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## **Development of Labor Relations Law on the Background of Euro-Integration Processes**

*In 2014, Georgia signed the Association Agreement with the EU. The Agreement obliges Georgia to fulfill specified obligations in labour law field.*

*It should be stressed that the topic of labour law is not only current agenda through the course of European Integration. The necessity for the gradual integration and implementation of European labour standards has been permanently discussed since the Partnership and Cooperation Agreement (PCA) between the EU and Georgia entered into force in 1999.*

*The article reviews and studies the following issues:*

*1. Obligations Defined by the Association Agreement: research offers the first theoretical approach of explanation and interpretation of AA provisions on labour policy in light of the DCFTA and SOCIAL POLICY. Attitudes of the Association Agenda and Annual Action Plans are discussed as well.*

*2. Dynamics of approximation of Labor Law on the Background of Normative Environment Supporting Euro-Integration Processes: The study is the first attempt to summarize and systematize all stages of the legal approximation process in the labour field in light of European integration, covering the early periods of PCA implementation, the National Harmonization Strategy and Action Plan for 2004-2006, ENP AP, and the annual progress reports of the European Commission.*

**Key words:** *labour code, AA (Association Agreement), DCFTA (Deep and Comprehensive Free Trade Agreement), association agenda, legal harmonization, PCA (Partnership and Cooperation Agreement Between), ENP AP.*

### **1. Introduction**

Labor legislation in Georgia has been a subject of multiple changes for years. Foundations of the reforms carried out in this sphere were a response of attitudes developed in accordance with the political and economic situations. The main question was the following: should be labor legislation in the state of new democracy and transition economy maximally oriented on Social Security or mobile – burdened for an employer with less binding legal norms? A regulation and deregulation issue is disputed in a scientific circle, as well as among specialists of this sphere. The World Bank in the report of 1990 expressed its opinion that regulations of labor market, directed to improve the state of employees, were really harming them. In the member states of OECD (Organization for Economic Cooperation and Development) on searching for reasons of different unemployment levels even in its reports of 1994 it was advising the member states to deregulate labor markets<sup>1</sup>. Just such concep-

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<sup>1</sup> Economical Analysis of Labor Code of Georgia, PMC Research Center (within the program of the Institute of East-West Management (EWMI)), May, 2013, 3, <<http://www.icc.ge/www/download/Analysis%20of%20the%20Amendments%20to%20the%20Labor%20Code%20of%20Georgia%20-%20GEO.pdf>>.

tual vision had a new labor code accepted in 2006 in Georgia. During years it became a principle of bipolarization of society. In the country there was developed the situation, when politics oriented only on business created the extreme social strain. As a result, in 2012-2013 there was arisen an issue of reforming labor legislation and at this stage the whole attention was directed to improvement of the protection quality of an employee. At present due to the changes carried out in 2013 the current labor code is a subject of critics from business sector.

Today Georgia is a party of the European Union Association Agreement<sup>2</sup>. The country has to integrate and fulfill those standards in legislation, which connected with aspects of labor law are statutory in the agreement, though a labor sphere is not only an object of regulation of the Association Agreement and only an order of the current day. On the way of European integration it was an object of interest and discussion of more than one international document or format of official relations.

Within the European integration politics considering demands for the labor sphere the description of legislation changes and the history of their estimation is one of the most important elements and a useful method of development of science of labor law in Georgia. In the article there are presented stages of development of European integration processes at normative level (acts accepted by the president of Georgia, the government and the Parliament of Georgia for the purpose of supporting integration processes), on their background obligations to labor law, dynamics and estimation of the implemented legislation changes. Such attitude will allow us to analyze a real picture of harmonization of labor law in general political or legal context and besides it will make the following transparent: whether in connection with the European integration processes the legal approaching process in one of the segments was appropriate to the publicly declared will, whether there was inter-compatibility between these two aspects. The article is emphasizing the process in order to comprehend better a mechanism, pace and quality of approaching labor legislation to the European Union legislation that is directly connected with the European Union's estimations and recommendations on labor law. For achieving this objective a method of system and historical research is used.

