



International
Labour
Office
Geneva

EPLex IN BRIEF No. 1 December 2012



EMPLOYMENT PROTECTION LEGISLATION (EPL) OF GEORGIA: A review based on ILO standards, OECD indicators and comparative labour law

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The Labour Code of Georgia has provoked, since its adoption in 2006, controversial discussions in the country and in the international community. On the one hand, this reform has been contested for the lack of tripartite social dialogue, and for the extent of deregulation which reduced the labour law to 56 articles in total. Critical comments expressed by the International Labour Organization (ILO) and the European Union (EU) were not taken into consideration. On the other hand, the Georgian government, with support from the World Bank, has presented this reform as a model for other countries in transition to the market economy.

The objective of this note is to review the Labour Code of Georgia with specific focus on employment protection legislation (EPL) from international and comparative perspectives. The main references used are ILO standards, EPL indicators of the Organisation for Economic Co-operation and Development (OECD) and the labour law of selected jurisdictions.

The assessment of the labour law of Georgia in this note does not pretend to be comprehensive. For instance, the regulation of freedom of association and the right to collective bargaining is not examined, as since 2006, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has provided extensive comments on the Labour Code of Georgia on these issues.²

The legal review of the Labour Code of Georgia in this note is complemented with some economic data, such as rates of unemployment and self-employment, wages, the growth of gross domestic product (GDP) and foreign direct investments in the country. The conjunction of legal and economic indicators is used to attempt an assessment of the impact of the reform of 2006 on the labour market of Georgia.

International references for assessing and comparing labour laws

The main references for the international and comparative analysis of the Labour Code of Georgia in this note are the relevant ILO standards, EPL indicators of the OECD and the national legislation of selected countries.

ILO standards, European and comparative labour law

Georgia is a member of the ILO since 1993 and its national labour law is examined in this note first by reference to ratified and non-ratified ILO standards.³ Some relevant EU Directives are cited, as Georgia is

¹ The author expresses sincere thanks to Corinne Vargha, Kari Tapiola, Maryia Aleksynska, Mélanie Jeanroy and Colin Fenwick for their valuable comments during the preparation of the brief and to Rita Natola for editing and publication support.

² The CEACR requested several amendments to the Labour Code of Georgia to bring it into conformity with ratified ILO Conventions. The latest complete information on Georgia on this subject is found in the CEACR report for 2012 in the ILO database, NORMLEX:

http://www.ilo.org/dyn/normlex/en/f?p=1000:11110:0::NO:11110:P11110_COUNTRY_ID:102639

³ Georgia has ratified 16 ILO Conventions. In 2012, Georgia has one of the lowest levels of ratification of ILO Conventions among countries in Western and Eastern Europe, Caucasus and Central Asia, just ahead of Uzbekistan and Turkmenistan (NORMLEX).

part of the EU Neighbourhood Policy and the Eastern Partnership agreement, and is moving towards integration with the European Union. Some references are also made to the European Social Charter, which was signed in 2005 by Georgia as a member of the Council of Europe.⁴

In a globalized economy, policy-makers are increasingly inspired by the experience of other countries and by major regional and global trends. Therefore, the analysis of the provisions of the Georgian Labour Code is complemented by illustrations from comparative labour law.⁵ The selection of countries for this study was done on the basis of various factors, including examples of most advanced economies and countries in a context comparable to Georgia (states in transition to a market economy and small size countries).⁶

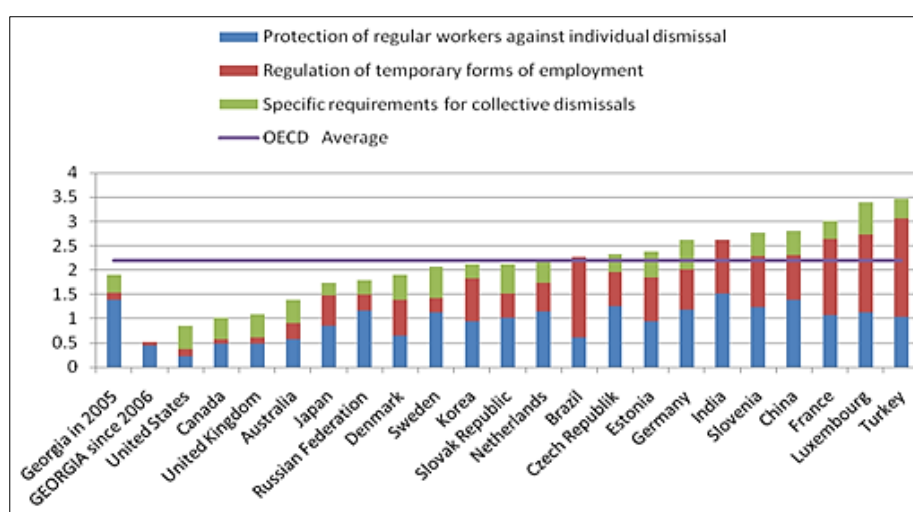
OECD indicator of employment protection strictness

The OECD has developed a methodology to measure employment protection strictness. Although Georgia is not an OECD member, this indicator of employment protection strictness may be used for comparative purposes.⁷

The OECD indicator measures the strictness of EPL on a scale from 0 to 6, with the higher scores reflecting stricter regulation. The data collected on 21 items are classified into three main areas: individual dismissals of workers with regular contracts, regulation of temporary employment, and specific requirements for collective dismissals.⁸

Figure 1 illustrates that Georgian labour law is one of the most deregulated among the countries studied, even in comparison with such liberal countries as the USA, Canada and the United Kingdom. The current score of Georgia is 0.51 (out of 6), compared to the average among OECD countries (2.2). The extent of the deregulation resulting from the Labour Code reform in 2006 may be measured through comparison with the Georgian EPL score in 2005 (1.9).

