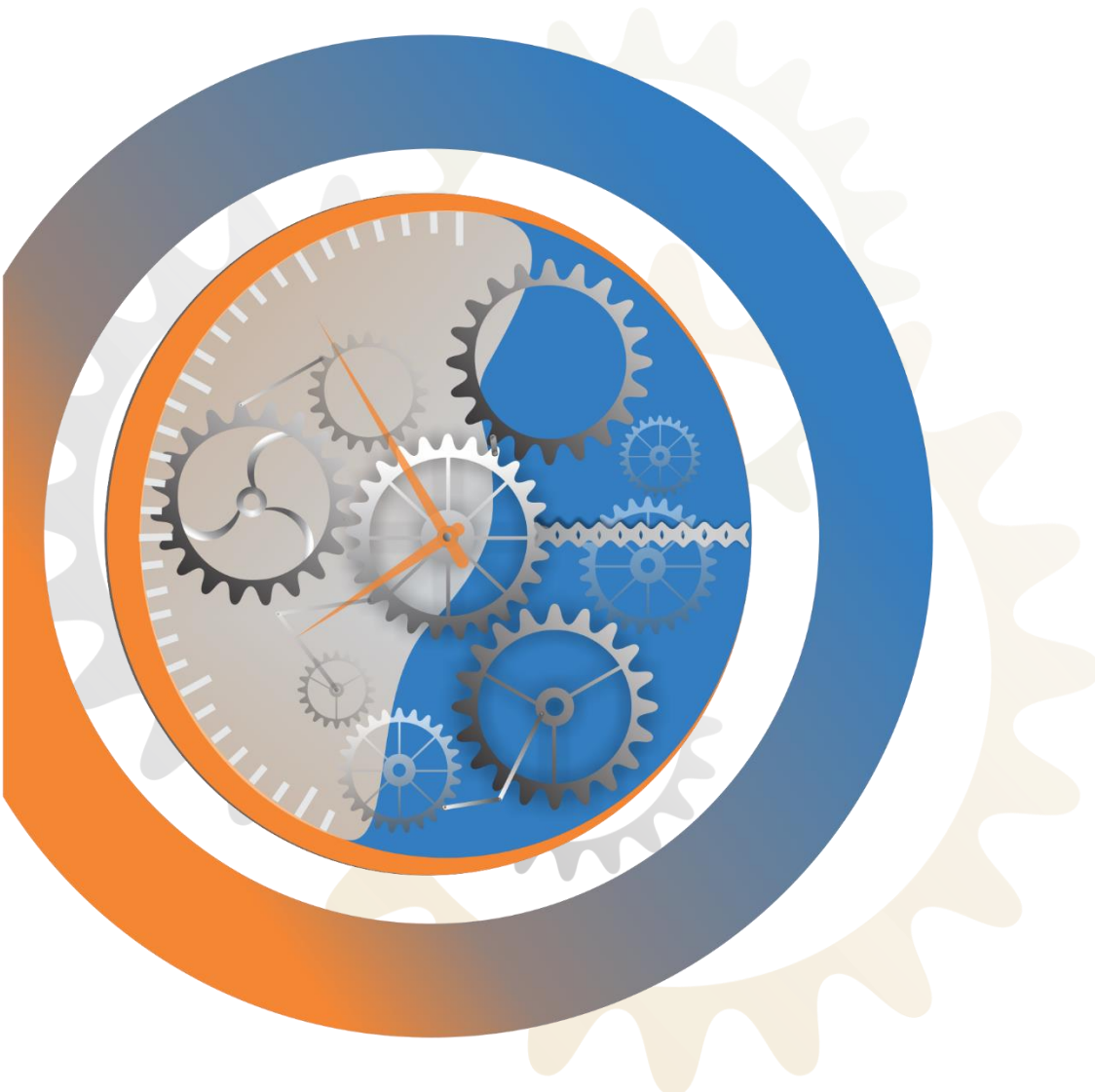
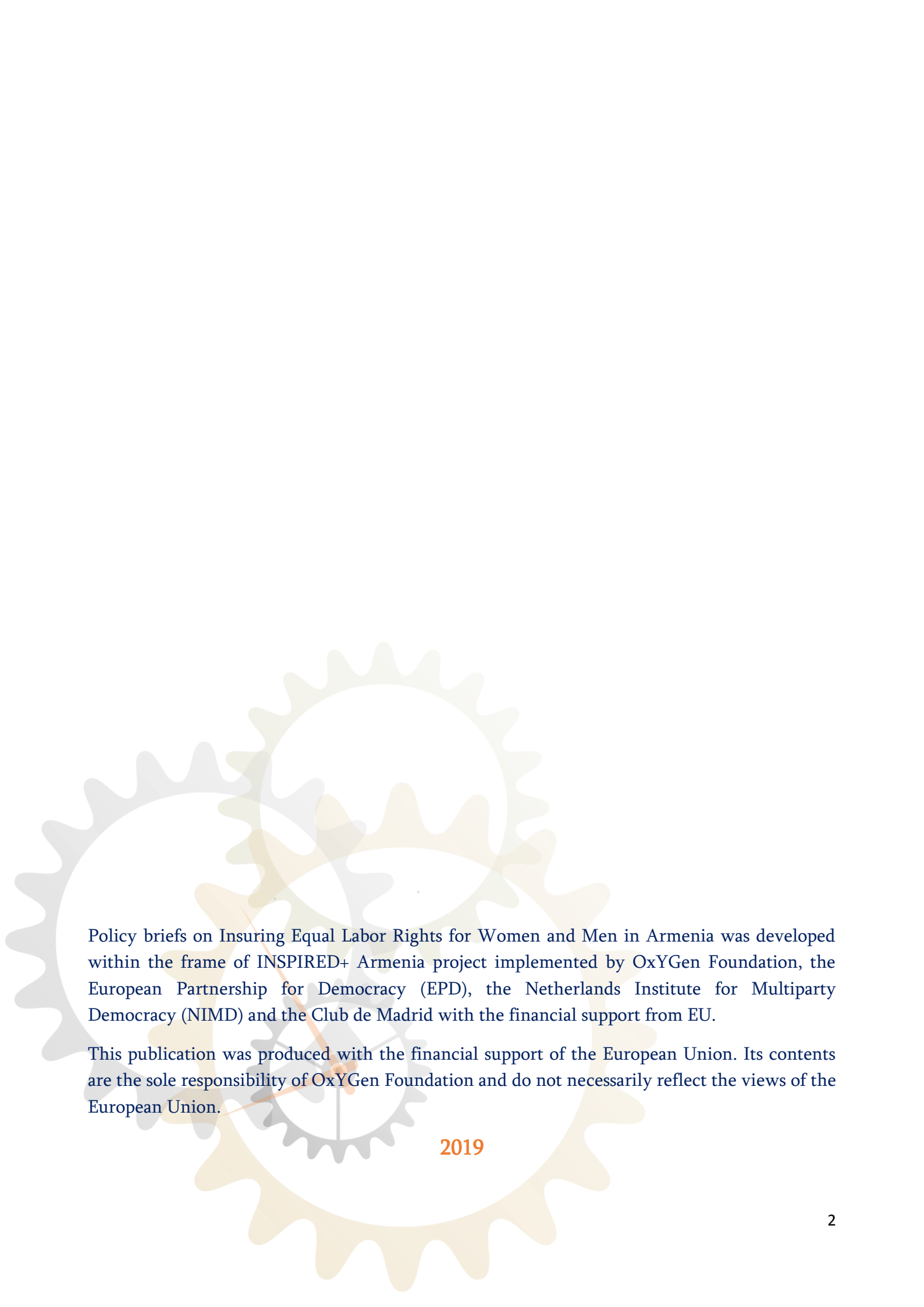


# POLICY BRIEFS ON INSURING EQUAL LABOR RIGHTS FOR WOMEN AND MEN IN ARMENIA





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# CONTENTS

## 1. LABOR RIGHTS STATUS IN ARMENIA: WOMEN IN LABOR MARKET, CHALLENGES AND SOLUTION

1.1	WOMEN'S LABOR RIGHTS IN ARMENIA.....	4
1.2	ANALYSIS OF STATE PROGRAMS TARGETING THE REDUCTION OF UNEMPLOYMENT AND EMPLOYMENT PROMOTION AMONG WOMEN.....	11
1.3	NO RESPONSIBILITY WITHOUT GENDER DIVERSITY: CSR AND GENDER MAINSTREAMING IN THE REPUBLIC OF ARMENIA.....	15

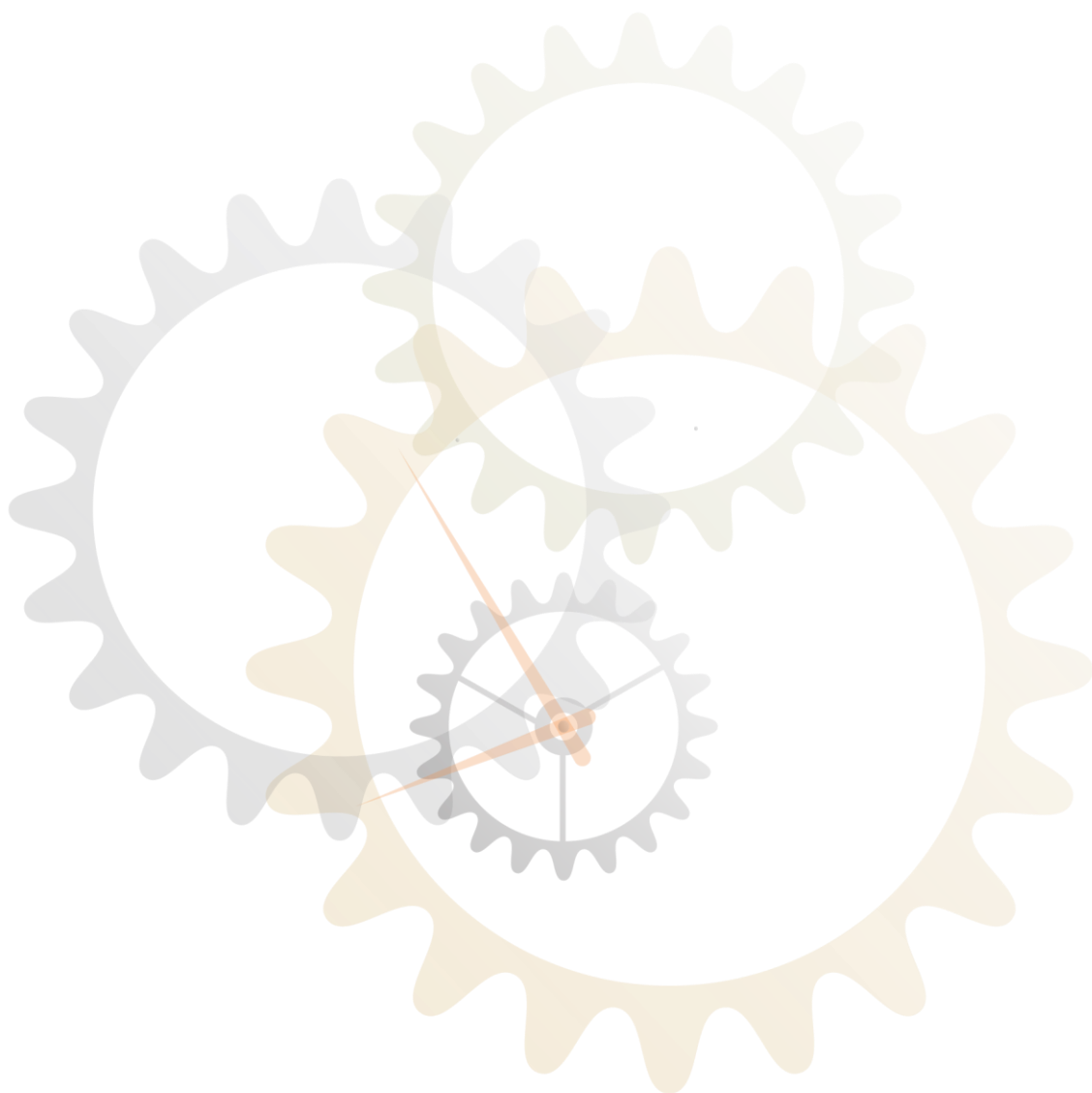
## 2. RECOMMENDATIONS FOR SYSTEM REFORMS TOWARDS ENSURING EQUAL LABOUR RIGHTS FOR WOMEN AND MEN IN ARMENIA

2.1	THE LEGISLATIVE FIELD FOR REGULATION OF LABOR RELATIONS AND RIGHTS PROTECTION: ISSUES AND OPPORTUNITIES.....	22
2.2	THE EFFECTIVENESS OF STATE OVERSIGHT OF LABOR RIGHTS PROTECTION .....	30
2.3	MECHANISMS FOR LABOR RIGHTS PROTECTION IN THE REPUBLIC OF ARMENIA.....	40
2.4	THE EFFECTIVENESS OF THE JUDICIAL PROTECTION OF LABOR RIGHTS ...	46
2.5	OBSTACLES TO AND PROSPECTS FOR DEVELOPMENT OF SOCIAL PARTNERSHIP.....	53
2.6	TRADE UNIONS IN ARMENIA.....	61
2.7	ISSUES RELATED TO ACTIVITIES OF TRADE UNIONS .....	66

## 3. EXPERIENCE OF THE EASTERN EUROPEAN COUNTRIES ON INSURING EQUAL LABOR RIGHTS FOR WOMEN AND MEN

3.1	GENDER PAY GAP AND EDUCATIONAL CHOICES OF GIRLS.A CASE OF BASIC VOCATIONAL EDUCATION .....	73
3.2	EMPOWERING WOMEN IN THE LABOUR MARKET, IN THE SOCIETY – CHANGING ROLES – CHANGING ATTITUDES – A (HALF) SUCCESS STORY.....	82
3.3	GENDER EQUALITY IN THE CZECH REPUBLIC .....	93

## WOMEN'S LABOR RIGHTS IN ARMENIA



## INTRODUCTION

*Gender analyses in the area of labor and employment in Armenia demonstrate that, in spite of a high educational level of women, their contribution to the economic development of the country is much lower than their actual potential. In practice, women hardly influence political decision-making and are, in overall, involved in the processes of governance and development not to the satisfactory extent. This situation is characterized as an ineffective use of human resources and directly affects the development processes and competitiveness of the country.*

*A direct link between gender imbalance and the country's competitiveness is also revealed by Gender Gap Index (GGI), which is calculated by World Economic Forum (WEF) in four key areas: economic participation and opportunities, politics, education and health care,<sup>1</sup> reflecting the differences that exist between the opportunities for women and men in each of the noted areas. In 2018, Armenia ranked 98<sup>th</sup> among 149 countries of the world by its gender gap index.<sup>2</sup>*

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## CURRENT SITUATION

The obstacles that women confront with in the labor market lead to not full utilization of the human capital and economic losses not only for women and their families, but also for the entire society.

In Armenia, only half of the women is participating in the labor market, which is an 18% lower indicator as compared to men. One of the reasons for this gap is women's role as household guardians imposed on them by gender norms. The main obstacles to women are often caused by the difficulty of reconciling family care duties with work, which leads to low participation of women in the labor market and employment area, their low incomes and other manifestations of inequality.

Discrimination by employers is an additional factor for limitation of women's participation in the labor market. Although the principles prohibiting discrimination are provided in the RA Constitution and the Labor Code, it is not always that they are applied. The existence of discrimination can, to some extent, explain the continuity of gender gaps in Armenia.

### Employment

Women account for 55% of labor resources, however, economically active is 52.8% of women and 70.7% of men. The gender gap in the level of economic activism of women and men in the 25-34 age group is 40%, which is primarily conditioned by women's family duties (pregnancy, childbirth, care of children and other members of the family, etc.)<sup>3</sup>.

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<sup>1</sup> The Global Gender Gap Report measures the size of the gender inequality gap in four areas: Economic participation and opportunity (salaries, participation and leadership), Education (access to basic and higher levels of education), Political empowerment (representation in decision-making structures), Health and survival (life expectancy and sex ratio)

<sup>2</sup>[http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf)

<sup>3</sup> Women and Men in Armenia, 2018, the RA Statistical Service, <https://www.armstat.am/am/?nid=82&id=2079>

43,5% of women and 57.9% of men are employed in the labor market. 31.8% of the employed women and 27.6% of the employed men have higher or postgraduate education<sup>4</sup>. Both women and men are primarily hired workers. The majority of employers and the self-employed are men, meanwhile, among the number of family members working without remuneration, women exceed men two times. More women than men are employed in the public sector of the economy. 34% of women and 18% of men are employed for a not full work-day, and this fact is primarily conditioned by the nature of work or its seasonality. Another widespread reason for this situation is the absence of possibility to work full day due to family responsibilities in case of women, and the inability to find a full work-day job in case of men.

Agriculture is the largest employment area in the republic, which provides jobs to about 31.3%

*The RA Constitution contains a number of very important provisions on prohibiting discrimination, ensuring equal rights and opportunities for women and men, as well as on promoting de facto equality between women and men, namely:*

- **Article 29. Prohibition of Discrimination**

*Discrimination based on sex, race, skin colour, ethnic or social origin, genetic features, language, religion, world view, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.*

- **Article 30. Legal Equality of Women and Men**

*Women and men shall enjoy legal equality.*

- **Article 86. Main Objectives of State Policy**

*The main objectives of state policy in the economic, social and cultural spheres shall be as follows:*

*(2) promoting the employment of the population and improving the working conditions;*

*(4) promoting actual equality between women and men;*

- **Article 87. Fulfilment of Main Objectives of State Policy**

*1. Within the framework of their competences and possibilities, state and local self-government bodies shall be obliged to fulfil the objectives prescribed by Article 86 of the Constitution.*

*2. Within the framework of the report provided for by Article 156 of the Constitution, the Government shall submit information regarding fulfilment of the objectives prescribed by Article 86 of the Constitution.*

of the employed. 53% of those employed in the area of agriculture are women, which makes women a very important participant in the agricultural development. Moreover, in the men's employment structure, the share of agriculture accounts for 28% and in the women's employment structure 35%. In fact, women create the greater part of the agricultural produce and they are the main guarantors of foodstuff supplies and household survival in rural areas. At the same time, women's employment in the area of agriculture is primarily non-formal, which allows describing women as representatives of the lowest-paid and socially unprotected segment of the labor market. In rural areas, women head 27.3% of households<sup>5</sup>.

Women-headed households are more vulnerable in terms of the lack of agricultural machinery, difficult access to land plots, problems with irrigation possibilities and issues related to financial means.

<sup>4</sup>Labor Market in the Republic of Armenia, 2018, the RA Statistical Committee, <https://www.armstat.am/am/?nid=82&id=2106>

<sup>5</sup> Social Snapshot and Poverty in Armenia, 2018, the RA Statistical Committee, <https://www.armstat.am/am/?nid=82&id=2095>

Young people (16-30 age group) continue to remain a stable vulnerable group in the labor market with the economic activism at 47.9%, 30.3% low level of employment and 36.7% high level of unemployment. According to the 2017 data, almost 46% of the female youth in the age group of 15-29 and 23% of the male youth of the same age group did not study anywhere and did not work<sup>6</sup>.

*The RA Law on Ensuring Equal Rights and Equal Opportunities for Women and Men contains certain provisions on elimination of discrimination against women in the labor market. The law incorporates, to the maximum extent, a number of requirements of the UN Convention on the Elimination of All Forms of Discrimination against Women. In particular, the law fixes the concept of “gender discrimination,” regulates the issue of ensuring equal rights and equal opportunities for women and men in the areas of politics, public administration, work and employment, business, health care, and education, provides for the possibility and procedure for protection of citizens from discriminatory manifestations based on sex, as well as responsibility for discriminatory practices.*

## Gender Pay Gap

Overall, the gender situation in Armenia’s labor market is characterized by vertical (unequal accessibility to career growth) and horizontal (according to professions and employment areas) segregation, which leads to a significant gender pay gap.

According to the 2017 data, in the Republic of Armenia, women’s average monthly nominal salary (earnings) made up 67.5% of that of men, or the gender pay gap stood at 32.5%. Over the past ten years, this gap has decreased only by 8.3 percentage points. Due to the difficulties in women’s professional advancement, the high educational level does not always mitigate the

gender pay gap.

The vertical segregation holds even in the areas of employment, which are considered traditionally feminine, such as health care, education, culture, and agriculture. Men occupying managerial positions exceed women by 2.4 times. Women are more engaged in jobs requiring higher (59%) and medium-level (58%) qualifications than men.

The surveys conducted in the republic have revealed that the public opinion justifies the gender pay gap between women and men, believing that men’s salaries should unconditionally be higher than those of women since women can otherwise use this circumstance by displaying “disobedience” in family relations<sup>7</sup>. In this respect, the authorities do not carry out any agitation activities and it contributes to the maintenance of gender stereotypes and their further spread.

There are gender differences also in the amounts of pensions, although the RA Law on State Pensions has set the age of 63 as a common start age for pensions for both women and men. In 2017, the average pension amount was 39,226 drams for women and 42,822 drams for men.

<sup>6</sup> Women and Men in Armenia, 2018, the RA National Statistical Service, <https://www.armstat.am/am/?nid=82&id=2079>

<sup>7</sup> National Center for Scientific Research, Gender Barometer of Armenia, Yerevan, 2015, <http://www.yasu.am/files/Gender%20Barometer.Armenia.English.pdf>

## Economically Not Active Population

34% of the economically not active population are men, and 66% are women. The gender

*By introducing amendments to [the RA Law on Employment](#) adopted in December of 2017, the first step has been taken towards creation of opportunities for women to reconcile family duties and work. In particular, according to the noted amendments to the law, programs will be implemented to organize young children's care and to increase the competitiveness of young mothers. The State is trying to create opportunities for return of women with children under two to the labor market, proposing to reimburse to mothers, on a co-payment basis, the costs of nannies for children under two, by paying up to 55 thousand drams per month. However, some details that came to the fore during the presentation of the program significantly reduced the initial excitement about the idea of "nanny at the expense of the state" since it came to light that at the initial stage, the state is ready to take care only of a portion of salaries of nannies for only 200 women.*

difference is especially high in the 25-49 age group (57.4%-65.6%), which is also primarily conditioned by women's family responsibilities: pregnancy, childbirth, child care, household workload, etc.<sup>8</sup>

The greater part of the economically not active women are housewives. In 2017, 47% of women in the 15-75 age group had no jobs and did not look for one, being primarily busy with household duties. In households, women perform the greater part of unpaid work, which does not receive any value (monetary) assessment and is not reflected in the national accounts system. At the same time, about 40% of the economically not active women have higher or vocational education<sup>9</sup>.

The state support means for reconciling family duties with career are unsatisfactory, which is attested by the fact that 99% of the unemployed due to family circumstances are women.

The enrolment of children in pre-school institutions (from 0-5 age group population) is 30%: 35.6% in towns and 17.2% in villages. Especially low is the enrolment among children in the 0-2 age group making up only 4.8%.

Studies demonstrate that if more women worked in Armenia by their profession instead of limiting themselves to the status of a housewife, were it by their will or against their will, Armenia's Gross Domestic Product, GDP, would be at least 50-60 million dollars more.<sup>10</sup>

## Obstacles to Finding Jobs

According to the data of the time budget study conducted by the RA National Statistical Service in 2008, women spend five times more time on unpaid work (household affairs and family care) than men do. Paid work does not free up women from household work to the same extent as men. Consequently, as compared to men, women perform a larger volume of work. Men spend three times more time on paid work and have almost 30% more free time than women.

Both women and men note lack of workplaces as a primary obstacle to finding a job. The second obstacle is lack of required work experience for women and low wages for men. This

<sup>8</sup> Women and Men in Armenia, 2018, the RA National Statistical Service, <https://www.armstat.am/am/?nid=82&id=2079>

<sup>9</sup> Labor Market in the Republic of Armenia, 2017, <http://www.armstat.am/am/?nid=82&id=1994>

<sup>10</sup> Diagnostic Study of Discrimination against Women in Armenia, UNFPA, 2016, <http://armenia.unfpa.org/hy/node/7000>



fact indirectly proves that women's expectations in terms of work remuneration are lower than those of men. Women make up a substantial majority (69%) among those who have lost hope to find a job and are not even looking for one. The intention to leave the country plays a larger role among the causes of not working in case of men.

## The Right to Work

The RA Labor Code was adopted on November 9, 2004 and came into force on June 21, 2005. Since its going in force, amendments and additions have been introduced for 23 times since the law enforcement practice demonstrates that there is a necessity for continuous improvement and perfection of the Code's provisions<sup>11</sup>. The gaps and deficient legal regulations in the RA labor legislation cause serious problems for development of labor law and protection of labor rights:

- A number of rights and institutions envisioned in international documents ratified by the Republic of Armenia, including *Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Revised European Social Charter, the UN Convention on the Elimination of All Forms of Discrimination against Women, and ILO Conventions*, are not reflected in or are poorly regulated by national legislation. In particular,
- *The national legislation does not secure **the right to work**, instead, the freedom of choice of work is declared, which means that the state does not envision any guarantees for ensuring every person's right to work.*
- *The national legislation does not secure **the right to dignity at work** but defines that time limitation for claims does not apply ... in case of workers' demands for honor and dignity protection.*
- *The national legislation only partially secures the right to dissolving employment contracts on lawful grounds, equal accessibility of the workplace and exclusion of discrimination, prohibition of forced labor, protection of claims/lawsuits in the event of the employer's insolvency, as well as the right to a safe and healthy work.*
- *A number of provisions guaranteeing human rights and prohibition of discrimination and sexual harassment at workplace are missing.*
- *Legislative guarantees for the labor rights of pregnant women and women having children, as well as for women's reconciliation of family duties and work are deficiently formulated.*
- *The RA legislation does not create sufficient grounds for women's reconciliation of work with family care duties.*

<sup>11</sup> "The legislative field for regulation of labor relations and rights protection: issues and opportunities" policy brief by Heriknaz Tigranyan, 2019

## CONCLUSION

Based on the analysis of women's labor rights in Armenia and the gender situation in the labor market, one can conclude the existence of the following problems:

- De jure and de facto disparity of women's labor rights in the Republic of Armenia;
- Discrimination against women in the labor market;
- Lack of opportunities for reconciling work and family duties;
- The problem of developing women's businesses;
- Lack of mechanisms for labor rights protection;
- Gender-blindness of the laws and programs in the area under consideration.

## RECOMMENDATIONS

### On improving women's labor rights and the gender situation in the labor market in the Republic of Armenia

1. To ensure the **prohibition of** discrimination defined by Article 29 of the RA Constitution and fulfillment of the requirements on promotion of de facto equality between women and men envisioned by Articles 30 and 86;
2. To implement the recommendations made within the framework of the Concluding Observations of the Committee on the Elimination of Discrimination against Women RA 5<sup>th</sup> and 6<sup>th</sup> periodic reports by introducing relevant amendments to the new strategic program and action plan of the RA gender policies, prioritizing objectives related to the socio-economic area;
3. To carry out gender expert analysis and mainstreaming of the labor legislation to ensure equal exercise of women labor rights;
4. To establish a body overseeing the implementation of the labor legislation;
5. To conduct awareness raising activities on the RA Law on Ensuring Equal Rights and Equal Opportunities for Women and Men for the purpose of agitation of and enforcing the provided opportunities;
6. To provide women with opportunities to reconcile family and professional responsibilities, to help creation of family models based on equal division of family duties and mutual respect;
7. To set quotas for the purpose of ensuring women's sufficient involvement in the upper levels of the management of private and state organizations, in the boards of state- and community-based companies.

**ANALYSIS OF STATE PROGRAMS TARGETING THE  
REDUCTION OF UNEMPLOYMENT AND EMPLOYMENT  
PROMOTION AMONG WOMEN**



*The employment strategy of the Republic of Armenia and the Employment Law of the Republic of Armenia serve as a guide for development and implementation of annual state programs on employment regulation.*

As noted by those responsible for the area under consideration, the goal of the annual program is **to create conditions for ensuring sustainable and productive employment to the population**. It shall target: (i) the mitigation of tension in the labor market, (ii) ensuring sustainable employment to and promotion of self-employment among persons non-competitive in the labor market through active employment programs (according to priorities), (iii) **increase of the employment level** of job seekers, and, in particular, **of people with disabilities, youth and women**, (iv) replenishment of vacancies announced by employers with qualified specialists, and (v) ensuring sustainable and productive employment to groups non-competitive in the labor market within the framework of integrated social services.

Taking into consideration the summary results of the situational analysis of employment in the annual program, as well as taking into account the objectives and targets defined in the employment strategy, the necessity of implementing programs aimed at reduction of the high level of unemployment among women was specifically prioritized, among other objectives, for 2018.

*For this purpose, in 2018 the following two new programs were introduced:*

**1) Organization of professional training at the employer organization for young mothers who are not competitive in the labor market and have no profession.**

The program covers young mothers of up to 30 years of age who are registered at territorial centers of the State Employment Agency, are not competitive in the labor market, are entering the labor market for the first time and have no professions.

Priority for enrolment in the program is given to those young mothers who are not competitive in the labor market and have no profession, and:

- ✓ Have three or more children
- ✓ Are single mothers
- ✓ Whose family receives a family allowance or social benefit.

If the number of non-competitive persons who want to get involved in the program exceeds the number of beneficiaries envisioned by the annual state employment program for a given year at a territorial center, the preference for enrolment in the program is given to those who registered earlier, in accordance with the order of registration.

For the entire duration of the program, the following is covered:

- ✓ Scholarships for the entire duration of the training of the persons involved in the program **in the amount of the minimum monthly salary provided for by the RA law to**

**cover transportation and other costs necessary for participation in the professional training, as well as to organize the care of their children.**

- ✓ Premium to the teaching specialist who organizes training at the employer organization in the amount of 20% of his/her average monthly salary for the previous year, but not more than minimum monthly salary provided for by the RA law, and in the event that the specialist organizing professional training is an individual entrepreneur, he/she is paid a monthly sum in the amount of 50% of the minimum monthly salary provided for by the RA law.
- ✓ A lump sum of 30, 000 drams to the employer to take care of the material costs (raw materials and other items of work) necessary for organization of professional training.

The duration of the program is up to six months.

The criterion for assessment of the effectiveness of the Program is that 50% of the trained women are employed/have found jobs.

*However, there is a concern related to the implementation of the Program that the amount of the minimum monthly salary that is paid as scholarship will not be sufficient for covering transportation and other costs necessary for participation in the professional training and at the same time (especially for single mothers) for organization of the care of their children, a circumstance, which can become a very grave discouragement for young mothers who have children.*

**2) Provision of assistance to persons who are on parental leave (for taking care of a child under three years of age) for organization of child care in parallel to work in the event of their return to work before the child is two years old.**

The program beneficiaries are persons registered at territorial centers **who are on parental leave for taking care of a child under three years of age and are returning to work before the child is two years old.**

On a monthly basis and no longer than for eleven months every year, beneficiaries are paid from the Republic of Armenia state budget a sum for care of each child under two, in the amount of 50% of the monthly remuneration as defined by the service provision or employment contract, but no more than the minimum monthly salary provided for by the RA law.

If the number of beneficiaries exceeds the number of persons envisioned by the annual state employment program for a given year at a territorial center, the preference for enrolment in the program is given to the following persons:

- ✓ Those whose average monthly salary does not exceed the average monthly salary in the Republic of Armenia in the previous year as published by the Statistical Committee,
- ✓ Those who are members of the families receiving family allowance,
- ✓ Those who have two and more children under two years of age,
- ✓ Those who have three and more children,

- ✓ Those who have a child with disability.

In the event of equality or lack of the above noted conditions, the preference for enrolment in the program is given to persons registered for a longer period.

*However, here a number of controversial (worrisome) circumstances arise:*

1. If it concerns the return to work of mothers who are on a leave for child care, ***preference should be given to those already having jobs.***

2. As far as members of the families receiving family allowance are concerned, first of all, it is necessary to enhance their competitiveness in the labor market ***through relevant training courses and then propose/ensure a sustainable long-term job with a salary above 100, 000 drams.*** Only after this, to suggest that they make use of the services of a nanny or a paid pre-school institution since the reasons for not working of representatives of the group mentioned in the Program are much more profound and diverse than just being busy with child care.