## **2. General Review of Obligations Defined by the Association Agreement**

According to Article 229 of the Association Agreement the implementation of standards in the sphere of labor relations law is connected on the one hand with the establishment of fruitful employment and deserving labor, as a basic element of globalization management, and on the other hand with trade promotion.<sup>3</sup> In other words politics of labor and employment should equivalently provide rights of an employee, as well as of an employer, who is the most significant subject in trade. It should be noted that Article 229 is part IV of the Association Agreement, which concerns issues connected with trade and is DCFTA (*Deep and Comprehensive Free Trade Area*) integrated in the Association Agreement.

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<sup>2</sup> Association Agreement on the one Hand Between Georgia and on the Other Hand Between European Union and European Atomic Energy Community and their Member States, the Acceptance date 27.06.14, Date of Publishing [11.09.14], <<https://matsne.gov.ge/ka/document/view/2496959>>.

<sup>3</sup> See ref. 2, Article 229, §1.

The Association Agreement divided the labor sphere regulation thematically into two directions of politics – trade and social. Therefore statutes regulating the issues are placed in different places of the agreement structure:

1. In the context of trade and stable development according to the norms regulating labor standards (Part IV, Chapter 13, Articles 229 and 239) Georgia has to use the basic principles defined for the membership of the International Labor Organization and implement the standards of ILO (International Labor Organization) Conventions in its own legislation and practice<sup>4</sup>.
2. In the context of employment, social politics and labor conditions the norms regulating labor standards are given in Articles 348-354 of Chapter 14 of Part VI of the Association Agreement, where is said the following: “The parties will strengthen a dialogue and cooperation to promote worthy labor conditions, employment politics, health and work safety, a social dialogue, social protection, social involvement, gender equality and discrimination banning and thus they will contribute in creating more and better jobs, stable development and improved level of life”.<sup>5</sup>

Concrete instruments supporting the above mentioned tasks are presented in Annex XXX of the Associate Agreement as EU directives.

In order to implement the Association Agreement by steps there is worked up Association agenda, which defines priority directions and tasks for 2014-2016.<sup>6</sup> In the mentioned document a labor sphere is discussed in three main directions:

1. In the block of political dialogue and reform<sup>7</sup> there is marked that the law of changes to the labor code accepted in 2013 by the Parliament is to be implemented according to ILO standards. A new law must be strengthened by new institutions and procedures for settling disputes and development of negotiations culture (mediation centre); special attention must be paid to the safety of working environment; effective social dialogue must be organized by means of systematic invitation of tripartite commission.
2. In the block of trade and issues connected with trade<sup>8</sup> it is said that in the process of a dialogue between the parties in the sphere of trade the information about implementation of a labor code and fulfillment of obligations connected with stable development will be exchanged.
3. In the block of employment, politics and equal opportunities<sup>9</sup> it is remarked that the parties will be cooperating in order to prepare for the implementation of European legislation in the spheres such as health and safety at workplace, work conditions, gender equality and anti-discrimination; creating an effective system of labor inspection; development of opportunities of social partners; development of strategic approach to employment the objective of which is creation of more and better jobs with normative working conditions.

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<sup>4</sup> See ref. 2, Article 229, §2.

<sup>5</sup> See ref. 2, Articles 348-349.

<sup>6</sup> <[http://eeas.europa.eu/delegations/georgia/documents/eap\\_aa/associationagenda\\_2014\\_ka.pdf](http://eeas.europa.eu/delegations/georgia/documents/eap_aa/associationagenda_2014_ka.pdf)>.

<sup>7</sup> Ibid, Trade Union Rights and Basic Labor Standards, 8.

<sup>8</sup> Ibid, Trade and Stable Development, 21-22.

<sup>9</sup> Ibid, 31-32.

In order to provide the implementation of the Association agenda there are accepted separate Annual Action Plans.<sup>10</sup>

Annex XXX of the Association Agreement is divided into three parts: a) labor law; b) discrimination banning and gender equality; c) health and safety at workplace. For the implementation of the part of labor law there are 8 directives of the EU, for carrying out of which 4-6 years are defined; in the part of gender equality – 6 directives on 3-4 years; in the part of safety – 26 directives on 9 years. The directives regulations of the first and the second parts are universal norms and are spreading on all the forms of labor relations. The directives of the third part are regulating relations of a concrete sphere and technical standards usable in this sphere.