Figure 1.
Indicators of employment protection strictness in selected OECD and non-OECD countries



Source: OECD, 2008. The index for Georgia in 2005 is calculated by Muravyev (2010).⁹ The index for Georgia in 2012 is the author's calculation.

⁴ The assessment of compliance of Georgia with this international treaty is outside the scope of this brief. However, some references will be made to the provisions of the Charter relevant to our purpose. The Georgian Trade Unions Confederation (GTUC) in 2007 and the "Association of Young Lawyers of Georgia" published in 2011 their reports putting in evidence several cases of inconformity of the Labour Code with the European Social Charter, in particular, on protection in case of dismissal, discrimination, right to fair working conditions, and collective labour rights.

⁵ Comparative data in this paper is taken from EPLex, an ILO online database on employment protection legislation in more than 80 countries, which may be found at: <http://www.ilo.org/dyn/eplex/termmain.home>

⁶ The population of Georgia is 4'469,2 million, with women comprising 52,4 percent (National Statistics Office of Georgia, 2011).

⁷ The OECD methodology is selected for this note as it is one of the most referred to by comparative researchers. However, it should be acknowledged that the methodology of this indicator of employment protection strictness is contested on several aspects. See "Better jobs for a better economy", in *ILO World of Work Report 2012* (Geneva), p. 37.

⁸ The OECD methodology for employment protection strictness indicators, 2008, may be found at: http://www.oecd.org/document/11/0,3746,en_2649_37457_42695243_1_1_1_37457,00.html

⁹ Muravyev, A. 2010: "Evolution of Employment Protection Legislation in the USSR, CIS and Baltic States, 1985-2009", IZA Discussion Paper No. 5365 (Bonn, Institute for the Study of Labour (IZA)).

The World Bank “Doing Business” report

The Georgian government has frequently referred to the “Doing Business” report of the World Bank to guide its policy decision-making. This annual report on the business environment has regularly referred to Georgia as a champion of economic reforms.

In 2009, following criticism expressed by some academic and international organizations, including the ILO, the “Employing Workers” indicator, which measured the rigidity of labour laws, was removed from the ranking criteria in the “Doing Business” report. Consequently, this note does not refer to “Doing Business”, as it is no longer used as a basis for policy advice on labour law reforms.¹⁰

Regulation of contracts of employment and dismissals in Georgia

The controversial debate over the optimum level of labour market regulation is mainly focused on the issues of “hiring and firing”, which are deemed an inherent part of EPL. The main ILO standards on contracts of employment and dismissals at the initiative of the employer are the Termination of Employment Convention (No. 158), and its accompanying Recommendation (No. 166).¹¹

Probationary period

Convention No. 158¹² stipulates that the probationary period in contracts of employment should be of reasonable duration and determined in advance. In Georgia, the probationary period cannot exceed six months and must be agreed in writing.¹³ Table 1 confirms that on this point the Georgian Labour Code is in line with comparative trends, as most countries reviewed limit the duration of the probationary period to six to twelve months.

Table 1.
Maximum duration of probationary period in selected countries

Maximum duration of probationary period	Countries
Less than 6 months	Czech Republic, Estonia, Republic of Korea, Netherlands, Slovakia, Switzerland, Turkey
From 6 months to less than 1 year	China, Denmark, France, GEORGIA , Germany, Russian Federation, Slovenia, Sweden
From 1 to 2 years ¹⁴	Australia, Brazil, United Kingdom
No statutory regulation	USA

Source: Data used from EPLex, ILO.

Fixed-term contracts

Convention No. 158¹⁵ foresees that national law may authorize the exclusion of workers employed on fixed-term contracts (FTCs) from the general regime of termination of employment at the initiative of the employer.

¹⁰ In the last “Doing Business” report which rated countries for the “Employing Workers” indicator in 2009, Georgia was in 10th place (out of 183 countries), preceded by Singapore, USA, Australia, Brunei-Darussalam, Marshall Islands, Hong Kong, Uganda, Palau, and Denmark. However, it is important to mention that the “Doing Business” report refers only to law, while the labour market of Denmark is comprehensively regulated by collective agreements. See <http://www.doingbusiness.org/data/exploretopics/employing-workers>

¹¹ Georgia has not ratified Convention No. 158. This instrument is thus not legally binding for Georgia and is used in this note as a relevant benchmark adopted by the International Labour Conference.

¹² Article 2(2)(b).

¹³ Georgia: Labour Code of 2006, Article 9.

