

LABOUR AND SOCIAL JUSTICE

# SOCIAL DIALOGUE IN GEORGIA

**Paata Beltadze**  
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The short history of the development of social dialogue and labor relations in Georgia since the breakup of the Soviet Union is notable for its lack of coherence and sporadic achievements.



Within the framework of the Association Agreement between Georgia and the EU, Georgia has made a commitment to align the labor relations regulations and practices with the relevant EU directives. Still, the practical and effective promotion of social dialogue is not ensured.



The purpose is to analyze the period between 2014-2018 in Georgia, with regard to social dialogue, to assess the institutional and legal framework, study the origin, progress and results of the most crucial strikes and show, what kind of outcomes it may have, when there is no desire of dialogue and its importance is permanently ignored.



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## 1

# INTRODUCTION

Against the background of Georgia's inevitable admission to the European Union, the phenomenon of social dialogue and formation of a labor relations culture is of the utmost importance. Effective social dialogue ensured by the actual involvement of the parties is the basis of the state models of European social welfare and justice; this dialogue plays a crucial role in strengthening democratic principles, rule of law and social security, as well as providing inclusive economic growth and even distribution of material goods among the different groups of the society.

The short history of the development of social dialogue and labor relations in Georgia since the breakup of the Soviet Union is notable for its lack of coherence and sporadic achievements.

The following evidence-based position emerged from the joint study made by the International Labor Organization and the World Bank: countries where social dialogue functions effectively have overcome the negative effects of the global financial crisis with minimal dislocation and have made steady progress toward improving their situations.<sup>1</sup>

The importance of social dialogue has been recognized by several pieces of Georgian legislation, including the Tripartite Commission for Social Partnership under the Prime Minister's Office and the Action Plan on Socio-Economic Development of Georgia for 2020, which places significant emphasis on promoting social dialogue. Within the framework of the Association Agreement between Georgia and the EU, Georgia has made a commitment to align the labor relations regulations and practices with the relevant EU directives. Still, the practical and effective promotion of social dialogue is not ensured. It is also noteworthy that there is no general consensus in the society about the efficacy of social dialogue. The proponents of the libertarian ideology so popular in Georgia believe that any regulation or even minimal legal interference by the state in labor and industrial relations will reduce the flow of foreign direct investments and thus hinder economic growth and the creation of additional jobs

The experience of the EU member states, including the new members, can be provided as evidence against the above paradigm, as it shows many painless and steady examples of democratic and economic transition through the achievement of actual and effective social dialogue.

In Georgia, with few exceptions, the most important principle of social dialogue is ignored. This principle is to resolve collective disputes through negotiation and to ensure social peace by collective agreements. In the countries with developed economies, a strike is recognized as the last measure employees can take to secure their collective interests when all opportunities of further conciliation procedures and successful negotiations are exhausted. Strikes in Georgia are in most cases used as a coercive mechanism to initiate negotiations, which employees resort to spontaneously or in compliance with existing legal procedures.

Against the background given above, the purpose here is to analyze the period between 2014-2018 in Georgia with regard to social dialogue, to assess the institutional and legal framework of this phenomenon, to study comprehensively the origin, progress and results of the most crucial strikes during this period and to show what kind of outcomes it may have when there is no desire of dialogue and its importance is permanently ignored.

A separate chapter of the present study focuses on the development of social dialogue in the EU. Particular emphasis is made on social models in the former Soviet countries.

The last chapter summarizes those tendencies identified by the research which are seen as key features of social dialogue development. A separate sub-chapter is dedicated to some recommendations that we consider as very important and which, if implemented, would move social dialogue to a new level in Georgia. This would ensure the sustainability of the country's socio-economic development, the improvement of social welfare and the establishment of high standards of labor rights protection.

<sup>1</sup> Joint synthesis report of the world bank and ILO on Inventory of Policy Responses to the Financial and Economic Crisis, 2012, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/emp\\_elm/documents/publication/wcms\\_186324.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/emp_elm/documents/publication/wcms_186324.pdf)

## 2

## INSTITUTIONAL AND LEGAL FRAMEWORK OF SOCIAL DIALOGUE

It is internationally recognized that social dialogue and tripartism (trilateral cooperation) is a powerful tool for labor market management which ensures the establishment of decent working conditions, inclusive development, and social cohesion.

The institutional and legal development of social dialogue in Georgia does not have a long history. On November 12, 2009, the Prime Minister's decree on the creation of the Tripartite Commission was issued. In March 2010, the constitution of the Tripartite Commission on Social Partnership was approved, comprising representatives of the Georgian Employers' Association, the Georgian Trade Unions Confederation, and the Government of Georgia. It was a time when hostile policy was carried out by the state authorities against the trade unions and restrictions of the fundamental right to freedom of association were widespread. Employers forced employees to leave trade unions amid pressure and threats of dismissal. According to the estimates of the Committee of Experts of the International Labor Organization (ILO), Georgia was the country where labor rights violations were of the most serious and extensive nature.

In this complicated situation, as a result of continuous pressure from the International Labor Organization, the U.S. Department of State and the European Union institutions, in November 2009 the Government was forced to create the Tripartite Commission on Social Partnership.

The idea here was to create a partitive body that would be able to defuse the tension inherent in labor conflicts and which would take significant steps to ensure social peace. Despite the stated purpose, the Tripartite Commission on Social Partnership turned out to be a superficial institution that was not engaged in solving the vital issues raised by the trade unions. It was an empty place "to release the tension," where 90 percent of the issues in the meeting agenda were raised by the Georgian Trade Unions Confederation. The response of the representatives of the Government and employers to this was to constantly ignore workers' legitimate demands in a coordinated manner. Despite the ineffectiveness of the Commission activities, the creation of this institution was the first attempt to establish an institutional legal framework for social dialogue in the country.

In order to enhance the legitimacy of the Tripartite Commission on Social Partnership as an institution, the Government of Georgia made amendments to the Georgian Labor Code in 2013, according to which a separate chapter (chapter VI) was dedicated to the Commission.<sup>2</sup> On October 7, 2013, the Government of Georgia approved the Statute of the Tripartite Commission on Social Partnership, setting the Commission's main functions and principles of operation.<sup>3</sup>

The main function of the Commission is to promote social partnership and social dialogue among employees, employers and the Government of Georgia at all levels of the country and to develop proposals and recommendations on various issues with regard to labor (and other subordinate) relations.

On 12 March 2014, the Prime Minister issued a resolution approving the members of the Commission. According to this resolution, the Commission is chaired by the Prime Minister of Georgia, whose administration should assist the Commission activities. Members of the Commission include the Prime Minister (Chair) and representatives of the following five ministries: Health, Labour and Social Affairs (Deputy Chair), Justice, Economy and Sustainable Development, Regional Development and Infrastructure, and Education and Science. In addition, the Commission comprises six representatives from trade unions and six from employers. The members of the Commission are elected for a one-year term. By the decision of the Government of Georgia issued on 15 March 2016, in order to increase the effectiveness of the Commission activities, the functions of its secretariat were transferred to the Ministry of Labour, Health and Social Affairs of Georgia. Within the framework of the Commission, various working groups have also been set up, which meet to prepare the issues to be reviewed by the Commission.

The "Rule for Reviewing and Settling Collective Dispute Settlement Procedures" developed on the basis of the Prime

<sup>2</sup> Georgia's official legislative website "Matsne", the labor code of Georgia, Section IV, Tripartite Social Partnership Commission, June 12 2013, <https://matsne.gov.ge/en/document/download/1155567/3/en/pdf>

<sup>3</sup> Georgia's official legislative website "Matsne", 8 October, 2013 on the adoption of the charter of the Tripartite Social Partnership Commission, <https://matsne.gov.ge/ka/document/view/2037256?publication=0>

Minister's decree in 2013 is a positive step.<sup>4</sup> This rule made it possible for mediation to function in the realm of Georgian labor law. According to the above decree, if parties to collective disputes can not reach a common agreement, they can apply to the Minister of Labor with the request to appoint a mediator, who should regulate the conflict and facilitate it in such a way that the parties can reconcile contradictory positions and make a final, compromised decision. It is also noteworthy that the parties can execute the right to collective strike and lock-out on the 21<sup>st</sup> day upon appointment of a mediator by the Minister.<sup>5</sup>

Mediators are independent experts who should be impartial and have the relevant knowledge and experience in conducting labor relations negotiations. As of September 2016, the registry had not been approved and no official explanation for this had been made by the Ministry of Labour, Health and Social Affairs.<sup>6</sup>

As a result of this lack of commitment, the effectiveness of mediation has been undermined. In early 2016, despite the obvious need, the Ministry of Labour, Health and Social Affairs failed to engage mediators in the big strike of Tkibuli miners. Later, in a labor dispute involving railroad construction workers in the village of Zvare, the Ministry hastily appointed a mediator, even though the latter's resources were scarce, and the workers went on strike on September 19, 2016.

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Because of the amendments made to the Labor Code in 2013, there was a good opportunity to create minimum standards for labor rights protection in Georgia. In the previous years, the Government changed its clearly antagonistic attitude towards the trade unions, which was followed by the establishment of the Tripartite Commission on Social Partnership in the legislative sphere. There emerged the legal concept of mediation and the new ruling team coming to power through elections in 2012 started promoting and strengthening social dialogue. The significant document developed by the Government in 2014, the Action Plan on Socio-Economic Development of Georgia for 2014-2020, expressed the will of the State to strengthen social dialogue. Namely, "the Government of Georgia provides for the development of social partnership and social dialogue,

involving the cooperation of the State, employers and employees and, as a result, elaborating the collaboration forms between the parties. Along with taking into account the interests of employers through social dialogue, each employee will be provided with decent working conditions. Such reciprocal cooperation, guaranteed by the State, ensures the strengthening of social peace in the country and stability of economic processes".<sup>7</sup>

Naturally, the changes made and the political will stated by the Government created expectations in the society that a policy of promoting and enhancing social dialogue would be gradually launched in Georgia. First of all, the Tripartite Commission on Social Partnership should have played a critical role in these processes and should have given impetus to the development of social dialogue not only at national, but also at sectoral, regional and industrial levels. The Commission should have developed as a strong consultative institution not only in the labor relations sphere, but in the direction of elaborating social policy and economic upgrading. Unfortunately, the reality turned out to be completely different. There were only some positive decisions made by the Tripartite Commission, though all in all, as in the previous years, the institution failed to develop as a strong mechanism that could play a key role to ensure labor system reform and high levels of employee protection in the country. Since 2013, the Tripartite Commission on Social Partnerships has met only five times, not even once a year, thus it was not able to discuss and resolve important issues. Between 2013-2016 the Commission managed to convene only twice. Despite numerous written and oral statements made by the Georgian Trade Unions Confederation, the Ministry of Labour continued to ignore the request to hold the Commission meetings. Moreover, more than 90 percent of the issues on the Commission agenda were drafted and presented by the trade unions.