### **3. Dynamics of Harmonization of Labor Law on the Background of Normative Environment Supporting Euro-Integration Processes – General Overview of Obligations to Implement Legal Harmonization**

The first foundation of legal cooperation between Georgia and the EU was created by the “Agreement on Partnership and Cooperation (PCA)”<sup>11</sup>, which like the Association Agreement is discussing trade-economic and social aspects in the section of joint and dynamic development. It is remarkable, that in PCA in Part IV of the Agreement – “Regulations connected with Business and Investments” labor conditions and in Part VI- “Economic Cooperation” employment and social aspects are talked of too.

Within the scope of PCA Article 43 of Part V was about obligations of legal approachment, on the basis of which there were defined priority spheres, in which an approaching process of laws must have been started,<sup>12</sup> among them was protection of employees at their workplace.

For the fulfillment of PCA, apart from the declared political will it was inevitable to create intra-state legal instruments. For this purpose the country began to accept such normative acts, which were providing development of politics of legal approaching to Euro-integration processes: the most significant and one of the first acts was the Regulation of the Georgian Parliament “on harmonization of the Georgian legislation with the EU legislation”, according to which all the laws from the 1<sup>st</sup> of September of 1998 accepted by the Georgian Parliament and other normative acts must have been in conformity with the standards and norms stated by the European Union.<sup>13</sup> In 2000 was accepted the decree of President of Georgia “on promoting the implementation of the Agreement on Partnership and Cooperation between Georgia and the EU”<sup>14</sup> and the order “on working up the strategy of harmonization of the

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<sup>10</sup> Governmental Prescription of Georgia № 1516, 03, 09, 2014, date of Publishing 15, 09, 14, <<https://matsne.gov.ge/ka/document/view/2496190>>, Governmental prescription of Georgia № 59, 26.01.15, Date of Publishing: 02.02.15, <<https://matsne.gov.ge/ka/document/view/2702520>>.

<sup>11</sup> Agreement on Partnership and Cooperation, date of acceptance 22 April, 1996, ratified by the Parliament of Georgia, Regulation of the Georgian Parliament № 347-I, Heralds of Parliament 22-23, 04,09,1996, Date of Entering into Effect: July 1, 1999, <<https://matsne.gov.ge/ka/document/view/1212956>>.

<sup>12</sup> See ref. 18, Article 43, № 2.

<sup>13</sup> Regulation of the Georgian Parliament № 828-I, 02.09.1997, Heralds of Parliament 37-38, 10.09.1997, <<https://matsne.gov.ge/ka/document/view/38704>>.

<sup>14</sup> Decree of President of Georgia № 317, 24. 07. 2000, <<https://matsne.gov.ge/ka/document/view/1252267>>.

Georgian legislation with the legislation of the EU”,<sup>15</sup> where it is said that “before the 1<sup>st</sup> of February, 2001 the proper ministries and departments must prepare notes on the document prepared by the Georgian-European Policy and Legal Advice Center (GEPLAC)<sup>16</sup>: “Recommendations for the strategy of harmonization of the Georgian legislation with the legislation of the EU” and statements connected with the mentioned strategy”. In 2001 there was accepted an order “on the strategy of harmonization of the Georgian legislation with the legislation of the EU”.<sup>17</sup> By this act the harmonization strategy was approved and the committee of supporting EU partnership and cooperation was asked to work up the national program of harmonization of the Georgian legislation with the legislation of the EU. In 2004 there was accepted an order “on working up the unified action plan of implementation of the national program of harmonization of the Georgian legislation with the legislation of the EU and a new agenda of cooperation with the EU”.<sup>18</sup> By the mentioned act the national program of harmonization and guidelines for the action plan were approved<sup>19</sup> and it was decided to prepare in cooperation with the GEPLAC a unified action plan for carrying out the national program.

In the national harmonization program an individual chapter was given to the sphere of labor relations law, in which the comparative review of the conformity of the labor code of Georgia with the EU legislation was represented, and also there were given recommendations on legislative measures to be carried out. With this objective in view in the national program of harmonization there were given those directives, the integration of the statutes of which should have been carried out in the Georgian legislation. There should be also mentioned the fact that the part of these directives are in Annex XXX of the Association Agreement.

