**EU-GEORGIA CIVIL SOCIETY PLATFORM**

**Occupational Safety and Health - Review of Recent Trends**

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One of the most acute challenges in Georgia today is ensuring safe working conditions in the workplace. The number of deaths and injuries from industrial accidents is increasing every year. In 2011-2018, 376 died and 1081 were injured in the workplace. This year alone, 20 died and 24 were injured. Construction and mining sectors are still leading in this regard.

However, it should be noted that the state does not even provide comprehensive account of accidents in this respect, as the above statistics are based on the data of the Ministry of Internal Affairs and, therefore, only covers the cases on which the investigation were initiated. Hence, it does not include many industrial cases that were not reported and were not heard outside the workplace due to certain agreements between the employer and the employee or various other reasons (intimidation, blackmail), that prompted employees to remain silent. In addition, the statistics do not include those injured and deceased as a result of occupational diseases and those whose deaths did not occur immediately after the industrial injury (s) but occurred later.

Since 2006, as a result of neoliberal policies, the labour legislation has effectively been abolished and important labour market regulating institutions, including the labour inspection, were dismantled in the country. One of the reasons cited for the abolition of the labour inspection was its corrupt nature, though, for years, the state has not provided for its reform or other, more effective, alternative mechanism.

This attitude has been the subject of criticism from many local and international organizations (ILO, European Commission, US State Department, etc). However, the changes and amendments to the Labour Code in 2013 have not addressed labour safety issues either.

In 2014, given 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 and its agenda 2014-2016, the issue of the establishment of the labour inspection has become a pressing issue since the aforementioned documents establish Georgia's unequivocal and unconditional commitment to create effective inspection mechanisms of working conditions in full compliance with the ILO standards. This implies unconditional access of the labour inspection to any workplace and ensuring compliance with the labour law. Annex 30 of the Association Agreement provides for 40 European directives with which we have to approximate our legislation, including the key part (26 directives) on occupational health and safety.

Given the above, the state has undertaken some steps to ensure occupational safety, in particular; On March 2, 2015, the Labour Conditions Inspection Department was established as part of the Ministry of Internally Displaced Persons  from the Occupied Territories, Labour, Health and Social Affairs of Georgia, which operated in accordance with the government-approved “State program for the monitoring of working conditions”, which, respectively, was not binding and did not include the sanction mechanism.

After lengthy discussions, on March 7, 2018, the Law “On occupational safety” was adopted, which became the Organic Law on February 19, 2019.

The purpose of this law is to determine the basic requirements and general principles of preventive measures with regards to occupational safety and health, existing and future hazards, prevention of accidents and occupational diseases, training of workers, provision of information and counseling to workers.

The current law was limited in scope and only covered hazardous, strenuous, injurious and dangerous jobs, the list of which is determined by the Government of Georgia[[1]](#footnote-1).

Starting from September 1, 2019, the law will apply to all areas of economic activity in the field of occupational safety and health.

According to the law, the employer is obliged to register activities of hazardous, strenuous, injurious and dangerous activities; otherwise it will be subject to financial sanctions in the amount of 1000 GEL, and in case of recurrence - to 2000 GEL.

According to the same law, the employer is obliged to ensure safety in the workplace. With this in mind, it should take preventive measures, carry out arrangement and management of occupational safety, ensure workers’ involvement in occupational safety-related issues, and provide first aid medical assistance, fire safety and evacuation, if needed, in the workplace. In addition, the employer is obliged to:

* Ensure registration, investigation and relevant reporting of accidents and occupational diseases in the workplace;
* Provide insurance for accidents at its own expense for workers employed at hazardous, strenuous, injurious and dangerous workplaces;
* Regularly inspect the safety of technical equipment;
* Provide workers with free training / instruction about occupational safety in a language they understand, during working hours while maintaining a pay schedule;
* Appoint one or more workers as an occupational safety specialist(s) or to set up an occupational safety unit for the above purpose, etc;

The law also gives the worker a number of rights, such as:

* Refuse to perform any work, assignment or instruction that is contrary to the law or due to its non-compliance with the occupation safety and health norms creates the apparent and substantial threat to the safety, health or property of the worker or that of the third party, or the safety of the natural environment;
* On the basis of a medical certificate, request the employer to relocate the worker to another permanent or temporary job or to alleviate working conditions, or to change to day shifts if the night shift is detrimental to the health of the worker while the employer has a suitable job vacancy and the worker meets the requirements of this job;
* Receive compensation in accordance with the Georgian legislation for damages caused in the workplace;

According to the law, accidents in the workplace are classified in accordance with its effects and the number of people injured at one time, as follows:

a) Mild severity accident - mild injury due to accident without loss of ability to work or loss of ability to work for no more than 3 days;

b) Moderate severity accident - damage due to accident with loss of ability to work from 3 days to 40 days;

c) Severe accident - development of permanent disability or severe health injury and / or temporary disability development for more than 40 calendar days due to an accident;

d) Fatal accident - death of a person (employee or other person) in the workplace due to an accident or within one year of an accident;

e) Mass Accident - the injury of 3 or more people due to an accident, including 1 severe accident or 1 fatal accident.

In connection with the above, the employer is obliged to notify the supervisory body within 24 hours of the occurrence of the moderate severity accident, severe, fatal and mass accidents and keep relevant evidence.

The supervisory body designated by the law is the Labour Conditions Inspection Department of the Ministry of *I*nternally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

Starting from September 2019, the above-mentioned department is authorized to inspect any workplace subject to inspection without advance notice, to conduct inspection, search and check of the workplace, at any time of day, necessary to ensure effective enforcement and use of occupational safety standards.

Although, prior to September 1, 2019, the Labour Conditions Inspection Department required advance court permits for inspectors of hazardous, strenuous, injurious and dangerous work, with the following exceptions:

* Selective control once a calendar year;
* For repeated inspection within a reasonable time;
* Workplace accidents;

The above-mentioned department began applying sanctions for violations on August 1, 2018.

The following are administrative violations of the law: performing hazardous, strenuous, injurious and dangerous activities without registering such activities; obstruction of the work of the supervisory body; violation of the occupational safety norms defined by the technical regulation (regulations) approved by the Government of Georgia and violation of the requirements of this law.

The following administrative penalties apply for the offense: warning, fine and suspension of work. The amount of the fine depends on the severity of the violation and the total amount of VAT taxable operations carried out during the previous 12 consecutive months and ranges from 100 GEL to 50,000 GEL.

In view of the above, from September 2019, the law “On occupational safety” comes in line with the ILO standards (Conventions 81, 155, 176). These conventions have not yet been ratified by Georgia, and their ratification has been requested by the Georgian Trade Unions Confederation for years and is also reflected in the Action Plan of the Tripartite Social Partnership Commission of Georgia. However, due to the inaction of the Commission and the fact that there is no social dialogue in the country, this has not yet been discussed.

It is important that in September 2018, the aforementioned commission, at the initiative of the Georgian Trade Unions Confederation, discussed the situation in the Tkibuli mine, where again, at the initiative of the trade unions, it was decided to invite experts from the International Labor Organization and study the existing occupational safety standards. However, the findings of these experts have not been made public to this date and, therefore, its contents are not known.

Despite some of the above-mentioned progress, limiting the mandate of the Labour Conditions Inspection Department to occupational safety alone still remains a problem. It does not apply to labour rights at all, while the distinction between these two categories does not actually exist. Most of the industrial cases are results of physical exhaustion of employees due to the neglect of such labour rights as: holiday leave, overtime, sick leave, etc.

In addition to the above, there are problems related to policy of the criminal law and investigation of cases with respect to the industrial accidents. This investigation, as a rule, is delayed in time and is ineffective as it often results in criminal responsibility of not high-level but middle-level management of the company.

Therefore, further changes are needed for the labour legislation enforcement mechanism to be effective and for reduction of the alarming statistics of those deceased and injured in the workplace.

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1. Resolution of the Government of Georgia No. 381 dated 27 July 2018 “On approval of the list of hazardous, strenuous, injurious and dangerous jobs”. [↑](#footnote-ref-1)