

BEFORE THE UNITED STATES TRADE REPRESENTATIVE

PRE-HEARING BRIEF

ON THE 2010-2012 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)**

MARCH 2013

I. Information Required Pursuant to 15 CFR § 2007

A. Party Submitting Petition:

AFL-CIO
815 16th St., N.W., Washington, D.C. 20006
Phone: (202) 637-5344
Fax: (202) 508-6967
E-mail: cdrake@aflcio.org

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, while the new Government of Georgia (GOG) has not attacked the trade unions, appears to treat them as legitimate social organizations, and has leaned in the direction of affording a greater degree of internationally recognized worker rights (in particular, by having drafted amendments to the current Georgian Labor Code to bring it closer to compliance with International Labor Organization (ILO) Conventions) than the previous government, it is too soon to conclude that Georgia is taking steps to afford internationally recognized worker rights, as is required by the Generalized System of Preferences (GSP), 19 U.S.C. § 2462(c)(7).

Specifically, the new GOG has not secured enough change, either legislatively or practically, to stop violations of basic workers' rights. The new GOG, though it inherited rather than caused the serious problems in Georgia's labor relations system, has not yet had time to correct most of these violations. The proposed amendments do not ensure the creation of an inspectorate or other enforcement mechanism. The institutions needed for a functioning industrial relations system have not yet been created. In addition, there are still serious cases in which the government, as an employer, interferes with workers' right to join a union of their choosing; disregards valid collective bargaining agreements (CBAs); prevents the resumption of valid dues check-off agreements; and refuses to engage in collective bargaining in good faith.

Given the change in government, the AFL-CIO is hopeful that the initial moves in the direction of affording internationally recognized worker rights will be followed by more concrete action that will eventually meet the GSP standard. However, since that standard has not yet been reached, we urge the President to use his discretion under 19 U.S.C. § 2462(d) to withdraw, suspend, or limit the application of the duty-free treatment pursuant to the GSP unless the new Government of Georgia promptly demonstrates that it is taking

concrete and effective steps to change its law and practice to ensure that workers can exercise their internationally recognized worker rights.

This petition updates prior submissions and should be read as a supplement to prior filings.

II. Introduction

The AFL-CIO first filed a GSP case in 2010 regarding the denial of labor rights in Georgia. As documented in prior filings, the GOG's failures have not been a simple matter of legal shortcomings, isolated failures to enforce, or even mere indifference to human rights. Rather, the GOG's actions signaled an apparently **deliberate** effort to deny workers the right to freely associate, organize, and collectively bargain in the private, public, and state-owned sectors.

The AFL-CIO notes that the current government of Bidzina Ivanishvili has approached the issue of internationally recognized worker rights in a distinctly different manner. The fledgling efforts to reform the labor code are a cause for hope, but this petition remains one built on facts—not promises. The AFL-CIO cautions against a premature declaration of victory. Circumstances must change on the ground for workers in the public, private, and state-owned sectors. Workers report that they have not yet seen a visible readiness on the part of the governmental bodies, either sectorally or nationally, to engage in comprehensive social dialogue with unions. Workers whose livelihoods are on the line need *real* change—not simply the hope of *eventual* change.

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

In spite of the ending of outright governmental attacks on trade unions, a climate encouraging the free exercise of freedom of association and engagement in collective bargaining has yet to be firmly established. There are still many matters that are cause for concern, not least of which are the GOG's proposed amendments to the current Labor Code (LC), first presented in Georgia on January 22, 2012.¹ These amendments do not create or even mention a labor inspectorate, without which the amended LC will remain largely unenforceable. They also fail to address women's labor rights, which the Georgian Trade Union Confederation (GTUC) requested the GOG include in the LC revisions.² The amendments also fail to address health and safety issues or create an agency dedicated to workplace health and safety.³ Workplace health and safety has been largely unregulated for the last nine years (especially given the absence of a labor inspectorate) and led to unsafe conditions for workers—sometimes resulting in deaths. The AFL-CIO understands that the GOG does not currently gather statistics on workplace injuries and fatalities so it is impossible to report on patterns, trends, or even total numbers with certainty. Despite the inadequacy of the proposed amendments, the Georgian employers'

¹ The most recent version of the proposal has not been officially translated into English.