In autumn 2018, there was a serious danger that the Commission would dissolve, when the chairman of the Georgian Trade Unions Confederation officially announced that he would stop participating in the Tripartite Commission. The reasons for the unions' dissatisfaction were that the Tripartite Commission failed to become a viable institution, and that the Government's attitude towards social dialogue was superficial and could not address the challenges of employers through dialogue.<sup>8</sup> It should also be noted that at several meetings of the Commission the trade unions raised the issues of persecution against the trade unions in the Georgian Railway and Georgian Post. For years, in these two institutions, 100% of which is owned by the State, the trade unions have been restricted in their right to freedom of association and collective bargaining.

<sup>4</sup> November 25, 2013 Resolution of the Government of Georgia regarding "Review and resolution of collective disputes with mediation procedures", #301

<sup>5</sup> Georgia's official legislative website "Matsne", the labor code of Georgia, article 48, paragraph 3.

<sup>6</sup> Perspectives for Legal Regulations of Mediation in Georgia", National Center for Alternative Dispute Resolution, Tbilisi, 2013

<sup>7</sup> Social-economic Development Strategy of Georgia "GEORGIA 2020", published in 2014, <https://www.adb.org/sites/default/files/linked-documents/cps-geo-2014-2018-sd-01.pdf>

<sup>8</sup> An interview of Irakli Petriashvili on Public Broadcasting, with journalist Maka Tsintsadze, in October, 2018

Particularly alarming is the situation in the Georgian Post, where, as a result of the management's systemic policy against the union, the trade union actually ceased to operate. The two above-mentioned cases caught the attention of international organizations many times. Despite the calls of the International Labor Organization, the US State Department and the European Union, the Government did not take steps to put an end to the persecution of trade unions in the state-owned companies. The boycott continued for several months and then the trade union re-entered the Commission activities.

After the second meeting held on April 11, 2016, the Commission adopted a new working strategy. The special working group of the Tripartite Commission on Social Partnership, which is composed of social partners and external experts, would prepare a work plan for the Commission. The work plan should include issues of improvements to the Georgian Labor Code, labor inspection, mediation, minimum wage, education and investment. It is of the utmost importance that the Commission, according to its strategy, should meet regularly to improve the labor legislation through the involvement of social partners. The Tripartite Commission on Social Partnership also approves the registry of mediators.

It should be noted that there is no institutionalized social dialogue, or bipartism, in the workplaces in Georgia. Strong platforms of cooperation at the enterprise level in many European or economically developed countries create opportunities to decrease industrial conflicts and establish mutually respectful relations. This ensures development of a predictable, mutually beneficial environment in the long run. In 2016-2017, the International Labour Organization supported the presentation of significant seminars in different regions of Georgia, which were aimed to show employers and trade unions the work processes of consulting labor management committees (created at production level) and the role they play in labor dispute resolution and labor management efficiency. According to the views expressed by the participants in the evaluation documents of these seminars, both parties agree that the dialogue has no alternative and express their readiness to establish and actively participate in such advisory bodies. Adoption of labor safety legislation made the consulting mechanisms at the industrial level even more actual and relevant, as the labor law foresees the joint participation of employers and employees in the development of safety culture, risk assessment and prevention mechanisms in the workplace.

An important innovation for the regional development of social dialogue was the creation of the Territorial Tripartite Social Partnership Commission in the Autonomous Republic of Adjara on April 24, 2018.<sup>9</sup> In accordance with the Statute, the Tripartite Commission on Social Partnership in Adjara is

represented by the Adjara Government, Employers Association, and Trade Unions. The Commission is committed to developing a culture of social dialogue and assisting in the resolution of any disputed issues through dialogue. The purpose of the Commission is to regulate the relationship between an employee and an employer, to protect employee rights and safety, and to resolve labor disputes. The establishment of the first regional Commission on Social Partnership in Adjara is undoubtedly a positive event on the way to the development of social dialogue in Georgia. Naturally, evaluation of the effectiveness of the Commission work at this stage is not possible, but since its creation, the Commission has already held several meetings. Within the technical assistance of the International Labor Organization, study visits to various countries were implemented and several important seminars were held for the members of the Commission. In the future, the effectiveness of the Commission performance should be measured according to its decisions taken for promoting the development of healthy labor relations in the region and active participation in resolution processes of potential labor disputes.

Currently, there is only one sectoral agreement acting in Georgia, indicating the weakness of social dialogue development at the sectoral level. On March 16, 2017, a sectoral agreement was signed between the Ministry of Education and Science of Georgia and the Free Trade Union of Teachers and Scientists of Georgia.<sup>10</sup> According to the agreement, the parties expressed their readiness to work on the implementation of joint decisions, to support the educational reform with the active participation of teachers, and to promote the professional development of teachers in order to increase the quality of education and develop a lifelong education system in the country. The above sectoral agreement could be used as an ongoing example of mutually beneficial cooperation between social partners. First and foremost, employers need to realize the enormous positive effect of a predictable, stable work environment; they also need to recognize the role of employees in increasing manufacturing productivity and competitiveness and thus to take labor relations to a new level with this understanding.

In the following chapter, we will discuss in detail the collective disputes that ended with strikes in Georgia during the last five years and analyze their origins. We will also evaluate the negative consequences of ignoring employee interests and the results of neglecting principles of dispute resolution through social dialogue and negotiation. Accordingly, we will not address the topic of strikes here, although, it should be noted, that the frequency of strikes in Georgia since 2013 is symptomatic of ineffective dispute resolution. There were 165 collective agreements in Georgia in 2011, but today the number of such agreements has been reduced threefold to 54.<sup>11</sup> This is yet another clear proof that significant legislative changes to institutionalize social dialogue since 2013 have

<sup>9</sup> An official information published on the joint portal of the government of Adjara Autonomous Republic, May 2, 2017, "Social Partnership Commission will work in Adjara", <http://www.adjara.gov.ge/description.aspx?gtid=577607#.XsOe9WhKhPY>

<sup>10</sup> Information published on an official website of the teachers' union of Georgia, March 18, 2017. [www.educstors.ge](http://www.educstors.ge)

<sup>11</sup> Public statemen made by the GTUC president at the conference in 2019 dedicated to discussions about minimum wage in Georgia.

not been reflected in reality; on the contrary, somehow they adversely affected collective agreements in the country.

It is instructive to review the principles and effectiveness of the work of the mediation service in Georgia. The following trends were identified in the study conducted by the NGO Human Rights Education and Monitoring Center (EMC) in Georgia. According to their statistics, from 2013 to 2017, a total of 32 labor mediation processes were begun. In all of these cases, the initiator of the mediation appointment was a staff group (20 people or more) or a trade union of employees (primary or sectoral trade union organization). The cases of collective disputes arising during the above years, which escalated into the mediation process, took place in 20 different ventures or organizations, of which 16 were private sector companies and 4 were the enterprises (hereafter, state-owned enterprises) established through the shared participation of the State.

However, about 30% of the initiated mediation cases were repeated mediation occasions. This indicates that the mediation process was reassigned due to the breach of the terms of the previous mediation agreement and the failure to execute the agreement as a result of a new labor dispute. Our analysis of the strikes that took place during the last five years further supports the above arguments and confirms that the mediation activities in Georgia are not successful and result-oriented. The high rate of recurrent mediation indicates that employers do not follow the conditions of mediation agreements. Moreover, instead of resolving an actual dispute, the mediation mechanism is often used by employers to end strikes and to gain time.

The absence of a negotiation culture or insufficient experience in this regard does not allow for the possibility of concluding disputes through mediation. The role of a mediator, his/her experience, professionalism and impartiality are also of great importance. Negotiations in the mediation process are greatly influenced by the particular circumstances. The hierarchy of services within an enterprise, the hierarchical use of knowledge and education, the appropriate form of conveying requirements and rational attitude, insufficient experience in identifying common interests, damaged processes due to personal relationships, the difficulty of gaining access to financial or commercial information on manufacturing activities, the power of workers' bargaining, and the real opportunity to go on a strike are all important factors that condition the mediation process.

After six years it is clear that mediation activity has not been able to achieve a credible status for the peaceful settlement of labor disputes and has failed to live up to the expectations of the society. In fact, mediation, according to social partners, holds the status of a formal strike-prevention mechanism. Employers are skeptical about this method of dispute resolution - they believe that through mediation, which is a mandatory procedure stipulated by the law, the State forces them to sit at the negotiation table.

While assessing the evolution of social dialogue, it should also be noted that the Tripartite Commission on Social Partnership produced positive examples of cooperation in improving labor law during the last three years. For example, on November 2, 2017, the Parliament of Georgia ratified the International Labour Organization (ILO) Priority Convention 144 on "Tripartite Consultation to Promote the Implementation of International Labor Standards".

The Law on Labor Security, adopted in 2018, should be evaluated as a good example of the cooperation of the Tripartite Commission on Social Partnership in the law-making processes. The above law enables the Labor Conditions Monitoring Department to monitor labor security in all areas of economic activity in accordance with the basic provisions of the ILO Convention 81 on Labor Inspection. Discussions and debates on the draft law involved the participation of the Tripartite Commission working group, which analyzed and refined the draft before its submission to the Commission. Labor safety regulations and their enforcement mechanisms emerged in the legislature, although the role of the Tripartite Commission on Social Partnership was not properly utilized. The working group, created by the initiative of individual parliamentarians, took up the issue of discussing the draft law and elaborating its joint version. Employers' representatives, trade unions, ministries, human rights NGOs, and international labor organizations participated in the reconciliation processes. The format of Tripartism Plus was created and the range of the subjects included in the discussions on labor law issues was broadened. In terms of the results, the process was successful, although the Tripartite Commission on Social Partnership could have fulfilled its essential function assigned by the legislation and could have led those activities itself.