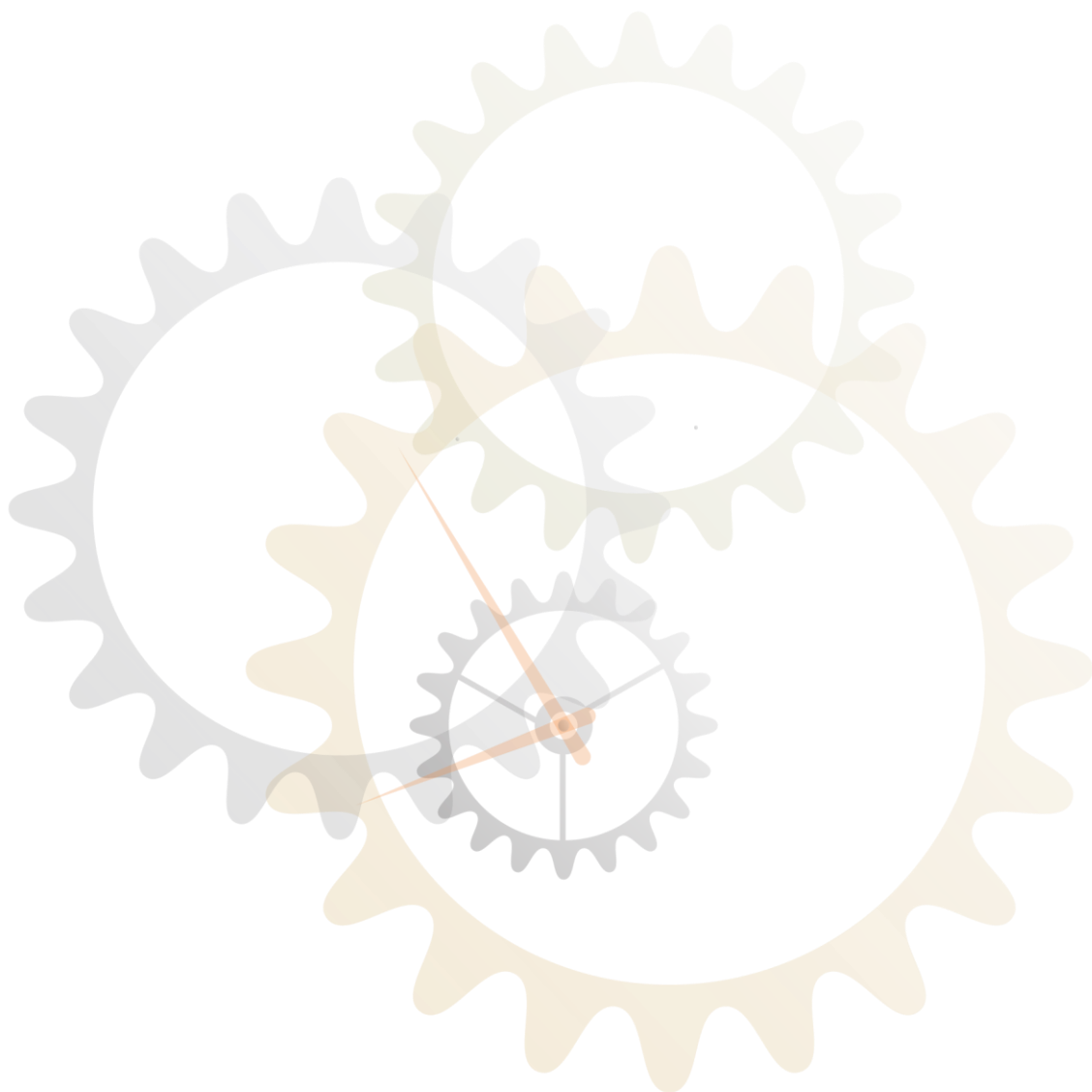
3. Limitations of mothers' salaries are not justified since, according to calculations, it is expedient to participate in the Program in those cases when mothers returning to work receive ***on average a net, actual salary of 200-250 thousand drams, i.e. salary after taxation,*** which will allow them to make use of the services of a paid pre-school institution or a nanny, at the same time paying the latter's income tax envisioned by the RA Tax legislation. Meanwhile, the amount of the average monthly salary in the Republic of Armenia in 2017, which has been published by the Republic of Armenia Statistical Committee and which was 194, 259 AMD (about 200, 000 AMD), ***is the amount of the untaxed, nominal salary.*** A revision of the limitations on the salary amounts is especially important and necessary in case of mothers who have a child with disability since the costs of a nanny or paid pre-school institution for children requiring special care are higher. The same is true about mothers who have three or more children because, besides paying nannies for their services, they also have to financially provide for their children. Unless the salary limitations are reconsidered, the Program, for the implementation of which rather scarce financial means are envisioned by the RA state budget, will not be well targeted.

4. Red tape is an additional obstacle to involving in the Program, conditioned by both subjective (for example, educational level, computer knowledge and skills, additional financial costs) and objective (time-consuming procedures) reasons.

Those responsible for the area under consideration note that they have initiated and put in circulation a draft law on introducing amendments to the RA Tax Code, which proposes tax privileges or complete tax exemption for nannies.

It is proposed to provide for a possibility of returning sums levied as taxes to the state budget, and to approve the procedure and time limits for return by a Government Decree.

**NO RESPONSIBILITY WITHOUT GENDER DIVERSITY:  
CSR AND GENDER MAINSTREAMING IN THE REPUBLIC OF  
ARMENIA**



## INTRODUCTION

Despite evidences that equal opportunities for women and men at workplace have a positive impact on company's financial performance and employer branding (McKinsey & Company 2018), statistics on the equality in employee's workplace environment (for example representation of women at the decision-making and managerial positions) in the Armenian business sector suggests that progress towards the integration of a gender perspective and awareness into the corporate culture has been too slow and therefore insufficient. As revealed by the research from Grant Thornton (2018) Armenia remains among countries with the significant disproportion between men and women in leading roles in companies. 17% of surveyed companies have no women in senior roles, while the general share of the senior leadership positions held by women accounts for 32%<sup>11</sup>. These figures reflect both the influence of socio-cultural roles on professional careers of women and the lack of awareness among employers and discriminatory practices. Fostering the gender equality at workplace both in private and public sectors and state-owned companies is a key factor for women's empowerment at different social levels. According to Asian Development Bank's Report about one-third of the employed Armenian population worked in the private sector, two-third of which in large companies. Given these figures as well as the increasing role of private sector as the place of employment of the Armenian labor force, special efforts – taken both by state and bottom-up initiatives of business itself and civic society – must be made in the terms of changing business model and introducing the diversity management to Armenian companies. Increasing a participation of women in the leading roles in business may cascade down and result in challenging existing stereotypes as well as introduce the female perspective to corporate culture which may have positive impact on addressing issues specific to female employees.

The aim of this brief is to track current gender mainstreaming practices in Armenian private sector especially in the context of emerging role of Corporate Social Responsibility (CSR) globally and locally. Corporate Social Responsibility is described by UNIDO as “management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders”<sup>12</sup>. Thus, CSR embraces all aspects of company's performance as a social and environmental actor both in relation to internal (employees at different levels) and external stakeholders (state, civic society, suppliers, business partners, population, etc.). Key internal CSR social issues – perceived as the most relevant in terms of promoting gender equality at workplace – include labor standards, transparency in recruitment and promotion process, employee-employer

<sup>11</sup> [http://www.grantthornton.am/press/press-releases-2018/Women\\_in\\_business\\_2018\\_IBR\\_gti/](http://www.grantthornton.am/press/press-releases-2018/Women_in_business_2018_IBR_gti/)

<sup>12</sup> <https://www.unido.org/our-focus/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/what-csr>



relations, gender balance, non-discrimination policies and human rights. Although CSR is seen as a form of self-regulation introduced voluntarily by company, in recent years due to the pressure from civic society and the efforts made by different social actors it has started to turn to mandatory schemes at regional, national and even transnational levels with specific standardization.

The policymakers and civic society organizations in Armenia should acknowledge and implement best practices of promoting CSR with the special interest in its social dimension and therefore facilitate the development of corporate culture as the program. Only systematic and multi-stakeholder approach can guarantee that CSR as an emerging idea in the Armenian context can tackle discriminatory patterns and introduce gender mainstreaming into business.

## Section 2: Study Findings

The analysis of the understanding of CSR concept in Armenia suggests the lack of understanding of the relevance of gender mainstreaming as a key element of the concept. The analysis of the policies of ten biggest taxpayers in Armenia reveals that HR departments, in most cases responsible for employee-company relations, do not embrace the diversity management and thus, companies' policies remain gender-blind.

“Enterprise Survey” presents the negative relation between the size of the company in terms of the employees' number and the representativeness of women at the highest level. In small companies with the number of employees lower than 20, 20,8% of the top managers are women. Among companies employing between 20 and 99 people, the percentage of women in leading positions is slightly lower and accounts for 20,3%. The biggest disproportion is seen in the large companies (100 and more employees) where only one in 14 top managers is female. Despite this situation, majority of the biggest Armenian companies has not introduced the Code of Ethics (a policy/document that may outline the companies' vision and mission, reflect the philosophy in employee-employer relations and precise core values for company). Similarly, none of the interviewed companies has implemented the separate document with anti-discrimination policy.

The analysis of CSR reports issued by biggest Armenian companies shows that gender issues are still perceived as irrelevant to companies' business performance. The lack of accurate attention to gender-related issues within companies' structure makes their policies not necessarily discriminative but rather gender-insensitive. For the time being only one company (MTS Armenia) adopted Global Reporting Initiative Standards and therefore considered the elements of gender perspective in their reporting. In the other CSR reports published by the biggest and most recognizable companies in Armenia, gender component is missed. Instead, CSR strategy is perceived in the narrow perspective mostly as external actions such as supporting communities, organizing ESV (employer-supported volunteering) and financing ecological projects. Similar approach is widespread in CSR handbooks issued by different organizations: gender issues and diversity management are not perceived as

relevant enough to be emphasized as a special problem. The unfamiliar nature of gender terminology and gender-related issues in the CSR handbooks partly explains why sex disaggregated data and gender statistics are lacking in CSR reports and business models. The main factor that impacts the perception of employee-employer relations in the terms of CSR is the relatively short history of the concept of business responsibility in Armenia as published materials are of introductory and not specified nature<sup>13</sup>. However, the introduction of gender mainstreaming at the current stage of the CSR development may contribute to the complex and systematic policy implementation in this area and may allow to escape from misunderstandings in the initial phase.

The special role in promoting comprehensive approach to the CSR concept and the promotion of equal rights is usually played by the CSOs. European Union facilitates the implementation of the culture of diversity management in the companies from member states by creating the EU Platform of Diversity Charters. The charters are usually launched by national NGO whose activity concerns the issue of human rights and business and have a capacity to manage the long-term program of promoting responsibility and diversity in management<sup>14</sup>. However, Armenian business sector still lacks similar initiative. Existing NGOs remain focused on promotion of small and medium-sized enterprises and social entrepreneurship as tools of (re)integration with labor market and improvement in employability among most vulnerable groups and often do not address the employee-employer relationships and rights of the currently working. Business-oriented non-governmental organizations, despite their involvement in promoting responsible management and value-driven business orientation, do not target the gender equality as a separate issue demanding special approach in their projects. However, the changes in business models and progressing internationalization make the concept of CSR and diversity management (with the concept of equality in a workplace as a key element) increasingly important also in the Armenian context. Therefore, existing business-oriented NGOs and other institutions with their experience and networks should be considered as partners in implementing further projects and initiatives toward gender equality in the workplace.

### **Section 3: Current Policy toward gender-related issues in CSR**

The major sources of labor law are the Labor Code of the Republic of Armenia (RA), and other RA laws regulating labor relations and sectoral collective labor agreements, and the equality in all spheres is guaranteed in the Law on Equal Rights and Equal Opportunities for Men and Women adopted in 2013. However, as the concept of CSR remains unfamiliar to most social actors, including policy-makers, there is no specific legislation covering this issue. The key factor for understanding the barriers in the implementation of the CSR strategy at national level is the voluntary character of CSR itself. The core of the CSR is to go

<sup>13</sup> <https://am.coca-colahellenic.com/media/3091/amcham-business-magazine-csr-in-armenia.pdf>

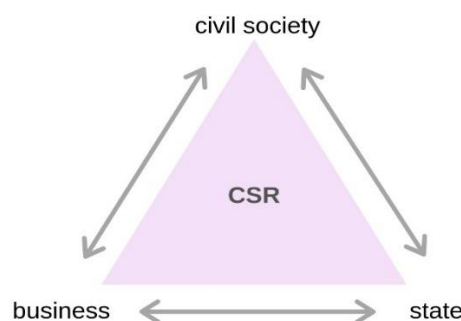
<sup>14</sup> Diversity charters by EU countries: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/tackling-discrimination/diversity-management/diversity-charters-eu-country\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/tackling-discrimination/diversity-management/diversity-charters-eu-country_en)

beyond the official legislation by doing more than is fixed in the law and regulations. The experience from other countries, however, shows that CSR has become an obligatory scheme for companies at different levels and that the state/regional governing bodies have begun to play a significant role not only in promoting but also demanding elements of corporate citizenship from private companies. State-supported system of incentives for responsible companies may guarantee the standardization and implementation of best practices as well as serve as a visible sign that state institutions are partners, decision-makers and creators of matrix for the change.

The role of the state policy toward enhancing CSR implementation in a multi-actor socio-political context is to create the friendly business environment for those companies whose business model addresses social problems and is mission-oriented. This does not mean simply introducing more policies or requirements which might discourage entrepreneurs and create new barriers to market entry. Joint efforts of business and state must navigate the systematic and proactive change and the crucial part of that must be showing to potential future leaders of different genders that this change is worthwhile and leads to maximization of company's stakeholder value in the long-term by putting social purpose in the center of business activity. Current political situation in the Republic of Armenia gives opportunity for the public officials to act as social and business innovators also in terms of reshaping the relations between sectors. Building a symbiotic partnership between private sector, public institutions and the representatives of civil society will turn the CSR concept from the marketing sphere into desirable philosophy of doing business.

#### Section 4: Policy Implications/Recommendations of Study

The promotion of diversity and proactive management as guarantors of gender equality in the workplace must base upon trilateral co-operation between different social actors: public institutions (state), civil society (trade unions, employees, NGOs and others) and business sector.



Constructive dialogue as a systematic approach will lead to creation of the environment for purpose-centered business which will allow not only to make short-term profit but also contribute to social and economic development of the society. The need for the diverse management should be vocalized by civil society and public institutions and internalized by

the private sector.

Gender mainstreaming in business should not be perceived as an additional and facultative element but as a core value of human resource management in the responsible company and ought to be formulated as one of the principles at the current stage of the development of CSR in Armenia. Therefore, **to create the working group** of business representatives (business chambers, companies), public officials and NGO sector, is the first step to formulate mutual expectations and work on the symbiotic strategy of the CSR development in Armenia.

NGOs should play a vital role in providing other partners with expertise in the context of human rights with a special focus on gender mainstreaming and protection of the rights of other vulnerable groups. Reinforcement of the social component, often omitted in cases when CSR is implemented in the narrow perspective, should be the main task for civil society. The **promotion of the comprehensive approach to corporate citizenship** requires close partnerships between business-oriented organizations and human and women's rights experts whose experience and knowledge should be introduced during trainings and courses.

The gender mainstreaming within business sector should focus on family-friendly policies and non-discrimination principles. The possibility of promotion and implementation of the further practices should be discussed: equal pay, non-discrimination in recruitment and transparency in promotion, additional paid parental leave, flexible hours, part time and remote working, introduction of quotas at managerial positions, subsidized childcare, publication of gender diversity data in CSR reports and introduction the gender mainstreaming as a core in Code of ethics and corporate culture itself.

The promotion of standardized reporting practice should allow to monitor the progress in gender mainstreaming. Therefore, it might be useful to promote globally recognized **GRI Standards** for sustainable reporting. Many international companies operating in Armenia may transfer their knowledge of reporting practices from different countries where CSR policy and annual publication of reports is required by national regulations. The special role in gender mainstreaming may play the 400 series of the GRI Standards (401-419) on an organization's material impacts related to social topics, with the special role of GRI 402 Labor/Management Relations, GRI 405 "Diversity and Equal Opportunity", GRI 406 "Non-discrimination" and GRI 412 "Human Rights Assessment"<sup>15</sup>.

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<sup>15</sup> Standards may be downloaded here: <https://www.globalreporting.org/standards/gri-standards-download-center/>

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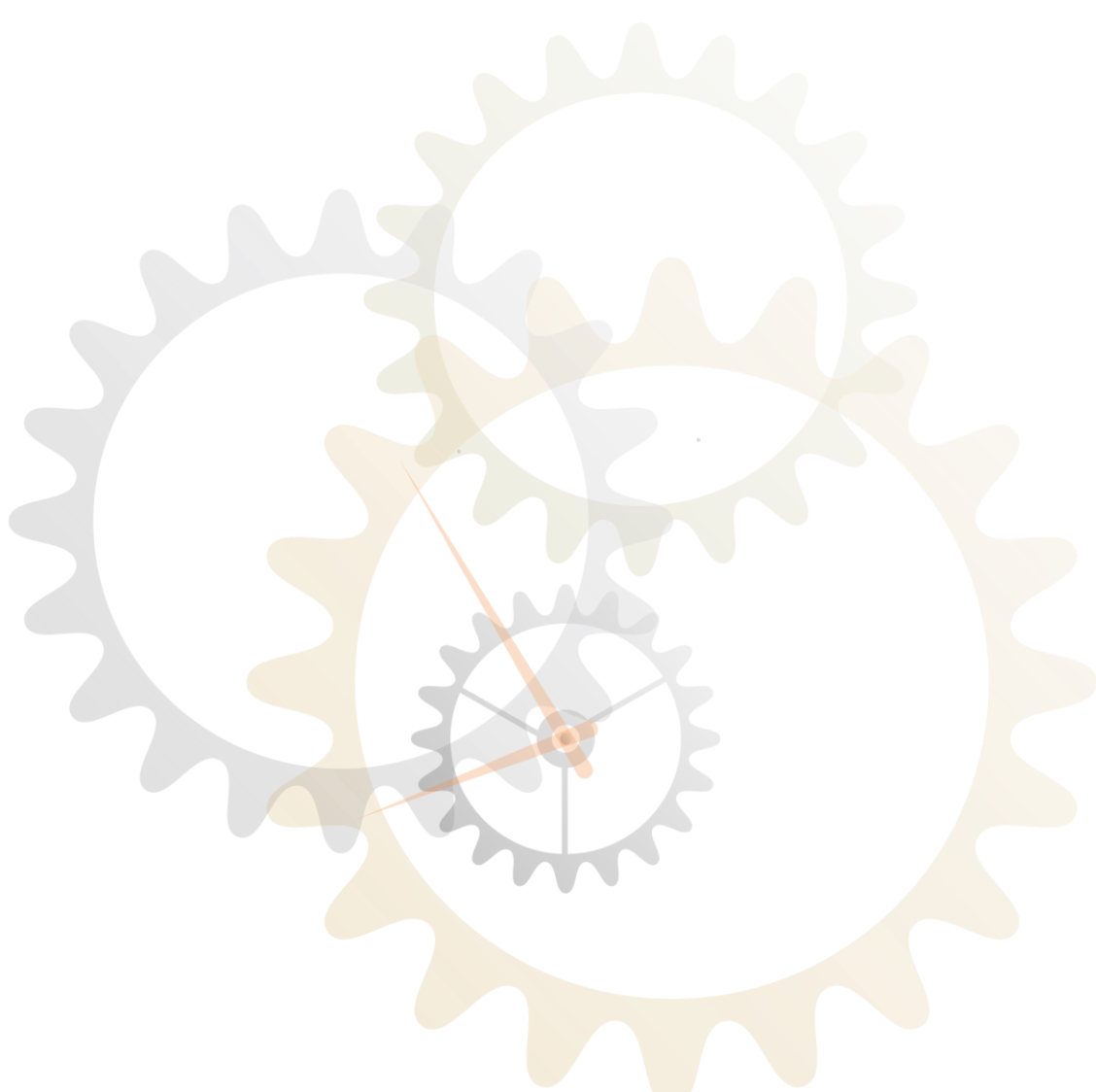
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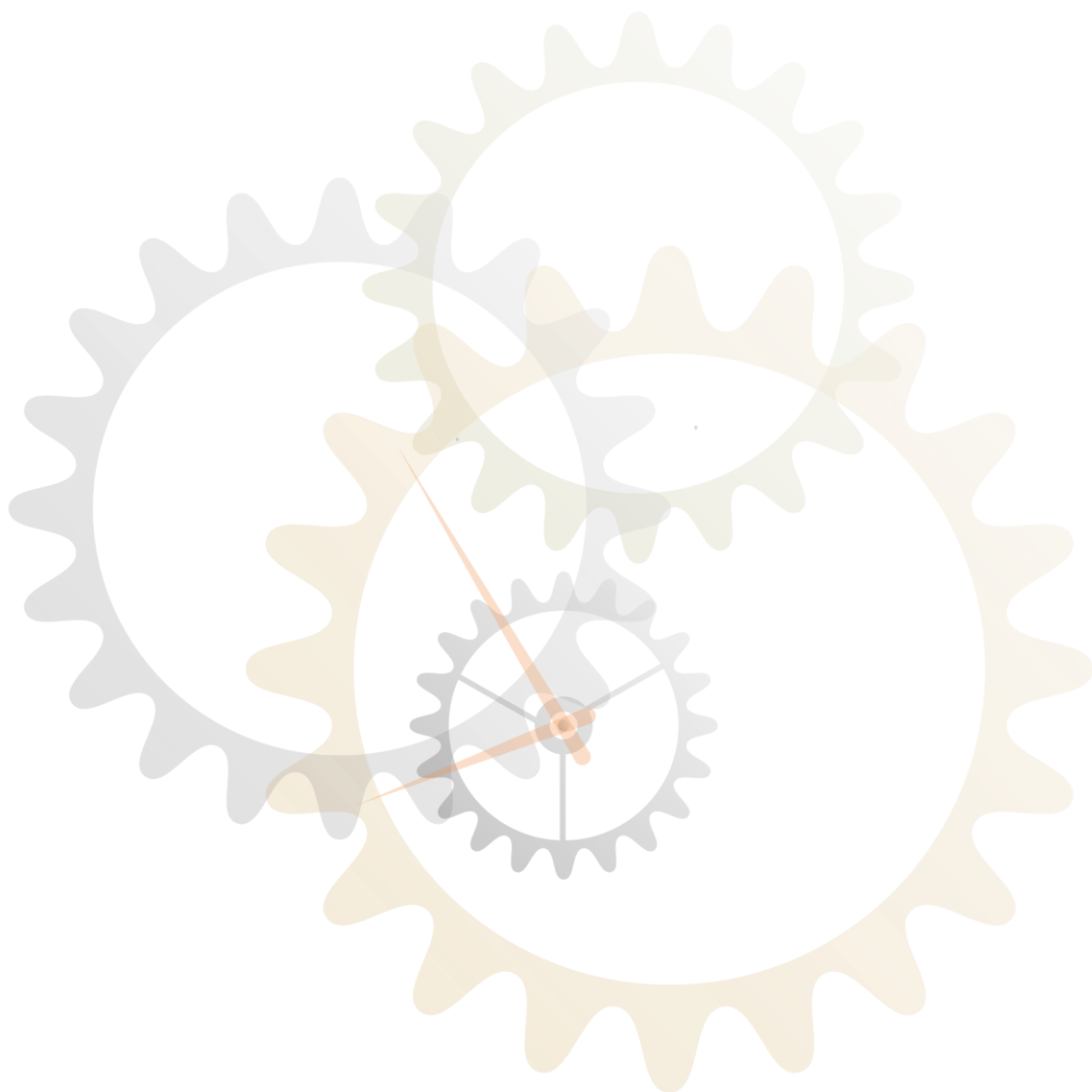
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**THE LEGISLATIVE FIELD FOR REGULATION OF LABOR  
RELATIONS AND RIGHTS PROTECTION: ISSUES AND  
OPPORTUNITIES**



## INTRODUCTION

Work is the only and irreplaceable condition of decent life of human being. It is one of the most important means of ensuring human being's satisfactory standard of living, self-development, and dignified existence. This determines the role of the right to work among the socio-economic rights and it is no less important than other rights, for example, the right to life, the right to education or the right to association, etc. Moreover, these days the right to work has become the most vulnerable and unprotected right. This is the reason that very often limitation of the right to work or threat of such a limitation compel the person to give up the exercise of his/her other rights, such as freedom of assembly, association, opinion expression, voting and other rights. Hence, the right to work as the only and main condition for human existence and all other rights should be protected by additional guarantees provided by the state.

The sources for labor rights are international agreements, the RA Constitution, the RA Labor Code (hereinafter the Code) and other legal acts containing norms of labor law. The RA Labor Code was adopted on June 9, 2004 and went into force on June 21, 2005. Since its going into effect it has been subjected to amendments and additions for 23 times since law enforcement practice demonstrates that there is a need for continuous improvement and perfection of the provisions of the Code. In addition, the national legislation does not clearly regulate or does not regulate at all some institutes of the labor right, and hence, there are legislative gaps, which give rise to a variety of interpretations and broad-based discretion during the application of laws, jeopardizing the guarantees for the protection of the right.

## CURRENT PROBLEMS AND OBSTACLES

The gaps and deficient regulations of the existing legislation cause serious problems for labor law development and protection of the right to work.

Comparing the RA labor legislation with the regulations provided in the international documents ratified by Armenia, we can confidently state that our legislation does not regulate or partially regulates a number of rights and institutes. In particular:

### **The Right to Work**

This right is secured by the Universal Declaration of Human Rights (Article 23), the International Covenant of Economic, Social and Cultural Rights (Article 6), the Convention on the Elimination of All Forms of Racial Discrimination (Article 5), the Revised European Social Charter (Article 2), etc. The comparison of the above noted norms makes it clear that the international acts first define the human being's right to work and then address the right to freedom of choice of work.

Meanwhile, the national legislation does not secure the right to work and instead declares the freedom of choice of work, which means that no guarantees are envisioned by the state for provision of the human being's right to work. That is to say, the state does not bear constitutional obligation to provide for the exercise of the human being's right to work, but

safeguards the freedom of choice among different jobs. However, having declared the freedom of choice of work as a constitutional right and key principle for state policies, the state, nevertheless, has not provided for those legal mechanisms which will rule out the unlawful limitations of this freedom by the employer, i.e. the employee's right to freedom of choice of work is not balanced out by the employer's duty to ensure this right. As a result, the person is often compelled to choose between work with uncontrollable demands set by the employer or work that does not require qualifications.

The necessity of securing this right at the levels of the constitution and legislation is apparent.

### **Prohibition of Forced Labor**

Although the national legislation contains norms guaranteeing prohibition of forced labor, including criminal responsibility, the term "forced labor" is not legislatively defined. Instead, Article 57 of the Constitution enumerates those jobs, which are not considered compulsory or forced labor.

The US Department of State's Trafficking in Persons Report 2010: Armenia (Tier 2 Group of Nations), which was published on June 14, 2010 states that "Armenian men and women are subjected to forced labor in Russia, while Armenian women are subjected to forced labor in Turkey"<sup>16</sup>. The report further makes a reference to the steps taken by the Government noting that the Government of Armenia does not fully meet the minimum standards for elimination of trafficking, however, it carries out significant activities towards that by raising the awareness of people on the threat of trafficking through campaigns.

Currently, a draft on amendments to the RA Labor Code is in circulation. One of the exclusively positive solutions contained in the draft is definition of forced labor.

### **Ruling Out Discrimination and Equal Access to Work**

Although the RA Constitution declares equality of all and prohibits discrimination on any grounds, this prohibition is not specified with respect to the right to work, as well as does not contain norms for equal access to work. Equal access to the work is not provided for in the Code either. The RA Labor Code secures prohibition of discrimination only for cases of regulating relations on work qualifications and definition of wages, leaving unregulated other labor relations, including relations related to hiring for work.<sup>17</sup> In fact, the right to access to work or the right of workers to equal, non-discriminatory possibility for that is not secured in the national legislation.

Although Article 3 of the RA Labor Code stipulates equality of rights and opportunities for workers, it refers only to persons already engaged in labor relations. The same article also secures the principle of legal equality of parties to labor relations, irrespective of their sex, race, nationality, language, origin, citizenship, social status, religion, marital status and family circumstances, age, beliefs or points of view, membership in parties, trade unions or non-governmental organizations, as well as of other circumstances not related to the employee's

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<sup>16</sup> See <http://armenian.armenia.usembassy.gov/news061510.html>

<sup>17</sup> Part 3, Article 180, the RA Labor Code



practical qualities, however, this norm refers not to workers, but to the parties of legal labor relations, i.e. to the employer and worker.

Under such a legal regulation, or more precisely, in the absence of legal regulation, employers are not constrained to define also other criteria unrelated to practical qualities of workers among other requirements presented to workers, for example, physical appearance, age threshold, etc., thus restricting the person's constitutional right to freedom of choice of work and the opportunity for equal access to work envisioned by international norms. Moreover, in case of violation of the right to work through the noted and similar limitations, the worker is also deprived of the opportunity for legal protection since in the absence of the proper basis for labor relations (employment contract or order), the person cannot be considered an employee and hence, does not enjoy the rights and responsibilities of workers defined by law. It is necessary to secure the ruling out of discrimination in the Labor Code.

### Right to Dignity at Work

Although Article 82 of the RA Constitution defines that every worker, in accordance with law, has the right to healthy, safe, and dignified working conditions ..., and the RA Labor Code defines that time limitation for claims does not cover ...claims for protection of the worker's honor and dignity, the national legislation does not reflect the right to dignity at work. The issue relates to the right to dignified treatment at work provided in Article 26 of the Revised European Social Charter. Therefore, it is necessary to legislatively secure and protect the principle of dignity at work.

### Right to Healthy and Safe Work

After the RA Labor Code went into force, the legislature provided employers with a three-year time limit to ensure rules of work protection, as well as working conditions that are safe and not harmful to health.<sup>18</sup> During this period, the authorized state body did not carry out oversight of working conditions provided by employers and no penalties were imposed on employers. The normative base regulating healthy working conditions are primarily the standards endorsed by orders of the RA Minister of Health and they are not only unsatisfactory and do not cover all areas of labor, but also these standards should be approved by the RA Government.

In his 2011 annual report, the Human Rights Defender addressed this issue noting that *“In 2011, the Ministry developed and submitted to the RA Government draft decision of the Government of the Republic of Armenia on Endorsing the Main Rules and Norms for Ensuring Workers' Safety and Health Protection, which was withdrawn from circulation by the order of the RA Prime Minister, and the issue was to be discussed within the framework of inspection reforms of the RA Ministry of Economy. As a consequence of non-definition of the relevant norms by the RA Government, the constitutional right of workers to safety and working*

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<sup>18</sup> Article 5, the RA Law on Enforcement of the RA Labor Code

*conditions meeting hygiene requirements continues to remain unprovided for.*<sup>19</sup> An additional guarantee for ensuring safe and healthy working conditions is the administrative and criminal responsibility envisaged for violation of work protection rules.

### **The Right to Protection of Workers' Claims/Lawsuits in the Event of the Employer's Insolvency**

Although legal mechanisms for satisfying the worker's monetary claims related to the employer's insolvency or dissolution are available, the capitalization fund envisioned by the RA Government's decision N914-N of July 23, 2009 is still in the process of formation, which means that a large number of citizens should still wait for their turn to receive the compensation envisioned for harm caused to their lives or health.

In his 2011 report, the RA Human Rights Defender raised this issue noting that “under the circumstance of the dissolution of the organization responsible for making payments, issues related to compensation for harm caused to the worker's life or health due to accidents and occupational diseases at workplace remain unregulated in the Republic of Armenia up to date. In similar cases, no organization responsible for making damage compensations or compensation system is envisioned. During 2011, the Ministry jointly with the RA Central Bank developed a conceptual framework for Introduction of Insurance against Industrial Accidents and Occupational Diseases in the Republic of Armenia. The adoption of this conceptual framework cannot solve the problems of persons whose health was harmed and who did not receive compensation in 2004 or after that until a relevant law is adopted.”<sup>20</sup>

### **Protection of Women's Right to Work**

The national legislation has, by and large, reflected guarantees for women's right to work, including even through threat of criminal responsibility (Article 56, the RA Criminal Code). This is a preventive norm, which will restrain the employer from discriminating against women. However, it refers only to pregnant women or women who have children. In addition, the wording of the article is problematic from a legal perspective and with this formulation this corpus delicti would never come upon.