² Failure to secure equality in the workplace for women is a violation of International Labor Organization Convention Nos. 100 (Equal Remuneration) and 111 (Discrimination (Employment and Occupation)), and can be a violation of 19 U.S.C. § 2467(4)(E) ("acceptable conditions of work with respect to *minimum wages*, hours of work, and occupational safety and health") (emphasis added) as well.

³ Appendix I contains a thorough GTUC critique of the LC amendments.

reportedly strongly oppose them.⁴ To date, the GOG has not proposed any amendments to the Trade Union law.

The shortcomings in the amendments have contributed to a hesitation on the part of some workers to join or rejoin a trade union. Given that the proposals have yet to change employer practice, workers feel as unprotected as they were under the prior regime, and many still fear joining a union. The existing labor code has left the GTUC and its affiliates unable to adequately defend local union leaders or protect worker activists from illegal termination. In addition, due to the previous government's policy of disregard for internationally recognized worker rights, many members were prevented from paying dues or forced to quit their unions in order to keep their jobs, or both. As a direct result of these practices, the GTUC lost over 70% of its income, forcing it to lay off staff, reduce the salaries of remaining staff, and curtail its activities on behalf of workers.⁵ Despite a welcome change in approach toward dues check-off by the Ministry of Education and Sciences (described below), there has been no economy-wide reinstatement of dues check-off, and therefore no significant change in GTUC's membership or income as of yet. Due to the GTUC's diminished capacity—which is a direct result of the anti-union policies pursued by the prior government—many working people remain hesitant to rejoin their unions: they want to be confident that the GTUC and its affiliates will in practice be allowed to effectively represent their interests and vindicate their rights.

Finally, the National Tripartite Commission, which Georgian unions viewed very skeptically under the prior regime, has still not met under the new government. The AFL-CIO believes that restarting the already established National Tripartite Commission, on a new basis of shared respect and mutual cooperation, would go a long way toward establishing trust and providing a show of good faith that the GOG is indeed committed to taking necessary steps toward affording internationally recognized worker rights for all workers in Georgia.

IV. Violations of Internationally Recognized Worker Rights in Practice

The GOG's announced intention to establish a clear enforcement capability at the Ministry of Labor, Health and Social Affairs (MLHSA) has hardly moved forward and there are still many questions about how these much-needed institutional changes will be made.

The MLHSA in February opened a newly-created Department of Labor and Employment—remediating an issue raised in a prior update: that there had not been a single labor specialist in the entire MLHSA. So far, the AFL-CIO understands that the MLHSA has only filled posts in the employment pillar of this new department, employing mostly holdovers from the previous regime's Ministry of Employment. The AFL-CIO believes that it may take time to ensure that

⁴ Four Georgian employers' organizations sent a joint letter to the Georgian Deputy Minister of Justice, who had been responsible for drafting the GOG's amendments to the LC, expressing their dissatisfaction with many of the proposed amendments to the LC.

⁵ For example, the GTUC President's Executive Assistant left to take a post in the new Government, which paid him five times more than the GTUC could pay; the ESFTUG's lawyer left on February 1, 2103 to take a job, which would pay her three times what the ESFTUG could afford. The lawyer for the Energy Workers' Trade Union has taken a job in the Georgian Parliament and a lawyer for the Metalworkers, Miners, and Chemical Workers Trade Union also left to take a position with a private company when the union could not afford to give her a raise.

these holdover staff understand and execute the new Department's mission consistent with the exercise of fundamental labor rights.

