

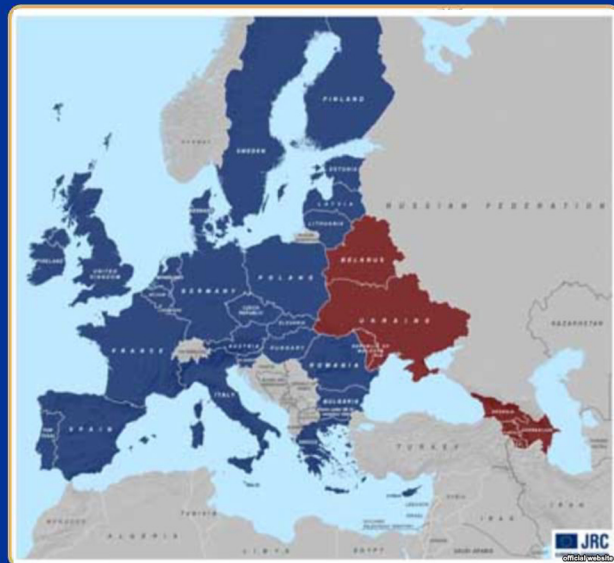


CAUCASIAN INSTITUTE  
FOR ECONOMIC AND SOCIAL RESEARCH



ეკონომიკის პრობლემების კვლევის ცენტრი  
CENTRE FOR ECONOMIC PROBLEMS RESEARCH

# EASTERN PARTNERSHIP AND SOCIO-ECONOMIC POLICY OF GEORGIA



OPEN SOCIETY GEORGIAN FOUNDATION  
ფონდი ღია საზოგადოება საქართველო

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The book is published within the framework of a contest announced by the Open Society – Georgia Foundation, which has launched the project “Activation of a national platform in the context of Eastern Partnership for the development of social-economic policy of Georgia”.

The suggestions and recommendations expressed herein do not necessarily reflect the views of the Open Society Georgia Foundation. Hence, Georgia Foundation does not have any responsibility on the contents of this issue.

**Authors:** Dr. Davit Narmania  
Dr. Elguja Khokrishvili  
Dr. Temur Murghulia  
Dr. Nodar Khaduri  
Shota Murghulia  
Elza Jgerenaia  
Temur Tordinava  
Mikheil Dzagania

**Responsible person on this issue:** Dr. Davit Narmania - Executive Director of Caucasian Institute for Economic and Social Research.

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## Eastern Partnership and Socio-Economic Policy of Georgia (Summary information)

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### General Information

The Eastern Partnership - a new EU initiative is a significant program for Georgia providing transformation of the EU-Georgia relations. Along with Partnership and Cooperation Agreement (PCA) and European Neighbourhood Policy (ENP), Eastern Partnership (EaP) facilitates Georgia's progress in EU integration. Besides the numerous challenges, participation in the Eastern Partnership obliges Georgia to continue its reform course. Unprecedented opportunities of harmonization and the necessity of the accumulation of resources are the significant challenges for the current period.

The economic and social integration is one of the main issues in the general context of the EU integration. Sustainable development and harmonization of competition policy, signing Deep and Comprehensive Free Trade Agreement (DCFTA), higher education, food safety, protection of intellectual and industrial property, poverty reduction and social equality, consumer rights protection, social partnership etc. are among them.

With the view of harmonizing economic and social issues with the EU and identifying existing challenges, the Caucasian Institute for Economic and Social Research under the support of the Open Society – Georgia Foundation has implemented the project “Activation of a national platform in the context of Eastern Partnership for the development of social-economic policy of Georgia”. The project was carried out in 2011 in cooperation with partner organization Economic Problems Research Centre and was financed under the initiative of Open Society – Georgia Foundation, aimed at raising public awareness of Eastern Partnership and activating the National Platform of the EaP Civil Society Forum.

The book "Eastern Partnership and the Social-Economic Policy" has been prepared within the above-mentioned project and the initiative. It includes the materials related to the economic and social integration in EU, analysis of the official documents, the experts' opinions, conclusions and suggestions, and the role of the Civil Society in the integration process. The book also covers brief overview of the reforms ongoing in other Eastern Partnership member-countries, as well as the best articles revealed by the students and media contest announced within the project.

Chapters summarized hereby are extracted from the book and due to the format of the edition, only the main emphases are presented.

### Motivations and Perspectives of Georgia in the Eastern Partnership

The allocation of finances for Georgia, within the initiative of the EaP has been significantly increased. In the period of 2007-2010, within the ENP instrument, 120 million Euros have been allocated; this sum will be increased by about 50% in 2011-2013 to reach 180 million Euros. The funding will be spent on four priority-spheres within which, promotion of bilateral and multilateral cooperation programs by the government of

Georgia and the EU is planned.

Certainly, the allotted amount will not suffice to cover fully the expenses of the reforms implemented by Georgia within the EaP. Compared with the political and economic benefits expected from Georgia integration in the EU, all the critical arguments recently expressed concerning the lack of EaP funding are insufficient.

Georgia has to carry out all the obligations assumed under the ENP Action Plan to start negotiations on DCFTA. Despite a number of problems (mainly due to the fact that the government gave priority to a liberal economic model), Georgia will still have to introduce the European type of regulations (regarding the Labour Code, competition regulation, food safety etc.), as part of the negotiations for association agreement, and DCFTA. The recent discussions about how Georgia could benefit from fulfilment of DCFTA-related requirements are not reasonable today for some reasons. On the one hand, the economic researches showed that in short-term vision, the fulfilment of DCFTA-related requirements will increase the expenses for the state administration and the private sector; on the other hand, in the long-term vision, Georgia will have a huge benefit from this agreement. According to the experts assessment, by signing the DCFTA, the share of foreign direct investments will increase from 2.3 billion (2008) up to USD 11.36 billion (2020). In addition, exports will increase by 13.3% every five years.<sup>1</sup>

The perspective of EU membership under the EaP is not envisaged. This fact makes the partner countries more critical when comparing costs and benefits in the process of transition with the standards of democratic Europe. Political benefit of the EaP for Georgia is signing the EU Association Agreement. Although the Association Agreement (AA) does not include the matters of conflict resolution, a deeper cooperation with the EU under EaP can be regarded as some sort of indirect security guarantee.<sup>2</sup>

The revised document of the ENP is also reflected on the Eastern partnership. Special attention will be drawn to the intensification of civil society involvement and support. The aspect of regional cooperation will be put forward within the multilateral cooperation, as well as bilateral cooperation. At this point, one can say that "more for more" will be a guiding principle of EaP, according to which the EU will estimate and support reforms successfully implemented by its partners. By 2014 and the following years, distribution of the intended financial assistance to partner countries will be relevant to successfully performed reforms in 2010-2012.

### Customs Regulations, Trade Facilitation and EU Standards

The free access to the EU markets for Georgian goods is one of the major factors and the preconditions for the Georgia's economic development, attraction of investments and improvement of living standards.

It is worth noting that despite the high importance of tariff barriers, minimization of non-tariff barriers is vital for Georgia. Presently Georgia operates with tariff preferences; however, they have not caused revolutionary changes in the geography of our export. Account shall be taken to the fact that there is a long experience of overcoming trade barriers between the EU and Georgia. Though it has not

<sup>1</sup> **Maliszewska M.** (ed.), *The Economic feasibility, general economic impact and implications of a free trade agreement between the EU and Georgia*, CASE Network report No. 79 (2008), p. 143.

<sup>2</sup> **Khidasheli T.**, *The European Path of Georgia*, Warsaw, 2010 pp.-10-12.

been reflected in a considerable stimulation of exports, the process is launched that provides a reason for optimism.

Presently free access of the Georgian goods to the EU markets is hindered by customs procedures, the customs non-tariff barriers, the standards and quality control mechanisms. Therefore, the abovementioned barriers can be minimized through approximation of Georgia and EU in these particular areas.

EU is a major trade partner of Georgia. In recent years, 20-25% of Georgian exports are conducted in the EU, and the entire volume of goods imported from EU is about 30%<sup>3</sup>. Therefore, as Russian market is practically closed for Georgia, the increase of market penetration is a serious factor for the economic development.