¹⁴ The countries in this category use the concept of “qualifying period” during which a worker is not allowed to lodge in a tribunal a complaint for unfair dismissal.

¹⁵ Articles 2(2)(a) and 2(3).

However, adequate safeguards should be provided to prevent the conclusion of FTCs whose aim is to avoid protection for workers from unjustified dismissals.¹⁶

In Georgia, a contract of employment may be concluded for a fixed or indefinite duration, or to accomplish a specific task, without any particular conditions.¹⁷ Unlike Georgia, most countries presented in Table 2 have regulated by law the use of FTCs by limiting their use for performing permanent tasks and/or limiting the cumulative duration of FTCs (mostly from 2 to 5 years).

Table 2.
Legal limitations of the use of fixed-term contracts in selected countries

Limitations of the use of fixed-term contracts (FTCs)	Countries
<i>Conclusion of FTCs is allowed for objective reasons</i>	Brazil, Denmark, Estonia, France, Germany, Russian Federation, Slovakia, Slovenia
<i>Limitations of the cumulative duration of FTCs</i>	2 years : Brazil, France, Germany, Republic of Korea, Slovenia, Sweden 3 years: Czech Republic, Netherlands, Slovakia 4 years: United Kingdom 5 years: Russian Federation 10 years: China, Estonia
<i>No statutory limitations</i>	Australia, GEORGIA , Switzerland, USA

Source: Data used from EPLex, ILO.

In Georgia, according to Schvelidze,¹⁸ some workers are employed on successive contracts of one to three months during periods exceeding one or two years. In addition to concerns of instability for workers, the abuse of FTCs negatively affects their right to paid holidays. The ILO commented that although Georgia has ratified the Holidays with Pay Convention (No. 52), it has insufficient basis in law for implementing said Convention. The Georgian Trade Unions Confederation (GTUC) also confirms that in some cases, employees work on the basis of a one-month renewable employment contract, thus never becoming eligible for annual holidays with pay.¹⁹

Valid reasons for dismissals

According to Convention No. 158, no worker can be dismissed without a valid reason related to the worker's capacity or conduct, or based on the operational requirements of the enterprise.²⁰

In Georgia, no such valid grounds are listed in law for terminating an employment relationship. Upon ratification of the European Social Charter in 2005, Georgia accepted only the minimum number of requirements. Article 24 of the Charter, related to the worker's right to protection in case of dismissal without valid reasons, was excluded by the Georgian government from ratification.²¹

The Labour Code of Georgia authorises termination of employment by mutual agreement, upon completion of a specified work or by unilateral dissolution by either party.²² The employer has no obligation to justify a dismissal. This approach is in opposition to the prevailing trend in the countries presented in Table 3. Several sources report cases of discriminatory dismissals in Georgia.²³ The grounds most frequently invoked in national

¹⁶ The similar legal framework for FTCs is provided by the EU Council Directive 99/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

¹⁷ Georgia: Labour Code of 2006, Article 6(1).

¹⁸ Shvelidze, Z. 2012: "Transition from Soviet to liberal labour law: Labour standards in Georgia", paper presented at the International Labour and Employment Relations Association (ILERA) World Congress in Philadelphia, USA, 2012.

¹⁹ ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR). 2011. "Individual observation on Georgia on the Holidays with Pay Convention, 1936 (No. 52)".

²⁰ Article 4 of ILO Convention No. 158.

²¹ European Committee of Social Rights. 2012. First Report on the non-accepted provisions of the European Social Charter (Georgia).

²² Georgia: Labour Code of 2006, Articles 37(d) and 38. Another translation in English (and both being imperfect) uses the term "derangement" of the employment contract.

²³ United Nations. 2012. "Report on the visit to Georgia of the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association" (Geneva, Office of the High Commissioner for Human Rights). See also ITUC, 2011. "Georgia: Europe's black sheep for workers' rights", and "Georgia: Life tool to neo-liberal "success" policies", at: www.ituc-csi.org

jurisprudence on discrimination are political opinion, sex and trade union activities. These reasons for dismissals are explicitly prohibited by Convention No. 158.²⁴

Table 3.
Legal obligation of the employer to justify dismissals in selected countries

Legal obligation of the employer to justify dismissals	Countries
<i>The employer has to give a reason to the worker to be dismissed</i>	Australia, Belgium, China, Czech Republic, Denmark, Estonia, France, Germany, Republic of Korea, Russian Federation, Slovakia, Slovenia, Sweden, Turkey, United Kingdom
<i>The employer is not obliged to justify a dismissal</i>	Brazil, GEORGIA , USA

Source: Data used from EPLex, ILO.

Notice period and severance pay

Convention No. 158²⁵ stipulates that the notice period for dismissing a worker should be of reasonable duration. Compensation in lieu of notice may be paid to the worker whose employment is to be terminated by the employer. The rationale of this rule is to allow some time for a worker to seek alternative employment.

In Georgia, the employer is not required to observe any notice period to dismiss an employee.²⁶ Table 4 shows that the provisions on the notice period, its duration and form, exist in the laws of the majority of industrialized and transition countries reviewed in this note.