In the wake of wildcat strikes that occurred in October and November of 2012, the GOG created a new "Ad Hoc Labor Relations and Social Dialogue Commission." Headed by the Prime Minister, the role of this commission is unclear. Although it appears to have played some role in helping to resolve some of the aforementioned strikes, it does not appear to have a pro-active role in shaping the labor relations environment in the country in a manner that increases respect for internationally accepted labor rights among private, public, or state-owned sector employers. The GTUC is skeptical of this Commission, given that it does not have a tripartite structure and that the GOG has not provided complete information about its activities or the criteria for membership. The AFL-CIO would like to learn more about the intended role of this Commission, its members, and whether its activities will re-establish confidence in the government's commitment to social dialogue and tripartite participation.

Educators and Scientists Free Trade Union of Georgia (ESFTUG)

Though there have been some minor improvements for Georgia's teachers who want to join ESFTUG, those improvements have not achieved concrete results. The Ministry of Education and Sciences (MOES) has reportedly told its county organizations, known as Resource Centers, that if the ESFTUG and a school principal sign a CBA, that the dues check-off system should be allowed to function. Such a directive is a clear improvement from prior practice. However, although some new CBAs have been signed, the numbers remain small—ESFTUG has not reached anything near its prior membership levels and continues to be nearly bankrupt.

ESFTUG reports that problem seems to stem from holdover MOES officials who remain committed to the anti-union approach of the prior government and are therefore preventing the new directive from being followed. Even after multiple meetings with labor advocates, including the GTUC President and the ESFTUG President, the Minister reportedly continues to tolerate contrary actions by two MOES officials in particular, both of whom reportedly led the effort to prevent teachers from exercising their right to freedom of association during the Saakashvili regime.⁶

These MOES officials have reportedly been pressuring Resource Center Directors and school principals in over a dozen counties to prevent teachers from leaving the "Syndicate," an alternative "trade union" that some teachers had been forced to join in violation of their right to join a trade union of their choice.⁷ As ESFTUG witnesses explain, these MOES officials have used official meetings with Resource Center Directors and school principals to press their own agenda, indicating that the new MOES favors the Syndicate and that if the teachers in their schools join or remain in the Syndicate, the teachers will have a better chance of passing their

⁶ One of the MOES officials acting against the ESFTUG is reportedly the head of the "Syndicate," a trade union in name only, created with the backing of the previous regime. The other was reportedly very close to prior government and initiated and the ongoing court challenge to the election of the president of ESFTUG.

⁷ 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"), ¶ 235 (Teachers should have the right to establish and join organizations of their own choosing, without previous authorization, for the promotion and defense of their occupational interests.).

teacher certification exams. In a particularly egregious example, the AFL-CIO was informed that one of the two MOES officials in question even threatened principals with the loss of their jobs if they respected the will of teachers who wanted to rejoin the ESFTUG. In January and February, 2013 ESFTUG President, Maia Kobakhidze spent much of her time trying to reach out to teachers and principals to counteract this misinformation.⁸ While it is not certain that, absent these two officials, greater change would have been achieved, what is clear is that many of Georgia's teachers remain unable to exercise their right to freedom of association, an internationally recognized worker right.⁹

Failure to bargain in Good Faith with Legitimate Unions

In each of the three cases listed below the Ivanishvili government has apparently called on government employers to open good faith negotiations with legitimate union representatives. Despite initial promises to do so, the Ministries have not signed new CBAs or proactively intervened to have employers in newly privatized industries fulfill their responsibilities under existing agreements. The AFL-CIO believes that the new government will require additional time to demonstrate measurable changes in labor relations.

- **Railway Workers Union (RWU)**

Regardless of the good intentions voiced by the new Director of the Georgian State Railway, the State Railway has not signed a new CBA with the RWU, which he had reportedly promised to do by the end of January 2013. This failure led to several regional wildcat protest strikes. The GTUC and the RWU worked to stop those strikes, reportedly because they had received assurances from the new Director that he would sign a CBA. But as of this writing, the RWU still lacks a CBA. Dues check-off has not been restored.