In September 2019, the group of parliamentarians also began discussing a package of amendments to be made to the Labor Code, which aimed at reconciling Georgia's labor legislation with the EU directives, as well as analyzing a fully mandated draft labor inspection law. As in the previous case, the Tripartite Commission was not the initiator of these significant legislative changes.<sup>12</sup>

The Tripartite Commission on Social Partnership is actively involved in the practical implementation of the Labor safety Law. Social partners participate in the selection of labor security inspectors conducted by the labor inspectorate. Strengthening the social partnership concept in Georgia and promoting social dialogue and cooperation with labor inspection through regular meetings will facilitate the development of labor safety and labor rights protection at the industrial level. This will ultimately improve labor security, productivity and other economic indicators in the country. The social partners have been actively involved in developing

<sup>12</sup> Interview with a member of the Parliament Dimitri Tsktishvili at Imedineews.ge, 20 September 2020, <https://imedineews.ge/ge/politika/116952/dimitri-tsqtishvilma-shromis-kodeqshhi-dagegmilivlilebebi-ganmarta>

a list of “hazardous, strenuous, injurious, and dangerous jobs” and discussing accident insurance. Two meetings were held by the Tripartite Commission working group to determine the list of the most hazardous, strenuous, injurious, and dangerous jobs. As a result, the final version of the list was developed, which was subsequently approved by the Resolution of the Government of Georgia N381.

## SOCIAL DIALOGUE AND INTERNATIONAL COMMITMENTS

In May 2019, the International Labour Organization (ILO) Priority Convention 144 on “Tripartite Consultation” was enforced, which obliged Georgia to use social dialogue as a tool for implementation of the ILO conventions. According to the Convention 144 requirements, consultations at the national level should be held between the Government and employers’ and employees’ organizations at each stage of implementation of the ILO standards-related measures.

The question of whether the purpose of tripartite consultations should be to reach a consensus has been investigated by the International Labor Organization’s Governing Council. While this case concerns the interpretation of the Convention regarding representation, the conclusions reached by the Committee--appointed by the International Labor Organization’s Governing Council-- also apply generally to the tripartite process. The Committee decided that if the consultations are to be thorough and not symbolic, they should be addressed by the appropriate agencies. While public agencies should be guided by the principle of integrity when conducting consultations, they are not limited in the views expressed in the process and the final decision is entirely their responsibility. The Committee also says that efforts to reach an absolute consensus may reduce the effectiveness of the consultations required by the Convention. In this regard, it says that the Convention does not require that consultations should aim at reaching an agreement. The main purpose of consultations is to facilitate decision-making for the responsible parties.<sup>13</sup>

The most significant requirements of Convention 144 are the recognition of the rights to association and collective bargaining and ratification of the International Labor Organization (ILO) Conventions #87 and #98. The Convention mainly focuses on the notion that employers’ and employees’ organizations should be free from political pressure and interference from state agencies and that recommendations and agreements developed by the tripartite institutions should be fulfilled.

Employers’ and employees’ organizations should strive to be as representative as possible, e.g. employers’ organizations should also include small enterprises and cooperatives; trade unions should also seek to involve the persons employed in

informal economies, ethnic minorities and youth; gender balance should be considered. The technical competencies of the Government and employers’ and employees’ organizations should be enhanced through appropriate training and skills-building programs. Frequent relationships with social partners should build mutual trust.

The Association Agreement between the European Union and Georgia, apart from other important issues of labor and employment, provides for social partnership and cooperation to promote decent working conditions, employment policy, social inclusion and corporate social responsibility. Strengthening work in the above areas should promote social cohesion, sustainable development and improve living conditions.<sup>14</sup>

Against the background of Georgia’s irreversible rapprochement with the European Union, the phenomenon of social dialogue and formation of a labor relations culture is of the utmost importance. It should be noted that effective social dialogue ensured by the actual involvement of the parties is the basis of the state models of European social welfare and justice and plays a crucial role in strengthening democratic principles, rule of law and social security, as well as providing inclusive economic growth and even distribution of material goods among the different groups of the society.

## SOCIAL DIALOGUE IN THE EU

The institutional development history of social dialogue in the EU is remarkable for its diversity and is relative to the geographical location of states. In the so-called West European countries of the EU, the historical evolution of social dialogue was achieved through various models, but the structure of these different models had a universal goal: to create cooperation platforms of constant consultations through paritative participation of governments, employers and trade unions, and accordingly, to distribute the responsibilities in the social-economic development process of a country.

It is precisely because of this spirit that social dialogue has become a cornerstone of the European social model. The EU is an important area where all the most significant forms of social dialogue are present and play an important role in promoting social peace, decent working conditions, inclusive economic development and sustainability. European social dialogue encompasses cooperation at the national level in the form of tripartite consultations, as well as bipartism, i.e. a continuing dialogue between employers and employees at the enterprise level. Some member states also have separate social partnership mechanisms at regional or sectoral levels.

Social dialogue at the industrial level in the European Union, especially in West European countries, is a powerful

<sup>13</sup> ILO convention 144 on Tripartite Consultation 1976, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312289](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312289)

<sup>14</sup> Georgia’s official legislative website “Matsne”, 27 June, 2014., Association Agreement between European Union and Georgia, chapter 14, article 348 -employment, social policy and equal opportunities, <https://matsne.gov.ge/ka/document/view/2496959?publication=0>

institutional mechanism for resolution of collective labor disputes. Social dialogue ensures maintenance of confidence-based relationships and promotes industrial democracy.

Directive 2002/14/EC lays down minimum procedural standards at the national level, which protect employees' rights to get information and consultations on economic and employment-related circumstances and issues affecting their work. The Directive obliges each Member State to provide effective, regular and up-to-date information and consultation on recent and possible developments in business activities, financial and economic situations, employment evaluation, and solutions that can lead to major changes in labor arrangements.

At the enterprise level, partnerships between social partners have been institutionalized. There are also the Labor Advisory Councils or the Labor Management Committees, which include senior management and trade unions of the company. Where trade unions are not established, they are represented by authorized persons selected by employees. Meetings of the Advisory Councils are regular and all important issues of labor relations are discussed, which include labor disputes, occupational safety and hygiene, changes in the organization of labor, the introduction of new technologies, training to upgrade employees' qualifications, and any other issues that may arise. Advisory Councils also play an important role in the effective enforcement of labor law. Advisory Councils are the first response mechanisms for resolving labor disputes.

The results of the work of the Advisory Committees are tangible and long-lasting. They include an enhanced respect for human rights and the realization of the principles of freedom of association, the improvement of the organizational culture of labor and management systems. Other gains include diminishing the likelihood of human resources drain, improving the work environment, and creating increased productivity, a rise in corporate loyalty, and higher competitiveness in the market.

Many economists believe that in the wake of the financial crisis of 2008, the countries where social partners had an advanced culture of cooperation and internal will to cope with the obstacles were able to overcome the challenges less painfully and return to their normal course of development. In addition to the institutionalized structure of social dialogue in the EU in general, the General Agreement occupies an important place within many countries. It represents a confirmed will of social partners to discuss and agree on the key issues, such as the economic policy of a country, human capital, income and living standards, employment and labor market, salaries, revenue, social security, social partnership, forms of social partnership and social integration of the different groups of the society, social responsibility, and economic security. In a tripartite format, the cooperation of social partners in fact covers all areas and directions of socio-

economic processes.<sup>15</sup>

In many European countries, social pacts have become an important tool to deal with the economic and social challenges posed by globalization. However, states with no tradition of political concentration were able to reach an agreement on social pacts, which was the result of consensus on national social dialogue among the tripartite (Tripartite Plus) participants.

In the EU context, social dialogue involves a wide range of processes and agreements, in the framework of which the EU-level organizations representing employers and employees negotiate, work together and are jointly involved in the EU decision-making and policy-making processes.

Tripartite dialogue on the specific issues of the EU policy began in the middle 1990s. In 2011, the Commission organized the first tripartite social forum to discuss key issues of its major program "New Skills and Jobs Program" and more generally, the broad strategy "Europe 2020".

Ten states of Central and Eastern Europe successfully transitioned from a planned economic system to a democratic and market-based economic system, and then entered the European Union. In these countries, upon the collapse of the communist regimes, tripartite institutions were created to accommodate conflicting interests that were not recognized by the previous system. These institutions played a stabilizing role in the difficult economic conditions, characterized by the collapse of production and social security systems, a rapid rise in unemployment, a sharp decline in wages and incomes, and consequently, increased poverty. At the same time, these institutions enabled employers' and employees' organizations to influence the reform process, thus enhancing the legitimacy of their own role as social partners.

Later, in the process of the enlargement of the EU, tripartite institutions of social dialogue were successful as institutions of governance. They allowed the social partners to be involved first in the enlargement negotiations and then in the development of convergence programs for the Economic and Monetary Union membership.

The International Labor Organization (ILO) has played a key role in advising Central and Eastern European countries in the following areas: labor market and social reforms, formation of employers' and employees' organizations, enhancement of the capacity of labor administrations and establishment of tripartite institutions of social dialogue. The EU has played an even greater role in the development of labor and social policies, in particular by means of large financial resources, in the countries of Central and Eastern Europe.

It is important to briefly review some examples of the EU

<sup>15</sup> European Sectoral Social dialogue: facts and figures, European Foundation for the improvement of leaving and working standards, 6 December 2019, <https://www.eurofound.europa.eu/publications/report/2019/european-sectoral-social-dialogue-facts-and-figures>

Member States on the structure and activities of the tripartite social partnership advisory bodies at national level.

## NORTHERN MACEDONIA

In August 2010, the tripartite agreement, signed with the assistance of the ILO, established the Economic and Social Council (ESC) in the former Yugoslav Republic of Northern Macedonia. This agreement, which is a milestone in the national tripartite social dialogue, gave the Tripartite Council greater autonomy in policy-making processes.<sup>16</sup>

It is currently necessary to consider the Council's position on issues such as labor law, employment, retirement and labor disability insurance, safety and health in the work environment. Ministries are also obliged to respond to the Council's opinions, recommendations and proposals. In October 2011, after years of negotiations between the social partners, the Council agreed to set a minimum wage in the country for the first time. As a result, the Parliament passed a law on minimum wages.