In 2008, the European Union has extended the Generalized System of Preferences of Good Governance and Sustainable Development (GSP+)<sup>4</sup> up to three years (2009-2011) for Georgia. Theoretically, within this system, the preferences are applied to 7200 products produced in Georgia; unfortunately, we use only 30 out of them. Further discussion on this issue was initially scheduled for December 2011, but in May 2011 the European Commission has decided to extend the Generalized System of Preferences for Georgia (as well as for the similar countries) automatically until the end of 2013.

**It can be said that the GSP+ format appeared to be less useful for Georgian export diversification: according to this scheme, the traditional export products are mainly exported from Georgia to the EU.** In 2010, by the GSP+ system Georgian products were exported to 23 EU countries, in 2009 - in 21 countries, and in 2008 - in the 18 countries. In addition, five largest trade partners faced serious changes too: in 2010, the United Kingdom, France and Romania dropped out, which were replaced by Italy, Bulgaria and the Netherlands. Thus, the GSP + geographic area have significantly expanded over last couple of years.<sup>5</sup>

In May 2008, by the direction of the Commission, the Polish organization CASE completed the research related to the opportunities of the Georgia-EU Free Trade Agreement (FTA). According to the research, a deep and comprehensive FTA will have a positive effect.<sup>6</sup>

The EU focuses only on the DCFTA. It includes the trade of services/goods, capital movement, harmonization of customs procedures and regulatory legislation, harmonization of sanitary and phyto-sanitary standards, public procurement procedures and the investment legislation, protection of consumer rights and intellectual property, provision of competition, and fulfilment of international environmental and labour standards, the harmonization of the energy sector, etc.

In 2008 the EU special mission of experts headed by Peter Balashi, Deputy Director General in trade issues visited Tbilisi. The goal of the mission was to study the situation in Georgia, the ongoing economic reforms and to evaluate its preparedness at starting the DCFTA negotiations. The abovementioned report was published in spring 2009. According to the report, Georgia has made certain progress

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<sup>3</sup> Georgian Statistics, [www.geostat.ge](http://www.geostat.ge)

<sup>4</sup> The EU Guidelines 732/2008.

<sup>5</sup> **Kakulia M.** The European Neighbourhood Policy Action Plan Implementation in trade and related fields of Georgia, Tbilisi, 2011.

<sup>6</sup> [www.case.com.pl/strona--ID-strona\\_glowna,nlang-710.html](http://www.case.com.pl/strona--ID-strona_glowna,nlang-710.html)

in reforming its economy, but there are some areas to be reformed.<sup>7</sup> In the conclusion, the fields to be reformed and the relevant recommendations are presented. These recommendations are divided into two parts: (i) performance of which are considered to be necessary for starting a DCFTA negotiation, and (ii) the fulfilment of which is necessary for concluding this agreement.

On September 8, 2009, at the 33<sup>rd</sup> meeting of the Governmental Commission on Georgia's Integration in EU, the following documents elaborated by the inter-agency coordination group related to a deep and comprehensive FTA were discussed: "Strategy of competition policy", "Food safety strategy", "strategy of standardization, accreditation, conformity assessment, technical regulation and metrology", "A program of legislative reform and the introduction of technical regulations", as well as information related the intellectual property requirements fulfilment.

On March 11, 2010, at the 36<sup>rd</sup> meeting of the Governmental Commission on Georgia's Integration in EU, the documents revised and amended in accordance with the Commission recommendations and comments of European partners were discussed: "Strategy of the competition policy", "food safety strategy", "strategy of standardization, accreditation, conformity assessment, technical regulation and metrology", and "A program of legislative reform and the introduction of technical regulations".

By the end of 2010, the government of Georgia has approved all above-mentioned strategies and started their practical implementation.

European Commission's (EC) assessment of Georgia's preparedness for a DCFTA with the EU was presented to the Georgian Government (GoG) on March 26, 2009. This report was annexed with a package of recommendations, which initially covered 11 fields. At the beginning of 2010, 4 key fields were identified, which were considered by EC as very decisive for open negotiations: technical barriers of trade, sanitary and phyto-sanitary control; intellectual property rights and competition policy.<sup>8</sup>

**The Government considers that in general, by the end of 2010, significant progress has been achieved in all areas, including the four key ones. Nevertheless, despite the officially declared euro-integration, the changes in various spheres are not relevant to the declared statements that seriously hampers the DCFTA between the EU and Georgia.<sup>9</sup>**

Despite the fact that Georgia uses the GSP+ preferences, the export geography and its composition have not changed significantly. It seems that European tariff barrier is not the only obstacle in the process of entering the integrated European markets. Removal of non-tariff barriers is possible only through the institutional changes and the establishment of European institutions of economic regulation.

It is important for the authorities to specify not only the strategies, which undoubtedly are a step forward in terms of the European integration, but also to start the actual implementation of these strategies. This primarily concerns those particular institutional reforms that will provide non-tariff barriers exception and the entrance of Georgia into the integrated European market. Special attention should be drawn to the

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<sup>7</sup> Office of State Minister on European and Euro Atlantic Integration [www.eu-integration.gov.ge](http://www.eu-integration.gov.ge)

<sup>8</sup> The European and Euro-Atlantic Integration of Georgia's State Minister Office [www.eu-integration.gov.ge](http://www.eu-integration.gov.ge)

<sup>9</sup> The Government opinions about the progress in negotiations with EU see on web-page [www.government.gov.ge](http://www.government.gov.ge) and [www.eu-integration.gov.ge](http://www.eu-integration.gov.ge)

standardization of the technical requirements and harmonization of customs legislation. It is also important, that the law in this field should be stable and not changed often.

### **Sustainable development system and “green” business**

The European Union is serious about the strategy of sustainable development adopted in 2001 (with relevant amendments), and is consistent with its practical realization. The European strategy, among the main objectives, considers the economic welfare as "Support to formation of rich, innovation/education-oriented, competitive and environmentally efficient economy, which provides high living standards and full and high-quality employment throughout the EU".

With the view of comparing with Georgian reality, it is highly important how the European strategy will consider the policy interaction theme, to be implemented in the various components: "support to the integration of environmental, economic and social issues, which will be consistent and will reinforce one another, using the comprehensive tools-set for better regulation, such as, impact assessment and consultations with stakeholders. To achieve this goal, all the EU institutions should consider, that important policy decisions should be based on the impact assessment in the aspects of sustainable development, social, environmental and economic issues, and to take account of the consequences of inactivity too".

Due to the fact that the modern concept of sustainable development does not acknowledge any dogmas, success is directly related to the monitoring, research, analysis and constant process of adjustment. It is important that the strategy will consider not only the necessity of long-term studies, but also the short-term ones, as well as a proper method specifying target indicators of the development: "The research in the field of sustainable development should include both the short-term, “supportive” projects, as well as long-term conceptual vision, and cover the global and regional problems. These studies should contribute to inter /trans-disciplinary approaches in social and natural sciences, to reduce the distance between the scientific research, policy formation and implementation processes. The role of a technology in an “intellectual” development requires further study. In addition, further research is essential for the social, economic and ecological systems of interaction mechanisms, as well as a hazard analysis, prognosis and prevention systems".<sup>10</sup>

EU integration process, which has been initiated by Partnership and Cooperation Agreement (PCA), is implemented within the framework of the ENP Action Plan; it includes 8 priorities and the list of related goals and objectives. General economic issues are covered in the 2<sup>nd</sup> and 3<sup>rd</sup> priorities and in paragraphs 4.4 and 4.5 of the list of goals and objectives (sectored issues -paragraph 4.6). The analysis of those issues and related governmental activities, which are based on the ENP Action Plan Implementation strategy for 2010-2011, “2010 report of implementation plan” and "the country basic data and trends for 2011-2014", show the evidence of that particular weak and strong points, which today are crossed on the way towards the EU integration.

