

**BEFORE THE UNITED STATES TRADE REPRESENTATIVE**

**UPDATE TO THE 2010 PETITION 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)**

**November 13, 2018**

## **I. Information Required Pursuant to 15 CFR § 2007**

### **A. Party Submitting Petition:**

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### **B. Country Subject to Review:**

Georgia

### **C. Section of Law Warranting Review**

19 U.S.C. § 2462(c)(7)

### **D. Basis for Petition:**

The Government of Georgia (GOG) has not taken steps to afford its workers internationally recognized worker rights, as required under the Generalized System of Preferences (GSP), 19 U.S.C. § 2462(c)(7). This petition updates prior submissions and should be read as a supplement to prior filings, testimony, and briefs.

## **II. Introduction**

Since 2010, when the AFL-CIO filed its country practice petition concerning widespread violations of internationally recognized workers' rights in Georgia, the reality for workers and their trade unions has worsened. Though the labor law was amended in 2013 to address some criticisms, the law is simply ignored in practice. This is largely due to the continued absence of a labor inspectorate; indeed, we are aware of no other country that has no state institution whatsoever responsible for the enforcement of its labor law. Only a limited number of occupational safety and health (OSH) matters will be subject to inspection when the new law enters into force in January 2019. Moreover, successive administrations have displayed deep-seated anti-union animus against trade unions in the public sector, including the retaliatory dismissal of trade union leaders, the refusal to bargain in good faith, the total disregard for existing collective bargaining agreements, the prevention of dues collection through check-off agreements, and the establishment of parallel yellow unions. In the private sector, the government has done little to nothing to defend unions or punish the illegal acts of employers.

As a result, of the 14 cases brought to the attention of the USG in our petition and subsequent updates, the trade union was busted in **nine** of them. In three cases, labor violations are ongoing

and thus require urgent intervention if the union is to survive. In only two cases has there been a positive outcome generally consistent with domestic and international norms.

It is tragic that despite eight years of bilateral engagement, Georgian workers are generally no better off or worse off than before the petition was filed. The AFL-CIO therefore urges the president to use his discretion under 19 U.S.C. § 2462(d) to suspend GSP benefits for Georgia unless the government makes prompt, meaningful progress to afford international recognized workers' rights.

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

#### **A. Labor Code**

As explained in our initial submission, the GOG adopted a Labor Code in 2006 that significantly weakened protections for workers' rights. As a result of US and international pressure, the Labor Code was amended in 2013. However, as explained in our prior submissions, several key concerns remained unaddressed.

The ILO Committee of Experts has made several observations regarding Georgian labor law with respect to the right of association<sup>1</sup>. These observations raise serious questions about whether Georgia is "taking steps to afford" workers in its territory this internationally recognized worker right. The Committee's observations and concerns about this right include:

- The Committee had requested the Government to review, in consultation with the most representative workers' and employers' organizations, the impact of the labor law amendment in practice and to take steps for its further amendment if it is found that the new minimum number required still hinders the establishment of trade unions in small and medium-sized enterprises (2017 Observations).
- The Committee had requested the Government to indicate whether strikes can be legally carried out on grounds not explicitly listed in section 47(3) of the Labor Code, which sets the grounds that give rise to labor disputes with respect to: (i) violation of human rights and freedoms stipulated in the Georgian legislation; (ii) violation of an individual employment contract or a collective agreement; and (iii) disagreement between the employer and the employee regarding the essential terms of the individual employment contract and/or the conditions of a collective agreement (2017 Direct Request).
- The Committee had further requested the Government to indicate whether strikes not directly resulting from a dispute between the employer and his/her employees, such as general strikes related to the country's economic and social policy, could be legally carried out. The Committee understands from the Government's report that organizations can carry out any action not prohibited by the law, including any action not expressly provided for by the law (2017 Direct Request).

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<sup>1</sup> The right of association is the foundational worker right. It is protected by ILO Convention 87, and all ILO members have an obligation to "respect and promote" this right, even if they have not ratified Convention 87.

