# Labor Reform in Georgia

On September 29, Parliament of Georgia has approved a bill of legislative changes and amendments to the Labor Code of Georgia and the Georgian Law on Labor Inspection. Originally, the bill was prepared by a technical support of the ILO experts in 2019. Georgia. GTUC was actively involved in the law making process and submitted more than fifty recommendations to improve Georgian labor legislation including equality provisions. In the beginning almost all proposed recommendations (more than 50 recommendations) were approved, however as a result of the pressure coming from the business organizations and business lobbyists such as; Business Association of Georgia, American Chamber of Commerce etc. Some of the GTUC proposals have been removed from initial draft law. Finally, we got the documents which in many areas improved worker rights protection guarantees .

The package addresses a wide range of labor rights: including working hours; workers’ rights during massive layoffs or the change of ownership of companies; introduction parental leave; broadening the mandate of the State Labor Inspectorate (LI) to monitor the enforcement of all labor rights, not just occupational safety and health (OSH); definitions of direct and indirect discrimination, definition of harassment prohibition of unequal pay for equal work; mass redundancy, introduction of exchange of information and consultations at workplaces; introduction of term remuneration and etc.

One of the key novelties of reform is a new chapter in the Labor Code concerning the establishment of the full-ledged labor inspection to observe enforcement of labor legislation related to all labor rights and applying repressive power to impose administrative fines on companies or individuals if they violate labor norms. Institutional operation and internal structure of the Labor Inspection will be defined by a separate law of Georgia on Labor Inspection.

Above-mentioned regulations still need to be published officially in order to enter into force.

**Prohibition of Discrimination in labor relations**

A list of discriminatory grounds widens up, terms of direct and indirect discrimination is introduced; equal renumeration for equal value of work between men and women is reflected; a principle of reasonable accommodation introduced, according to which employers are obliged, if necessity arises to implement certain policies and measures to create equal opportunities for people with disabilities aiming to promote their professional growth and employment prospects. Besides, the bill introduces a term of burden of proof in pre-contractual relations. In particular, if a job applicant has a reasonable doubt that he/she was subjected to discriminatory treatment during the recruitment process and refers to certain facts and circumstances, an employer should prove that mentioned applicant was not subjected to discrimination.

GTUC recommendation on introducing methodology to measure/evaluate work`s value finally was not adopted.

**Labor Contracts**

According to new regulations: Labor contracts shall determine that internal regulations are part of the labor contract and in such cases, employers are obliged to familiarize employees with internal regulations and to notify employees about any changes in the internal regulations within 14 calendar days, since such changes took place.

It stipulates that the labor contracts should be concluded in a written form, if the labor relations exceeds one month. Existing Labor Code allows employers not to conclude written contract, if the labor relations continue up to three months.

GTUC Recommendations to limit short term contracts according to the international labor standards finally was not accepted.

**Part-Time Work**

The bill introduces new regulations concerning part-time work. Part-time worker is defined as a person whose working time during the week or average working time during one year’s employment is less compared to persons who perform their work duties on full time bases. New regulations also establish that part-time workers shall enjoy all labor rights on equal footing with full-time employees, except when different treatment is justified with objective grounds. The bill also stipulates that employers shall apply measures to change workers part-time status with full-time one, if possible and necessary.

**Internship**

The reform introduces a definition of Intershipp. According to new regulations, an apprentice is a physical person who performs certain task for employers in return of remuneration or without it with a purpose of professional advancement, acquiring additional knowledge, skills and practical experience. Regulations also forbid employers to use a labor of apprentices in order to avoid concluding labor contracts, employers have no rights to take on apprentices to replace those employers with whom labor relations are suspended or terminated. Regulations further stipulate that duration of apprenticeship without remuneration should not last for more than 6 months, while apprenticeship with remuneration should not exceed one year. A physical person shall be recruited as an apprentice only once by the same employer. The relations between employer and apprentice shall be regulated by written contract and include provisions of the detailed description of work.

**Work Performance**

The bill introduces new regulations to protect pregnant, newly delivered or breastfeeding women. In particular, new provision entitles pregnant, newly delivered or breastfeeding women under the reasonable accommodation to demand from employers to perform work that corresponds to their health conditions on the basis of provided medical report.

**Work, Break and Rest Time**

 According to the bill, an employee shall be granted with one-hour break time, if performed work during the day is not less than 6 hours. Employers are obliged to ensure that rest time between the working days (shifts) is not less than 12 hours, while during the seven days rest time shall be at least continuously 24 hours. The parties may agree that employees can use 24 hours rest time continuously twice in a row but no longer than 14 days.

It should be noted that the legislation did not provide rest time and rest day before. It was legal to work every day without rest.

Employers are obliged to describe task performed by employees on daily basis in written or electronic form and provide employees with information about registered hours worked end of every month. Employers should keep this information for one year. Regulations about registering working hours will be adopted by the Ministry of Labor in close consultations with social partners.

The bill introduces new limitations on Night Work. In particular, maximum working time for employees working during night time, in hazardous, severe or harmful environments shall not exceed 8 hours in 24 hours. This limitation does not cover workers who work in shifts in hazardous, severe and harmful environments. According to new regulations, upon employees’ request, employers are obliged to conduct medical examination for night time workers before they start performing their duties and on regular basis during the employment with observance of all principles of medical confidentiality. If night time workers have health related problems, employers are obliged to transfer them to the day time work if such possibility exists.