In general, it is very important, what the vision of the Government is regarding the sustainable economic development component. It refers to the overall development strategy. The European approach focuses on the formation of innovative, education-oriented economy, which at the same time provides high standard of

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<sup>10</sup> Renewed the EU Sustainable Development Strategy, EU 10917/06 Annex, p. 4-23.



living and a full-fledged, high-quality employment. On the other hand, Georgia still does not have a complete concept of sustainable economic development and consequently – the indicators and targets. Of course, we can consider that the government fully shares the European strategic approach in the process of EU integration, however, the reform policy, the decision makers' rhetoric and what is the most important, the content of target parameters, do not provide sufficient grounds for such assumption.

The key issue implying sustainable development of strategic planning and coordination between the involved entities, by mistake, were linked to the issue of territorial entities. That was why this subject fell within the competence of the Ministry of Regional Development and Infrastructure (MRDI) rather than of the Prime Minister, or the Ministry of Economy and Sustainable Development. Therefore, a realistic goal remained unrealized. Besides, due to the misunderstanding of the term "relevant actor", one of the most relevant (i.e. topic-related) part - the civil society, has not been involved in the working out process of sustainable development strategy.

The similar problem occurred in the case of Ministry of Environment Protection (MEP). In any case, MEP could not be the only one. An operating subject cannot be the only component in determining of the measures for elaboration and implementation of sustainable development strategy, just like the environmental program could not be the only component of that strategy. It would be desirable for the MEP to work together with the Ministry of Sustainable Development and the Ministry of Finance at least on "Green Business" strategy elaboration.

During the project designing, the correspondence with the Ministry of Economy and Sustainable Development (MESD) confirmed that the government considers the role of MESD mostly in the context of "Green Business" rather than a unified coordination centre.

It is noteworthy that the action plan yet has not experienced a fundamental change by 2011. However, discrepancies exist not only in that issue. For example, the Ministry of Labour, Health and Social Affairs (MoLHSA) is responsible for "effective measures for poverty reduction-oriented policy", which aims "to reduce the number of persons below the poverty line and improve social equity". In 2010, and in 2011, MoLHSA implemented "provision of the cash assistance and medical insurance to the families below the poverty line", which clearly contradicts the primary objective.

As far as the qualitative statistical information is a key precondition for processing and control of the sustainable development indicators, the direct interest of the research was the priorities of the government in this area. It is to be noted that the primary version of the "Action Plan" states: "The development of statistical methods fully in line with European standards, further modernization of the Department of Statistics to ensure independence of official statistics and strengthening of sustainable functioning." In the 2010 action plan, only the second part has remained - "further modernization of the Department of Statistics, to ensure independence of official statistics and strengthening of sustainable functioning". As for the action program, it has been determined the following: "The strengthening and reorganization of newly established National Statistics Office, based on the law passed by the Georgian Parliament. In other words, the main goal remained beyond the plan: "The development of the statistical methods fully in line with the EU standards". In 2011, those drawbacks were corrected; however, despite a new definition, the action plan does not contain a key component: the most important goal of the National Statistics Office - to define and maintain the sustainable development control indicators in cooperation with relevant stakeholders, or at least,

provide enough information to the civil society to do this. Moreover, the information delivery to civil society (as well as other entities), has become chargeable.

The document also contains some inconsistencies, such as Computer and English Language Courses, which had been set as a primary program of economic development incentives. However, it is clear that the issue of sustainable development requires the better organized approaches and involvement of appropriate responsible agencies. Otherwise, the problem of the unadjusted reforms implementation and therefore, the problem of inefficient and ineffective expenditure of resources will remain.

The last 2011-2012 publication of the "global competitiveness" index, covering estimation of Georgia's current position is adequate and in-depth discussion of the consequences of the responsibilities. If we consider, that in the globalization process the country's international competitiveness largely determines the prospects of its sustainable development, the index with its extremely detailed content, is one of the best opportunity for estimation.

According to the 2010-2011 index of Global Competitiveness, Georgia takes 93<sup>rd</sup> place among 139 assessed countries. Assuming that the country was the 90<sup>th</sup> among 133 in the index of 2009-2010 and in 2008-2009, the 90<sup>th</sup> – among 134, that is not a desirable position (see the Table below).

#### **The Global Competitiveness Index for 2010-2011, Georgia among 139 countries**

1. Institutions - 69	2. Infrastructure - 73
3. Macroeconomic environment - 130	4. Health and Primary Education - 73
5. Higher Education and Training - 90	6. Goods market efficiency - 64
7. Labour market efficiency - 31	8. The development of financial markets - 108
9. Technology Readiness - 98	10. Market size - 107
10. Business "flexibility" - 111	11. Innovation - 125

**Source:** Doing Business, World Bank, <http://www.doingbusiness.org/>

The table shows that a relatively good position is in the labour market performance only, although, the same index names the "lack of education in work force" among 5 the most important problems and "poor work ethics in local workforce", which almost totally makes a negative evening-out of the success.

The situation is quite difficult in the other groups; there is especially alarming situation in the last points of the macroeconomic environment and innovation groups. Government cannot agree with this particular assessment, but if the data are realistic, then no one can deny that in terms of sustainable development, Georgia faces very real and tangible threat.

The "Global competitiveness" index depiction is additionally confirmed by the European system of indicators. If we share the European vision of sustainable development goals and objectives, the negative dynamics in terms of employment must be considered as one of the most concerned trends. Behind the average unemployment rate -16%, more serious problems are envisaged, because this figure - 27% is for the city and its "balance" is much better conditioned in the rural area. However, it is known, that the real situation in countryside is more complicated, and the fact that any landowner is formally employed, does not correlate with the income level, which is the main goal of employment.

The negative dynamics of national net savings is not less important, because it directly comprises the fundamental problems of the economy. It is known that the savings rate trend is a significant indicator for crisis prediction.

Due to the fact that the National Statistics Office does not maintain the European type system of indicators so far, it is impossible to find appropriate indicators and evaluate all existed problems. However, analysis of the available indicators shows that a problem exists and it needs serious care.

**Survey of Sustainable Development Strategy, as the key aspect of EU integration process, revealed several important problems:**

1. Despite the fact that the government has emphasized a key importance of the sustainable development through reorganization and renaming of the former Ministry of Economic Development, in fact, this issue has not received adequate attention from the government. It is noteworthy that the Ministry of Economy and Sustainable Development has not any delegated coordinating functions, which are clearly reflected in the government's action plan. As far as the number of goals of the EU integration is directly implied within the context of sustainable development, eventually, the EU will address the existing gaps;
2. The government (or, at least, the authors of the plan of measures), considers sustainable development issue, within its out-dated context, i.e. environmental context. Otherwise, it is hard to envisage why the Ministry of Environment and Natural Resources was assigned for the elaboration of sustainable development strategy and implementation measures, instead of the Prime Minister's Office;
3. A number of programs (measures) are mostly the implementation of fine intentions, rather than comprehensive and interconnected projects. For example, for any IT specialists, teaching of a "computer program" is an absurd concept, because a specialist, who works on the office packages or on an automated working place, requires the different competence rather than programmer or system administrator. It is unclear which sector meets the demand for such training;
4. There is no Georgian system of indicators for sustainable development so far. Consequently, in the programs there are no (where possible) defined assessment criteria for program (measure) success. For example, the measures of the poverty reduction and reduction of unemployment rate have the definite success indicators, but those are not set by the government. It seems that the government faces lack of adequate methodology for the sustainable development strategy;
5. In the discussed documents it is not established the real "green business", i.e., strategy oriented on systemic ecological stimulation;
6. The research, based on both, absolute and relative indicators, shows that there is a large amount of accumulated and urgent problems requiring immediate response, in order to avoid economic collapse in the medium and long vision.

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**Accordingly, for the improvement of sustainable development strategy and its economic component, a major revision of priorities of the action plan is required. Therefore, in order to response timely and adequately to the identified problems, it is desirable to:**

- Create a Sustainable Development Strategy Group with the Prime Minister, or with the Ministry of Economy and Sustainable Development (in the second case, with participation of the Prime Minister), which will include both, the state actors and the civil society representatives;
- Start working on the Georgian system of sustainable development indicators by the joint efforts of the Ministry of Economy and Sustainable Development and the National Statistics Service and with the active involvement of the civil society;
- Elaborate the legal framework for coherence of sustainable development objectives and law-making process, in accordance with the European practice. In addition, the Ministry of Economy and Sustainable Development should have the internal and outsourcing resources to carry out the key reforms in the context of sustainable development;
- The state should recognize the importance of the Ecological Systems in business and create a system of incentives for "green" initiatives;
- Intensify civil society participation in monitoring of the government's strategy for the formation and implementation of sustainable development process.