- The Committee had previously requested the Government to amend section 51(2) of the Labor Code according to which, the right to strike is prohibited in services connected with the safety of human life and health or if the activity “cannot be suspended due to the type of technological process”, as well as Order No. 01-43/N of 6 December 2013, which determines the list of services connected with the life, safety and health (pursuant to section 51(2) of the Code) and includes some services which do not constitute essential services in the strict sense of the term (radio and television (under point (e) of the Order), municipal cleaning services (point (i) of the Order), oil and gas extraction, production, oil refining and gas processing (point (l) of the Order)). In this respect, the Committee considered that in such services, as well as in services which cannot be interrupted due to the technological process, minimum services could be appropriate as a possible alternative to the prohibition of strike action in order to ensure that users’ basic needs are met or that facilities operate safely or without interruption. The Committee had also requested the Government to specify services that cannot be suspended due to technological processes (2017 Direct Request).
- The Committee had further requested the Government to review section 50(1) of the Labor Code according to which courts can postpone or suspend a strike for no more than 30 days if there exists a danger to the life or health of people, environment safety or a third party’s property as well as to the activities of vital importance, and to indicate any use of this provision as relates to the suspension of a strike due to a danger to third-party property (2017 Direct Request).

With respect to the right to organize and bargain collectively,<sup>2</sup> the ILO Committee of Experts’ observations and concerns include:

- The Committee had noted that according to section 5(8) of the Labor Code, an employer was not required to substantiate its decision for not recruiting an applicant, even in the event of an allegation of anti-union discrimination. The Committee had requested the Government to provide information on any complaints of anti-union discrimination at the time of hiring and any relevant court judgments, as well as to indicate whether section 5(8) of the Labor Code has been invoked in such cases (2017 Observations).
- The Committee had requested the Government to confirm that section 40.3 of the Labor Code, which provides that any form of interference by employers and employees’ associations in each other’s activities is strictly prohibited, covers not only acts of interference between organizations but also instances where individual employers may interfere in employees’ associations, and to indicate the remedies or sanctions or both provided in such cases under section 40.3 of the Labor Code (2017 Observations).
- The Committee requested the Government to continue to provide information about the actions taken to promote collective bargaining both in the public and private sectors and on the number of collective agreements signed and the number of workers covered. The Committee noted that the Government indicated that the Ministry of Labor, Health and

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<sup>2</sup> This right is protected by ILO Convention 98, but as with the right of association, all ILO members must respect and promote this right, regardless of ratification of the Convention.

Social Affairs does not record collective agreements and, as a result, does not have the information requested (2017 Observations).

- The Committee had noted the observations of the Georgian Trade Union Confederation (GTUC) alleging that the frequent non-renewal of short-term contracts of employment for anti-union purposes is eased by the absence in the Labor Code of a provision that would oblige the employer to justify the non-renewal of short-term contracts, and had requested the Government to specify whether the Labor Code provisions prohibiting anti-union discrimination are applicable to short-term contracts (2017 Direct Request).
- The Committee previously requested the Government to review section 48(5) of the Labor Code related to discussion and resolution of collective labor disputes which provides that, at any stage of a dispute, the Minister can terminate conciliatory procedures (2017 Direct Request).

Georgian law also places onerous restrictions on the right to strike, which the ILO Committee of Experts criticized in a 2014 report:<sup>3</sup>

- The Labor Code limits the reasons workers can strike and omits critical workplace issues including health and safety standards, access to social protections, and mass dismissals.
- Amendments to Article 37 of the Labor Code allow employers to dismiss any employees that organize or participate in an illegal strike.
- The Labor Code also restricts incredibly broad categories of workers from exercising the right to strike at all, including janitorial staff at municipal buildings and oil and gas workers. It restricts broad categories of public workers despite ILO guidance that such restrictions apply only to high-level officials.

## **B. OSH Legislation**

A law on occupational safety and health (OSH) was adopted in March of 2018 to establish rules and procedures for reporting and investigating workplace occupational accidents in sectors deemed to be particularly prone to dangerous and hazardous conditions. It has not yet taken effect, but as adopted has serious deficiencies that will not provide adequate protection for workers.

