

New Case: Communication Workers Trade Union

According to the Communications Workers TU over the last six months, some 19 local trade union leaders have been fired, and it appears that this union is the most recent target of the Saakashvili government.

New Case: Firings of Workers for Political Reasons

In the run-up to the election, there were a number of reports that the GOG fired employees because of their support for the opposition political candidate.⁶ If true, these firing would violate ILO Convention 111 (discrimination). Discrimination under Convention 111 is defined “as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin (among other characteristics), which has the effect of nullifying or impairing equality of opportunity and treatment in employment or occupation.” Workers must be free to support candidates and political causes of their own choosing. These allegations merit further investigation.

In sum, in numerous instances, the government has refused to protect workers in the exercise of their ILO core labor rights. It has either acted directly to obstruct such rights (as in the case of the Public Service Workers Union) or cooperated with employers to prevent the free exercise thereof (as in the case of workers at the Herkules plant).

IV. Conclusion

When read in conjunction with the AFL-CIO’s prior written submissions and oral testimony, the facts and analysis make clear that Georgia has failed to take steps to afford internationally recognized worker rights and instead has engaged in seemingly purposeful efforts to deny those rights. GSP benefits should be suspended unless the Government of Georgia promptly agrees to a **binding, comprehensive work-plan** and, shortly thereafter, demonstrates concrete evidence of **substantial implementation**. Given the change in government, the AFL-CIO is hopeful that the new government will address this issue as soon as practicable—and that the U.S. government will ensure this is a priority issue to be addressed as diplomatic meetings commence.

⁶ See, for example <http://dfwatch.net/crisis-continues-in-georgias-education-sector-77454>, <http://dfwatch.net/teachers-in-georgia-fired-for-political-beliefs-62451>, <http://dfwatch.net/policemen-say-they-were-fired-for-political-views-73812>.

unpaid for well over a year-and-a-half. The small amount of dues collected is so negligible that whatever the local union collects stays with the local, so no dues flow upwards to the national union.

Regarding the government's attempt to interfere in the RWU election, a violation of the right to freedom of association, an appeal was lodged by the government-backed candidate (who had lost the election), but the court rejected the appeal.

Both of these cases demonstrate that the Government of Georgia is, far from securing internationally recognized worker rights, working actively to abrogate collective bargaining agreements and prevent government employees from effectively exercising their rights to freely associate, organize, and bargain collectively.

Eurasian Steel-Herkules Plant, Kutaisi

Unfortunately, none of the three leaders (Irakli Iobidze, Emiliane Gumberidze, and Maklhaz Gogiava) of the legal strike in August and September 2011 at the Herkules Steel Mill in Kutaisi, who had been arrested for ten days and then fired, have been reinstated. Although some 100 members of the union remain, no open union activity has been allowed at the plant. Reportedly, all of the remaining members have been intimidated by management from paying union dues.

Public Service Workers Trade Union

The situation of the Public Service Workers TU remains largely unchanged. Given the government's open hostility toward labor unions, it is not surprising that the approximately 2,500 workers who had been pressured to quit the union have not rejoined.

Health Care Workers Trade Union

As previously reported, similar to the Public Service Workers Union, members of the Health Care Workers Trade Union were coerced by managers in 12 counties to resign from the union and retract dues authorization. In some locations, dues check-off was unilaterally ended. Reportedly, the Health Care Workers Trade Union is down to 3,000 members at present, virtually none of whom pay dues. As a result, the Health Care Workers Trade Union is essentially bankrupt.

Reportedly, most of the health care facilities in Georgia have been privatized, and two Georgian insurance companies, GPI Holdings (reportedly financed by the TBC Bank) and ALDAGI BCI (reportedly financed by the Bank of Georgia), control about 70% of them. The director of one of the insurance companies has reportedly told the president of the Health Care Workers Trade Union that he did not want trade unions in his company. The management of the other insurance company has had a few words with the union president, but has had no substantive discussions or anything resembling negotiations. Reportedly, the majority of Health Care Workers Trade Union members who had been coerced to quit the union during the mass anti-union campaign remain insecure in their jobs due to the privatization—their failure to rejoin the union is likely linked, at least in part, to their job insecurity and employer hostility toward unions.