## NETHERLANDS

In the Netherlands, the Government is not obliged to seek advice from the Economic and Social Council on all important economic and social issues. This obligation was abolished in 1995, though the number of requests received by the Council has not decreased. If the Government does not seek advice from the Council on a matter which the latter considers significant, the Council may publish its own report independently. Usually, this occurs when the Council is convinced that its advice will be supported by all members. Under the Framework Law on Advisory Bodies 1997, the Government should respond to the advice of the Council within three months upon its publication. If the Government does not heed the advice, under the agreement, it should explain the reason for its decision.<sup>17</sup>

## IRELAND

A tripartite body, the Central Review Committee (CRC), was established to monitor and control the Programme for National Recovery 1987–1990. The Programme for National Recovery included agreements on pay levels between employers, trade unions, farm interest groups and the Government for a three-year period in the private and public sectors.<sup>18</sup> Through its mandate, the CRC ensured that all

parties fulfilled the decisions taken. An important component of the CRC responsibilities was the maintenance of ongoing social dialogue between the Government and the social partners on significant economic and social policy issues, also the preparation of recommendations, where necessary. The CRC continued to operate under the following arrangements : Programme for Economic and Social Progress (PESP), 1991–1994 Programme for Competitiveness and Work (PCW), 1994–1996 Partnership 2000, 1997–2000 (the Partnership 2000 Monitoring Committee substituted the CRC). Later, within the framework of the Programme for Prosperity and Fairness and Sustaining Progress (2003–2005), the Government established many working groups, which operated simultaneously with the Governing Committee with the participation of social partners. The idea of working groups reflected a desire to solve complex social and economic problems. Generally, there is a consensus that these working groups were less successful than they initially hoped to be.

## POLAND

Poland was one of the first states of the former communist countries which included the principles of social dialogue in the Constitution, thus legitimating the necessity of cooperation between social partners: "To protect our country's future and existence, we, the people of the Polish nation, ... have created the Constitution of the Republic of Poland as the basic law of the State based on respect for freedom and justice, government cooperation, social dialogue and the principle of subsidiarity, that upholds the rights of citizens and their communities."<sup>19</sup>

The Tripartite Commission on Socio-Economic Issues was established in 2001. The Commission's responsibilities cover only two areas: defining wage growth indicators for companies and the state-funded sector ( that has a direct impact on the salaries of public sector employees) and participation in the first stage of state budget formation. In addition, the Commission has the right to express an opinion on all significant matters in the economic or social field, if it considers that resolving an issue is important for maintaining social cohesion. In total, ten thematic groups work in the Council.

Regional social dialogue in Poland was institutionalized in July 2011 through the "Act concerning the Tripartite Commission for Socio-Economic Issues and regional social dialogue commissions." This Act established the Regional Social Dialogue Commissions (Wojewódzkich Komisji Dialogu Spoecznego, WKDS), which included representatives of regional structures from the most representational employers' and employees' organizations and the regional government (Marshall Office) and the central government

<sup>16</sup> Information published on official website of North Macedonian Free Trade Union Confederation, economic and social council, <http://kss.mk/en/economic-social-council/>

<sup>17</sup> ILO guide for improved governance national tripartite social dialogue, December 2, 2013.

<sup>18</sup> ILO guide for improved governance national tripartite social dialogue, December 2, 2013, page 38, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_231193.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_231193.pdf)

<sup>19</sup> ILO guide for improved governance national tripartite social dialogue, December 2, 2013, page 58, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_231193.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_231193.pdf)

representatives in “województwa” (i.e. in a region/province).<sup>20</sup> Representatives of municipalities and districts are also invited from the region to participate in the Regional Commission meetings, according to the Order of the Cabinet of Ministers, issued on February 22, 2002. The order stipulates that WKDS must be held at least once a quarter.

Correspondingly, the potential issues for the consideration of regional commissions are wide and varied. They are related to all economic and social issues on regional development (e.g. employment and business development, social assistance, infrastructure, etc.). In practice, the consultations on policy, regional and local development instruments are received from the regional commissions, before they are received from the State administration or regional government. This also includes development programs funded by the EU Structural Funds.

In 2003, the regional administration expanded its responsibilities in industrial (labor) relations. It now includes the monitoring of collective agreements that are concluded between employer and employee representatives (in the absence of trade unions) in violation of the law and justified by the company's poor financial conditions.

While assessing the policies and instruments presented by regional governance bodies, the regional commissions aim to reconcile the economic and social interests of employers, employees, and the wider society. In this regard, they assume a significant responsibility for promoting peace and social cohesion at the regional and local levels. The regional commissions have been able to resolve many conflicts up to now. However, the culture of social dialogue is not yet fully rooted in all “województwa”.

In addition to participation and introduction of policy coordination culture at the sub-national level, the regional commissions also participate in the fight against corruption and in enhancing transparency in public affairs at the regional and local levels. Formally, the role of 16 commissions is consultative. Their work is highly respected by social partners and regional governance bodies.

In 2015, the Polish Sejm adopted a new law on social partnerships and regional consultations, which further strengthened the institutional and legislative framework of social dialogue.

## BULGARIA

In 1989, the socialist system collapsed in Bulgaria. In the early years of the political transition, many social and economic issues emerged in the country. The decrease in production levels and the collapse of the social security system, which was accompanied by price liberalization and privatization,

resulted in the growth of unemployment (that was unknown under the communist regime) and poverty.

Due to the transition, because of the legitimacy of new actors and the need to reform the old ones, there emerged many tripartite institutions similar to corporations. Most stakeholders had access to tripartite forums, as no specific criteria for representation were established. The early selection of social partners would have a negative impact on their organizational restructuring, development, and consolidation processes. Moreover, shifting the burden of economic and social transition to the social partners increased the chances of maintaining social peace. Later, the criteria for representation in tripartite institutions were jointly adopted by the social partners. Agreements were reached that led to the termination of strikes in several sectors, including the transport sector.<sup>21</sup>

The main agency that supervises social dialogue at the state level is the National Council for Tripartite Cooperation (NCTC). The National Council for Tripartite Cooperation, established in 1993, promotes cooperation and consultation on the issues of labor, social security and living standards. There is a standing commission which works on a number of issues together with this Council.<sup>22</sup>

## SLOVENIA

Slovenia is a good example of a state that can systematically mobilize its Tripartite Economic and Social Council to conclude national tripartite agreements or social pacts which have had a significant impact on income and remuneration since the 1990s. These agreements and pacts reflect the consensus of social partners on the restrictions put on public spending to enhance the country's competitiveness in international markets, as well as to reduce inflation and wage differences.

## SOCIAL PARTNERSHIP AND THE ARAB SPRING

In January 2011, after the events of the Arab Spring, some states in the Middle East and North Africa, specifically Egypt and Tunisia, began a transition to democratic governance systems. These states faced the difficult tasks of establishing the basis for democratic governance, replacing authoritarian regimes, and at the same time overcoming economic and social problems. In this case, social dialogue and tripartism would help these countries.

National social dialogue proved to be a very powerful mechanism for ensuring a peaceful democratic transition in Tunisia. On January 14, 2014, the Government and social

<sup>20</sup> Information is published on Social Dialogue Council of Poland, <https://zpp.net.pl/en/social-dialogue-council/>

<sup>21</sup> ILO guide for improved governance national tripartite social dialogue, December 2, 2013.

<sup>22</sup> Information published on the official website of Bulgarian Industrial Association, <https://en.bia-bg.com/advocacy/view/21410/>

partners signed a social contract in Tunisia.<sup>23</sup> Under this agreement, the tripartite partners undertook to set up the National Council for Social Dialogue and pursue the goals of the 2011 Revolution, which were to achieve greater social justice and inclusive economic development. The agreement also indicated the willingness of the social partners to achieve the goals of the revolution through social dialogue.

In 2015, the participants of the Tunisian national dialogue were awarded the Nobel Peace Prize for their contribution to avoiding the political and social crisis after the revolution in 2011, which could have resulted in a civil war.

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<sup>23</sup> ILO guide for improved governance national tripartite social dialogue, December 2, 2013, page 33, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_231193.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_231193.pdf)

## 3

## SIGNIFICANT STRIKES IN 2014-2018 IN GEORGIA AND EXAMPLES OF FAILED SOCIAL DIALOGUE

### GEORGIAN RAILWAY

The contradictory processes in the Georgian Railway over the last few years and the continued avoidance of fair demands of the trade union by employers are a clear confirmation of the low culture of social dialogue and rejection of the principles of peaceful settlement of collective disputes.

The Railway Administration systematically restricted the fundamental rights of labor, including the freedom of association and collective bargaining, and persecuted workers on the grounds of being a member of a trade union. This once again emphasizes the rejection of the necessity of labor organization in the consciousness of the state-owned company and the inertial continuation of the experience of the heavy communist inheritance.

It is also noteworthy that in the case of the Georgian Railway, the Government of Georgia acts as an employer itself, when it should give an example to the private sector. The railway should create a situation in which the broad business circles are made aware that social dialogue can promote productivity growth and trust-based relationships can cope better with high level market competition. It is interesting to review the events in the Georgian Railway over the past few years.

In the second half of October 2013, a new strike was organized by the new trade unions of the Georgian Railway. On November 14, the Georgian Railway and the new trade union of the Georgian Railway signed an agreement protocol after the termination of the strike. According to this document, by the end of the first quarter of 2014, the Georgian Railway Administration would take an obligation to satisfy the basic demands of the Georgian Railway workers. These demands were not met and this became a reason for the large-scale strike on the Georgian Railway.<sup>24</sup>

On October 21, 2014, in accordance with the procedures envisaged by the Labor Code, the trade union applied to the Minister of Labor, Health and Social Affairs for the

appointment of a mediator in connection with the labor dispute in the railway. A mediator was appointed to resolve the dispute on the 21<sup>st</sup> day upon this notification. The railway trade union had three main requirements: to receive the so-called 13<sup>th</sup> salary before the New Year; to enforce a new wage system taking into account a grade and merit from January 1, 2015; and to get overtime pay above 40 working hours per week.<sup>25</sup>

According to the “New Trade Union” of the Georgian Railway, they had made numerous attempts to negotiate with the Railway Administration, though the latter used a delaying tactic in order to avoid fulfillment of the agreement reached. Accordingly, the only opportunity for the employees to force the Administration to fulfill its obligations was to go on a strike. In the course of the strike, the Railway management, instead of taking responsive measures, sought to exert some influence on the striking workers. At the same time, high-level managers of the Railway Administration reported to the public in the media about the irrelevance of the strike, claiming that these actions served the interests of narrow groups and greatly harmed the activities of the Railway. The heated confrontation between the parties during the strike reduced the chances of a peaceful settlement to the dispute. The trade union urged media representatives to be particularly interested in the difficult situation in the regions, as there was unprecedented pressure on employees not to join the strike.

