

# Trade Union Violations in Georgia: The Strike at the Hercules Metallurgical Plant



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### **Labourstart campaign for Georgia**

In partnership with the International Trade Union Confederation, Labourstart has launched a campaign called “Georgia: Strike-breaking, union-busting, forced labour” against experiencing severe trade union repression at the hands of both the employer and the government. Find out more on [LabourStart.org](http://LabourStart.org).

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SOLIDAR is a European network of 56 NGOs working to advance social justice in Europe and worldwide.

SOLIDAR lobbies the EU and international institutions in three primary areas: social affairs, international cooperation and education.

## Foreword

On 7 October 2011, the International Day for Decent Work, the Dutch association of trade unions, FNV Mondiaal, handed out the 11<sup>th</sup> Febe Elizabeth Velasquez Trade Union Award to Irakli Petriashvili, President of the Georgian Trade Union Confederation (GTUC). This Award pays tribute to union leaders who take personal risks in defending trade union rights in their countries.

The GTUC is the International Trade Union Confederation's affiliate in Georgia. SOLIDAR, a European network of social justice NGOs, works in cooperation with trade unions to promote the implementation of the Decent Work Agenda for all workers in Europe and around the world.

This paper underlines that after raised hopes and initial progress in the fields of democracy and human rights just after Georgia's 2003 Rose Revolution, human and labour rights are in decay in recent years. The strike at the Hercules metallurgical plant in Kutaisi, Georgia's second largest city, shows this clearly. In addition, findings by international observers, the Organization for Security and Co-operation in Europe (OSCE) and the Bertelsmann Foundation have raised substantial concerns over irregularities during Presidential, parliamentary and municipal elections.

In 2006 the Georgian Government adopted a Labour Code that violates fundamental labour and trade union rights and undermines a row of established standards by the International Labour Organisation (ILO). Since 1919, the ILO has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity. The International Trade Union Confederation and Education International have raised at several occasions their concerns, and supported the GTUC in official complaints to the ILO.

The European Commission recognises the official recommendations of the ILO Committee of Experts on Application of Conventions and Recommendations requesting Georgia (2010) to amend the Labour Code and the Law on Trade Unions in order to comply with ILO conventions but is not ready in the frame of the General System of Preferences (GSP+) to initiate an investigation for the temporary withdrawal of the trade preferences.

With this paper, we call upon the European Commission to take the ILO recommendations into consideration and call for international solidarity to support the GTUC and its President Irakli Petriashvili to stand up for human and labour rights in Georgia.



Sharan Burrow  
Secretary General ITUC



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## I. Executive summary

In 2006 the Georgian government adopted a Labour Code that violates fundamental labour and trade union rights and undermines a row of established standards by the International Labour Organisation (ILO). This act contradicts the government's pro-EU oriented statements and EU values, standards and practices in general. A crucial point of concern is that this was undertaken by the government albeit having been informed by the Georgian Trade Union Confederation (GTUC) about its negative consequences.

The Labour Code established almost full freedom to fire at will, distorts and discourages the development of collective bargaining processes, denies workers effective protection against discrimination including on the basis of trade union membership, practically dissolved the institution of labour inspection and control over health and safety at workplace. Overall it led to a severe misbalance of power in employment and labour relations in Georgia to the detriment of workers and a favourable environment for union busting.

Having lost some 20,000 members due to the new Labour Code, GTUC submitted a complaint, backed by the International Trade Union Confederation (ITUC), to the ILO in 2008 concerning the violation of Convention 98 on the Right to Organise and Collective Bargaining. The same year, another complaint was sent to the ILO's Committee on Freedom of Association (CFA) regarding the Georgian government's interference in union affairs in the education sector supported by Education International (EI).

Despite the ILO's conclusions, no amendments to the law have been made. Moreover, additional worrying cases of trade union rights' violations are being registered as the case study of the strike at the Hercules metallurgical plant shows (chapter 5).