In 2004 Georgia became a beneficiary of the European Neighborhood Policy and in 2005 there were started negotiations on the active inclusion of Georgia into the European Neighborhood Policy by working up an individual action plan. To this purpose more than one normative act were accepted<sup>20</sup> and the committee negotiating with Europe was created.<sup>21</sup> The Georgian government decided to define the priorities of the country in the integration processes according to the current situation, for which it worked up and approved the priorities<sup>22</sup>, later established the Governmental Commission coordinating the implementation of these priorities<sup>23</sup>. In 2006 the Action Plan of the

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<sup>15</sup> Decree of President of Georgia № 1422, 31.12.2000.

<sup>16</sup> Consulting Centre in Georgia created within the program “TASSIS”, Instrument Promoting Legal and Economical Reforms. Since 1997 it has been consulting government departments. It has become a consultant of the leading united coordinating organ of the harmonization process of legislation – the Government Committee

<sup>17</sup> Decree of President of Georgia № 613, 13. 06. 2001.

<sup>18</sup> Decree of government of Georgia № 22, 08. 05. 2004.

<sup>19</sup> <<http://www.parliament.ge/uploads/other/18/18483.pdf>>.

<sup>20</sup> Within the frames of neighborhood policy for the purpose of working up the action plan the application of the Parliament of Georgia on starting negotiations between Georgia and European Union № 1477-I, 20.05.2005.

<sup>21</sup> Government Decree № 112, 11.07.2005, Georgian Legislative Bulletin 82, 13.07, 2005 on creating a commission for negotiation with European party within the frame of neighborhood policy about working up position of Georgia about the Action Plan, <<https://matsne.gov.ge/ka/document/view/1287563>>.

<sup>22</sup> Government Decree of Georgia “about the approval of priorities of Georgia for the Action Plan of neighborhood policy of Europe”, № 291, 11. 07. 2005.

<sup>23</sup> Government Decree of Georgia 195, 03.11.2005, on creating an interdepartmental government committee for realization priorities of Georgia in the integration process of neighborhood policy of Europe and NATO, Georgian Legislative Bulletin 129, 03.11.2005, <<https://matsne.gov.ge/ka/document/view/10630>>.

European Neighborhood policy (ENP AP)<sup>24</sup> was worked up and the Georgian government made decision on working up a plan for carrying out the ENP AP.<sup>25</sup>

From 2006 Georgia begins carrying out the ENP AP. From 2007 the European Commission of the EU annually estimates the state of the country in the context of the implementation of the ENP AP.

From 2010 a political dialogue between Georgia and the EU starts, which is connected with the perspectives of concluding the Association Agreement and integration of the DCFTA in this agreement. For supporting the above mentioned dialogue a group of persons for holding negotiations with the European Union was defined<sup>26</sup>, an interdepartmental working group was established for holding negotiations on DCFTA issues.<sup>27</sup>

At Vinius Summit in 2013 initialing of the Association Agreement was carried out; in this period the government also accepted the resolution on creating the commission<sup>28</sup> negotiating with the EU with the purpose of receiving and updating the text of “the agenda of the Association Agreement between Georgia and the European Union”. In 2014 the government accepted the order on measures for effective implementation the “Association Agreement” between Georgia and the European Union”, which includes the agreement about a deep and comprehensive trade area<sup>29</sup>. In 2014 the Parliament ratified the Association Agreement.

The history of formation and establishing the above mentioned normative frame reveals the will, as a result of which a process of legislative approachment should have been fulfilled by stages, including a labor law sphere. Systematization of normative acts, which were received for supporting Euro-integration processes, is important in order to make clear by which conformity and inter-consistency the publicly recognized policy and substantive changes of labor law were developing, which will be discussed in the following chapter.