After several days of the strike, the Georgian Railway Administration agreed to satisfy the demands of the strikers and the trade union representatives to set up a joint commission for gradual implementation of the requirements. Within several days of the termination of the strike, representatives of the “New Railway Trade Union” made a statement accusing the so-called “old trade union” (acting for the Railway) of trying to discredit the new trade

<sup>24</sup> Information is published on the official website of the Georgian Trade Unions Confederation (GTUC), <http://gtuc.ge/>

<sup>25</sup> Information is published on the official website of the Georgian Trade Unions Confederation (GTUC), 30 December 2014, Discrimination continues against the members of new railway workers' union, <http://gtuc.ge/%e1%83%a0%e1%83%99%e1%83%98%e1%83%9c%e1%83%98%e1%83%92%e1%83%96%e1%83%98%e1%83%a1-%e1%83%90%e1%83%ae%e1%83%90%e1%83%9a%e1%83%98-%e1%83%9e%e1%83%a0%e1%83%9d%e1%83%a4%e1%83%99%e1%83%90%e1%83%95%e1%83%a8/>

union and referred to them as one of the branches of the Administration. The Railway Administration tried to involve the old trade union representatives in the joint commissions, while they had not participated in the strike. This attitude of the Railway Administration was followed by harsh assessments by the “New Railway Trade Union” members. They said this action would exacerbate relations between the parties and lead to the reopening of the “wounds” among the “New Railway Trade Union” members in the course of the strike.<sup>26</sup>

The Georgian Railway Administration continued to neglect the agreement reached after the strike and persecuted the members of the new trade union, forcing them to leave the organization and join the old unions. At the same time, according to the order issued by the Administration, the Board members of the “New Railway Trade Union” were restricted from entering the enterprise territory and, consequently, from carrying out their activities as the trade union. Against this background, in November 2015, the “New Railway Trade Union” announced a strike. On December 3, the strike organized by the new Trade Unions of the Georgian Railway ended with an 8-point agreement. In parallel, on December 9, JSC “Georgian Railway” and “Georgian Railway Trade Union” signed an agreement “On Fulfillment of the Obligations under the Collective Agreement and Additional Social Requirements.” Each point of the document is subject to the regulations of the Collective Agreement between JSC “Georgian Railway” and “Georgian Railway New Trade Union” and agreements reached after the strikes organized on November 14, 2013 and December 3, 2014.

In fact, the agreement was illusory. The Railway Administration deliberately fired people on the grounds of being a member of the Trade Union and did not fulfill their obligations determined by the mediation. The “Georgian Railway New Trade Union” repeatedly called on the Administration to cease its anti-discriminatory actions against the New Trade Union members and to comply with the mediation agreement.

The Georgian Railway Administration has not complied with the terms of the agreement since the 2015 strike, which is a clear confirmation that the basic principles of social dialogue have been ignored. Mutual respect and trust between parties, peaceful and compromised resolution of disputes, respect for freedom of association and non-interference in trade union activities, and the promotion of a mutually beneficial working environment have all been casualties of the Administration’s approach.. The case of the Georgian Railway has been criticized repeatedly over the years by many international organizations, e.g. in the evaluations of the Committee of Experts of the International Labor Organization

and in the annual reports of the US Department of State on human rights. Despite repeated calls on the Georgian Government to rectify the situation in the Railway, to respect the legitimate interests of its employees, and to ensure protection of the principle of freedom of association, it has not yet taken concrete steps in this direction.

The “Georgian Railway New Trade Union” filed a lawsuit on non-compliance of the 2015 Agreement. The Union requested the court to oblige the Railway Administration to comply with the terms of the mediation Agreement. The trial has not been scheduled yet, but it will be interesting to see what the court will decide on this particular case, since its explanations will undoubtedly be critical for the future of labor relations in Georgia. While the mediation agreement is final in many countries and the parties honestly comply with it, we have this paradoxical reality. The current situation is another negative feature of the peaceful resolution of collective labor disputes in Georgia and highlights the ineffectiveness of the mediation mechanism.

In August 2017, there was still a seriously confrontational relationship between the “Georgian Railway New Trade Union” and the Administration. The issue was about shifting jobs for two employees in the Kakheti region disproportionately far from their place of residence. The aggravated situation lasted for several weeks and an extreme form of protest - hunger strike – was used. Here, once again, it is interesting to note that the Georgian Railway Administration did not negotiate with the Trade Union officials, clarify the existing ambiguities, or show rationality.<sup>27</sup> On the contrary, it accused employees of political engagement and deliberate provocation. The controversy became large-scale when hunger strikers were not allowed to set up tents in front of the Railway Administration. To ease the escalation of tensions, it was necessary to use police force and several protesters were arrested. This is yet another unmistakable example that if an employer ignores the necessity of dialogue, it may cause widespread public unrest. The collective labor disputes between the “Georgian Railway New Trade Union” and the Railway Administration continued for several months in 2019 and ended with an agreement between the parties. The conditions of the agreement were a 10 percent increase in salaries from December 1, 2019, the distribution of the budget of premiums among the all employees in the Railway in accordance with the principle of solidarity, and an addition of 200 GEL to the bonuses set for the festive days, including the Day of a Railway Worker.

Taking into consideration the years of continuous, explicit controversy in the Railway and the pseudo-dialogue from the part of the Administration, the existence of some skepticism about the implementation of the latter Agreement is

<sup>26</sup> Information is published on the official website of the Georgian Trade Unions Confederation (GTUC), 10 February, 2015, “ New railway workers unions update NGOs on the situation in Georgian Railway”, <http://gtuc.ge/%e1%83%a0%e1%83%99%e1%83%98%e1%83%9c%e1%83%98%e1%83%92%e1%83%96%e1%83%94%e1%83%9a%e1%83%97%e1%83%90-%e1%83%90%e1%83%ae%e1%83%90%e1%83%9a%e1%83%9b%e1%83%90-%e1%83%9e%e1%83%a0%e1%83%9d%e1%83%a4%e1%83%99/>

<sup>27</sup> Information published on news.ge, 21 August, 2017-“Confrontation continues in front of the Georgian Railway administration’s building”, <https://news.ge/2017/08/21/%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1-%E1%83%A0%E1%83%99%E1%83%98%E1%83%9C%E1%83%98%E1%83%92%E1%83%96%E1%83%98%E1%83%A1/>

not without a reason. Despite cautious optimism, it is important for the parties to overcome years of distrust and confrontations. They should create a collaborative, mutually respectful and beneficial work environment that will promote stability, productivity and build strong foundations for the sustainable development of the company.

## “RUSTAVI AZOT”

In the recent decades, “Rustavi Azot” (the company name has often been changed, but for the society, it is most commonly known like this) was one of the rare exceptions in Georgia’s industrial relations. The enterprise had a good culture of social dialogue at the entrepreneurial level between the Trade Unions and the Administration. A collective agreement was enforced that created relatively high guarantees for workers’ social protection and the Trade Union representatives were actively involved in labor organization matters of the enterprise. Even the change of the company owner did not damage the relations, which developed based on trust and mutual respect through the years. Disagreements emerged from time to time, but after lengthy negotiations, the parties managed to agree on key issues based on some compromises.

The situation changed drastically in January 2017, when the new owner of the company opted for a strict, unacceptable strategy instead of negotiating with the trade unions and dismissed 350 employees without any prior notice or consultation. This decision should be assessed as alarming for one more reason: the company employees only learned of the dismissal when they went to work in the morning as usual and security guards did not allow them to enter the enterprise territory.<sup>28</sup> This dismissal of 350 employees was considered a mass dismissal under the Labor Code of Georgia and obliged the enterprise Administration to notify the Minister of Labor of Georgia about this decision 30 days in advance. It was later revealed that the company had not sent any notification to the Minister. The Minister of Labor of Georgia did not respond to the company’s irresponsible, illegal action and, moreover, he did not take any real intervention to ease the extremely difficult situation created by the protest actions of the workers. In light of the high unemployment rate, the economic viability of Rustavi (once the industrial center) was seriously jeopardized even though the Georgian Government had domestic legislation and specific actions were required under the international conventions.

The dismissed employees said they had not received a letter on dismissal. Initially, it was reported that only retired workers were fired, but it was later revealed that the dismissal also affected non-retired employees. The workers rallied at the entrance of the factory early in the morning, protesting the

<sup>28</sup> Information is published on Imedinews, 26 January 2017, “Up to 350 workers were laid-off from Rustavi Azoti”, <https://imedinews.ge/ge/ekonomika/3156/rustavis-azotis-qarkhmidan-350mde-tanamshromeli-gaatavisuples>

action of the new owner of the factory. Representatives of NGOs and students also joined the unlawfully dismissed workers. Demonstrations were held at various locations and marches were organized. The Georgian Trade Unions Confederation (GTUC) called on the Government to take steps to prevent the upheaval from increasing and urged them to take immediate measures to get the dismissed workers back. Several weeks of protests were not followed by conciliatory steps.<sup>29</sup> Only after an extremely aggravating situation did the enterprise Administration offer the dismissed workers one month salary and an additional 500 GEL monthly compensation for three months.

Eventually, 56 illegally dismissed employees filed a lawsuit, requesting the restoration of jobs and reimbursement for non-attendance. After years of litigation, lawyers of the Trade Union were able to convince judges at the Rustavi City Court<sup>30</sup> and Courts of Appeal of Georgia that, by European standards, in the case of changing an enterprise owner, apart from transferring the company’s assets and property, a new owner becomes responsible for employees, their rights and labor issues. As a result of a successful resolution to the court dispute, the employees of “Rustavi Azot” will get restoration to jobs and reimbursement for non-attendance.

The case of “Rustavi Azot” clearly demonstrates that nowadays the only way of restoring violated labor rights is through the courts, where the duration of litigation on such cases is so long that an abused employee is demotivated to return to work and pursue professional development. This occurs when the Government has abdicated its role in promoting social dialogue. There is no fundamental understanding that healthy labor relations are a necessary precondition for ensuring social welfare, developing an inclusive economy, enhancing the quality of democracy, and creating a predictable business environment.

## RMG

RMG Company operates gold and copper mining enterprises located in the Kazreti borough of Bolnisi district. The primary trade union structure, which is a member organization of the Georgian Union of Metallurgical, Mining and Chemical Industry Workers, has been operating here for years.