### Consumer Rights Protection in the EU and Georgia

**Food safety.** Consumer Rights Protection is a special case in terms of food. Food control in Europe is regulated by Directive 89/397/EEC (2008 since directive 882/2004 has been enacted). According to this Directive, food shall be the subject to inspections not only after placing on the market, but at any stage of its production (or import), processing, storage, transportation, distribution and sale.

In compliance with the Georgian law, the minimum statutory basis for more or less acceptable regulation is established in this sphere, but most of the statutory provision was suspended until January 1, 2011.

Law on "Food quality and safety" provides a number of measures of control over food operators:<sup>11</sup>

- Food manufacturing industry (as well as storing, packing or market distributor) must be registered with the state (the requirement was suspended for several years, but in 2011 the condition of this obligation has been resumed);
- The planned and instant inspection of food operators;
- The entrepreneurs must keep the control of internal threat and traceability systems (was suspended until January 1, 2010, for high-risk enterprises, until January 3, 2011 for all other food processing enterprises).

Despite the implemented changes over recent years, the government has not implemented any control. Relevant agencies are not provided with adequate personnel and funds. One of the main reasons for the resumption of control is the EU requirements. However, the government has no political will for effective control.

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<sup>11</sup> The protection of the European Union - a comparative analysis of legislation, Centre for Strategic Research and Development, Bulletin No108, 2008.

**Product labelling.** Labelling is one of the most important measures for Protection of Consumer Rights, because consumers make decision on the basis of the information indicated on the label of products, which mostly cannot be verified independently. In terms of the competition in the economic market, it is important to protect consumers' interests and in general the market "health" from inaccurate information.

Directive 2000/13/EC regulates the general conditions for the labelling of food products. In addition, a series of directives are passed, specifying the additional requirements for food products.<sup>12</sup>

In Georgia product labelling is regulated, by the law on "consumer rights protection". The Law implies the mandatory information listed in the Article 6, which the seller must provide to the customer in writing or oral form. This information is reflected in the supplementary technical documentation for the goods and labels indicating release date or in any other data of specific types of goods and services.

A citizen, who is engaged in commercial activities, shall be required to submit the information about its registration, the registering organization and the standards, statutory requirements of which are applied on the realization of those products, as well as documents of the certification. The same law specifies the required information that must be indicated on label of food, cosmetics, medical and household chemical products. The statutory requirements of labelling on food, cosmetics, medical and household chemical products, are partly in compliance with the regulations of Directive 2000/13/EC. However, there are other detailed requirements in the EU that are not mandatory according the Georgian legislation.

In accordance with the Article 6 of the Law on "Protection of Consumer Rights", "the producer (seller) is obliged to provide the customer with the necessary, reliable and complete information about the product (paragraph 1), and "the information shall be provided in the Georgian language "(paragraph 2).

This requirement of Law is ignored totally by markets and stores. Compared to 2004, the number of products without Georgian labels on the consumer market has significantly increased. Therefore, the requirement of law is violated, including one of the fundamental human rights - to be aware of health risks. Consumers have not been provided with the opportunity to know the nutritional value of production, ingredients, preparation procedure, storage conditions etc.

The indications and labelling rules are completely specified in the Regulations of "Marking and labelling of hazardous chemicals" (Approved by the Decree N80, of the Ministry of Health, Labour and Social Affairs April 7, 2003).

Article 21 of the Law of Georgia on "On Protection and Promotion of Infants' Natural Feeding and Artificial Feeding" provides for the detailing information of labelling that fully **complies with the requirements of Directive 2006/125/EC.**

We can say that in the Georgian law of **2000/13/EC, the Directive requirements are reflected.** However, the specification of more information about the above-mentioned series of concrete products has yet to be regulated.

**Regulation of advertising.** In the process of reforms ongoing in EU, it was decided to elaborate common approaches to advertising regulation and harmonization of law in order to determine the criteria of

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<sup>12</sup> Ibid.

improper advertising. To resolve those issues, the Council of Europe adopted Directive 84/450/EEC. In the following years the Directive experienced several amendments and in 2006 it has become essential to encode by the Directive 2006/114/EC. The **Georgian law "On Advertisement" contains almost all regulations of the Directive 2006/114/EC:**

- According to the law, an improper advertising implies unfair, unreliable, unethical, clearly false or other advertising, where the requirements for its content, time, place, or distribution established by Georgian Legislation are offended. This interpretation fully meets the terms set by the Directive;
- From the end of 2005, the article 12<sup>1</sup> was added to the law on comparative advertising, which fully complies with the requirements of the Directive 2006/114/EC.

**Economic and legal rights of the consumers.** EU's protection of economic and legal rights of consumers includes the following directions:

- Unfair contract terms - 93/13/EEC Directive;
- Agreement on the streets - 85/577/EEC directive;
- Distant contract - 97/7/EC Directive;
- Insufficient products and guarantee relationship - 1999/44/EEC Directive;
- Refunding for damage - 85/374/EEC directive;
- Consumer Credit - 87/102/EEC directive.

Two spheres are discussed in terms of harmonizing consumer's economic and legal rights: consumer credits, imperfect products and warranty terms.

The Directive 87/102/EEC regulates the conditions of consumer credit unification issue. Consumer credit has not been regulated adequately by Georgia legislation. In the Articles 623-628 of the Civil Code of Georgia, the general principles of a loan contract are legally regulated. **However, these articles mostly imply the creditor's interests rather than protection of consumers.** Articles 867-873 of the Civil Code define the general terms and conditions for bank credit, which partly relate to protection of consumers' rights. Article 868, paragraphs 4 and 5 include the following: , growth and the reduction margins of interest rates and the minimum change interval shall be determined when concluding a contract; the creditor, in appropriate way, is obliged to notify the borrower about the credit interest. **This article is partly in line with the above directive, but it does not specify what interest rate is implied.** It is implied that the obligation to specify real interest rate and its calculation rules had not been functioning in Georgia until 2011. However, the rules were changed by the order of of 13 May 2011, 35/04 of the President of the National Bank, on the regulation of providing by Commercial banks' necessary information to their customers. The Article 871 of the Civil Code specifies the **conditions of preterm termination of contract, which is in line with the Directive.**

Unfortunately, vast majority of banks operating in Georgia do not provide consumers with full information about credit-related expenses. There is a frequent use of misleading advertising. Despite the fact that all issues are explained in the agreement, under a new regulation, the bank shall have to provide accurate and comprehensive information to the consumer.

As for flawed product delivery, the most common reason for disagreements between a customer and a trader / supplier, is the products' / services' inadequacy with expectations or promises of the supplier. In

legal terms, this is called supply of goods / services inadequate with the terms of the contract. The relation between flawed product / service supplier and customer is regulated by the EU Directive 1999/44/EEC.

The Civil Code of Georgia (Articles 487-497) provides for the right of the consumer to demand repair, replacement, price reduction or refund by supplier in case of flawed product supply. In Georgia, like in Europe, the "presumption of innocence" is in place: the supplier /manufacturer are obliged to satisfy user requirements, in case he fails to prove that flaws were induced by consumer's violation of usage and storage rules.

### **Avoidance of double taxation with EU countries**

European Neighborhood Policy Action Plan, paragraph 4.5.5 mentions that Georgia should create a double taxation avoidance bilateral agreements scheme with EU member states on the basis of the Organization for Economic Cooperation and Development (OECD) practice.