The RA Government's Decision N2308-N of December 29, 2005 endorsed the list of those jobs, in which it is forbidden to engage pregnant women and women taking care of children under one, however, this list is very outdated and requires revision. There is no official statistics on discriminatory or unfriendly treatment of women at work, as well as on oversight over their involvement in prohibited work.

### **Child Labor**

The RA Human Rights Defender's report on the implementation of the provisions of the Convention on the Rights of the Child presented to the UN Committee on the Rights of the Child specifically notes that “the study conducted in 2008 demonstrates that the number of

<sup>19</sup> <http://www.pashtpan.am/library/library/page/101/type/3> ANNUAL REPORT 2011: Section 1

<sup>20</sup> <http://www.pashtpan.am/library/library/page/101/type/3> ANNUAL REPORT 2011: Section 1

working children stands at 6.1% in households with minors from 7 to up to 18 years of age.”<sup>21</sup> However, in Armenia almost all children are engaged in household work.

The law envisages ruling out the clearly defined conditions that are harmful to the health of the child and administrative penalties are envisioned for such breaches. The acknowledgment of the child’s rights and organization of his/her protection in the event of their working exclusively through legislative means cannot be effective, flexible oversight mechanisms are necessary. According to the existing regulations, oversight of work by persons under 18 is carried out by the RA Health and Labor Inspectoral Body, which is still in the process of reorganization.

Besides, it is necessary to revise the list of jobs prohibited to children, which is endorsed by the RA Government’s Decision 2308-N of December 29, 2005 and does not meet the present-day requirements and international standards.

### Priorities

The gaps and deficient regulation described in the preceding section one way or another affect practical protection of the right to work and give rise to law enforcement issues. However, based on the respect for the right to work and its protection as a matter of principle, we believe it necessary to define certain chronological sequence in the succession of steps to be undertaken to address these issues. Hence, priorities in the area under consideration should be defined based on their feasibility in terms of time.

Therefore, the following short-term actions are needed:

1. To legislatively define the term “forced labor,” for which the necessary legal prerequisites are present since the draft changes to the RA Labor Code are in circulation and they include a provision for regulating the noted term. It is just necessary to bring the legislative formulation in line with the formulations defined by international norms.

2. To secure the antidiscrimination rule both for hiring and in labor relations. This too is easily and quickly implementable since the RA Draft Law on Ensuring Legal Equality is in circulation. Therefore, it is necessary that the relevant provisions of the draft be specified.

3. To revise the list of jobs prohibited for the child and the pregnant woman. The revision of the list implies conduct of certain research and analytical works, which should result in the review of the Government’s out-dated and not enforced decision. The ILO-created Working Group has already carried out some work in this connection, which means that it is possible to implement this in the near future.

4. To revise the wording of the criminal responsibility grounds for dismissal of pregnant women from work. Legal prerequisites for this are also present since a new criminal code is being developed and a relevant proposal can be incorporated into the draft.

### 1.1 Long-term activities

- To secure the right to work by the RA Constitution and laws,
- To legislatively secure the right to dignified conditions and treatment at work,
- To endorse work safety standards at the level of the RA Government’s decision,

<sup>21</sup> [www.ombuds.am/pages/downloadPdf/file\\_id/1685](http://www.ombuds.am/pages/downloadPdf/file_id/1685)

- To reflect the right to protection of claims in the event of the employer's insolvency in the RA legislation,
- To legislatively fix the right to dissolving employment contracts on lawful grounds,
- To reflect the right to protection in the event of release from work and the guarantees for the protection and exercise of that right in the RA legislation.
- To implement the noted activities, it is necessary not only to adopt legislative and sub-legislative acts, but also to introduce changes to the Constitution. Hence, their feasibility in the short term is not reasonable.

However, any change to the labor legislation becomes an end in itself if the state oversight of them is missing. For this very reason, we also consider the issue of labor inspection system in this section of recommendations.

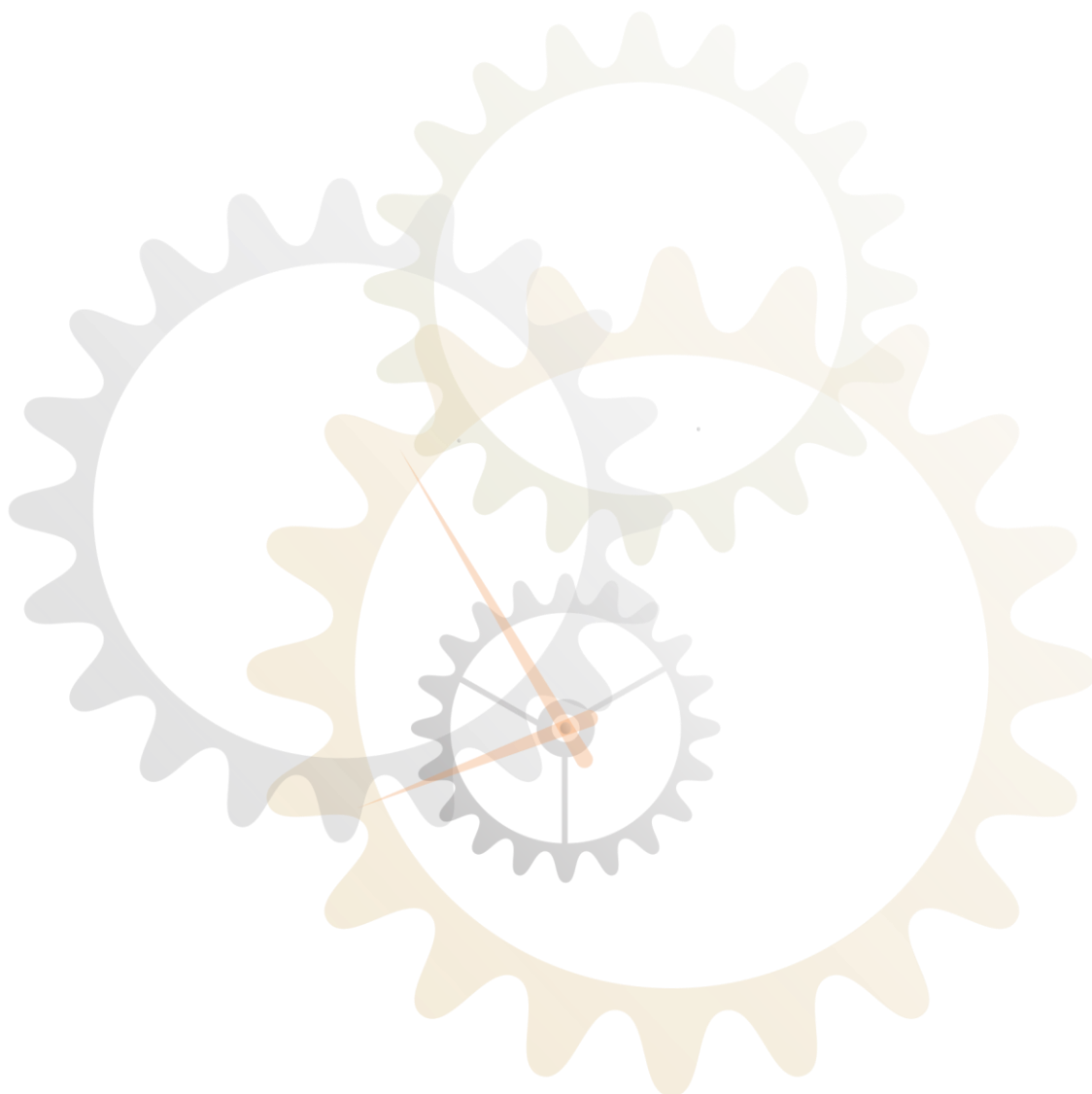
As a result of a number of legislative changes in 2013-2015, a problematic and uncontrollable situation has developed around the state control and oversight of the implementation of the labor legislation requirements.

To ensure the implementation by the Republic of Armenia of its obligations under the International Labor Organization's conventions, to bring the provisions of the Republic of Armenia's legislation in line with the requirements of the international agreements of the Republic of Armenia, and to provide for an effective and fully operational inspection system in accordance with the requirements of the ILO Labour Inspection Convention No. 81, we propose:

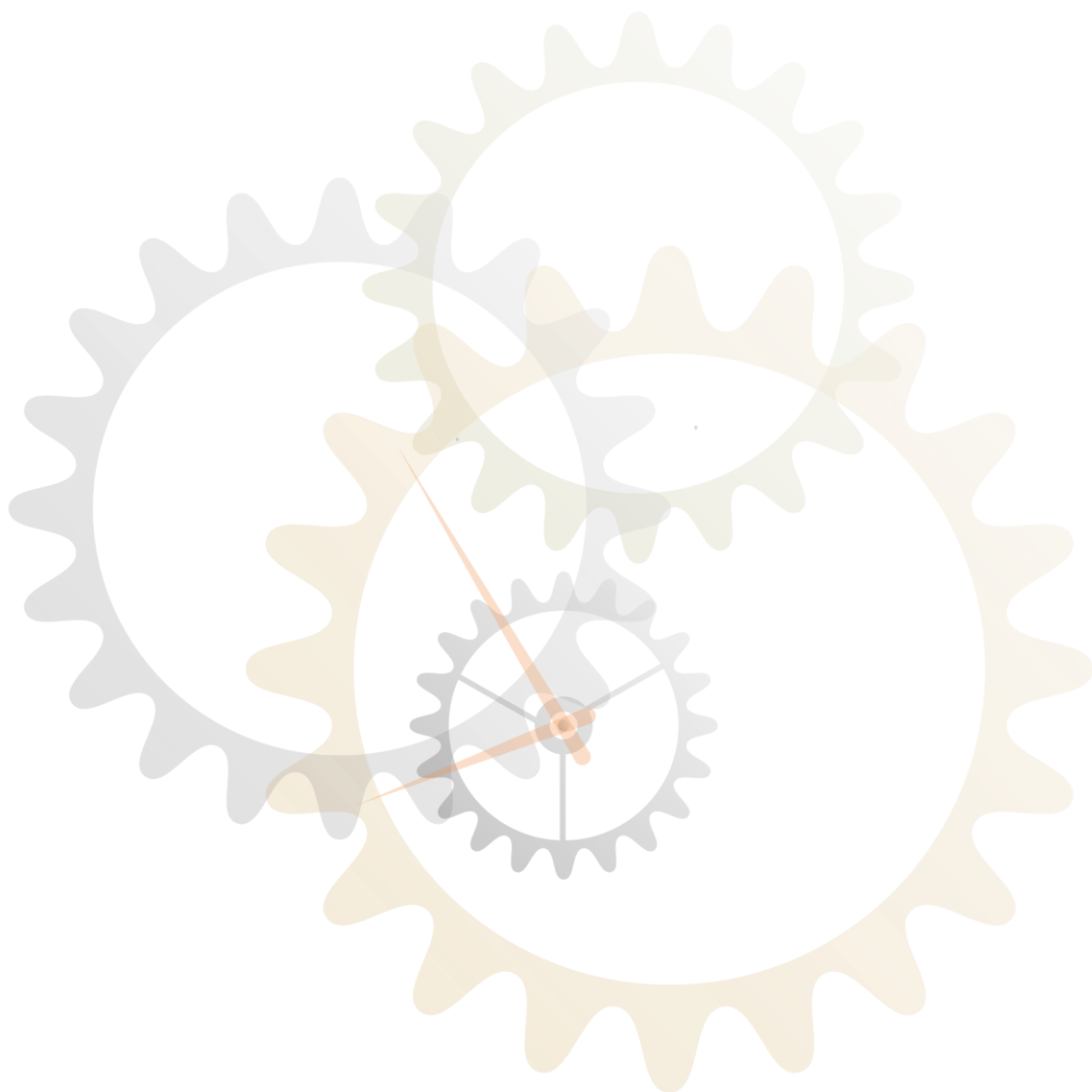
1. To revise the powers of the RA Health and Labor Inspectoral Body and to reserve it the right to carry out oversight activities and to institute administrative proceedings in the following areas:

- Maintenance of workers' health and safety provision to ensure the implementation of the Revised European Social Charter (hereinafter the Charter) ratified by the Republic of Armenia and in effect since March 1, 2004,
- Wages calculation and payment in accordance with the procedure and time limits defined by law to ensure the implementation of the Protection of Wages Convention ratified by the Republic of Armenia and in effect since December 17, 2005,
- Provision of rest, including annual vacation, to ensure the implementation of the Paid Vacations Convention (Revised) ratified by the Republic of Armenia and in effect since January 27, 2006,
- Ruling out discrimination on the grounds of sex to ensure the implementation of the Revised European Social Charter ratified by the Republic of Armenia and in effect since March 1, 2004,
- Upholding the procedure for signing and dissolving employment contracts and proper wording of legal acts on hiring and release from work to ensure the implementation of the requirement of Article 2 of the Charter,
- Performance of the obligations envisioned by collective agreements in line with the procedure defined by law to ensure the right to collective bargaining stipulated by Article 6 of the Charter.

2. To perform the above noted functions, it is necessary that the Inspectorate have an appropriate structure with marz-level subdivisions and sufficient human and material resources, which is in line with the requirement of Article 10 of the Labour Inspection Convention, i.e. “The number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate...”



**THE EFFECTIVENESS OF STATE OVERSIGHT OF LABOR  
RIGHTS PROTECTION**



## INTRODUCTION

An effective system of state control and oversight of compliance with the requirements of labor legislation and legal acts containing labor law norms is of fundamental importance for the protection of labor rights. In this respect, the Republic of Armenia has recorded significant setbacks as a result of a number of legislative changes undertaken since 2013. Article 34 of the RA Labor Code (hereinafter the Code) in its previous edit, which was revoked by HO-256-N<sup>22</sup> law on December 17, 2014, defined that the State Labor Inspectorate (hereinafter SLI) carried out state control and oversight of implementation of the normative provisions of labor legislation, other normative legal acts containing labor law norms and collective agreements by employers, meanwhile the functions, rights, and duties of the State Labor Inspectorate are defined by law.<sup>23</sup> In 2013, the Government started to voice concerns about numerous corruption risks existing in the SLI system, however, the issue was addressed not through holding the offenders responsible and making the Inspectorate's work more accountable, but through the abolition of the State Labor Inspectorate. Some powers and functions of the former inspectorate were transferred first to the State Health Inspectorate of the RA Ministry of Health staff, and then to the **RA Health and Labor Inspection Body**<sup>24</sup> formed within the structure of the Government. Thus, regulations related to state control and oversight of the implementation of the requirements of labor legislation, other normative legal acts containing labor law norms and collective agreements envisaged under Chapter 5 of the current Code are missing. Instead, Article 262 of the Code stipulates that oversight of **the protection of workers' safety and health** is carried out by the inspection body authorized by the RA Government for oversight of occupational safety, i.e. the RA Health and Labor Inspection Body.

It is noteworthy that both the State Health Inspectorate of the RA Ministry of Health and the currently operating inspection body are not legal successors of the SLI, which had operated until 2013. This situation has created grave problems in terms of the rights protection since with the abolition of the former inspectorate all administrative proceedings initiated for violations of the labor legislation were discontinued for an indefinite period. These violations include cases of non-payment of wages to dozens of workers, which were left unexamined and, as a consequence, deprived the workers of the possibility for judicial protection due to the missing of deadlines for applying to court.<sup>25</sup>

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<sup>22</sup> Law on Introducing Changes and Additions to the RA Labor Code and Repealing the RA Law on State Labor Inspectorate N HO-256-N, adopted on January 9, 2015.

<sup>23</sup>The RA Law on State Labor Inspectorate, which was revoked on January 9, 2015 by HO-256-N Law on Introducing Changes and Additions to the RA Labor Code and Repealing the RA Law on State Labor Inspectorate, which was adopted on December 17, 2014.

<sup>24</sup> The RA Prime Minister's Decision No. 755-L of June 11, 2018 on Endorsing the Charter of the RA Health and Labor Inspection Body.

<sup>25</sup> Labour Inspection System in Armenia, Mejlumyan & Tarzyan, Project "Support GSP+ beneficiary countries to effectively implement International Labour Standards and comply with reporting obligations, ARM/16/50/EUR (under umbrella GLO/16/12/EUR)"

A study of the Charter of the current **RA Health and Labor Inspection Body** (hereinafter HLIB) makes it clear that the latter performs oversight and other functions only in connection **with issues related to health protection and safety provision of employees**. As regards the state oversight of the implementation of the labor legislation requirements, it is limited only to the scope of guarantees defined by labor legislation for persons under 18, pregnant or breast-feeding women and workers taking care of children.<sup>26</sup> Taking into consideration that HLIB is not authorized to check the availability of employment contracts or individual legal acts on hiring, i.e. whether formalized labor relations are established, even the oversight of safe and healthy working conditions is limited by the oversight of the rights of only registered workers. In other words, the current HLIB powers are effective only for oversight of the registered employees.

Factually, a comprehensive state oversight of the maintenance of the labor legislation requirements is not ensured. Implementation of norms related to calculation and payment of wages, working hours, organization of vacations and recreation, protection from an unjustified dismissal from work and other norms remain outside the scope of the state oversight. Meanwhile, in reality, violation of these norms is often widespread. The annual report by the RA Human Rights Defender records that the most frequently occurring violations of labor rights by employers include non-performance of final settlement, unjustified dismissal of workers from work, not informing workers in advance within the time limits defined by law about the dissolution of employment contracts, application of another wage calculation in connection with working hours, non-provision of remuneration for the period of probation, etc.<sup>27</sup>The report on the situation with human rights of the US Department of State notes that in numerous areas workers' safety and health conditions continued to not correspond to the defined criteria, because of which even a number of death-causing accidents were recorded.<sup>28</sup> Different studies demonstrate that private sector workers are especially vulnerable in terms of labor rights protection.<sup>29</sup> According to surveys, only 47.7% of workers engaged in small businesses are registered workers, i.e. they have employment contracts. According to the 69.1% of the respondents, the latter do not receive any compensation for hazardous or dangerous work. The most vulnerable of all the labor rights is the right to rest, which is violated also because of the employees' lack of knowledge.<sup>30</sup>

The mapping of the existing violations and their comparison with limited state oversight powers allows to conclude that the State does not take effective steps to protect labor rights of

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<sup>26</sup> The Charter of Health and Labor Inspection Body approved by the RA Prime Minister's decision N 755-L of June 11, 2018 on Approving the Charter of the Republic of Armenia Health and Labor Inspection Body.

<sup>27</sup> The annual report of the RA Human Rights Defender about the RA HRD activities and the situation with the protection of human rights and freedoms during 2017, <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/b5220dd0b83b420a5ab8bb037a1e02ca.pdf>

<sup>28</sup> Bureau of Democracy, Human Rights, and Labor, Human Rights Report 2017, Armenia, [https://am.usembassy.gov/wp-content/uploads/sites/92/hrr2017\\_arm.pdf](https://am.usembassy.gov/wp-content/uploads/sites/92/hrr2017_arm.pdf)

<sup>29</sup> The results of the study of the situation with labor rights protection, 2018, APR Group, [http://aprgroup.org/images/Library/OSF/final%20report\\_arm\\_06-10-2018-for-publishing.pdf](http://aprgroup.org/images/Library/OSF/final%20report_arm_06-10-2018-for-publishing.pdf)

<sup>30</sup> Ibidem



people. Moreover, the State does not provide for mechanisms not only for restoration of the rights and compensation in the event of violations, but also mechanisms for carrying out oversight of the rights protection and preventing possible violations.

It is noteworthy that since the 2013 abolition of the State Labor Inspectorate (SLI) the State has not conducted any research to identify the consequences of the inspectorate's abolition for labor rights protection in order to be able to develop state employment policies based on the obtained data. Let us note for comparison that in Georgia the labor inspectorate was abolished in 2006 on the grounds of the corruption existing in the inspectorate and its impeding business activities, after which a significant increase in the cases of death and injury in the workplace was recorded.<sup>31</sup> According to analysts, not only the activities of the inspectorate cannot hinder businesses, but also due to the absence of the state oversight, a number of international investors avoid opening their offices in Georgia since the internal procedures of these organizations require guaranteeing decent conditions for workers. It is not accidental that a number of organizations, such as Adidas, Puma, Nike, and New Balance jointly with Fair Labor Association have appealed to the Government of Georgia requesting to oversee the provision of decent working conditions through an inspectorate.<sup>32</sup>

### *Criteria for Implementation of State Control and Oversight*

In order to ensure an effective oversight of the labor legislation and legal acts containing labor law norms, it is necessary to bring the RA legislation in line with the international obligations taken up by the Republic of Armenia in this area. The **Revised European Social Charter (hereinafter the Charter)** envisages that the Charter members, including Armenia, shall provide for a state oversight system.<sup>33</sup> In this sense, the benchmarks for the creation of an independent and effective state labor inspectorate should be the criteria<sup>34,35</sup> stipulated by the **ILO Convention No. 81 of 1947, which is ratified by the Republic of Armenia**, as well as by the ILO Labor Inspection Recommendation No. 81, which are discussed below.

First, it is necessary to restore the State Labor Inspectorate based on HLIB as an independent body carrying out state control and oversight of the implementation of the requirements of the labor legislation and other normative legal acts containing labor law norms, as well as of collective agreements. Legislative amendments should be introduced to the RA Labor Code, as well as a separate RA draft **Law on State Labor Inspectorate** should be developed. It is noteworthy that definition of the SLI powers by a separate law and not a Government's

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<sup>31</sup> After the abolition of the inspectorate, the average number of death-causing accidents in the workplace reached 41.36 during 2007-2017, which exceeds the accidents recorded in 2002-2005 by 74.1% when the inspectorate was still operating.// Abolition of Labour Inspection in Georgia, Consequences for Workers and the Economy, 2018; <http://www.fes-caucasus.org/news-list/e/abolition-of-labour-inspection-in-georgia-consequences-for-workers-and-the-economy/?L=2&cHash=9bb6b618f398235ed014ba2a4cff7cd9>

<sup>32</sup> Ibidem

<sup>33</sup> Point 4, Article A, Part 3, the Revised European Social Charter.

<sup>34</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312226](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312226)

<sup>35</sup> Labour Inspection: What It Is and What It Does: A Guide for Workers;

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---lab\\_admin/documents/instructionalmaterial/wcms\\_141403.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/instructionalmaterial/wcms_141403.pdf)

decision will ensure a higher status to this body. The name of the inspectorate can include only the word “labor” since the area of labor rights also embraces issues relating to the protection of occupational safety and health.

According to the principles defined in the ILO Convention No. 81, the Inspectorate should have control and oversight powers over the norms of labor law defined by the RA Labor Code and all other legal acts. The SLI inspectors should have the authority to demand and examine documents on **calculation and payment of wages and on calculation of work hours**. This is directly in line with provisions of the Protection of Wages Convention ratified by the Republic of Armenia, according to which the State should carry out an effective oversight of the calculation and payment of wages due to the worker in accordance with the procedure and time limits defined by law. In addition, Article 3 of the ILO Convention No. 81 envisages that the functions of a labor inspectorate should include protection of workers and oversight of the legislative norms related to working conditions in such areas as **social security and issues related to the work of minors**. In addition, the inspectors should have the powers to inspect the implementation of the legislative norms on **rest and annual vacation**.<sup>36</sup> The scope of the SLI powers should also include **prevention of possible discrimination, including on the grounds of sex, in the workplace, maintenance of the procedure for concluding and dissolving employment contracts, proper wording of legal acts on hiring and dismissal from work, the implementation of collective agreements, the principle of prohibition of unacceptable forms of labor (including forced labor)**, which is in line with the obligations stipulated in the Charter.<sup>37</sup> At the same time, relevant additions should be made to the RA Code on Administrative Offences (hereinafter CAO) so that mechanisms can be created for an effective oversight by the State Labor Inspectorate.

**At the same time, in order to promote the enforcement of labor law norms and to make the administrative influence measures more effective and preventive, it will be necessary to revise the amounts of administrative penalties for violations of the labor legislation. Some of them provide for imposition of insignificant penalties for violations of important rights, for example, in the amount of fifteen times the minimum wages (15, 000 drams). This circumstance considerably diminishes the effectiveness of penalty applications, especially in the cases of financially influential employers.**

Based on the requirements of the ILO Convention No. 81 (Article 13), the inspectorate should have the power to adopt **decisions liable for mandatory execution**, which can be appealed to a judicial or administrative authority. In those cases when a violation of the labor legislation apparently contains elements for criminal charge, labor inspectors should pass on all the existing materials to the RA General Prosecutor’s Office.

According to international criteria, **prevention** has a central role among the functions of an inspectorate. The ILO Recommendation No. 81 proposes a number of powers, the

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<sup>36</sup> This is in line with the requirements of the Revised Convention on Paid Vacations.

<sup>37</sup> Articles 20, 6, 7, 8 of the Revised European Social Charter.

availability of which will enable the inspectorate to fully prevent violations of the labor right. In particular, when establishing any production or organization, employers are obliged to inform the inspectorate about that directly or through an authorized body. The inspectorate is obliged, within a certain time limit, to present an expert opinion on what impact on or risks for safety and health of employees the given production will have, as well as an opinion on whether the regulations of the given organization are in line with the labor legislation. In the event of revealing certain risks or non-compliances, the inspectorate can come up with recommendations, only upon implementation of which the organization will be allowed to carry out its activities.

Another important function, which is also missing in the Charter of the current HLIB, is **awareness raising and education**. It is the requirement of the ILO Convention No. 81 that the inspectorate provide employers and workers, their representatives, as well as unions of employers and workers with technical information and consultations associated with the most effective application of the legislative requirements. Besides carrying out control within the framework of legislation, the Inspectorate should voice issues relating to legislative and law enforcement practice and present recommendations to an authorized body on policy reforms.<sup>38</sup>

The ILO Convention does not envisage an exhaustive list of the SLI functions and member states can, at their discretion, define additional functions for national bodies, however, they should not in any way limit the above noted functions, and independence and impartiality of inspectors.

## *Work Principles*

### *Confidentiality*

When providing their services, inspectors and the SLI staff should be constrained by the obligation not to publicize personal data and commercial secrets that have become known to them, in accordance with the procedure defined by the RA Law on Protection of Personal Data and legislation on protection of commercial secrets. The law should allow inspectors to not publicize the content of alerts and complaints which have been passed on to them confidentially and the identity of persons that have passed on this information to them to insure workers against possible pressures by employers and to encourage them to use legal means of protection. In the same way, Part 2, Article 18 of the Constitutional Law on Human Rights Defender envisages that the Defender can publish the data on applicants or other persons that have become known to him/her during his/her activities only at the written consent of these persons.

### *Gender Sensitivity*

In its report on Armenia of 2016, the UN Committee on the Elimination of Discrimination against Women provided the State with a number of recommendations on introducing a secret and safe system of complaint presentation on issues related to gender

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<sup>38</sup> Article 3, the ILO Convention No. 81

discrimination and sexual harassment in the workplace.<sup>39</sup>To implement this recommendation, the State Labor Inspectorate should train its specialists on issues relating to women's rights and incorporate gender-sensitive approaches in the work of its inspectors. Labor inspectorates or gender equality bodies (tribunals) in different countries are characterized by application of gender-sensitive methods in their activities. Of importance is the maintenance of clear sex disaggregated statistics, including the average wages, work hours, provision of safety norms, injuries and deaths in the workplace, etc. according to sex.<sup>40</sup>According to the same principle, ILO has developed a tool for Participatory Gender Audit to assess and monitor the upholding of gender equality in the workplaces, which can be localized and successfully applied by Armenia's SLI.<sup>41</sup>

### *Accountability and Transparency*

In terms of ensuring accountability, it is fundamentally important that the SLI present reports on its activities and the situation with labor rights in the country in accordance with the procedure defined by law. In the same way, to enhance SLI's social accountability, the inspectorate should also present reports to the Republican Tripartite Commission. This will also promote an increase in effectiveness of cooperation between parties to social partnership. The ILO Convention No. 81 (Article 21) defines the minimum requirements for annual reports: they should contain statistics on workplaces and workers, conducted inspections, accidents and diseases in the workplaces, as well as data on violations and adopted administrative acts. To ensure the effectiveness of the inspectorate's reports, it will be important to organize hearings/discussions on them at the standing committees of the National Assembly and with civil society.

In international practice, other principles for organization and activities of labor inspectorates are also considered.<sup>42</sup>

### *Institutional Status and Capacities*

In the meaning of Article 4 of the ILO Convention No. 81, a labor inspectorate should be placed under the supervision and control of a central authority. In this respect, it is positive that through recent changes at least this requirement was implemented, i.e. the status of the

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<sup>39</sup> UN Committee on the Elimination of Discrimination against Women, Concluding observations for Armenia, 2016// <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/28/PDF/N1640228.pdf?OpenElement>

<sup>40</sup> Gender equality at the heart of decent work, ILO; <https://www.ohchr.org/Documents/Issues/Racism/IWG/Session7/GenderEquality.pdf>

<sup>41</sup>The ILO participatory gender audit tool is an interactive methodology, which is applied at the individual and organizational levels to find out how the internal rules of work, practices, and support systems impact the exercise of women's and men's rights. This tool reveals the problems existing at organizations and educates, through its application, employers on how to apply gender-sensitive approaches in the workplace.// ILO: A manual for gender audit facilitators: The ILO participatory gender audit methodology (Geneva, 2007).

<sup>42</sup> The ten steps for strengthening labor inspection, by Bernd Treichel; [https://www.ilo.org/wcmsp5/groups/public/@ed\\_protect/@protrav/@safework/documents/publication/wcms\\_108666.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/publication/wcms_108666.pdf); International Labour Standards and Guiding Principles on Labour Administration and Labour Inspection; [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---lab\\_admin/documents/publication/wcms\\_194389.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_194389.pdf)

inspection body was elevated from that of a former subdivision of the Ministry of Health to a state body within the structure of the Government. It is necessary to secure this status under the Government by a Law on State Labor Inspectorate to ensure the possibility of conduct of unconstrained inspections in different state bodies by the SLI.

An effective performance of the functions envisaged by the ILO Convention No. 81 is impossible without the necessary and sufficient institutional capacities.<sup>43</sup> In addition to the creation of a legislative base, it is necessary to provide the inspectorate with the necessary number of specialists of the required qualifications in accordance with the nature and volume of their functions defined by law and the number and nature of areas and organizations subject to oversight. The State should also take significant steps to constantly develop the professional capacities of inspectors and to oversee their integrity.

For an effective performance of the control and oversight functions by inspectors, it is necessary not only to define sufficient social guarantees, but also to define stricter administrative penalties for impeding the work of inspectors. In this sense, a comparison can be made to the Constitutional Law on Human Rights Defender, Article 10 of which prohibits any interference with the defender's activities. Impeding the implementation of the defender's powers in any way, threatening or insulting, not allowing the competent person's entry into any territory may even serve as a basis for criminal liability, i.e. penalty in the amount from two hundred to four hundred times the minimum wages, or detention for a period from one to three months, or imprisonment for maximum two years. Non-provision of the materials, documents, information or clarifications requested by the defender within the defined time limits serves as a basis for administrative responsibility, i.e. penalty in the amount of one hundred times the defined minimum wages.

Cooperation with the authorized body and different local stakeholders, including NGOs, other inspection and law enforcement bodies, unions of employers and workers and international institutions plays an important role in the inspectorate's activities. In accordance with the requirement of the ILO Convention No. 81, the State Labor Inspectorate should submit its annual reports on its activities also to the General Director of the International Bureau of Labor.

## RECOMMENDATIONS

- *To amend Chapter 5 of the RA Labor Code on State Oversight, to develop a draft Law on State Labor Inspectorate and present it to the RA National Assembly for discussion. The draft law should regulate the procedure for establishment of a State Labor Inspectorate, its powers, functions, the status of the staff, the rights and duties of the staff and other issues;*

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<sup>43</sup> Article 10 of the ILO Convention No. 81: "The number of labor inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate..."