Of particular concern:

- The scope of the law covers a limited number of workers, only those who are deemed to work in high-risk, hazardous and harmful work. It thus fails to cover many important sectors of the economy. The GOG should have published and adopted a list of hazardous work by June 21, 2018. As of this writing, the list still is not approved, and labor stakeholders have been unable to review or provide input. In any case, on the job

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<sup>3</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, 2014, "Freedom of Association and Protection of the Right to Organise Convention," 1948 (No. 87). Direct request 2014/85.

injuries and death are not limited to “high risk” work, but can occur in any setting, including retail, construction, transportation, agriculture, warehouses, and education.<sup>4</sup>

- The law covers only safety issues and does not close other gaps in Georgia’s Labor Code to protect labor rights.
- The law does not envisage the creation of an efficient labor inspection system in compliance with Convention 81 on Labor Inspections because it does not ensure unlimited and unhindered access of labor inspectors to workplaces. Inspectors must provide five days’ notice in advance of an inspection, employers can refuse to allow the inspection, and in some cases, inspectors are required to obtain court authorization to enter and inspect enterprises. Such notice and refusal requirements benefit employers to the detriment of workers, preventing inspectors from adequate access to workers and the worksite, and interfering with the opportunity to interview workers free from employer coercion.<sup>5</sup>
- The law was prepared without involvement of any national or international labor experts. Only after the law was adopted, the International Labor Organization (ILO) drafted a 40-page report detailing ways in which the law does not comply with international labor standards.
- The law does not contain adequate sanctions for violations of safety regulations. In some instances, the sanctions are low and not proportional to the nature of the violations.

The Georgian Parliament, with ILO technical support, prepared draft amendments to the OSH law in July 2018. That draft better complies with international labor standards, but because of aggressive pressure from business associations, along with the Ministry of Economy and Business Ombudsman, amendments to the law might instead further decrease the ability of labor inspectors to operate. They have actively opposed proposed amendments that would provide for coverage of all sectors of economy and allow labor inspections direct access to workplaces.

The absence of effective monitoring and enforcement mechanisms has deadly consequences for workers. Fatal industrial accidents are a frequent and increasingly frequent occurrence.<sup>6</sup> Between 2007 and March 2018, 1,306 people died or were injured at their workplace. The high rate of fatalities brought thousands of people to the streets to demand better health and safety

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<sup>4</sup> See, e.g., “Death on the Job: The Toll of Neglect,” AFL-CIO, 2018, <https://aflcio.org/sites/default/files/2018-04/DOTJ2018nb.pdf>.

<sup>5</sup> The U.S. Department of Labor has previously recognized the dangers of an inadequate inspection regime. See “Public Report of Review of U.S. Submission 2012-01 (Honduras),” Office of Trade and Labor Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, February 27, 2015, [https://www.dol.gov/ilab/reports/pdf/Final\\_Report\\_of\\_Review-Honduras\\_Submission\\_022715\\_redacted.pdf](https://www.dol.gov/ilab/reports/pdf/Final_Report_of_Review-Honduras_Submission_022715_redacted.pdf).

<sup>6</sup> Open Letter from Georgian Civil Society Representatives To The European Commissioners, February 2, 2018, hosted by the Georgian Young Lawyers’ Association, <https://gyla.ge/en/post/sazogadoebrivi-jgufebis-mimartva-evrokomisrebs-shromis-usaftrtkhoebis-kanonproeqttan-dakavshirebit#sthash.E9aPiUPF.qtMdcEc8.dpbs>

at work at the beginning of this year.<sup>7</sup> In 2017, there were 81 industrial accidents that claimed 41 lives and caused 66 injuries. And, from January to July 2018, 31 people have died and 33 were seriously injured. This problem is compounded by the fact that around two-thirds of people work in the informal economy, and formalization of employment is rejected as imposing burdens on businesses.<sup>8</sup>

### C. Labor Inspection (Other than OSH)

Georgia lacks a credible system for investigating violations of internationally recognized worker rights and enforcing national labor law, consistent with international standards.<sup>9</sup> There simply is no state institution charged with enforcing the labor law. In this context, workers' only recourse for addressing labor law violations is to bring individual cases to court. This adjudication process is lengthy and expensive and at times displays pro-employer bias. Most workers do not have the resources to utilize the process effectively. Unionized workers are more likely to be able to access legal redress because unions maintain lawyers to assist in such cases, but sectoral unions do not have sufficient legal staff across all regions in Georgia to meet workers' demands for legal remedies, and the successful union-busting efforts by state and private employers continues to shrink these resources. Jobs in the construction sector, for instance, where most fatal accidents occur, remain largely informal and outside the labor movement, limiting workers' abilities to seek redress in the face of labor law violations. Further, even when workers obtain a judgment in their favor, such fines or restitution are rarely paid.