Table 4.
Notice period in selected countries

Statutory notice period	Countries
<i>Notice period duration defined by law</i>	Australia, Austria, Belgium, Brazil, Canada, China, Czech Republic, Denmark, Estonia, France, Germany, Japan, Republic of Korea, Luxembourg, Russian Federation, Singapore, Slovakia, Slovenia, Sweden, Switzerland, Turkey, United Kingdom
<i>No notice period provided by law</i>	GEORGIA , USA

Source: Data used from EPLex, ILO.

In Georgia, the only legal requirement for the employer to dismiss a worker is the payment of one month's salary.²⁷ Although various interpretations of the Labour Code are possible, this provision may be deemed as payment in lieu of the period of notice or as severance pay at the end of employment. This calls for two observations. If it is considered a notice period, the one-month duration for all categories of workers is in contrast with legal practice in other countries where the period of notice often varies depending on the worker's status or seniority. If this is deemed as severance pay, the European Committee of Social Rights considered that "one month's salary is unreasonable in the case of employees with more than six month's service" and concluded that the labour law in Georgia should be amended to be in conformity with Article 4§4 of the European Social Charter (revised).²⁸

The regulations on severance pay and notice period should be analysed interdependently. This subject is too technically complex for a brief presentation in this note. The ILO EPLex database contains a lot of information on comparative practice on these issues. The amount of severance pay often varies from one week to one month's

²⁴ Article 5.

²⁵ Article 11.

²⁶ In this respect, the parties are not treated equally, as, per Article 38(2) of the Labour Code of 2006 of Georgia, the worker has to inform his or her employer one month in advance before resigning.

²⁷ Georgia: Labour Code of 2006, Article 38(3).

²⁸ Council of Europe, European Committee of Social Rights. *Conclusions 2010 for Georgia*.

salary for each year of the worker's tenure.²⁹ Moreover, Convention No. 158³⁰ states that the regulation on severance pay should also be considered in conjunction with unemployment insurance.³¹

Dismissal for economic reasons

In cases of dismissals for economic, technological or structural reasons, Convention No. 158³² requires States to enact laws to guarantee that employers consult with workers' representatives and notify the competent public authority.³³ These procedures may be limited to cases of mass redundancies. The objective is to encourage parties to explore measures to avert dismissals and mitigate their adverse effects on workers. The Labour Code of Georgia does not regulate collective dismissals for economic reasons. The only case mentioned as a reason for terminating an employment relationship is liquidation of an enterprise.³⁴

Table 5.
Procedures for collective dismissals for economic reasons in selected countries

Procedures for collective dismissals for economic reasons	Countries
<i>In case of collective dismissals for economic reasons, the procedures of consultation with workers' representatives and notification to public authorities are required by law</i>	Australia, Austria, Belgium, Canada, China, Czech Republic, Denmark, Estonia, France, Germany, Japan, Republic of Korea, Luxembourg, Russian Federation, Singapore, Slovakia, Slovenia, Sweden, Switzerland, Turkey, United Kingdom, USA
<i>No procedures required by law</i>	Brazil, GEORGIA

Source: Data used from EPLex, ILO.

As in Table 5, an overview of the labour laws in 125 countries confirms that the majority (around 80 per cent) have established specific procedures for collective redundancies. Among the developed economies and countries of the European Union, non-EU Europe, the Caucasus and Central Asia, Georgia is the only country without any provision regulating collective dismissals for economic reasons.³⁵

Private employment agencies

The regulation of private employment agencies is also part of the EPL used in academic research to assess the flexibility of labour law. Georgia ratified the ILO Private Employment Agencies Convention (No. 181) in 2002.³⁶ The national regulation on the issue is contained in one provision in the Labour Code of Georgia which defines a private employment agency as "any physical or legal person providing employment to unemployed people".³⁷

In 2011, the ILO reiterated its request to the government of Georgia to amend regulatory instruments governing the operation of private employment agencies to bring them in line with Convention No. 181. The ILO highlighted the need to have a clear legal framework, given the particularities of working arrangements in this sector, to determine the responsibilities of the agency and of the user enterprise that assigns and supervises the

²⁹ See EPLex for more legal data on notice period and severance pay in around 80 countries worldwide.

³⁰ Article 12.

³¹ European Commission. 2008: "Implementation of the European Neighbourhood Policy in 2007, Progress Report Georgia" (Brussels). According to this report, in Georgia the severance pay is one month's salary; the government cancelled all unemployment benefits in 2006 and replaced them with a unified social support programme for poor families.

³² Articles 13 and 14.

³³ The EU Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies and Article 29 of the European Social Charter require the same procedures.

³⁴ Georgia: Labour Code of 2006, Article 37(1)(i).

³⁵ Muller, A. 2011: "Employment protection legislation tested by the economic crisis: A global review of the regulation of collective dismissals for economic reasons" (Geneva, ILO, Industrial and Employment Relations Department).

³⁶ The relevant EU standard on the issue is Directive 2008/104/EC of 2008 on temporary agency work.