On 11 May 2011 the European Commission wrote in the context of the EU's Generalised System of Preferences (GSP+) system, that the Council of Ministers and the European Parliament should exert more scrutiny to further promote core human and labour rights. To that end, this briefing calls on the European Institutions to ensure that:

- The Georgian Labour Code of 2006 must be brought into line with ILO core labour standards and conventions if Georgia is to live up to its international commitments to respect workers' basic human rights.
- All the attacks on GTUC structures and interference in trade union affairs must be stopped. The Georgian government must intensify its efforts to actively prosecute cases of anti-union discrimination and increase the penalties to an adequate level.
- The Georgian government must effectively promote collective bargaining in the public sector and fully recognise workers' right to strike by allowing strikes also when there is a conflict of interests.
- The Georgian government should reinstate the labour inspection service to ensure that labour law applies equally to all employers and workers, and guarantees them healthy and safe conditions at work

## II. Georgia – human and democratic rights

### THE FIRST DECADE OF INDEPENDENCE

In the first four years following its declaration of independence in 1991, Georgia experienced two secessionist wars in South Ossetia and Abkhazia as well as a bloody overthrow of the first President Zviad Gamsakhurdia. The country then suffered from a sharp economic decline triggered by hyperinflation, neglected investments in infrastructure and the insufficient provision of public goods. Despite this poor performance, the Georgian political elite, under the former Soviet Foreign Minister and second Georgian President Eduard Shevardnadze<sup>1</sup>, managed to stay in power from 1992 to 2003. It was the fraudulent parliamentary elections in 2003 that triggered mass protests which eventually forced President Shevardnadze to resign. This period, popularly called the Rose Revolution, increased hopes that a democratic consolidation in Georgia was on the way.

In 2004 the charismatic leader of the “November protests”, Mikheil Saakashvili, was elected President by an overwhelming majority and he succeeded in creating a parliament dominated by the parties close to him. The newly created party “United National Movement – Democrats” won more than two-thirds of the mandates in the 2004 parliamentary elections. The control over the executive and legislative branches made the implementation of a far-reaching structural reform agenda easier. The government therefore managed to achieve outstanding results in terms of curbing corruption, streamlining an inefficient administration, improving national extraction capabilities and providing public goods.<sup>2</sup>

### STAGNATING DEMOCRATISATION

Despite these impressive results, critics of the new “elite” pointed out serious deficits and setbacks related to institutional checks and balances that led to stagnating progress in democratisation.<sup>3</sup> Local and international observers (like the Organization for Security and

Co-operation in Europe) raised substantial concerns over the irregularities during the 2008 Presidential and parliamentary elections, although they stopped short of endorsing the opposition’s demands for a recount or annulment of the results. Also, criticism was directed against the State authorities’ reaction to rising political tensions and actions of mass protest in November 2007.

The 2010 Human Rights Watch report concluded that Georgia’s human rights record remains uneven. State actors have hindered activists’ right to assembly and attacked and harassed journalists and opposition newspapers. Municipal elections in May 2010 largely met international standards, but observers identified significant shortcomings including legal deficiencies, unlimited campaigning and the use of administrative resources by some public officials, as well as isolated cases of election-day fraud.

### INCREASING SUPPORT FROM THE EUROPEAN UNION

The European Union has had an ambiguous approach towards Georgia due to several constraints. First the EU has more pressing issues on its foreign policy agenda and Georgia has tended to divide the member states.<sup>4</sup> The inclusion of the Caucasian countries in the European Neighbourhood Policy (ENP) only happened after the EU adopted the European Security Strategy (ESS) in 2003, a major reason being the Georgian Rose Revolution.<sup>5</sup> Despite increased engagement in the region through technical assistance in the economy and governance fields, and funded programmes promoting democratic reforms, EU policy has been largely uncoordinated. Until now, the Eastern Partnership (EaP) launched in 2008 has not taken off as expected and has been lacking executive muscles to promote any semblance of democratic change. Furthermore, the European

<sup>1</sup> Analysis by Nino Chkheidze in “Democratisation vs. state-building. The case of Georgia after the Rose Revolution” (2010)

<sup>2</sup> Bertelsmann Transformation Index (BTI) 2010 for Georgia  
<sup>3</sup> Bertelsmann Transformation Index (BTI) 2010 for Georgia

<sup>4</sup> According to Dov Lynch in *Sharpening EU policy agenda towards Georgia* (2006)

<sup>5</sup> According to Mehmet Bardakci in *EU Engagement In Conflict Resolution In Georgia: Towards A More Proactive Role* (2010)

conditionality for democracy support remained marginal for the process of democratisation.<sup>6</sup>

In 2011 the Commission recognised that the negotiations on the Association Agreement launched in 2010 were progressing at 'a good pace'.<sup>7</sup> However, the Commission identified major challenges linked to freedom of association, labour rights, employment and social policies, poverty reduction and agricultural development which, if unaddressed, could put at risk Georgia's continuing inclusion in the EU's General System of Preferences (GSP+).

