

**Fourth Study Commission
Public and Social Law**

QUESTIONNAIRE 2009

AGE DISCRIMINATION

Report of GEORGIA

The Constitution of Georgia, Labour Code of Georgia, Georgian Code “On Public Service” and etc. guarantees and regulates labor rights and relationships in Georgia. Besides, Law “On Public Service” regulates labour relations at public service.

- 1.a. General, are there rules against age discrimination which have constitutional status? What do these rules say precisely, and how do they work at lower levels of law making?

Pursuant to the Article 2, part 3, of Labour Code of Georgia, any kind of discrimination due to race, color, language, age and etc. are forbidden in labour relations.

- 1.b. Which international agreements and conventions dealing with age discrimination has your country ratified ?

European Social Charter (amended) Strasbourg, 3.V.1996) – is ratified by provisions #1876, July 1, 2005 by Georgian Parliament.

1. c. What are the main sources of law against age discrimination ?

1. d. Are collective agreements bound by this provisions ?

Collective agreements are not bound and are based on the same principles as individual agreements.

1. e Which groups are protected by these provisions, young employees, older employees or is it just forbidden to consider age as a decisive factor for working conditions ?

According to the Articles 4, 17, 18 and 19 of Labor Code of Georgia, it's forbidden to conclude a labor agreement with under age person, pregnant or breast feeding woman for implementation of serious, unhealthy and dangerous work. It is restricted to hire pregnant, or recently lying-in woman, or disability person for overtime job (particularly, when the hired person has to work after the established, by the contract working hours) without her/his agreement. It is forbidden to conclude an agreement with under age person, pregnant, recently lying-in, or breast feeding woman for night work (22p.m. to 6 a.m.) or without agreement of disable person and nurse of three years old baby. Employee, who is breast feeding and feeds baby under one year, pursuant to her request,

is given one hour additional break.

2. Please specify, what are the criteria according to which it is determined that it is an unlawful age discrimination (i.e. relevancy of the age to the nature of the job) ?
3. Do you have provisions stating minimum or maximum age for hiring employees ?

According to the Article 4 of Labour Code of Georgia, natural persons' legal capacity origin from the age 16. The under age person till age 16, can be employed within the agreement of his/her legal representative if the labor relationship doesn't resist the interests of under age person and damage his/her physical and mental development. Under age labor agreement, till age 14, can be worked out only in sport, science and culture spheres, also in commercial activities.

According to the Article 15 and 16 of Georgian Law "On Public Service", a person can be appointed as public servant from the age 21, concerning the local government servant - 18. Pursuant to the Article 50 of the same Code, age-limit is determined within 65 years at public service.

4. Do you have provisions stating minimum or maximum age for entering pension funds systems ?

According to the Articles 5 and 6 of Georgian Law "On State Pension", men after age 65 are granted with pension and women – after 60.

According to the Article 50 of Georgian Law "On Public Service", the retirement age, for public servant, is determined from 65.

5. Have you got collective regulations or statutory provisions, which give certain protections or certain allowances only if the employee has achieved a certain age ? Describe them.

The State determines the issue regarding the setting of academic allowance for social guarantees of Georgian citizens according to Georgian Law «On State Compensation and State Academic Allowance» through passing the special service, attainment of corresponding age, due to death and limitation of possibilities. Besides, according to the Article 6, part fifth, of Georgian Law «On State Pension», the receipt of the state compensation/academic allowance determined by Georgian Law «On State Compensation and State Academic Allowance» excludes the receipt of pension.

6. Does the computation of wages depend on the age of the employee ? Describe this.

The computation of wages do not depend on the age of the employee. According to the Article 31 of Labor Code of Georgia, the form and quantity of wages are determined by labor agreement.

7. Does the duration of holiday or the pay during sickness depend on the age of the employee or on seniority or both ?

The duration of holiday or the pay during sickness is equal for all workers.

8. Are there any provisions for elder employees, which entitle them to a reduction of

working hours ? Describe them.

No

9.a. Is it allowed to terminate an employment relationship (dismiss), due to the employees age ? If Yes –which age ?

b. Is it allowed to terminate an employment relationship (dismiss), because the employee is entitled to get an old-age pension ? If Yes –at which age ?

Pursuant to the Articles 101 and 50 of Georgian Law “On Public Service”, public servant can be dismissed from the position after attainment of age 65.

10. Have you got provisions in your labour law system, which have the purpose to promote the vocational integration of unemployed older employees or young employees and in order to do so weaken their statutory protection ?

For instance are there provisions which authorises the conclusion of fixed-term contracts of employment once the worker has reached a certain age? Do such provision exist for certain groups of employees ?

No

11. Have you got provisions which give special statutory protection in order to prevent the termination of employment contracts of older or young employees ?

No

12. What are the rules governing the burden of proof ?

Pursuant to the Article 17, part two, of Administrative Procedural Code of Georgia, in case of appeal of Administrative-Legal Act, the burden of proof is imposed on Administrative Organ, who issued the Act.

13. Are there any administrative or criminal penalties ? Please give details.

According to the Article 42 of the Code of Administrative Offences, violation of labor legislation and rules of labor by officials of organization, institutions and enterprise gives rise to fine by the rule of administration.

According to the Article 42⁴ of the same Code, violation of labor rights of under age person by employer, envisages fine by the rule of administration.

14. What are the most common cases at court regarding age discrimination?

Final remarks : At the conference we also want to discuss the practical impact of age discrimination (How prevalent is age discrimination in your country? Are there any studies on this subject? Can you estimate the economic loss - if any - following age discrimination in your country, especially following the employment or non-employment (termination) of experienced elder workers?

There are no age discrimination facts spread in Georgia, correspondingly the above mentioned issue isn't under discussion.