³⁷ Georgia: Labour Code of 2006, Article 54(1)(d).

execution of the work.³⁸ To prevent abuses, the law should also prohibit – with some possible exceptions – private employment agencies from charging workers fees for their services.³⁹

The review of several aspects of the regulation of contracts of employment and dismissals from a comparative perspective has shown that the legal framework of Georgia was liberalised in 2006 to an important extent. This differentiates the labour law of Georgia from prevailing trends in the European region. On some points, the legal regime is not in conformity with the international obligations of the country, such as those deriving from ratified ILO Conventions.

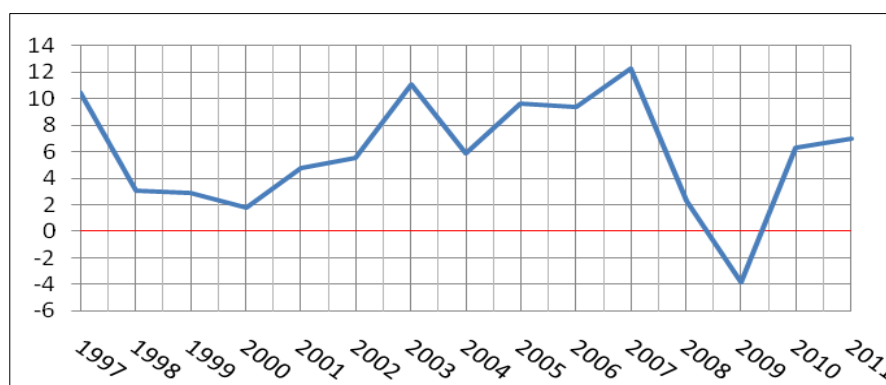
The impact of the labour law reform of 2006 on the labour market of Georgia

Six years after the adoption of the Labour Code of 2006, its impact on the labour market of Georgia may be assessed through some economic indicators. The objective is to attempt to identify possible correlations between the level of labour market regulation with (i) gross domestic product (GDP) growth, (ii) attraction of foreign direct investments, and (iii) rate of unemployment and wages.

GDP growth

Over the last 15 years, the average GDP growth in Georgia has been around 6 per cent. Figure 2 shows the progress of GDP in Georgia since 1997, although its evolution is irregular. Georgia's GDP peaked at 12,3 per cent in 2007, which is comparable with the growth before the labour law reform in 2006: 10,5 per cent in 1997 and 11,1 per cent in 2003. The fall (to –3,8 per cent) in 2009 corresponds to the period when the Georgian economy was affected by the 2008 armed conflict and the global economic crisis.

Figure 2.
Real GDP growth rates in Georgia (%), 1997–2011



Source: Data used from the National Statistics Office of Georgia, 2012 (data for 2011 are preliminary).

Foreign direct investments

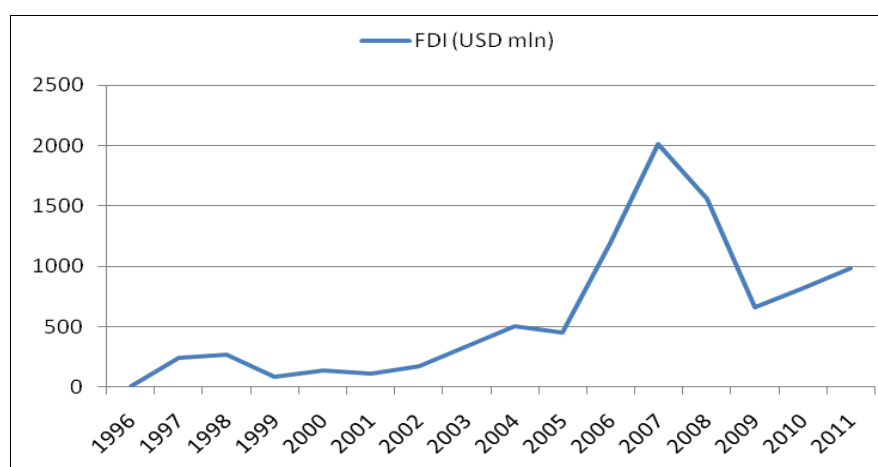
The political and economic instability in Georgia may also explain the irregularity of the curb in foreign direct investments (FDI). The peak in FDI in 2007 is presented as a consequence of the whole reform process since 2003, even if there is no evidence that the labour law reform was an important factor in attracting FDI. In fact, as investment decisions take time, most of the investment commitments observed in 2007 in reality happened

³⁸ ILO CEACR. 2011. Individual Direct Request to the Government of Georgia concerning the Private Employment Agencies Convention, 1997 (No. 181).

³⁹ Article 7 of Convention No. 181.

before the adoption of the new Labour Code in 2006. Furthermore, investor confidence was weakened by the double shocks in 2008–2009, though it recovered slightly in 2011.⁴⁰

Figure 3.
Foreign direct investments (FDI) in Georgia, 1996–2011



Source: Data used from the National Statistics Office of Georgia, 2012 (data for 2011 are preliminary).

