to remove the protection of confidentiality, in this case the inspection report will reflect that the inspection was carried out on the basis of the complaint. It is interesting what it means to remove the protection of confidentiality? After reviewing the complaint, the Labor Inspection Service explains the principle of the confidentiality to the complainant and also provides information about the possibility of the removal of this protection. The Inspection Service explains to the author of the complaint that removal of the confidentiality will help the enquiry of the violation indicated in the complaint as well as will simplify for the Labor Inspection Service to respond to the complaint; Upon removal of the protection of confidentiality, the author of the complaint decides that his or her identity should no longer be anonymous to the employer and the Labor Inspection Service during the inspection of the company can indicate that the inspection has been initiated on the basis of a complaint.

It is noteworthy that 2 out of 56 inspection reports examined within the framework of the study indicated that the inspection was initiated on the basis of the complaint. Taking into account the principle of protection of confidentiality, this quantitative indicator does not provide a basis for concluding that the Labor Inspection Service received only 2 complaints. Based on the information discussed above, this number rather implies that in 2 cases the employees removed the principle of confidentiality, which allowed the authors of the study to identify the inspections carried out on the basis of the complaint.

The number of complaints submitted to the Labor Inspection Service about the violations of labor rights is of particular interest. According to the staff of the Labor Inspection Service, the number of complaints filed to the Labor Inspection Service is quite high and the inspection is carried out almost equally on the basis of the complaint and the initiative of the Inspection Service.

It is important the Labor Inspection Service to confirm the reliability and high efficiency of the system through its activities, which will encourage submitting the complaints by the employers in the future. It is also important to raise the awareness of employees about the possibility of appealing to the Labor Inspection Service as well as guarantees associated with it, especially given the local-cultural context in which employees find it difficult to talk about labor rights violations due to fears of possible sanctions by the employer. Parties of the employment relationship should be aware of the legal guarantees provided by Article 10 of the Law on Labor Inspection Service regarding the protection of confidentiality. Employees should be confident that their complaints will be confidential and they should make only an informed decision about the removal of this protection. To this end, the Labor Inspection Service should enhance its work in the field of awareness raising of the employees.

Territorial and Sectoral Coverage

Examination of the inspection report revealed that the Labor Inspection Service conducts inspections not only in Tbilisi, but also in various regions, including Ozurgeti, Mtskheta, Gori, Gardabani, Kutaisi and Akhalkalaki. Most of the inspected workplaces represented the service sector (supermarkets, household goods store, banks). In addition, as was mentioned in the first part of the study, the Labor Inspection Service has the authority to enforce the labor norms in the public service as well. Nevertheless, only 2 out of 41 inspected objects were public services, namely the Social Service Agency and Sakpatenti. According to the open source information, the inspection of the Social Ser-

vice Agency was related to the collective protest of the employees of the Agency,¹³⁵ As for the inspection of Sakpatenti, it was related to the persecution of Sakpatenti Chairman on political grounds.¹³⁶

Determination of Reasonable Time for Remediating the Violation

In parallel with the imposition of administrative penalty, the Labor Inspection Service instructs the employer to remedy the identified violation within a reasonable time determined by the Labor Inspection Service. A reasonable time for remediating the identified violation is determined on the basis of consultation with the employers' or the employees' association.¹³⁷

An analysis of the inspection reports revealed that in most cases, the Labor Inspection Service has determined to the employers 30 days for remediating the violation. It is noteworthy that the Labor Inspection Service took a different approach in terms of the reasonable time for remediating the violation only with regard to the public services. In particular, if all other inspected companies were given 30 days to remedy the violation, according to the inspection report of all three branches of the Social Service Agency, the Agency was given 180 days e.i. six times more than the others, which is not justified by the number of violations or any other objective factor. In the case of Sakpatenti, 20 days was determined as a reasonable time for remediating the violation.

It is important the Labor Inspection Service to have a uniform practice with regard to the time for remediating the labor rights violations. It is true that a reasonable time is set after the consultation with employers and employees and different factual circumstances may be emerged for each of them, however, the analysis of the inspection reports should give the basis for the conclusion that the reasonable time determined by the Labor Inspection Service for different employers was based on objective circumstances and it was free from any influence.

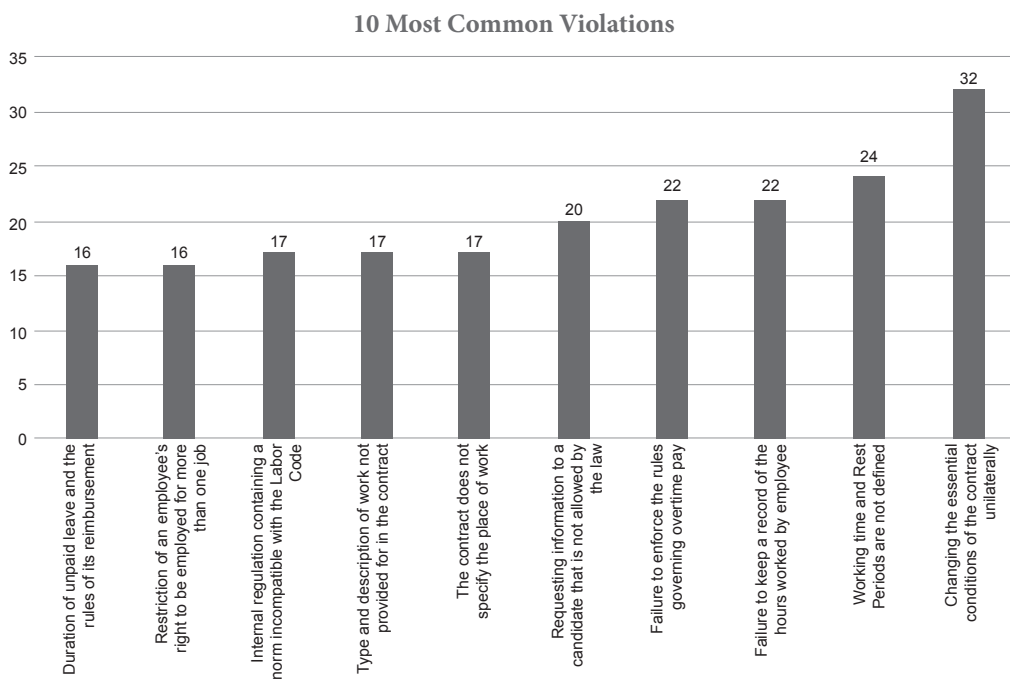
135 <https://gyla.ge/index.php/ge/post/ghirseuli-shromis-platforma-socialuri-saagentos-tanamshromlebi-gaficvis-piras-dganan#sthash.0aLXwmyZ.dpbs>

