



## Joint Statement of EMC and GYLA on the Labor Safety Bill

**We urge the Government of Georgia and the Ministry of Economy and Sustainable Development to come to an agreement as soon as possible about the text of the Labor Safety Law.**

On February 5, 2018, the parliamentary committee on healthcare and social affairs was scheduled to consider the Labor Safety Bill with the second hearing but the initiator of the bill – the Government of Georgia did not submit the legislative package for consideration and requested one week for reconciling positions internally. Notably, representatives of the Ministry of Economy and Sustainable Development (MOESD),

whose principled positions have made it impossible to come to an agreement about the text of the bill and have delayed adoption of the law, were absent from the committee hearing. The MOESD delayed the process once before, in December 2017, and made it impossible to adopt the law by the end of the year as pledged by the Government of Georgia (see the previous EMC [statement](#)).

The bill on Labor Safety was introduced in Parliament on June 1, 2017, and it was soon put to the vote after the first hearing, followed by an 8-month long intensive working process at the Parliament of Georgia with participation of relevant state agencies and other stakeholders including social partners and nongovernmental organizations. Since the process of working on text of the bill lasted 8 months, what the Ministry □ additional principled positions are about is unclear. It is their aim to significantly narrow down the scope of the bill □ application and reject minimum agreements achieved within the working format.

The fact that the Government of Georgia and Parliament started working on the law on occupational safety and health meant that importance of the issue was publicly recognized. However, the developments indicate that relevant state agencies lack clear political will to ensure meaningful solutions to occupational safety and health problems and facilitate enactment of effective legislation that will provide the executive authorities with adequate mandate and mechanisms for labor inspection.

One of the important challenges related to the bill is its limited scope of application since it would apply to heavy, harmful and hazardous work only (the list to be approved by the Government of Georgia within three months after enactment of the law) and solely with regard to occupational safety and health. Such regulations already exclude workers that will not be on the list approved by the Government, which unfairly discriminates against such workers and puts them at a disadvantage. Additionally, the initiator of the bill has not yet shared the consensual offer about indicating in transitional provisions of the law concrete dates when the scope of the law will be automatically broadened to cover all sectors. Moreover, during yesterday □ meeting of the committee it became clear that the MOESD has a principled demand to narrow down the scope of the law even more and replace □□□□□□ harmful and hazardous work A with □□□□□□ and harmful work that carries increased risk A. Introducing the standard of □□□□□□□□ risk A will further reduce the scope of the law and exclude hazardous work. According to the MOESD the law should not apply to public institutions, which is an unfair stipulation aiming to exclude public agencies

from the scope of the law.

Important flaws of the bill include weak mandate of the inspection mechanism in terms of accessing workplaces. More specifically, apart from certain exceptions the law does not provide the inspection body with *unconditional access*. To discharge its oversight functions, in most cases the Department of Labor Inspection has to apply to court for permissions, which requires additional time and reduces chances of immediate and effective response by the inspection body. Lack of the mechanism for unconditional access at workplaces, especially when there are immediate risks to life and health, weakens the mechanism of inspection, which runs against the ILO standards and the logic behind national bodies of oversight some of which (when their work addresses issues related to life and health of individuals) are delegated by the national legislation with an unconditional right to conduct inspection without any additional barriers. Thus, it is unclear why the agency that oversees labor safety is beyond the existing logic of the legislator.

Effectiveness of the *sanctioning mechanism* offered by the bill is directly related to successful implementation of the law. The proposed bill prescribes small fines as sanctions, which is a problem – in particular, the bill prescribes GEL 50 and GEL 1,200 as minimum and maximum fines, respectively. For instance, first-time interference with the inspection body is subject to a warning, and failure to comply is subject to a fine of GEL 500. In addition, the bill provides a ceiling (limit) of final fine for each violation – a minimum of GEL 1,000 and a maximum of GEL 6,000, meaning that a final fine for violations (irrespective of their number) may not exceed the above limit. We believe that the proposed sanctioning mechanism needs to be revised because it will not accomplish the goal of the law in view of the extremely small amounts.

In addition, strengthening the inspection mechanism with corresponding *financial and human resources* is vital for adequate enforcement of the law. However, the explanatory note of the bill suggests that its enactment will not create any new financial obligations for the state. In the process of drafting of the bill, the financial expenses required for implementation of the law have not yet been addressed, even though this is a precondition of effective implementation. Such approach calls the state – actual readiness to direct maximum effort towards adequate implementation of the reform into question.

The Chair of the Parliament of Georgia and the parliamentary committee on

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healthcare and social affairs have clearly expressed their readiness to adopt the law as soon as possible, by the end of the month, in order to ensure adequate solution of challenges that exist in the field of occupational safety.

## **The below signatory organizations urge:**

- the Government of Georgia and the Ministry of Economy and Sustainable Development of Georgia to come to an agreement as soon as possible about the text of the bill, one that completely rules out weakening of the version drafted within the working group and additionally considers those essential issues that are absolutely important for effective implementation of the reform;**
- the Parliament of Georgia to adopt as soon as possible the Law on Labor Safety, which provides meaningful solution to challenges that exist in Georgia in the field of labor safety.**

Signatory organizations:

Human Rights Education and Monitoring Center (EMC)

Georgian Young Lawyers' Association (GYLA)