### **GENERALISED SYSTEM OF PREFERENCES (GSP)**

The GSP is an autonomous trade arrangement through which the EU provides non-reciprocal preferential access to the EU market to 176 developing countries and territories in the form of reduced tariffs. Under this system, bilateral trade between Georgia and the EU grew in 2010; EU exports to Georgia increased by 31.6% compared to the previous year, while Georgian exports to the EU increased by 7.1 %. The special incentive arrangement, known as GSP+, offers additional tariff reductions to support vulnerable developing countries in their ratification and implementation of a set of key international conventions in the fields of core human rights and labour standards, sustainable development and good governance.

On 11 May 2011, in the context of the GSP+ system, the European Commission announced the objective to further promote core human and labour rights, and principles of sustainable development and good governance. To achieve these aims, the EU will provide more incentives for countries to join the GSP+ scheme, while at the same time enhancing its leverage to ensure those rights and principles are respected. The Council of Ministers and the European Parliament will exert more scrutiny, and will have a say every two years on how things are progressing. Thus, Georgia's continued inclusion in the GSP+ scheme is clearly conditional on the country's compliance with core ILO and UN conventions.

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<sup>6</sup> George Khelashvili in *External Forces, Nationalism, and the Stagnation of Democratization in Georgia* (June 2010).

<sup>7</sup> As recognised in the European Commission joint staff working paper country report 2011.

### III. Union and labour rights concern

Georgia ratified the ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise in 1999 and the ILO Convention No. 98 on the Right to Organise and Collective Bargaining in 1993. Despite this, the rights defined therein are insufficiently respected.

#### THE 2006 LABOUR CODE

The Labour Code that entered into force in June 2006 was prepared without prior consultation with trade unions and significantly reduced workers' and trade union rights. According to the Labour Code, article 37 (d) an employer can dismiss a worker without any reason at all, provided that compensation equivalent to the worker's one-month salary is paid. Whilst anti-union discrimination is prohibited both by the Labour Code and the Penal Code, in practise the courts do not apply laws preventing anti-union discrimination or dismissal related to trade union membership or activities. Furthermore, article 37 (d) has been used to suppress trade unions as well as those who oppose workplace discrimination or simply take a stand for workers' rights. In fact, the Supreme Court has ruled that employers' discretionary right to dismiss a worker should not be deemed discriminatory and that the Labour Code of 2006 takes precedence over the 1997 Law on Trade Unions. Under these circumstances, the Labour Code continues to provide legal grounds for employers to violate ILO Conventions No. 87 and No. 98 in practice.

Article 55 of the Labour Code entailed the repeal of the charter of Labour Inspections by the Order of the Minister of Labour, Health and Social Security No 310/n from 16 November 2004. In practice this meant that labour inspectors were laid off across the country due to the abolition of the State Labour Inspectorate.

Despite the fact that the right to collectively bargain is guaranteed by Convention No. 98, the labour code lacks legal provisions for it. With the abolition of laws on collective bargaining and collective disputes in 2006, the current framework fails to adequately regulate all

aspects of the freedom of association and the right to bargain collectively. Furthermore, it does not contain provisions on the freedom of association and it does not mention the trade union as a form to organise workers.

This approach seems to be one part of the government's broader strategy to attract foreign investments by advertising the country's low taxes, smart regulations and "unprecedented freedom to do business." While perhaps creating grounds for growing business, the ultra-liberal Labour Code is far from labour-friendly and has contributed to growing inequalities.