In 2011, the most important part of FDI (77,2 per cent) came from investors in the European Union (55.4 per cent – mainly the Netherlands, Denmark and Cyprus), the Commonwealth of Independent States (CIS) (12.2 per cent – principally the Russian Federation and Azerbaijan), and the group of “International organisations” (9.6 per cent).⁴¹ The main sectors for investors were manufacturing, finance and energy.⁴²

Some governments justify the deregulation of labour law by the need to attract FDIs. However, according to international investment climate surveys,⁴³ among 14 factors for enterprise development, labour market regulations are cited, in the aggregate, only at the 11th position. Policy uncertainty, macroeconomic instability and tax rates are most consistently highlighted as principal obstacles for foreign investors.

Persistently high unemployment

Some economic theories advocate that labour law deregulation would have a positive economic impact on the labour market. Figure 4 shows that the liberal labour law reform of 2006 is not associated with a decrease in unemployment in Georgia. On the contrary, the unemployment rate has remained persistently high and even increased from 13.6 per cent in 2006 to 16.3 per cent in 2010.

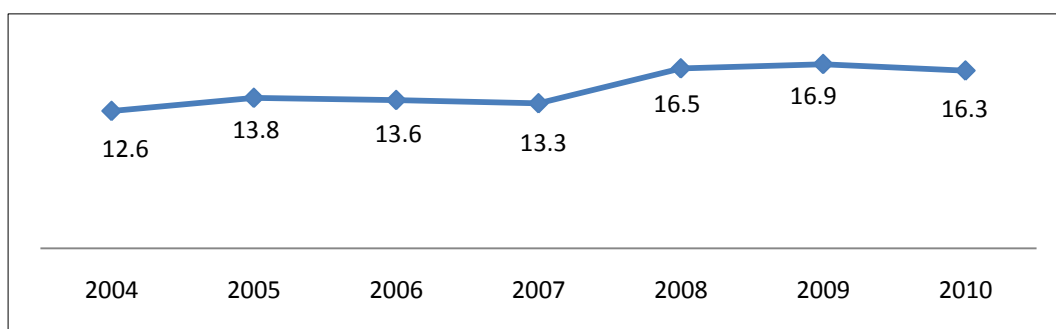
⁴⁰ European Commission. 2011. “Implementation of the European Neighbourhood Policy in 2010”, Country Report on Georgia (Brussels). According to this document, the “disappointing performance” of FDI inflows in the last years in Georgia “also reflects the loss of steam of the privatisation process, as many of the most attractive State companies and assets have already been sold”.

⁴¹ In the group of “Other countries”, the share of foreign direct investment was, for instance, 7.9 per cent from Turkey, 4.2 per cent from Virgin Islands and 2.96 per cent from the United States of America. National Statistics Office of Georgia, 2012 (data for 2011 are preliminary).

⁴² Further analysis of FDI by economic sectors would be necessary to assess the impact of FDI on job creation in Georgia.

⁴³ www.enterprisesurveys.org

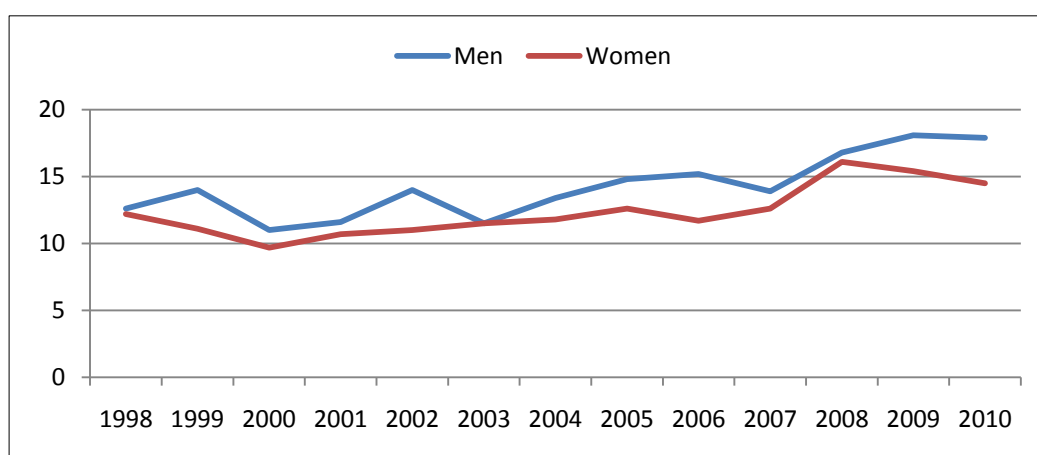
Figure 4.
Unemployment rate in Georgia (%), 2004–2010



Source: Data used from the National Statistics Office of Georgia, 2012.

The sex-disaggregated statistics available since 1998 confirm that the unemployment rate has been continuously increasing in Georgia, and in particular after the labour law reform of 2006 (Figure 5).

Figure 5.
Unemployment rate in Georgia (disaggregated by sex), 1998–2010



Source: Data used from the National Statistics Office of Georgia, 2012.