In February-March, 2014, a large-scale strike of employees took place in the above-mentioned enterprises and ended with an agreement between the company and the employee group on March 25, 2014. This was the longest and most massive strike in the recent history of Georgia’s industrial

<sup>29</sup> Information is published on metronome.ge website, 6 February, 2017 “Fired workers from Rustavi Azoti, dispersed protest action and Visa liberalization”. <https://metronome.ge/story/88011>

<sup>30</sup> Information is published on the official website of the GTUC, 18 May, 2017, “Court Process of Azoti Workers”, <http://gtuc.ge/%e1%83%90%e1%83%96%e1%83%9d%e1%83%a2%e1%83%94%e1%83%9a%e1%83%94%e1%83%91%e1%83%98%e1%83%a1-%e1%83%a1%e1%83%90%e1%83%a1%e1%83%90%e1%83%9b%e1%83%90%e1%83%a0%e1%83%97%e1%83%9a%e1%83%9d-%e1%83%9e/>

relations. Protests were held on the outskirts of the company on a daily basis and the Kazreti population expressed solidarity with the striking workers, thus it was not only the workers on the strike, but also the whole community together which protested the discriminative and unfair management methods of the organization managers, as well as low salaries and poor working conditions. The extreme protest spread and in fact the whole borough of Kazreti was paralyzed. The Kazreti strike was in the limelight of the greater society.<sup>31</sup> Accordingly, negotiations went on under the auspices and direct involvement of representatives of the central executive Government, particularly, the representative of the Prime Minister's Office, Beka Natsvlishvili.

The mediation, legal, and consultative directions of the negotiations were carried out by a mediator appointed by the Prime Minister's special decree. This was the first case of collective bargaining through mediation in Georgia. Negotiations between the parties included several meetings and three agreements were concluded on March 14, March 21 and March 23, 2014. On March 25 of the same year, as agreed, the strike ceased and the production cycle was restored by all employees at all facilities of the company.

The company started ignoring obligations under the agreement from the very first week. A paritative commission for labor dispute settlement was not set up within the agreed timeframe, the company did not discuss the draft collective agreement, inequalities in payrolls were not eliminated, there was no discussion of the increase in remuneration, and workers were not provided with uniforms, special shoes, protective and auxiliary equipment.

Moreover, the company administration forced the employees to sign notifications that they were leaving the trade union. These notifications, signed under threats and pressure, were submitted to the company chancellery in several stages in an organized manner. It is reasonable to suspect that dozens of individual applications were taken by one person to the chancellery in one day. This reaffirms the purposefulness of a certain group of the company administration and the fact that the forms had been printed by them beforehand. By February 18, 2015, the trade union was completely eliminated at the enterprise.<sup>32</sup>

Within a week after the strike, the company was supposed to set up a Commission for labor dispute settlement and conciliation, which would elaborate a draft collective agreement. The administration did not set up the Commission, neither did it start negotiations with the Trade Union to conclude a collective agreement. This tendency, which was revealed in the Kazreti case, was alarming.

<sup>31</sup> Information is published on Voice of America, 26 February, 2014, "unprecedented strike in Kazreti", <https://www.amerikiskhema.com/a/georgia-massive-strike-in-rmg-group-kazreti-bolnisi-area/1859405.html>

<sup>32</sup> Information is published on the official website of the Georgian Trade Unions Confederation (GTUC, 24 February 2015, "international community will be informed about gross violations of trade union rights in Kazreti".

Analysis of the events reveals that the decision of the company administration to sign the mediation agreement was only aimed at ending the strike. It was not an honest attempt to use civil and peaceful forms of collective labor dispute settlement. The company administration chose a kind of well-used, outdated way to weaken the Trade Union's strong representation in the enterprise through the use of threats, pressure and other forms of coercion against the Union members. As in the preceding examples, mediation was in fact a mechanism to ease the situation and to gain time for the employer. This process failed to fulfill its essential purpose of assisting the parties to reconcile their positions and different interests in the dialogue, which in turn would bring huge contributions to the development of actual, successful social dialogue in the workplace. The path chosen by the company - **no trade unions, no problems** - fully reflects the low culture of social dialogue in Georgia, and points to the unfortunate mental, communist mark left on the consciousness of many employees.

The idea of a successful, competitive enterprise still rests with the idea of a strong, unilateral approach by management, rather than with the idea that employees, who are satisfied, provided with decent working conditions, and filled with corporate loyalty provide a strong foundation for the enterprise. The case of Kazreti is interesting for one more reason: it demonstrates the inconsistent attitude of the Government towards encouraging social dialogue. The result is easily measurable: the actions of the Government of that time resulted in the actual abolition of the Trade Union structure.

## STRIKE OF SOCIAL WORKERS

The labor dispute between the Georgian Social Workers and the Ministry of Labor of Georgia may be described as indicative of the new reality of labor relations in Georgia. In particular, this dispute is the first case where the official state institution--the Ministry-- is a party to the collective labor dispute. This Ministry is directly responsible for defining labor policy in the country and enforcing labor legislation. It is also the main state agency which manages the work of the Tripartite Commission on Social Partnership and should be a key contributor to strengthening, encouraging and promoting social dialogue. The collective labor dispute raised by social workers was also unique in that respect, that their demands involved not only the improvement of working conditions, a rise in social standards and salaries, but also a list of the measures needed for systematic reform of the structure.

In fact, many of the issues raised in the dispute were directly in the interests of the employer, i.e. the Ministry of Labor, Health and Social Affairs. Over the years, the reports of the Georgian Public Defender highlighted shortcomings in the work of the social service, especially the insufficient number of social workers given the scope and territory of their work. On February 8, 2018, approximately 200 social workers employed by the LEPL Social Service Agency announced

the start of a pre-strike process. They also pointed to the difficult condition of the state policy with regard to social services, namely, scarce resources and the lack of adequate services and mechanisms. This often led social workers to fail to provide effective day-to-day assistance to individuals and families in need. Consequently, vulnerable groups - children, persons with disabilities, the elderly and people receiving other services - were at daily risk. In addition to the systemic problems with social services, the situation of social workers was further aggravated by their inadequate working environment and conditions.<sup>33</sup>

In the negotiation process the social workers were assisted by representatives of Georgian Trade Unions as well as by other human rights NGOs. It is important that at the beginning of the dispute the social workers did not have a trade union organization. Negotiations with the Ministry of Labor in the initial stages of the negotiations were not successful. The Ministry refused to address the issues raised by them and offered alternative, long-term proposals that were not acceptable for the social workers. When the negotiations reached a dead end, the social workers announced a strike in full compliance with the requirements of the law and began protests, which were also supported by solidarity with various groups of the society.<sup>34</sup>

The Government of Georgia should have made every effort to avoid the most extreme form of industrial action, a strike. The Ministry of Labor, as the main state institution, should have set an important precedent of concluding collective bargaining with mutually beneficial results in order to prove the advantage of social dialogue as a required tool for the peaceful resolution of disputes in the country. Of course, this action would have given the best example and message to private business, that it is possible to reconcile the independent interests of labor relation parties, to propose compromise approaches, and to make mutually beneficial solutions to create a calm working environment.

It is unfortunate that the Ministry of Labor of Georgia failed to realize that the resolution of the social workers' demands through negotiations would have a significant positive impact on the development of a culture of social dialogue in the country. The inadequate attitude of the Ministry to the issue is also evidenced by the fact that the Minister of Labor met the social workers only on the fourth day after the strike. At the meeting, verbal agreement only was made on the part of the demands, which was not documented.

On April 2, 2018, the social workers stopped the strike and returned to their usual working regime. Agreement was reached on several issues. In particular, the social workers

were relieved from technical activities; twelve cars were allocated at the social service centers and 18 more were planned to be added; 12 lawyers were added to the social service centers; a tender was planned for improving the infrastructure and working conditions. The issue of setting up a council for responding to the matters of increasing the salaries and needs in the area of guardianship and care remained unresolved.<sup>35</sup>

The social workers claimed they would continue to work in a collective bargaining format on the issues that could not be agreed at that point. Also, they would strengthen their Trade Union, which would strive to become an accountable and respectful social partner.

## STRIKE OF CHIATURA MANGANESE

The strike that started on May 17, 2019, in Chiatura, at the "Georgian Manganese Company," was one of the most significant industrial collective activities (according to its scale) in the history of independent Georgia. Before evaluating the Chiatura strike, it is important to note that there are three different trade union organizations operating in the company, one of which is a member of the Georgian Union of Metallurgical, Mining and Chemical Industry Workers.

The Chiatura strike was preceded by a new collective agreement reached by the trade unions after several years and lengthy negotiations on improving working conditions. Earlier, in June 2018, during one of the regular negotiations, it was decided to gradually increase salaries, which would start in July, 2018. The company also undertook, within a limited timeframe, to develop a provision on bonuses with the involvement of trade unions. The provision would be based on the following factors: the principle of income growth, indicators of labor productivity, and quality of work performed. The administration pledged to ensure that trade union representatives were involved in the adjustment of production plans. It expressed readiness to resolve all disputes in a co-operative manner with the trade union as quickly as possible. Despite promises, the administration did not fulfill the key points of the agreement.

The strike of May 2019 should be seen as a logical and fair result of neglecting the collective will of the employees from the side of the "Georgian Manganese Company" administration.

Interestingly enough, the various trade union organizations operating within the company, despite their differences and

<sup>33</sup> Information published on a website [civil.ge](http://civil.ge), 25 March, 2019, "Social Workers across Georgia went on strike", <https://civil.ge/ka/archives/280527>

<sup>34</sup> Information published on a website [civil.ge](http://civil.ge), 25 March, 2019, "Social Workers across Georgia went on strike", <https://civil.ge/ka/archives/280527>

<sup>35</sup> Information is published on a website [on.ge](http://on.ge), 2 April, 2019, "Social Workers ceased strike", <https://on.ge/story/35828-%E1%83%A1%E1%83%9D%E1%83%AA%E1%83%98%E1%83%90%E1%83%9A%E1%83%A3%E1%83%A0%E1%8,3%9B%E1%83%90-%E1%83%9B%E1%83%A3%E1%83%A8%E1%83%90%E1%83%99%E1%83%94%E1%83%91%E1%83%9B%E1%83%90-%E1%83%92%E1%83%90%E1%83%A4%E1%83%98%E1%83%AA%E1%83%95%E1%83%90-%E1%83%A8%E1%83%94%E1%83%AC%E1%83%A7%E1%83%95-%E1%83%98%E1%83%A2%E1%83%94%E1%83%A1>

some competition, managed to unite around one idea and collectively attempted to start a labor dispute against the administration. When the negotiations ended in vain, the strike committee, in full compliance with the requirements of the law, announced a strike, which was joined by the overwhelming majority of the employees. Eleven strikers resorted to the most extreme form of protest, a hunger strike, while three of them sewed their mouths shut. Miners had the following demands: a 30% rise in salaries, improved nutrition, health insurance packages, improved working conditions, and a ban on the movement of the lorries loaded with ore to Chiatura. In 2012, 2014 and 2016, "Georgian Manganese" was fined a total of 417 million GEL for the damage to the environment and a special manager was appointed. The company continues to work without compensating the damage.<sup>36</sup>

In addition to the Chiatura Mining and Enrichment Plant, "Georgian Manganese" owns Zestafoni Ferro Alloy Plant and Vartsikhe Hydroelectric Power Plant, which enables it to have continuous production of silicomanganese, ferrosilicomanganese and ferromanganese in Georgia. These products are used in steel production. According to the National Statistics Office, in January-April 2019, the share of ferroalloys in Georgia's total exports was 10.3 percent.

