

# **HUMAN RESOURCE MANAGEMENT AND LABOR RELATIONS REGULATION IN GEORGIA**

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## **Abstract**

The article reveals the problems of formation of labor relations in Georgia – an urgent topic of a constant discussion of the last two decades. The opinion difference is particularly evident referring to the Labor Code of Georgia. The article conveys views and thoughts of the interested parties and experts connected to the legislation based on regulation of labor relations. The research concentrates on a modern approach of human resources management in terms of labor relations. The work provides conclusions and recommendations fostering the formation of civilized labor relations in Georgia. The author states the Labor Code should not possess excessive significance as the adequate and correct HR management will solve a lot of problems regarding civilized labor relations.

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**Keywords:** Labor Code of Georgia; labor relations; human resource management; employer, employee.

Establishment of civilized labor relations plays a big role in the development of modern society. The experience of the world developed countries proves the controversial and time-consuming character of the formation process of labor relations acceptable for social groups. Former socialist countries face particular difficulties regarding the issue. Labor Code of Georgia and discussions attributed to it are a good example of the above

mentioned. In 2006 the parliament of Georgia passed a new Labor Code which became a subject of interest for many interested parties. Throughout many years a lot of argumentative issues are being discussed within the frames of the employee's rights, requirements of international organizations, social conditions of employees; labor freedom, investor interests, etc. It is interesting to consider the Labor Code in the context of human resource management. Since the later represents the single document regulating labor relations, it is connected to the main components of HR management such as HR selection and hiring; labor market and candidate recruit; the system of HR labor payment and motivation; HR development, labor result assessment and performance management, etc.

As we have mentioned above, the Labor Code concerns labor relations and therefore, to assess its influence on the HR management efficiency, we should consider the interaction and relations between an employee and an employer in contemporary progressive organizations. If we refer to the scientific and academic literature of HR management where the practice of HR effective management are reviewed and analyzed in details, they consider the employee and the employer as not antagonist but only as the labor relation participants united by the common target. The purpose of the employee is social security, high payment, career development opportunities, continuous progress, recognition and appreciation at the work place, etc. In case of a private organization an employer aims at high profit, market share increase, etc. In case of public or social organization an employer focuses on the accomplishment of a definite task/function which will be reflected on the high quality of social service or in other common result data. It is obvious for any employer oriented on a long-term strategy in his action that it is impossible to achieve desired results if employees are not inclined positively towards an organization and their demands are not met

maximally at most. Therefore, based on a modern approach the purpose of an employer to reach efficient outcomes is evident in case he has motivated and socially secured human resources. Efficient technologies of HR management extinguish the long-term successful performance of an organization on the basis of noncompetitive amount of payment or economy of any other expenditure related to HR. To the contrary, the majority of expenses connected to HR are currently reviewed as the employer's investment with high outcomes for both parties. As for the widely popular opinion that the decrease of expenses related to HR will foster any kind of economy, it is wrong as the efficient HR management implies just the opposite. Respectively, the increase of the HR expenses in different directions in other equal terms causes the growth of productivity, and the latter is finally reflected in the decrease of cost for the production or the provided service.

In order to find out how this approach works in Georgia we need to consider the existed reality. To be more exact, based on the official statistics unemployment level comprises of 16%<sup>68</sup>; the majority of those having jobs is self-employed basically in farming, where the labor productivity is too low; the majority of population lives below the poverty level; the influence of employees and employers on the labor market is unequal according to separate branches and regions; on top of unemployment there exists the deficiency of specialists (work force) in quite a number of fields.

While discussing the issues related to HR management and related labor relations it is essential to regard the abovementioned problems. However, the latter does not contradict with the opinion that the compatibility of employee-employer interests creates desirous terms for their

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<sup>68</sup> <http://www.geostat.ge>

relationship to be maximally free. If we refer to the Labor Code guide<sup>69</sup>, the code accepted in 2006 secures such an approach. Respectively, the guide reads “Labor Code of Georgia forms liberal approaches towards legal regulation of labor relations. From this prospective, the main legal principle of the document represents the diminishment of the possibilities of intervention by the state into legal relations and the providence of the freedom of action for the parties in this sphere.”

The similar assessment of the Labor Code of Georgia is provided by experts of the economic sphere. They think “We have the Labor Code which is on the one hand in compliance with international requirements and on the other hand, it vividly reflects any necessary relation connected to the labor”<sup>70</sup>.