#### ACTIONS AGAINST THE LABOUR CODE

In 2009, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) assessed the conformity of Georgian legislation with the international labour standards by trusting that ..."*the necessary measures to revise sections 5(8), 37(d) and 38(3) of the Labour Code will soon be taken so as to ensure that the Labour Code provides for an adequate protection against anti-union discrimination...*".

Further, the ILO-led process to initiate the revision of the Code by means of social dialogue, in spite of certain formal achievements such as setting up a national tripartite council and signing a national tripartite agreement, has not led to any change of the provisions. In addition, several high-level events were organised by the ILO, ITUC-PERC and ITUC's affiliated organisation in the country - the Georgian Trade Union Confederation (GTUC) - over the last years to underline the importance of the trade union rights and collective bargaining as a pillar of democratic society and the European Union principles.

The GTUC which embraces 25 organisations (two regional and 23 sectoral organisations) and has a membership of more than 200,000 workers (i.e. 45% of the entire hired workforce in the country), also worked out a draft with amendments to the Labour Code, collected the signatures of more than 100,000 citizens and presented this to the Parliament in 2009. This initiative was ignored and has not been discussed since. In May 2010, the Minister for

Labour stated that an anti-discrimination law would be drafted by the Ministry of Labour and sent to the GTUC when ready. There had been no developments in this regard at the end of 2010.

## **VIOLATIONS OF TRADE UNION RIGHTS AND COMPLAINTS TO THE ILO**

Having lost around 20,000 members due to anti-union discrimination, the GTUC submitted a complaint to the ILO's Committee on Freedom of Association (CFA) regarding the failure of the Labour Code to provide adequate protection against anti-union dismissals; in the case of the dismissal of nine trade union activists from Poti Sea Port and nine trade union activists from BTM Textile and the failure of the Government to provide redress (case 2663). The complaint is contained in the GTUC's communications on 24 July and 26 August 2008, and 11 March 2010. The ITUC associated itself with the complaint in a communication on 29 September 2008.

The CFA considered the case and, *inter alia*, “*requested the Government, in full consultation with the social partners concerned, to take the necessary measures to amend the Labour Code so as to ensure specific protection against anti-union discrimination, including anti-union dismissals and provide for sufficiently dissuasive sanctions against such acts*”. The CFA conclusion was ignored by the government.

In another complaint to the CFA (case 2678), the GTUC alleged interference in activities of its member organisation, the Educators & Scientists Free Trade Union of Georgia (ESFTUG), as well as dismissals of trade unionists, in communications on 14 November and 24 December 2008, and 7 May 2009. Education International (EI) associated itself with the complaint in a communication dated 21 November 2008. The complaint referred to the setting up of a yellow union<sup>8</sup>, refusal of the government to bargain with the ESFTUG, aggressive termination of check-off system<sup>9</sup> in

<sup>8</sup> Yellow union or company union is a trade union which is located within and run by a company or by the national government, and is not affiliated with an independent trade union.

<sup>9</sup> Check-off system is a system whereby an employer regularly deducts a portion of an employee's wages to pay union dues or initiation fees which is then transferred to the respective union account.

some institutions but also other types of violations.

The CFA requested “*the Government to ensure that the check-off facilities at the Senaki nursery, Nakolakevi public school and Tbilisi Public Schools Nos 115, 127 and 160 are re-established, without delay...*” and “*to indicate the measures taken or envisaged to promote collective bargaining in the education sector and to inform it as to whether any collective agreement has since been signed in the education sector and whether the ESFTUG was a party to such an agreement or participated in the negotiation*”.

The government continued to favour a new union called Professional Education Syndicate (PES) and to ignore and discriminate against the ESFTUG, even though the latter represents over 100,000 members and is indisputably the most representative teachers' union in the country. Surprised by the international community's attention on labour rights issues, the government opted, instead of addressing the core of the issue, for a “no person – no problem” tactic. It waged a full-fledged attack on the GTUC's member organisations with the purpose to completely destroy or to control them.

The harassment and intimidation of the ESFTUG leader Manana Ghurchumalidze led to her resigning and applying for asylum in Canada. The check-off system was unilaterally cancelled in the education sector in March 2010 and partly re-established in the regions of Ajara and Samegrelo districts. In June, collective agreements on check-off systems were signed with the PES following instructions from the Minister for Education. ESFTUG members were forced to quit the union and join the PES or risk being fired. In Zugdidi (Samegrelo region) almost 1,000 teachers resigned from the ESFTUG in one day alone, and in Kutaisi around 550 teachers left the ESFTUG.