A third-party evaluation of ILO projects in Georgia found that, "The reality since 2013 shows small and disparate steps by the GOG to advance labor legislation and compliance according to [international labor standards]. And, such steps have not met initial expectations and optimism..."<sup>10</sup> The authors noted a number of critical steps still needed for the GOG to bring itself into compliance, including strengthening gaps and imprecisions in the Labor Code (e.g. minimum wage, clarity around weekly maximum hours and when overtime begins), drafting and adopting labor inspectorate legislation and drafting legislation for a mediation mechanism to address disputes of fundamental labor rights, including freedom of association and the rights to organize and collectively bargain.

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<sup>7</sup> Statement from IndustriALL Global Union Federation, March 21, 2018, [www.industriall-union.org/georgian-trade-unions-criticize-new-labour-safety-law](http://www.industriall-union.org/georgian-trade-unions-criticize-new-labour-safety-law)

<sup>8</sup> European Commission High Representative of the Union for Foreign Affairs and Security Policy, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of Georgia covering the period 2016 – 2017," Brussels, January 19, 2018, SWD(2018) 26 final, pg. 7, [http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc\\_156541.pdf](http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156541.pdf).

<sup>9</sup> Convention Concerning Labour Inspection in Industry and Commerce (Co. 81), Geneva, 30th ILC session (11 Jul 1947) Available at

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312226](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312226)

<sup>10</sup> O'Brien & Associates International, "Independent Mid-term Evaluation of Improved Compliance with Labor Laws in Georgia," funded by the U.S. Department of Labor, January 2016, [www.dol.gov/sites/default/files/ICLLG\\_Mid\\_Term\\_Evaluation\\_Report\\_FINAL\\_%2829-01-16%29\\_wopii.pdf](http://www.dol.gov/sites/default/files/ICLLG_Mid_Term_Evaluation_Report_FINAL_%2829-01-16%29_wopii.pdf)

#### IV. Updates to Cases Raised in Prior Petitions

##### A. Unions Busted<sup>11</sup>

As mentioned above, nine of the unions we highlighted in our initial petition and subsequent updates were busted.

Case	Disposition
<b>Rich Metals Group LLC</b>	Between February and March 2014, a local affiliate of the Metalworkers, Miners and Chemical Industry Workers' Trade Union of Georgia (MMCTU) held a strike at Rich Metals Group LLC located near the town of Kazreti. Top managers of the company were appointed to their positions by the government and were at the time public supporters of the ruling government coalition, the "Georgian Dream." On March 25, 2014, the union reached a collective bargaining agreement with management after the GOG intervened and appointed an ILO mediator. However, the company ignored its obligations under the agreement. It coerced union members to disaffiliate, refused to create a labor dispute commission or issue pay raises, disrupted union meetings and made repeated attempts to interfere with union elections beginning in December 2014. The company also presented workers with prepared forms to withdraw union membership and threatened them with dismissal if they did not sign. They went so far as to visit workers at home and threaten families of the miners that their loved ones might have "problems" if they did not withdraw from the union. On February 13, 2015, a meeting took place between the MMCTU President and the company's General Director, Deputy Director and attorney to discuss the ongoing discrimination and illegal activities by company officials. The General Director promised to investigate the allegations and take appropriate remedial measures, but instead, a coordinated campaign by administrators to coerce union members to cancel their membership continued. The MMCTU submitted a formal complaint to the Prosecutor General's office regarding the ongoing repression in February 2015, but no action was taken. The union tried to get the government to mediate in September 2016, but the Ministry of Labor did not have a roster of mediators available and did not appoint one. Management began mass layoffs without providing advance notice to the workers or the government, and the 2,000 remaining workers were called into one-on-one meetings and forced to sign new, short-term contracts or face immediate dismissal. A union shop steward tried to intervene and was forcefully removed from the building. As a result, the union was busted.

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<sup>11</sup> The details provided in the following charts are summary versions of events. Additional details can be found in prior AFL-CIO submissions and testimony.