Association of Young Economists of Georgia remarks the following on the Labor Code of Georgia “the last addition of organic law of Georgia – the Labor Code of Georgia was passed in 2010 and two amendments were made later. In 2006 the Labor Code of Georgia was issued based on profoundly new principles oriented on “less” regulation of labor relations by the state and where the relations mainly depend on the agreement between an employee and an employer. As a result of liberalization of labor relations, Georgia has one of the most liberal Labor Code in the world. For instance, according to the World Economic Forum “Global Competitiveness Report”<sup>71</sup> Georgia is on the 9<sup>th</sup> place in the world by the index of hiring and dismissing people. The basic reason for the Labor Code liberalization from Georgian government was stipulated by the development of business infrastructure and growth of investment attraction in the country. It is worth to underline that

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<sup>69</sup> [www.parliament.ge/.../98\\_15311\\_308452\\_LaborCode\\_FINALPARL.doc](http://www.parliament.ge/.../98_15311_308452_LaborCode_FINALPARL.doc)

<sup>70</sup> <http://24saati.ge/index.php/category/opinion/2012-10-28/33181.html>

<sup>71</sup> <http://reports.weforum.org/global-competitiveness-report-2012-2013/>

one of the criteria that businesses and investing companies would consider while operating realizing their activities was the burden of law. Consequently, if a business representing essentially an employer in the country will have a minor burden of law and will deal with legislation easily, the more attractive it will be to bring out business in Georgia. Liberalization of Labor Code caused discontent in different social circles owing to the fact that an employer is eligible to dismiss an employee at any time with no explanation of reasons at all”.

We can use Economic freedom Index as another indicator for labor relations assessment in Georgia. “Heritage Foundation”<sup>72</sup> and “The Wall Street Journal”<sup>73</sup> represent the leading research centers in Washington. These organizations have been publishing Economic Freedom Index since 1995 based on the data of the previous year. Economic Freedom Index is considered to be one of the most significant in the world to assess economic activities of a certain country. Throughout recent years the economic freedom index has reasonably improved in Georgia. Based on the data of 2011 Georgia was the 27<sup>th</sup> in the world rating. It is one of the best results in the post Soviet space. This year according to the economic freedom index Georgia was ahead of its neighboring countries, out of the former Soviet Republics only Estonia and Latvia had better ratings. Index is taken oriented on ten indicators<sup>74</sup> having equal weight. One of those is labor freedom and according to some experts a high rating of Georgia considering labor freedom index, was to a certain extent stimulated by the liberal Labor Code.

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<sup>72</sup> [www.heritage.org](http://www.heritage.org)

<sup>73</sup> [www.wsj.com](http://www.wsj.com)

<sup>74</sup>Freedom of business; freedom of trade, level of government intervention; freedom of private property; freedom of investment; corruption level, freedom of labor; fiscal freedom; financial freedom.

Along with the positive evaluation of the Labor Code a lot of organizations and experts emphasize on its negative aspects as well. The report<sup>75</sup> prepared by the Civil Society Institute reads, “The adoption of a new Labor Code statistically decreased the number of court case applications due to the fact that by the terms of a new code an employee is absolutely unprotected and employers are entitled with particular rights and applying to the court makes no sense”. The same report goes on,” as for the trade union interpretations, they state many norms of the Labor Code of Georgia violate or limit constitutional rights and freedom of many citizens”.

Considerable attention is attributed to the Labor Code in the research conducted by the Economic Problems Research Center<sup>76</sup> revealing the report of the Trade Union International Conference. It says, “With the new code in 2006, neo-liberal government canceled labor inspection in the country. The Labor Code does not include statements on eradication of discrimination and freedom of association, as well as, articles on collective negotiations, antidiscrimination and freedom of carrying out demonstrations. Even though eight conventions of the Labor International Organization are ratified, there is incompatibility between the 2006 Labor Code and a document of the country’s international obligation (“protection of labor rights of a human”). The Labor Code contradicts Euro Union standards and standards of “Social Charter of Europe” ratified in July 2005 in fundamental issues such as overwork hours and dismissing”.

Certain more precise issues of the influence of Georgian Labor Code on labor relations became the subject of bitter debate. One of those is pre-contract interaction. According to Georgian Labor Code an employer is not

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<sup>75</sup> Civil Society Institute. Report of Monitoring of the Labor Code of Georgia, 2008.

<sup>76</sup> Research Center of Economic Problems. “Eastern Partnership” and social - economic policy of Georgia. Tbilisi 2011.

obliged to explain and/or state his rejection to hire a candidate. There is an offer to amend the law and “to include an entry saying an employer is not obliged to substantiate his rejection unless a candidate asks for it”<sup>77</sup>.