In 2010, the rate of unemployment in Georgia was 14,5 per cent for women and 17,9 per cent for men. The lower level of female unemployment, and in particular the decrease of female unemployment in Georgia in 2008–2010, may be partly explained by the fact that women often abandon the labour market when the lack of job opportunities is exacerbated by the economic crisis.⁴⁴

Wages in the private and public sectors

Georgia is classified by the World Bank as a lower middle income country. One-quarter of the Georgian population lives below the national poverty line. Poverty increased recently from 22.7 per cent in 2008 to 24.7 per cent in 2009.⁴⁵

Table 5 shows that the GDP per capita rose steadily, and does not seem to have been affected by the labour law reform of 2006.⁴⁶

⁴⁴ Concerns and Recommendations addressed to the EU and Georgian authorities in the framework of the European Neighbourhood Policy by the Federation internationale des ligues des droits de l'homme, Human Rights Centre, Human Rights priority, Caucasus Women's Network, 2008. International Human Rights organisations testify about "the very little willingness" of the Georgian authorities to discuss with women's organisations on labour law shortcomings. The United Nations Committee for the Elimination of Discrimination Against Women (CEDAW) similarly expressed its "concern about the negative impact on women" of the Labour Code of 2006 in Georgia.

⁴⁵ World Bank. 2012. Available at: <http://data.worldbank.org/country/georgia/>

⁴⁶ ILO CEACR. 2010. Direct request to Georgia on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117). In 2009, the Georgian government reported to the ILO that the minimum wage in the public sector was regulated by presidential decree and equalled 135 GEL

Table 5.
Real GDP gross rates in Georgia, 2005–2011

	2005	2006	2007	2008	2009	2010	2011
GDP per capita (at current prices), USD	1,483.5	1,763.5	2,314.6	2,921.1	2,455.2	2,623.0	3,215.4

Source: Data used from the National Statistics Office of Georgia, 2012 (data for 2011 are preliminary).

In 2010, the average monthly remuneration of workers in Georgia was 597.6 GEL (around 330 USD). The average monthly nominal salary in the private sector (661.1 GEL or 365 USD) was slightly superior to the salary in the public sector (539.1 Georgian lari (GEL) or 300 USD).⁴⁷

The gender disparity in wages⁴⁸ is quite significant in Georgia: the gender pay gap in Georgia of 43 per cent is one of the highest in the world in 2010.⁴⁹ On average, Georgian women earn 235 USD (426.6 GEL) per month in comparison to the men's salary of 410 USD (742.8 GEL).⁵⁰

What is behind the high figures of self-employment?

In contradiction with official statistics on unemployment of around 16,3 per cent, a survey carried out in 2012 revealed that only 30 per cent of interviewed people considered themselves employed (38 per cent of men and 24 per cent of women), and 45 per cent declared themselves unemployed and looking for a job.⁵¹

A possible explanation for the discrepancy of these figures with the official statistics may be found through a closer examination of the structure of the active population of Georgia (Figure 6). Around 60 per cent of the active population are self-employed and less than 40 per cent are employees (non-identified workers account for around 0.2 per cent).

(approximately 75 USD). The minimum wage in the private sector is, according to the Labour Code, subject to negotiations between employers and workers. It was 20 GEL (11 USD), but in reality stood at 320 GEL (180 USD) in 2007. The GTUC observed that there was no programme addressing the improvement of fixed minimum wages.

⁴⁷ Data from the National Statistics Office of Georgia, 2010.

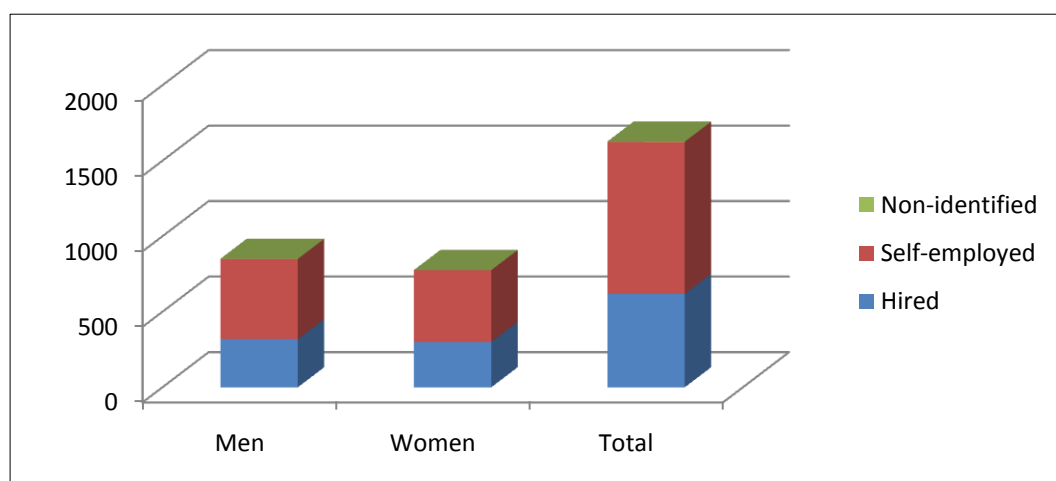
⁴⁸ ILO CEACR. 2012. Individual observation on Georgia on the Equal Remuneration Convention, 1951 (No. 100). For a number of years, the CEACR has been raising concerns regarding the absence of legislation giving full expression to the principle of equal remuneration for men and women for work of equal value. The general provisions of the Constitution, the Labour Code and the 2010 Law on Gender Equality neither specifically refer to nor capture the key concept of "work of equal value". The incomplete legal framework on this issue hinders progress in eradicating gender-based pay discrimination.

