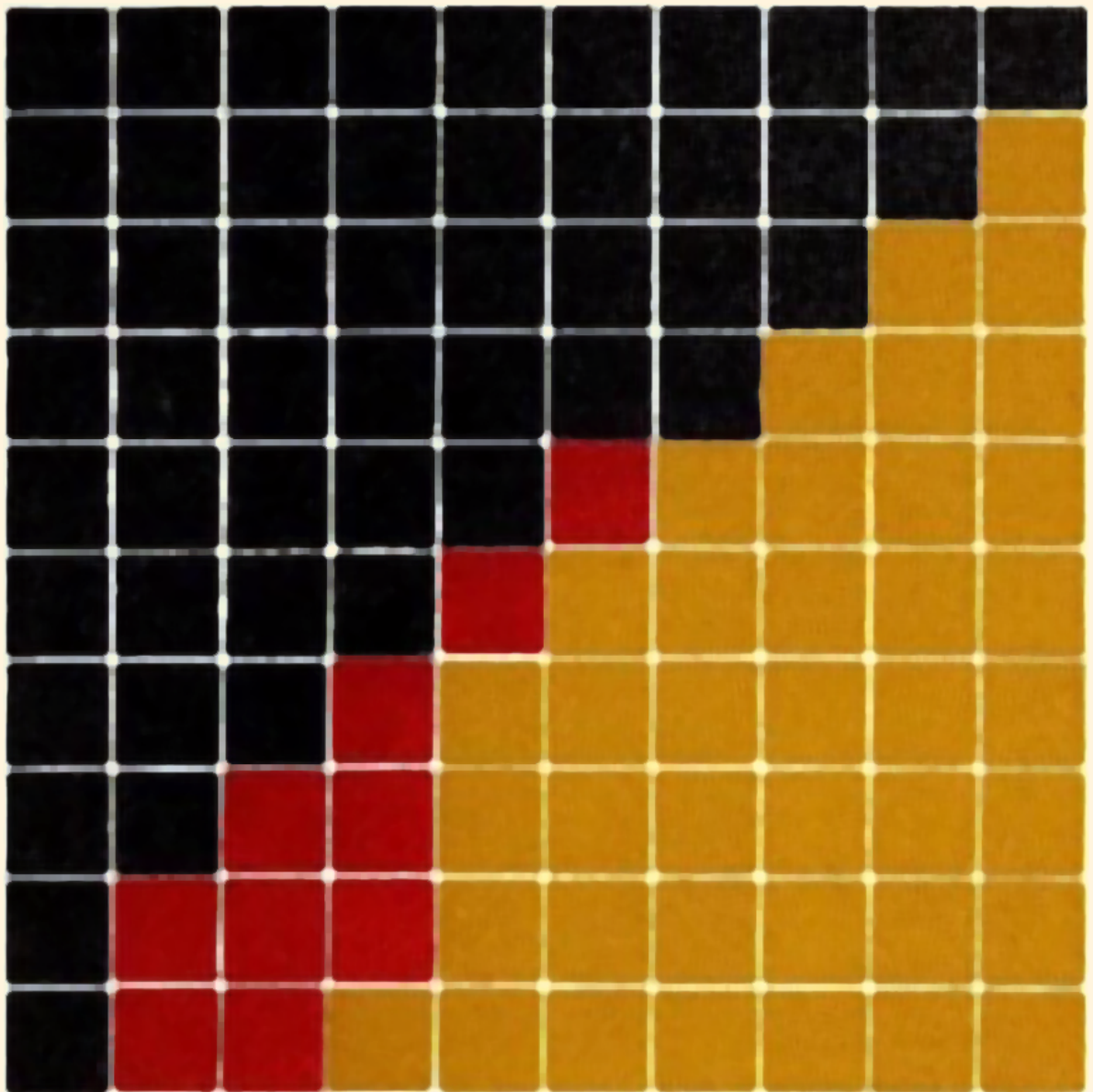


FRAGMENTED LABOUR INSPECTION

Labour Rights Left without Oversight



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Fragmented Labour Inspection –
Labour Rights Left without Oversight
(Policy Document)

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Introduction

In recent years, discussion in the political and media agenda on labour rights and occupational safety of persons employed in different sectors is gradually becoming more prioritized. Activation of these issues is mainly linked to crisis situations of labour policies. In recent years, the gravest example of such crisis situations was a large number of deceased and injured persons at the workplaces.

