

Information prepared by the Government of Georgia in accordance with the Human Rights Council Resolution (31/15) on the Right to Work

Gender equality is guaranteed by Georgian legislation and it protects them from any kind of discrimination. The **Constitution of Georgia** recognizes the equality of all people before the law. In accordance with Article 14 of the Constitution, everyone is free by birth and equal before law regardless of race, colour, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence. This article protects the legal equality of people regardless of their racial, ethnic, religious or other affiliation, as well as protects people against unlawful discrimination.

In addition, in accordance with Article 38 of the Constitution, citizens of Georgia are equal in social, economic, cultural and political life, irrespective of their national, ethnic, religious or linguistic affiliation (Article 38(1)). The range of rights with respect to which equality under Article 38 is applicable, includes the entire cultural, social, economic, political and civil rights that have all people under the legislation of Georgia.

However, Article 30 of the Constitution specifies that the protection of labor rights, fair remuneration of labor and safe, healthy conditions and the working conditions of minors and women are determined by the organic law (Article 30 (4)).

The fundamental principles, defined in the Constitution, in terms of content and structure are extended in different legal acts: the laws of Georgia on Gender Equality and the Elimination of All Forms of Discrimination.

On 2 May 2014 the **Law of Georgia on Elimination of all Forms of Discrimination** (*hereinafter – the Law*) was adopted by the Parliament. The adoption of the Law was accompanied with a set of amendments to other legislative acts, including the Law on Gender Equality, Criminal Code of Georgia, etc. to harmonize provisions of all relevant statutory acts that serve to elimination of discrimination and ensuring equality.

The main purpose of the law is to eliminate all forms of discrimination and ensure for every person equal enjoyment of rights prescribed by law irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics (Article 1 of the Law).

The Law also distinguishes between direct and indirect discrimination. The former is defined as “the kind of treatment or creating the conditions when one person is treated less favourably than another person in a comparable situation on any grounds specified in Article 1 of this Law or when persons in inherently unequal conditions are treated equally in the enjoyment of the rights provided for by the legislation of Georgia, unless such treatment or creating such conditions serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate” whereas the latter is defined as “a situation where a provision, criterion or practice, neutral in form but discriminatory in substance, puts persons having any of the characteristics specified in Article 1 of this Law at a disadvantage compared with another person in a comparable situation, or equally treats persons who are in inherently unequal conditions, unless such situation serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate.”

The novelty of the Law is the introduction of the concept of multiple discrimination previously unknown to the Georgian legal system. The Law defines the multiple discrimination as

discrimination based on combination of two or more characteristics and provides that any form of discrimination, being it direct, indirect or multiple, shall be prohibited in Georgia. Simultaneously, it stipulates that special and provisional measures aimed at encouraging equality, particularly in gender, pregnancy, and maternity issues, shall not be considered as discrimination.

Any distinction, exclusion, or preference with respect to a particular job, activity, or sphere, based on its inherent requirements shall also not count for discrimination.

Discrimination according to the Law shall be prohibited in all spheres, both public and private. The Law obliges all institutions that function within the jurisdiction of Georgia to conduct concrete measures for eliminating discrimination, in particular any institution shall be obliged to: a) bring its activity, legal acts and internal regulations, if any, into conformity with the requirement of the Law and other anti-discrimination legislation; b) respond promptly and efficiently to any alleged act of discrimination and; c) if an act of discrimination is confirmed, impose liability on offenders under its control according to the legislation of Georgia and internal regulations, and ensure that the consequences of discrimination are eliminated without prejudice to the rights and legitimate interests of third persons (Article 4 of the Law).

However, if an alleged discrimination victim finds that measures undertaken fall short of remedy the violation of his/her right to equality and non-discrimination may submit an application/complaint to an independent body – the Public Defender of Georgia, who is authorized to monitor the implementation of the Law and control elimination of discrimination and ensuring of equality in Georgia. A person shall submit the application and relevant evidence to the Public Defender of Georgia that give reason to suspect discrimination, whilst the alleged discriminating person shall bear burden of prove and demonstrate that discrimination in fact did not occur. If the Public Defender of Georgia considers it to be necessary, it may schedule an oral hearing and invite both parties to settle the case by mutual agreement. If the case is settled by mutual agreement, the Public Defender of Georgia shall monitor the fulfilment of the obligations determined by the settlement agreement.