There exist some contradictive opinions about the obligation of employer for a written denial to a candidate. Based on one of such opinions, “if this amendment is put in the code employees won’t announce vacancies. Why? – Because the pre-contract interaction will become more complicated, respectively, an employer will be due to explain and substantiate his denial to every candidate and for this he will need a) to have a good lawyer and b) to spend time and both will only increase expenses”<sup>78</sup>.

There are considerably different thoughts about the forms of labor relations. According to the code labor relation can be derived on the oral agreement of parties and a contract can be made orally.

The opponents of the oral form of the contract remark that “as a rule an oral contract is an accepted and a regular form for employees in private enterprises who in case of dismissing, salary decrease or any argumentative case can not apply to court simply because they cannot justify the violation of the law. When the interaction is conducted in the written form, an employee has a document certifying his/her rights. Moreover, in case of a job change employees can not represent any document proving their qualification or experience”<sup>79</sup>.

One of the most severe topics for discussion is the right entitled by the Labor Code to both the employee and employer to cancel the contract

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<sup>77</sup> Civil Society Institute. Report of the monitoring of the Labor Code of Georgia. September, 2008.

<sup>78</sup> <http://www.tabula.ge/article-27737.html>. Natia Samushia. “Amendments in the Labor Code – is employment punishable?!”

<sup>79</sup> Civil Society Institute. Report of the monitoring of the Labor Code of Georgia. September, 2008.

any time according to their will with no basis. The code regards the possibility of making the pre-warning duty the subject of regulating labor contacts or in other words, it is possible to consider some other forms or duration for labor contract.

The opponents of this article of the Labor Code think that unconditional cancelation of labor contract harms not only an employee but also hinders economic development of the country as an employee having no sense of stability connected to a job is not able to plan his life whether it is a loan from the bank, entrepreneurship (setting up some business), property purchase, etc. Supporters think the right of unconditional cancelation of labor contract enables an employer easily substitute existed HR by more adequate and proper work force.

Besides the issues discussed above there are some questionable issues regarding the Labor Code: respectively, duration of work time and over work hours, cancelation of labor contract and its duration, also massive dismissing.

The argument about labor relations between an employee and an employer has been on for the last two decades but no agreements are seen so far.

### **Conclusions**

➤ Different opinions about the Labor Code of Georgia can be divided into two groups:

1. Labor relations between an employee and employer should be at most free and regulated on the basis of a labor contract;

2. Labor Code is supposed to protect an employee by stricter regulating rules in labor relations between an employee and employer.

➤ Regulation of labor relations should consider the interests of both the employee and employer;



- Proper HR management needs to be regarded as a prerequisite to form labor relations acceptable for all parties;
- Labor market status reasonably stipulates conditions of employees. Employer competition to attract work force is the strongest solid basis to improve conditions of employees;
- Civil norms of labor relations should be oriented on the approach according to which long-term interests of an employer and employee do not contradict and modern efficient HR resource management will be a common effort to make an organization successful;
- Based on a desire of Georgia to integrate into international organizations legal regulation of labor relations should meet certain requirements. However, we cannot expect a complete solution of existed problems from the Labor Code no matter how perfectly it is stated;
- We can often hear a consideration about the appropriateness to legally enforce an employer to retain a job for the staff he intends to dismiss. In our opinion, before there will be any legislative decision made on the issue it needs to be analyzed from the prospective of an employee's social security and organization competitiveness;
- In our opinion while regulating labor relations on a legislative level the reality existed on the labor market of Georgia should be regarded as well as approaches of Human Capital Theory<sup>80</sup> and conventions ratified by the Labor International Organization<sup>81</sup>;
- In case of a denial if candidates who apply for a vacant job are not notified substantially either in a written form or orally, such behavior will damage the company's image and it is not necessary to oblige an employer legally to provide a candidate with such explanation;

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<sup>80</sup> Human capital. Gary S. Becker (Winner of the Nobel Prize in Economics). Third Edition.

<sup>81</sup> [http://www.parliament.ge/site2/index.php?lang\\_id=GEO&sec\\_id=543](http://www.parliament.ge/site2/index.php?lang_id=GEO&sec_id=543)

- If an employer is charged by the labor law to pay an employee's overwork hours this will not make an employee's condition better as an employer has many other means to decrease his/her expenses spent on the labor in case of a will (for instance: expenses connected to training, development, carrier, etc);
- Labor legislation regulating mechanisms are desirous not to change often as regular amendments into the law disturb the formation of steady labor relations;
- Labor legislation regulating mechanisms should be based on short-term and long-term economic and social development opportunities of the country and should depend less on the country's political conjuncture.

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