In 2019, compared to previous years, the number of persons deceased and injured at the workplace decreased,¹ which presumably is due to the adoption of the Organic Law of Georgia on Occupational Health and Safety² and expanded powers of the Labour Inspection Department for occupational safety oversight.³

Since 2015, significant and necessary reforms were undertaken by the state in the sphere of labour policy, in particular, occupational safety. Creation of Labour Inspection in 2015, almost 10 years after the deregulation in labour policy and adoption of the law on Occupational Health and Safety in 2018 (since 2019 - Organic Law on Occupational Health and Safety), which created a significant legislative and institutional framework for realizing occupational safety of workers, has to be assessed positively. However, in parallel to the recognition of these positive changes, the number of reforms necessary for the effective operation of labour inspection department have to be noted.

Despite the fact, that throughout the recent years, there is some progress in the sphere of labour policy, this, unfortunately, does not presuppose its effectiveness for protection of workers’ rights. According to

¹ In the 2019 reporting period, 45 persons died and 168 were injured at the workplace, see 2019 annual report of Labour Conditions Inspection Department, p. 21 https://www.moh.gov.ge/uploads/files/2019/Failebi/LCID_Geo_a4_1.pdf.

² Organic Law of Georgia on Occupational Health and Safety, <https://matsne.gov.ge/ka/document/view/4486188?publication=0>

³ EMC, EMC responds to the adoption of the law on Occupational Health and Safety, 20.02.2019 <https://emc.org.ge/ka/products/emc-ekhmianeba-sakartvelos-parlamentis-mier-shromis-usaftrkhebis-kanonis-mighebas>

research projects undertaken in the recent period, a large segment of the society believes, that labour rights are the most regularly violated.⁴ According to the views held by the population, the most spread problems are inadequate wages (71%), breach of rules on occupational safety (64%), and on maximum working hours (57%), delayed salaries (42%), violations of paid leave (30%) and maternity leave (15%).⁵

The current labour inspection model in Georgia is only focused on oversight of occupational safety and overlooks a number of other working conditions, non-observance of which often significantly reflects on the situation of workers. Narrow, technical definition of labour inspection in the legislation, which distinguishes directly connected issues such as working hours, remuneration of work etc. from occupational safety and virtually ignores them, makes the measures undertaken by the state in this direction ineffective and fragmented.

It has to be positively assessed that in April of 2020, the draft bill on a number of significant changes in the labour policy was presented to the Parliament, including the extension of labour inspection oversight functions to all provisions of the labour legislation and granting of the appropriate sanctioning power to the inspection agency starting from January 1, 2021.⁶

The purpose of the present document is not to assess this legislative package, rather the document will discuss the effectiveness of the current labour inspection model in Georgia in view of workers' needs, major challenges of workers' rights, international obligations of Georgia and relevant best practices. The document will analyze the interrelation of occupational safety and workers' rights and point to the need for equal attention to both for creating equal conditions for work with dignity. The document also reviews the core minimum international standards that effective labour inspection mechanism has to meet.

[Inspection of Workers' Rights and International Obligations](#)

Georgia has a number of international obligations in terms of ensuring conditions for work with dignity, among others, within the framework of ILO conventions, International Covenant on Economic, Social and Cultural Rights and European Social Charter.

However, incompatibility of the Georgian labour inspection model with obligations foreseen by these documents has become subject of criticism for a number of international and local organizations. For example, in the conclusions prepared on Georgia in 2018, the European Committee on Social Rights

⁴ This view is shared by 27% of the interviewed. In this regard, Tbilisi stands out for the most radical position (36%); ACT, Human Rights and Justice in Georgia: Public Perceptions and Awareness (Febr. 2017), p. 7 http://myrights.gov.ge/uploads/files/docs/7951UNDP_GE_DG_Human_Rights_Survey_2017_geo.pdf

⁵ CRRC, Survey on Political and Sociological Issues (2018), p. 30 <https://osgf.ge/wp-content/uploads/2019/04/CRRC-research.pdf>