IV. Violations of the Law in Practice

Educators and Scientists Free Trade Union of Georgia (ESFTUG)

The government continues to block dues deduction for the ESFTUG nationwide, despite a valid agreement providing for dues check-off that the Ministry of Education and Science signed in 1998 with ESFTUG's predecessor union. As reported in the post-hearing brief, the government continues to argue that schools are independent and that dues agreements must be reached on a site by site basis, even though the government made efforts to deter such site agreements as well as statements that undercut its own position that schools are independent. ESTFUG reports that in the county of Dedoplistskharo, its teachers union president was not allowed access to meet with teachers in six schools in July and that the school principals said they had orders from the Ministry's County Resource Center not to allow the union to be active or in touch with teachers.

Responding to pressure and intimidation, very few teachers dare to go to their bank to pay dues to the ESFTUG on their own. Given the extreme difficulty of collecting dues, ESFTUG has only been able to pay one month's salary during the first eight months of 2012 to its seven remaining staff members.

As reported in 2011, despite reported threats to the GTUC president if the government-supported candidate did not win the ESFTUG election,⁵ the independent candidate, Maia Kobakhidze, won. As with the RWU case described below, the losing candidate challenged the election in court. In late April 2012, the Tbilisi City Court recognized the legitimacy of the election of the ESFTUG president, Maia Kobakhidze. However, the government-backed candidate appealed, and a hearing on the appeal began on September 18, 2012.

The ESFTUG has repeatedly tried to reach out to the new Minister of Education, who came into office in early July 2012, to no avail. The new Minister of Education has refused to meet with the ESFTUG President.

Railway Workers Union (RWU)

The government continues to block dues check-off for the RWU, despite a valid collective bargaining agreement providing for dues check-off. To the best of the AFL-CIO's knowledge, the RWU's court case against this action has not yet reached a conclusion. Unfortunately, the management's refusal to recognize the RWU continues and the RWU staff has basically gone

⁵ Such interference in internal union elections is at odds with respect for internationally recognized worker rights. See, e.g., *Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO*, Geneva, International Labour Office, Fifth (revised) edition, 2006 (hereinafter "CFA Digest of Decisions"), ¶ 391 ("The right of workers' organizations to elect their own representatives freely is an indispensable condition for them to be able to act in full freedom and to promote effectively the interests of their members. For this right to be fully acknowledged, it is essential that the public authorities refrain from any intervention which might impair the exercise of this right, whether it be in determining the conditions of eligibility of leaders or in the conduct of the elections themselves.") and 432 ("Any interference by the authorities and the political party in power concerning the presidency of the central trade union organization in a country is incompatible with the principle that organizations shall have the right to elect their representatives in full freedom.").

Bidzina Ivanishvili's recent statement that the labor code needs to be reviewed is a cause for hope,¹ but this petition remains one built on facts—not promises. Although the new majority should be given some reasonable opportunity to show that its approach to labor law and enforcement differs from that of the previous regime, the AFL-CIO cautions against too generous a grant of time before commitments to change are secured.² For workers whose livelihoods are on the line, justice delayed *is* justice denied.

III. Georgian Labor Law Does Not Afford Workers Internationally Recognized Worker Rights

We have seen no *meaningful* improvements to Georgian labor law since the original petition. Two minor changes made to the Labor Code in June 2012 failed to address the key issues raised by the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations regarding freedom of association and collective bargaining.³ Moreover, to our knowledge, the GOG has made no efforts to reestablish a labor inspectorate; to establish procedures to ensure that collective bargaining begins promptly and in good faith once a request has been made; or to establish a trustworthy mechanism to effectively address labor disputes.