According to the bill, pregnant women, upon their request will be entitled to have additional time for medical examination, if such examination should be carried out during working hours. The time spent on medical examination of pregnant women will be considered as normal working hour and remunerated provided all necessary medical documents and report are presented.

**The bill also included a fixed minimum rate for overtime pay. The current Labor Code does not set any standard in this regard and formulates that overtime shall be paid with increased rate, without specifying, how much. The parliamentary Committees approved a proposed provision by the authors of the bill to set a rate in amount of at least 125 per cent of normal hourly work. The parliament approved this formulation during the first reading at the plenary session. However, during the second reading to compromise business community and to follow the suggestions of the government of Georgia this provision obliging employers to pay overtime work at the rate of 125 per cent was removed from the bill leaving many workers exposed and at the mercy of employers to pay decent rate for overtime work. The members of the parliament stated that COVID 19 had very negative impact on businesses and introduction of new regulation could further weaken economic livelihood of companies and encourage so called ‘’shadow economy’’.**

Thus, GTUC request on 8 hour working day, maximum 40 working hours per week for any workers and overtime remuneration with at least 125 % was not approved.

**Paid leave due to pregnancy, childbirth or childcare**

The bill envisages regulations related to paid leave for pregnancy and childbirth for 126 calendar days, in case of complicated childbirth or birth of twins- 143 calendar days. Due to childcare a person shall be granted 604 calendar days of leave, out of which 57 days will be paid. A mother or a father of a child can enjoy with 57days paid leaves for childcare purposes. According to this amendment, fathers will also be entitled to paid leaves for childcare, which is not legally possible under the current Labor Code. Despite the fact that paid leave for pregnancy and childbirth is an exclusive right of mothers, according to new regulations fathers can also use mothers’ unused days of paid leave due pregnancy or childbirth. **It is worth noting that a very first draft of a legislative package that was presented in September 2019, was introducing a term of paternity paid leave for two weeks during one month after birth of a child. Apart from this, the first draft also envisaged payment of 80 per cent of salaries during paid leaves for workers in private sector due to pregnancy and childbirth from the state budget. Public servants are advantageous situation compared to private sector employees, since public servants are paid full salaries for the duration of maternity or childcare leaves. Unfortunately, this clause was removed from the original version. To note, employers’ association did not oppose this particular formulation.**

**GTUC request on fully paid maternity leave was not approved**

**Massive lay-offs and transfer of companies to other owners**

The bill regulates issues of massive lay-offs obliging employers to comply with set of rules procedures and various structures of in advance notifications proportionally to the size of companies. This amendment fully aligns with the EU Directive reflected in the EU-Georgia AA. to the size of companies. Legislative package also establishes obligations for owners of companies to set clear communication and information sharing mechanism in case of full or partly transfers of ownership of enterprises to other owners. Information sharing about massive lay-offs also obliges companies to create clear and permanent information sharing channels with workers association.

**Strikes and Mediation**

The bill regulates some aspects of industrial action-strike to meet recommendations of the ILO experts’ committee. In particular, the Ministry of Labor will create a list of essential services in accordance with internationally recognized standards in consultations with social partners. The agreements of mediation will be enforced through courts.

**Information and consultation in workplaces**

Companies, which employ no less than 50 employees, are obliged to set permanent and clear channels for the Promotion of information sharing and consultation process. Employers are obliged to share information and engage in consultations with workers’ representatives on the issues related to economic situation of the company; about structure of employment within the company and any planned activities that may have substantial impact on salaries, working conditions and create threats to the continuation of labor relations. If in any given company a number of workers varies from 50 to 100, employees have right to elect three representatives to participate on their behalf in consultations with employers. In case of employees’ number in given companies exceeds 100, on every 100 employees can additionally elect one workers’ representative. The representatives of employers and employees shall organize consultative meetings with certain frequency on the basis of shared information and necessities. Employers are obliged to provide information to employees 30 days in advance before employer will take decisions that may have certain impact on workers’ interests. Information shall be provided in written form and the content of information shall allow employees to study provided information thoroughly and prepare for consultations. The representatives of employers and employees may agree on practical mechanisms of consultations. The collective agreement may consider establishment of committees at workplaces. **This particular provision shall serve as a good starting point for the promotion of social dialogue at the enterprise level in Georgia and establish trust among parties of labor relations with a far-reaching aim to seek peaceful ways for the settlement of collective labor disputes, as well as to play an instrumental role in the enforcement of labor regulations.**

**Labor Inspection**

The bill envisages the creation of the full-ledged labor inspection, as a public legal entity to observe enforcement of labor legislation related to all labor rights. The labor inspection will have a broad mandate to examine labor rights situation not only in private, but also in public sector and apply sanctions against companies or individuals who violate labor rights. As for institutional operation and internal structure of the Labor Inspection, it will be defined by the new law of Georgia on Labor Inspection.

**GTUC Recommendations to set real minimum wage and solidarity strikes were not approved.**