⁶ Draft Bill: on changes to the Organic Law of Georgia "Labour Code of Georgia" April 27, 2020 <https://info.parliament.ge/#law-drafting/20311>

indicates, that Georgia violates requirements of the European Social Charter, as the labour inspection department does not oversee compliance with standards on daily and weekly working hours.⁷

ILO expert Committee has also expressed a number of concerns with the limited mandate of labour inspection mechanism, as the labour inspection department does not have the power to oversee a number of issues, with regard to which the state has undertaken multiple obligations within the framework of ILO conventions (e.g. discrimination of trade union member, equal remuneration etc.).⁸

ILO conventions are the most important international documents in relation to labour inspection (Labour Inspection Convention, 1947 (No. 81)⁹ and the 1995 protocol to this Convention¹⁰, Labour Inspection (Agriculture) Convention, 1969 (No. 129)¹¹), which establish the framework standards to be met by labour inspection agencies for securing workers' rights. Unfortunately, Georgia is not a contracting party to any of the above Conventions, including the Labour Inspection Convention, 1947 (No. 81),¹² which accordingly means that the said standards are not automatically binding for Georgia.

However, through the EU-Georgia Association Agreement, Georgia undertook the obligation to respect and promote core labour standards and transpose them into legislation and practice, as it is stipulated in ILO Conventions.¹³ In parallel, in line with ILO standards, EU-Georgia Association Agenda for the period 2017-2020 defined adoption of legislation on oversight functions of labour inspection mechanism over occupational health and safety as a short-term priority (which has to be fulfilled or significant progress in fulfillment has to be observed by the end of 2018), in turn, further work for creation of effective labour inspection mechanism aligned with ILO standards for inspection of any kind of working conditions and labour relations on the basis of appropriate competencies and capacities are defined as a medium-term priority (which has to be fulfilled or significant progress in fulfillment has to be observed by the end of 2020).¹⁴

⁷ European Committee of Social Rights, *Conclusions 2018-Georgia*, (March, 2018) p. 4, <http://hudoc.esc.coe.int/eng?i=2018/def/GEO/2/1/EN>

⁸ See Observation (CEACR) - adopted 2017, published 107th ILC session (2018), https://www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101_COMMENT_ID:3344190; Observation (CEACR) - adopted 2018, published 108th ILC session (2019), https://www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101_COMMENT_ID:3957891

⁹ ILO, Labour Inspection Convention, 1947 (No. 81), 19.07.1947 available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312226:NO

¹⁰ ILO, Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81), 22.06.1995, available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312334:NO

¹¹ ILO, Labour Inspection (Agriculture) Convention, 1969 (No. 129), 25.06.1969; available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312274:NO

¹² It is noteworthy, that Labour Inspection Convention, 1947 (No. 81) is ratified by 148 states, unfortunately Georgia is not one of them, see the list of contracting parties, ILO website, available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300::NO:11300:P11300_INSTRUMENT_ID:312226:NO

¹³ 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, 27.06.2014; paragraph 2 of article 229, available at: <https://matsne.gov.ge/ka/document/view/2496959?publication=0>

¹⁴ EU-Georgia Association Agenda for the period 2017-2020, rights of trade unions and core labour standards; <https://mfa.gov.ge/%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->

Georgia has undertaken international obligations with regard to implementation/ratification of a number of ILO standards in the framework of EU-Georgia Deep and Comprehensive Free Trade Area Agreement (DCFTA) as well.¹⁵ Georgia has the obligation to take effective steps for protection of internationally recognized workers' rights also in accordance with Georgia and the U.S. Generalized System of Preferences (GSP) Program.¹⁶

Accordingly, despite the fact that Georgia has not ratified relevant ILO Conventions and the state does not have a direct obligation to implement standards foreseen by them, due to obligations imposed through international treaties signed by Georgia, ILO standards related to labour inspection mechanism become binding in an indirect manner.