#### **4. Dynamics of Requirements Before Labor Legislation and Estimation**

The review of labor legislation in Georgia must be divided into three parts: code of labor laws of 1973; code of labor laws of 2006; changes made in “Labor Code” of 2013. The law of 1973 of the Soviet Socialist Republic of Georgia, which in the 90s was renovated in conformity with the existed social relations, was characterized with details of labor relations and aspects regulating the associated results. It can be freely named codification. Later in 2003 the analysis of the Code of labor laws of 1973 was a matter of interest, when the agenda became the inevitability of harmonization of the

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<sup>24</sup> <[http://www.eeas.europa.eu/delegations/georgia/documents/eu\\_georgia/booklet\\_a4\\_2geo.pdf](http://www.eeas.europa.eu/delegations/georgia/documents/eu_georgia/booklet_a4_2geo.pdf)>.

<sup>25</sup> Government Decree of Georgia № 498, 20. 10. 2006, within the frames of the European neighborhood policy the European Union – Georgia on working up the implementation of Georgian government’s Action Plan.

<sup>26</sup> Decree of the President of Georgia on granting the authority for holding negotiations with European Union for the purpose of accepting the text about the Association Agreement between Georgia and the European Union № 489, 12. 07. 2010.

<sup>27</sup> Government Decree of Georgia on creating an interdepartmental working team for the purpose of holding negotiations on the agreement about deep and comprehensive trade between Georgia and the European Union, № 61, 21. 02. 2012, date of publishing 22. 02. 2012, <<https://matsne.gov.ge/ka/document/view/1593359>>.

<sup>28</sup> Government Decree of Georgia № 112, 27 January, 2014, <<https://matsne.gov.ge/ka/document/view/2218037>>.

<sup>29</sup> Government Decree of Georgia № 86, 7 February 2014, <<https://matsne.gov.ge/ka/document/view/2250269>>.

Georgian legislation with the EU legislation and fulfillment of the analysis of the labor legislation conformity with the European legislation, which was reflected by the recommendations in the national program of harmonization. The analysis covered the following issues: labor agreement; working time; protecting of the young; restructuration of enterprises (handing over); gender equity, health and safety protection.<sup>30</sup> In the program it is said that the analysis of the conformity of the Georgian labor legislation with the directives of the EU labor legislation showed that on the whole the Georgian legislation is in the conformity with the EU directives and in some cases it has even higher standards compared with the EU directives.<sup>31</sup>

By the time when GEPLAC experts and the working group had analyzed the current legislation, in parallel mode they also studied a project of the new labor code, which should have replaced the law of 1973. A new act should have considered new reality of labor market and labor relations, at the same time requirements of the EU and European standards. As a result of the analysis there were developed recommendations, which should have been reflected in the new law<sup>32</sup>, though by 2005 three versions of the labor code project were submitted to the Georgian Parliament for consideration from: the GEPLAC, the Freedom Institute and the Georgian government. In spite of the protest from the trade unions and the most part of the Georgian society the Parliament of Georgia considered and accepted a draft law prepared on the basis worked up by the Freedom Institute and the Georgian government.<sup>33</sup> In 2006 a new labor code was accepted<sup>34</sup>.

In spite of the fact that the law of 2006 covered many principles universally recognized in the labor sphere and implemented new institutes appropriate to the modern labor market, it was far on the one hand from the standards established by the EU legislation and on the other hand from the codification principle. It did not consider the results of the experts' analysis either, left the recommendations without reaction and somehow created a problem of regulating labor relations in a pro-European manner. The code contained statutes, which were in direct contradiction with the requirements of the EU directives and the other international obligations taken by Georgia<sup>35</sup>.

The accepting of the new labor code coincides with the period when Georgia became a beneficiary of the European neighborhood policy. Recommendations on regulation of the labor sphere on the basis of PCA were represented in ENP AP, in which it is said, that it is necessary to make effort to implement standards defined by "the European Social Charter": provision of fundamental rights

<sup>30</sup> National Program of Harmonization of the Georgian Legislation with the Legislation of the EU (guidelines for Action Plan), September, 2003, 148, <<http://www.parliament.ge/uploads/other/18/18483.pdf>>.

<sup>31</sup> Ibid, 148.

<sup>32</sup> Ibid, 149-157.