- *To define, by the SLI Law, the inspectorate's control and oversight powers in respect to labor law norms provided for in the RA Labor Code and all other legal acts, including norms relating to calculation and payment of wages, calculation of work hours, social security, issues related to work of minors, rights for rest, annual vacations, exclusion of discrimination and other rights;*
- *To amend Article 230 of the RA CAO providing for the SLI powers to examine the cases of administrative offences and to impose administrative penalties in the event of violation of the requirements of the labor legislation and relevant normative legal acts containing labor law norms. For example, the SLI should examine administrative offences envisaged by Article 41, 412, 413, 41.4, 169.5 (Hiring workers without employment contracts) and 169.8 (Non-calculation and/or non-payment of wages by the employer) of the RA CAO and impose administrative penalties;*
- *To define stricter administrative penalties provided for by the RA CAO for violation of the norms of the labor legislation;*
- *To secure the following rights of the Inspectorate by the SLI Law: to request the employer to provide all the necessary documents, information, sample materials, etc. associated with the complaint case, to adopt decisions based on the results of examination of the noted materials, to provide mandatory recommendations to employers to eliminate the violations, as well as to apply disciplinary sanctions to those responsible for violations, and to take steps to prevent violations;*
- *To envisage, by the SLI Law and other related legal acts, the Inspectorate's preventive functions, such as provision of an expert opinion, within a certain period, upon establishment of any production on possible impact and risks of the given production for the health and safety of workers. In the event of discovery of work-related risks, the inspectorate can come up with recommendations for a given organization, only upon implementation of which the organization will be allowed to carry on its activities;*
- *To envisage the duty of provision of technical information and consultations to employers and workers, and their representatives by the inspectorate in the SLI Law;*
- *To define by the SLI Law that inspectors and the SLI staff should be constrained by the obligation not to publicize personal data and commercial secrets which became known to them during their activities, in line with the procedure provided for in the RA Law on Protection of Personal Data and legislation on protection of commercial secrets. It is also important that the law allow inspectors not to publicize the content of alerts and complaints passed on to them confidentially and the identity of persons who have passed on this information to them without the written consent of the person;*
- *To organize training courses and periodic training for the SLI personnel on the topic of gender equality and on development and application of anti-discriminatory regulations at organizations and offices; to incorporate gender-sensitive approaches in the working tools of inspectors; to secure, as a duty of the inspectorate, analyses of legislative norms*

*and practices restricting women's labor rights. Through large-scale advocacy campaigns, the SLI should inform workers about the mechanisms for protection in the event of gender discrimination and for restoration of the violated rights;*

- *To secure in the SLI Law that the Inspectorate presents a report, at least once a year according to the defined procedure, to the public and authorized body on its activities and the situation with labor rights. In the event of mass violations of labor rights, the SLI can prepare special reports. The SLI should also submit a report to the Republican Tripartite Commission. Legislative criteria for annual reports should be based on the principles envisaged in the ILO Convention No. 81 (Article 21);*
- *To conduct an assessment of the labor legislation and the needs of the state in this area and based on that assessment, to provide the SLI with the necessary number of specialists of relevant qualifications. To establish marz subdivisions of the SLI and to ensure the availability of sufficient number of human and material resources to effectively carry out inspection functions in the entire territory of the country. To develop the professional capacities of inspectors, to develop principles of work ethics and mechanisms for overseeing their application. At the same time, an important guarantee for the integrity of inspectors will be provision of satisfactory social conditions for the latter, including high salaries, insurance and other social guarantees;*
- *To introduce additions to the RA Code on Administrative Offences to expand the list envisioned by Article 42<sup>1</sup> and to define stricter the administrative penalties. In the event of intentional and repeated commitment of the same administrative offence, to consider the possibility of criminal responsibility.*

**MECHANISMS FOR LABOR RIGHTS PROTECTION IN THE  
REPUBLIC OF ARMENIA  
(Policy Brief)**





## INTRODUCTION

Labor relations in all economies have always been in the spotlight; they are unique because, although they are regulated by codes, different laws and sub-legislative acts, internal legal acts, contracts and agreements of special forms, there are constant disputes and disagreements in those relation. Based on this circumstance, state, public, judicial, and extrajudicial systems for protection of labor rights exist.

To develop this paper, following labor rights protection mechanisms and institutions that exist in the Republic of Armenia have been studied:

- Health and Labor Inspection Body
- Courts
- Trade Unions
- Office of Human Rights Defender
- Certified Mediator

At the same time, the legal acts that ensure the viability of the above noted institutions and mechanisms in particular, the Labor Code, the Tax Code, the RA Law on Inspection Bodies, the RA Prime Minister's Decree on approving the Charter of the RA Health and Labor Inspection Body, the RA Civil Procedure Code, the RA Law on Trade Unions, the Constitutional Law on Human Rights Defender, and the RA Law on Mediation.

## The Main Findings

Labor legal relations are an entirety of rights and obligations defined by laws and fixed by employment contracts, which often oppose each other based on two conflicting interests and this gives rise to the necessity of labor rights protection. Labor rights are primarily divided into the following groups: 1) safe workplace and occupational health rights, 2) contractual rights, 3) rights relating to certain specific groups (rights of pregnant women and breast-feeding mothers, children under 18, etc.), and 4) the right of being free of labor discrimination (on the grounds of age, sex, etc.)

From the perspective of rights protection, each of the above noted groups of labor rights require specific mechanisms, which will contribute to protection and observation of a given group's rights in a most effective way.

The following findings were made through studies of legal acts, official websites of the above noted institutions, individual meetings, as well as through group meetings and round table discussions with civil society organizations:

- From the perspective of labor rights protection, the Health and Labor Inspection Body carries out an oversight on provision of guarantees defined by labor legislation for observation of occupational health and safety norms, including for persons under 18, pregnant and breast-feeding women, and workers taking care of children.
- The judicial system is one of the effective mechanisms of labor rights protection,

however, it is full of problems and obstacles, specifically: 1) the judicial process is quite costly (state fee for suit filing, lawyer fees, and other related costs), 2) courts are overloaded and the process of filing lawsuits is rather complicated, especially for ordinary workers that do not have the relevant legal knowledge, 3) there is certain lack of trust in the judicial system. The independence of courts is one of the fundamental principles of the judicial system, however, the public, seeing that in some cases this or that judge displays a certain bias in his/her practice, loses its trust in the independence and impartiality of the judicial system.

- According to the RA Law on Trade Unions, one of the objectives of the trade union is to represent and protect labor and related social and other interests and rights before employers and (or) third persons. A trade union organization can be founded by three workers who have concluded contracts with the same employer, and unions of trade union organizations can be established by two and more trade union organizations and/or unions of trade union organizations. It turns out that no individual worker of any organization can join the existing trade unions unless he/she has established a trade union organization with two more of his colleagues. An attempt of a trade union to resolve a labor dispute can also fail for the reason that the employer refuses to form a commission to resolve the dispute and to propose a member to the commission that will represent employer.
- According to Part 1, Article 15 of the RA Constitutional Law on Human Rights Defender, the Human Rights Defender studies violations of human rights and freedoms, stipulated by the RA Constitution and laws, by state and local self-government bodies and officials, as well as by organizations exercising powers delegated to them by state and local self-government bodies.
- On June 13, 2018, the RA National Assembly adopted the RA Law on Mediation, according to which, mediation is a process aimed at a conciliatory resolution of a dispute between parties by an impartial third person, mediator, at the consent of the parties. Mediation can be carried out in case of disputes in the areas of civil, family, labor relations and, in cases defined by law, also for disputes in the areas of other legal relations.

### Current State Policy

Based on the RA Government's Decision No. 1135-N of September 17, 2009 on Endorsing the Conceptual Framework for Inspection Reforms in Armenia and the Inspection Reforms Implementation Action Plan, the Republic of Armenia initiated inspection reforms within the scope of which the inspection system has been subjected to and continues to undergo changes. The protocol resolution adopted by the RA Government on September 25, 2014 approved the Conceptual Framework for Optimization of the Inspection System, which has brought about changes in the methods of performance of inspection functions, their structure and involved bodies, as well as in the areas for and

scope of inspection. Inspectoral resources are limited, and inspection functions are not flexible and have a number of rules and a clear-cut procedure which are primarily limited by conduct of inspection and application of the responsibility measures based on the inspection results, which is not applicable in certain areas. Taking into account above noted facts, the RA Government, by its decision No. 857-N of July 25, 2013, dissolved the State Labor Inspectorate, which carried out oversight of primarily labor contractual rights and labor relations. As a result, State Health Inspectorate, which was reorganized into Health Inspection Body based on the RA Law on Inspection Bodies adopted in 2014, and was later renamed into Health and Labor Inspection Body, became an implementing agency for oversight on provision occupational safety and health rights, as well as of a number of specific labor rights defined by international conventions.

At the same time, taking into account the workload of the courts, as well as long periods of time necessary for examination of statements of claim and court proceedings, by the RA Civil Procedure Code adopted on February 9, 2018 was defined that labor disputes shall be examined and resolved at courts of first instance within three months after accepting the statements of claim for court proceedings.

In the Republic of Armenia, trade unions are grouped into sectoral republican unions. According to the reports by the sectoral republican unions, as of January 1, 2018, there are 19 sectoral republican unions and 641 trade union organizations with a membership of 191 098 people. Since 2010, the RA Labor Code provides that, in addition to trade unions, there is also the institute of labor representative and rights protection can be implemented also through a representative elected by workers' meeting. However, in practice, this mechanism is not widely applied.

It is necessary also to mention that actions carried out by tax authorities of the State Revenue Committee aimed at discovery of “not registered workers” also play, though indirectly, a role in labor rights protection.

## **Recommendations for Policy Development and Application**

Although the Health and Labor Inspection Body has clearly defined functions for provision and protection of labor rights, it is necessary to expand its functions aimed at prevention of violations of rights, as well as at raising the level of legal consciousness of employers and workers. Therefore, we propose to introduce the following additions to the RA Prime Minister's Decision No. N 755-L of June 11, 2018 on Approval of the Charter of the RA Health and Labor Inspection Body:

- The Inspection Body plans and organizes special preventive and awareness raising activities related to protection of labor rights, which include contractual labor rights, as well as rights related to labor discrimination and gender mainstreaming in the workplace.
- Awareness raising training courses are organized for employers and workers at the inspection body each month.
- The Inspection Body maintains a hot line, the telephone number of which is

publicized on the official websites of the Inspection Body and the RA Ministry of Labor and Social Affairs.

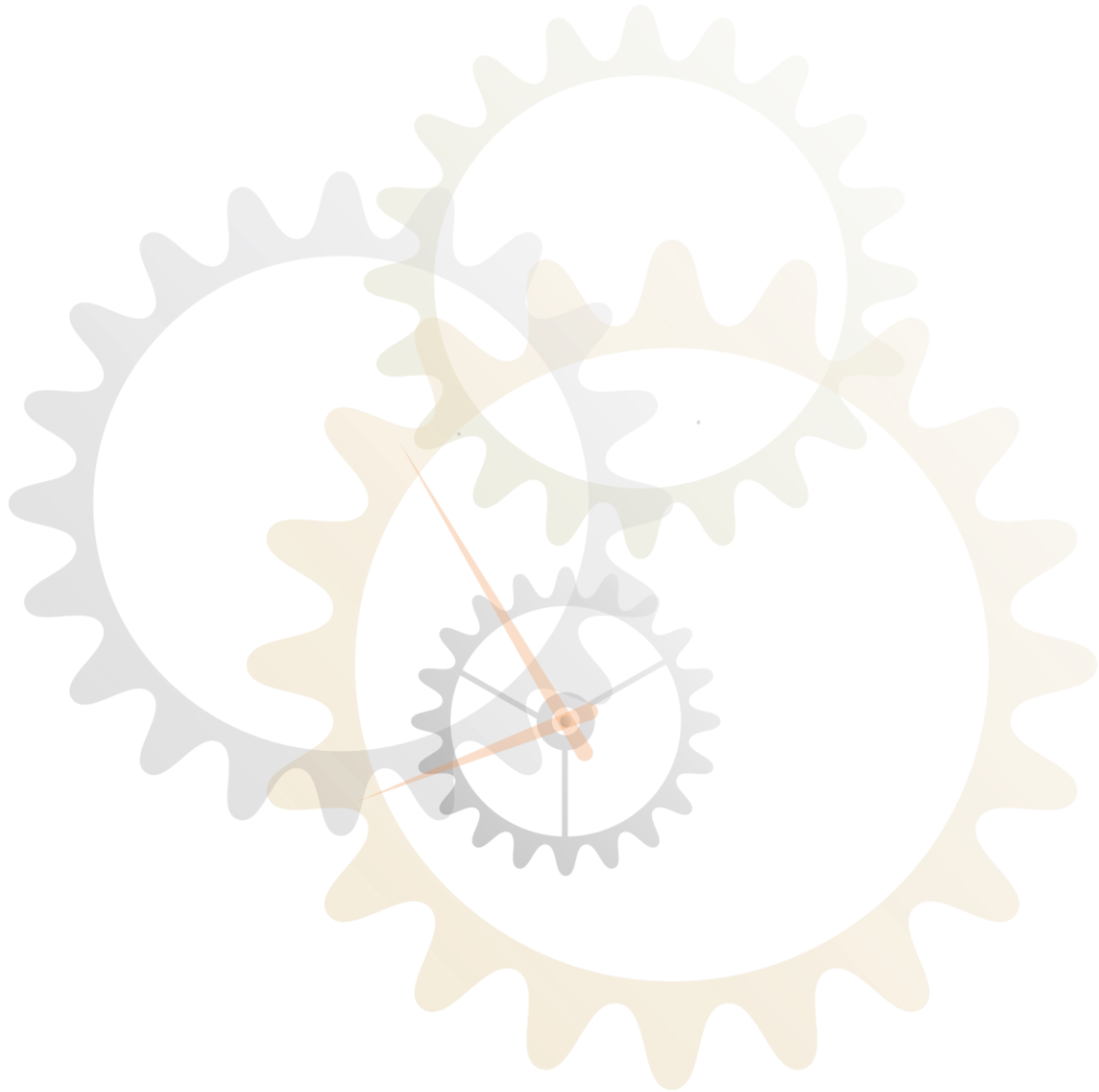
Taking into consideration that the RA legislation does not clearly define requirements related to occupational safety and health, the Health and Labor Inspection Body cannot ensure the protection of workers' rights in this area. Hence, we propose that the RA Ministry of Labor and Social Affairs together with the RA Ministry of Health develop a legal act on the main rules and norms for provision of occupational safety and health.

It is necessary to improve the mechanisms for labor rights protection not only through introducing changes to legal acts, but also through increasing the effectiveness of existing mechanisms and improving the processes, for systematic implementation of which we propose to develop a conceptual framework, which will provide for the following:

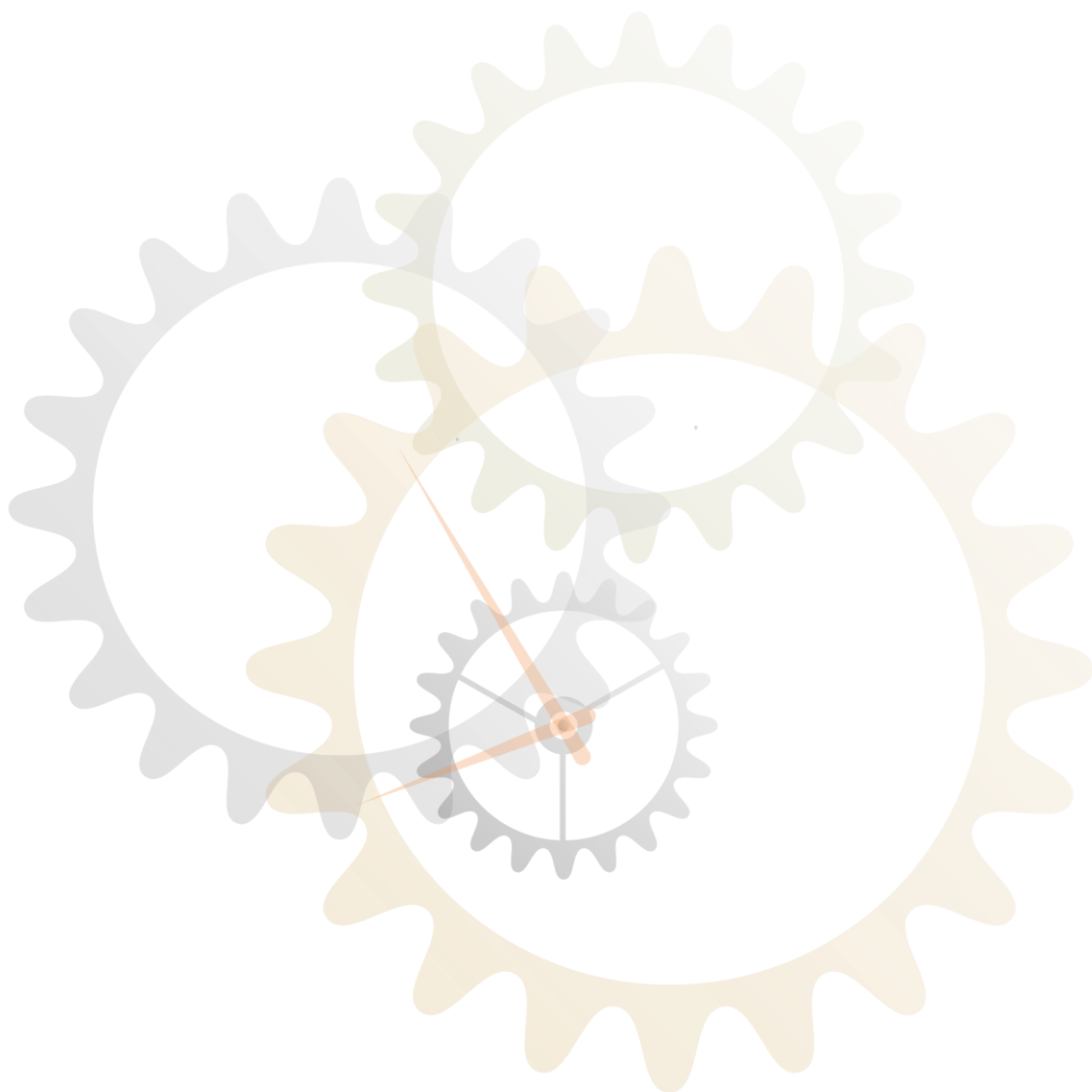
- At courts of general jurisdiction, it is necessary to separate judges specialized in labor issues or to establish courts specialized in labor issues so that certain judicial principles and precedents on labor issues are formed, which will make the judicial processes on labor issues easier and more effective.
- It is necessary to publicize partially filled out forms of claim statements on frequently occurring labor rights violations on the official websites of the Health and Labor Inspection Body and the Ministry of Labor and Social Affairs.
- It is necessary to inform the public about the three-month time limit provided for in the new RA Civil Procedure Code.
- It is necessary to thoroughly revise the RA Law on Trade Unions and to boost the role of trade unions in the processes of development, awareness raising, oversight of the labor legislation, as well as rights protection.
- It is necessary to study the systems considered as best international practices of trade unions and to create such a system for Armenia, which will allow individual workers to join or benefit from sectoral or specific area unions.
- It is necessary to study the institute of representative and its necessity, as well as to evaluate its positive or negative impact on labor rights protection.
- It is necessary to define by the RA Labor Code or the RA Law on Trade Unions the employer's obligation to personally participate or to authorize another person for participation in a labor dispute or discussion of an issue raised with the trade union.
- It is necessary that the functions of the Office of Defender cover also labor disputes, which can be achieved either through revision of the RA Constitutional Law on Human Rights Defender, which will define that HRD Office can accept application letters related to employer-worker disputes, or through establishment of a separate office for Defender on Labor Issues.

Workers' rights protection is directly connected with the fact of being registered and having an employment contract. However, in some marzes and, in particular, in rural communities the level of the factual wages is lower than provided by the RA Law on Monthly Minimum Wages adopted on December 17, 2003. Therefore, we propose to revise the law and

to set more flexible and disaggregated thresholds for the minimum wages. At the same time, we propose to revise the Tax Code and provide for the exemption of the minimum wages from income tax, which will also facilitate the registration of workers and hence, the protection of their rights.



**THE EFFECTIVENESS OF THE JUDICIAL PROTECTION  
OF LABOR RIGHTS**



## INTRODUCTION

Article 57 of the RA Constitution secures the freedom of choice of work and the person's right to protection from unjustified dismissal from work. The third Chapter of the Constitution is entirely devoted to labor rights guarantees. Everyone has the right to an effective judicial protection of their rights, including labor rights, at national and international courts.<sup>44</sup>

Although the European Convention on Human Rights does not have a separate article on labor rights, when these rights are violated persons apply to the European Court primarily on the basis of Article 6 of the Convention<sup>45</sup>, demanding the restoration of the right to a fair trial<sup>46</sup>. The European Court examines these applications in the light of the civic-legal perspective (civil limb) of Article 6. According to the ECHR case law, judicial protection should be "practical and effective" (*Bellet v. France, § 38*). "An individual must have a clear, practical opportunity to challenge an act that interferes with his rights" (*Ibidem, § 36, Nunes Dias v. Portugal (judgement)*). National rules or their application should not impede "the use of an available legal remedy" by the litigants (*Miragall Escolano v. Spain, Zvolský-ů & Zvolská v. the Czech Republic, § 51*):<sup>47</sup>

Nevertheless, in Armenia, some of the reasons for not applying to court for protection of rights include lack of trust in the judicial system, time and resource costs, the desire not to spoil relations with the employer, etc. On the other hand, the workload of administrative courts does not allow to effectively and quickly resolve those labor disputes where the employer is a state body: according to some, the case examination can start in more than one year after admission of the application.<sup>48</sup>

Despite the fact that the culture<sup>49</sup> of judicial protection of labor rights is weakly developed, nevertheless, studies conducted in different areas record that year in, year out the number of people that apply to court for defense of their labor rights is increasing<sup>50</sup>.

This policy brief examines systemic problems of the area under consideration, which impact the effectiveness of judicial protection.

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<sup>44</sup> Article 61, the RA Constitution

<sup>45</sup> ECHR, Article 6: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

<sup>46</sup> Guide on Article 6 of the European Convention on Human Rights; [https://www.echr.coe.int/Documents/Guide\\_Art\\_6\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_6_ENG.pdf)

<sup>47</sup> *Ibidem*

<sup>48</sup> Bureau of Democracy, Human Rights and Labor, Human Rights Report 2017, Armenia [https://am.usembassy.gov/wp-content/uploads/sites/92/hrr2017\\_arm.pdf](https://am.usembassy.gov/wp-content/uploads/sites/92/hrr2017_arm.pdf)

<sup>49</sup> To the question as to who they would turn to in case of violation of their labor rights, a very small number of the respondents mentioned trade unions (1.9%). It is more likely that they would appeal to the superior (59.0%), colleagues (15.1%), lawyer (3.7%), and the Office of Human Rights Defender (3.1%). Fewer mentioned the State Labor Inspectorate (1.6%), courts (1.6%), an authoritative acquaintance (0.8%), neighborhood authorities (0.4%) and other options. //The Results of the Study of the Situation with Labor Rights Protection, 2018, APR Group, [http://aprgroup.org/images/Library/OSF/final%20report\\_arm\\_06-10-2018-for-publishing.pdf](http://aprgroup.org/images/Library/OSF/final%20report_arm_06-10-2018-for-publishing.pdf)

<sup>50</sup> «Study on Labor Rights of Teachers in the Secondary Schools». Helsinki Committee of Armenia Report; <http://armhels.com/publications/usucichneri-ashxatanqayin-iarvunqner-zekuyc/>

## *Systemic Problems*

According to numerous experts, the judicial norms of the given area are too complicated to allow people to independently, without attorneys, organize their defense in court, prepare statements of claim, represent their own interests, etc. According to attorneys, the greater part of people seeking judicial protection challenge the legitimacy of dismissal from work.<sup>51</sup> However, the practice demonstrates that in cases of labor disputes workers largely do not wish to be restored to the same workplace and go to court to receive compensation in accordance with the procedure defined by Part 2, Article 265 of the RA Labor Code. Namely, for certain reasons or in the case of impossibility to restore labor relations between the employer and worker, Court might not restore the worker to his former work, obliging the employer to pay compensation for the entire period of forced downtime in the amount of the average salary, before the court's judgement comes into legal effect, and compensation for not restoring the worker to his/her workplace in the amount of no less than the average salary, but no more than twelve times the average salary.

Problems often occur related to missing the deadlines for applying to court during judicial protection of labor rights. The majority of workers are not aware of the procedural time limits. Thus, according to the procedure stipulated by Part 1, Article 265 of the RA Labor Code, in the event of change in work conditions or disagreement with the termination or dissolution of the employment contract at the employer's initiative, the worker has the right to apply to court *within two months* after the day of receiving relevant individual legal act (document). In practice, if the noted deadline is missed, courts do not even initiate court proceedings of applications about an unjustified release from work.

The general time limitation defined for relations regulated by the Labor Code is *three years* (Article 30, the RA Labor Code). Meanwhile, *time limitation for applying to court does not at all relate* to the claims for protection of the worker's honor and dignity, salary, as well as for compensation for damages caused to the worker's life or health to give the worker the opportunity to defend these important rights. The Labor Code provides for a *one-month term* to appeal disciplinary penalties in court (Article 228, the RA Labor Code).

The best way of informing workers about the noted time limits is exactly through the employer's conveyance of them upon setting a disciplinary penalty or dissolving the contract.

At the same time, judicial protection is not equally affordable to all; first, because of the costs related to attorney services, and **the Office of Public Defender** has no enough resources to organize the necessary representation or defense of all persons. According to Article 41 of the RA Law on Advocacy, the Office of Public Defender provides free legal assistance to limited groups, including the disabled of the 1<sup>st</sup> and 2<sup>nd</sup> categories, convicts, family members registered

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<sup>51</sup> For the purposes of development of this policy brief, expert interviews had been conducted with defenders of the RA Office of Public Defender, as well as with individual attorneys.



in the system of assessment of the family insecurity with the social insecurity score above 0, the unemployed, pensioners living alone, insolvent individuals, torture victims and other persons.

Nevertheless, in practice, often problems arise related to using the services of the Public Defender. For example, the unemployed can benefit from free legal aid irrespective of their financial and social conditions. Meanwhile, numerous socially insecure people cannot make use of the services of the Public Defender since the insecurity score given to them by the authorized body is lower than is necessary in order to engage the services of the Public Defender. It is necessary to develop clear-cut criteria so that it is predictable for people in which cases they can benefit from the services of the Office of Public Defender.

In any democratic society, **non-governmental organizations (NGOs)** play an important role in human rights protection and promotion. However, Armenia's legislation does not allow NGOs to apply to court for defense of public interest. This right is important since it gives NGOs the opportunity to defend in court the rights and interests of those persons and groups which are unable to do it themselves. In its decision No. 906 of September 7, 2010, the RA Constitutional Court stated that NGOs should have the opportunity, within the framework of the activities envisioned in their strategies, to apply to courts for defense of public interest. The Constitutional Court noted that this circumstance is especially important in cases of violations of subjective rights or lawful interests of not an individual but of the collective subject of law. The RA Administrative Procedure Code can define the cases and the procedure for exercise of the right of interested NGOs, as a legal person, to apply to court for violated rights of individuals in a given area, taking into consideration the trends of the current European developments associated with the institute of *action popularis* appeals. It should be noted that when defining the cases and procedure for exercise of the right to apply to court or other bodies and officials for defense of the violated rights, it will be necessary to consider only those NGOs whose objectives include protection of specific collective or community interests.

Number of gaps in **the labor legislation** and those legislative norms that are problematic from the perspective of legal certainty are impeding an effective protection of labor rights in court.

**Based on Article 113 of the RA Labor Code, the employer can dissolve the employment contract with the worker at his/her own initiative** “in the cases of changes in production volumes and (or) economic and (or) technological and (or) work organization conditions and (or) reduction of the number of workers and (or) staff positions as conditioned by the production needs.” In practice, this provision is abused by employers to get rid of undesirable employees. To maintain the formal aspect of the law, employers change the name of some subdivision, add some unessential functions into the job description, which allows the employer to state that the former subdivision does not exist anymore or the nature of activities of the latter have changed.

Similar problems for protection of the rights arise also in relation to the norms about employer's loss of trust in the worker which is defined by Point 6, Part 1, and Article 113 of the

Labor Code. According to attorneys, the dissolution of employment contracts at the employer's initiative primarily takes place on this basis since the general wording of this article is often arbitrarily interpreted by unscrupulous employers. Moreover, Article 122 of the Code defines that "the loss of trust in the worker" is possible in those cases when the latter:

- 1) While servicing monetary or commodity values, has performed such acts as a consequence of which the employer has suffered material damages;
- 2) *Performing educational and pedagogical functions, has committed an act incompatible with continuation of the given work;*
- 3) Has divulged and publicized state, official, commercial or technological secrets or informed the competing organization about them.

The wording of Point 2 in the above noted Article, i.e. *an act incompatible with continuation of educational and pedagogical work*, can be arbitrarily interpreted by court since the legislation and judicial practice do not provide any definition or give an idea as to which scope of acts can be considered compatible or incompatible in the meaning of this Article.

In order to ensure effective application of numerous articles of the Revised European Social Charter, it is necessary **to protect the worker from discrimination in the workplace**. Article 20 of the Charter obliges the State to ensure "exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex." To protect this right, measures should be undertaken in the following areas:

- a) access to employment, protection against dismissal and occupational reintegration;
- b) vocational guidance, training, retraining and rehabilitation;
- c) terms of employment and working conditions, including remuneration;
- d) career development, including promotion.

In the same way, the application of all the rights provided for in the Charter should be equal for all irrespective of any social or other individual characteristics. However, in terms of ruling out discrimination, the RA Labor Code covers only already registered and developed labor relations leaving other relations outside the field of regulation and primarily cases of discrimination during hiring.<sup>52</sup> Parallel to this, a separate comprehensive legislation regulating relations associated with discrimination is also missing, which would define the definition of discrimination, its types and directions of prevention. Most importantly, judicial procedural norms do not provide for special procedures for consideration of discrimination complaints that would ensure an effective examination of cases of discrimination. In particular, during examination of discriminatory cases in court based on international criteria, the burden of proving should be laid on the employer: the latter should justify that he/she has not treated the worker in a discriminatory manner and that the differentiated approach had objective bases.

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<sup>52</sup> Article 180, the RA Labor Code

The legislation should also define a special procedure for determining the amount of compensation and providing it to the victims of discrimination.<sup>53</sup>

As a result of the 2015 changes, **the constitutional guarantees for protection** of social rights have significantly weakened. One of the examples of this is the limiting of the scope of issues for appeal to the Constitutional Court by the RA Human Rights Defender. According to Article 169 of the RA Constitution, the RA Human Rights Defender can appeal to the Constitutional Court to litigate the compliance of laws, National Assembly resolutions, the decrees and orders of the Republic's President, the decisions of the Government and the Prime Minister, and sub-legislative normative legal acts with the provisions of Chapter 2 of the Constitution. That is to say, the RA Human Rights Defender as a national institute for human rights protection can defend only issues related to fundamental rights and freedoms at the Constitutional Court, but not issues related to social, including labor rights, which are provided for in Chapter 3 of the Constitution.

In practice, abuses of the rights by employer occur in regards to **concluding of fixed-term contracts** with employees. The current legislative regulations regarding employment contracts concluded for a fixed or indefinite term are rather problematic. According to Article 94 of the RA Labor Code, in terms of their period of validity employment contracts can be of two types: contracts concluded for an indefinite period, which do not mention the contract's term of validity, and fixed-term employment contracts, which mention the contract's term of validity. Numerous studies in this area demonstrate that employers mostly conclude fixed-term contracts with registered workers in cases when all legislative bases are present to conclude contracts for an indefinite period of time. According to the legal position of the RA Court of Cassation, concluding employment contracts for an indefinite term should be regarded as a rule, and fixed-term employment contracts should be an exception to this rule. The Code stipulates the bases for making such an exception: the nature of work to be performed and work performance conditions. Nevertheless, the law does not define the criteria on the basis of which the nature of this or that work or its performance conditions can be considered as basis for concluding a fixed-term employment contract. In addition, the employer is not obliged to justify in the fixed-term contract the basis for concluding a given contract for a definite period of time. In practice, these legislative gaps provide employers with the opportunity to abuse their right to conclude fixed-term employment contracts. As a result, workers feel most vulnerable in their relations with employers and avoid voicing problems associated with work under the threat of not extending the employment contract.