In accordance with the ILO Conventions discussed above, we can delineate those minimum standards that have to be met by labour inspection agencies for effective protection of workers' rights. In accordance with the Conventions No. 81 and No. 129, labour inspection agencies need to have the authority to ensure the protection of labour rights at the workplaces (e.g. working hours, wages, safety, health and welfare, employment of children and young persons, other relevant issues), to inform respective bodies regarding shortcomings and violations, which are not regulated within the framework of relevant legal mechanisms, to provide employers and employees with the existing regulations; the inspection should have the authority to use the adequate and effective sanctions, etc.¹⁷

This, on its own, is not an exhaustive list, rather defines the minimum mandate for labour inspection agency, that all state parties to the Convention need to implement. Accordingly, expansion of the existing core mandate is permissible provided that such increase of mandate will not lead to non-fulfillment or improper fulfillment of the inspectors' primary functions.¹⁸

Overview of Labour Inspection Models and International Practice

International experience on labour inspection models, their mandate and competencies is not homogenous, however, labour inspection frameworks of various countries in most cases include the mandate to oversee minimum standards defined by ILO conventions.

[%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/Association-Agreement.aspx](#)

¹⁵ EU-Georgia Deep and Comprehensive Free Trade Area Agreement (DCFTA), article 229, http://www.dcfta.gov.ge/public/filemanager/agreement/sustainable_development/%E1%83%A1%E1%83%A0%E1%83%A3%E1%83%9A%E1%83%98%20%E1%83%A2%E1%83%94%E1%83%A5%E1%83%A1%E1%83%A2%E1%83%98.pdf

¹⁶ Sophia Lin and Rutuja Po, The Use of U.S. Generalized System of Preferences to Promote Labour Rights for All, ICAR, p.4 (2017), https://static1.squarespace.com/static/583f3fca725e25fcd45aa446/t/5a723ff1ec212d3d586635d9/1517436916673/ICAR+GS+Report+FINAL.pdf?fbclid=IwAR3Bmm_8PTHFMzbHPgdgLiJAUV8YlpvL8mhFh1LK5QBB2-91UdV1ORSg0DI

¹⁷ ILO, Labour Inspection: What it is and What it Does, (last accessed on 01.06.2020) https://www.ilo.org/wcmsp5/groups/public/-/ed_dialogue/---lab_admin/documents/instructionalmaterial/wcms_141403.pdf

¹⁸ EMC, Assessment of the Labour Inspection Mechanism and Study of Labour Rights Conditions in Georgia (2017) pp.114-115

In line with ILO Conventions and recommendations based on them, labour inspection mechanisms of various countries have the possibility to carry out effective oversight with regard to issues, such as working hours, wages, safety, health and welfare, employment of children and young persons, other relevant issues – rest/holidays, employment of women, right to organize and engage in collective bargaining, conditions of termination of employment and social security.¹⁹ In recent years, states actively extend labour inspection mandate to cover equality and anti-discrimination policies.²⁰

International experience reveals two major types of labour inspection in terms of their mandate, namely inspection agencies with “general” mandate, the competence of which extends to the whole spectrum of work conditions and employments and inspection agencies with the “special” mandate, the competence of which is rather narrow as a rule limited to oversight of occupational safety.²¹

For instance, inspection agencies in Denmark, Germany and the United Kingdom are focused on oversight of occupational safety; however, even in these cases, the concept of occupational safety covers a range of work conditions, such as working hours, work conditions for pregnant women, etc. Apart from that, in these inspection models, other state bodies outside labour inspection agencies oversee employers’ compliance with their obligations.²²

As for the second - “general” category of inspection agencies, there are two models in the European context. Some countries (Belgium, Czech Republic, Greece, Italy and Romania) have one inspection agency; however, inspectors are structurally separated in respect to issues of workers’ rights and occupational safety respectively. The core challenge of this model is the facilitation of appropriate coordination between inspectors.²³

Certain European countries (France, Hungary, Poland, and Spain) do not have such distinctions between inspectors and they are responsible for oversight over the whole range of workers’ rights. The core challenge of this model is appropriate planning of inspection activities, the definition of priorities and the risk of overlooking significant issues.²⁴

Experience of countries that have the similar context to Georgia is also interesting. For instance, in Ukraine, inspectors oversee implementation of legislation on employment, workers’ rights, employment of persons with disabilities and wages for persons employed in sectors of heavy and dangerous work. For the realization of the said oversight functions, inspectors are equipped with sanctioning powers to impose administrative fines.²⁵ Similarly, the mandate of Kazakh labour inspection agency covers the whole range

¹⁹ ILO-International Labour Conference 95th Session, 2006, Report III (Part 1B), #45 [https://www.ilo.org/public/libdoc/ilo/P/09661/09661\(2006\)1B.pdf](https://www.ilo.org/public/libdoc/ilo/P/09661/09661(2006)1B.pdf)

²⁰ Ibid.