<sup>33</sup> *Antadze Ts.*, Labor Standards and Their Conformity with the Requirements of the "European Social Charter" and Conventions of the International Labor Organizations Ratified by Georgia, <<http://www.nplg.gov.ge/gsdll/cgi-bin/library.exe?e=d-00000-00---off-0civil2-civil2-01-1--0-10-0--0---0prompt-10---4----4---0-11--11-ka-10---10-preferences-50--00-3-1-00-0-00-11-1-0utfZz-8-00-0-11-1-0utfZz-8-10&cl=CL2.6&d=HASH2097cf9988510f51cdfd72.4.5&x=1>>.

<sup>34</sup> The law of Georgia Labor Code of Georgia, 25.05.2006, Georgian Legislative Bulletin 23,19.06.2006, <<https://matsne.gov.ge/ka/document/view/26350>>.

<sup>35</sup> The Current State of Implementation of the National Program of Harmonization the Georgian Legislation with the EU Legislation, report of the GEPLAC (Georgian European Policy and Legal Advice Center), for the state of 13 June, 2006, 20-21, <<http://www.parliament.ge/uploads/other/18/18477.pdf>>.

of trade unions and main labor standards according to the Conventions of the “International Labor Organization”<sup>36</sup> ratified by Georgia. In the annual report on estimation of the implementation of the ENP AP by Georgia the European Committee describing the existed situation was working up recommendations, which by years looked as the following:

**2007:** Georgia has opted for total liberalisation of employment and labour relations in which the market is the single regulator. There is a predominance of long-term unemployment. Lack of effective employment and labour market policies and disrupted social safety nets have exacerbated the labour market distortions. The 2006 labour code, which was prepared without prior consultation with trade unions, is not in line with the International Labour Organisation (ILO) standards. Furthermore, the labour code contradicts both EU standards and the European Social Charter that the country ratified in July 2005. No progress can be reported as regards social dialogue.<sup>37</sup>

**2008:** As to labour legislation, labour rights and social dialog, Georgia declared readiness for launching more intensive cooperation between social partners, but no concrete measure has been conducted. No amendments has been made to Labour Code.<sup>38</sup>

**2009:** As regards employment, Georgia has no specific employment strategy in place and no employment implementing agency. Further to the October 2008 joint statement by the International Labour Organisation (ILO) and Georgia, a number of consultations were held during the reporting period between representatives of the Government, the trade unions and the Association of Employers, to review the provisions of the Labour Code which were not in line with the ILO Conventions on core labour standards. The social dialogue of October 2009 led to the issuing in November 2009 of a Decree institutionalising the tripartite National social dialogue commission.<sup>39</sup>

**2010:** Challenges remains with regard to Freedom of Association, labour rights, employment. ILO expresses its concern with regard to implementation of the conventions. Georgia has no employment strategy, there is no employment agency as well. It is essential to amend the Labour Code and Trade Union law.<sup>40</sup>

**2011:** The issue of labour rights continues to be a serious concern, including the insufficient implementation of core ILO conventions. Whereas in 2011 progress was made in the dialogue of Georgia

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<sup>36</sup> <<http://www.parliament.ge/uploads/other/18/18476.pdf>>.

<sup>37</sup> Commission Staff Working Document Accompanying the Communication from the Commission to the Council and the European Parliament ‘Implementation of the European Neighbourhood Policy in 2007’ Progress Report Georgia, Brussels, 3 Aprils 2008, SEC (2008) 393, 11, <[http://www.eeas.europa.eu/delegations/georgia/eu\\_georgia/political\\_relations/political\\_framework/enp\\_georgia\\_news/index\\_en.htm](http://www.eeas.europa.eu/delegations/georgia/eu_georgia/political_relations/political_framework/enp_georgia_news/index_en.htm)>.

<sup>38</sup> Commission staff working document, ‘Implementation of the European Neighbourhood Policy in 2008, Communication from the Commission to the Council and the European Parliament interim Progress Report Georgia, Brussels, 23 Aprils 2009, 15, <[http://eeas.europa.eu/delegations/georgia/documents/eu\\_georgia/enp\\_progressreport2008\\_ka.pdf](http://eeas.europa.eu/delegations/georgia/documents/eu_georgia/enp_progressreport2008_ka.pdf)>.