⁴⁹ Georgia is in 86th place among 135 countries in the Global Gender Gap Index (World Economic Forum, Davos, Switzerland, 2012). Women account for 6 per cent of members of Parliament. For more initiatives on gender equality at work in law and in practice, the composition of the Tripartite Social Partnership Commission should better reflect Georgian society, as its present composition (15 members) is all male (information received from the ILO office in Georgia).

⁵⁰ Data from the National Statistics Office of Georgia, 2010.

⁵¹ Navarro, L.; Woodward, I.T. "Public attitudes in Georgia", 2012 survey carried out for the National Democratic Institute (NDI) by the 2010-2012 research project funded by the Swedish International Development Cooperation Agency (SIDA). Available at: <http://www.ndi.org/files/Georgia-Survey-Results-0212.pdf>

Figure 6.
Structure of the employed segment of the active population in Georgia in 2010
(in thousand persons)



Source: Data used from the National Statistics Office of Georgia.

These figures are in contrast with the findings of a 2009 EU study. The category of independent work (grouping all professional situations apart from dependent employment) averages at 17 per cent in 27 EU countries. The highest level of independent work was in Greece and Romania (around 35 per cent). On the other side of the spectrum, a low incidence of self-employment (around 10 per cent and less) was found in Denmark, Estonia, France, Luxemburg, Norway and Sweden. The EU study highlighted the connections between self-employment and the informal economy. Disguised self-employment is also used to elude labour regulations.⁵²

The figure of 60 per cent self-employed working population in Georgia should be examined more thoroughly in order to understand what it captures. The variety of national definitions of self-employment reflects the diverse nature of this category. However, in many countries, self-employment is commonly characterised by low incomes, non-standard working hours, low skills, low social security, and almost non-existent collective representation.⁵³

Conclusions

The comparative review of several aspects of EPL (regulation of contracts of employment and dismissals) has highlighted a liberal feature of the 2006 labour law reform in Georgia. The calculation of EPL strictness indicator under the OECD methodology also confirms that Georgia's labour law is one of the most deregulated in the group of countries under review in this note. The existing legal framework particularly differentiates Georgia from prevailing trends in Europe and Central Asia. Several sources report that the existing labour law does not efficiently combatting unfair practices in the labour market in Georgia. This particularly concerns the regime of dismissals, which may also be linked to violations of fundamental rights at work such as freedom of association, and discrimination. The note points out that the Labour Code of Georgia is not, on several issues, in conformity with international obligations of the country, such as ratified ILO Conventions.⁵⁴

The analysis of economic data presented in this note would suggest that the experience of labour law deregulation in Georgia was not associated with positive results in the labour market. Six years later, the rate of unemployment has not decreased. No particular benefits or influence may be attributed to the labour law reform with respect to GDP growth and attracting foreign direct investments. Here again it should be said that

⁵² European Foundation for the Improvement of Living and Working Conditions. 2009. "Self-employed workers: Industrial relations and working conditions" (Dublin).

⁵³ Ibid.

⁵⁴ Since the adoption of the Labour Code in 2006, the ILO Committee of Experts on the Application of Conventions and Recommendations has been requesting the Government of Georgia to take necessary measures, in full consultation with the social partners concerned, to amend the Labour Code so as to ensure its conformity with ratified ILO Conventions. The latest full information may be found in the CEACR report for 2012 (NORMLEX).

this note does not pretend to be a comprehensive study, and its objective is limited to identifying some paths for further research, such as assessment of impact of labour law reforms on the economic performance of the labour market.

To conclude, the progress in governance and economic reforms undertaken in Georgia after the “Rose Revolution” in 2003 should be acknowledged. Before the parliamentary elections in October 2012, the Government of Georgia declared that “for the promotion of employment, the labour market and regulations should be flexible to the extent possible”.⁵⁵ The ILO has continuously advocated that the optimum level of regulation should be decided through genuine tripartite social dialogue.⁵⁶ The sustainable economic development of Georgia can be achieved only with more decent work and social justice for the Georgian people.

Sources of information

EPLex. ILO database on employment protection legislation: www.ilo.org/dyn/eplex/termmain.home

NATLEX. ILO database on national labour legislation.

NORMLEX. ILO database containing the texts of ILO Conventions and Recommendations, list of ratifications, comments by the Committee of Experts and the Committee on Freedom of Association, general surveys and other documents.



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⁵⁵ The Georgian authorities reiterate in the 2011-2015 Strategic 10-Point Plan for Modernization and Employment that the main objectives of social and economic policies are “maintenance of favourable investment and business environment” and “better conditions for entrepreneurial activities”. Successful national experiences would suggest that policy interventions in the labour market are more efficient if they are comprehensive and take into account social and economic aspects.

⁵⁶ The Tripartite Social Partnership Commission was established in Georgia in 2009 in close collaboration with the ILO to serve as a forum for discussions to strike a balance between workers’ and employers’ interests.