²¹ EPSU, A mapping report on Labour Inspection Services in 15 European countries (2012), https://www.epsu.org/sites/default/files/article/files/EPSU_Final_report_on_Labour_Inspection_Services.pdf

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ ILO, Labour inspection country profiles - Ukraine, (last accessed on 01.06.2020) https://www.ilo.org/labadmin/info/WCMS_209371/lang--en/index.htm

of labour rights. The function of the inspection agency is to monitor compliance with any of the standards foreseen in legislation with regard to labour relations.²⁶

It is noteworthy, that in certain cases labour inspection agencies also participate in individual or collective dismissals through obtaining the prior consent by the employer, consultations with labour inspection agency before rendering the decision (e.g. France)²⁷ and/or communicating/notifying the dismissal decision to labour inspection agency (e.g. Chile, Luxemburg,²⁸ Greece²⁹). In addition, in some countries employees and trade unions have the right to appeal dismissals to labour inspection agency and request review of its lawfulness (e.g. Portugal,³⁰ Chile³¹).

The said overview once again illustrates the diversity of inspection models and competences for protection of workers' interests in various countries; however, the competencies defined by legislation shall not narrow down the issues foreseen under the ILO conventions, namely, at minimum, labour inspection agencies have to be equipped with the authority to oversee working hours, wages, safety, health and welfare, employment of children and young persons, other relevant issues – rest/holidays, and employment of women, right to organize and engage in collective bargaining, conditions of termination of employment, and social security.

Assessment of the Existing Model of Oversight for Labour Rights

Labour Code of Georgia is the core document, which defines the legislative framework for workers' rights and in this regard establishes minimum standards binding on parties of labour relations. Despite the binding nature of these standards, effective protection of workers' rights cannot be achieved only through a material legal framework. It is indispensable that a mechanism is created to oversee the realization of these rights, which will give workers real opportunity to protect their labour rights in practice. Regrettably, still today there is no such effective mechanism of rights protection, except the possibility to initiate proceedings against the employer in court.

The Public Defender of Georgia for a number of times has pointed to the necessity of further regulation of workers' rights and of an independent and effective labour inspection mechanism.³² The 2017 annual report of the State Audit Office also discussed the ineffectiveness of the existing labour inspection model and the negative effect of its limited mandate. The State Audit Office underlines several shortcomings, namely, the fact that the existing form of the core mechanism for workers' rights protection is negatively reflected on the level of workers' rights protection in the country. Failure to introduce the changes also

²⁶ ILO, Labour inspection country profiles - Kazakhstan (last accessed on 01.06.2020) https://www.ilo.org/labadmin/info/WCMS_156049/lang--en/index.htm

²⁷ OECD, Employment policies and data-France, (last accessed on 01.06.2020) <http://www.oecd.org/els/emp/France.pdf>

²⁸ OECD, Employment policies and data-Luxemburg, (last accessed on 01.06.2020) <http://www.oecd.org/els/emp/Luxembourg.pdf>

²⁹ OECD, Employment policies and data-Greece, (last accessed on 01.06.2020) <http://www.oecd.org/els/emp/Greece.pdf>

³⁰ OECD, Employment policies and data-Portugal, (last accessed on 01.06.2020), <http://www.oecd.org/els/emp/Portugal.pdf>

³¹ OECD, Employment policies and data-Chile, (last accessed on 01.06.2020) <http://www.oecd.org/els/emp/Chile.pdf>

³² Public Defender of Georgia (2018). National Basic Research on Business and Human Rights. <https://drive.google.com/file/d/1jlujQ6bN40Wr1BJFukQx3wv326StellI/view>

impedes timely and proper fulfillment of the obligations undertaken by the state vis-à-vis EU. Furthermore, as the labour inspection does not represent an effective mechanism for the protection of workers' rights throughout employment, courts are the main venue for dispute resolution, which implies a lengthy procedure and additional expenses. This exacerbates the negative effects related to the shortcomings of the labour inspection mechanism.³³

Judiciary

Currently, in contrast to occupational safety, none of the agencies of the executive branch of government oversees the realization of rights foreseen in the Labour Code. At this point, practical implementation of workers' rights is completely entrusted to courts, which in turn implies that the state interferes with the protection of workers' rights only in critical situations, in the context of identified disputes and it does not operate an effective mechanism for their prevention and resolution outside courts.