In addition, the RWU has recently reported that newly appointed members of Georgian State Railway management have been approaching board members of the RWU, encouraging them to cut its ties with the GTUC, inconsistent with the right of unions to join federations of their own choosing.¹⁰ Despite the apparent good intentions of the Ivanishvili government, the Director of the Georgian State Railway has seemingly been unwilling or unable to respect the right to bargain collectively, an internationally recognized worker right (19 U.S.C. § 2467(4)(B)).

- **Health Care Workers Trade Union (HCWTU)**

The HCWTU reports a better relationship with the new Minister of Labor, Health and Social Affairs than previously, but the Minister has apparently indicated that he will not handle labor issues, which will be delegated to the MLHSA's new Labor and Employment

⁸ A very rough English translation of a letter from President Kobakhidze to the Minister of Education and Science on this topic is attached at Appendix II.

⁹ *Id.*

¹⁰ CFA Digest of Decisions, ¶710 ("The principle laid down in Article 2 of Convention No. 87 that workers and employers shall have the right to establish and join organizations of their own choosing implies for the organizations themselves the right to establish and join federations and confederations of their own choosing.").

Department (created in February). The HCWTU President, Mr. Joni Janashi, informs us that the Minister explained that he had no jurisdiction over most of the health care facilities in the country because they had been privatized. The HCWTU President met with the management of one of the largest owners of the hospitals, which then allowed the union to meet with employees. But, in each of the counties where members had been forced to resign (as described in prior filings), dues check-off has not resumed. As a result, the union continues to lack the capacity to serve its members appropriately or to organize new members effectively. Its finances border on bankruptcy. Despite the apparent good intentions of the Ivanishvili government and the Minister of Labor, they have been either unwilling or unable to reinstate a climate of respect for the internationally recognized worker right to organize and bargain collectively (19 U.S.C. § 2467(4)(B)).

- **Communication Workers Trade Union (CWTU)**

The CWTU was hopeful that the newly appointed Director of the Georgian State Postal Service would engage in negotiations with the union for a new CBA. Instead, the CWTU reports that the Director, who took over in November 2012, abrogated the existing CBA (which had given all of the postal employees open-ended contracts), placed all the workers on month-long contracts, and abolished paid overtime. The CWTU indicates that the Director fired approximately 60 employees in the last days of February 2013 without giving a reason, using the power available to him under the Labor Code that is still in force. These actions again indicate a lack of willingness to respect worker rights to freedom of association and collective bargaining. It is also unclear if the fired workers were discriminated against on the basis of their support for the union, or for any other reason.¹¹

In the case of the SILKNET Company, which had fired almost twenty local trade union leaders from late 2011 until late 2012, those workers have not been rehired. However, the company did sign a CBA with the CWTU in early December 2012. While the AFL-CIO is pleased to report the conclusion of this CBA, this one bright spot does not provide sufficient evidence that the GOG is taking steps to afford internationally recognized worker rights.

Update: Port of Poti

After a ten-day strike in November 2012, the management of the Port of Poti (which has been privatized) met for eight hours with the GTUC leadership, the newly-formed Poti Portworkers' Trade Union, the Georgian Minister of the Economy and other worker advocates to end the strike. The participants reached an agreement that included three major points: 1) employees would get a pay raise in December 2012; 2) until February 15, 2013 there would be no strikes; and 3) by February 15, 2013, a long-term collective agreement would be signed. Although the first two points were achieved, the parties have failed to conclude a new CBA. The union alleges the management had been negotiating in bad faith.

¹¹ Firing workers for trade union support is a violation of the right to freedom of association. CFA Digest of Decisions, ¶ 771 (“No person should be dismissed or prejudiced in employment by reason of trade union membership or legitimate trade union activities, and it is important to forbid and penalize in practice all acts of anti-union discrimination in respect of employment.”).