Case	Disposition
<b>Batumi Autotransport</b>	Workers established a trade union on February 20, 2013 at Batumi Autotransport, a municipally-owned bus company. One-hundred fifty drivers were enrolled as members and elected a new union governing committee and president. Soon after, workers reported that management threatened drivers with dismissal if they did not withdrawal from the trade union, which some did under the pressure. The company's security director also attempted to force the new union president to turn over membership rolls. Demands by the union to the director to begin collective bargaining received no response. When the union held a public press conference outside company headquarters on September 24, 2013, to inform the public of management's actions, an administrator physically attacked union leaders and destroyed the signs they were holding. The following day, the company director threatened the union president with physical abuse as the union leader boarded his bus for his work shift. The union president and his deputy met with the Mayor of Batumi to discuss the situation, after which the company director demanded both drivers come back to the garage and write what happened during the meeting. A union complaint to the prosecutor's office asking for an investigation of management's coercive and intimidating actions never received a response. As a result, the union is effectively busted.
<b>Agency of Extraordinary Situations of the Tbilisi City Hall.</b>	On January 24, 2013, a trade union was established in the Agency of Extraordinary Situations of the Tbilisi City Hall. From the outset, management refused to bargain collectively, which is obligatory under the law. The director of the agency ordered the heads of divisions to observe all members of the new trade union, causing approximately a third of original members to ask the union to keep their membership a secret from management and to pay dues by hand individually. Management called workers into one-on-one meetings to ask about union membership, and the atmosphere of fear caused many to leave. On January 10, 2015, the agency was restructured into the Ministry of Internal Affairs. During the hiring process at the restructured agency, trade union members reported that they were required to renounce their membership in the GTUC-affiliated Public Workers Trade Union. As a result of this denial of freedom of association by the GOG itself, the union no longer exists.
<b>GTM Group</b>	On July 25, 2013, a local trade union organization was established at GTM Group. The union elected a president, deputy presidents and a union committee comprising 16 workers. When the union provided formal notice to the Director of GTM Group, he fired four of the workers listed, including the recently elected union president. The Director photographed which workers came in and out of the union office, and used various other means to obtain information about workers' union membership status. He thereafter pressured union members to renounce their membership. The Trade Union filed a motion with the Office of the Prosecutor General requesting the Office to initiate criminal prosecution against him for these discriminatory activities, but the investigated was never conducted. The union also sent letters to the Prime Minister, the Minister of Economy, Minister of Labor and the Governmental Commission on Social Dialogue and Labor Relations. The GOG and the Commission responded that they could not intervene in the affairs of private companies, an answer contrary to the internationally recognized right of association and inconsistent with the revised Labor Code. No action has been taken in response to the persecution of these trade unionists. As a result, the union has been busted.

Case	Disposition
<b>Ltd. Geosteel</b>	<p>Workers at Ltd. Geosteel had conducted protest actions against dangerous working conditions. This included a strike on December 24, 2012. The Metallurgical, Mining and Chemical Industry Workers' Trade Union, a member of the GTUC, assisted the workers to reach an agreement with Geosteel on December 29, 2012, ending the strike with assurances that the company would not retaliate against strike leaders. The company reneged on that agreement. Workers then founded a union on January 22, 2013, and nearly immediately afterward management fired six additional union leaders in violation of the law. Furthermore, management refused to negotiate with the union and threatened workers with dismissal and non-renewal of individual contracts if they joined the trade union. The union wrote letters to the Minister of Economy, Minister of Labor and members of a specially established Governmental Commission on Social Dialogue and Labor Relations demanding that persecution of trade union members at Geosteel cease. The union also filed a case with the Prosecutor General's office, which <i>still</i> has not been investigated. The prolonged delay in the legal case and failure to take action against employer repression led to the collapse of the union.</p>
<b>Ministry of Health</b>	<p>In 2011, managers at public healthcare facilities in 12 counties began to pressure workers to resign from the Health Care Workers Trade Union. In some locations, dues check-off was eliminated. On November 11, 2011, the president of the union was contacted by an intermediary saying the Ministry of Health wanted him to resign and clear the way for a government-supported candidate to take over the union. The message also stated that if the request were refused, the president would be jailed (though that did not happen when the president refused to step down). This attack occurred at a time of rapid privatization of the healthcare sector. Just two companies took over 70 percent of the health market and both employers publicly stated they did not want unions at their workplaces. Union members were coerced to quit the union. As a result, the union has very few dues-paying members and is essentially bankrupt and unable to conduct regular union activities.</p>
<b>Hercules steel factory</b>	<p>Unionized workers at the Hercules steel factory in Kutaisi organized strike actions in August and September 2011 to protest appalling working conditions, including degrading living conditions and passport confiscation of Indian workers at the plant. Though the strike was legal, three union leaders were arrested and detained for 10 days and then fired for organizing the strike. After three years of litigation, the court ordered in April 2014 that the workers be reinstated with back pay. Management has refused to obey that court order with impunity and has refused to bargain with the independent union. Instead, it created an employer dominated-union and intimidated the small number of remaining members of the independent union to cease paying dues and join the yellow union instead. Because of this aggressive and illegal interference in trade union activities, trade union activities by the independent union have ceased. Further, the government did nothing to provide a remedy to trafficked Indian workers nor punish the employer for engaging in forced labor.</p>