136 Georgian Young Lawyers' Association – 2021 Local Self-Government Elections Gyla Long-Term Observation Mission, II Interim Report, 2021, pg.37. <https://www.gyla.ge/files/2020/II%20%E1%83%A8%E1%83%A3%E1%83%90%E1%83%9A%E1%83%94%E1%83%93%E1%83%A3%E1%83%A0%E1%83%98%20%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98.pdf>

137 Law of Georgia on Labor Inspection Service, Article 20.6, <https://bit.ly/31EVN4B>.

The Most Frequently Violated Labor Rights

The analysis of the inspection reports of the Labor Inspection Service, within the framework of the study, indicated the labor rights that were most frequently violated. The chart below illustrates 10 most common violations of labor rights:



In particular, the Labor Inspection Service in most cases (in 32 cases out of 56 studied report) imposed administrative penalty on employers on the ground that according to the contract they could unilaterally change the essential conditions of the contract, which clearly violates the Labor Code of Georgia. The second most common violation was connected to the cases (24) here the contract did not include essential conditions such as working time and rest periods. Then comes the breach of keeping a record of the hours worked by employees (22), breaches connected with not paying the overtime work of (22) and so on.

The reports examined within the framework of the study clearly show the practices of abuse of rights by the employers. Fear of losing a job and a difficult socio-economic environment forces employees to tolerate gross violations of labor rights. Thus, given the social vulnerability of employees, the role of the Labor Inspection Service to ensure the protection of labor rights is even more important.

9. Analysis of Labor Safety Inspection Reports

The purpose of the introduction of occupational safety legislation from 2019 was to define the safety standards at the workplace and to create levers for their gradual enforcement and supervision. Significantly, occupational safety was extended to all economic activities in the country, including private and public sectors and defined the responsibilities of employers and employees with the aim of protecting workplace safety. Among them, it is of paramount importance the mandatory nature of collective and personal protection measures for employees, developed policy of coherent preventive measures, periodic monitoring of tools and equipments as well as training of employees, etc. The Law of Georgia on Occupational Safety also envisaged the possibility of imposing penalty. The body responsible for the state supervision on labor safety was allowed to impose administrative penalties on the employers in the event of the violation of the law. Administrative penalties included warning, fine and even suspension of the work process. The possibility of imposing sanctions turned out to be one of the most important decisions in terms of enforcing the law and strengthening the safety of the workplace. The anticipation of possible sanctioning has had the impact of prevention of violations on some employers, however, there are still a number of workplaces in the country where the minimum standards of occupational safety are not met and employees risk their own lives and health every day.

Within the framework of the study, the authors of the study analyzed inspection reports drafted by the Labor Inspection Service in 2020 year. While analyzing the report a special attention was paid to the particularly vulnerable sectors involving an increased level of danger, including construction, mining and manufacturing sectors. It is clear from the inspection reports that the problem of safe working environment is particularly acute in these sectors. Employers often fail to meet their obligations. However, whether the Labor Inspection Service adequately assess existing challenges and responds appropriately to violations is a question that will be addressed in the following chapters by assessing sectoral and individual inspections.

Labor Inspection Service Activities in 2020

In 2020, the Labor Inspection Service had three main directions within its area of activity and competence. Namely,

- Supervision of Occupational safety work in the workplace;
- Implementation of state control in the field of forced labor and labor exploitation;
- Supervision the enforcement of regulations designed by the Government to prevent the spread of coronavirus in the workplace.

Supervision of Covid-19

The focus of the present study is not the assessment of the activities carried out by the Labor Inspection Service to prevent the spread of the new coronavirus. However, it should be noted that in 2020, the Inspection Service carried out 88 873 activities in this regard, including awareness raising activities (67 000). Apart that, 16 000 activities were carried out for the purposes of controlling whether the conditions for economic activities were met. Moreover, 151 objects were fined for non-compliance with the existing protocol for preventing the spread of coronavirus. It is noteworthy that the Labor Inspection Service has been given new authority and responsibilities since March 2020 with the exercising state supervision on the compliance of Covid-19 regulations. This obviously has required significant human and financial resources of the Labor Inspection Service.

State Control of Forced Labor and Labor Exploitation

Since 2015, the Labor Inspection Service exercises state supervision on Forced Labor and Labor Exploitation.¹³⁸ Within the scope of its authority, the Labor Inspection Service on the basis of planned or unscheduled inspections as well as on the basis of reasonable doubt or filed complaint annually inspects the workplaces. Statistics on inspections carried out by the Labor Inspection Service in this direction¹³⁹ are presented in the annual reports on the activities of the Labor Inspection Service. The data for 2019-2021 years is of particular interest for the purposes of the study. According to the 2019 data, total of 127 companies were inspected, 111 on the basis of planned and 16 on the basis of unplanned inspections. According to the data of 2015-2020, a total of 127 companies were inspected, 111 on the basis of planned and 16 on the basis of unscheduled inspections. During this period, Forced Labor and Labor Exploitation was identified only in one company and the investigating authorities were provided with this information.¹⁴⁰ According to the information presented in the 2020 report on the activities of the Labor Inspection Service, in the reporting period of 2020, 121 facilities were inspected in this direction and all inspections were conducted on the basis of planned inspections.¹⁴¹ The research team also requested data for 2021, according to which the Labor Inspection

138 Resolution N112 of the Government of Georgia of March 7, 2016- <https://matsne.gov.ge/document/view/3215791?publication=1>

139 Within the framework of the Resolution N112 of the Government of Georgia of March 7, 2016 “On the Approval of the Rule of State Supervision for the Prevention and Response to Forced Labor and Labor Exploitation”.

140 The 2019 report on the Activities of the Labor Conditions Inspection Department, – https://www.moh.gov.ge/uploads/files/2019/Failebi/LCID_Geo_a4_1.pdf – p. 20

141 2020 report on the activities of the Labor Inspection Service, pg. 15.