Update: Geosteel Plant in Rustavi

In the private Geosteel Plant in Rustavi, owned by a company from India, a new trade union was founded in late 2012. Eight of twenty-two elected members of the new union's board and one member of three elected members of the union's auditing committee were not offered new contracts when their short-term contracts expired. It is possible that additional elected members of the union could be fired in the same way when their fixed-term contracts expire. A fully functioning Department of Labor and Employment could be useful to intervene in this case to ensure that management does not feel free to end contracts in retaliation for union activity.¹²

New Case: Oil Terminal in Kulevi

In the Kulevi Oil Terminal, owned by the Azeri State Oil Company, SOCAR, workers, who had founded a new union in early November 2012, conducted a brief warning strike in December in order to convince the management to begin serious negotiations with it. During the stoppage, the management tried to bring in strike breakers, whom it had brought in from Poti. The management promised to negotiate, but then did not offer the chairman of the new union a new contract when his short-term contract expired. This example further illustrates the need for changes in GOG to take root—good intentions are not enough to protect workers from anti-union discrimination.

In sum, in numerous instances, the GOG continues to fail to protect workers in the exercise of internationally recognized worker rights, including—

- the right of association;
- the right to organize and bargain collectively; and
- acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

The AFL-CIO remains hopeful that the failings simply represent an inability—and not an unwillingness—to achieve the needed changes in the limited time that has elapsed. Time will tell if this hope is unfounded.

V. Conclusion

The newly-elected Government of Georgia has made some initial efforts to afford internationally recognized workers' rights. It has shown its readiness to work with trade unions to help resolve several wildcat strikes over the last four months. It has also begun to take the ILO and its recommendations seriously, having drafted amendments to the current Labor Code, which, if ratified by Parliament and signed into law, would bring it closer to complying with ILO Conventions.

As encouraging as these new actions have been, the old, inadequate LC remains on the books and is being used to deny fundamental worker rights. In addition, the proposed amendments do not address the full scope of the problem.

¹² *Id.*

The newly established Labor and Employment Department in the Ministry of Labor, Health and Social Affairs has not yet created any structures to handle industrial conflict resolution and social dialogue. Moreover, the National Tripartite Committee has not met since the new government came into office. No steps have been taken to establish a workplace health and safety agency. Besides these legal and institutional shortfalls, several state employers, such as the Ministry of Education, the Georgian State Railway, and the Georgian State Post Office, continue to fail to respect freedom of association and the right to bargain collectively or to comply with valid dues check-off agreements (thereby denying unions the funds they need to perform their representation functions).

For the reasons above, the AFL-CIO urges the President to use his discretion under 19 U.S.C. § 2462(d) to withdraw, suspend, or limit the application of the duty-free treatment pursuant to the GSP unless the new Government of Georgia demonstrates that it is taking prompt, concrete, and effective steps to change its law and practice to ensure that workers can exercise their internationally recognized worker rights. Closing this petition before securing evidence of concrete and effective steps would fail to protect Georgia's workers and would send the wrong signal to all GSP beneficiary countries.

The AFL-CIO is optimistic that that the new GOG will eventually make needed changes to law and practice that will establish a reliable system to afford fundamental labor rights for all. When and if the government takes these steps, we are prepared to call on the President to end this review. However, the promise of future "steps" to secure those rights does not provide the evidence needed to close this petition at this time, given that open questions remain about the will of the GOG to accomplish those steps.

APPENDIX I

GTUC comments and proposals for amendments of the Government's current Draft Law (as of 4th March 2013) on amendments to the Labour Code of Georgia:

I. Article - 6. Conclusion of Employment Contract

A) paragraph- 1.¹

GoG - "Employment contract is concluded in written form if employment relations exceed three months".

GTUC - "Employment contract is necessary to be concluded in written form if employment relations exceed three months".

N.B. Here the issue is with the wording which to our view gives a sense that the employment contract should be verbal until it is goes beyond three months.

B) Paragraph – 1². A fixed-term contract is concluded if the performance of work is related to the following conditions:

Point “e”:

GoG - "related to **other objective** circumstances".