Case	Disposition
<b>BTM Textile</b>	On March 16, 2008, 250 workers established a trade union at BTM Textile, elected nine women onto the union committee and joined the Adjara branch of the GTUC. On April 10, 2008, union leaders met with management to inform the employer that the trade union had been formed and provide required documentation. The next day, management fired all nine members of the newly-formed trade union committee without explanation. The timing of the firing, and the fact that only those nine women in local union leadership were terminated, provides strong evidence that the nine committee members were discriminated against on the basis of trade union activity. The union sought assistance from the municipal administration in Khelvachauri and the regional Ministry of Economic Reforms in Adjara, but both declined to intervene, citing article 37d of the Labor Code as allowing termination without explanation.
<b>Poti Sea Port</b>	Workers at Poti Sea Port organized a trade union in 2000. In October 2007, while the GOG was the primary shareholder of Poti Sea Port LTD and the port operated under the authority of the Ministry of Economic Development, workers organized a legal protest action on their lunch breaks to demand that management engage in collective bargaining with the union around working conditions and the proposed privatization of the port. A few days later, management sealed the union office, prohibited union leaders from accessing their office with security guards, and fired nine union leaders and activists. The union filed two lawsuits to reinstate the workers on the grounds that Article 2 of the Labor Code prohibits discrimination on the basis of union membership. Both the court of first instance and the court of appeals denied the request, stating that Articles 37d and 38 of the Labor Code allow employers the unrestricted right to terminate employment at any time, without explanation. The union was at that point effectively busted.

**B. Of the 14 cases submitted, only two cases have shown improvement.**

Case	Disposition
<b>Educators and Scientists Free Trade Union of Georgia (ESFTUG):</b>	After 10 years of bitter dispute in which the Ministry of Education and Science (MOES) refused to cooperate in dues deduction despite a signed agreement to do so, interfered in the results of a democratic union election, and established a yellow union to compete with the independent union, ESFTUG and MOES signed a sectoral agreement in March 2017 that has significantly improved industrial relations. Such a resolution is a rare example of how the GOG could productively solve labor issues, and one that should be replicated in other sectors if the GOG wishes to demonstrate that it is taking steps to afford internationally recognized worker rights as required to continue receiving GSP benefits
<b>Public Servants Trade Union of Georgia:</b>	When local unions in two regions attempted to begin collective bargaining in 2011, the government applied severe pressure on union members to resign from the union and stop paying dues. These regions were targeted because they were the two regions where the union was strongest and making the greatest progress toward collective agreements. Since then, the locals have been re-established.

### **C. Cases Requiring Urgent Intervention**

As noted above, few of the 14 cases we have submitted remain open—as workers have succumbed to anti-union pressure and no longer have unions through which to seek resolution. In each of the following three cases, the unions continue to face substantial state repression and urgent action by the USG would help ensure that workers can exercise their freedom of choice regarding union membership.

#### **Railway Workers New Trade Union**

The situation remains largely unchanged. The Railway Workers New Trade Union of Georgia (RWNTUG) continues to report efforts by management at the wholly government-owned Georgia State Railway (GSR) to illegally impede legitimate union activities. On February 17, 2017, the founder of the RWNTUG, Chichiko Giorgadze, was dismissed from his position of employment. Management claimed this was due to “a reorganization.” According to our information, he is the only person who was dismissed as a result of this “reorganization,” which strongly indicates the reason was mere pretense. A lawsuit was filed, and the case is ongoing.