It is generally known that the double taxation avoidance system is an essential component for a healthy business environment and a key factor for encouraging investments. The Double Taxation Avoidance System with the EU "net" positive effect is given in information provided by the Ministry of Finance.<sup>13</sup>

Ministry of Finance reported<sup>14</sup> that in 2011 the first of June, the EU has concluded double taxation agreement with the most EU countries. Those are: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Romania, Spain and United Kingdom. In addition, there is a bilateral agreements with the EU candidate country, Turkey, as well as (initialing) agreements are with Cyprus, Hungary, Portugal, Slovakia and Slovenia. Negotiations with Sweden, the candidate countries, Iceland and Croatia, and with a potential candidate, Serbia, has started.

Under the Decree No145, March 2, 2010 of The Minister of Finance of Georgia, had been approved the ratified and acting regulation, on tax exemption determined by international agreements on avoidance of double taxation and return of taxes paid by non-resident in Georgia in case provided by the above agreements.<sup>15</sup>

**Therefore, in the medium-term context the government of Georgia has actually fully met the ENP Action Plan requirements.**

The analysis of the Double Taxation Avoidance system clearly shows the necessity of an appropriate, thorough planning and careful action, since investment encouragement is an objective rather than a goal. The goal is sustainable development. The avoidance of double taxation system should be focused on this goal.

A special attention should be drawn to the fact that system of bilateral agreements is not safeguarded against gaps, first of all, misinterpretation of terms despite of being based on template bilateral agreements, experience gained and number of precedents.

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<sup>13</sup> Ministry of Finance of Georgia, <http://mof.ge/1842>

<sup>14</sup> Ibid.

On the other hand, timely and adequate response to non-standard circumstances directly not covered by bilateral agreements, require adequate authority as well as the appropriate level of competence of fiscal entities.

The government of Georgia has basically met requirement of the EU's neighborhood plan on concluding bilateral agreements, but still lot needs to be done in the context of agreement administration.

Therefore, for the purpose of efficient administration of the EU double taxation avoidance system, it is essential to:

- Implement systematic monitoring of the effectiveness of double taxation agreements;
- Individually apply tax exemptions methods (including unilateral) for all countries, considering fiscal effectiveness forecasting;
- Provide availability of the information on the agreements' modification in real time;
- Due to the fact that there are many disputable issues even in well-established relations, it is advisable that the Government facilitates creation of consultation centers accessible for the medium and small enterprises (SME);

The Georgian tax code is very dynamic in terms of allowing for legislative amendments correcting gaps revealed, but real dynamics implies legislative mechanism flexibility to ensure adequate response to problems occurred.

### Social protection and social security system

**General condition.** Within the European Neighborhood Policy (ENP) framework, along with other fields, the EU offers to Georgia intense collaboration in a number of directions of social security. In particular, objectives of social sector are under 3<sup>rd</sup> priority field of Europe – Georgia five-year action plan of the European Neighborhood Policy - "Strengthening of efforts directed to poverty reduction and social equality." The European Neighborhood Policy Action Plan (general Goals and Objectives) in the 4th chapter, section 4.4, responds to the social problem of security problem - "The economic and social reform, poverty reduction and sustainable development."

Based on the above mentioned, the Georgian government was commissioned to consistently revise and amend the reform strategy document, focusing on poverty reduction issue. Thus, the reforms strengthening in the social care sector implies the establishment of an effective fair or legal basis. The document recognizes the economic and social reform implementation, poverty reduction measures in order to reduce the number of persons below the poverty line, to improve equity, health and other social services sustainability.

In addition to the European Neighborhood Policy Action Plan, a well-known **European Social Charter**<sup>16</sup> ratified in Georgia in 2005<sup>17</sup> is till another document warranting human social and economic rights in the country. It should be noted that Georgia has not fully but just partially joined the European Social Charter

<sup>16</sup> Adopted in Rome, October 18, 1961, amendments made in the Council of Europe, Strasburg, May 3, 1996

<sup>17</sup> "Concerning the European Social Charter Ratification", Parliament Regulation No1876, July 1, 2005.



and only part of the articles acknowledged by the Government of Georgia have been enforced and implied in active legislation of Georgia. All this impedes the process of harmonization with the European legislation.

Until 2007, Georgia was implementing a social program implying 22-GEL family allowance for the 5 categories of households. One of the disadvantages of the mentioned program was that certain vulnerable people were not considered eligible to apply for the relevant category, and in certain cases, the other way round; people included in the mentioned categories were not in need of the state assistance.

Nowadays, the social assistance policy is directed towards protecting people from extreme poverty only. Though existing targeted and needs- based social assistance system has totally changed Soviet approaches, the acting scheme cannot be considered efficient as far as it cannot accurately reflect the poorest segments in the population. According to the existing scheme, the state provides assistance only for those who most need it<sup>18</sup>. In the past people received certain aid according to the certain categories or status groups (IDP, war veteran and etc) without considering the financial conditions of a person/household, but the most poor were not covered by the mentioned scheme, as they were not eligible for any of the categories. Although the state provided lump-sum financial assistance for the vulnerable segments of the population with no “status”, the approach actually appeared to be unfair.

Consequently, based on the new scheme, the state financial assistance was terminated for those people who belonged to the above mentioned or other categories, had enough family income and was not in need of the additional state assistance. This system comes together with many sensitive aspects, especially in such countries as Georgia, where resources are scarce and the social conditions more frequently appear extremely hard. However, the system that was based on the needs became the subject of criticism and heated discussion. The criticism in some cases is caused by the lack of the transparency of the social assistance system. The new system participants considered that the old system (that is still operating in parallel with the new system) apart from the social assistance net had a special symbolic meaning, being an important factor for some beneficiaries and expressed their gratefulness. For instance, it was a more respectful gesture to grant certain privileges to the war veterans, veterans of the World War II and the wars for territorial integrity, the families of those killed in action, victims of April 9, 1989 events and Chernobyl disaster.

Therefore, the social reforms implemented in Georgia have a fragmentary character, due to which the social inequity and tensions have not been reduced as the improvement of the living standards and the level of life in particular social groups were not followed by a general reduction of poverty in vulnerable groups. Social differentiation of population has deepened. The main goal of the social reform was to improve the social-economic conditions of population below the poverty line. A new social assistance system set up monthly cash allowances instead of any other benefits and, consequently, the families were able to manage the received cash allowances themselves.

By 2011-2014 the Government of Georgia set the main priorities of the social policy:

- pension provision;
- Social protection<sup>19</sup>.

**Pension System.** Current pension system consists of two parts that have different contents and capacity; dominant part is still occupied by the state pension system. The latter is based on the solidarity scheme

<sup>18</sup> „Concerning the Targeted Social Assistance“, regulation of the Government of Georgia No145, July 28, 2006.

<sup>19</sup> *Basic data and directions for 2011-2014*, the Government of Georgia, pg.75.

between generations - principle of redistribution that includes pension distribution for the existing pensioners based on the taxes paid by employed people<sup>20</sup>. The relatively small part is occupied by the non-state pension provision, which unfortunately still remains at the initial stage of its development.

The funds that are available for the pensioners today are scant - significantly lower than subsistence level. Existing pension is more like social assistance. In addition, it does not take into account either pension contribution that has been made by present pensioners throughout their working period or the duration of their activities, type and quality.

Therefore, current pension system poses a lot of problems for financial sustainability of Georgia and development prospects. Besides, it is not only today's problem, but a long-term one, because gradually it is getting more and more problematic, and, as a result, it will significantly impede the economic development and create new social problems. Consequently, it is vital to establish a new pension system – noncommon for Georgia but it successful in a many countries, which must be based on accumulation scheme. Due to the current situation in Georgia, pension system reform is urgent<sup>21</sup>.

Obligations imposed on the Government of Georgia within the framework of The ENP include the efficiency and the purposefulness of the social protection mechanisms, implying implementation of relevant reforms to improve the existing system.

Though the average pension by 2010 has been increased 6 times compared with 2003, its purchasing power rose only 3 times as within the same period the prices on essential goods have increased as well<sup>22</sup>.

Disadvantages of the existing pension system in Georgia:

- ✓ The amount of pensions is significantly lower than the subsistence level;
- ✓ Major part of income is not calculated;
- ✓ The ratio of the actively employed with the number of pensioners is alarming that makes improvement of the existing pension system hopeless. Pension provision has been directly linked to the obligations of the state budget<sup>23</sup>.

