

Georgia

Education International – Submission to the UN Universal Periodic Review

10th session of the UPR Working Group, 24 January – 2 February 2011

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Education International (EI) the world's largest Global Union Federation representing over 30 million education workers through 402 teacher organizations – hereby lodges a submission for non implementation of the principles of freedom of association by the Government of Georgia.

1. BACKGROUND AND FRAMEWORK

Constitutional and Legislative Framework

1. The Georgian Constitution guarantees the right to freedom of association in article 26, saying that every individual has the right to create and join association, including trade unions. This right can be restricted, however, if the association's goal is to overthrow or change the constitutional order of Georgia by force, violate the independence of the country, violate the country's territorial integrity, advocate war and violence, or attempt to induce ethnic, racial, social and national unrest (Georgian Constitution, Article 26, Paragraph 3).
2. Article 5 of the Law on Trade Unions states that “A trade union, association (federation) of trade unions shall be independent from the bodies of the state authority and self-governing bodies, employers, associations (unions, federations) of employers, political parties and organizations, and shall not be accountable to and under control of these bodies, with the exception for the cases established by the legislation”.
3. Georgia has ratified the ILO Convention 87 on Freedom of Association (1999) and ILO Convention 98 on Right to Organise and Collective Bargaining (1993).

Teacher Union Persecution

4. The teacher union Educators and Scientists Free Trade Union of Georgia (ESFTUG) was formed by the merge of two teacher trade unions. ESFTUG, which represent 103,000 teachers in Georgia, has been exposed to anti union discrimination, interference and rejection by the Government over the last years. In a context of redundancies and certification process, unionized teachers are pressurized into giving up their union membership of ESFTUG.
5. Pressure is exerted by Government officials (Ministry of Education and Science and the Heads of the Ministry's regional offices, Education Resource Centers), employers (school principals) and education organizations (Government union of teachers and school principals as well as pro-government NGOs).

2. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Restriction of Freedom of Association

6. Although Georgia has ratified ILO fundamental conventions, trade unions in the Georgia Trade Union Confederation regularly report insufficient protection of workers against acts of anti-union discrimination and interference, as well as a lack of consultation and inefficient resolution of collective bargaining-related issues.

7. The teacher union ESFTUG had to get the court to instruct the Ministry of Education to start collective bargaining with the teacher union. According to the Tbilisi City Court Decision (20 February 2007), Tbilisi Appeal Court Decision (27 February 2008), Georgian Supreme Court Decision (29 May 2008), the Ministry of Education and Science of Georgia is obliged to hold collective bargaining with ESFTUG for the aim of signing sectoral agreement. Tbilisi City Court Decision (20 February 2007) entered in legal force and Executive Paper was issued on 13 January 2010 (Case # 3/3074-06). The Appeal Court stated that the collective agreement is to be signed between the Ministry and the union, and not with the school principals who directly employ teachers. The Ministry had not started collective bargaining with ESFTUG by 8 July 2010.
8. In January 2008, a new teacher union was registered: the Professional Syndicate of Education (PSE). This organization's founders were a then high official in the Ministry of Education, his wife and the school principal of Tbilisi Public School #122. This violates the Law on Trade Unions as employers cannot form workers organization. Trainers from the Government-controlled teacher training centres were also involved in the setting up and promotion of PSE which was immediately favoured by the Government to the disadvantage of the existing teacher union ESFTUG. Two weeks after the PSE was created, all school principals and chairs of the boards of the public schools were invited to meetings to be introduced to the new organization. The school directors were invited to encourage their employed teachers to quit ESFTUG and join the PSE.
9. In June 2010, the Ministry of Education unilaterally instructed school principals to stop transferring union fees to the ESFTUG bank account. The ILO in its jurisprudence indicates that “The withdrawal of the check-off facility, which could lead to financial difficulties for trade union organizations, is not conducive to the development of harmonious industrial relations and should therefore be avoided”.
10. Attempts by ESFTUG to collect union fees directly from teachers have been thwarted by school principals. Teachers have been warned that paying individual fees is illegal. The union has been accused in media of “racketing” teachers.

Restriction of Freedom of Expression

11. Although article 19 of the Georgian Constitution states that “Everyone has the right to freedom of speech, thought, conscience, religion and belief”, the Ministry of Education requested school principals to inform their employed teachers that communication with media is prohibited without the permission of the Ministry of Education press centre.

3. RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Ask Government of Georgia to:

- Implement ratified ILO Conventions in law and in practice;
- Respect the collection of union dues (through check off of individual statement) and the privacy of union members;
- Abstain from intimidating and discriminating unionized workers;
- Respect the right of workers’ organizations to organize their activities and to hold meetings and public protests related to conditions of work and economic and social policy;
- Intensify social dialogue in good faith with legitimate and representative workers organizations;
- Implement the Tbilisi City Court Decision of February, 20, 2007 (Case #3/3074-06) requesting the Ministry of Education to open collective bargaining with the teacher union ESFTUG.