In August 2017, workers organized a protest action in front of the GSR building to demand reinstatement of illegally dismissed workers in the Kakheti Region. In retaliation, the GSR administration prohibited access to the RWNTU office, located in the GSR building, by taking away their access passes. RWNTU work was paralyzed as a result. The GTUC legal team requested a court to order the reinstatement of union passes and RWNTU requested a temporary injunction to obtain access before the final judgment was rendered. This request was granted and a judge ordered GSR management to allow RWNTU to continue working in the office. This temporary measure is still in force as of the time of this writing.

In November 2017, the former GSR General Director, Mamuka Bakhtadze, was appointed to be the Minister of Finance of Georgia. David Feradze, an unknown person to the RWNTU, replaced him as GSR General Director. On November 28, the RWNTU wrote to the new General Director expressing readiness for cooperation and requesting to commence collective bargaining. However, Feradze ignored the union’s request while he actively participated in various cultural and sports events organized by the management-controlled union, the Railway Workers Union (RWU).

RWNTU received information from its members that GSR management amended the enterprise’s “code of conduct” and “regulations of ethics” without consulting the union. Management ordered workers to sign and agree to the proposed amendments, but the members of RWNTU refused to do so. In December 2017, RWNTU sent a letter to management demanding they stop pressuring or forcing workers to sign the documents and that they engage in collective negotiations with unions to amend the code of conduct in close consultation with workers. The management did not reply to the letter but did stop intimidating and pressuring workers.

Trade unions continued to send letters to management between January and April 2018, requesting to commence collective bargaining, but the company ignored the letters in the same manner as before. It still has not entered into good faith negotiations with the union. The RWNTU also has a pending legal case to compel the railway administration to comply with its obligations under an existing, valid collective agreement concluded between the RWNTU and the GSR.

Since 2013, the GOG and the GSR administration denied the creation of an alternative employer-dominated union within the railway. However, the evidence strongly suggests the RWU is dominated by the railway administration and has ties to the GOG. Zurab Nasaraia, the head of the RWU until very recently, had previously served as a director of the Operational Department, an important managerial unit within the company. Nasaraia, together with other managers of the railway, systematically received large bonuses, part of which were transferred to the financial accounts of the ruling “Georgian Dream” party. In June 2018, Mamuka Bakhtadze was appointed as Prime Minister of Georgia. In August 2018, he appointed Nasaraia as the Governor of the Guria Region. Government officials characterized Nasaraia as a great trade union leader who managed to increase union membership from 3,000 to 9,000 members. As mentioned in previous submissions, many of those members were gained through intimidation tactics meant to coerce workers to leave the independent workers’ organization and join the management-controlled organization.

### **Postal Workers Trade Union**

The GTUC-affiliated independent union at the state-owned Georgian Post (GP) operates in a very hostile environment. A suspicious fire in November 2016 substantially damaged the trade union’s office, and management forcefully removed the union from GP offices. Despite a promise by GP to provide the union with an alternative, temporary office, it has not done so. Further, the head of a local union, Marina Razmadze, was denied access to the company’s head office, depriving her the ability to fulfill her functions and run the organization.

Management refuses to implement the dues check-off system under the CBA with the union. Meanwhile, it has continued to provide both dues check off and office space to the alternative, company-dominated “union.” The GTUC has raised this issue on many occasions, including with the Prime Minister, the Minister of Labor, the Minister of Economy and the Tripartite Social Partnership Commission. However, Georgian authorities have done nothing to address these labor rights violations.

Despite several attempts from the independent trade union to contact its members, GP workers have expressed fear of dismissal and thus often avoid communicating with union representatives. Management maintains strictly control over employees’ relations with trade unions in all GP offices across the country. As of today, only some 20 workers remain in the union, and must keep their membership secret.

Meanwhile, lawsuits against GP are in process in national courts and the amount GP management has had to pay to compensate for unlawful dismissals of workers is increasing. To date, the amount of compensation awarded has reached 1 500 000 GEL (\$600,000 USD).

### **Rustavi Azoti, Ltd.**

The GTUC-affiliated Metalworkers, Miners and Chemical Industry Workers Trade Union (MMCTUG) has a local union in a chemical plant formerly operated by Rustavi Azoti, Ltd. As detailed in our previous submission, ownership of the firm changed hands at the end of 2016. The new owners imposed policies to weaken the local union and induce the members to rescind their membership in violation of Georgian law. Management also continues to disregard the collective agreement, claiming that they represent a newly established entity and are not obliged to comply with it; however, Georgian law requires successors to respect previously negotiated collective agreements.