In 2008, the EC technical assistance project “Assistance of the Georgian Pension Reform” carried out detailed analysis and elaborated recommendations for the development of the pension system in Georgia<sup>24</sup>. The technical assistance revealed the following deficiencies in the pension system:

- ✓ All types of pension are regarded as a benefit / allowance of the state budget;
- ✓ low difference between the social pensions (disability, lonely etc.) and age pension;
- ✓ Absence of social insurance schemes and structures; lack of comprehensive pension policy.

EC technical assistance project implemented in 2008 concluded that there was a need for the mid-term specialized technical assistance to help the government in the process of elaborating pension policy, as well as realization mechanisms and relevant legislation. That time, the government considered the

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<sup>20</sup> **Takevarishvili R.**, *The Need for Pension Reform in Georgia*, 2009, pg.3.

<sup>21</sup> *Ibid.* pg.5.

<sup>22</sup> *Evaluation of the social issue related strategy in Georgia*, needs assessment and recommendations for further assistance, including the sectoral policy supportive potential program, working version of the final report, 2010.

<sup>23</sup> **Takevarishvili R.**, *The Need for Pension Reform in Georgia*, 2009, pg.7.

<sup>24</sup> *Evaluation of the social issue related strategy in Georgia*, needs assessment and recommendations for further assistance, including the sectoral policy supportive potential program, working version of the final report, 2010.

recommendations premature, especially in the context of fighting against the global recession and the consequences of 2008 conflict with Russia. However, during the visit of the assessment mission, the Minister of Labor, Health and Social Affairs stated that the government would return to the issue of the pension reform and had regarded the technical assistance report as the main component for the elaboration of the pension system<sup>25</sup>.

**Recommendations.** It is important to establish closer partnership and harmonization with the EU to ensure development of the social protection and social security systems. In this respect, significant importance is drawn to the performance of the recommendations proposed by the EU Monitoring Mission. The new dimension – Eastern Partnership will greatly contribute to the discussion of the comments and the recommendations of NGO sector and to the adequate response of the EC.

Despite the new mechanisms of social assistance, the existence of different state programs in parallel with the social assistance system can be regarded as disadvantage. It is expedient to improve the existing system and to create a certain unified system. It is also necessary to overcome similar errors that have been revealed in the process of involvement of the poor in the above-mentioned scheme. It is strongly recommended to create **detailed state strategy for elaboration of social assistance scheme** in the country, which will include Terms of European Social Charter and fulfillment of the obligations assumed under the Charter.

With the view of improving the social assistance system the following measures are required:

- Identification of the volume of the capacity, targeted groups and improvement of the mechanisms and methodologies of allocating funds;
- Rationalization of the allowance system;
- Development of data management concerning a wider goals of Electronic Management to eliminate inaccuracy;
- Impose relevant responsibility for falsification of data in the social assistance system;
- Reduce dependence of the vulnerable families on the allowances;
- Increase the efficiency and number of the social workers;
- Ensure public involvement in the elaboration of management system in social sphere.

Evidently, the current pension system needs an urgent reform. Adequate analysis of the existing situation has revealed that the pension reform in any country takes a long time. All the above-mentioned findings once again confirm that the social obligations of the country are hard and, partly, still increasing. Therefore, the collaboration with the private sector is important as well as risk sharing with those sectors, where such possibility actually exists. First, for the successful implementation of the reforms, it is necessary<sup>26</sup>:

- To elaborate the pension policy and select the model of pension reform. It is important not to copy it directly from the model of any other country, but to correct and adjust it to Georgian reality and existing social-economic conditions;
- To improve the pension legislative basis and develop infrastructure for introducing a private pension system. This process includes amendments to the active legislation, as well as the adoption of new laws; it is necessary to regulate by law the rights and obligations of the employed people, principles of calculation of working days, work experience, incomes-expenditures, what part of income should

<sup>25</sup> Ibid.

<sup>26</sup> **D. Narmania**, *The Institutional Framework for Long-Term Social Care Benefits*, National report - Georgia, Open Society Institute, Local Government and Public service reform Initiative, 2011, p. 33.

- be paid on taxes or social insurance and so on; prepare regulatory standards and norms for pension funds;
- To elaborate electronic pension database program, use electronic management and governance mechanisms and calculate pensions via automated system;
  - To develop a private pension insurance strategy by active involvement of governmental, international organizations and NGOs in the process of its creation.
  - To estimate the reform implementation period and possible costs (transitional period risks, investment instruments of the accumulated finances in the pension funds, adequate management and supervision, etc), as well as its consequences both in short-term and long-term perspectives;
  - To conduct information campaign for population to outline positive outcomes and raise awareness by using more flexible methods;
  - It is desirable to use individual social insurance principles on every employed;
  - Within the next 10-15 years, the pension age should not be increased to ensure increase of pension, and on the other hand adaption of the system;
  - To stimulate the timely establishment of the non-state pension funds (e.g. several-year tax benefits if the foundation is established).

Therefore, it is desirable to set up a several-stage pension system. However, at first stages, it will be necessary to use state pension, as for the following stages, it will be possible to use the private pension schemes gradually. The effect of the private pension system development for the financial system includes the creation of a wide range of long-term financial and investment resource, as the pension programs are multi-year ones and consequently the stability and liquidity of Georgian financial system will be increased.

Thus, the necessity of a reform in social welfare and social protection is not caused by political or economic reasons, but by the existing situation. It is worth noting that accumulated, i.e. private pension system is quite typical for liberal economic countries, and it fully and naturally corresponds to the liberal economic context announced by the Government of Georgia. Despite the positive goals of social security, enormous funds notably weaken the economic growth. Social costs appear the most sensitive field for politicians. As a rule, their growth is never sufficient, and reduction causes mass dissatisfaction, that equals to the loss of some political dividends. Any country at certain stage of its development is to answer the question, what they would like: to assist directly the socially vulnerable people? to increase social security and protection costs continually in accordance with the increase of their economic demands and by doing so to make them dependent on the system? or to set up the economic growth as a priority, create employment possibilities and support individual sense of responsibility for own welfare?

### **Social Dialogue and Protection of Workers' Rights in Georgia**

**Social Dialogue.** Until 2008, no social dialogue took place in Georgia. Labour relationships between interested parties had individual character and the process suffered from the lack of system regulation. This was proved in 2006, when during the adoption of Labour Code, the government had no consultations with Trade Unions, moreover, the Employers' Association of Georgia were against of the presented code.

At the end of 2008, a **trilateral agreement was signed among the trade unions, the employers and the state**, after what, the social dialogue had more systemic character, but still it was not enough for the

effectiveness of these relationships.

On March 2, 2010, the Prime Minister of Georgia issued a Decree No 57 on “Approval of Social Partnership Trilateral Commission Regulations and Structure”. This can be considered a step forward, but at the same time the mentioned decree regarded the role of the state as dominating in labour relations. Parties of trilateral commission are the Government of Georgia, the Employers’ Associations and the Trade Unions. The commission is chaired by the Minister of Health, Labour and Social Affairs of Georgia. The commission implements its activities in accordance with Georgian Constitution, international agreements, active legislation, resolutions of the parliament, normative acts of the President, Prime Minister and the Government, Commission Regulations and the orders of the Minister.

One of the examples of the social dialogue is a strike that took place in Georgian Manganese Ltd, in Zestaponi. Employees and their unions demanded increase of salary, improvement of job safety, improvement of the overtime working conditions and return of two employees dismissed without any explanation. At the initial stage, the employer was against of any negotiation at all, but later, when Georgian Trade Union Confederation was involved in the process, a preliminary agreement was reached concerning salary increase. It was for the first time when an employer used lockout provided by law.

Georgian Trade Union Confederation recognized the labour code as a discriminative one. According to Articles 37 and 38 of the Labour Code of Georgia, the employers are entitled to terminate business contracts without any warnings. Article 49 of the Code recognizes the employees’ right to strike, but Article 51 restricts the same right to go on a strike. Trade Unions Confederation has repeatedly appealed the government to improve the “Labour Code”, however the Government had not responded. Such a behavior of the GoG contradicts the activities envisaged by the action plan of ENP and responsibilities under similar international agreements<sup>27</sup>. In particular, Georgia should ensure fulfillment of obligations under the European Social Charter, introduction of certain standards in Georgia, including provision of basic labour standards in compliance with ILO conventions.