Service conducted 139 inspections to prevent and respond to forced labor and labor exploitation, of which 137 were planned and 2 were unplanned. However, the data provided at this stage do not contain information on whether cases of forced labor and labor exploitation were detected within the above-mentioned inspections.

It is noteworthy that according to the 2020 report of the United States Department of State, despite the criminalization of Forced Labor, the government agencies are not able to effectively combat this crime. In particular, investigations into such cases are particularly low, which involves the risks of promotion of forced labor. According to the U.S. Department of State, the lack of labor inspectors as well as the lack of comprehensive oversight of the labor rights, among other things, were the factors that hindered the adequate work of the state.¹⁴²

It should be noted that Georgian law narrowly defines Forced Labor; As for Labor Exploitation, it is not fully defined by the Georgian legislation. Unregulated work, failure of the employer to exercise his right to rest, inadequate pay (legislation defined minimum wage – 20 GEL – 5,5 Euros) and constant overtime practices¹⁴³ are the hallmarks of Forced Labor/Labor Exploitation. The right to supervise the enforcement of above-mentioned labor rights was given to the Labor Inspection Service only from January 1, 2021, therefore the complex assessment and detection of existing violations is a new and significant challenge for the Labor Inspection Service.

Supervision of Occupational Safety

Exercising state supervision over occupational safety is one of the main activity, opportunity and at the same time challenge of the Labor Inspection Service. It is noteworthy that since the establishment of the Labor Inspection Service, the number of deaths at work has decreased,¹⁴⁴ however, at the same time the number of workplace injury cases has increased. In 2020, the number of people injured in the workplace has reached a maximum of 249 people in recent years.¹⁴⁵ It is noteworthy that increase in statistics may be related to the activity of

142 TRAFFICKING IN PERSONS REPORT 20TH EDITION – <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> – p.217

143 CRRC, Poll on Political and Social Issues, April, 2019, pg.30 , <https://osgf.ge/wp-content/uploads/2019/04/CRRC-research.pdf>

144 2019 Report on the Activities of the Labor Inspection Service, https://www.moh.gov.ge/uploads/files/2019/Failebi/LCID_Geo_a4_1.pdf

2020 Report on the Activities of the Labor Inspection Service, https://www.moh.gov.ge/uploads/files/2019/Failebi/LCID_Report_2020_GEO.pdf

145 Why the maximum number of occupational injuries was recorded in 2020, <https://netgazeti.ge/news/533086/>

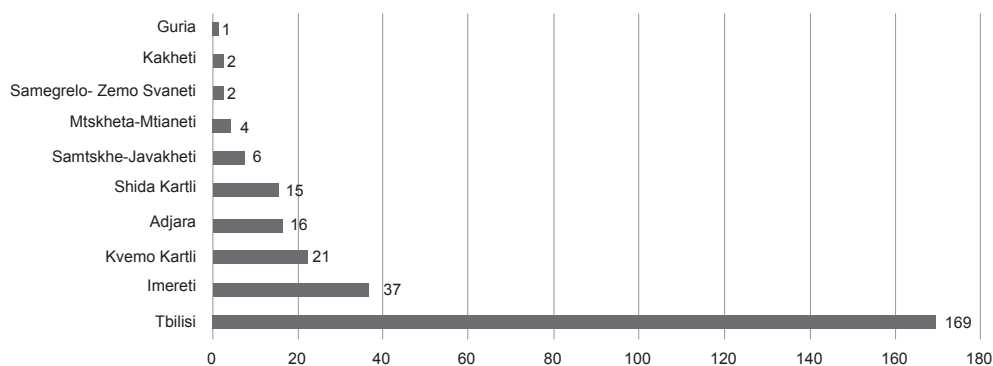
the labor inspection and revealing all alleged violations, which on the one hand is a positive trend and indicates the strengthening of the Inspection Service, but on the other hand statistics of deaths and injuries at the workplace show that workplace safety and health remains a significant problem in the country; There are still a number of challenges that the Labor Inspection Service face to ensure decent work for all workers.

Regional Coverage of Inspections

In parallel with the institutional development of labor inspection and growth of human and financial resources of the Labor Inspection Service, it is interesting to see how intensified labor safety oversight has become across the country. Observations of the inspections carried out in 2019-2021 years show that the inspection is being carried out with special intensity in Tbilisi. It should be noted that the industrial and heavy work is mostly presented in regions, which makes it clear that the inspection activities in this direction should be strengthened and intensified.

According to the analysis of the inspection reports, inspections were distributed regionally as follows:¹⁴⁶

Inspection of Occupational Safety in 2019-2021 years
(total of 273)



The amount of violations detected at the workplace and resulting sanctions is directly proportional to the amount of inspections carried out by the Labor Inspection Service. For example, out of 169 inspections conducted in Tbilisi, 2316 violations were revealed

146 Fair Labor Platform – <https://shroma.ge/monitor/?lang=ka§or=B®ion=&violation=&type=&accident=&penalty=>

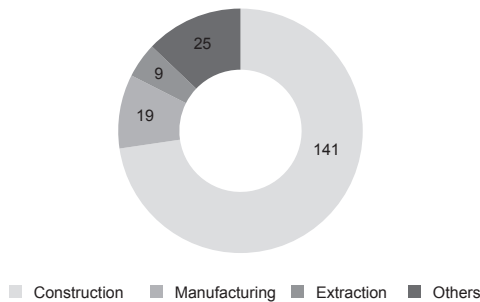
and in 88 cases fine/ suspension of the work process was applied. On the other hand, one of the inspections in Guria revealed 8 violations and only warning was applied.

It is interesting what is the cause of such fragmented inspection activities in the regional context and whether assymetric nature of the number of inspections is related to something. In order to observe this data, it is interesting to analyze the sectoral inspections, namely:

Sectoral Distribution of Inspections

In 2020, a total of 224 inspections were carried out by the Labor Inspection Service. These inspections included both first-time and re-inspection cases. In the reporting period of 2020, a total of 169 objects were inspected for the purposes of the supervision of occupational safety. The companies most frequently inspected by the Labor Inspection Service belong to the construction service. The next mostly inspected companies represented manufacturing industry, followed by companies operating in the mining industry. The rest of the inspections during the reporting period were related to wholesale and retail trade, transportation and other small activities.