The GTUC legal team has filed lawsuits on behalf of 57 terminated workers, demanding reinstatement and back pay. In March 2018, the Rustavi Court ordered the employer to reinstate all 57 workers and pay compensation amounting to 530 000 GEL (\$192,783). Management has appealed the case to the Court of Appeals.

The GOG's failure to address the multiple violations of labor law outlined in previous submissions, aside from the reinstatements noted above, is evidence of an ongoing failure to afford workers their internationally recognized worker rights.

## **V. Final Observations**

It is worth noting that all the unions included in this update are independent unions affiliated to the GTUC. As previously reported, the targeting of the largest and most powerful GTUC affiliates during the Saakashvili administration led to a 70 percent decrease in union dues collected and substantial decrease in both members and union staff able to work collectively in support of worker rights. Unfortunately, these three cases demonstrate that the trend continues under the "Georgian Dream" government.

The International Trade Union Confederation released a statement on September 6, 2017, condemning government-led attacks against GTUC President Irakli Petriashvili in the press and on social media that seemed both a response to recent strikes at the Georgian Railroad and as potential interference in advance of the GTUC Congress.<sup>12</sup> The statement noted that "union activists and delegates have been reporting for several months that ruling party officials are putting pressure on them and on local union structures to undermine the GTUC leadership."

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<sup>12</sup> International Trade Union Confederation Press Department, "Georgia: Government Interference in Trade Union Affairs," September 6, 2017, [www.ituc-csi.org/georgia-government-interference-in](http://www.ituc-csi.org/georgia-government-interference-in)

At the same time, “yellow unions” remain a significant challenge to worker organizing in Georgia.<sup>13</sup> The European Union’s 2018 analysis of Georgia under its GSP+ program found “[e]mployers’ interference in the functioning of trade unions and members’ harassment are reported, also in state-owned enterprises, as well as attempts to replace independent unions with unions supported by the Government or employers.”<sup>14</sup> Research released in 2017 on working conditions in the heavy industry sector determined that employers are actively involved in undermining independent unions without addressing underlying problems, and that yellow unions are a common tool for doing so.<sup>15</sup> Workers interviewed reported that employers use “intimidation, blackmail and oppression of employees,” with impunity to prevent independent unions from forming while providing, “informal social allowances through bribery and patronage of employees,” to workers who instead join “unions” that provide no resistance against employers on wages, working conditions and other core union bargaining topics.

## VI. Conclusion

For the reasons stated above, the AFL-CIO urges the suspension, in whole or in part, of duty-free treatment pursuant to the GSP unless the Government of Georgia demonstrates, in a time-limited manner (e.g., the next six months), that it is taking concrete and effective steps to change law and practice to ensure that workers can exercise their internationally recognized worker rights. These steps should include measurable benchmarks (e.g., the immediate establishment of a robust labor inspectorate, the amendment of relevant labor laws in line with internationally recognized worker rights, using ILO guidance).

We emphasize that neither promises nor mere changes in law, without following through in practice, do not constitute “taking steps to afford internationally recognized worker rights” as is required to remain eligible to receive GSP benefits, pursuant to 19 U.S.C. § 2462(c)(7). 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.

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<sup>13</sup> The mere existence of “yellow unions” violates the right of workers to choose whether to and with what organization to associate. CFA Digest of Decisions ¶ 339 (“By according favourable or unfavourable treatment to a given organization as compared with others, a government may be able to influence the choice of workers as to the organization which they intend to join. In addition, a government which deliberately acts in this manner violates the principle laid down in Convention No. 87 that the public authorities shall refrain from any interference which would restrict the rights provided for in the Convention or impede their lawful exercise . . .”)

<sup>14</sup> European Commission High Representative of the Union for Foreign Affairs and Security Policy, pg. 8

<sup>15</sup> Human Rights Education and Monitoring Center, “An Assessment of the Labour Inspection Mechanism and a Study of Labour Rights Conditions in Georgia,” Tbilisi, 2017, pg. 72-75, <https://emcrights.files.wordpress.com/2017/01/research-labour-rights.pdf>