GTUC - "related to **other essentially (or reasonably substantiated) objective** circumstances".

N.B. Current GoG version (**other objective** circumstances) provides a huge loophole to dishonest employers who may abuse this almost unlimited right. That is why there is need to narrow down the chances of misusing this right without harming the industrial relations and competitiveness of the company.

II. Article - 13. paragraph - 4.

GoG - "In case an Internal Regulation is not part of an employment contract, any of its provisions that is contradicting an employment contract or collective agreement or this code, shall be null and void".

GTUC - "In case an Internal Regulation **is part of an employment contract**, any of its provisions that is contradicting an employment contract or collective agreement or this code, shall be null and void".

N.B. We hope this is just a typing error problem, otherwise this is very much useless provision repeating axiom very well known in jurisprudence. What we all need and is an obligation of the State to clearly declare superiority of the CBA over the Internal Regulations which is not guaranteed by the current wording of the draft. With this the government would positively respond to the ILO CEACR comments on this particular issue.

III. Article - 30

GTUC - **Article 30¹** to be added : "Workers performing night work should benefit from measures which take account of the special nature of the work".

N.B. - EU Social Charter Article 2 "The right to just conditions of work", paragraph - 7. This article and paragraph are ratified by Georgia and thus it represents an international obligation to comply with. It should at least repeat the wording of this provision and then leave it up to the parties to negotiate just like in the case of defining overtime).

IV. Article - 37. Grounds for Termination of Employment Relations

Paragraph - 1.

A) Point "a".

GoG - "Economic circumstances, technological or organizational changes entailing a reduction in the workforce required for production or service".

GTUC - "**Important** Economic circumstances, **Essential** technological or organizational changes entailing a reduction in the workforce required for production or service.".

B) Point "i".

GoG – "Unless otherwise provided in the employment contract, long-term disability if the period of incapacity exceeds more than 40 consecutive calendar days or if, within 6 months, the period of incapacity exceeds more than 60 calendar days and if the employee has used **a leave** provided under Article 21 of this code".

GTUC – "Unless otherwise provided in the employment contract, long-term disability if the period of incapacity exceeds more than 40 consecutive calendar days or if, within 6 months, the

period of incapacity exceeds more than 60 calendar days and if the employee has used **an annual leave fully and minimum of the unpaid leave** provided under Article 21 of this code”.

C) Point "m".

GoG - "Other **objective** circumstances".

GTUC - "Other **essentially (reasonably substantiated)** objective circumstances".

V. Article - 37. Paragraph - 2.

A special Point to be added to guarantee protection for the women in private sector after maternity leave, equally with the public sector employees. The latter are protected during 3 years after they come back to work from maternity leave. (Although not having ratified, State may wish to consider the ILO C 183 on this very issue putting burden of proof on employer if an employee is dismissed during certain period of time she/he returns to work **after her/his maternity/paternity leave is over.**

VI. Article - 38. Paragraph - 1.

GoG - "An employee **should receive compensation of at least one month pay within 30 calendar days** when an employer terminates his/her employment contract based on the reasons foreseen by "a", "f", "i" and "n" paragraphs of the Article 37 of this Code".

GTUC - "When an employer intends to terminate employment contract with an employee based on the reasons foreseen by "a", "f", "i" and "n" paragraphs of the Article 37 of this Code, an employee **should receive at least one month prior notice and be paid a compensation of at least one month pay** within 30 calendar days **after the dismissal**".

N.B. Right to Prior Notice is an international obligation of the Georgian State under the ratified Paragraph 4 of the Article 4 of the EU Social Charter. As for the compensation (severance pay) - this is moral obligation and demonstration of social fairness by the government which must remain in the LC until the government introduces Unemployment Benefit System together with Public Employment Agencies that are non-existent since 2006. Provision stating this condition should be included in the last Article on Transitional Provisions.

VII. Article - 38. Paragraph - 2.

GoG - "Compensation for at least **one month** in lieu of prior notice may be paid to the employee within 30 calendar days".