In October, the ESFTUG Congress was organised, and again the Ministry of Education interfered. Regional Resource Centers (local representatives of the Ministry of Education) urged delegates not to participate in the Congress. One of the delegates urged the others to break up the elections of the President, organise another congress and to elect her as President. She promised that the Minister of Education would then restore the check-off

system. Nevertheless, a trade union delegate, Maia Kobahidze, was elected as President.

After the ESFTUG thwarted the attempt, the check-off system was once again abolished in November on the request of the Minister. At the same time, the system remained in place for the PES. After the Congress, the schools stopped transferring their dues to the union. School principals argued that it is illegal to have local representatives collect member fees in cash, that the banks are charging considerable fee for dues transfers and that the police guards installed at the schools are not allowing union representatives to visit it.

In the railway sector, due to the layoffs of union officials and the almost total lack of funds after cutting off dues transfers, the national level of the trade union has been barely able to function. The management of the railway company was trying to influence the election processes. In the meantime the policy of interference, discrimination and intimidation towards trade unions continues. In the mining sector, the non-

existence of any supervising institution (labour inspection) allowed the administration of Tkibuli mine to force miners to work in extremely dangerous conditions. The attitude of the company resulted in grim statistics: in nine months, nine workers perished and dozens have severe injuries resulting from working in Tkibuli mines.

In May 2010, up to 400 workers at the Geo-steel metallurgical plant in the city of Rustavi went on strike. At the beginning of June, after the strike had ended, over 100 workers decided to become members of the Metal and Mining Workers' Union (MMWU) and submitted applications for affiliation. On 16 June 2010, Mr. Urushadze, one of the union activists, was informed by the President of the Geo-steel company that his employment contract had been terminated as a result of his organising efforts. The following day five other employees were dismissed on the same grounds. As a result of these dismissals, a union was not established at the plant since the other workers were intimidated and started to fear for their jobs.

## IV. CASE STUDY: THE HERCULES METALLURGICAL PLANT (KUTAISI)

**8 September 2011**<sup>10</sup>: There were repairs of the cranes taking place at the Hercules metallurgical plant due to which furnaces have been stopped and the manufacturing cycle was temporarily suspended. Workers were having a break sitting on the chairs. Suddenly the Head of the security service of the plant appeared and started shouting at workers and kicking the chairs. He was furious and shouting that "*nobody should dare to sit at this plant, even if there is no work everyone must stand*". According to workers, the Head of security was using very abusive language and was very aggressive.

**9 September 2011**: The members of the Hercules primary trade union organisation committee organised a meeting at which Irakli Petriashvili (President of Georgian Trade Unions Confederation GTUC) was foreseen to attend. In the run up, the aggressive Head of security visited every department of the plant and warned the workers not to dare attend this meeting and even went as far as to threaten workers with dismissals. In spite of this, the meeting was organised and it was attended by more than 40 workers. Together they analysed the existing situation and decided to go on a full-scale strike from 13 September 2011.

The same day Irakli Petriashvili, Tamaz Dolaberidze (President of the Metallurgical Workers Union) and 15 workers from the plant held a special press conference near the entrance of the "Hercules" plant. During the press conference, a gate to the plant opened and a scrap metal supplier to the factory came out with 10 workers wearing new helmets and gloves. This was done to show journalists that working conditions at the plant were good, but the intention was soon revealed; the workers explained to the journalists that the scrap metal workers were not employees of the plant, while the helmets and gloves were taken from the store house a few minutes earlier.

At about 17:00, the Head of the security service summoned Malkhaz Gogiava, a member of the trade union committee and an employee at the plant, who was carrying out his duties at work. One of the deputy Directors of the company was

also present. The Head of the security service complained to Gogiava that the Director of the company makes decisions about dismissals and he should not be blamed unfairly. During the conversation, the Director called the deputy Director, who then passed a phone to Gogiava.