The Director of the Chiatura Mining and Enrichment Plant, Gurjidge, resigned during the strike. His administration was linked to a watchkeeping regime, which consisted of two weeks of continuous duty - 12 hours of work and 12 hours of "rest" in the sanatorium of the plant that caused great dissatisfaction. The strike began with the protest against the watchkeeping regime.

In the early days of the strike, the Georgian Government was indifferent to the miners in Chiatura and many urgent calls of the trade union on the Ministry of Labor to immediately ease the tension were ignored. Commenting on the silence of the Government, the strikers said "The Government should not have such a distance with the population. We ask them to come and find out about our problems on the spot. The negotiations have no result. We get the same answer every time we go there.

The situation changed drastically when the residents of Chiatura expressed unprecedented solidarity with the strike at Georgian Manganese. Schoolchildren, doctors, teachers, and people of different professions joined the protest wave and started demonstrations. The possibility of a general public uproar was recognized as a serious threat by the authorities, and several Ministers went to the place to find out the details. The city of Chiatura was paralyzed. Only then were the negotiations with the Manganese administration successfully completed.

<sup>36</sup> Information is published on a website Sputnik-Georgia.com, 24 May, 2019 "Chiatura today, hundreds of miners on strike, camps and "fair demands", <https://sputnik-georgia.com/reviews/20190524/245342170/WiaTura-dRes-asobIT-gaficuli-maRaroeli.html>

As a result of the strike, the production of the enterprise was completely stopped, which naturally caused a great financial loss. Once again it became clear that the absence of social dialogue can damage both parties involved in labor relations, which is why there is no alternative to a trust-based negotiation mechanism for dispute resolution. Understanding the scale of the Chiatura strike will be important for different business sector representatives. We hope that such a painful experience will encourage companies to avoid harsh industrial action, make the environment predictable, and promote labor organization management.

Eventually, the strike ended successfully for the employees. The company agreed it would increase the salaries of miners by 25% from July 1, and add another 10% a year later. It was also decided that the movement of ore-laden lorries in Chiatura would be banned, the ore would be transported by railway, the company would improve labor safety standards and would introduce a different, better package of healthcare and insurance.<sup>37</sup>

## STRIKE OF METRO ENGINEERS

Another example of the lack of social dialogue and an inadequate attitude towards it is the three-day strike of subway drivers in June, 2018. This action was distinguished by several important features. First of all, it was the first strike of the drivers in the recent history of Georgia. Despite the information campaign against it and a permanent prohibition on the strike made by the court, the Metro engineers managed to go on a strike. It is also interesting that at the start of the collective labor dispute, the Mayor of Tbilisi, Kakha Kaladze, tried to exert some psychological influence on the strikers. "Whether the subway will be opened or not, it will be decided by me and the Government of the capital. I want to make it clear to everyone that the subway will operate on May 3, as well as any day and serve the population of the city."<sup>38</sup> This was followed by the publication of information on the salaries of the drivers and attempts to position the society against the strikers because of terminating one of the main means of transport in Tbilisi. Many attempts by the subway drivers to resolve the dispute through negotiations failed. The strikers demanded a 45 percent increase in salaries, saying that after 2014 their wages had not been altered.

In April 2016, an independent union of subway drivers, "Ertoba 2013," said they would start a collective labor dispute and go on a strike if the conditions were not satisfied. The Mayor of the city of that time, Davit Narmania, joined the

<sup>37</sup> Information is published on a website akhalitaoba.ge, 27 May, 2019, "The strike in Tchiatura ended, meeting with ministers finished", <https://akhalitaoba.ge/2019/05/tchiathurashi-gaphitsva-shetsqhdaministrebthan-shekhvedra-dasrulda/>

<sup>38</sup> Information is published on a website reginfo.ge, 4 June, 2018, "Metro Engineers Strike is directed at worsening social-economic situation of people", <https://reginfo.ge/people/item/7426-metros-memanqaneta-gapizva-mimartulia-mosaxleobis-zxovrebis-pirobebis-gauaresebisen-kalawe>

negotiations and slightly increased the salaries, so a strike was avoided.

In full compliance with the legislation, the subway workers announced a strike on May 3, 2018, which was postponed by the Tbilisi City Court for 30 days until June 3, 2018. A few weeks later, Tbilisi Transport Company filed a new lawsuit to the court demanding an indefinite ban on the strike of the subway drivers. The court, by ungrounded arguments, forbade the drivers to strike during working hours. This was the first precedent in the practice of Georgian courts, when a constitutional right of a person was restricted indefinitely. Of course, a strike organized during non-working hours cannot serve its real purpose: to force an employer to agree to the terms offered by employees. The right to strike is recognized by many international acts. According to paragraph 4, Article 6 of the European Social Charter, for ensuring the effective exercise of collective bargaining rights, parties undertake and acknowledge the right of employees and employers to collective action at the time of conflict of interests, including the right to strike, in accordance with the obligations that arise from previous collective agreements.<sup>39</sup>

Despite the court decision, the striking members of “Ertoba 2013” technically managed to go on a strike. They started the strike and hunger protest at 3.00 p.m. on June 3. They went to work on June 4, but amid fatigue and starvation, they failed to show satisfactory results on a standard health check that resulted in the termination of Tbilisi subway operations. On the third day of the strike, negotiations were held between the Tbilisi Mayor and the subway drivers, according to which Tbilisi City Hall would return to the issue of increasing their salaries from 2019. The drivers stated, they “trusted the word” of the Tbilisi Mayor and ended the strike, though they were not sure about the time when the salaries would rise by 45 percent.<sup>40</sup>

An analysis of the strike of subway drivers shows that often employees have no accurate idea of what can be considered a real indicator for the fulfillment of their conditions. The dynamics of strikes and mediation agreements in Georgia show that employees have to appeal to the court on violation of the agreement terms and force an employer to comply with the conditions through a court decision. Taking all these into consideration, only time will show if the subway drivers achieve the desired result according to the Mayor’s verbal promise.

It is significant to briefly review the positions of the social partners on the progress and future prospects of social dialogue in Georgia.

<sup>39</sup> Information is published on a website Imedinews.ge, 23 May, 2018, “Public Defender resonates with Metro Engineers strike”, <https://imedinews.ge/ge/politika/62761/sakhalkho-damtsveli-metros-memanqaneta-gapitsvis-shezugdvas-ekhmaureba>

<sup>40</sup> Information is published on the Public Broadcasting website 6 June, 2018, “Metro Engineers ceased the strike”, <https://1tv.ge/news/tbilisis-metro-dghes-1400-saatze-gaikhsneba/>

## 4

## POSITIONS OF SOCIAL PARTNERS

It is clear that the representatives of the Government of Georgia, the Employers Association and the Trade Unions recognize the necessity and significance of social dialogue in terms of enhancing industrial relations and resolving collective and individual labor disputes through negotiations in the country. Both employers and trade unions emphasize the expanded mandate of the Tripartite Commission on Social Partnership and point out that it should become an active participant in the country's socio-economic development processes and the directions of its activities should extend beyond the area of labor relations. According to employers and trade unions, at the initial stage the Government of Georgia should realize the real function of the Tripartite Commission, take concrete steps to strengthen this institution, and afterwards, gradually equip it with additional authority.

Authorities of the Ministry of Labor believe that a number of important decisions were made in order to promote social dialogue: principles of the functions of the Tripartite Commission on Social Partnership were drafted at the legislative level; the united registry of mediators was created through the active involvement of social partnership; the list of hazardous, strenuous, injurious and dangerous jobs was elaborated; and the Government of Georgia ensured ratification of the International Labour Organization (ILO) Convention 144 with direct recommendation of the Commission. The Ministry representatives believe that the process of enhancing the culture of social dialogue and establishing a strong institutional mechanism has begun, though, at this stage, they should start actions (together with the social partners) to move to a new stage of social dialogue development. Despite these optimistic sentiments, no specific vision or common strategy has been developed to promote and enhance social dialogue. In terms of enhancing social dialogue at the enterprise level, the Government officials feel that the social partners themselves should play a key role and create examples of successful social dialogue, limiting the Government to technical assistance only. The officials believe that the changes made to the labor law or those planned for the future naturally raise the need for a dialogue between employers and employees, which will undoubtedly grow into a long, lasting and sustainable relationship in the future.

Trade unions are very critical of the work of the Tripartite Commission on Social Partnership and believe that this body plays only a minimalist role in the development of labor relations. The Commission is not only incapable of making decisions, but also fails to hold hearings and continues to delay the discussion of issues raised by trade unions or to resolve existing problems. To illustrate, trade unions cite gross violations of fundamental rights of those trade unions, which exist inside the state-owned Georgian Railway and Georgian Post. These violations have been going on for years and the Georgian Government has not responded to them. The trade unions also point to the fact that they have initiated the overwhelming majority of the issues discussed in the agenda of the meetings of the Tripartite Commission on Social Partnership, which is a clear confirmation of superficial attitude of the Government and employers towards the Commission.

Trade unions make special focus on the need to develop a culture of social dialogue at the enterprise level, which will reduce the number of collective labor disputes and strikes and build trust-based relationships between the parties. In this respect, they will try to launch campaigns for raising awareness and plan training workshops.

In general, trade unions believe that the Georgian Government should reassess its dogmatic libertarian visions, strengthen the work of the Tripartite Commission on Social Partnership, and transform it into a real consultative format in which the Government, trade unions and employers equally share responsibility for the country's socio-economic development.

Representatives of employers' associations believe that the main motive for the development of social dialogue should be to build mutually beneficial relationships, avoid fierce industrial conflicts and provide a stable business environment. Employers consider that any changes to the labor law should be communicated properly not only to the trade unions but also to the business sector. A document to assess the impact of legislative amendments should be drafted and the active participation of various business associations involved in these processes should be guaranteed. Employers believe that in many cases the Government did not ensure the involvement of employers in the development of various

areas of social policy, including the pension reform, and the format of the Tripartite Commission on Social Partnership was completely ignored. Employers also point to the fact that the Commission activities are not effective and systematic.