Labour relations are hierarchic. Considering this reality, if rights are violated in the framework of an ongoing labour relation, an employee, as a rule, does not have the real freedom to protect rights in the Labour Code through a legal dispute in court, as the initiation of legal proceedings with regard to a concrete right may ultimately lead to loss of a job and necessary subsistence income.

In addition, the cost of litigation, which is a significant financial burden for a great number of employees, needs to be also mentioned. The problem is becoming more manifest when violated rights are of non-monetary nature, accordingly, the employee does not have a clear financial incentive for initiating a legal dispute (e.g. the right to vacation, working conditions, etc.).

Another important obstacle for workers is the length of legal proceedings due to the workload of courts, namely the legal proceedings may last for several years.

Besides, the State Audit Service points to a large caseload of courts due to absence of oversight mechanism of workers' rights.³⁴

The said problem is exacerbated by the challenges related to alternative dispute resolution mechanisms, for instance, through problems of implementing the outcomes of mediation proceedings in labour relations, which renders this mechanism ineffective as well.³⁵

Considering all of the above, in the context of ongoing labour relations, often employees prefer to remain silent than to initiate legal proceedings in court for remedying their violated rights until the violations reach the level of an extreme crisis for the worker.

³³ State Audit Office, Effectiveness Audit Report on Protection Mechanisms of Worker's Rights (2017) p. 32 <https://sao.ge/files/auditi/auditis-angarishebi/2017/dasaqmebulta-shromiti-uflebebis-dacvis-meqanizmebi.pdf>

³⁴ Ibid.

³⁵ EMC, Legal and Sociological Research of Labour Mediation Mechanism in Georgia Experience, Theory and Practice (2019), https://emc.org.ge/ka/products/shromiti-mediatsiis-samartlebrivi-da-sotsiologiuri-kvleva?fbclid=IwAR1vHNPCpmfYHk1iL2kNf4KdjLiLZ_7IcKK8iNyt97SC3J6if-q0_Kn7vuw

The indicated factors once again emphasize the necessity for establishing an oversight body under the executive branch of government in order to ensure dignified working conditions.

Labour Inspection Department and Oversight of the Labour Rights

Current oversight activities of labour inspection department have three core directions, namely, oversight of occupational safety at the workplace,³⁶ oversight aiming at preventing the forced labour and exploitation and reacting to these cases;³⁷ as for the third category, that concerns oversight of workers' rights, which is practically is an illusory mandate of the labour inspection department, as the department does not, in fact, have any effective mechanisms for the protection of workers' rights.

Namely, every year Georgian Government approves state program for the inspection of working conditions, within which one direction is oversight of labour rights. However, unlike other mandates of labour inspection department, in this sphere oversight authority does not apply without the consent of the employer³⁸ and in the case of violations, inspection mechanism is only empowered to issue non-binding recommendations. Certainly, this cannot be regarded as an actual oversight activity.

Annual report of the labour inspection department itself clearly shows that the existing model is ineffective for remedying violations of workers' rights even when the employer consents to inspection.

According to the report, in line with the resolution N 682 of December 31 of 2018, on "Approval of 2019 State Program of Labour inspection" 107 premises of 19 companies were inspected with regard to the protection of workers' rights.

The following labour rights violations were identified as a result of inspection:

- No contract is concluded– 2%.
- Breach of contract termination rule – 3%
- Unpaid salaries– 2%
- Unlawful dismissals– 2%
- No familiarity with the content of the contract – 18%
- No familiarity with the internal regulations – 8%
- Overtime work is not remunerated - 14%,
- Work during holidays as overtime work is not remunerated – 14%
- More than 3 months period of work is not covered by a contract – 2%
- Employees do not know the content of the contract – 5%
- Work during the probation period is not remunerated – 3%
- The discrepancy between actual duties and job description in the contract – 9%

³⁶ This mandate is essentially based on the Organic Law of Georgia on Occupational Health and Safety

³⁷ This mandate is essentially based on Governmental resolution №112 of March 7, 2016

³⁸ Government Resolution №668 of December 31, 2019 on Approval of 2020 State Program of Labour Inspection, article 2(2)
<https://matsne.gov.ge/ka/document/view/4762946?publication=0>