Sectoral Statistics 2020



Construction Sector

According to the Georgian National Classifier, construction is one of the type of economic activity.¹⁴⁷ Numerous people employed on construction have been killed and seriously injured over the years under the conditions of improper regulation of occupational safety. Many non-governmental organizations working on labor rights have spoken over the years about the dangerous working conditions on construction sites and the inad-

147 Georgian National Classifier – https://www.geostat.ge/media/13408/NACE-Rev-2_Georgian_2016.pdf

equate observance of safety conditions by the employers.¹⁴⁸ The construction sector is one of the largest and growing sectors in the country, therefore occupational safety of construction workers is most often violated, which in turn is the indicator why the Labor Inspection Service carried out most of the inspections in this sector. In 2020, the Labor Inspection Service conducted the highest percentage of inspections in the construction sector. In particular, 141 out of 224 inspections were related to the construction sector.

In 2020, Where has been the most number of inspections carried out in construction sector?

In 2020, the Labor Inspection Service carried out the most number of inspections in the construction sector at "Anagi" Ltd. The Labor Inspection Service inspected the above-mentioned company 7 times during the calendar year. It is noteworthy that 3 out of 7 inspections were conducted at the same object, while the remaining inspections were carried out at other facilities. 6 inspections were carried out in Tbilisi and one in Rustavi. In addition, 6 inspections were conducted within the framework of planned inspection and one was conducted on the basis of unscheduled inspection. Violations found during the inspections at all seven objects are mostly similar. The Labor Inspection Service found a total of 77 violations and the company was fined a total of 6 000 GEL.

Which company was imposed the biggest sanction in the construction sector in 2020?

In 2020, the biggest sanction applied by the Labor Inspection Service was 30 000 Gel and suspension of the work place. The mentioned administrative penalty turned out to be the strictest not only for the construction sector, but also for other employment sectors as well. This penalty was applied to the "Elmulla" Ltd. This company was inspected for the first time on February 3, 2020 and the inspection revealed 16 types of violation.

Manufacturing Industry

According to the Georgian National Classifier, manufacturing is a field of economic activity, which includes the activities carried out in order to produce all kinds of products in the country, including metal, non-metallic mineral products, pharmaceuticals, cloth-

148 <https://socialjustice.org.ge/ka/products/saia-da-emc-msheneblobaze-dasakmebuli-piris-gardatsvalebis-shemtkhvevas-ekhmianebian>

ing, paper, etc.¹⁴⁹ In 2020, the number of inspections in manufacturing industry lagged behind only to the construction sector, with 19 conducted inspections.

Manufacturing Industry – Conducted Inspections

In 2020, the Labor Inspection Service inspected several companies. On February 12, the Labor Inspector Service inspected Ltd “Five”. This company manufactures concrete for construction purposes in Kutaisi. The inspection was carried out as part of the planned inspection 13 violations were detected at the place of employment.

In 2020, the Labor Inspection Service inspected the cast iron, steel and ferroalloy production company, Ltd “GTM Group”, in Zestaponi. The Labor Inspection Service found 32 violations in the workplace.¹⁵⁰

Which company was imposed the biggest sanction in the manufacturing industry in 2020?

One of the biggest fines applied by the Labor Inspection Service in 2020 was found in the manufacturing industry. On November 12, 2020, the Inspection Service fined GLG Group Ltd., operating in Tbilisi, with 14 000 GEL. The basis for the fine was non-compliance with the decision made by the Labor Inspection Service in June, 2020. In particular, in June 2020, there was an accident at work, which claimed the life of one person. An inspection carried out by the Labor Inspection Service in June 2020 revealed a number of critical violations at the place of employment, on the basis of which the Labor Inspection Service suspended the work process of the company. A re-inspection conducted in November 2020 revealed that GLG Group Ltd had not complied with the inspection decision, which resulted in a fine of 14 000 GEL imposed on the company in accordance with the paragraph 1(1) of Article 21 of the Law of Georgia on Occupational Safety.

Extractive Industry

Extractive industry is mainly related to the economic activities carried out in the country for the extraction of minerals and raw materials such as metals, ores and oil.¹⁵¹ There are several major mining places in the country, including manganese mining in Chiatura, coal mining in Tkibuli and gold and copper mining in the Kazreti region. It is

149 Georgian National Classifier – https://www.geostat.ge/media/13408/NACE-Rev-2_Georgian_2016.pdf

150 Fair Labor Platform – https://shroma.ge/monitor/files/001081_2020-06-25.pdf

151 Ibid.

noteworthy that occupational safety is one of the critical areas in this sector. The mining is mainly carried out underground, through mines and due to the various underground gases, the activity should be associated with special care and well-planned work. Unfortunately, for years the mining industry has been one of the active hotbeds of work-related deaths and injuries.¹⁵² Despite alarming statistics, only 9 inspections were conducted in the mining industry in 2020.

In 2020, Where has been the most number of inspections carried out in extractive industry?

As mentioned above, the extractive industry was inspected only 9 times during the entire calendar year. 8 inspections out of 9 was carried out at different work sites of the same employer. This employer is “Shukruti +” Ltd operating in Chiatura. The Labor Inspection Service found a total of 177 violations, although the Inspection Service did not apply fine as an administrative penalty and all the above inspections were completed with the warning of Shukruti+ Ltd.

It is interesting that the report of an administrative offence drawn up against “Shukruti+” Ltd is dated on December 18, 2020. According to the case materials, on December 18, 2020, the Labor Inspection Service inspected eight objects of “Shukruti+” Ltd. The inspection reports show that the employer violated almost all safety standards envisaged by the Law of Georgia on Occupational Safety. The non-presence of protective equipment, unchecked and dangerous working tools as well as untrained staff creates an extremely dangerous practice. This means that underground work is carried out with total disregard of all safety standards and the risk of accidents is not reduced at all. Notwithstanding this fact, the Labor Inspection Service did not fine “Shukruti+” Ltd in any of the above-mentioned cases.

Which company was subjected to the biggest sanction in the extractive industry in 2020?

