



EU-GEORGIA CIVIL SOCIETY PLATFORM

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Georgian Recent developments on Occupational Safety and Health Protection in Georgia

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Occupation health and safety (OSH) protection in Georgia still remains as one of the main challenging issues up today throughout the country

From the beginning, recent years positive developments in Occupational Health and Safety area needs to be underlined and positively assessed. Particularly, On February 6, 2020 Government delivered a Resolution according to which the list of the economic sector priority areas that determine a method of risk assessment in the workplaces has defined.²

Furthermore, the special Order on Risk Assessment has delivered by Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia (Ministry of Labour) on February 18, 2020.³ The first document defines the priority list of the economic sector in light of the risks coming from the specificity of the work in this specific area and the other one includes the chart that needs to be filled in which should ensure unified approach to measure particular hazards coming from the specific workplaces. Moreover, in February 2020 the list of the works that is harmful or risky to the health of pregnant and nursing women have been approved.⁴

Dispute the above-mentioned positive developments in the OSH area official data still shows an increase in the workplace accidents every year. During the last ten years, in between 2010-2020, 450 workers died and 1065 were injured as a result of occupational hazard. Regrettably, just this year, in a course of almost 2 months 1 person died, and 5 people were injured in the workplaces already.

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² Government Resolution N 80, February 6, 2020.

<https://www.matsne.gov.ge/ka/document/view/4793337?publication=0>

³ Ministry of Labor Order N №01-21/n <https://matsne.gov.ge/ka/document/view/4793896?publication=0>

⁴ Ministry of Labor Order N №01-20/n

<https://matsne.gov.ge/document/view/4787924?publication=0&fbclid=IwAR2KncyUNYICee46xcVWYXYiUQtUqE6myHjt9SnKmGLctPhdZBIEoD3HZA>

In line with the given figures, it should also be noted that the abovementioned statistics is not accurate as it is based on the official data provided by the Labor Condition Inspecting Department under the Ministry of Labour which itself does not provide a sufficient methodology to measure the occupation health and safety accidents to address the problem efficiently.

The main goal of the new Organic Law on “Occupational Safety and Health” is the prevention of workplaces accidents and/or mitigation of workplace hazards. Regrettably, failure of having the methodology to measure accurately figures of workplace accidents leads to the lack of the analyses on the causes of those accidents, which itself creates an obstacle to reach out the main goal of the Georgian OSH Law, such as a prevention and mitigation of workplace hazards and accidents. Particularly, official data coming from the Ministry of Labour does not cover a lot of accidents, for instance, those not been reported and/or not been gone beyond the workplace due to certain “negotiations” or other possible threats (harassment, blackmailing,) coming from employer to employee. Moreover, the data does not count the injures and deceases that comes from an occupational hazard and number of fatal workplace accidents if they do not occur right after the industrial accidents but appears a bit later. Furthermore, according to the OSH law employers are not obliged to report on mild severity workplace accidents. Thus, the given figures do not show the real number of the workplace accidents as it lacks regulatory provisions in the OSH law and consequently establishes a wrong practice.

Georgia has undergone through a very long process of developing the OSH standards in order to stand in the place where it is now. In 2006 due to the neoliberal policies instead of the improving the Law on Labor Inspection Law it was entirely annulled together with the other very important labour market regulating institutions. One of the reasons of its abolishment was the failure of the institution that was announced as a corrupt one. This matter has been the subject of criticism from many national and international organizations (ILO, European Commission, US State Department, etc) for a very long time. Despite of that the Labor Safety issues has not been mentioned even in 2013, during the Labor Law reform.

It has taken almost 9 years to start initiating discussion to regulate the occupational health and safety conditions in the country. Signing the Association Agreement between the European Union and the European Atomic Energy Community and their Member States and with Georgia (EU-Georgia AA) significantly contributed in improvement the regulations, consequently, the practical implication of the workplace safety in the country. According to the EU-Georgia AA regulation of the OSH issue has been one of the emerging matters. Annex 30 that apples to the EU-Georgia AA’s social dimension recommends harmonizing Georgian legislation with the 40 European directives, 26 directives out of which entirely are dedicated to the Occupational Health and Safety protection.

Following to the recommendation coming from the EU-Georgia Association Agreement the country has undertaken some positive steps to develop this particular institution. Thus. On March 2, 2015, the Labour Conditions Inspection Department was established under the Ministry of Labor the scope of the work of which was regulated by the “State program for the monitoring of working conditions”, which, respectively, was not binding and have not even had an authority to monitor workplace without consent and prior notice of employer, even more in case of revealing the violation it had no power to apply any sanction on infringement of safety conditions at work.

The law on Occupational Safety and Health first entered into force on March 7, 2018, it has been replaced by the Organic Law on OSH entered into force on February 2019, however the scope of the law was still limited and covered only hazardous and dangerous jobs, the list of which is determined by the Government of Georgia.⁵ The mandate of the labor inspection has been expanded starting from September 1, 2019 and it at the present time it applies to all areas of economic activity regarding protection of the occupational safety and health conditions in employment.

The purpose of the 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.

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;

⁵ Resolution of the Government of Georgia No. 381 dated 27 July 2018 "On approval of the list of hazardous, strenuous, injurious and dangerous jobs". <https://matsne.gov.ge/document/view/4277583?publication=0>

- 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.*

Thus, 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 Labour 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.

Considering all the above-mentioned it can be concluded that current OSH law mainly is in line with the ILO standards (Conventions 81, 155, 176). Although, Georgian Trade Unions Confederation (GTUC) has been advocating for ratification of all abovementioned conventions for many years, the agreement has not been reached yet. As a member of the Tripartite Social Partnership Commission (the Commission) GTUC constantly tried to initiate discussion on labor related rights through this platform, such as: ratification of ILO abovementioned conventions and amendments in OSH related legislation, unfortunately, due to the lack of the effectiveness of the Commission's work these issues have not been even discussed yet. Thus, GTUC recommends starting discussion on amendments in the national OSH related legislation, and on ratification of ILO Conventions under the Tripartite Social Partnership Commission.

Despite some of the progressive steps that the country tried to put forward, the scope of the mandate of the Labour Inspection still remains as a very emerging one. Particularly, the current mandate of the Labor inspection covers solely monitoring and supervision over occupational safety conditions not the labor rights. It should also be highlighted that occupational Safety and Health and Labor right issues are very interrelated, indispensable and essential issues that should not be divided in two different categories. Some of the accidents at workplaces occur just as a result of physical and mental exhaustion of employees caused by the violation of their labor right, such as: excessive and unlimited working hours, refusal to pay for overtime work, prohibition to use annual leave, sick leave etc. Therefore, GTUC recommends improving the OSH related legislation and expand the mandate of the labor inspection toward labor rights in line with the OSH issues.

Additionally, there are problems related to policy of the criminal proceeding and the delay and efficiency of the investigation on the cases related to the industrial accidents. Moreover, the liability for criminal offences as usual lies on middle-level management in order to let top managers to avoid the criminal liabilities. Consequently, GTUC recommends improving the practice in this direction and prioritizing investigation toward industrial accidents.

Lack of the human resources in the Labor Condition Inspecting Department is another obstacle for efficient work of the institution, although the law defines the necessity of having 100 labour inspectors, just 33 inspectors work at the present time throughout the country. Not having the regional coverage and non-existing regional offices also negatively affects the work of the department. Thus, it is recommended to enhance the capacity of the institution to ensure its efficient functioning.

Therefore, further improvement is recommended at legislative level and in practice for further development of the institution, to make it more efficient and mitigate an alarming date of deceased and injured workers as a result of the workplace accident.