GTUC - "Compensation for at least **two month** in lieu of prior notice may be paid to the employee within 30 calendar days".

N.B. This is logical and fair if the previous paragraph is amended as suggested by the GTUC).

VIII. Article 47. Dispute. Paragraph 3.

Point - "C". The grounds for labour dispute may be:

GoG - "Disagreement between an employer and an employee related to the **essential conditions of an employment contract**".

GTUC - "Disagreement between an employer and an employee (or a trade union) related to the **employment conditions**".

N.B. Paragraph 9 of the Article 6 on Essential Conditions provides exhaustive list of essential conditions which misses a number of very important terms of employment like insurance, occupational safety and health, mass redundancies etc. that are very often the reason for Collective Labour Dispute. If they are left out of the reasons for Dispute then we may end up in a situation when the right to strike is restricted for the workers.

X. Article 54. Paragraph 1. Point "e".

GoG - "the list of **activities** connected to the safety of person's life and health – before 1 July 2013."

GTUC - "the list of **activities(essential services)** connected to the safety of person's life and health **and the measures to compensate limited access to the right to strike for this category of employees to allow for fast and effective Labour Dispute Resolution** – before 1 July 2013".

XI. Article 54. Measures to be undertaken in terms of Code Enforcement

Paragraph 1.1.

GoG - "Government of Georgia to work out and approve by decree provisions of Social Partnership Tripartite Commission - before **1 July** 2013."

GTUC - "Government of Georgia to work out and approve by decree provisions of Social Partnership Tripartite Commission - before 1 May 2013".

XII. Article 54. Measures to be undertaken in terms of Code Enforcement

Paragraph 1.

GTUC proposes that the Point "G" should be added here that should mention the need and deadline for the establishment of a Labour Inspectorate as a state institution to enforce labor legislation and these amendments. Otherwise the title of the Article 54 would not comply with its content.

APPENDIX II

To: Mr. Giorgi Margvelashvili, the Minister of Education and Science of Georgia.

Mr. Giorgi,

On December 19, 2012 I had a meeting with Mr. Levan Keburia, Head of the Ministry Administration, we had a conversation and he had told me about the position of the ministry concerning trade unions.

Furthermore, we had a talk about current issues, ongoing in the educational system. The information about the changing of the educational reforms is completely acceptable and we agree you.

The issue of future functionality of ESFTUG in the Georgian educational system was the main one for the discussion during the meeting.

I explained him the difficulties we were faced, the barriers which were to deter trade union activities. Mr. Levan asked me to write a letter and notify you about the information.

I note that ESFTUG, trying to communicate with teachers, faces difficulties coming from several heads of educational resource centers and schools' administrations. Very active propaganda against the ESFTUG is lead by trainers of the national professional development center of the ministry of education.

The trainings which are organized for developing teachers' professional qualification are used to sign up teachers in "Syndicate" or in the newly formed trade union of general education (president : Teimuraz Dzotsenidze). Such facts were in Kharagauli, Senaki and Zugdidi regions of Georgia.

Under the leadership of the head of Senaki regional resource center 5 teachers from each school of Senaki region were called to attend the meeting held on November 24-25, 2012 at №1 public school of Senaki and organized by "Syndicate".

Ms. Rusudan Tedoradze, a trainer of the national professional development center, in spite of conducting a seminar for the teachers, propagandized about the "Syndicate" at the meeting which was supposed to be a seminar.

The mostly worrying fact: according to Ms. Rusudan Tedoradze `s explanations under the Minister`s decision the "syndicate" is the trade union of the Ministry of Education. Teachers do not have to sing up in ESFTUG because the ESFTUG is unacceptable for the ministry as it creates difficulties and problems to the ministry of Education.