- Rules related to taking a vacation are violated – 8%
- Remuneration less than in the contract – 2%
- The omission of clauses on rest/holidays in the contract – 8%
- Breach of an obligation to provide contract termination pay- 3%
- Failure to remunerate for the period of sick leave – 3%

For remedying these violations, recommendatory instructions were issued for each of the inspected companies, however, only one of the employers covered the salary arrears in accordance with the recommendation.³⁹

It is obvious that through this model protection of workers' interests and oversight of their rights is not feasible, accordingly, it is indispensable that the mandate of labour inspection department is immediately strengthened in the direction of workers' rights protection, by granting powers necessary for effective oversight, aligned with challenges of workers' rights protection in the country and international obligations of the state.

Apart from the fact that considering the current inspection framework, oversight of workers' rights has to be regarded as a low priority for the state, through this policy, oversight of occupational safety becomes also fragmented, which on the face of it is the priority of state labour policy.

Labour Rights and Occupational Safety as the Indivisible Concepts

Georgian legislation defines occupational safety as the system of protection from negative aspects of work on the life, health and functional capabilities of workers and others persons in the workplace, which creates conditions for the safe and healthy working environment and entails legal, socio-economic, organizational-technical, sanitary – hygienic, treatment – prophylactic, rehabilitative and other measures.⁴⁰ Thus, the definition of occupational safety is rather narrow, based on which issues such as working hours, night work, work regime and others significant factors, which have a substantial impact on occupational safety, do not appertain to the sphere of occupational safety.

It is noteworthy that international principles regarding the labour inspection reject artificial narrowing/fragmentation of the inspection mandate to only cover technical safety and instead subjects the whole range of workers' rights to inspection. The ILO does not set labour rights and occupational safety issues under the different models of labour inspection and perceives them as the concepts subject to equal protection.

ILO Conventions No. 81 and No. 129 define minimum powers of labour inspection agencies to take necessary steps for eliminating all shortcomings of working methods, that may reasonably entail risks for

³⁹ 2019 annual report of Labour Conditions Inspection Department, p. 19; https://www.moh.gov.ge/uploads/files/2019/Failebi/LCID_Geo_a4_1.pdf

⁴⁰ Organic Law of Georgia on Occupational Health and Safety, article 3, paragraph “f” <https://matsne.gov.ge/ka/document/view/4486188?publication=0>

workers' health and safety.⁴¹ However, unfortunately, the legislative framework of labour inspection in Georgia significantly narrows this standard and only oversees the technical aspect of occupational safety, which is devoid of general preventive vision of occupational safety.

One clear manifestation of the indivisible nature of workers' rights and occupational safety is working hours of employees. 2019 annual report of ILO Global Commission on the Future of Work underlines indivisibility of workers' rights, occupational safety, and other categories of rights. According to the report, limits on excessive working hours will reduce occupational accidents and associated psychosocial risks.⁴²

A number of research documents discuss the connection of working hours, shift-work and night work with safety risks at the workplace and different chronic diseases.⁴³ According to one such research report, risks of occupational accidents or illness are found to double between 40 and 65 work hours per week.⁴⁴ Occupational risks proportionally increase with the number of working hours, risks of occupational incidents is doubled between the 8th to the 12th hour of work.⁴⁵

This is evident in the Georgian context as well. In this regard, the situation is particularly grave in sectors of heavy, dangerous and hazardous work, where violation of workers' rights may literally lead to death or destruction of health. The stories told by miners regarding the interconnection of work regime and occupational safety in Chiatura are appalling.⁴⁶ Miners point to health damage cases due to work fatigue.⁴⁷ They also indicate that standardization of working hours can prevent such incidents.⁴⁸

Apart from occupational safety, overtime and/or non-standard working hours significantly impact the productivity of workers, their private and family life as well as health.⁴⁹ Precisely due to these elevated risks, number of ILO Conventions regulates various aspects of working hours and holidays and defines

⁴¹ Art. 13(1), ILO, C081 - Labour Inspection Convention, 1947 (No. 81) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C081

Art. 18(1), ILO, C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C129

⁴² Global Commission on the Future of Work, Work for a brighter future, (2019), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_662410.pdf p. 29

⁴³ Philip Tucker, Simon Folkard, Working Time, Health and Safety: a Research Synthesis Paper, ILO, Series No. 31 (2012) p. 13 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_181673.pdf

⁴⁴ Dominique Anxo, Mattias Karlsson, Overtime work: A review of literature and initial empirical analysis, ILO, Series No. 104 (2019), p. 12 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_663072.pdf

⁴⁵ Ibid.