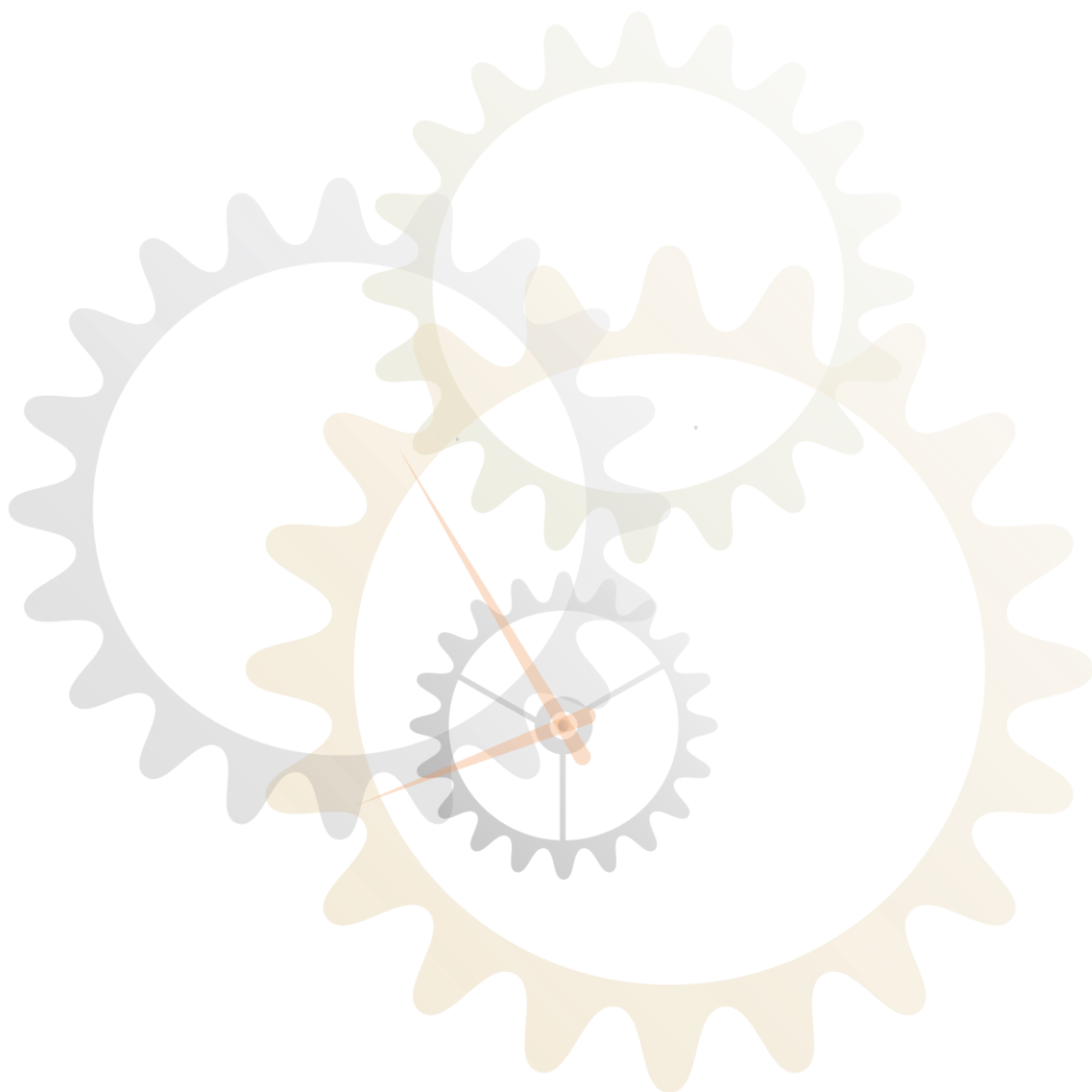
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<sup>53</sup>Digest of the Case Law of the European Committee of Social Rights;  
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168049159f>

## RECOMMENDATIONS

- *To introduce amendments to the RA Labor Code, obliging the employer to inform the worker in writing about limitation time periods for actions upon imposing a disciplinary penalty or dissolving the contract. To develop and disseminate sample statements of claim to facilitate for people the possibilities of judicial protection;*
- *Provide additional resources to the Office of Public Defender to allow it to provide representation or defense to vulnerable persons in cases related to labor rights; to provide training on labor rights topics to public defenders specialized in civil cases; to promote the provision of pro bono services on issues related to labor rights among attorneys; to specify in the RA Law on Advocacy the scope of those persons who are entitled to benefit from the services of the Office of Public Defender;*
- *To introduce amendments and additions to the RA Law on Non-Governmental Organizations, the RA Administrative Procedure Code and other legal acts to ensure the implementation of the requirement of the Constitutional Court's decision No. 906, i.e. to allow NGOs to apply to court for issues related to protection of public interest and collective rights;*
- *To edit Point 2, Part 1, Article 113 of the RA Labor Code to rule out the possibility of the latter's misuse for the purpose of dismissing workers from work; to amend the RA Labor Code through removal of the provision on the loss of trust in the worker as a basis for dissolving the employment contract; to provide in the legislation an exhaustive list of cases when dismissal from work can be considered lawful. In addition, it is necessary to provide in the legislation the guarantee for requiring from the worker a written explanation before and upon imposition of a disciplinary penalty which might be basis for dismissal from work;*
- *To include in the RA Labor Code legislative regulations on exclusion and prevention of discrimination, which will also apply in cases of hiring and other cases. In the same way, it is necessary to develop and adopt a comprehensive legislation on ruling out discrimination, to introduce relevant amendments to procedural codes for the purpose of ensuring an effective examination of cases of discrimination;*
- *To introduce amendments to Article 169 of the RA Constitution authorizing the RA Human Rights Defender to appeal to the Constitutional Court to litigate the compliance of laws, National Assembly resolutions, the decrees and orders of the Republic's President, the decisions of the Government and the Prime Minister, and sub-legislative normative legal acts with the provisions of Chapter 3 of the RA Constitution;*
- *To introduce amendments and additions to the RA Labor Code defining that in all cases when concluding fixed-term employment contracts, the employer is obliged to mention in the contract the grounds for exception defined by the RA Labor Code which serve as a basis for concluding a fixed-term employment contract;*
- *To promote the use of alternative mechanisms for resolving labor disputes by workers through development of the institute of mediator, creation of commissions specialized in examining labor disputes which will also include representatives of trade unions, etc.*

**OBSTACLES TO AND PROSPECTS FOR DEVELOPMENT OF  
SOCIAL PARTNERSHIP**



## INTRODUCTION

On August 1, 2015, the RA Government, the Confederation of Trade Unions of Armenia, and the Republican Union of Employers of Armenia concluded, in accordance with the procedure defined by the RA Labor Code, the Republican Tripartite Collective Agreement<sup>54</sup> (hereinafter the Agreement), the term of validity of which was extended till 2019 based on the agreement signed on December 12, 2018. An analysis of the documents of the International Labor Organization (hereinafter ILO) allows to conclude that the creation of a similar tripartite mechanism is necessary for application and promotion of international labor standards through consultations between the three sides. Social partnership principles are envisioned in a number of international documents, the most important of which seems to be the ILO Convention 144 on Tripartite Consultation (1976), which has been ratified by the Republic of Armenia.

Such a format for social partnership allows representatives of employers and workers to jointly identify problems existing in the areas of their activities, and the State, as a third-party regulator, to respond to these problems through development of relevant legislative regulations and the practice of their application. According to the Agreement, social partnership is an important effective means for balancing out the interests, ensuring social solidarity and resolving issues.

### *Obstacles to Social Dialogue*

In spite of all the declared principles, current Agreement, which has been agreed upon by the three parties pursuing different interests, is an apparently compromise document. The passive and not demanding work style of trade unions, employers' avoidance to assume social responsibility and the inaction displayed by the state in the social security area have led to a situation when the current Agreement and its Action Plan<sup>55</sup> are purely declarative in nature from the perspective of labor rights protection and promotion. The 2015-2018 Action Plan which is to ensure the enforcement of the Republican Collective Agreement does not envision measurable and clear results, activity criteria and evaluation criteria for the results, the plan does not provide for clear-cut timelines for implementation of the activities either. Of concern is also the fact that the implementation of both the Action Plan for the previous Agreement and the implementation of the current Action Plan has not undergone monitoring and evaluation to allow to develop an understanding of its results and the effectiveness of its implementation.

For years, international organizations have provided recommendations to Armenia on the necessity of introducing mandatory social insurance against accidents during production and occupational diseases, however, the Agreement provides only for "undertaking of measures" in this direction. Such a formulation diminishes the necessity of the imperative

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<sup>54</sup>[http://www.hamk.am/social.php?lang=arm&social\\_id=35](http://www.hamk.am/social.php?lang=arm&social_id=35)

<sup>55</sup> The Action Plan is not published at any web site. For the purposes of this research, it has been obtained from a trade union, which is a member of the Commission.

implementation of this obligation. In the same way, the public discourse has for years focused on the issue of restoration of the State Labor Inspectorate, which has also been recommended to Armenia within the framework of the implementation of its international obligations, however, the issue has not been incorporated into the Agreement.

Despite the fact that there are numerous problems in Armenia associated with discrimination against and limited opportunities for women in the labor market, the Agreement does not emphasize **women's issues** to the necessary extent and does not envision solutions to these problems. Two Points of the current Agreement (Points 2.9 and 3.4) envisages declarative actions for provision of equality between women and men and promotion of women's sustainable employment.

One of the important points of the Agreement is discussion of drafts of labor legislation and normative legal acts which have significant importance for protection of the rights and interests of employers and workers by the Commission before their adoption. However, an exception to this general rule is stipulated for adoption of legal acts requiring operative decision-making, which can bypass the Commission's opinion. No legal act defines which normative acts are considered as such, and, hence, the noted general wording creates a possibility for abuse and different interpretations by the Government representatives.

In addition to the problems in the Agreement, many actors in the area have expressed concerns about the effectiveness of the activities of the **Republican Tripartite Commission** (hereinafter the Commission). The noted reasons for this include, for example, the passive stance of the Government, lack of practice in cooperation in this format among trade union leaders, and frequent changes in the Government composition and/or of officials. Thus, according to the criteria stipulated by the ILO Convention No. 144<sup>56</sup>, the RA Minister of Labor and Social Affairs and the staff of the Ministry coordinate and organize the work of the Commission. However, the changes of the Minister, which have been frequent over the recent years, as well as the personnel turnaround at the Ministry, adversely affect the effective performance of this function. Under these circumstances, it is difficult for trade union representatives to negotiate with the Government representative on any issue and to develop long-term programs based on the reached agreements.

It is obvious that employers and trade unions, as the main parties to social partnership, almost always have opposite interests, and the Government should assume the role of a mediator and moderator in this case. Nevertheless, in reality, Armenia's practice has developed in line with the contrary logic: the state has granted privileges to employers and has not carried out an effective oversight of their activities. As a result, workers and, naturally, the trade unions representing their interests have often found themselves in a vulnerable situation. One of the remarkable examples of this is, for instance, the draft law on amendments and additions to the RA Labor Code presented by the RA Government in 2018, which, according to experts in

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<sup>56</sup> Article 4. 1. The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention.

the area and civil society, significantly limited the rights of workers. According to the author of the draft law, the Government, these changes were aimed at simplifying administrative matters for employers. Despite the fact that the Confederation of Trade Unions of Armenia has negatively reacted to the proposed changes, representatives of the Republican Union of Employers continued to state that the draft would have a positive impact on the economy and, thus, supported the Government's position.

The ILO Committee of Experts has received reports from the Confederation of Trade Unions of Armenia raising the issue that the Republican Tripartite Commission does not meet the requirements of Article 5 (1) of the ILO Convention No. 144 on effective tripartite consultations. The Confederation of Trade Unions has informed that the Commission does not hold regular meetings, i.e. once every three months as envisaged by the Agreement. A concern also has been voiced that the opinions expressed, and suggestions made on issues discussed at the Republican Tripartite Commission are not reflected in the draft legislative acts presented to the National Assembly. Since 2013, the Confederation of Trade Unions of Armenia has been negotiating with the Government on the issue of ratification of a number of the ILO documents, including Conventions on Occupational Safety and Health, 1981 (No.155) and on Safety and Health in Agriculture, 2001 (No. 184), as well as Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).<sup>57</sup> However, no progress towards ratification of these documents has been recorded yet. As a result of the recent 2018 ILO observation, the Committee of Experts has requested the RA Government to provide information on the results of the tripartite consultations, which relate to the protection of international labor standards by the State.<sup>58</sup>

A number of studies carried out over the recent years have recorded that the operating trade unions prefer not to have any conflict with any party to social partnership and, as a result, assume "compromise" position on different issues.<sup>59</sup> Under such circumstances, it is difficult to imagine how the trade unions are to promote workers' interests in the negotiations on collective agreements, how they can influence the Commission's agenda development so that they manage to promote issues of vital importance to workers as a priority. In order to enroot the culture of social partnership, ILO often organizes working meetings with participation of representatives of the three parties, which, however, have not yet yielded any tangible results.

All the parties to social partnership are of the opinion that it is necessary to raise **public awareness** on the importance of social partnership and the Commission's activities. Parallel to this, it is also necessary to enhance the **accountability** of the Commission's work. Article 6 of the ILO Convention No. 144 envisions that "when this is considered appropriate after consultations with the representative organizations, where such organizations exist, the

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<sup>57</sup> Direct Request (CEACR) - adopted 2017, published 107th ILC session (2018)  
[https://www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101\\_COMMENT\\_ID:3141965](https://www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101_COMMENT_ID:3141965)

<sup>58</sup> Ibidem

<sup>59</sup> [http://aprgroup.org/images/Library/report\\_tu\\_needs\\_fes\\_arm\\_08-02-2011.pdf](http://aprgroup.org/images/Library/report_tu_needs_fes_arm_08-02-2011.pdf)



competent authority shall issue an annual report on the working of the procedures provided for in this Convention.” Instead of the realization of the noted criteria, the current Agreement stipulates a general provision, according to which, the Commission shall periodically publish information on social partnership through mass media. This provision does not suffice for raising public awareness on the Commission’s work to the necessary extent. In the same way, in order to improve the accountability of the Commission, it would be helpful to engage, on rotation basis, NGOs active in the area as an observer of the Commission’s work and for participation in meetings. There is a such experience in Armenia: for example, in the case of formation of the Council on Combating Corruption, which includes four representatives of civil society, two of which are NGOs representing private sector interests.<sup>60</sup> The noted initiative is even more important for promotion of such issues, of which the parties to social partnership do not have sufficient knowledge and experience, for example, issues related to gender equality and policy development for prevention of discrimination in the workplace. For example, in Ireland, besides the traditional three parties, in social partnership negotiations participate also voluntary and community organizations to be able to cover a larger scope of issues related to different areas by the negotiated collective agreement. Guided by this principle, Ireland has adopted very important collective agreements on the elimination of racism in the workplace, revision of the law on the employment agency, and other issues. In spite of all these recorded achievements, in Ireland, social partnership does not even proceed on an official and regulated basis: negotiations and meetings take place in non-formal formats, which have acquired the power of tradition.<sup>61</sup>

According to the Agreement, the Commission is made up of representatives of workers, employers and the Government. As regards **the term “representative,”** Article 1 of the ILO Convention No. 144 on Tripartite Consultations (1976) defines that the term “representative organizations” means “*the most representative organizations* of employers and workers enjoying the right of freedom of association.” Meanwhile, the Republican Union of Employers represented in the current composition of the Commission does not represent the wide layers of employers. The latter does not provide the same membership coverage that trade unions have in different areas and organizations. In other words, an organization, whose employees are united in a trade union and have an authorized representative in the Commission, might not be a member of the Republican Union of Employers. The Republican Union of Employers does not unite all organizations and entities operating in different sectors of the economy. For example, banks are united in the Union of Banks, industrial organizations in the Union of Manufacturers and Businessmen, etc. However, the noted unions are not represented in the Republican Union of Employers, although they cover a significant portion of the economy and have numerous workers.

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<sup>60</sup><http://www.gov.am/am/anticorruption-council-members/>

<sup>61</sup>[https://www.ilo.org/dyn/migpractice/migmmain.showPractice?p\\_lang=en&p\\_practice\\_id=15](https://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=15)

Nevertheless, the noted situation is a natural process in the development of market economy and association of organizations in different ways and platforms cannot be limited in any way. However, it will be logical that the diversity of these unions be reflected in the Commission and be a full-fledged party to social partnership. This way, both workers and employers engaged in different areas of the economy will have the opportunity to represent their interests at the highest levels. According to the ILO Recommendation No. 152, consultations can be undertaken *with a number of bodies/unions*, which have “special responsibility for particular subject areas.”

Similar experience is also available in **the European Union member states**. In its address on social dialogue, the European Commission noted that in the past the involvement of social partners at the level of the EU member states was not satisfactory, now it is necessary to activate the cooperation of those partners in different areas, which carry out activities in different areas at the same time.<sup>62</sup>

**In Austria**, the system of social partnership includes more than one representative of workers and employers. In particular, workers are represented by the Austrian Trade Union Federation (ÖGB) and the Federal Chamber of Labour (BAK), and employers by the Economic Chamber of Austria (WKÖ), the Standing Committee of Presidents of the Chambers of Agriculture (PKLWK) and the Federation of Austrian Industry (VÖI).<sup>63</sup> The membership of the noted organizations is frequently recurring, i.e. the same employer and worker can be a member of all these organizations, which are represented in the Commission. However, the cooperation between them prevails over possible competition for two main reasons. The same persons hold some leadership positions in the two representative organizations of workers. At the same time, there is distribution of roles and effective work between these two organizations: one is responsible for negotiating and signing collective agreements, and the other carries out expert analyses on issues of the area under consideration. In their relations with the Government, they present a united front for protection of workers’ rights. Similar practice of the repetition of members and division of functions is also manifest among the employers’ representative organizations. In Austria, different councils and committees (similar to the model of the RA Republican Tripartite Commission) have been created so that the social partners have a tangible influence, as far as possible, on development of public policies and decisions-making. In addition to such a formal format, active consultations take place also outside the formal structures. If representatives of employers and workers succeed in developing a common approach with respect to any issue, this approach becomes a guideline for development of policies in the given area for the Government. In Austria, the opinion of the social partners is *de facto* privileged for the Government as compared to other opinions in the social and economic areas. As a result, if any group of society advocates for change of a law or

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<sup>62</sup> Social Dialogue in Europe – a Partnership for Change; [http://europa.eu/rapid/press-release MEMO-04-211\\_en.htm](http://europa.eu/rapid/press-release_MEMO-04-211_en.htm)

<sup>63</sup> <https://www.eurofound.europa.eu/efemiredictionary/social-partnership>

practice, its main targets are representative unions of employers and workers and not the Government.

**In France**, for example, the interests of social partners are pivotal for the state in development of social and labor policies. Thus, a legislative draft related to pensions has been published only after eight-month-long negotiations with social partners and society.<sup>64</sup>

Social partnership guides the labor market in **Denmark**, including labor rights protection legislation, definition of salaries and issues related to occupational safety and health.<sup>65</sup> The social partners, being represented in tripartite councils at the levels of national and territorial governance, have traditionally had a significant role in development of public policies in Denmark. The multipartite National Employment Council operating at the national level includes not only representative organizations of employers and workers, but also representatives of local self-governance bodies. The Council also acts as an advisory body to the Minister of Labor Issues, once a year publishes a report on developments in the labor market, which serves as a basis for the Minister to develop strategy for the next year activities.<sup>66</sup>

## RECOMMENDATIONS

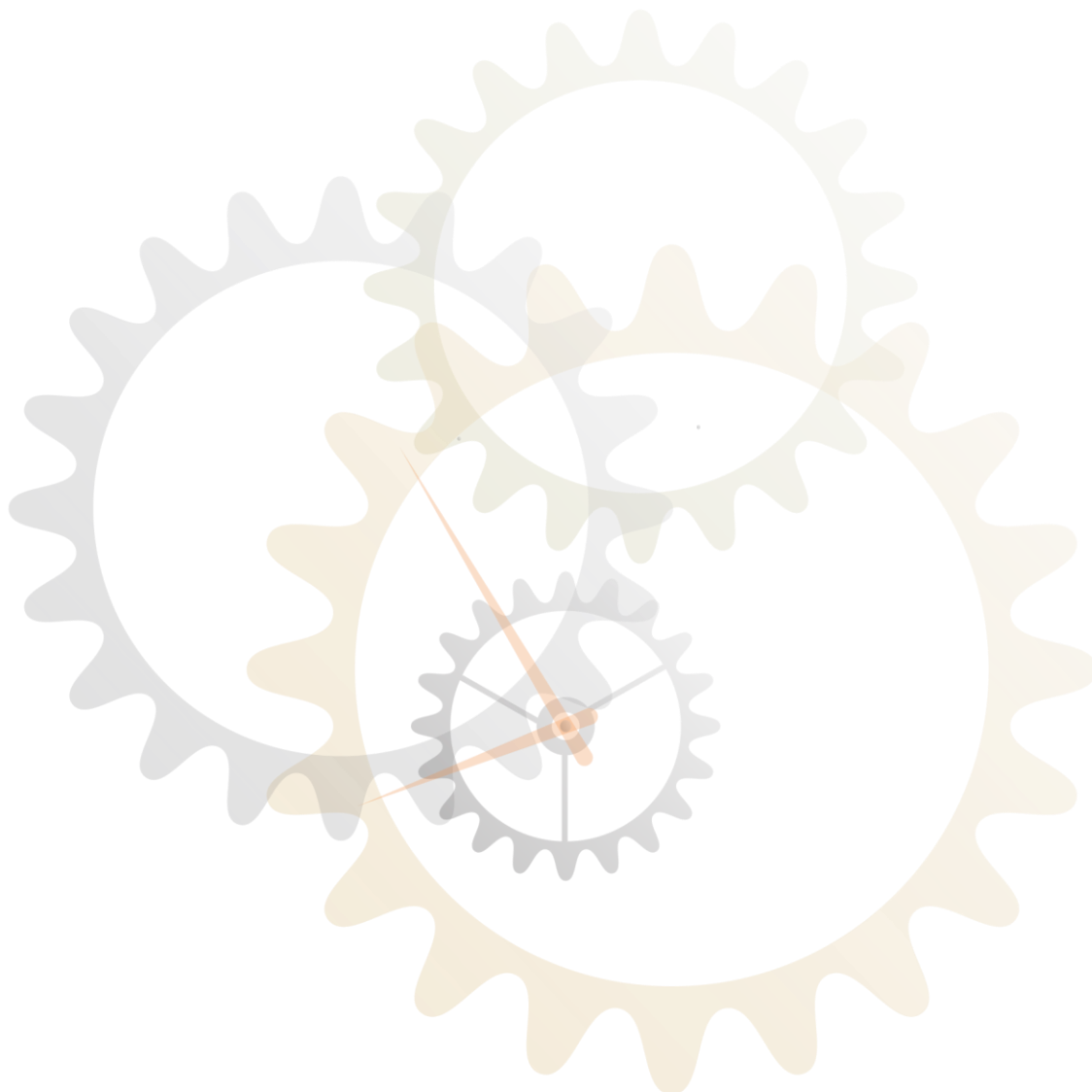
- *To define, in an Appendix to the Republican Tripartite Collective Agreement, the scope of those issues, decisions regarding which can be considered as urgent and can bypass the procedure of seeking the Commission's opinion;*
- *To amend the Action Plan providing for the enforcement of the Republican Tripartite Collective Agreement by defining measurable and clear-cut results, activity criteria and evaluation criteria for the results, and clear-cut timelines for implementation of the activities. To provide in the Agreement that the Action Plan should unconditionally undergo monitoring and evaluation and the results should be published on the web site of the RA Ministry of Labor and Social Affairs;*
- *To include in the Republican Tripartite Collective Agreement and the Action Plan the problems in the labor market related to women's labor rights and to define mechanisms and clear-cut actions to overcome them. Regarding this, active and multi-stage discussions should be held with civil society organizations and initiatives active in this area;*
- *To include in the Republican Tripartite Collective Agreement the requirement that the Commission presents periodic reports on its work and the social and labor situation. To select, by rotation, NGOs and other interested organizations working in the area, which will participate as observers in the Commission's work and meetings and will make suggestions on the agenda issues;*

<sup>64</sup>France: latest working life developments Q2 2018; <https://www.eurofound.europa.eu/publications/article/2018/france-latest-working-life-developments-q2-2018>

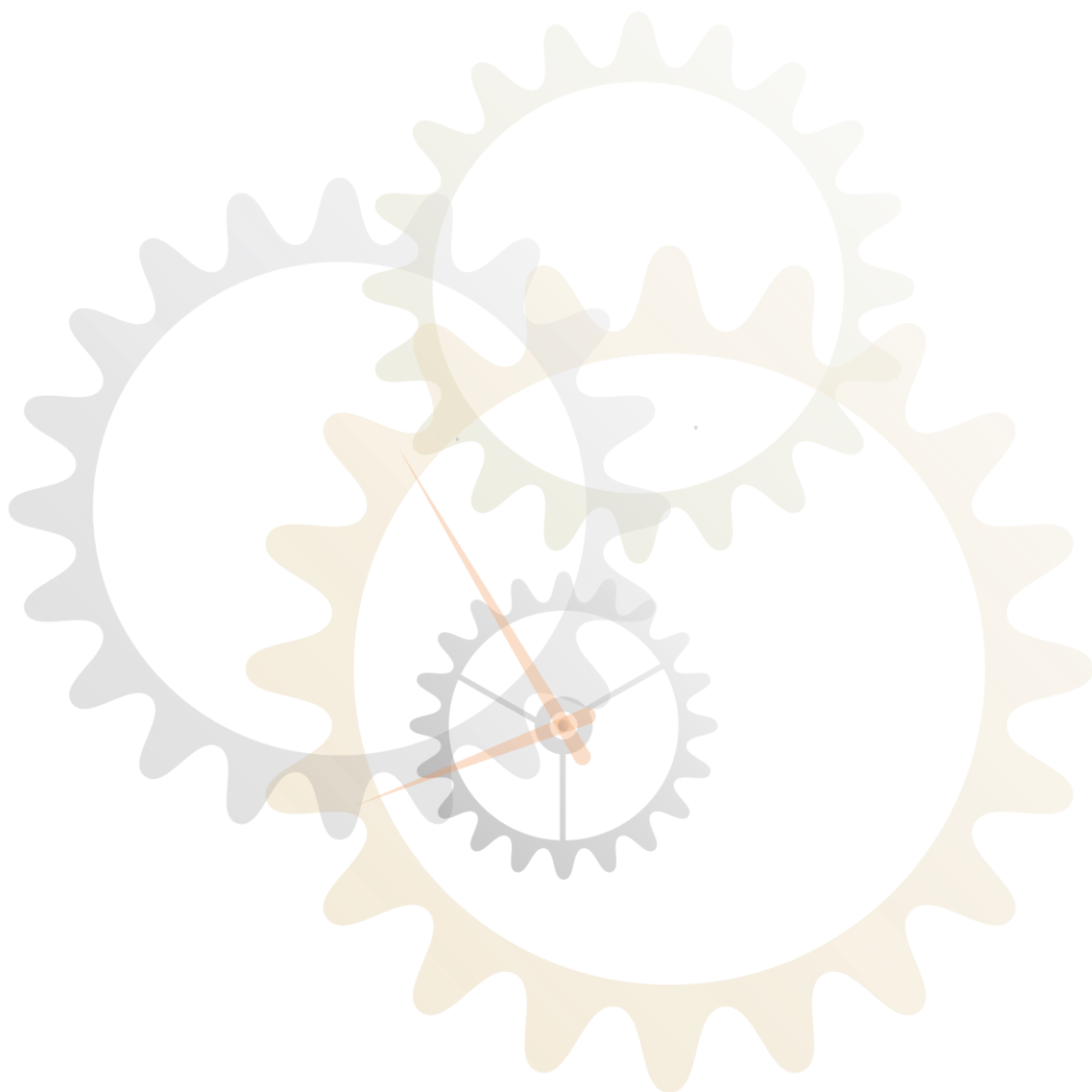
<sup>65</sup>Hendeliowitz & Woollhead, 2007, էջ 128

<sup>66</sup>[https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---lab\\_admin/documents/publication/wcms\\_156033.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_156033.pdf)

- *To introduce amendments into the Republican Tripartite Collective Agreement and relevant legal acts to include representatives of other unions of employers in the Commission instead of the Republican Union of Employers of Armenia. The noted change will ensure that the Commission have the most representative composition;*
- *To organize educational and awareness raising events for the representative organizations of workers and employers operating at the sectoral and territorial levels, developing the latter's capacities to conduct collective negotiations, to conclude collective agreements, and to provide trainings on work safety standards;*
- *To fix in the Republican Tripartite Collective Agreement that in the event when the Chairperson of the Commission wants to conduct consultations on issues requiring operative decision-making outside the sessions of the Commission, representatives of both employers and workers should also be present at these consultations. In the event when one of the parties cannot take part in the meeting, it should be informed about the consultations in writing within a day and to have the opportunity to present its observations and suggestions regarding the issue being discussed;*
- *To publish on the official web sites of the Commission member organizations the Republican Tripartite Collective Agreement, its Action Plan, as well as to publish in advance the date, venue and the agenda of the Commission's sessions for the purpose of enabling the participation of interested persons and organizations.*



**TRADE UNIONS IN ARMENIA:  
POLICY BRIEF**



## **INTRODUCTION**

In Armenia, the first trade unions were organized at the beginning of the past century: in Yerevan, Alexandropoulos, Kars, and Alaverdi. In 1905, in Yerevan, a trade union of home workers was created, and the next year, in 1906, trade unions of leather-dressers (Yerevan), railway workers (Alexandropol, Kars), copper-mining workers (Alaverdi), printers, bakers, and mail-telegraph employees (Yerevan) were organized.

Later, already during the Soviet period, in accordance with the relevant provisions of the Labor Code adopted by the Supreme Council of Soviet Armenia in 1972, trade unions represented interests of workers and employees in the areas of production, work, services and culture, exercised control and oversight of“ the compliance with the labor legislation, occupational safety and sanitary rules and norms by the administration of enterprises, entities, and organizations, as well as proper application of the terms defined for work remuneration,” managed the state social insurance, health resorts, sanatoriums and rest houses, as well as cultural-educational, tourism, and sports entities and children’s (pioneer) camps.

After the Republic of Armenia gained independence, in 1992, the Confederation of Trade Unions of Armenia (CTUA) was established.

According to the Charter of the Confederation of Trade Unions of Armenia, CTUA is a voluntary union of sectoral republican unions of trade organizations, which is established to consolidate and coordinate their activities, to represent and protect common interests. CTUA believes that the availability of decent, dignified work is indispensable for sustainable development of the country.

### **The Main Legal Bases for the Activities of Trade Unions in Armenia**

However, the legal basis regulating the activities of trade unions, which would be in line with the newly-developing market relations in the republic, were missing.

Only in 1995, the Constitution of the Republic of Armenia provided for the rights of establishment of and membership trade unions, as well as one of the main tools of trade unions -the right to organize a legitimate strike. These rights are envisaged both in 2005 and 2015 Constitutions of the Republic of Armenia.

It should be noted that the possibility for exercise of any right envisaged by the Constitution should be regulated by relevant normative legal acts.

The RA Law on Trade Unions came into force only in 2001. The law defines “the procedure for establishment of trade unions, the principles guiding their activities and relations with state bodies, local self-government bodies, legal and natural persons, as well as regulates relations associated with the protection of the rights and interests of trade unions and their participants (members).”

According to Article 4 of the RA Law on Trade Unions, “a trade organization is established by a decision of its founding assembly (conference, congress) convened at the initiative of its founders (at least three employees).”

Later, the Labor Code of the Republic of Armenia was adopted in 2004 and came into force in 2005. The Code “...regulates collective and individual labor relations, defines the grounds and implementation procedure for the initiation, modification and termination of these relations, the rights, obligations and responsibility of the parties to labor relations, as well as terms and conditions for occupational safety and health.”<sup>67</sup>

According to Article 22 of the same Code, “Representation of employers and employees can be carried out both in collective and individual labor relations. The representation in collective labor relations is regulated by this code and other laws, and the representation in individual labor relations by the Civil Code of the Republic of Armenia.”

In collective labor relations, trade unions have two tools or means, which are stipulated by the RA Labor Code: social partnership in the area of labor and the right to organize a strike.

If the Labor Code defines largely applicable and practically used provisions for realization of social partnership, the mechanism for exercise of the constitutional right to strike is rather complicated.

One of the main objectives of trade unions is to have the opportunity to protect the rights of trade union member employees and to represent their interests by lawful means during labor disputes.

The RA Labor Code provides for the regulation of collective labor disputes, including the mechanism for exercise of the right to strike (Articles 64-82).