As noted, the Labor Inspection Service in the extraction industry did not impose a monetary sanction and it limited itself to applying warnings as an administrative penalty to the

152 No Year Without Deaths – <https://www.hrw.org/ka/news/2020/06/18/375499>

Courier Services Sector – Glovoapp Georgia Ltd

Inspection of “Glovoapp Georgia” Ltd by the Labor Inspection Service in 2020 deserves a separate mention. It is known to the public that the food and various consumer goods supply sector is one of the fastest growing sectors in the country, in which the number of employers is increasing day by day. Unfortunately, the company does not consider itself as an employer and concludes civil service contracts with individuals instead of employment contracts and fully disregards the fulfillment of its obligations under the Labor Code of Georgia and the Law of Georgia on Occupational Safety.¹⁵³ This is reflected in the fact that the company does not provide a safe working environment for employees, does not follow the rules governing working hours, does not discuss with the couriers the essential conditions of the contract and often, unilaterally and independently changes it.¹⁵⁴ The Labor Inspection Service has one of the main role in solving the above-mentioned problematic issues. Qualifying non-standard work as a labor relation should be one of the challenges of the Labor Inspection Service.¹⁵⁵ In light of this circumstances, in 2020, the Labor Inspection Service inspected “Glovoapp Georgia” Ltd four times. According to the law, the Labor Inspection Service can exercise state supervision on the enforcement of labor rights in the places of employment. The inspections carried out at “Glovoapp Georgia” Ltd indirectly indicate that the Labor Inspection Service considers that couriers have labor relations with the company.

All four inspections are dated at the same time. The Labor Inspection Service conducted enquiry into the accident, although the company did not cooperate with the Inspection Service during the inspection. On this basis, “Glovoapp Georgia” Ltd was fined with 7 000 GEL in accordance with Article 20, paragraph 1, subparagraph “e” of the Law of Georgia on Occupational Safety.

At the same time, the Labor Inspection Service checked the observance of labor safety standards at the workplace and on March 11, 2020, found that “Glovoapp Georgia” Ltd did not comply with its obligations under the Law of Georgia on Occupational Safety. In particular:

153 What does non-standard employment mean – <https://socialjustice.org.ge/ka/products/ras-nishnavs-arastandartuli-dasakmeba>

154 What are the working conditions of the couriers and what are their demands? – <https://netgazeti.ge/news/515401/>

155 Social Justice Center – Informal and non-standard labor in Georgia, December 24, 2021, <https://socialjustice.org.ge/ka/products/araformaluri-da-arastandartuli-shroma-sakartveloshi?fbclid=IwAR0i8GuMUSRThG2ZtjEfvSEkfj22h12DS4WbMbDSCqYb-XFMUUwNDNB9DRI>

1. The company did not have a developed policy of coherent preventive measures;
2. The company did not examine the safety of relevant technical equipment;
3. The company did not have personal protective equipment;
4. The company did not record workplace accidents.

As a result of the inspection, the company was given 30 days to remedy the identified violations and a warning was applied against it as an administrative penalty.¹⁵⁶ However, it is unknown whether the company ensured the compliance with the issued instruction, given that the Labor Inspection Service did not conduct a re-inspection of the company in 2020 year. The employer still considers that it does not has to comply with any obligation provided by the Labor Code. Moreover, “Glovoapp Georgia” Ltd, as a rule, does not cooperate with the Labor Inspection Service.

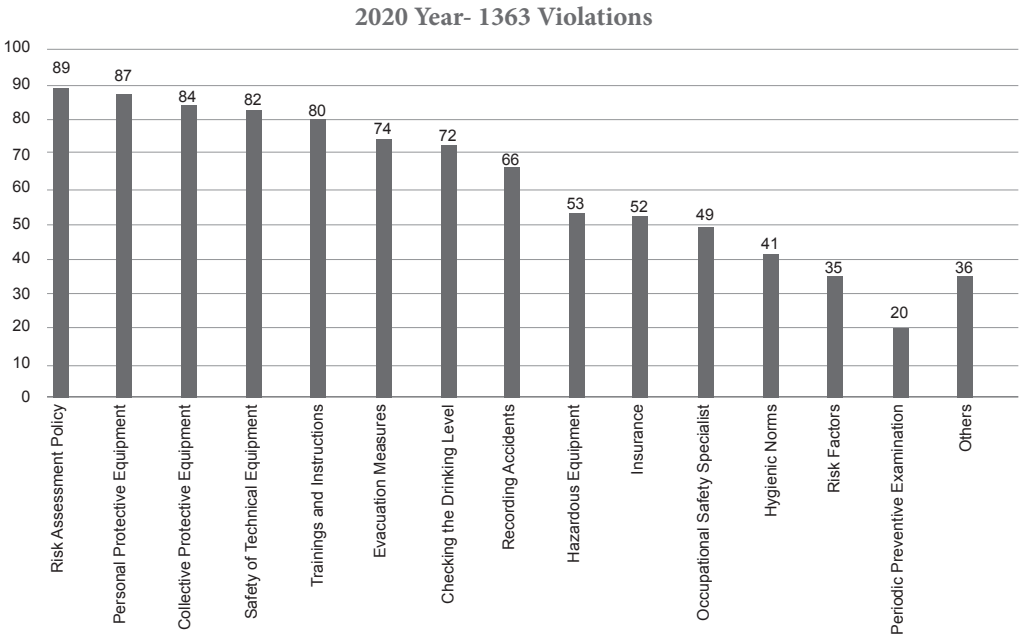
“Glovoapp Georgia” Ltd is not the only company in courier service and these problems are not found exclusively in Glovo.¹⁵⁷ Against this background, it is important the Labor Inspection Service to increase control over the courier sector and ensure the protection of labor rights. With re-inspections and new inspections, the Labor Inspection Service should force the employers to fulfill their obligations so that employees could enjoy a relatively safe working environment and decent working conditions.