Employers also recognize the importance of the development of social dialogue at the enterprise level and believe that such advisory bodies will become unavoidable in the long run. However, they declare readiness to work actively with trade unions to develop different pilot models.

## 5

## THE MAIN TRENDS IDENTIFIED IN THE RESEARCH AND RELEVANT RECOMMENDATIONS

Analysis of the main trends revealed in the present survey shows that the essence and role of social dialogue in the development of industrial relations in Georgia is variable, inconsistent and often eclectic. This, of course, cannot serve the main purpose of social partnership, which is to ensure inclusive socio-economic development in the country and to share responsibilities between social partners in the elaboration of various significant policies.

The positive changes to the Georgian Labor Code in 2013 could not reflect the gradual strengthening of social dialogue at the national, sectoral, regional and, especially, at industrial levels. The dynamics of recent strikes in Georgia, and the analysis of their origins, course, and results, have shown that parties to labor relations are not fully aware of the essential nature of dialogue and of the possibility to identify common, mutually beneficial interests. Many employers have not been able to overcome the complex of traditional hierarchical sentiments and continue with a single-minded management style that makes it impossible for employees to participate in enterprise development.

The Tripartite Commission on Social Partnership has not yet been established as a strong decision-making institution which promotes healthy labor relations and has failed to create flexible mechanisms for the peaceful resolution of collective labor disputes. The Commission has failed to assume a leading role in the processes of amendments to the labor law and on-going changes. Moreover, the attitude of the Government towards the Tripartite Commission remains superficial and ingenuous, which is reflected in the lack of meetings of this institution and the inconsistent attitudes towards the issues under consideration.

The Tripartite Commission on Social Partnership failed to fulfill the vital function of bringing social dialogue to a new stage and ensuring institutional development of dialogue at the sectoral, regional and industrial levels. This would begin the process of enhancing industrial relations and creating fertile ground for enforcement of labor law through social dialogue.

The recognition by the Government of Georgia of the importance of social dialogue and the necessity of involving social partners in inclusive economic development processes

and its documented willingness to take concrete steps in this direction turned out to be illusory. The Government had and still has the unique opportunity to create successful examples of social dialogue that would encourage private businesses to develop platforms for constant consultations with employees at workplaces. State-owned companies - the Georgian Railway and the Georgian Post – still continue to discriminate against employees for belonging to a trade union and deprive them of their fundamental rights to freedom of association and collective bargaining.

Social dialogue in Georgia has not turned into an effective mechanism for labor law enforcement, which would at the same time ensure the development of constructive labor relations and decent working conditions for employees. It could also create a predictable environment for increased productivity and competitiveness of an enterprise.

In recent years, the Ministry of Labor of Georgia has not undertaken any activity to raise awareness of social dialogue. The commitment under the EU-Georgia Association Agreement, which means encouraging social dialogue and socially responsible business by the State, has not been fulfilled yet.

In fact, one of the strongest foundations of social dialogue – bipartism - that is, the institutional platform of cooperation between employees and employers at the enterprise level, does not function in this country. Bipartism would contribute significantly to building trust-based relationships between social partners and avoiding harsh pressures, reduce industrial conflicts, and increase the possibility of resolving collective labor disputes through negotiations. A similar situation emerges with regard to development of social dialogue at the sectoral and regional levels. The only exception is the Territorial Tripartite Social Partnership Commission in the Autonomous Republic of Adjara.

Since 2013, the number of collective agreements has dramatically decreased. There were 165 collective agreements in Georgia in 2011. Nowadays, this number is three times less, standing at 54 collective agreements. The number of collective agreements is one of the most important features to measure social dialogue. In this regard, we can say that the situation is alarming in comparison with those years

when the State had orchestrated and coordinated hostile policies against the trade unions, using various methods to force their members to refuse membership and there was a mass outflow of employees from these organizations. The above tendency requires additional, in-depth analysis and it will be necessary to further determine the real basis for this unfortunate reality.

There is only one sectoral agreement between the Trade Union of Teachers and the Ministry of Education and Science of Georgia. Unfortunately, this unique agreement has not been properly promoted, which would encourage social partners to work jointly in this direction in different areas of the economy.

An analysis of the strikes in recent years reveals that the most radical industrial action of employees is mainly aimed at forcing employers to engage in negotiations. Ideally a strike, due to its essence, should be used as an ultimate means of collective effort to force employers to comply with the conditions and requirements set by employees. It should also be taken into account that according to the Georgian Labor Code, employers are obliged to engage in negotiations. There are such tendencies as well, when employers display a dishonest attitude towards agreements reached after a strike, which becomes a basis for employees to start a new strike after some time.

There are also cases when an agreement reached after a strike is used by an employer as a hypocritical tactic to gain time and ease a conflict. Moreover, there was a case when collective negotiations had to be started within the framework of an agreement reached with the participation of a mediator. Shortly after the strike termination, the administration began to exert unprecedented pressure on members of the trade union, using various ways to force the members to leave the organization. As a result of the mass outflow of members from the trade unions, it was impossible to conduct collective bargaining and reflect the outcomes of the strike in collective agreements.

The mediation mechanism, created by legislative changes in the field of collective labor dispute resolution, was not established as a real mechanism for dispute settlement. The biggest weakness of mediation is the failure to enforce an agreement reached through it. The analysis of strikes shows that failure to comply with the mediation agreement resulted in a new strike or employees were forced to appeal to the court to enforce the agreement. There is also a lack of trust among parties involved in conciliation procedures towards the institute of mediation, which naturally reduces the likelihood of a successful collective dispute settlement.

The absence of a fully authorized state labor inspection in the country significantly reduces the possibility of developing and enhancing social dialogue. Employers would no longer be able to ignore the rights guaranteed by the Labor Code if they were constantly monitored for labor law enforcement. This would naturally force them to enter into negotiations with their employees instead of ignoring disagreements

and disputes arising in their labor relations and, eventually, resolve problems.

There are no statistics on strikes in the country or a thorough analysis of their causes, course or results, which would enable us to identify the main characteristics of strikes and to develop a practical (experience-based) document for labor dispute resolution. Besides, there is no calculation or relevant information on the damage caused to the enterprises as a result of strikes.

## 6

## RECOMMENDATIONS

The Government of Georgia should ensure the good performance of its international commitments related to effective, realistic and result-oriented steps with the purpose to encourage, enhance and promote social dialogue at national, regional, sectoral and industrial levels.

The Government of Georgia should exercise the political will to ensure the smooth, continuous activity of the Tripartite Commission on Social Partnership in the format of regular meetings and should take a cautious attitude towards the issues raised by parties. To this end, the relevant work should be started on the development of a social pact and its signing by parties with the involvement of the social partnership. Signing the social pact would be a new stage in the development of social dialogue and would show the readiness of the Government, trade unions and employers' associations to work together to achieve healthy employment policies, diversified labor market, social security, inclusive development, health care, social justice, and prosperity.

The Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, through close consultation with social partners, should develop a three-year strategy and action plan for promoting and enhancing social dialogue in the country. The document should be elaborated based on the trends identified in the situational analysis of social dialogue in the country over the last 5 years, so that the main objectives of the strategy are fully in line with the current reality. To this end, the Ministry should apply to the International Labor Organization (ILO) for technical support and facilitation of the process.

The Ministry of Labor, with the active participation of social partners, should develop a practical guide and make it as accessible as possible for the purpose of settling labor disputes through collective bargaining and promoting negotiation skills. The document will help employees and employers at the enterprise level to better understand the importance of social dialogue in the process of labor dispute prevention and its peaceful resolution.

The Ministry of Labor, with the aim of raising awareness and promoting social dialogue, together with the social partners and their real involvement, should plan extensive information campaigns and develop a communication strategy for the Tripartite Commission on Social Partnership.

The Government of Georgia should accelerate the adoption of the Law on Labor Inspection and launch a real State Labor Inspectorate in line with International Labor Organization standards. The creation of a fully authorized labor inspection will promote social dialogue as one of the important instruments of labor law at the enterprise level, encourage cooperation between social partners, and prevent collective labor disputes, including strikes.

The Ministry of Labor of Georgia should, in consultation with the National Statistics Office, develop a methodology for conducting statistics on strikes and ensure its annual publication, including the relevant analytical data.

The Ministry of Labor of Georgia should elaborate a document on critical analysis and assessment for the Mediation Service. The Ministry should develop a specific strategy for the legal-institutional strengthening of the Mediation Service, so that parties are bound to comply with the terms of the agreement. The Georgian Trade Unions Confederation and the Employers' Association of Georgia should develop a Memorandum of Understanding to plan and implement joint actions for promotion and enhancement of social dialogue. Particular emphasis should be placed on the establishment of a culture of social dialogue at the sectoral and industrial levels, using the examples of successful cooperation and the best practices of other countries.

The Georgian Trade Unions Confederation should carry out a comprehensive analysis of collective agreements and make it accessible to the general public. Besides, in enterprises where collective agreements and positive examples of cooperation with company management are already in place, the negotiations should be started to establish a permanent labor advisory structure. At the initial stage it is possible to set up a thematic advisory body, specifically, in the field of occupational safety, risk assessment, and industrial accidents prevention.

Donor organizations should provide funding for research on various aspects of social dialogue, including the dynamics of collective labor disputes, socio-economic analysis on strikes and their damage to the enterprise. In addition, the above organizations should conduct workshops on social dialogue and collective bargaining for social partners at regional and enterprise level.

## ABOUT THE AUTHOR

**Paata Beltadze** is a lawyer with long standing experience in Georgian state institutions, civil society and international affairs. Most recently he served as First Deputy Public Defender of Georgia.

[pbeltadze75@yahoo.com](mailto:pbeltadze75@yahoo.com)

## IMPRINT

Friedrich-Ebert-Stiftung | Tbilisi Office  
Ramishvilis Dead End 1, Bldg. 1 | 0179 Tbilisi | Georgia

Responsible: Felix Hett | Director,  
FES Regional Office South Caucasus  
Tel.: +995 32 225 07 28

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## SOCIAL DIALOGUE IN GEORGIA



Social dialogue in Georgia has not turned into an effective mechanism for labor law enforcement, which would at the same time ensure the development of constructive labor relations and decent working conditions for employees. It could also create a predictable environment for increased productivity and competitiveness of enterprises.



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The absence of a fully authorized state labor inspection in the country significantly reduces the possibility of developing and enhancing social dialogue. Employers would no longer be able to ignore the rights guaranteed by the Labor Code if they were constantly monitored for labor law enforcement. This would naturally force them to enter into negotiations with their employees instead of ignoring disagreements and disputes arising in their labor relations and, eventually, resolve problems.

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