<sup>39</sup> Commission staff working document Accompanying the communication from the Commission to the European Parliament and the Council taking stock of the European Neighbourhood Policy (ENP) Implementation of the European Neighbourhood Policy in 2009, Progress Report Georgia Brussels, 12/05/2010 SEC(2010) 518, 10, <[http://www.eeas.europa.eu/delegations/georgia/documents/eu\\_georgia/progress%20report\\_en.pdf](http://www.eeas.europa.eu/delegations/georgia/documents/eu_georgia/progress%20report_en.pdf)>.

<sup>40</sup> Commission staff working document on Implementation of the European Neighbourhood Policy in 2010, Progress Report Georgia, Commission, High Representative of the EU on common foreign and security policy, Brussels, 265 May, 2011, 3, 12, <[http://eeas.europa.eu/delegations/georgia/documents/eu\\_georgia/enp\\_progress-report2010\\_ka.pdf](http://eeas.europa.eu/delegations/georgia/documents/eu_georgia/enp_progress-report2010_ka.pdf)>.



with the ILO and certain recommendations, Georgia is still expected to address several of them, notably with regard to legislative amendments to the Law on Trade Unions and the Labour Code.<sup>41</sup>

**2012:** Labour rights have been identified as one of the principal challenges faced by the new Government. Previous reports have noted the absence of substantive social dialogue, and the perception that the authorities were obstructing the activities of trade unions and putting pressure on trade unionists. However, the new Government has made a commitment to bringing labour legislation into line with international and European standards and to working closely with the ILO and other partners to this end. ILO was closely involved in preparing revisions of the labour code, which is a significant positive development. The quality of social dialogue has also been enhanced; in December 2012, the Parliament adopted a law institutionalising the Tripartite Social Commission under the chairmanship of the Prime Minister.<sup>42</sup>

**2013:** A new Labour Code in line with ILO standards was adopted. This had been a longstanding EU request but implementing it properly is still remains problematic. All International Labour Organization (ILO) standards-related provisions were properly adopted, which means that the Labour Code is now complying with ILO Conventions.<sup>43</sup>

**2014:** The institutional arrangements to protect labour rights remained unchanged. There is a broad consensus between the government and the social partners about inspections of safety at work, but the creation of broader labour inspections (linked to the AA/DCFTA) remained a contentious issue.<sup>44</sup>

The above given estimations make clear that in a certain period the labor legislation was in stagnation. It means that there were no dynamic and step-by-step legislative harmonization processes in the sphere of labor law and the tasks which were before the country were not fulfilled. A new stage for the labor legislation started on the verge of 2012-2013, when some changes were made to the organic law. Just in this period the recordings of the ENP AP estimation document about the fact that the labor code approached the international standards. It is fact that on the background of dynamics of normative environment of European integration processes we can talk about real and resulting

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<sup>41</sup> Joint staff working document implementation of the European Neighbourhood policy in Georgia progress in 2011 and recommendations for action accompanying the document joint communication to the European parliament, the Council, the European economic and social committee and the committee of the regions delivering on a new European Neighbourhood policy, Brussels, 15.5.2012 SWD (2012) 114, 8-9, <[http://eeas.europa.eu/delegations/georgia/documents/news/enpprogressreport\\_2011\\_en.pdf](http://eeas.europa.eu/delegations/georgia/documents/news/enpprogressreport_2011_en.pdf)>.

<sup>42</sup> Joint staff working document Implementation of the European Neighbourhood Policy in Georgia Progress in 2012 and recommendations for action Accompanying the document joint communication to the European Parliament, the Council, the European Economic and social committee and the committee of the regions, Brussels, 20.3.2013 SWD (2013) 90, 7, <[http://eeas.europa.eu/enp/pdf/docs/2013enp\\_pack/2013\\_progress\\_report\\_georgiaen.pdf](http://eeas.europa.eu/enp/pdf/docs/2013enp_pack/2013_progress_report_georgiaen.pdf)>.

<sup>43</sup> Joint staff working document, implementation of the European Neighbourhood policy in Georgia progress in 2013 and recommendations for action accompanying the document joint communication to the European Parliament, the Council, the European economic and social committee and the committee of the regions, Brussels, 27.3.2014 SWD(2014) 72, 9, 13, <[http://eeas.europa.eu/enp/pdf/2014/country-reports/georgia\\_en.pdf](http://eeas.europa.eu/enp/pdf/2014/country-reports/georgia_en.pdf)>.