Social dialogue in Georgia is still on a lower stage of development. However, some steps have been made forward - creation of Social Partnership Tripartite Commission by the GoG in 2010. **The situation is much more complicated at the enterprise level of the social dialogue.** In this case, we deal with the disregard of the collective agreement and the interests of the employees, which in many cases is caused by the existence of discriminative articles in the Labour Legislation. In particular, according to paragraph “d” , Article 37 and Part III, Article 38 of the Labour Code, the employer has unlimited rights to release the employees without naming any reasons with one month financial compensation only; according to paragraph 8 of Article 5 – the employer is not obliged to substantiate the reasons of hiring a person.

**Protection of Labour Rights.** Nowadays labour rights are not protected adequately in Georgia despite the declared statements and recognized obligations by the Government. The latter is proved not only by the active labour legislation, but also by the migration processes existing in the country, that creates urgent need for social dialogue.

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<sup>27</sup> *Getting Close to Europe? Socio-Economic Polity of Georgia, Armenia and Azerbaijan*, Center for Economic Problems Research; Friedrich Ebert Foundation, Tbilisi, 2011, p. 162.

In 2006, the labour market situation was worsened by abolishment of State Employment Agency. There is no database on human resource in the country and communication between the job seekers and the employers are mainly based on personal contacts.

New Labour Code adopted in 2006, has put an end to complicated regulations and facilitated to the dramatic liberalization of labour market based on the standards of ILO. Restrictions concerning employment agreements and overtime work have been eliminated and became the subject of the contracts between the employers and employees. Complicated and time-consuming procedures of termination of business relations have been facilitated, according to what the code requires at least one-month salary reimbursement. Besides, there is no law that estimates the minimum salary rates. Individual and collective contracts are regarded to have equal importance and right of collective negotiation was granted to all groups consisted of two or more persons (rather than only formally established trade unions). Following these changes, in 2008 the WB granted the 5<sup>th</sup> position to Georgia for the simplicity of workforce recruitment. General employment remains the unsolved problem in spite of economic liberalization, attraction of direct foreign investment, eradication of barriers in recruitment / dismissal and relocation of work places into economy of more sufficient fields. Due to different reasons (low skills, low awareness, age discrimination, etc.) a large number of people stay quite far from the organized labour market that is one of the causes of the poverty. Employment in informal sector (namely, self-employment, especially in rural areas) has been increased significantly, providing income as a regular and main alternative for salary-based employment. Informal employment is unstable and mainly includes activities for subsistence and is characterized with low productivity. The mentioned form of employment does not contribute to poverty reduction.

The report states that “by Labour Code, in 2006, neo-liberal government abolished the labour inspection. The Labour Code does not include provision on elimination of discrimination and freedom of association, as well as the collective negotiation articles, reports on antidiscrimination and the right to hold meetings”. It also states that despite the fact that Georgia has ratified up to eight ILO conventions on labour standards, there still exists a gap between the 2006 Labour Code of Georgia and the country’s international obligation document (Protection of Human Rights and Workers Rights). GoG failed to perform ILO convention and requirement of a Committee providing recommendations.

Moreover, the report states that the discrimination of workers is widespread that is unacceptable by the standards ratified. Despite the ILO conventions No. 100 (Convention on Equal Remuneration for men and women workers for work of equal value, 1951, ratified in 29.05.96) and No. 111 (Convention concerning Discrimination in Respect of Employment and Occupation, 1958, ratified in 4.05.95), the principle of Equal Remuneration for Men and Women Workers for Work of Equal Value is used neither in the law nor in practice.

According to the document, child labour and forced labour is widely spread in the country, but the influence of law, monitoring and investigation towards this issue is weak. We can read in the document worked out on April 3, 2008, in Brussels, Commission Staff Working Document (SEC (2008) 393): “There is no progress regarding the Labour Code and existing rights in the workplace, especially in connection with the unlimited right to strike/freedom of association. The Labour code adopted in 2006 does not match the ILO standards. In particular, it does not include the obligations to freedom of association considered by the ILO conventions. Moreover, the Labour Code in contrary to the European Standards and the European Social Charter standards ratified in July, 2005, especially in such fundamental issues as duration of overtime/extra work

performance and termination of employment<sup>28</sup>. It is also important that there is a set of comments and recommendation in the conclusion of the US Department of State regarding the overtime hours in labour legislation and there is stated that the forced labour is the prohibiting violation of constitutional norm.<sup>29</sup>

**Strict tone and the content of the text once again prove that this is not the first recommendation aiming at changing the Labour Code.** EC is not the only structure making such recommendations. The experts' committee report made at 97<sup>th</sup> Session, in 2008, includes a number of similar recommendations on the use of ILO conventions and the recommendations. For instance:

"...the committee mentioned in the previous report, that according to the Labour Code of Georgia, the employer enjoys the right (partially) to determine duration of working week, working day - starting and finishing hours, the duration of shifts when working in shifts; lunch duration; place and date of salary payment; duration of paid leave and vacation rules... other special rules... The committee considers that the general content of the articles 13, 41 and 43 contradict the concept of collective agreement (definition) – convention No. 98. According to the mentioned convention, the contract, regulating the terms and conditions of the labour relations, must be signed based on the negotiation between the employee (or his/her representative) and workers' organization..."

As far as the Labour Code does not contribute to the development of collective negotiation (provided in Article 4 of the Convention), the committee requires either relevant changes in the new Labour Code or to adopt a new special law to ensure strengthening of the collective agreement principle at legislative level... The committee insists that the Government of Georgia provide the committee with the updated information regarding the measures to be taken to solve the mentioned problems...<sup>30</sup>

EU gives threatening notices to Georgia over last three years to deprive of the right to use the "GSP+" unless it fulfills its obligations and changes labour code. For over three years, GoG promises to do so. So far, only one obligation is fulfilled – the Tripartite Commission for Social Partnership has been established.

On December 17<sup>th</sup>, 2010, the Parliament of Georgia adopted a new Labour Code<sup>31</sup>. Despite the above-mentioned recommendations and incompliance with the European principles, the Code has been adopted in the same unchanged form. The only change concerned the following: the newly adopted law equals to the status of an organic law and is one-step up in the hierarchy of the normative acts.

The Government of Georgia should work out the plan to adjust the socio-economic situation of the country and harmonise labour code with the European Union legislation. Therefore, the following legislative and institutional reforms are required:

- Protection of human rights and freedoms through the development of democratic institutions;
- Regulation of labour market through active state employment policy;
- harmonise Georgian labour code with standards set in the ENP Action Plan;
- Establish effective social standards in compliance with the obligations under European Social Charter;

<sup>28</sup> *European Social Charter*, Article 4, the right to receive fair compensation, 1996.

<sup>29</sup> *Conclusion of the US Department of State*, 2010.

<sup>30</sup> *Concerning the use of conventions and recommendations of International Labour Organization (ILO) Experts Committee Report*, 97<sup>th</sup> Session, 2008.

<sup>31</sup> *"Labour Code of Georgia"*, Organic Law of Georgia No. 4113, December 17, 2010.

- Ratify /reflect in the labour code those articles of the European Social Charter that support to the improvement of the social conditions of the workers in the country;
- Exact implementation of the conventions of International Labour Organization (ILO) ratified by Georgia;
- Introduce efficient legislative initiatives to promote social dialogue and provide system support to the social partnership; improve social dialogue at the industrial level through legislative changes;
- Take account of the recommendations of Trade Unions and Employer Associations to ensure improvement of labour code and regulate labour relation; provide population with updated and relevant information in the issues of labour and social rights;
- Prepare detailed plan of the Document of Basic Data and Directions of the Government of Georgia and ensure implementation of all necessary activities; harmonise annual state budget with the Document on Basic Data and Directions to ensure effective implementation of state employment programmes;
- promote political and financial independence of local self-governments to ensure implementation of employment programme at local level;
- Increase public investments in vocational training projects to raise work capacity and competitiveness of the employed and unemployed persons;
- Improve legal mechanisms and institutions related to the protection of labour rights;
- Provide legislative support for the creation of a system of civil organizations engaged in protection of labour rights.