Violations which Are Most Common in the Places of Employment

According to the inspection reports of 2020 the most common violation in the workplace is the lack of occupational safety policy document and preventive measures. Article 6 of the Law of Georgia on Occupational Safety offers standards for the introduction of preventive measures at the place of employment and its enforcement. Adherence to these standards is one of the decisive for creation of safe working environment, The fact that the absence of preventive policy document in the workplace is the most common violation today, sadly directly indicates the reluctance of employers to actually introduce standards ensuring safe working environment. The lack of policy of coherent preventive measures makes every effort of the Labor Inspection Service or the employers fragmented and indicates that occupational safety is still a serious problem in the country. As for other types of violations, according to the data, the violations are divided as follows:

156 Fair Labor Platform – https://shroma.ge/monitor/files/000805_2020-02-11.pdf

157 Boltfood couriers went on strike – <https://bm.ge/ka/article/bolt-fudis-kurierebi-gaifnicnen---motxovnebi/78200>



The classification of violations shows that despite the different sectors of employment the violations of occupational safety standards are almost identical. The lack of collective and personal preventive measures is problematic both for those employed in construction sector and extractive industry. Employers are unable to provide employees with minimal protection, which doubles the risk of injury or death. It is noteworthy that most employers in almost all sectors do not have documentation proving technical functionality of relevant equipments and do not monitor it either. At the same time, the employers do not have labor safety specialists, which creates a very dangerous combination and makes the jobs extremely hazardous not only for the employees, but also for the people living in the surrounding areas. This problem is most severe in the construction sector. Construction often takes place very close to the residential areas and on streets, where there is constant movement of people.

Another problematic issue is when an employer does not offer health insurance to employees' performing dangerous work. Despite the legal requirements, the employees' rights are not respected; the lack of insurance puts an extremely heavy burden on the employees' and their families in the event of occupational injuries or other accidents occurring during the work process.

Penalties Applied by the Labor Inspection Service in 2020

The Law of Georgia on Occupation Safety allows the Labor Inspection Service to apply three types of administrative penalties, depending on the severity of violations:

1. a warning;
2. a fine;
3. a suspension of the work process.

The legislation determines in which cases it is obligatory to use this or that penalty and in which case enjoys the Labor Inspection Service the discretion to choose the type of penalty. In particular, violation of occupational safety standards determined by a technical regulations approved by the Government of Georgia for the first time shall result in a warning.¹⁵⁸ In the case of the first inspection, the companies are subject to a fine when:

- Activities related to heavy, harmful and hazardous works involving an increased level of danger are carried out without the registration.¹⁵⁹
- Interference with activities of the Labor Inspection Service.¹⁶⁰

The Law of Georgia on Occupational Safety also defines the classification of violations: immaterial non-compliance, material non-compliance and critical non-compliance with the requirements of the legislation.¹⁶¹ Moreover, critical non-compliance with regard to the observance of occupational safety standards determined by a technical regulations approved by the Government of Georgia will result in the suspension of the work process.¹⁶²

In 2020, most of the fines applied by the Labor Inspection service falls on the construction sector and the least on the extraction industry.

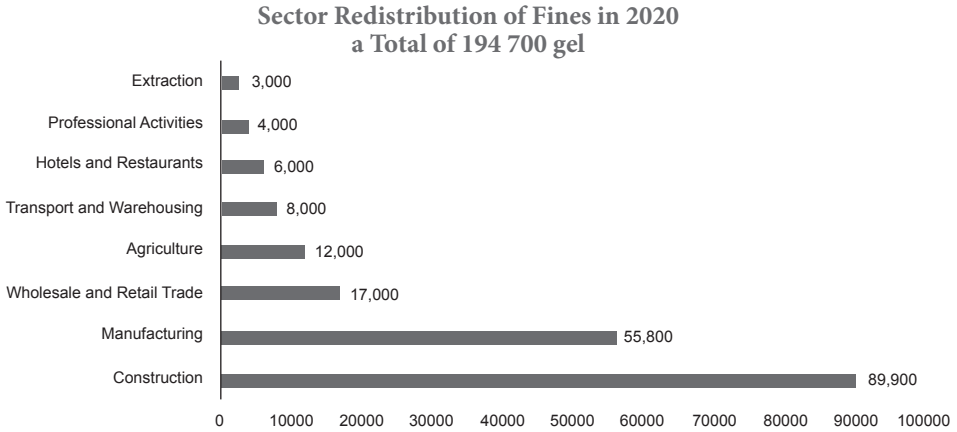
158 Law of Georgia on Occupational Safety, paragraph 1 of Article 21, paragraph 1 of Article 2, paragraph 1 of Article 23.

159 Ibid, Article 19

160 Ibid, Article 20

161 Ibid, Article 22

162 Ibid, paragraph 3 and 4 of Article 22



Consistency of Inspections and Sanctions

The purpose of the Labor Inspection Service is to introduce the principles of safe labour throughout the country in order to identify threats and ensure the occupational safety at all workplaces through using of incentives or punitive leverages on the employers. However, a study of inspection reports revealed that in some cases conducted inspections as well as detected violations and imposed sanctions are unbalanced and often inconsistent. Several trends can be identified in this regard.

Regional trends

As the study of the inspection reports showed, almost 60% of the inspection activities were related to the inspections carried out in the Tbilisi, capital of Georgia. This is due to several key factors. First of all, as it was noted in the beginning of the study, the Labor Inspection Service has only two regional offices, in the city of Kutaisi and Batumi.¹⁶³ The Labor Inspection Service apart of exercising state supervision on the enforcement of labor rights, has also an authority to provide the public with relevant information, so that more people have access to the information about labor rights, occupational safety standards and the Labor Inspection Service as an institution responsible for state supervision. Given that inspections in some cases are carried out on the basis of complaints related to possible violations of labor norms, it is of pivotal importance these individuals to have as much information as possible about the principles of safe labor in order to identify and address further violations. The number of inspections show that

¹⁶³ Article 5 of the “Statute of the Legal Entity of Public Law- Labor Inspection Service” approved by the Order N01-119/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labor and Health Protection of Georgia, <https://bit.ly/3ExwtWW>.

only 3 offices of the Labor Inspection Service cannot ensure the dissemination of information to all regions and places of employment. Clearly, the Labor Inspection Service should continue to work in this direction through establishing more and more regional offices or using the available resources more efficiently that should result in the raising of public awareness regarding the labor rights and the Labor Inspection institute itself. Employees throughout the country should have a sense of belonging; they should be aware that the state ensures the enforcement of labor rights standards and constantly monitors their implementation.

Sectors that are least inspected

Taking into account the amount and frequency of sanctions, the mechanism used by the Labor Inspection Service for applying the fines is directly proportional to the conducted inspections. However, lack of inspections in various sectors does not necessarily indicate the absence of occupational safety problems.