In case a person who considers himself/herself a victim of discrimination is not satisfied with the outcome of the proceedings before the Public Defender, he/she may still bring a court action against the person/institution which he/she considers to have committed the discrimination and may claim for moral and/or material damages. In such a case the court procedure is regulated by the Civil Procedure Code of Georgia.

One of the most significant and concrete steps taken by the Government of Georgia to ensure non-discrimination on the base of sex was the adoption of the **Law on Gender Equality** on 27 March 2010. It aims at ensuring prohibition of all kind of discrimination in all spheres of social life, creating of appropriate conditions for implementation of equal rights, freedoms and opportunities of women and men, supporting prevention and elimination of all kind of discrimination. The Gender Equality Law also defines notions of direct and indirect discriminations and introduces the principle of special measure aimed at improving existing discriminatory consequences. The Law guarantees equality in labor relations, in the sphere of education and science, in access to informational resources, in the sphere of healthcare and social protection, in family relations, etc.

Additionally, the Law provides legal definitions relating to gender equality and envisages the obligation of the State to take all appropriate measures to provide equal rights and freedoms for men and women in family, society, public institutions or throughout the labor market.

Furthermore, the Law determines functions of Gender Equality Council – established body at the Parliament of Georgia for the purpose of ensuring regular and coordinated work on gender issues. It is authorized a) to develop and present the Action Plan for Gender Equality to the Parliament for

approval, b) to ensure coordination and monitoring of implementation of the Action Plan, c) to analyze the legislation and draft proposals for overcoming gender inequalities existing in the legislation, d) to elaborate and implement the monitoring and evaluation system of activities targeted at ensuring gender equality; etc. At the same time the Council submits the annual report on the status of gender equality in Georgia to the Parliament of Georgia, prepares reports on the status of implementation of obligations assumed at the international level with respect to gender equality.

The fundamental provisions for freedom of labor enshrined in the Constitution are reflected and developed in the Organic Law - **the Labor Code of Georgia**, which was amended on 12 June 2013. The Organic Law - the Labor Code of Georgia defines that labor relations shall be performance of work by an employee for an employer under organized labor conditions in exchange for remuneration (Article 2(1));

In accordance with this Law, labor and pre-contractual relations shall prohibit any type of discrimination due to race, skin colour, language, ethnicity or social status, nationality, origin, material status or position, place of residence, age, sex, sexual orientation, marital status, handicap, religious, public, political or other affiliation, including affiliation to trade unions, political or other opinions (Article 2(3)).

The Labor Code of Georgia establishes that a labor agreement shall determine the form and amount of remuneration. The norms of this article shall apply unless otherwise provided for by a labor agreement. According to this article, remuneration shall be paid once a month at the place of work. In addition, an employer shall be obliged to pay an employee 0.07 per cent of the delayed sum for each day of any delayed compensation or payment (Article 31).

The Code determines the rules for remuneration for idle time. Unless otherwise defined by a labor agreement, an employee shall be fully remunerated for the idle time through the fault of an employer, while idle time through the fault of an employee shall not be remunerated (Article 32).

Discrimination is punishable under the **Criminal Code of Georgia**. In accordance with Article 142, violation of equality of humans due to their language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, social origin, profession, marital status, health, sexual orientation, gender identity and expression, political or other opinions, or other characteristics that has substantially prejudiced human rights, shall be punishable by fine or by corrective labor for the term not exceeding one year and/or by imprisonment for up to two years in length.