The law continues to abrogate internationally recognized worker rights. For example:

- Georgian law still fails to adequately protect workers from anti-union discrimination in hiring and firing.
- Articles 41-43 of the Labor Code still put collective agreements on equal footing with individual agreements, undercutting the bargaining power of unions.
- The right to strike remains too restricted.⁴

Furthermore, the efforts of the ILO to establish mediation in Georgia have stalled, as the GOG has not shown an intention to discuss the subject seriously. In addition, the trade unions have remained highly skeptical of the GOG's sincerity, given the fact that the National Tripartite Commission had yet, as of mid-September, to even start to discuss the most important recommendations made by the ILO to change the Labor Code and bring it into compliance with ILO Conventions on freedom of association, organization, and collective bargaining (87 and 98).

¹ "Bidzina Ivanishvili – Labour Code Needs to be Reviewed," InterPressNews, Oct. 5, 2012 (available at: <http://www1.interpressnews.ge/en/politics/41293-bidzina-ivanishvili--labour-code-needs-to-be-reviewed.html>).

² To emphasize the importance of this issue, the U.S. Government may wish to send an interagency team to visit the new leadership of the GOG and discuss the changes needed with respect to internationally recognized worker rights.

³ "Georgia," *Report of the Committee of Experts on the Application of Conventions and Recommendations*, International Labor Conference, 101st Session, 2012, at 153-157 (available at: http://www.ungift.org/doc/knowledgehub/resource-centre/ILO_2012_Report_of_the_Committee_of_Experts_on_the_Application_of_Conventions_and_Recommendations.pdf).

⁴ These examples are in no way meant to be exhaustive; they are merely illustrative.

I. Information Required Pursuant to 15 CFR § 2007

A. Party Submitting Petition:

AFL-CIO, 815 16th St., N.W., Washington, D.C. 20006
Contact: ph: (202) 637-3904 / fax: (202) 508-6967

B. Country Subject to Review:

Georgia

C. Section of Law Warranting Review

19 U.S.C. § 2462(c)(7)

D. Basis for Petition:

As explained below, the Government of Georgia is failing to take steps to afford internationally recognized worker rights, including the right to freedom of association and the rights to organize and bargain collectively. In fact, the Government of Georgia has continued its active suppression of unions and denials of worker rights. This petition updates prior submissions and should be read as a supplement to prior filings.

II. Introduction

Since the “Rose Revolution” of 2003, the Georgian Trade Union Amalgamation, the only trade union federation in Georgia, underwent dramatic changes. A new, young cadre of trade union activists was elected to the leadership of both the newly renamed Georgian Trade Union Confederation (GTUC), as well as its single largest union, the Educators and Scientists Free Trade Union of Georgia (ESFTUG).

However, without consulting the trade unions, the Government of Georgia (GOG), which had been pursuing its own path of reform, quickly passed a new and draconian anti-union, anti-worker labor code. Not only is the GOG continuing to enforce this anti-worker code with apparent enthusiasm, it has not ceased interference in internal trade union elections. It also continues to fail to protect workers from hazards and violations of rights on the job and refuses to comply with valid dues collections agreements.

The AFL-CIO first filed a GSP case in 2010 regarding the denial of labor rights in Georgia. The GOG’s failures are not a simple matter of legal shortcomings, isolated failures to enforce, or even mere indifference to human rights. Rather, the GOG’s actions imply an apparently deliberate effort to deny workers the right to freely associate, organize, and collectively bargain in both the private and public sectors.

The AFL-CIO notes that the current government of President Mikhail Saakashvili was defeated earlier this week by the Georgian Dream coalition. Leader of the Georgian Dream coalition

BEFORE THE UNITED STATES
TRADE REPRESENTATIVE

UPDATE TO THE 2010 & 2011 PETITIONS TO REMOVE

GEORGIA

FROM THE LIST OF ELIGIBLE BENEFICIARY DEVELOPING COUNTRIES
PURSUANT TO SECTION 19 USC § 2462(d) OF THE GENERALIZED SYSTEM OF
PREFERENCES (GSP)

filed by

THE AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL
ORGANIZATIONS (AFL-CIO)

OCTOBER 2012

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