The teachers were called to attend the training in order to develop professional knowledge. The changing of the theme by the trainer caused protest among teachers. Ms. Manana Zarandia, a teacher from Dzveli Senaki public school called for a journalist, Ms. Natia Shengelia, from "info

9". As the journalist appeared at school, the trainer telephoned Mr. Taras Shavshishvili and asked him how to lead the created situation. After the phone call the trainer stopped talking on "syndicate" and begun talking on an issue of arrangement of classroom lesions.

The journalist, Ms. Manana Zarandia and others attending to the meeting can confirm the fact.

Other violations also were figured by the schools' principals' side under the backing and ordering of the Senaki educational resource center. For example: schools' principals did not accept teachers' personal statements on leaving the "sindicatae" and signing up in ESFTUG at Senaki №1 public school and public schools of Dzveli Senaki, Zemo Senaki and Qvemo Fotsko. According to principals' orders the above mentioned statements were not registered at schools' chancellery.

I inform you that on June, 2010 700 teachers, who were ESFTUG members were forced to leave the organization and all of them, were transferred to "syndicate". The main legal right of trade union is to negotiate collectively with an employer in order to form a collective agreement. On December 19, 2012 we were informed by the head of ESFTUG Senaki Organization that the ESFTUG primary organization had been founded at Senaki public schools, where the heads of the primary organizations had been elected. In spite the activity principals of Senaki public schools were abstaining to fulfill their function and were calling on teachers to refrain from any activity and wait for development of events.

Another meeting was held in Kutaisi, at №19 public school. The meeting was organized by the Kutaisi Educational Recourse Center. Ms. Kvitiani, trainer of the national professional development center used all time of the meeting for to present the newly formed trade union of General education (president: Teimuraz Dzotsenidze). Trainer was convincing teachers if they sign up in the trade union they would be trained and would get a certificate, on the basis of the certificate teachers would get a certified teacher's status without passing an examination of certification.

Another fact happened in Rustavi. Ms. Marina Ugulava, head of the Rustavi educational Recourse center order schools' principals to send 3 teachers from each Rustavi schools at the presentation dedicated to the newly formed trade union of general education. Ms. Marina Ugulava emailed to all the Rustavi schools' principals. This fact that she received a order to organize such type of meetings from the ministry of education was confirmed by her, the telephone conversation with Ms. Leila Gorgadze, ESFTUG head of Rustavi organization. Ms. Ugulava also added that Ms. Neli Liqokeli, an accountant of the ministry of Education passed the order to her. Ms. Neli Likokeli also confirmed the fact, at first she told about several names of the employees of the ministry of education but then explained concretely that she had received the order from Ms. Ekaterina Cherkezishvili, the manger of teachers' development scheme at the national professional development center. We think that we are faceing a clasic exapmle of using administrative resourses, interfering in trade union activities and forcing and oppressing teachers in order to make a stress over teachers using administrative resourses. A meeting with Mr. Temur Dzotsenidze was organized on December 21, 2012 at №15 Public school of Rustavi. Our members refused to attend the meeting and only 18 teachers attended the meeting.

Many times we had declared that we are not against to formation of new teachers' union if the initiators are teachers themselves, but in this case the trade union of Mr. Teimuraz Dzotsenidze was formed with the initiation of the high level employees of the minister of education, who are Taras Savshishvili and Ekaterine Cherkezishvili and who are supported by the several heads of educational recourse centers. We think that the trade union formed using such methods is against the fundamental values and voluntariness principal considered in the Georgian law on trade unions.

Furthermore, we consider that using the recourses of the national professional development center comes in resistance with the legislation and the goals of itself the center. As the use of the administrative resources is arranged by Mr. Taras Shavshishvili, the deputy head of the center and Ms. Eka Cherkezishvili, the manager of teachers' development scheme. Moreover, we inform you that Mr. Taras Shavshishvili is the founder of the "syndicate" and Ms. Eka Cherkezishvili is one of the initiator of founding a trade union of general education.

We ask you to pay more interest to the information we provide you and have an adequate response on the above mentioned facts.

Sincerely yours,

Maia Kobakhidze

ESFTUG President