⁴⁶ https://www.hrw.org/sites/default/files/report_pdf/georgia0819_web.pdf p. 33

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Harrington JMHealth effects of shift work and extended hours of work Occupational and Environmental Medicine 2001; 68-72. <https://oem.bmj.com/content/oemed/58/1/68.full.pdf>

minimum standards to be met by states in these spheres.⁵⁰ It is noteworthy, that Georgia has not ratified any of the said Conventions.⁵¹

It is noteworthy, that within the framework of the EU-Georgia Association Agreement, apart from advancing towards ILO standards, Georgia also has the obligation to harmonize legislation with EU directives related to workers' rights. Among others, Georgian Labor Code has to reflect standards set by EU directives regulating working hours, night work, overtime work, shiftwork, etc.⁵²

Due to all of the above, even if the mandate of labour inspection is expanded and it extends to oversight of workers' rights, without parallel legislative changes to the Labor Code for the elimination of existing shortcomings as well as the introduction of international standards, the said reform cannot be regarded complete. Therefore, it is indispensable that working conditions and occupational safety are seen as interdependent and indivisible values, which require equal protection from the state.

Conclusion

The overview of international obligations of Georgia, international experience and assessments of existing inspection mechanism in the present document shows that existing model of labour inspection and legislative framework cannot address the dire situation with regard to workers' rights protection and leaves these problems beyond the oversight of the executive government and without effective implementing mechanisms.

This makes the positive reforms undertaken in recent years in the sphere of labour policy fragmented. The overview presented in the document further illustrates that without comprehensive monitoring of workers' rights, an inspection of only occupational safety standards cannot guarantee safe and dignified working environment. Occupational safety without workers' rights is its rather narrow understanding. In parallel to labour legislation focused on the protection of rights, institutionally strong and independent labour inspection mechanism is the cornerstone of well-functioning labour policies. Accordingly, it is indispensable that consistent policies are implemented for eliminating shortcomings in this sphere, which will ultimately create a dignified work environment for employees in Georgia.

⁵⁰ For example, see Hours of Work (Industry) Convention, 1919 (No. 1); Hours of Work (Commerce and Offices) Convention; 1930 (No. 30); Forty-Hour Week Convention, 1935 (No. 47); Weekly Rest (Industry) Convention, 1921 (No. 14); Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106); Night Work Convention, 1990 (No. 171)

⁵¹ ILO, Ratifications for Georgia
https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102639

⁵² 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, L261/4, Official Journal of the European Union, July 30, 2014, [https://eurlex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830\(02\)](https://eurlex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830(02))

Recommendations

For the Government of Georgia

1. To ensure consistent labour policies and implement reforms for alignment of Georgian labour legislation with international standards and for addressing the challenges existing in the sphere of workers' rights.
2. To provide labour inspection agency with appropriate financial, material, and human resources.

For the Parliament of Georgia

1. To ensure the transformation of the existing labour inspection mechanism, namely, to increase its mandate for effective oversight of standards (both related to occupational safety and workers' rights) defined by labour legislation.
2. To establish appropriate sanctions for violation of labour standards in order to effectively prevent violation of workers' rights.
3. To ensure ratification of the core ILO Conventions, in particular:
 - In the sphere of labour inspection (Labour Inspection Convention 1947 (No. 81) and its 1995 protocol, Labour Inspection (Agriculture) Convention 1969 (No. 129));
 - Hours of Work (Industry) Convention 1919 (No. 1);
 - Hours of Work (Commerce and Offices) Convention 1930 (No. 30);
 - Forty-Hour Week Convention 1935 (No. 47);
 - Weekly Rest (Industry) Convention 1921 (No. 14);
 - Weekly Rest (Commerce and Offices) Convention 1957 (No. 106);
 - Night Work Convention 1990 (No. 171).
4. To facilitate the oversight of executive government over compliance with international obligations undertaken by the state in the sphere of labour policy.