“1. The procedure for discussion of collective labor disputes consists of the following stages:

- 1) Discussion of a collective labor dispute at the reconciliation commission (including with participation of a mediator). The discussion of a collective labor dispute by the reconciliation commission is a mandatory stage for discussion of collective disputes.
- 2) Examination of a collective labor dispute in court if the collective labor dispute relates to the process of implementation of the collective agreement.

2. A party to a collective labor dispute has no right to avoid the reconciliation procedures.

In order to resolve a collective labor dispute, representatives of the parties, the reconciliation commission, and the mediator are obliged to use all the possibilities envisioned by legislation.”<sup>68</sup>

The right to a decision to declare a strike belongs to the trade union. “A strike is declared in the event the decision on it is approved by secret ballot:

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<sup>67</sup>Article 1, the RA Labor Code, HO-124-N

<sup>68</sup>Article 67, HO-124-N, the RA Labor Code

1) by two-thirds of the total number of the organization's employees, when a strike is declared at the organization.

2) by two-thirds of the employees of a subdivision, when a strike is declared at the organization's separate (structural) subdivision.<sup>69</sup>

## RECOMMENDATIONS

Paragraph 522 of the fifth edition of the digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the International Labor Organization (ILO) defines that “the right to strike is one of the basic means through which workers and their organizations may defend and facilitate the implementation of their economic and social interests.” Paragraph 523 of the same digest defines that “the right to strike is an intrinsic corollary to the right to organize protected by provisions of ILO Convention No. 87.”<sup>70</sup>

In addition to this, Paragraph 556 of the same digest notes that “the requirement of a decision to declare a strike by over half of all the employees is excessive and could excessively hinder the possibility of carrying out a strike...”.

Factually, the right to strike is defined in Armenia, however, the possibility for exercising that right is rather complicated.

***We believe that it is necessary to define a clearer and more applicable mechanism for exercise of the constitutional right to strike, which will be in line with the criteria of International Labor Organization, and which, in its turn, can increase effectiveness of trade union activities.***

Yet another issue, which also relates to labor disputes, is the fact that in Armenia individual labor disputes are resolved only through courts, which cannot satisfy either employers or employees since judicial procedures take up a lot of time and resolution of individual labor disputes in court can last months, and even years.

***The resolution of individual labor disputes through extrajudicial procedures can be advantageous to both employees and employers since examination of an individual labor dispute can be carried out at the workplace and quite a short term can be set for resolution of the issue.***

Studies demonstrate that specialized courts or extrajudicial bodies that examine only individual labor disputes according to the procedure defined by law are operating in different countries.

***We believe that it is necessary to make an addendum to the RA Labor Code to the effect that, at the consent of the parties, commissions examining individual labor disputes with participation of trade unions be formed at enterprises, entities, and organizations. An equal***

<sup>69</sup>Article 74, 1. 1), 2), HO-124-N, the RA Labor Code

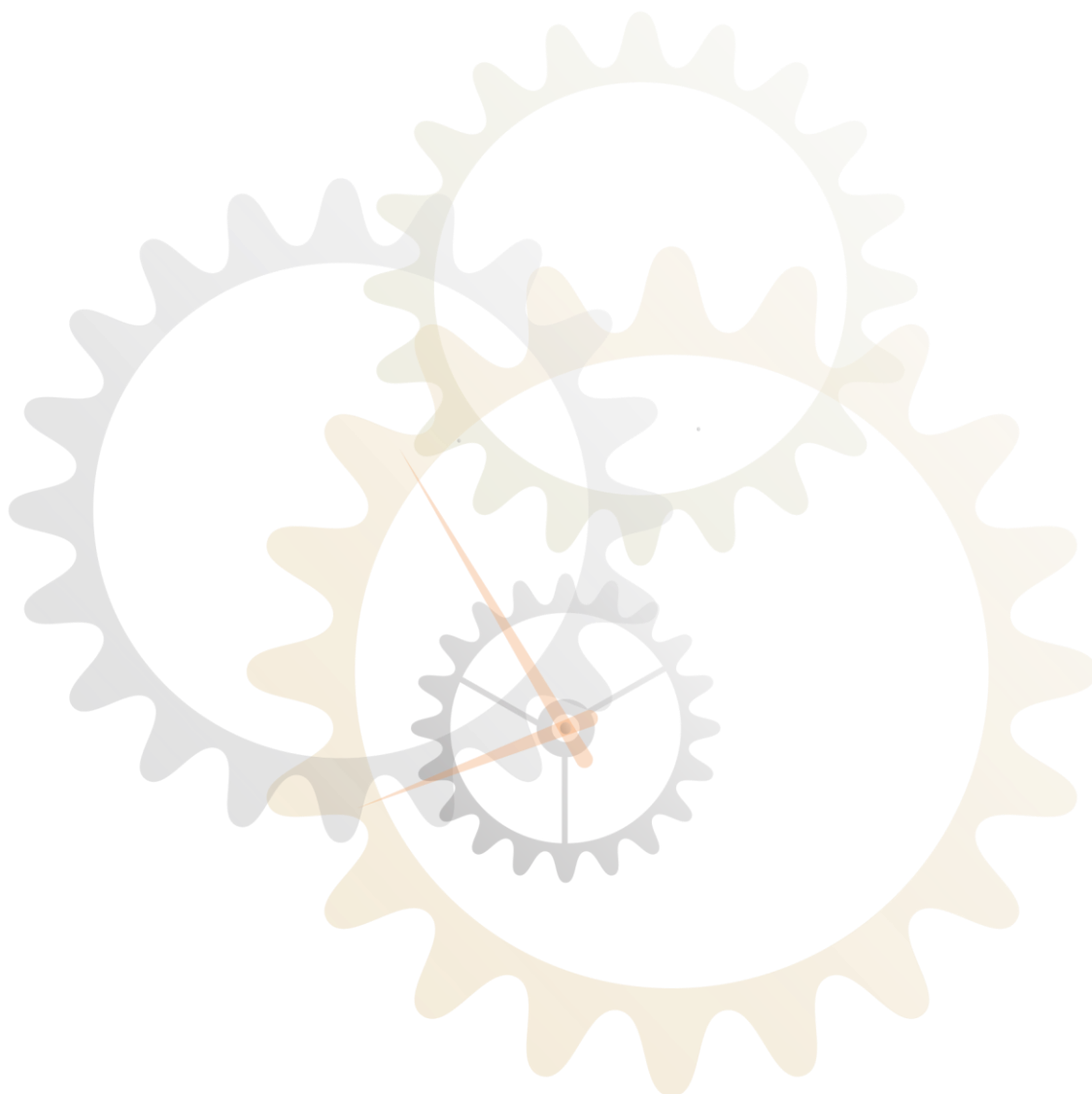
<sup>70</sup>The Republic of Armenia ratified the ILO Convention No. 87 in 2005



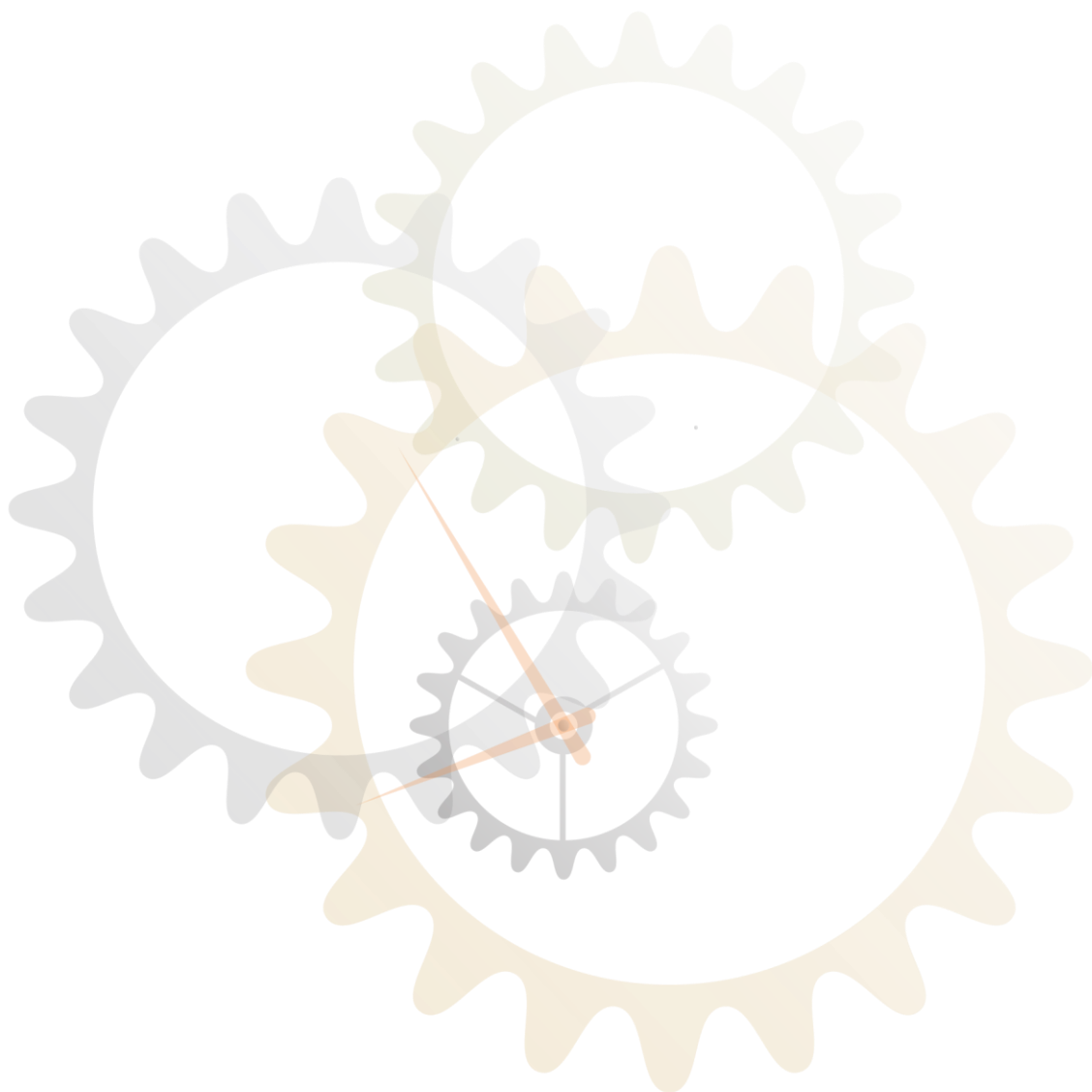
*number of representatives (specialists) nominated by the trade union and the employer will sit on that commission.*

The commission examining individual labor disputes is the initial body examining individual labor disputes originating at organizations and the commission's decision can be appealed in court.

By the same principle, the possibility of forming commissions examining individual labor disputes at enterprises and organizations can trigger the creation of trade unions and increase in their membership.



## ISSUES RELATED TO ACTIVITIES OF TRADE UNIONS



## INTRODUCTION

The activities of trade unions in Armenia are regulated by the RA Constitution, ILO Convention No. 87 (on the Freedom of Association and Protection of the Right to Organize), ILO Workers' Representatives Recommendation 143, European Social Charter (Revised), the RA Labor Code (hereinafter the Code), the RA Law on Trade Unions (hereinafter TU Law) and other legislative acts.

The RA Constitution (Article 45) guarantees every person's right to the freedom of association with others, establishment of and membership in trade unions for the purpose of protecting their labor interests.

Article 5 of the Revised European Social Charter stipulates that the State commits to ensuring that its national legislation shall not impair or shall not be so applied as to impair the freedom of employees and employers to form local, national or international organizations for the protection of their economic and social interest and to join those organizations. That is to say, the State is obliged to provide for such legislative regulations that will not in any way impair this freedom.

In accordance with international criteria both trade unions and workers' representatives should be able to equally use the right and other guarantees on freedom of association. If both exist at the same workplace, the existence of workers' representatives cannot in any way disrupt the exercise of their functions by trade unions.<sup>71</sup> Instead, cooperation between the two groups on issues of common interest should be encouraged at all levels.

According to Article 33 of the RA Labor Code (hereinafter the Code), trade unions reserve the right to an important mission of non-state oversight of the implementation of the requirements of labor legislation and other normative legal acts containing labor law norms, as well as the requirements of collective agreements. To protect the work of the latter, the legislation **defines compulsory sanctions for interference in the activities of trade unions**. In particular, Article 41 (1) of the RA Code on Administrative Offences sets a fine for hindering the exercise of rights of workers' representatives, including those of trade unions, defined by the Labor Code. Article 161 of the RA Criminal Code envisions sanctions for impeding or interfering with the formation of trade unions or their lawful activities.

In spite of the above noted legislative guarantees, trade unions do not effectively represent and protect employee interests in employee-employer and employee-state relations due to high level of unemployment and privileged status of business entities in certain areas. Systemic problems impeding the work of trade unions are discussed in more detail below.

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<sup>71</sup> ILO R143 - Workers' Representatives Recommendation concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking;  
[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312481:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312481:NO)

## *Legislative and Law Enforcement Practice Issues*

**The budget of trade unions** is primarily generated from membership fees<sup>72</sup>, which unavoidably affects their activities. According to the law, in the event of availability of a request from the member of trade union, the employer organizes the levying and transfer of the trade union membership fee<sup>73</sup>. The trade union budget shall be used to cover expenses necessary for ordinary operations of the organization, current expenses, partial salary reimbursement during strikes, and judicial expenses during collective lawsuits. The threat of stopping levying of trade union membership fees is an influential lever in the hands of the employer, which is sometimes applied in their relations with trade unions.<sup>74</sup> Conditioned by this, trade unions primarily use their resources to provide presents and other material benefits to members of collectives.

A number of state and self-government bodies have recorded cases when employers demanded from trade unions to delegate to them the function of managing the budget, as well as to submit the list of trade union members, thus attempting to oversee the activities of trade unions. These demands violate **the principle of independence of trade unions** which is defined by Article 13 of the TU Law, i.e. trade unions are independent of employers, they are not accountable to the latter and are not subject to their oversight except for the cases envisaged by law. The noted cases are violations of the law also in the sense that trade union membership is considered personal data of special category, which is not allowed to be processed (i.e. collected, fixed, recorded, coordinated, organized, saved, used, etc.) without the consent of the person, with the exception of cases when data processing is directly envisioned by law.<sup>75</sup>

The ILO Workers' Representatives Recommendation No. 143 envisions that workers' representatives **should be effectively protected against any interference with them, including unlawful dismissal from work** on account of their membership or their activities in a trade union. Similar guarantees are also envisaged by the Code, however, they are discriminatory in their nature (Article 119). In particular, workers elected to representative bodies of workers cannot be dismissed from work at the initiative of the employer without the initial agreement with the trade union. To dismiss the latter from work, the employer should appeal to the representative body of workers to seek a consent, and in case of workers who are members of the trade union but are not representatives of workers only if it is envisioned by the collective agreement. However, in practice, collective agreements are rare. It turns out that if a given worker is a representative elected to the trade union bodies, it is more complicated for the employer to dismiss him/her from work, and if the worker is an ordinary member of the trade union, the employer will not encounter any additional obstacle to dismissing the latter from work.

<sup>72</sup> Article 27, the RA Law on Trade Unions

<sup>73</sup> Article 24, *abide*

<sup>74</sup> Mechanisms of labor rights protection in Armenia, <http://www.osf.am/wp-content/uploads/2013/12/Avetik-paper.pdf>

<sup>75</sup> Article 12, the RA Law on Protection of Personal Data

Similarly, based on the same principle, the RA legislation does not define guarantees for those workers who have terminated their membership in a trade union or, vice versa, their candidacy has been nominated for election as a workers' representative. The requirement to provide for such guarantees is also derived from the criteria envisaged by the ILO Recommendations.<sup>76</sup>

Trade unions do not have effective mechanisms for protection of workers in case of dissolution of labor contracts at the employer's initiative and in case of their subjection to disciplinary sanctions. This significantly disrupts the effectiveness of the activities of trade unions, as well as the possibility of engaging new members.<sup>77</sup> The criteria for procedures on organizing such protection are defined by the ILO Recommendations.<sup>78</sup>

According to Article 15 of the TU Law, one of the objectives of the trade union is **to represent and protect** workers' interests and rights vis-à-vis the employer and (or) third person. Nevertheless, expert interviews conducted during the development of this policy paper, study of different reports and practice observation demonstrate that existing trade unions are not engaged in proactive protection of workers' rights, and rights protection dimension is weakly expressed in their activities. They are more inclined to join or support the collective which has presented labor demands. The main work methods are meetings with employers, clarification of issues through letter writing, however, these initiatives are always not successful: employers often refuse to meet or respond to trade union letters off the point.

In addition to the above noted issues, due to a number of gaps in the RA Labor Code, trade unions **are unable to properly perform their functions**. For instance, trade union members cannot enter the workplace unimpeded to study the working conditions of their members and to protect their interests and rights. In this respect, the European Committee of Social Rights has arrived at a conclusion that the right to self-organization and association is not effectively protected in the Republic of Armenia.<sup>79</sup> According to the ILO criteria, a trade union should have extensive powers to access the workplace of its members and to communicate with the organization's leadership or decision makers even in those cases when the trade union representative is not an employee of the given organization.<sup>80</sup> This does not imply that the trade union carries out an inspectoral oversight, this regulation will provide trade unions with the opportunity to carry out organizational and work safety related work, to more closely cooperate with employers and state bodies and to develop recommendations on improving the working conditions of workers.

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<sup>76</sup> ILO Workers' Representatives Recommendation concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, 1971 (No. 143), Paragraph 7

<sup>77</sup> <http://anticor.am/wp-content/uploads/TRADE-UNIONS-IN-ARMENIA-TODAY.pdf>

<sup>78</sup> ILO Workers' Representatives Recommendation concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, 1971 (No. 143)

<sup>79</sup> According to the meaning of Article 5 of the Charter, all workers and employers have the right to freely participate in national or international organizations to defend their economic and social interests. (2016, presented conclusions)

<sup>80</sup> Ibidem

At the same time, the right to unite in trade unions is **disproportionally limited by** the RA legislation **also for employees of a number of state bodies**, including those of the RA Armed Forces, police, national security, officers of prosecution bodies, as well of judges and the Constitutional Court justices.<sup>81</sup>These regulations are in contradiction to the RA obligations under the Revised European Social Charter.<sup>82</sup>

The RA labor legislation ensures protection of trade union members or workers' representatives from an unlawful interference by employers only within the framework of protecting them from groundless dismissal from work. In particular, according to Article 114 of the Code, membership in a trade union or participation in the trade union activities during non-working hours, or during work hours at the employer's consent, as well as being a workers' representative at any time, cannot be considered a lawful reason for dissolving a labor contract. However, in accordance with the meaning of Article 28 of the Revised European Social Charter, workers' representatives and trade union members should be protected **from any harmful action aimed at them**, which implies broader guarantees than just ruling out a dismissal from work.<sup>83</sup>

According to the TU Law, trade unions can **by their own will join** sectoral and territorial trade unions. Numerous employers, including state bodies and local self-government bodies, misuse this provision and encourage the trade union of their employees not to join others. As a result, the possibility of representation of the interests of employees of the given organization at higher levels is diminished. Different studies conducted in the area of labor demonstrate that often trade unions operating at the level of organizations are under the full control of employers since their close ones occupy managerial positions in those trade unions and seek agreement of the employer for everything. Numerous trade union organizations have medium-level employees of different organizations –department heads, deputies – engaged in managerial positions, which makes the trade union more vulnerable to the pressure of employers. The apparent conflict of interests does not allow them to effectively negotiate with employers on workers' rights protection issues.

Trade unions lack the tradition of cooperation with **civil society organizations**, they are more inclined to cooperate with international organizations.<sup>84</sup>According to some trade unions, there is even a competition between NGOs and trade unions in the area of labor rights protection. The common approach among trade unions is that NGOs are not eligible to speak on behalf of workers or to represent their interests since they do not represent the collective of the workers.

In the entire world, **strike** is considered to be the most powerful tool of trade unions. However, the RA labor legislation envisions rather complicated regulations for strikes, which makes the exercise of this right de facto impossible. The Code defines workers' right to strike,

<sup>81</sup> Article 6, the RA Law on Trade Unions

<sup>82</sup> The European Committee of Social Rights, 2014,

Conclusions,<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168064436b>

<sup>83</sup><https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168064436b>

<sup>84</sup>[http://aprgroup.org/images/Library/report\\_tu\\_needs\\_fes\\_arm\\_08-02-2011.pdf](http://aprgroup.org/images/Library/report_tu_needs_fes_arm_08-02-2011.pdf), Trade Unions of Armenia: Issues, Challenges and Needs, APR Group, 2010

which is limited to collective labor disputes.<sup>85</sup> Meanwhile, in practice, strikes can be used also for protection of workers' numerous social and economic rights, which does not line up with the logic of the Code. Such a regulation contradicts both the RA Constitution and the RA international obligations.<sup>86</sup> Thus, Article 58 of the RA Constitution defines workers' right to strike for protection of their economic, social or labor interests, which can be limited only by law for the purpose of protecting public interests or fundamental rights and freedoms of others. However, the person should have the right to strike irrespective of the existence of a collective dispute. According to the meaning of the current regulations, only organization-based trade union can undertake implementation of a strike, but in this case the organization's employees become more vulnerable. It will be more effective if trade unions at sector- and republican-levels also be able to organize a strike.

The **pyramidal structure of relationships** of trade unions undermines the efficiency of their activities, reducing their accountability and transparency of activities. At the Confederation of Trade Unions of Armenia, which unites twenty sectoral trade unions, subordination relations are based on the confederative principle, which is a guarantee for operating independently. However, this does not mean that mutual responsibility is completely missing. Every lower-level trade union is obliged to transfer part of its budget to a sectoral, territorial or republican trade union operating at a higher level, with the expectation of receiving certain organizational, consultative or other type of support. This support should target not so much the resolution of social problems as the implementation of rights protection activities.<sup>87</sup> And lower-level trade unions are not accountable to higher-level trade unions for their activities.

## RECOMMENDATIONS

- *To make amendments and additions to the RA Law on Trade Unions to introduce an alternative mechanism for collecting membership fees, with the employer's participation brought to the minimum. For example, it is possible to conclude an agreement with a bank so that the bank, through which the employee gets his/her salary, transfers the relevant portion of the employee's salary to the trade union's account number.<sup>88</sup> It is also necessary to develop other guarantees for ensuring financial sustainability of trade unions.*
- *Amend Article 119 of the RA Labor Code, securing the same work dismissal procedures for trade union members which are envisioned for workers elected to trade union bodies. To envisage work dismissal guarantees also for workers nominated for positions of workers' representatives, as well as to provide the same guarantees, for a certain period, to employees who have terminated their membership in the trade union.*

<sup>85</sup> Part 1, Article 73, the RA Labor Code

<sup>86</sup> Article 8, International Covenant on Economic, Social and Cultural Rights; Article 6, Part 2, the Revised European Social Charter

<sup>87</sup> [http://aprgroup.org/images/Library/report\\_tu\\_needs\\_fes\\_arm\\_08-02-2011.pdf](http://aprgroup.org/images/Library/report_tu_needs_fes_arm_08-02-2011.pdf), Trade Unions of Armenia: Issues, Challenges and Needs, APR Group, 2010

<sup>88</sup> Mechanisms for protection of labor rights in Armenia, <http://www.osf.am/wp-content/uploads/2013/12/Avetik-paper.pdf>

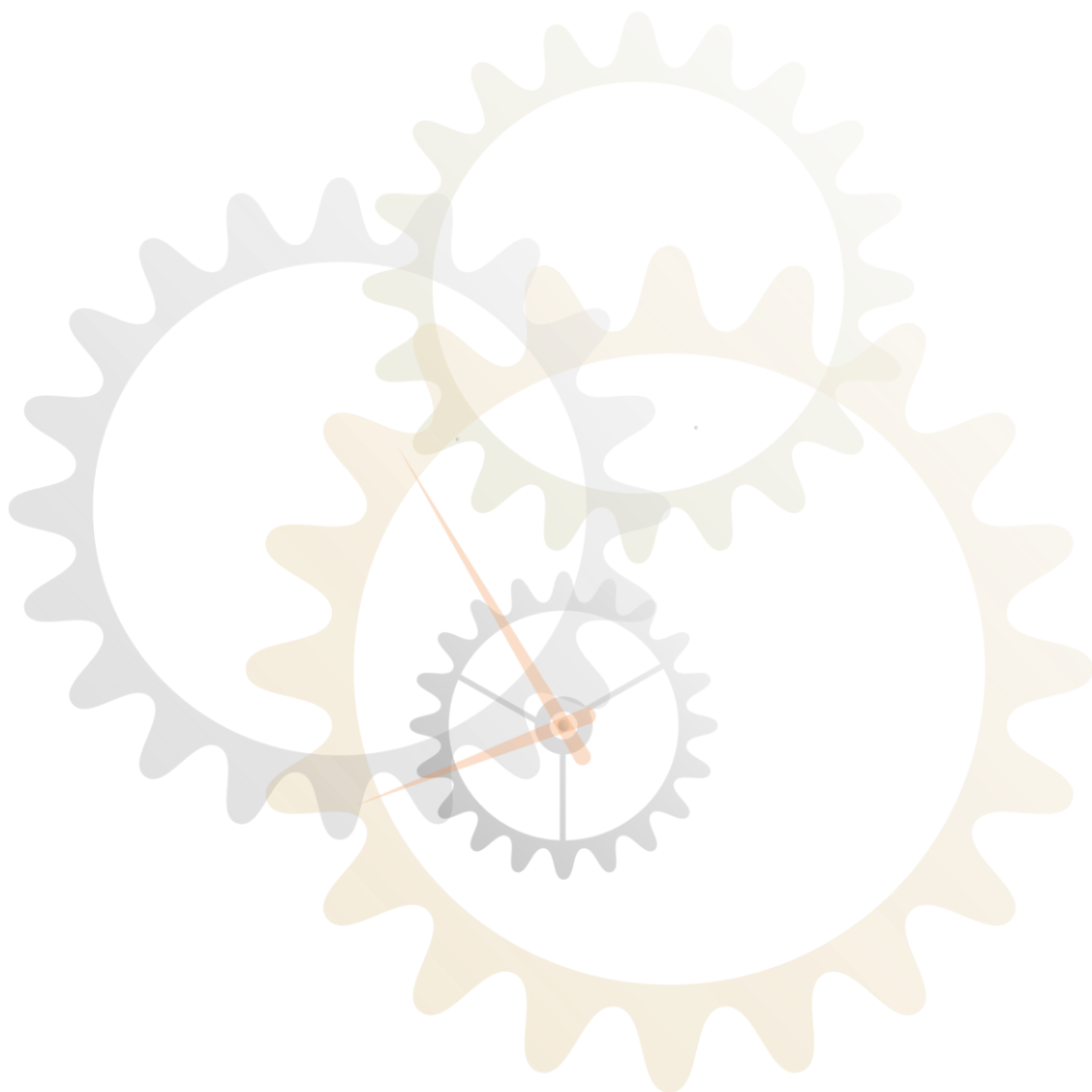
- *To secure in the RA Labor Code, as well as in the RA Law on Trade Unions, that an opinion/conclusion of the trade union is a must in cases of dismissal of an employee from work at the initiative of the employer or his/her subjection to disciplinary sanctions.*
- *To amend the article on the trade union rights defined by the RA Law on Trade Unions, authorizing the trade union representative to unimpededly enter the territory of any organization to familiarize the workers with safety rules and to identify violations of norms of work safety. The trade union representative should have the opportunity to immediately get in touch with the management or decision makers of the organization even in those cases when the trade union representative is not an employee of the given organization.*
- *To revise Article 6 of the RA Law on Trade Unions, envisioning proportional regulations regarding the exercise of the right to unite in trade unions by employees of the armed forces, police, national security, and officers of prosecution bodies, as well as by judges and the Constitutional Court justices.*
- *To amend the RA Labor Code, envisaging guarantees for protection of workers' representatives and trade union members from any harmful action aimed at them by the employer.*
- *To define in the RA Law on Trade Unions those types of activities which the trade union cannot implement, including distribution of financial means and social benefits received from the employer, etc.<sup>89</sup>*
- *To define in the RA Law on Trade Unions strict criteria and procedure for election of trade union representatives to rule out conflicts of interests and election of any person from the organization's management to the governing bodies.*
- *To promote, among trade unions, cooperation with civil society organizations through improvement of labor legislation and protection mechanisms.*
- *To amend the articles of the RA Labor Code on strikes, as well as to develop and adopt a law defining a broader procedure for implementation of strikes, which will allow to organize a strike also in relations between employees and third persons, employees and state bodies, and employers and state bodies. To secure by legislation the powers of sector- and republican-level trade unions to declare and conduct a strike, which will increase the role of trade unions in organization and conduct of strikes, as well as in voicing and resolving systemic problems.*
- *To strengthen mutual responsibility and accountability between trade union organizations of different levels by introducing relevant amendments and additions to the RA Law on Trade Unions.*
- *To engage workers with active civic position in trade unions, to promote women's involvement in management positions in trade unions, and to carry out awareness raising activities among unregistered employees to promote the establishment of their representative unions. To strengthen the skills of trade union management in their work with mass media and decision makers.*

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<sup>89</sup> Mechanisms for protection of labor rights in Armenia, <http://www.osf.am/wp-content/uploads/2013/12/Avetik-paper.pdf>



**GENDER PAY GAP AND EDUCATIONAL CHOICES OF GIRLS.  
CASE OF BASIC VOCATIONAL EDUCATION**



## INTRODUCTION

The in-depth interest in the situation in the labor market of women with **basic vocational education (BVE)** arose as a result of the analysis of the statistics that was carried out by Karat Coalition for the Polish NGOs' alternative report to CEDAW (2014). The study of data on the earnings of men and women with the same level of education and the corresponding differences in their remuneration allowed to conclude that the difference between the average salary of men and women with BVE is relatively the highest and exceeds 30% with the average gender pay gap of 18%.<sup>90</sup>

These findings were especially worrisome since they signaled that these women experience the kind of discrimination that up to then had not been paid enough attention to. Moreover, the women with BVE have not benefited from the improving situation of women in the labor market in the last recent years. In their case the growing demand for skills with their level of education was related with the occupations strongly dominated by men. This demand led to the increased interest of entrepreneurs and decision makers in reforming the BVE system which was significantly deteriorated during the process of economic transformation. The reformed system should respond to the needs of the rapidly changing labor market, including in such branches as IT, new technologies, automation, etc.

There were few reports and researches that had been produced for the state local level employment institutions and were related to the situation of women with BVE at labor market. However, they all lacked the gender perspective. The quite common phenomenon of gender segregation in the vocational schools and classes was not addressed, neither was the very limited access that girls have to the BVE professions dominated by boys. The cultural factors due to which male-dominated jobs are better paid were neglected and so were gender stereotypes that play substantial role in driving girls to certain occupations - occupations which are not only lower-paid than that the ones chosen by boys but also less sought in the labor market.

There are many works that analyze the gender pay gap as well as its causes. They all indicate that women earn less than men regardless of the level of education. For example, the average differences in wages between men and women with tertiary education are also significant and exceed 30%. Such disproportion of wages is related not only with the horizontal gender segregation but also vertical one observed in the labor market. In case of all educational levels these differences cannot be explained without taking into account the socio-cultural factors.

**To conclude:** there are at least three issues that prompted us to focus on the situation of women with BVE. Firstly, their very low earnings significantly affect their economic status, their economic independence and quality of living. Secondly, their social status is lower than

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<sup>90</sup>CEDAW Coalition of Polish NGOs, 2014, *Alternative Report, The Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women Submitted to the CEDAW, Poland 2014*

that of the men with the same educational level. Thirdly, they have much less power, also due to lack of awareness, to draw public attention to their situation and to the need for changes. For all these reasons we considered the discrimination that BVE women experience to be intersectional and requiring the systemic solutions.

## AIMS

The purpose of the **quantitative study** was to provide the analysis of statistical data related to the pay gap of men and women with BVE that would deliver the information about how it is correlated with their economic activity and educational opportunities.

In order to gain more comprehensive knowledge of the problem a parallel, **qualitative research** was conducted. It allowed us to learn why girls decide to attend the basic vocational schools and what are the reasons behind their choices of specific professions or areas of education. Another aim of the research was to assess how the BVE system responds to the requirements of the existing labor market and to analyze the situation of women with such level of education in the labor market.

Through both studies we were trying to provide the answers to the following questions:

- What is a correlation between vocational choices of girls, their remuneration and position in the labor market; and why the pay gap between men and women is so significant when compared to groups of men and women with different level of education?
- What barriers prevent girls to access better-paid professions which are traditionally male-dominated?
- How these barriers contribute to the gender horizontal segregation of the labor market?