The Adoption of the Georgian Labour Code and other normative acts will provide a foundation for harmonization of the interests of employees, employers and the state that will greatly contribute to the flexibility of the labour relation. In addition, special attention should be paid to the strengthening of the labour and social rights. The lawmakers should determine when to provide benefits, guarantees and compensation by employers and when it should be implemented by the government or any other organization.

On December 17<sup>th</sup>, 2010, the Parliament of Georgia adopted a new Labour Code<sup>32</sup>. Despite the above-mentioned recommendations and incompliance with the European principles, the Code has been approved in unchanged form. The only change is that the newly adopted law has a status of an organic law instead of previous normal law and it has moved one-step above in the hierarchy of the normative acts. We cannot state that this is an important step forward towards protecting workers' rights. As far as in the previous Labour Code workers' rights were violated, a new hierarchically risen law will hurt workers much more, as other legislative acts that at least partly protected the workers' interests, do not comply with the new Code.

### **Higher Education System, Innovations and Science**

Harmonization of the higher education system with the European one is essential in the process of the European integration.. After joining the Bologna Process in 2006, it is vital for Georgia to becoming a constituent part of the European Higher Education Area. In the reform process it was possible to establish a

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<sup>32</sup> "Labour Code of Georgia", Organic Law of Georgia No. 4113, December 17, 2010



3-level higher educational system, releasing entrance exams from corruption risks, introduction and establishment of new programs, updating the resource base, infrastructure, etc.

Unfortunately, some directions and areas remain problematic. This is primarily a low funding for education and science. Fundamental and research funding is minimal that reveals a lot of serious problems in this regard.

Main direction should include training of scientific and academic personnel, and providing them with latest literature and research material and completion of ongoing infrastructure re-equipment.

Economic development of the country greatly depends on knowledge transfer to industry, involvement of universities in innovative processes, elaboration of new technologies, amongst them in the field of management.

The reform of education and science is a permanent process. However, it is very important for the transitional countries not to harm those achievements in certain fields by these reforms. Despite the existing barriers between Europe and Georgia, there were global achievements and scientists. Unfortunately, nowadays, the situation in this field is rather dire. Therefore, it is urgent to seek resources for such scientific-research institutions to ensure their normal and efficient functioning;

It is important to stimulate private sector to ensure funding of science. The role of government should be increased in this regard by setting certain tax benefits, or any other incentives that shall encourage private business to fund education and science, including applied and fundamental researches.

With the view of encouraging innovation processes, it is important to stimulate competition and protect intellectual property. The independence of the universities should be increased, including financial one. Besides, it is important for the state to establish minimal quality standards and ensure adherence to them. It is desirable to elaborate mutual programs, exchange programs for students and professors and internationalization of teaching programs to ensure improvement of tuition quality.

### **The role of civil society in the economic and social integration with the EU**

Civil society has one of the decisive roles in the economic and social integration of Georgia with the EU, as economic and social integration is an important component of the European integration, and civil society is an active component of the society. In the context of civil society involvement, EaP differs from other EU initiatives by the fact that here the civil society involvement and interest is significantly higher. The fact that until September 3, 2009 (deadline for applications) the EU received 439 applications for participation in civil society forum of EaP and nearly half of them were accepted (up to 200<sup>33</sup>) confirms the high interest and active participation of civil society in the context of the European integration.

EU highlights active participation of civil sector in European integration and this is often stated in different public speeches of the officials. On November 17, 2009, at the founding meeting, Benita Ferrero-Waldner

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<sup>33</sup> **Patariaia T.**, *Eastern Partnership of the EU: Civil Society Expectations and New Possibilities*, Caucasus Institute for Peace, Democracy and Development, Policy Report, February 2010, p.10.

stressed the importance of the strengths of the civil society forum of the EaP and dialogue or sharing experience among civil societies, government of different countries and the EU<sup>34</sup>.

One of the important areas for cooperation with the EU is gradual integration in the EU economy and promotion of the socio-economic reforms. Besides, the EaP envisages additional financing for those projects that shall reduce social and economic inequality to ensure stability in the EaP countries. Therefore, social and economic integration with the EU is one of the priority directions in the context of the Eastern Partnership.

The importance of the integration in social and economic issues is proved by the fact that one out of the four thematic platforms of multilateral cooperation highlights economic integration and approximation to the EU policy. The mentioned thematic platform is directed towards economic integration and approximation of the EaP countries with the EU and the regulatory fields.

**Economic and Social Committee is important** with the view of economic and social integration with EU, as it brings together the representatives of organized civil societies, business organizations and professional organizations of the EU member countries. Since the establishment of the EaP, the European Commission appealed to the European Parliament and the Council to intensify participation the Economic and Social Committee in the realization process of the Eastern Partnership, namely – in the Civil Society Forum. In the framework of this mandate, the European Economic and Social Committee during the Polish Presidency (is July-December 2011) was actively involved in the activities of all four platforms. Contact group of the Eastern neighbourhood has planned to observe the negotiation process regarding the association agreements with Armenia, Azerbaijan, **Georgia** and Moldova<sup>35</sup>.

**The role of the Civil Society** in the European integration, in general, and particularly in the context of the economic and social integration with EU can be considered in the following ways:

- As a civil society in the role of information distributor;
- As a civil society in the role of dialogue-organizer;
- As a civil society in the role of the observer and lobbyist's;
- As a civil society in the role of monitor and gap analyzer;
- As a civil society in the role consultant.

**National Platform** has been created in each country (including Georgia) for the coordination of Civil Society Forum. The National Platform will facilitate multilateral (the EU – partner countries and relations among them) and bilateral (EU-Georgia) cooperation. The National platform consists of local and international organizations operating in the country and trade unions.

On November 7, 2010, Georgian National Platform of EaP Civil Society Forum was established. The functions of the Georgian National Platform are to:

1. Support Thematic Platforms and special initiatives of Eastern Partnership;

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<sup>34</sup> Benita Ferrero-Waldner, European Commissioner for External Relations and European Neighbourhood Policy, Report: *Civic Society Forum Strengths the Eastern Partnership*, Eastern Partnership Civil Society Forum, Brussels, November 17, 2009.

<sup>35</sup> *The European Economic and Social Committee during the Polish Presidency*, July-December 2011, pg.19., [www.eesc.europa.eu/resources/docs/eesc-rev-2011-24-en.pdf](http://www.eesc.europa.eu/resources/docs/eesc-rev-2011-24-en.pdf)

2. Represent the interests of Georgian civil society at the Civil Society Forum and support forum activities<sup>36</sup>.

A coordination board and 4 thematic working groups have been established in the framework of Georgian Nation Platform. Meetings, consultations and discussions are held periodically. Plenary sessions of the Georgian Nation Platform are held twice a year.

With the view of supporting the National Platform, a grants contest was announced at the end of 2010 by Open Society - Georgian Foundation, under which 6 different projects were funded (the mentioned material has been prepared within the framework of one of these projects). The grants contest aimed at raising public awareness of Eastern Partnership and intensifying the National Platform of the Eastern Partnership Civil Society Forum. In addition, under this contest the Georgian National Platform supportive project “Georgian National Platform for Eastern Partnership” was funded.

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<sup>36</sup> *Concept of Georgian National Platform for Eastern Partnership Civil Society Forum*, pg. 2.



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Address: 0179, Tbilisi, Georgia, Abashidze str. 43/15  
Tel/Fax: (+995 32) 272 90 21; (+995 555) 14 33 33  
E-mail: [info@ciesr.org](mailto:info@ciesr.org) ; [davit.narmania@ciesr.org](mailto:davit.narmania@ciesr.org)  
Web: [www.ciesr.org](http://www.ciesr.org)  
Contact person: Dr. Davit Narmania, Executive Director