The extractive industry is one of the least inspected sectors. For example, according to the data of 2020, the Labor Inspection Service did not check the compliance with the occupational safety standards in the mines in the city of Tkibuli. Against the background of several incidents in Tkibuli in 2020, namely, in March 2020, several people employed in the mine were poisoned by gas during the working process,¹⁶⁴ and in June of the same year, the so-called “Kleti” what ensures the entrance to the mine went out of order and about twenty miners had to stay underground.¹⁶⁵

Manganese mining in Chiatura is characterized by the same problem. Examination of the existing reports show that the Labor Inspection Service did not inspect the “Georgian Manganese” mines in 2020. The working conditions of the people employed in the Chiatura mines have remained difficult for years. Due to non-compliance with labor safety rules, employees risk their lives and health on a daily basis. 2020 was no exception and as a result of an accident at the Vake- Tke 4 mine in Chiatura, the miner has died.¹⁶⁶

Extractive activities are connected with constant risks to occupational safety and health. Given that the Labor Inspection Service is aware of the persistent practices of viola-

164 Miners poisoned by the gases in Tkibuli- <https://socialjustice.org.ge/ka/products/mkhutavi-airebit-motsamluli-meshakhteebi-tqibulshi-gamokhmaureba>

165 Human Rights Education and Monitoring Center (EMC) - “EMC responds to the accident occurred in the mine of Tkibuli” – <https://socialjustice.org.ge/ka/products/mkhutavi-airebit-motsamluli-meshakhteebi-tqibulshi-gamokhmaureba>

166 EMC responds to death of worker in Chiatura mine – <https://socialjustice.org.ge/ka/products/emc-chiaturis-magharoshi-mushis-daghupvas-ekhmaureba>

tions of the labor safety norms in mining industries, the Inspection Service is obliged to pay particular attention to this field. The mining industry can become relatively safe workplace, where employers are no longer constantly exposed to the risk of losing their lives, only under constant monitoring and state supervision from the Labor Inspection Service.

Inspections carried out with the same employer

In 2020, the Labor Inspection Service inspected various objects of several employers. In this regard, the inspection of “Shukruti+” Ltd is noteworthy. Eight objects of the company were inspected in Chiatura.¹⁶⁷ The inspection reports show that the employer violated almost all safety standards envisaged by the Law of Georgia on Occupational Safety. The non-presence of protective equipment, unchecked and dangerous working tools as well as untrained staff creates an extremely dangerous practice. This means that underground work is carried out with total disregard of all safety standards and the risk of accidents is not reduced at all. Notwithstanding this fact, the Labor Inspection Service did not fine “Shukruti+” Ltd in any of the above-mentioned cases. Moreover, according to the information available to the authors of the study, the above-mentioned inspections were not followed by the re-inspections. The Labor Inspection Service, which is one of the main guarantors of the safety of employees, leaves the extremely acute situation in the Shukruti mines without any response.

Detection of violation of safety standards at the place of employment, according to the Law of Georgia on Occupational Safety, results in the issuance of a warning and determination of reasonable time for remedying the identified violation.¹⁶⁸ However, when the Labor Inspection Service inspects the different workplaces of the same employer, the question arises – whether the application of a warning is appropriate sanction and whether these cases require a stricter approach. In this case particular attention is paid to the circumstances when the inspections reveal more or less the same violations. These cases create a kind of tendency, which is an indication for the state supervisory body that the employer regularly violates the legal requirements and does not comply with labor safety standards. Whether the Labor Inspection Service can apply stricter penalty – namely, a fine – is the matter of controversy. At first glance, this power of the Labor Inspection Service does not derive directly from the legislation; however, on the other hand, the purpose of the Labor Inspection Service is to ensure labor safety. In case of violations found at different object of one employer, the Labor Inspection Service can reveal and evaluate tendency and take appropriate measures.

167 Fair Labor Platform – https://shroma.ge/monitor/employer.php?lang=ka&name=Shukruti_%2B_LL-C&uid=404596086

168 Law of Georgia on Occupational Safety, Article 18

First of all, it should be noted that in such a case, the Labor Inspection Service should have a legal basis to be able to comprehensively assess the identified violations and apply a stricter sanction. In the absence of a legal basis, the only available solution is carrying out re-inspection in the shortest possible time. Re-inspection, on the one hand, can “force” the employer to remedy the violation and, on the other hand, if the violations are not remedied, it allows the Labor Inspection Service to apply stricter administrative penalty and fine the employer.

Technical Regulations – A challenge

One of the important factors for the introduction of labor safety standards and their observance in the workplace is technical regulations. Regulations set out the rules of operation for different sectors, the strict implementation of which minimizes occupational risks in the working area.

At present, there are several technical regulations and subordinate normative acts for different sectors of economic activity, which to some extent provide the legal basis for safety standards in the workplace, namely:

- In the Construction Sector:
- Resolution N361 of the Government of Georgia of May 27, 2014 on the “Approval of Technical Regulations on Construction Safety”;
- Resolution N477 of the Government of Georgia of October 27, 2018 on the “Approval of the Technical Regulation on Safety Requirements for Work at Heights”.

The technical regulation on construction safety has been in force since 2014. This regulation applies to any construction work carried out under a construction permit and imposes safety standards on employees and persons being present at the workplace, as well as on construction equipments and machinery.

The technical regulation on safety requirements for work at heights has been in force in the country since October, 2017. The regulation sets the rules and norms of occupational safety, also defines technical characteristics for works where there is a risk of falling from a height of 2 meters or more. That being said, this regulation and technical details provided in it are one of the most important regulations to ensure the safety of employees and others in the workplace.

Extractive Sector:

- Resolution N430 of the Government of Georgia of December 31, 2013 on the “Approval of the Technical Regulation on the Underground Processing of Ore and Non-Mineral Resources”.
- Resolution N70 of the Government of Georgia of January 15, 2014 on the “Approval of Maximum Allowable Concentrations of Harmful Substances in the Air of the Work Zone”.

The technical regulation on underground processing of ore and non-mineral resources has been in force in the country since the end of 2013 and it is one of the importance sources of technical efficiency of the extraction industry. The regulation governs the rules of excavation and exploitation of underground mines, requirements for personnel, standards of the use of work equipment's, the observance of which ensures safety standards while performing the underground works.