The overall goal of both studies was to receive reliable data and information that could be used to contribute to the systemic changes through introducing the gender perspective in the BVE system to improve the access of girls to the professions which provide more opportunities to achieve economic independence.

## METHOD

**The quantitative study.**<sup>91</sup>The data analysis focuses on the position in the labor market of women with BVE is based on the quarterly Labour Force Survey in Poland (over the years 2010–2015) by the Central Statistical Office (CSO) and the study on the pay levels was founded on data conducted biennially by the CSO on a representative sample of enterprises of 10 and more employees (for years 2006, 2008, 2010 and 2012). The analysis of the pay gap was augmented by the findings of the study by Sedlak & Sedlak 2014, conducted by means of an internet survey with a large, although not representative sample of the Polish society, in which the respondents provide information on their income. The statistical data related to gender segregation in basic vocational schools were provided by the CSO publication on the school year 2013–2014.<sup>92</sup>

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<sup>91</sup>Karat Coalition, 2015, [Report: Pay gap between women and men with basic vocational education](#)

<sup>92</sup>Oświata i wychowanie w roku szkolnym 2013/2014, „Informacje i Opracowania Statystyczne”, GUS, Warsaw 2014

**The qualitative study:**<sup>93</sup>The research included six focus group interviews (FGIs) and six individual in-depth interviews (IDIs). The FGIs were conducted in three Polish cities, two in each. One of them was designed for currently employed women whereas the other for the job-seekers. The individual in-depth interviews were conducted in four cities with women who worked in the male-dominated professions. All women interviewed within the research had BVE and were aged 20-34. The interviews conducted by Millward Brown Institute delivered the empirical material for own gender analysis of the findings.

*Other resources:* The study includes also the statistical data provided by Polish Craft Association, Vocational Education and Social Issues Department.

## RESULTS

These two complementary gender analyses brought a wide range of information which on one hand provided the hard-statistical data depicting the situation of BVE women in the labor market and on the other hand indicated the reasons for such situation. The studies also allowed to compare their situation with that of a male worker.

The main findings of both studies are the following:

a) In terms of the situation of women with BVE in the labor market:

- Women with BVE constitute 18% of working women while women with the university-level education form the biggest group of 41.5% of working women. In case of male workers, the situation is quite opposite: among working male population the biggest group of 32.2% is that of men with BVE while men with university-level education constitute 26% of working men.
- In 2012 the average gross monthly pay of women with BVE was 69% of that of the men on the same education level. In the public sector the pay gap was even more significant than in the private sector (women earned 57% of men's salary in the public sector).
- The biggest gender pay gap exists in the youngest group of workers with BVE (age 14–17) in which women earn only 60% of what men do. Second biggest gap was registered in the 40–44 age group where women earn 63% of men's salary and the 35–39 age group with 67%. The pay gap was relatively the lowest in the 18–19 age group and 20–24 years where women earn respectively 83% and 79% of what men do.
- In the so-called masculine occupations the pay gap is smaller and women have not only the chance for better earnings but their wages would be closer or even higher than that of men (e.g. in the group of truck and bus drivers, where there are very few female workers, the women's average monthly pay amounts to 124% of male's pay).
- In general, women with BVE working in male-dominated professions earn less than men but the pay gap between them is smaller than the average. Thus, women construction workers earn 90% of men's wage, female blacksmiths and locksmiths – 78%, refuse

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<sup>93</sup> Karat Coalition, 2015, [Report: Vocational Schools and the Labour Market for Women with Basic Vocational Education](#)

workers – 81%. Female nutritional production workers earn 93% of what their male counterparts do. To conclude women working in male-dominated professions often earn more than women employed in occupations dominated by female workers.

- The position of women with BVE in the labor market is a difficult one. Jobs are readily available, but women find it difficult to get a job in their profession which would offer social security and a living wage. Hence grey-zone employment is very frequent in this group and the unemployment rate high. Interviews conducted within the study show that women who have the experience of economic migration find it particularly hard to accept very low wages offered by the Polish employers, especially considering the fact that they do have professional experience and are also professionally trained.

b) In terms of access to basic vocational education:

- Basic vocational schools are strongly masculinized with over 70% of male students. There are branches such as engineering-technical programme and the architecture and construction one, where there are virtually no girls (99,6% male students). The situation is very similar with Apprenticeship Exams for the professions most popular with the men, e.g. vehicle mechanics, mason, electrician, sanitary system fitter, iron worker. As for women, the majority of female students who passed their apprenticeship exam in 2014 obtained the diploma of a hairdresser.
- Female students dominate in such fields of BVE as economic-administrative programme (86,2%) and the services programme (74,5%).
- Basic vocational schools do not have the policies to address the problem of gender segregation in BVE. In the interviews women mentioned cases when access to male-dominated professions had been deliberately limited by the basic vocational schools' management.
- Among the key barriers that stop girls from choosing male-dominated professions is the fear of being perceived as “masculine” and the consequences that might follow (e.g. troubled relations with male colleagues and partner). Another reason, to some extent based on women's experience, is the fear of not finding a job in the so-called masculine occupations. Those of them who do find such job are often employed on the assistant or administrative positions which means in practice that they earn less than male workers with the same education. Unfortunately, it is quite common that employers led by gender stereotypes do not want to employ women in certain professions and in the related job positions.
- Gender stereotypes are very powerful not only in the case of employers, but also teachers, career advisers, family members etc. Gender stereotypes also affect the girls themselves. They often don't even consider choosing the 'masculine programmes'. The respondents engaged in the interviews explained the reasons for that in the following ways: they would be worried about “what people will say”, they were not convinced that they do have the technical skills that boys do (e.g. she 'would not have the courage

to choose a masculine profile at school' and 'it's caused by a widely held belief that women are simply not cut for certain professions'). They also shared the stereotypes functioning among employers (e.g. I would not have 'the courage to employ a female mason). A woman who believed that 'women should pick typically masculine professions' explained that they are scared of what the others will say because 'people will talk'.

- The results of the study contest the believe rooted in the society that girls seeking BVE are those who do not wish to study. In fact, there is a whole spectrum of factors and motivations to choose a BVS such as: the need to gain financial independence; seeking the practical qualifications, competences and skills in order to enter the labor market; professional ambition and knowing exactly what they want to do.

## CONCLUSIONS

The two studies delivered the unique gender analysis of BVE system and of the situation in the labour market of women with this level of education. It should be emphasized that the realization and success of the project were possible due to the close cooperation between Karat and the members of the Coalition which was established to strengthen the project and consisted of actors interested in BVE. Our partners contributed to the following activities:

- developing the methodology of the research;
- developing the recommendations addressed to relevant institutions;
- publicizing the results of the analyses;
- raising awareness of the gender aspects of BVE;
- bringing gender perspective of the issue to decision makers and to other actors involved or interested in BVE.

Apart from Karat our Coalition included:

- Trade unions, including sectoral ones such as union of teachers, union of crafts;
- Labor specialists, e.g. institutions monitoring the labor market;
- Academics and education specialists;
- Unions of employers;
- NGOs.

The outcomes of the analysis and the results that we achieved allowed us to actively join in into the existing debate on the future shape of the BVE. The debate which up to then had focused on the needs of the labor market in the context of BVE was significantly extended by us through introducing the gender perspective into it. We have used the reports of both studies to advocate at three levels for transforming the BVE system and schools to more gender-balanced.

- Firstly, we did that during the public debates at different levels but also through the media interviews and publications. Moreover, working together in the Coalition allowed us to reach out to groups that are especially important in this context such as teachers, labor specialists and employers.

- Secondly, we used the recommendations to address specific institutions dealing with BVE and/or workers of such education level (*more in the part 'Recommendations'*).
- Thirdly, we organized campaign addressed mainly to young girls who consider BVE to promote among them the non-traditional choices of professions. [The finding](#) of the studies allowed us to identify the stereotypes that should be worked against and to deliver arguments motivating them to pick better-paid professions.

Moreover, we also learned that the gender pay gap should be analyzed in the context of horizontal segregation of the labor market related to the educational choices of girls. The horizontal segregation is most widespread in education sector, where 80% of employees are women, and in health care and social assistance with 82% female employees. The vast part of employees in both of them have university-level education and are highly qualified for their jobs. However, their average earnings do not exceed the general average salary (89% in case of education and 98% in health care and social assistance). The most female-dominated professions within these branches are less paid and have lower social status (e.g. nurses, school teachers). The BVE deepens the division of occupations to those dominated by men and by women and contributes significantly to the horizontal gender segregation in the labor market. This questions the current model of education and calls not only for systemic changes but also *inter alia* for promoting among girls and women the promising new occupations e.g. in the areas of technologies, IT, that are now male-dominated.

Finally, it is worth noting that Polish case study might be useful for Armenia because of the Concluding Observations of the CEDAW Committee which are similar for Poland (2014) and for Armenia (2016)<sup>94</sup>. CEDAW Committee recommended that Poland and its institutions (par. 31):“(a) Eliminate structural barriers as well as negative stereotypes that potentially deter girls’ enrolment in non-traditional educational and vocational fields at all levels of education; (b) Consider adopting temporary special measures to promote girls’ take up of technical subjects”. (Par. 33) (b) Develop support programmes including counselling for girls and women on non-traditional educational and vocational choices and career options, e.g.in the areas of science and technologies”.

## RECOMMENDATIONS

The studies became a starting point for developing the recommendations for actions that are necessary to eliminate the described above intersectional discrimination. The three state institutions were identified as addressees of the recommendations, namely: the Ministry of Family, Labor and Social Policy, the Ministry of National Education and the National Labor

<sup>94</sup>Par. 23. (a) states that Armenia should “Strengthen strategies to address discriminatory stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study, such as mathematics, information technology and science”; (b) To ensure that girls and women who have dropped out of school are readmitted to the education system in age-appropriate classroom environments and that they have access to technical and vocational training opportunities facilitating their professional reinsertion...”.

Inspectorate. Each set of recommendations complied with the capacity of each of the addressed institutions. Below there is the brief summaries of the said recommendations.

## MINISTRY OF FAMILY, LABOR AND SOCIAL POLICY

The recommendations were divided into six groups. The first two groups **called for the elimination the horizontal segregation of women and men in the labor market as well as the wage disproportions between women and men with BVE**. Among the actions that should be taken to meet these goals were *inter alia*: the development of programs that would support women and men, in choosing training in non-traditional for them professions, including through promoting the images of men and women in non-traditional for them occupations and through conducting campaigns to overcome gender-stereotypical approach to professions; developing programs to sensitize career advisers to gender equality in access to vocational educations and professions; offering the incentives for employers to hire women and men in such professions; explaining the reason for a big pay gap between men and women with BVE in the public sector through carrying out a detailed analysis of wage differences and through introducing the hourly rate mechanism to equalize wages for both genders.

**Second group of recommendations addressed the need of providing women with BVE with possibility to reconcile work and family life**. The related activities focused on tailoring the childcare system to the type of professional work that women with BVE perform (e.g. shift work, early morning or late evening hours); encouraging employers to organize various forms of childcare for employees; introducing principles to labor offices that women with BVE will receive the information after their childcare break on the availability of vocational courses, internships, retraining in non-traditional for women professions and others, etc.

The **ministry was also called for social campaigns aimed at improving the organizational culture in a work environment** (e.g. respect, freedom from mobbing and discrimination) and for **the initiative that would be undertaken to strengthen the scope of powers of National Labor Inspectorate** to effectively address the gender discrimination.

## MINISTRY OF NATIONAL EDUCATION

The set of recommendations consisted of four groups which aimed at: **providing girls with a wider educational offer** on the level of BVE; **eliminating structural barriers - negative stereotypes** that prevent girls from choosing the non-traditional for them vocational courses; **overcoming gender stereotypes in BVE** in order to make it easier for girls to decide to learn the "male" professions, and for employers to hire women in positions "reserved" so far for men; **tailoring education of girls in the basic vocational schools to the needs of local/regional labour market**.

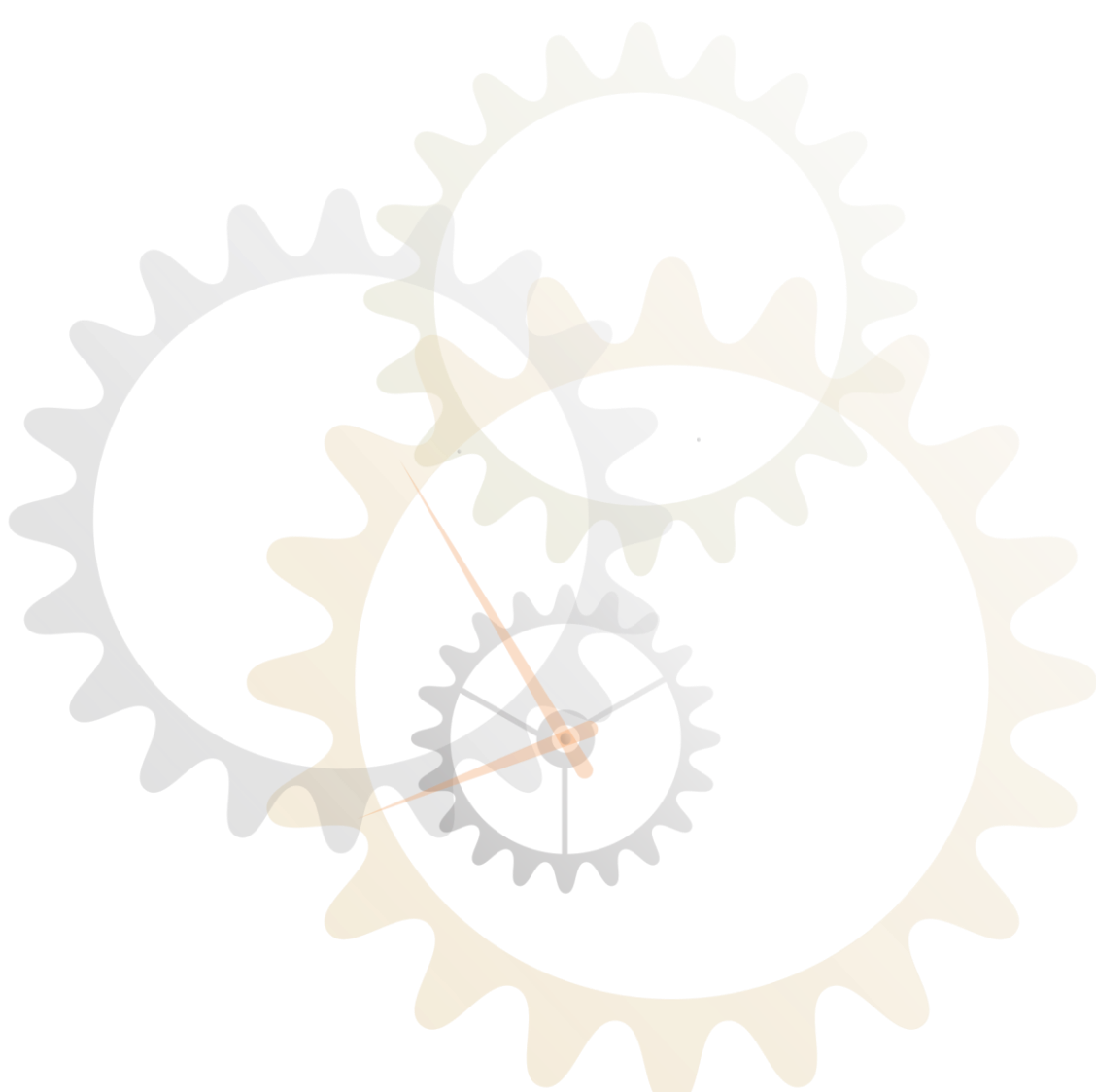
The actions that were named as necessary to implement these recommendations included *inter alia*: encouraging girls to take up courses in non-traditional for them fields and professions as well as introducing new professions that should be equally addressed to girls and



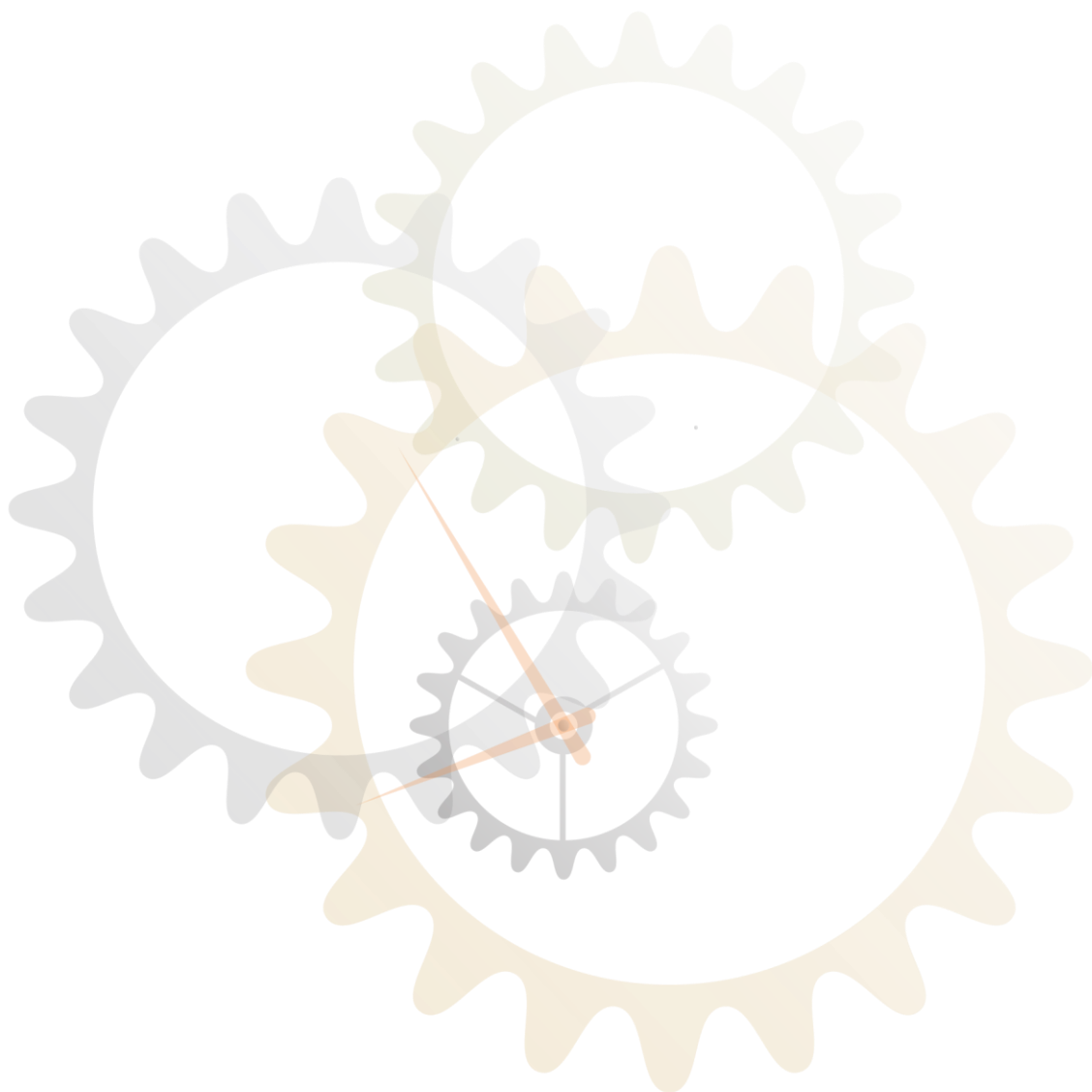
boys; training the career advisors in terms of avoiding stereotypes dividing professions into those “for men” and “for women”; introducing the principle of gender diversity into vocational schools’ recruitment process; introducing scholarships for girls who choose classes and take trainings in professions in which there are over 70% of boys; organising various campaigns to promote non-traditional for girls and boys choices of professions and careers; establishing cooperation between basic vocational schools and local/regional employers so that, e.g. schools offer girls the courses that are in demand in the labour market.

### **NATIONAL LABOUR INSPECTORATE (NLI)**

The recommendations called for: **mandatory trainings of NLI employees in controlling the internal anti-discrimination regulations** of controlled entities; **information campaigns** about the possibility of submitting complaints in case of gender based discrimination; trainings for the labour inspectors about gender based discrimination; attention to violation of terms and conditions of employment contracts for adolescent employees (apprenticeship) and women returning from maternity/parental leave; efforts to strengthen the powers of NLI in terms of control and punishment. The document also drew attention to the specific violations which might be the subject of complaints submitted by women with BVE called for effective investigation in such cases.



**EMPOWERING WOMEN IN THE LABOUR MARKET, IN THE  
SOCIETY – CHANGING ROLES – CHANGING ATTITUDES – A  
(HALF) SUCCESS STORY**



Gender role in Hungary have undergone major changes over the past centuries – with women’s rights, roles, their standing in the society shifted. However, the “traditional” strong influence of religion (Catholic, Lutheran, Calvinist) over family/ social roles are still present – at least in the general public perception, just as the influence of the 40 years of socialism which tried to put a new doctrine in place regarding women’s place and role in the society.

The deep political, economic and social changes 3 decades ago led to the emergence of civil society and academic initiatives to promote a modern understanding of women’s role in the society, family, in the lab our market.

The transition had a complex impact on gender issues, and gender relations. In many respects women’s position deteriorated; with the restructuring processes many women lost their jobs, public and private cut back sin welfare ant fewer child care places, with a decline in the real value of social subsidies. “New” issues relevant for gender equality (such as violence against women, or same sex partnership, pay gap, employment promotion) became subjects of social discourse and political discussion. While some researchers argue that women suffered disproportionately due to the market is at ion process, others claim that this is not the case, since men also lost out to the same degree.

In Hungary during the first part of nineties, not much legislative attention was paid to gender equality issues; neither the first democratic governments, as well as public interest see med to ignore this subject. No regulatory steps were taken in this field.

In the socialist era there were explicit regulations concerning women’s emancipation, with Hungary signed and ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1980. Later the „Additional Protocol “was also signed (Act LX 2001), and the 7th and 8th periodic reports submitted and discussed in 2013. The Hungarian government also adopted the Beijing Declaration of the Fourth World Conference on Women in 1995 (govt resolution 2174/1997 VI.26). During the EU accession process, also the issue of gender equality received emerging interest and aligning with the community values renewed legislative efforts were made in the field of gender relations. Hungary adopted and implemented the *acquis communautaire* and joined the European Union in 2004.

### **Main legislation, institutional background**

The basic document which guides gender equality legislation in Hungary is the Fundamental Law in effect by 2011). Its Article 15/3 states that women and men have equal rights and article 15/2 prohibits discrimination against anyone on the basis of a number of characteristics, include in gender. However, contrary to the previous constitution, no mention is made of the requirement of equal wages for men and women. There are additional paragraphs prohibiting discrimination in the new Penal Code and the new Labor Code (2012).

In preparation for EU membership, the Hungarian Parliament passed Act CXXV of 2003 on Equal Treatment and the Promotion of Equality of Opportunities in 2003. This Equal Treatment Act establishes a frame work for the fight against discrimination and specifies about 20 groups of people to be protected, among these, women and mothers (separately). It defines the concept of discrimination, names indirect discrimination as punishable and introduces the possibility of positive discrimination to right earlier disadvantages. In accordance with European Union Directives, it legislates the reversal of the burden of proof in anti- discrimination cases. The Act, also in accordance with EU Directives, established the Equal Treatment Authority (ETA), the main body to monitor the execution of the legislation.

On the basis of the Equal Treatment Act, the *Equal Treatment Authority was set up* in 2004; the government decree 362/2004 (with modifications in 2011) has set its procedures. The Authority examines and decides cases submitted to its attention and if found to have acted in a discriminatory manner, is empowered with the right to fine the concerned companies or government agencies. It makes exemplary cases public and contributes to legislative and educational efforts to stop all forms of discrimination. In recent years the number of cases brought before the Authority has increased steadily. In 2012, the ETA received 2738 complaints and queries, over 822 cases were initiated while in 2017 it has dealt with 1423 professional cases. In 2012 the Authority decided in 31 cases, four of which involved discrimination on the basis of motherhood/fatherhood or gender, while in 2017 there were 285 administrative decisions, out of which 30 were found and 112 were rejected, the number of decisions approving the settlement was 27. Although sexual harassment is defined in the Equal Treatment Act, the Authority has not fined any company for this offense, neither in 2012, nor in 2017.

On the basis of the values of the government, in 2012 the budget of the ETA was significantly cut resulting in a decrease in the number of experts and staff members. “The conservative FIDESZ- KDNP government, which came into power in 2010, virtually eliminated the national gender machinery which existed under the previous government. The Department of Equal Opportunity, among many other issues, charged with promoting equal opportunities for men and women, was moved under the auspices of the Department of Social and Family Affairs of the Ministry of Human Resources and the number of staff members was significantly cut” several times. The tripartite *Gender Equality Council* (established by government resolution 1089/2006 IX.25), a consultative body, which should advice on government decisions related to gender equality, has practically ceased to exist, not having been convened.

In 2010, the socialist-liberal government adopted the National Strategy for the Promotion of Gender Equality - **2010-2021 (1004/2010 I.21)**, with the expectation to serve as the framework for action with respect to gender equality. It reflected priorities set by the European Union’s Roadmap for Gender Equality 2006-2010, translated into **concrete areas of action for the Hungarian context**. The Strategy also specified indicators to measure progress.

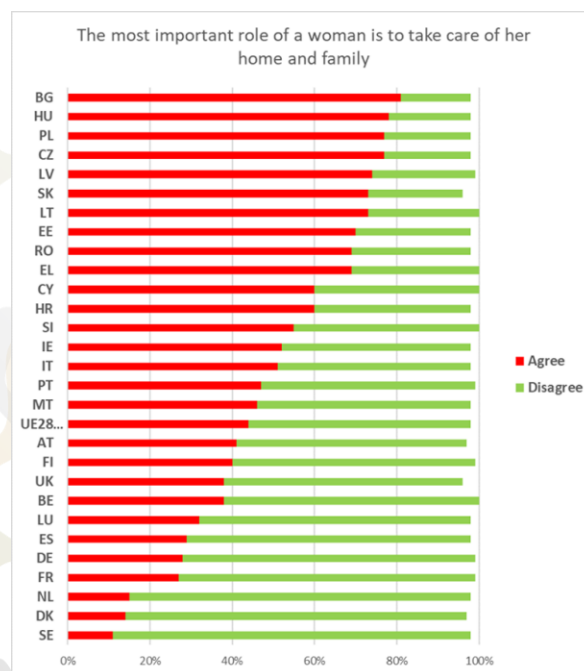
EU Structural Funds and national budget set the financial background for the strategy through a variety of programs administered by state development agency.

To translate the national strategy into practice a **specific two years action plan** for 2010-11 was set with nearly 30 clearly specified tasks. It was aimed to be carried out by government agencies to promote gender quality in a wide range of areas including paid **work, care work, family and political life, health and education**. Unfortunately, neither any evaluation of this action plan was published; with its expiry no **new action plans have not been put forward, nor any** civic involvement initiated for a new strategy or action plan. (2.)(3.)

## Women in society

Over the past decades, women's role have become very colourful, opening career, family, self-realization and numerous opportunities, lifeway. Today the question is more: how women can be mothers, employees, scientists, artists, CEOs parallelly, be successful in the different roles and be accepted and supported by the society. Much has been done, but much more needs to be done.

Regarding the role of women, the great majority of the Hungarian society still consider that taking care of the home and of the family is the primary task of women – this attitude is considered as sexist and authoritarian thinking inside families.



Source: [Eurobarometer2017](#)

Social problems and inequalities related to gender aspects are still existing issues in the Hungarian society, which need to be resolved. On the one hand it is backed by gender inequality indicators (<https://eige.europa.eu/gender-equality-index/2012/HU>), on the other hand by the fact that the Hungarian public opinion consider it significant and widely present.

According to the European Institute for Gender Equality (EIGE) 2017 **Gender Equality**

**Index** “Hungary achieved a score of **50.8 out of 100**, which is 1.3 points higher than in 2005 but approximately 15 points below the EU-28 average. Hungary is ranked 27th out of the 28 Member States. It has gone down two positions since 2005. Hungary’s scores are below the EU-28 averages in all domains.” This index looks to the state, progress and challenges of achieving gender equality within the EU in the timeframe of 2005 to 2015. It is measured from 1 (full inequality) to 100 (full equality), showing the differences between women and men in key domains of the EU policy framework (work, money, knowledge, time, power and health). (1.)

The Gender Equality Index shows in the key domain of “Work” that gender equality has slightly improved, although segregation seems to remain a major challenge. While the total employment rate is 69% (the national EU 2020 strategy target was set as 75%), there is a significant difference of the employment rate between women and men (aged 20-64): 62 % for women versus 76% for men. The full-time equivalent (FTE) employment rate of women is around 43 %, compared to 58 % for men; in families with children the FTE employment rate for women is 58 % compared to 81 % for men, while the gender gap is much lower in couples without children. With the rise of education level the FTE employment rate increases.

Part time work is very low in Hungary, 8 % of women work part-time, and only 4 % of men. Women work 39 hours per week on average, compared to 41 hours for men. Due to care responsibilities 8% of working-age women versus 0.4% of working-age men are either outside the labour market or work part-time.

In the labour market gender segregation is an existing issue: around 24 % of women work in education, human health and social work activities compared to 6% of men. At the same time in science, technology, engineering and mathematics occupations around five times more men (37 %) work than women (8%).

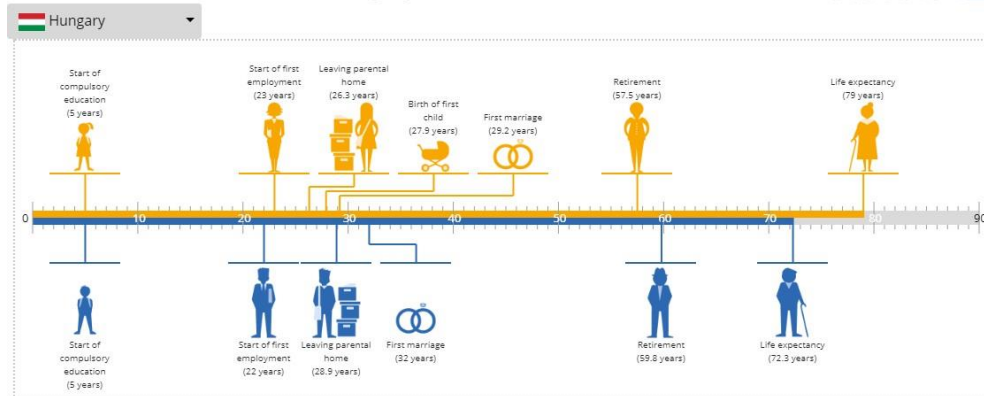
In the key domain “Time” the Gender Equality Index shows that the score in Hungary has decreased - the situation has become more gender unequal, further widening the gap in the area of care activities.

The survey shows that women take on more responsibilities to care for their family. “30 % of women care for and educate their family members for at least 1 hour per day, compared to 25% of men. Among women and men in a couple with children, women are more involved in daily care activities (85 %) than men (70%).

Looking into the way how average men and women live, spend time, work and grow older, Eurostat published a research comparing lives of EU citizens (2018), containing a statistical portrait of average men and women in every European country. According to this survey an average Hungarian woman leaves her parental home earlier, but finds her own first a one year later, than man. In general women marry and have their first child sooner, than an average Hungarian man, who spends two years more at his parent's house. There is a significant difference in life expectancy, as women in Hungary live 7 years more, than an average man.