Georgian Labor Code and the Law on Public Service provides regulations for maternity and child care leaves of absence, as well as leaves of absence for adopting newborn. On September 27, 2013, amendments were made to the Labor Code, which resulted in increase of the duration of leave due to pregnancy, childbirth and child care from 477 calendar days to 730 calendar days, where 183 calendar days are payable instead of 126 calendar days. As for the number of leave days due to child adoption 365 calendar days increased to 550 calendar days, and 70 payable days increased to 90 payable days (amendment N 1393 of September 27, 2013). The mentioned amendments were also made to the decree №231/N of September 25, 2006 of the Minister of Labor, Health and Social Affairs of Georgia "On Approval of the procedure for payment of maternity, child care, and newborn adoption leaves of absence" (decree №01-44/N, September 11, 2013).

In 2013 the Labor and Employment Policy Department was set up under the Ministry of Labor, Health and Social Affairs of Georgia one of the responsibilities of which is to elaborate a policy aiming at employment. Besides that, Employment Programs Department was set up under the LEPL Social Service Agency which is the implementing body of the labor and employment policy.

Within the framework of “State Strategy of Labor Market Formation and its Implementation Action Plan for 2015-2018” adopted by the Decree N732 of the Government of Georgia on December 26, 2014, the Department of Employment Programs of the LEPL Social Service Agency of the Ministry of Labor, Health and Social Affairs of Georgia are implementing a State program, adopted on June 2 , 2016 by the Decree N238 of the Government of Georgia concerning Professional Training-Retraining and Qualification Raising for Job-seekers. The employment centers are functioning in 69 regional centers of the Social Service Agency. Main functions of those centers are to provide job seekers with information, counselling, registration and employment promotion, including through the organization of training/re-training programs. Participation of the less competitive workforce, including women, is the priority during the implementation of vocational training programs for the unemployed. Moreover, the program on development of the employment promotion services was adopted by the Decree N333 of the Government of Georgia, dated July 18, 2016. The purpose of the program is to provide services to the job seekers for professional counselling and career planning, on the level of municipalities. Within the framework of the program, the job seekers are receiving general individual and group consultations in all regional centers of the Social Service Agency. Counselling topics are the following: job search techniques, self-assessment for the conditions of general and specific vacancies, drafting principles of the documents needed for employment, such as CVs and cover letters and techniques for the job interview. Within the both state programs preferential rights are given to vulnerable groups, including women.

On December 20 in 2015 the Government of Georgia adopted a Decree N676 on approval of Comprehensive Service Standard for Professional Orientation and Career Guidance Services and Approving a Professional Orientation and Career Guidance Substandard for Jobseekers. A Professional Orientation and Career Guidance Service (Service) provides the services to all interested parties at any stage of life that will enable them to manage their own career, select an appropriate educational path way and make a professional choice. The Professional Orientation and Career Guidance service is one of the principal parts of active labor market policies (ALMP). The Professional Orientation and Career Guidance service is recognized as the most important tool for the development and proper implementation of labor market and education policies (including vocational education) in all EU countries and the developed society. Three ministries share a sectoral responsibility for Professional Orientation and Career Guidance services in Georgia: the Ministry of Education and Science of Georgia and the Ministry of Sports and Youth Affairs of Georgia in the field of Professional Orientation, while the Ministry of Labor, Health and Social Affairs of Georgia – in the field of Career Guidance. This approach is consistent with the practices recognized in the EU countries, where the responsibility is distributed in the same manner. Professional Orientation and Career Guidance services are provided by various organizations or institutions in Georgia. In order to be accepted the service both by users and society, and in order to enable comparison, evaluation and monitoring of services rendered by various institutions, it is necessary to establish a national standard of service. Having regard to the fact that specifics of the services provided to various target groups will be different, this document aims to lay down basic requirements, rules and the content (a national standard of quality) for Professional Orientation and Career Guidance services in Georgia. Taking this standard into account, a specific approach to the services will be developed for various target groups, based on the close cooperation with service - provider organizations and institutions.

In 2014, the Government of Georgia approved a concept paper and an action plan for the establishment and development of the Labor Market Information System. The system would enable people to access information on demanded professions, employment opportunities and potential new openings, growing economic sectors. Currently, implementation of LMIS web-portal is the process and will be finished by the end of 2016. This would help people to choose professions that are in high demand, foreseeing employment prospects, labor market data/information in terms of gender.