As for the technical regulation on maximum allowable concentrations of harmful substances in the air of the work zones, it has been in force since 2014. Underground work is connected with the risk of gas emissions, which unfortunately has repeatedly become the cause of injury and death of employees.¹⁶⁹

Manufacturing Industry:

- Order N1-1/58 of the Minister of Economic Development of Georgia January 16, 2008 on the “Approval of Safety Rules for the Production of Ferroalloys”.
- Resolution N70 of the Government of Georgia of January 15, 2014 on the “Approval of the Maximum Allowable Concentrations of Harmful Substances in the Air of the Work Zone”.

Under the Association Agreement with the European Union, Georgia undertook an obligation to gradually implement the technical regulations.¹⁷⁰ According to the report on the integration of the State of Georgia with the European Union, on the basis of Association Agreement Georgia has drafted eight technical regulations in the field of labor safety.¹⁷¹

169 Miners poisoned by the gases in Tkibuli – <https://socialjustice.org.ge/ka/products/mkhutavi-airebit-motsamluli-meshakhteebi-tqibulshi-gamokhmaureba>

170 Association Agreement – <https://matsne.gov.ge/ka/document/view/2496959?publication=0> – Article 47

171 EU Integration Report -<https://mfa.gov.ge/getattachment/%E1%83%94%E1%83%95%E1%83%A0%E1%83%9D%E1%83%9E%E1%83%A3%E1%83%9A%E1%83%98-%E1%83%93%E1%83%90-%E1%83%94%E1%83%95%E1%83%A0%E1%83%9D-%E1%83%90%E1%83%A2%E1%83%9A%E1%83%90%E1%83%9C%E1%83%A2%E1%83%98%E1%83%99%E1%83%A3%E1%83%A0%E1%83%98-%E1%83%98%E1%83%9C%E1%83%A2%E1%83%94%E1%83%92%E1%83%A0%E1%83%90%E1%83%AA%E1%83%98%E1%83%90/asocirebis-dgis-cesrigis-angarishebi/saqartvelos-evrokavshirshi-integraciis-2021-clis-erovnuli-samoqmedo-gegmis-6-tvis-angarishi.pdf.aspx> – pg.52.

Despite some progress, the issue of technical regulations is still extremely important. Both the Labor Inspection Service and the employers need clearly regulated safety standards and mechanisms for different sectors. The Chief Labor Inspection also acknowledges the existence of this challenge.¹⁷² Moreover, the Law of Georgia on Occupational Safety defines the obligation of the Government of Georgia to adopt certain technical regulations in the period of 2021-2023.¹⁷³

The Government of Georgia should ensure the approval of technical regulations as quickly and efficiently as possible. A well-defined technical regulation, on the one hand, simplifies compliance with the safety standards for the employers and, on the other hand, represents a guide for the Labor Inspection Service, which makes it much easier for inspectors to identify problems and violations in different workplaces. Ultimately, this will be reflected in the enforcement of safety standards at all places of employment.

172 Interview with the Chief Labor Inspection.

173 Law of Georgia on the Occupational Safety, Article 25.

Recommendations

To the Government of Georgia

- To ensure the separation of the obligation to control the enforcement of covid-19 regulations from the core activities of the Labor Inspection Service and to provide the Labor Inspection Service with the opportunity to make full use of the resources allocated to it for the performance of its core legislative duty.
- To ensure the increase of regional access to the Labor Inspection Service, especially in the regions, where heavy, harmful and hazardous employment places are mostly represented (Tkibuli, Chiatura, Bolnisi, Poti).
- To ensure timely implementation of technical regulations on occupational safety in national legislation provided in the Association Agreement.
- To ensure the clarification of the provision of the rule of inspection of the locations subject to inspection approved by the Resolution of the Government of Georgia, which stipulates that unscheduled inspection of the particular location on the basis of notifications, including citizens' appeals, complaints and hotline notifications, will be carried out "in case of presence of reasonable suspicion". The introduction in the legislation of the general standard of the "reasonable suspicion" arises the risk of inconsistent and arbitrary interpretation of it, which may become the basis for an unjustified refusal by the Labor Inspection Service to inspect a particular employer.

To the Parliament of Georgia

- To facilitate the legislative oversight over the activities of the Labor Inspection Service at the stage of submitting annual reports to the Parliament of Georgia;
- To the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs
- To ensure the clarification in the legislation regarding the criteria used to compile a list of sectors and organizations to be inspected as part of a planned inspection and to clarify to what extent (if at all) does the information disseminated by the public or other sources about the violation of labor legislation affects this list.
- To ensure the adoption of the relevant legal act (Ministerial Order) and establishment of coordination mechanism with the Ministry of Internal Affairs, in order to facilitate the investigation of work-related deaths and injuries and introduce a uniform practice of coordinated work.

To the Labor Inspection Service

- To ensure timely publication of annual reports and provision of the very information in the given reports that is strictly required by the Law on Labor Inspection Service (including the number of inspectors; the number of inspections carried out; cooperation with different agencies; information about awareness raising campaigns, etc).
- To ensure the completion of the work on the digital databases started with the help of international organizations, which will increase the efficiency of the Labor Inspection Service (in terms of data processing) and which has been delayed for the last few years.
- To complete the development of an electronic software started with the help of international organizations, which will automatically select the companies to be inspected within the framework of the planned inspection (according to the list of priority areas approved by the Government of Georgia) based on the principle of random selection and thus, a subjective assessment factor will be ruled out.
- To ensure the conclusion of a memorandum between the Labor Inspection Service and the Department of Equality of the Public Defender's Office, in order to define a strategy for raising awareness in terms of equality.
- To ensure the establishment of the website, which will promote the transparency of the Labor Inspection activities as well as raising awareness among the employees and employers.
- To ensure the strengthening of work in the direction of employees' awareness raising on labor inspection activities and labor rights.

Recommendations developed as a result of the analysis of inspection reports

- To ensure the state supervision on certain sectors, especially with particular emphasis on extractive activities carried out in Chiatura, Tkibuli and Bolnisi.
- To strengthen the Labor Inspection Service oversight on non-standard employment workplaces, in order to ensure better regulation and identification of labor relations.
- To ensure re-inspections, timely and effectively.
- Taking into account that the Labor Inspection service during the first year of the expansion of its mandate to the enforcement of labor rights limited itself to applying only a warning as an administrative penalty, it is of paramount importance to gradually toughen the administrative penalty measures in the coming years.