## Lifeline of women and men in Hungary

eurostat 

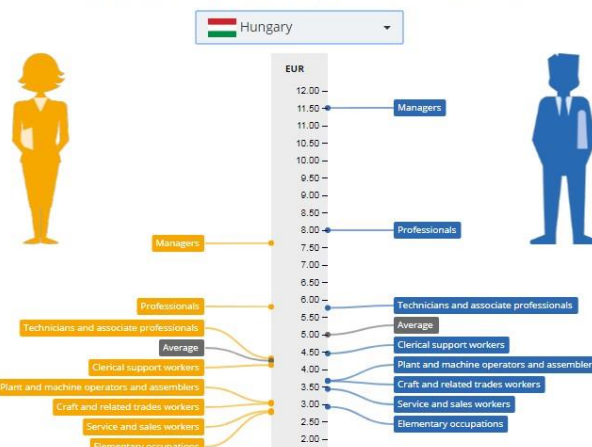


source: [https://ec.europa.eu/eurostat/cache/infographs/womenmen/mt\\_en/wide-menu.html?lang=en](https://ec.europa.eu/eurostat/cache/infographs/womenmen/mt_en/wide-menu.html?lang=en)

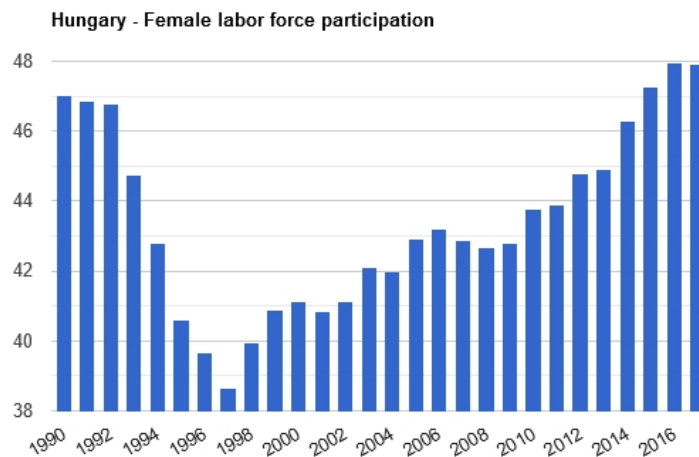
The study shows that regarding studying, there is practically no difference in lower education, since it is compulsory. However there is a higher proportion of women with a higher education level - 26% of women hold a degree compared to 20% of men, what is a general tendency in all EU member states. Employment rate of men is 73% and women is 60%, and it increases depending on number of children woman has. Unemployment rate, with 3,7% (2018) seems to be more or less even for both sexes. Regarding women holding a managerial position at work, with 39% Hungary scores better beyond the EU average (33%).

There are significant wage differences, just like in general in Europe - women are paid 13% less than men. The study reveals that men-managers receive 11,51 EUR per hour, compared with 7,63 paid to women holding the same position. Average hourly salary is 5 EUR for men and 4.25 EUR for women. There are many factors contributing to this pay gap, i.e. differences in education and experience, the Eurostat survey links the reasons for this significant pay gap to the cultural, legal, social and economic factors.

## Mean hourly wages by profession, 2014



Source: [https://ec.europa.eu/eurostat/cache/infographs/womenmen/mt\\_en/wide-menu.html?lang=en](https://ec.europa.eu/eurostat/cache/infographs/womenmen/mt_en/wide-menu.html?lang=en)



Source: TheGlobalEconomy.com, The World Bank

Labor force participation [rate](#) of women (% of female population ages 15-64) in Hungary is around 48% -compared to 57,7% in Armenia (modeled ILO estimate).

The recently published study Women’s Affairs 2018 / Societal problems and solution strategies in Hungary by Anikó Gregor and Eszter Kováts (FES) reveals that the major part of the society does not consider the problems faced by women as ‘women’s’ problems. Their research concludes that in general financial difficulties, the difficulty of making a living and lack of decent jobs are considered as major problems-also faced by women. The authors state that gender inequalities can clearly be detected in the background of those problems.

There are problems specifically affecting women - due to lack of social welfare systems and adequate assistance, in most cases, women are obliged to arrange the care of disabled, sick and elderly within the family and that is also expected of them by the public. This places a burden on women, especially given the fact that the welfare system and institutional infrastructure have been generally deteriorating in Hungary since the regime change and government after government have been increasingly withdrawing the state from this area. Issues are numerous: care for the elderly, lack of tolerance of employers regarding tasks related to raising children, gender pay gap, constant shortage of time because of children, situation of single mothers. Responsibilities of care are a great source of tension in relation to participation in the labour market. In employment increase and unpredictable working hours, inflexible and hard-working conditions put further burden on women with children.

### Care seen as a primarily woman’s task

The research shows that the respondents feel being absolutely left alone when the issue arises of whom they can rely on in finding solutions to various women’s problems., resulting in feeling of being neglected. The expectations strongly reflect the attitude that women are responsible for such tasks as caring for durably ill young child in the family, elderly family member requiring permanent care, raising a child as a single parent. Women feel being left alone in their care tasks, clearly associating these problems with the scope of responsibility of individuals and, primarily, of women. Only a few of respondents think that other actors



should help, either primarily or secondarily, in the particular situations in life. 77% female family members help caring for durably ill young child (23% male), 67% care for elderly family member requiring permanent care (19% male).

Worth to note that the research pinpoints that “material issues are emphasised more among the problems raised by women than a few topics that were in the target of the feminist movements recently (e.g., sexism, objectifying media representation of women, low political and economic power of women).

People have clear, low opinion of the extent to which political parties take up the issues causing women problems and more than 50% of the respondents cannot identify any such party. However, according to the results, people are not against having more women in politics, expecting them to also devote more attention to the women’s matters.”

Speaking about gender roles, it is worth to refer to the study “Demographic portrait 2018” which concludes that the traditional primary expectation vis a vis men is to provide the financial background for the family, while the expectation to be more family-oriented is on increase. Twothirdofrespondentsagreethatmanshouldnotworkthatmuchthatcontrary to spending time with the family, while 90% agree that securing material basis for the family is the task of men.

#### (4.) Home care – an everyday task of over 50.000



In 2018 along standing issue gained momentum in the public discourse—the situation of over 50.000 families where permanent home care happens. The civil organisation “Lépünk hogy léphessenek” “Let’s move”, founded in 2011 by parents of children with central paralysis has achieved significant success in raising the homecare fee from 29.00 HUF to 90.000 (95 EUR to 290 EUR), for those caring for two injured children from 52.000 to 135.000 (165 EUR to 420 EUR). This increase applies to those taking care of their children. According to promises made by the government, these allowances will increase in three steps until 2022 to reach the then minimum wage. However, the allowance will not increase in this way for all those concerned

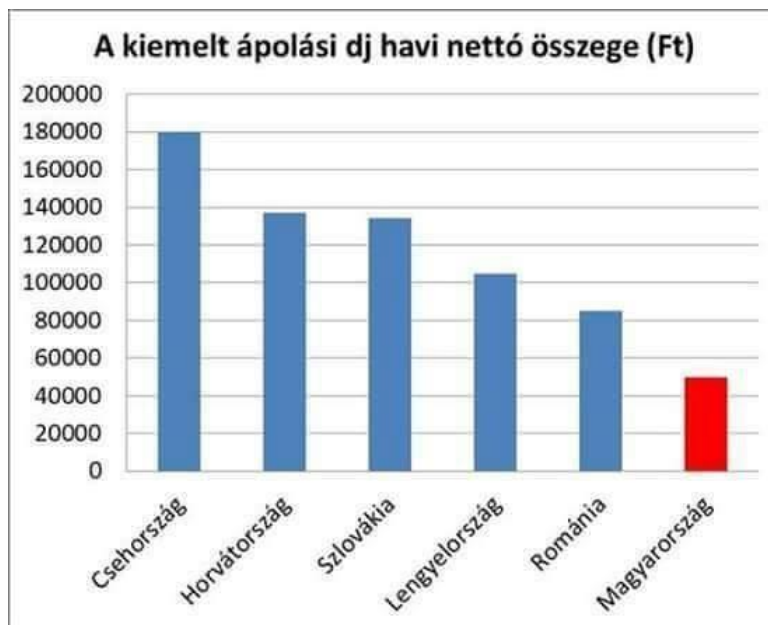
- those not caring for their children, but for other relatives, will receive only 15% increase. (Some critics say this is the usual government tactics to divide certain interest groups).

However, the basic demand to recognize in family homecare as “work” has not been

achieved.

– contrary to many former promises from different political parties. All this during the government declared “Year of families”. In Hungary the nursing allowance is a financial contribution to an adult who cares at home for a person in need of long-term care. Nursing fees are only eligible for adults.

*Premium care allowance in some countries (in HUF)*



The statutory gross minimum wage in Hungary is 138.000 HUF (equal to net 91.770 HUF) and

180.500 HUF skilled worker gross minimum wage (equal net 123.643 HUF). The existence minimum for 2017 was calculated as 91.450 HUF. Important to know, that since for political reasons the National Statistical Office ceased to publish the existence minimum figures in 2015, the Hungarian Trade Union Confederation / MASZSZ took over this work and publishes annually the statistics. In 2017 25% of the Hungarian households live on income below existence minimum.

The “Lépünk hogy léphessenek” is the civil organization in Hungary focusing on and supporting centrally paralyzed children and their families. They collect donations to help the families in need and to help the children get treatments abroad and provide and advocate for an efficient and appropriate care system so the children and the families could live “barrier-free”. They also organize activities and programs and try to build up a network to help parents.

In Hungary there are approximately 450 thousand people living with some kind of disability, around 10%, 45 thousand, of them are children. Since the care system does not work efficiently, families raising children with disabilities do not get proper and enough information while barriers and inequalities persist.

The organisation has managed to the open public discourse, making in family home care an issue for the society. It is their success, that according to a representative survey in July

94 % of the population agrees to recognising in family home care as work (as it is stipulated in the Labour Code).

The campaign has also generated a wide media interest together with signature collection run by families concerned and increasing number of activists.

The organization has been working with community organizing methods. First they interviewed the families concerned what they see as the real problems. Departing from this list, they noted that the most burning issue was the cost of care taking, the nursing allowance. Even those, who were not directly concerned by home care, also recognise the very difficult situation of those taking care of family members. In September 2013 the organisation set its goal: the nursing allowance should be equal to that of the prevailing national statutory minimum wage. They calculated the costs of caring for a cumulatively disadvantaged child in an institution and enquired these costs in the neighbouring countries. They have done wide and in-depth research – to be able to provide food for thoughts and reliable arguments. This has created enough ammunition to do successful lobbying, and accordingly the necessary self-confidence. With all these done, they could begin to argue, convince politicians, and every day citizens too.

An important feature of their work is the involvement of those concerned. During the campaign several hundreds of “fellow” families have been sought to join in successfully. The aim was not to have a few to find out how to solve the problem, but to have those concerned

– “we”-to tell what to change. Up to the smallest village thousands of stickers “Home care is work” were put up just as well on cars, laptops, shop-windows. Trade unions – first those active in the social sector – have joined the campaign and mobilised their activists.

It took years to convince those doing home care to take up their stories. Today in Hungary if a disabled child is born, that equals with impoverishment of that family, as there is no strong social supply system to provide adequate support. Many feel ashamed of their problems, and if some one has a relative to take care, makes the person feel being “outsider” in the society– although he or she got to this situation beyond own fault. By successfully socialising the issue, it was possible to show that this phenomena is not only about those doing home care, but anyone can get to a life-situation where he/she needs to receive or give such support. And like something released from the bottle, more and more parents made themselves ready to present

[Their own stories at public.](#)

The organisers consciously kept a distance from politicians and sought to keep their issue beyond party politics. They wanted to avoid political parties to settle on the issue of home care as this must be an issue for the whole society. (It is a must especially in a very much divided country/society like the Hungarian). The movement understood that by not having any economic power, they have only one: that of the community by gaining wide support and making wide strata of the society active for this issue.

A regular demonstration in front of the Parliament building, with some hundreds of

demonstrators has drawn real media interest – especially for the appearance of parents with disabled children. They had to resort to this “shocking” act, as having seen for long time



nothing happening at policy making level.

However, with support of some opposition parties, the demonstrators were invited to the Parliament building and showed up at the plenary hall – again gaining great media coverage.

“For 1749 days we expect the recognition of home care work”

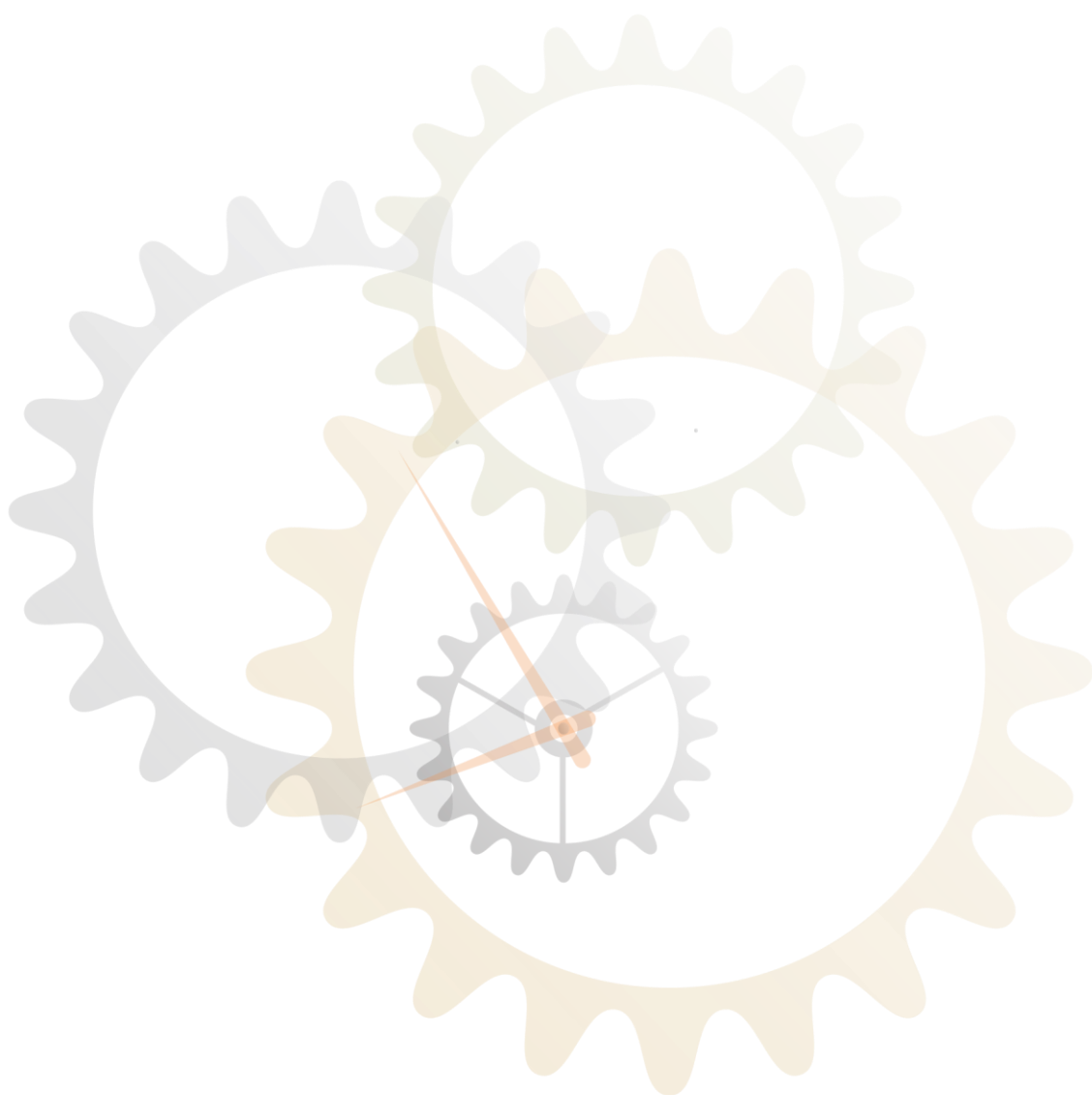
The organisers are dedicated to keep on – and the public opinion is on their side. Not all demands have been achieved yet, but there is a mounting pressure on policy makers – for a just and fair cause. As the leader of the organization say “Such a campaign is a great challenge, but home care is much heavier burden both physically and spiritually”.



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## GENDER EQUALITY IN THE CZECH REPUBLIC

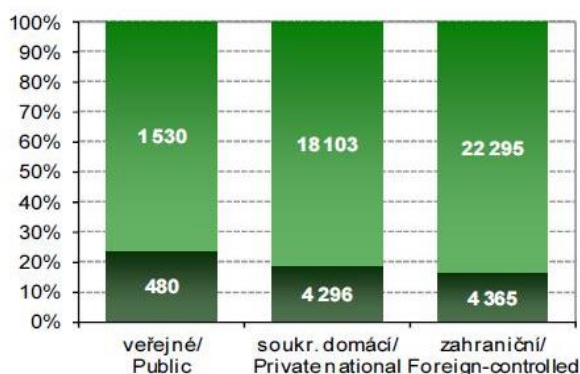


## INTRODUCTION

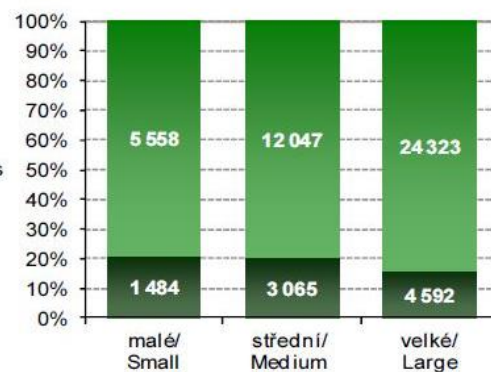
The Czech Republic has a lack of women in middle and top management, as well as a low number of women in decision-making positions of large companies. The differences between men and women rest not only on physical differences, but they also pose a cultural and social issue – women and men play different roles in life and have different preferences. These differences vary in time and space and many of them may complicate the life of women and men or even discriminate them. That is one of the reasons why we have to focus on gender equality.

In business 82,4% of men work on management positions compared to women in the Czech Republic. We have not had a female Prime Minister or President. Average earning of men is €1,239 but women for the same jobs and positions earn on the average €975. Another problem is that in the Czech Republic there is a low number of female entrepreneurs as you can see below.

a) vlastnictví podniku / Ownership of enterprise



b) velikosti podniku / Enterprise size class



This case study is therefore focused on women in business in the Czech Republic. It will show how a Czech CSR association deals with this issue, as well as show examples of companies that fight gender equality in their own way.

Business Leaders Forum (BLF) is a non-government organization and one of the biggest Czech platforms for social responsible companies, promoting responsible and sustainable behavior. BLF has been on the Czech market for 26 years, it was founded by Prince Charles and it is part of the international organization CSR Europe. BLF has four strategic pillars.

- Education & networking
- Monitoring international trends & connecting with EU
- Consulting
- Projects and events

One of the many programs that BLF organizes in the area of supporting women in business, is called Lean In and it abides the Stanford university methodology. Among the examples of companies, we will look into four that are all from different sectors.

BLF works with statistics of the Czech Statistical Office (CZSO) which published a document called "Focus on Women and men" in 2017. This publication is focusing on comparison of differences between women and men in various areas of life in a modern society. BLF has found many data and statistics which can show the most fundamental gender issues. Thanks to them we can see the gender trends during 5, 10 or even 20 years.

### Aims of the case study

This case study should present the situation of gender equality in the Czech Republic. We would like to introduce the Czech CSR association Business Leaders Forum and its program Lean in, which focuses on women in business. Further on, gender equality as an important part of CSR (Corporate Social Responsibility), will be shown through examples of companies with best practise in the area of this specific topic.

We would like to answer the following questions:

- How can we solve gender inequality without proper legislation?
- What can companies do to improve gender inequality?
- Are there any special programs which are focused on women in management? Are they useful?
- How can we work with CSR within the framework of gender issues?
- What does BLF do in the area of gender inequality?

### Method of the research

For this case study we worked with data collected from international documents which are provided by EU and Council of Europe and strategic documents of the Government of the Czech Republic.

The Czech Republic is **committed to assert gender equality** through international documents, such are:

- UN Convention on the Elimination of All Forms of Discrimination against Women
- European Social Charter
- Council of Europe's Strategy for Gender Equality for the years 2014-2017
- Council of Europe recommendations on gender equality

The EU also has a significant position in the field of gender equality. The key documents are:

- Europe 2020 Strategy
- Women's Charter
- Strategic Commitment on Gender Equality between 2016 and 2019

The main strategic document of the Government of the Czech Republic in the field of gender equality is the Government's Priorities and Procedures in Promoting Equality (Equal Opportunities) for Men and Women.

### Other strategic documents:

- National Action Plan to Prevent Domestic Violence
- Social inclusion strategy
- The National Strategy for Combating Trafficking in Human Beings in the Czech Republic
- Strategy of the government

For this case study, we worked with statistics provided by the Czech Statistical Office (CZSO) and public data, which we found in companies non-financial reports or on their websites. Other sources that we worked with were researches focused on the topic of CSR provided by Czech universities.

Very useful information was also collected on websites of Czech NGOs, such as the Open Society and Nesehnutí. For the business part of our case study we used data from the Charter of Diversity and we also worked with Sustainable Development Goals under the United Nations and international certifications, e.g. ISO 26000 or OHSAS 18001.

At least but not last, we were working with media articles about the situation of gender inequality in the Czech Republic.

## Results of the research

BLF is focused on responsible behaviour of companies in the Czech Republic. A very important part of this are employees, especially women. Through researches focused on women in management and decision-making positions at companies and through statistics from the CZSO, we recognized many problems, such as:

- Inequality in salaries of men and women
- Disadvantage of women on the labour market due to care for children or close relatives
- Low number of female entrepreneurs
- Unfair representation of women and men in decision-making positions
- Inequality of women and men in the labor market and in business
- Problems with reconciliation of work, private and family life

BLF has decided to improve gender equation through program Lean In and CSR strategies which solve this issue.

## Lean In project

Lean In for women in business includes three programs depending on the work experience of women: Junior, Middle, and Senior. Women work in small groups of up to 10 people with a professional female leader. The meetings are led according to the Stanford university methodology as is on [www.leanin.org](http://www.leanin.org). The professional female leader is talking about several topics. Each meeting has got particular a topic, for example negotiation, managing difficult conversations, working with prejudices, power of stories, creation of fair rules of the game and sharing of experience through their own case studies. It helps women to improve their work-life balance, encourage them, raise self-confidence and create new networks. After each talk there is time for discussion, sharing experience and opinions and coming with new



ideas. The ultimate goal of these meetings is to encourage women to lean in to positions of leadership.

### Lean in structure

The purpose of the introductory meeting called Kick-off Meeting is to get to know each other and identify shared goals, including clarifying the content of subsequent meetings. Education Meetings series give participants the opportunity to learn and gain new skills through Stanford University's academic online lectures. After studying and reading materials about the topic, women have an opportunity to discuss and share insights, ideas, and opinions.

During Exploration Meetings participants can share their personal stories in detail, share and discuss key career choices. There is time for feedback, new angles of view, sharing of relevant knowledge and experience.

Goals of this project are:

- Support both the professional and personal development of women.
- Create a real, functional network of women who see a sense of mutual support.
- Discuss the role of women in society without topics like quota, gender and positive discrimination but focus on the use of women's potential and abilities to create a quality living environment.

Here are some examples of Lean In topics:

- communication (how to manage it),
- leadership,
- working with a team (relationships, communication, dynamics),
- work-life balance, self-confidence, strengths.

It is important that there are rules because then the place is safe and women can feel comfortable and talk about everything relevant to the topic.

### Lean In rules:

1. Confidentiality.
2. Open and honest communication and active participation.
3. Sharing, discreet conversation over meaningful topics.
4. Listening. No judgments, only personal experience.

Women have some homework like studying material for a concrete topic at home and watching online lectures academics from Stanford University, so they are in touch with this project not only during the meetings which are once a month.

### Corporate best practices

BLF supports businesses perceiving that it is necessary to take special care of female employees. As part of their CSR strategy we can see projects for women in management. You can find here some of the examples of responsible business.

## Kooperativa

Kooperativa is the second largest insurance company in the Czech Republic. It is part of the Vienna Insurance Group, one of the leading insurance groups in the Central and Eastern European countries.

This company organizes Club of female managers which provides education and networking activities for female employees working on managerial positions to support manager development and development to a more gender-balanced representation at all levels of management.

The company is always pleased when parents (employees) return after fulfilling their parental responsibilities. Therefore, they are in contact with them for both maternity and parental leave, and every month they send them Kooperativa internal magazine. The company wants women not to be worried about their job when they are ready to work again.

## Microsoft Czech Republic

Microsoft is a leading technology maker in the world where mobility and cloud are an important part of life. The Czech branch was opened in 1992.

The company is committed to supporting its employees' well-being with comprehensive benefits to help employees maximize their physical, financial, and social wellness. This is a part of their Microsoft culture. Mainly they are focused on supporting women in management. Its goal is higher representation of women in decision-making positions.

Global Diversity and Inclusion Office has evolved and enhanced the company's diversity and inclusion initiatives so that we can continue to meet the changing needs of its workforce and business. They are deeply committed to creating an inclusive environment where all employees can do their best work.

Microsoft care of human rights including specific women rights in the way they do business.

## Plzeňskýprazdroj

Plzeňskýprazdroj is a successful Czech brewery with a long history. It was founded in 1842. The company has a program for parents which supports work-life balance. They provide a unique monthly contribution of up to CZK 6000 for preschool care. Eligible parents are those returning to work from maternity or parental leave when their child is no older than 18 months.

Plzeňskýprazdroj is very interested in gender diversity and over the last 7 years, it has succeeded in doubling the number of women in senior managerial positions to the present 33 percent. The company has been intensely committed to this issue, thanks to which it has managed to create an equal-opportunity-based working environment.

## Hilton

Hilton Hotels Corporation is an American multinational company that manages and franchises a broad portfolio of hotels and resorts. There are a few hotels in the Czech Republic which have their own CSR programs.

In 2018, Hilton Prague introduced a new project called Women in Leadership. Through this Hilton provides professional development, sharing work position and offers home office. Hilton's Women Team Member Resource Group (TMRG) was the catalyst for awareness and substantial insight that drove action around attraction, recruitment, hiring, development and retention of women. Schuyler attested that this was the company's preference, saying "The efforts were grassroots; we wanted it to be that way, to empower our female leaders and to ensure it was representative of all pockets around the company".

Initiative called Thrive@Hilton focuses on team members' well-being. Thrive@Hilton will help to truly evolve the way Hilton works to create space for what matters: inspiration, creativity and meaningful connections. Through new initiatives like building in time to recharge during the workday, sabbaticals and modern tools for increasing recognition, they will enable its Team Members to grow and flourish in body, mind and spirit. This initiative is an important part of the work culture of Hilton.

## Discussion

In case that government and legislation is not able to solve gender inequality, businesses should take the initiative into their hands and try to come with a feasible idea how to support female managers and entrepreneurs and how to work on fair valuation and salaries.

Customers demand responsible enterprises and corporates. They are even willing to pay more for services and products which are outputs of responsible and sustainable business. Customers are more interested in work conditions for employees, if companies are environmentally friendly and if are transparent on the market. In case something is wrong or unsatisfactory it can have a negative impact on company's reputation. Negative references can influence potential new customers or discourage long-standing clients. Especially the so-called millennials are significantly aware of corporate social responsibility and thanks to social media and online references they can easily support or "destroy" company's brand.

Companies can prosper thanks to society, natural sources, and hardworking employees. It is their duty to pay back it. Therefore, they should be responsible towards society and communities where they do business in. Companies should be aware of environmental matters and save the nature. Mainly they should realise that human resources are very important for successful business and it necessary to be a good employer to maintain their loyalty.

## Recommendations

When local government and legislation is not effective enough in solving gender inequality, people can cooperate with NGOs or they can focus on **corporate social responsibility strategies** that may be even more useful.

The reason why this strategy might be more successful is that companies are interested in happiness of their employees. Why? Simply because they know that human resources are crucial for their successful business, they want to have a good reputation, or they “just” want women and men to have the same opportunities, work conditions and equal salaries.

In the Czech Republic there are very common salary gaps, especially in decision-making positions, management, education system and sciences. Another problem is that women can have disadvantages on the labour market due to care of children or close relatives. The care is quite expensive, and if they have less money, they can really suffer. A big issue is that 50% of marriages are divorced. But companies are aware of this problem and they want their female employees to stay at work and keep the job. Fluctuation is not only expensive, but it has a big negative impact on the business. Therefore, they should definitively help female employees if they need through financial support, flexible work-time or a possibility to work from home.

## What can you do?

Firstly, it is important to talk about gender equality and salary gap as part of CSR strategy in public and know what companies can do to improve gender equality in Armenia. In this case study you find examples of corporate CSR strategies. We recommend you to read about CSR generally, study examples from the Czech Republic and read about ISO 26000 and the SDGs (links below). It is significant to know how the whole concept works and what companies can do.

Then you need to prepare a list with Armenian gender problems and do a research to find Armenian companies which might be interested in it. After that a strategy how to publicize the concept should be written. The strategy must be realistic and should include your goals, plan, risk management and KPIs. Implementation and monitoring are key parts of this whole process. Do not forget your time-management and a proper schedule.

Secondly, programs for female entrepreneurs are also very successful. Good example is Lean In organized by BLF. Recommendations for this kind of work with gender equality are below.

At least but not last, we recommend you to evaluate your progress regularly and in case there are some problems to take time to set them right and prepare a plan how to do it and improve it. The implementation of changes must be done properly.

## What should be done?

Here are a few steps which should help you with the preparation of how to handle gender inequality:

- studying materials (links are in this case study), asking questions (support from BLF)
- a list of national businesses with CSR

- if it is possible a list of international businesses interested in gender equality
- a strategy plan for communicating the topic with Armenian public
- creating relationships with businesses, cooperation with them
- proper risk management and time management with a schedule
- SMART (Specific, Measurable, Achievable/Acceptable, Realistic/Relevant, Time specific/Tractable) goals, KPIs (key performance indicators)
- monitoring the process and regular evaluations

## Programs for women in business

It is useful to create a program for female managers and female entrepreneurs inspired by BLF's Lean In.

At the beginning of the whole process it is necessary to find out if there is an interest in this kind of program among women in business. You can use printed or online questionnaires to ask about their needs. Have a look if there are any similar programs in Armenia to avoid creating a program which has been already working. Another reason why it is essential to do this research is that you need to know what is in the offer on the market, what is the best practise, which area you can work in (e.g. supporting women to improve their manager skills, to ask for equal money, to be self-confident) etc.

When you have the main and side topics and goals of your project you can start to plan where it will take part, how often it will be, and how many participants should join. You have to think how your topics will be presented, who will lead the program, the group and sessions, what the price of this program will be etc. You can find an inspiration in this case study.

Finally, prepare a list of contacts of women who are/could be interested in your program and invite them. After each session it is useful to do an evaluation. If something is going wrong in the program do not worry, check your evaluations, and ask the leader and participants what you can do better or what they would suggest to improve. Plan changes and work on improvements.

If you need more materials for working on your own program, do not hesitate to contact us.

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Focused on Women and Men, 2017, Czech Statistics Office, available on <<https://www.czso.cz/csu/czso/zaostreno-na-zeny-a-muze-2017>>

#### NGO

Open Society: [www.otevrenaspolecnost.cz/en](http://www.otevrenaspolecnost.cz/en)

Nesehnutí: [www.nesehnuti.cz/about-us/](http://www.nesehnuti.cz/about-us/)

Business Leader Forum: [www.csr-online.cz](http://www.csr-online.cz)

## Universities

Charles University, Faculty of Humanities, Department of Gender Studies: <https://gender.fhs.cuni.cz/>

Charles University, Faculty of Philosophy: [www.ff.cuni.cz/](http://www.ff.cuni.cz/)

Masaryk University, Faculty of Social Studies: Department of gender studies: <http://gender.fss.muni.cz/>

Palacký University, Faculty of Pedagogy, Department of primary and pre-primary pedagogy, Jitka Dubová, Gender in Education System, 2016, available on <[https://theses.cz/id/0em24m/DP\\_Dubov\\_Jitka\\_finln\\_verze.pdf](https://theses.cz/id/0em24m/DP_Dubov_Jitka_finln_verze.pdf)>

University of Economy, Political Economy: [www.vse.cz/polek/1167](http://www.vse.cz/polek/1167)

## Other sources

SDGs: [www.un.org/sustainabledevelopment/gender-equality/](http://www.un.org/sustainabledevelopment/gender-equality/)

ISO 26000: [www.iso.org/iso-26000-social-responsibility.html](http://www.iso.org/iso-26000-social-responsibility.html)

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## Businesses

Charter of Diversity: [www.diverzita.cz/english-2/](http://www.diverzita.cz/english-2/)

Kooperative: [www.koop.cz/en](http://www.koop.cz/en)

- Only in Czech, Responsible behaviour towards employees, available on [the link](#)
- Empowering our employees, available on [the link](#)
- Employees, available on [the link](#)
- How Hilton increased women representation in its leadership, available on [the link](#)
- Hilton launches 'Thrive@Hilton' for team members, available on [the link](#)