<sup>44</sup> Joint staff working document Implementation of the European Neighbourhood Policy in Georgia Progress in 2014 and recommendations for actions Accompanying the document joint communication to the European Parliament, the Council, the European economic and social committee and the committee of the regions, Brussels, 25.3.2015 SWD(2015) 66, 8, <[http://eeas.europa.eu/enp/pdf/2015/georgia-enp-report-2015\\_en.pdf](http://eeas.europa.eu/enp/pdf/2015/georgia-enp-report-2015_en.pdf)>.

aspects of approaching the European standards on the basis of the amendments to the labor code of 2013. The changes, which were oriented on balancing rights of an employee and employer and strengthen aspects of the employee's state by legislative intervention, caused bipolarity of opinions:

1. A new code contains many amendments, concerning all the spheres of labor law and there is observed the legislation attempt to strengthen the protection of employees without neglecting the employer's interests; the approachment to the standards of the EU countries;<sup>45</sup> A legislator was attempting to depict in special norms the progressive judgments presented by constitutional and supreme courts on the right to work, which on the background of deficiencies of pre-reform legislation were resulted from general principles of international and legal law. European striving of the country was giving a stimulus to a legislator to take adequate steps in direction of approaching this sphere of law to the global international values<sup>46</sup>. Since the main purpose of labor relations law is the maintenance of the balance of employee's and employer's interests, which has an influence on social peace, development of economics, establishment of a social and law-governed state, it was inevitable to fulfill the first-rate task of the state – to support protection of individuals' interests and carry out the rights granted to them.<sup>47</sup>
2. The stringent regulation of conclusion and termination of a labor agreement is increasing a businessman's expenditures connected with an employee. The increase of the expenditures will presumably decrease labor demand, which will have a negative influence on creation of new jobs. The burden of the termless agreement strengthens entrepreneurs' stimulus not to create new jobs. The disorder of the mechanism, which enables the businessman to take decisions more freely on creation of new jobs, finally will be negatively reflected on creation of new jobs, and generally on the employment rate. The possibility of the direct involvement of the state and strengthening its role in cases of mass dismissal and collective disputes intensify the state press upon business. Because of decreasing of the labor market flexibility businessmen are not able to react fast on current changes in the process of economy crisis.<sup>48</sup>

## 5. Conclusion

By using the method of historic and systematic research in the sphere of labor relations law there was clearly seen the dynamics, rate and quality of the performance of obligations of the country and on the background of Euro-integration processes the legal harmonization stages with results.

In spite of the fact that forming of labor legislation pursuant to European standards has been a problem for years, at present it is clear and doubtless that in the sphere of labor there has already

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<sup>45</sup> *Oskiuler B.*, New Labor Relations Law, several issues chosen for discussion, Labor Law (Collection of articles), III, cooperation of Germany, GIZ, Law faculty of *Iv. Javakishvili* Tbilisi State University, Tbilisi, 2014, 174.

<sup>46</sup> *Chachava S., Zaalishvili V.*, Labor Law (Collection of articles), III, cooperation of Germany, GIZ, Law faculty of *Javakishvili Iv.*, Tbilisi State University, Tbilisi, 2014.

<sup>47</sup> *Ibid, Inasaridze T.*, In Connection with the Essential Terms in Labor Agreement, the Objective of the Reform of 12 July, 2013, 184-185.

<sup>48</sup> See ref. 1, 3-4.

been started a legal harmonization process that in the future will be continued and developed by the method of dynamic approachment. Considering requirements of PCA, at present already of the Association Agreement, labor legislation of Georgia is still in need of changes by steps, which must be always oriented on the one hand on high quality protection of human rights and on the other hand on economic development of the country and the current trends of the labor market. On the background of the integration of European standards in Georgian legislation it is very important a dialogue between social partners and the policy formed and balanced by their involvement, which finally must support the regulation of conflict situations between the employee and the employer. In this process the most important is a legislator's role, which must be based on historical experience and at the same time scientific opinions, and considering the peculiarities of the local situation and practice take adequate decisions.