The Director started the conversation with a tone of complaint, but towards the end of conversation, his tone became threatening. He claimed that the workers do not need the involvement of "others" and they should have approached him about all problematic issues. He also said that he has invested everything he possessed in this plant and even now he was on his way to Turkey to buy new machinery for the plant. He also claimed that he borrowed substantial amount from banks and needed more money and banks might refuse him because of their actions.

Furthermore he also categorically demanded that the workers leave their jobs if they did not want to work, and he would replace them with an Indian work-force. He mentioned that if workers do not leave, he would fire all of them and bring Indians or his relatives from Kakheti and Tbilisi, who are jobless and would agree to his offer with pleasure. He also said that he hated all the dismissed workers, who had stabbed him in his back and he will never provide any reason for their dismissals, because the 2006 Labour Code does not require any reason to be provided. He urged the workers to think about his intentions and added that he would fire 150 workers because this plant was his own property and he could do whatever he wanted to.

Two workers, participants at the press conference, Zaza Kamladze and Dimitri Tsulaia, appeared at the entrance of the plant at 20:30 to carry out their night-shift. Their names had already been posted upon the door and the security did not let them enter the building.

**10 September 2011**: at about 14:00, the Head of the security service approached Malkhaz Gogiava again and asked him whether he had prepared a list the Director asked for. Gogiava was surprised and told him that he has never spoken about any list and did not know what he meant by a list. The Head of the security service explained that he meant a list with two columns

<sup>10</sup> Source: Georgian Trade Union Confederation, 2011

to identify those who refused trade unions membership and participation in the strike and a second one with disobedient workers. Gogiava has repeated again that he has not talked about this list with the Director and would never do such a thing.

The Head of the security service and the deputy Director asked Gogiava several times during the work whether the information on the strike for 13 September 2011 was true. Gogiava replied the it has been officially declared and it will take place as planned, unless the administration officially proposes negotiations with a written statement. The deputy Director had asked Gogiava to arrange a meeting with workers, to which he replied that if they wanted to speak to anyone, they had to address the striking committee and offered the deputy Director to take an official letter about the negotiations to the striking committee who could respond to such a letter. The deputy Director was irritated and said that he did not need to send official letters in order to talk to his workers and asked Gogiava about his personal position on the strike. Gogiava answered that a decision about the strike is in the common interests of the workers and he fully shared the opinions of his co-workers. He added that he objects to the dismissal of the workers due to their trade union affiliation.

At 20:30 in the evening, the members of the committee appeared in front of the entrance of the plant and started to disseminate information materials among workers. The security service seized the passes of the night-shift workers Amiran Tsholdaze, Jemal Gogelidze and Giga Skhirtladze and did not let them enter the building. When the day-shift finished, the security services also seized the pass from Malkhaz Gogiava upon his departure. To sum up, out of 11 strike committee members, 7 were dismissed, out of 3 audit commission members, 2 were dismissed and 7 ordinary members of the trade union primary organisation were dismissed.

Considering this list of dismissed workers it becomes obvious those 17 workers who were on duty for the 13 September strike were all fired. And it has to be concluded that the plant management disturbs the commencement of the legally declared strike and dismisses the leaders of the strike after the start of striking procedures and with that deliberately violates relevant legislation.

### **On 13 September 2011, the workers of the Hercules metallurgical plant went on strike.**

The demands were clear: the end of anti-union activities and firing of workers due to their trade union affiliation, the plant management must honor the constitution and legislation of Georgia, recognise the trade union at the plant and immediately start negotiations with the striking committee in order to address all the issues and make concrete steps for the improvement of the unbearable working conditions at the plant and return the suspended wages and overview the indexation of salaries accordingly to latest inflation in Georgia.

As a result of the strike, all industrial processes at the plant were stopped and the plant management tried to replace the workers with temporary workers. Furthermore, the management attempted to mislead the public by stating that manufacturing processes at the plant were undisturbed. However, they refused media representatives from entering the plant to check whether it was working or not. According to insider information, the plant stopped and the company is losing substantial income.

Soon after the commencement of the strike, two workers, Gocha Darjania and Malkhaz Gogiava, decided to go on hunger strike and there was a camp organized for them. However, the police appeared and dismantled the camp without explaining the reason. After the police returned the camp it was damaged and could not be used any longer. Gocha Darjania and Malkhaz Gogiava continued their hunger strike inside a car, specially provided for them.

**15 September 2011:** at around 9:15 pm a car with the Governor of Imereti, Mr. Lasha Makatsaria, followed by approximately fifty police vehicles suddenly showed up. The governor's car was allowed into the plant. Then, after a few minutes, the police jumped out of their cars and descended on around 120 strikers who were protecting the hunger strikers. The hunger strikers were immediately taken into custody. Between 35 to 40 workers were arrested. The GTUC has been trying to reach the Georgian Minister for Labour, who refuses to pick up the phone.

**16 September 2011:** all of the workers arrested the day before have been released, BUT the

plant management and the police were harassing night shift workers threatening them to come to work or they would be arrested. In some cases, the management went to the homes of the night-shift workers accompanied by the police and the workers were told to either go with them or be arrested. Many workers were brought by the police to work. One of those workers, David Vachadze, reported to the trade union that after he had received a phone call from the management, he was told by a supervisor that if he did not come to work, the police would have gone to his home and taken him to work.

Malkhaz Gogiava, one of the hunger strikers, reported that during his detention and interrogation by the police that although the police did not beat them, they lectured them that they should not be doing what they were doing, that what they were doing was wrong, that they should not be speaking with workers who wanted to go to work, and they should stop trying to persuade those workers from joining the strike. The police handed them letters to sign. These letters said that they (workers) would not

strike any more, that they would not participate in any protest or demonstrations and that they would go back to work (although almost half of them had been fired for more than two weeks). They were forced to sign these letters.

It should be mentioned that none of the government officials have made any comment about this unlawful act by the police. The Vice-Mayor of Kutaisi commented only: *"I confirm that some workers have been dismissed by the administration due to their disciplinary wrongdoings. Any investor will have maximum assistance by the government of Georgia, because our priority is clear to create more jobs for local workforce"*. We shall assume that this is an official comment of the government of Georgia that attempts to mislead the public once again and blame workers for exercising their constitutional rights.

By the time of the launch of this paper, the management has made promises to reintegrate the dismissed activists and to engage into negotiations, but this has not happened yet.

## V. Conclusions

Despite the ratification of both “core” ILO conventions on trade union rights as well as an additional number of conventions in other areas of labour and workers rights, **the protection of those rights is not guaranteed, if at all available. The 2006 Labour Code was severely reduced workers’ basic trade union rights through its limitations on freedom of association and the right to organise** by raising the threshold for establishing a trade union excessively high. There are severe restrictions on the right to strike; solidarity strikes are prohibited and in practice, trade unionists receive threats and intimidations and face dismissals without explanations. The Labour Code and the authorities provide insufficient protection against anti-union discrimination and the law gives a de facto green light to union busting and the marginalisation of collective bargaining. Furthermore, the government and corporate management are directly interfering in trade union affairs in the education and railway sectors. Moreover, the government’s publicly demonstrated approach towards unions has provided strong incentives for private employers to follow suit at the workplace and in individual labour relations.

**The Georgian government does not respect its commitments under the EU GSP+ trade preference system and must change its approach respecting the GSP+ and the EU association process:**

- The Labour Code of 2006 must be brought into line with ILO core labour standards and conventions if Georgia is to live up to its international commitments to respect workers’ basic human rights.

- The Labour Code needs to be modified in close consultation with the ILO as well as workers and employers’ organisations, on the basis of the Tripartite Agreement signed on 16 December 2008 that should bring the national legislation in line with international labour standards and expand cooperation with the ILO.
- All the attacks on GTUC structures and interference in union affairs must be stopped. The Georgian government must intensify its efforts to actively prosecute cases of anti-union discrimination and increase the penalties to an adequate level.
- The Georgian government must effectively promote collective bargaining in the public sector and fully recognise workers’ right to strike by allowing strikes also when there is a conflict of interests.
- The Georgian government should reinstate the labour inspection service to ensure that labour law applies equally to all employers and workers, and guarantees them healthy and safe conditions at work.
- The European Commission, Council of Ministers and the European Parliament should exert more scrutiny in the frame of the GSP+ system to further promote core human and labour rights in Georgia.