Targeted Surveys on application of core labour standards
Armenia

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EUROPEAN COMMISSION

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EU Programme for Employment and Social Innovation

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This report has been developed to provide a picture of the application of core labour standards in Armenia. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Efforts to improve legal framework on non-discrimination, strikes, and forced labour
- Efforts to identify and prevent trafficking and forced labour
- Regulation to expedite labour disputes cases in courts
- Establishment of a Health and Labour Inspectorate (HLI)
- ILO Decent Work Country Programme

Challenges

- Lack of enforcement relating to CLS, principally due to ineffective labour inspection system and overburdened courts
- Lack of a comprehensive law on anti-discrimination
- Discrimination against women workers and people with disabilities
- Lack of recent data on child labour
- High rates of unemployment and informality

Key context

Armenia witnessed substantial political upheaval in 2018. Following a series of popular protests, Nikol Pashinyan was appointed Prime Minister in May 2018, and confirmed in the role in elections later that year. The new government may have significant implications for the labour rights enforcement environment – seeking to reinforce the rule of law, eliminate corruption, and achieve strong and inclusive economic growth. An ambitious five-year government action programme (2019-2023) was adopted in February 2019. The programme includes aims to significantly reduce poverty and unemployment by 2023 through easing business regulations and attracting foreign direct investment.

A labour law reform process was initiated in early 2017, aiming to implement the goal of ‘simplifying regulations’ for small businesses. Draft amendments to the Labour Code, reflecting a number of the ILO’s observations, were presented in February 2018. However, they were subsequently removed from the parliamentary agenda in June 2018 in light of criticisms from civil society. Criticisms focused on the removal of statutory limitations on working hours and overtime and on a list of dangerous jobs with defined compensation rates in favour of flexible direct agreements between employer and employee. There were concerns this would disadvantage workers, given their weak bargaining power.

Although recent political upheaval has created some uncertainty, government representatives have indicated that labour law reform remains a priority, with core labour standards a focal concern. The current government has stated its intention to implement the labour code reform by 2020 - authorities are currently drafting new amendments.
Technical assistance to better align the Labour Code with international labour standards is central to the recently signed ILO Decent Work Country Programme (see below).

Labour market conditions may also impede the application of core labour standards and wider access to decent work. High levels of unemployment – estimated at 17.7% in 2018 – serve to diminish workers’ bargaining power. Workers in the large informal economy, estimated to account for 52% of all employment, face practical barriers to organising and collective bargaining. Enforcement of labour laws is also more difficult in the informal economy.

However, the absence of a fully-functioning labour inspectorate is the most significant overall constraint for the realisation of core labour standards in Armenia. It is generally acknowledged that, since 2013, there has been no functioning labour inspection body to supervise and enforce the application of core labour standards. In 2017, the ILO expressed concern that the ongoing reorganisation of the labour inspectorate was not fully aligned with C81, as ratified by Armenia, with particular regard to Art. 4 and Art. 9.

During 2018, there were important developments in this regard, with a Health and Labour Inspectorate (HLI) being established under the 2018 Law on State Administration Bodies. A charter setting out the specific roles and responsibilities of the HLI was adopted in July 2018. However, it does not fully address significant concerns about the scope, competences, and functioning of the previous inspection body (the Health Inspection Body – HIB), as the newly-instituted HLI continues to focus on health and safety issues alone. During the ninth round of the EU-Armenia Human Rights Dialogue in May 2018, Armenia indicated that it planned to reform the system of labour inspection to comply with international standards.

In May 2019, Armenian constituents and the ILO signed a new Decent Work Country Programme (DWCP) for Armenia for 2019-2023. The ILO will support Armenia to promote and apply the ILO conventions and recommendations, within the context of the comprehensive Labour Code reform. Priorities under the DWCP include: improving mechanisms for regulating labour relations, including aligning law and enforcement with relevant conventions, such as C81 (Labour Inspection); developing a National Employment Strategy to address issues such as skills and employability of youth and vulnerable groups; and strengthening social dialogue and collective bargaining, notably through building the capacity of the Republican Tripartite Commission.

**Freedom of association and collective bargaining**

Although basic foundations for social dialogue are in place, including a legal framework regulating collective bargaining and a tripartite commission for consultation between the government and social partners, there are several shortcomings regarding the legal framework on freedom of association and collective bargaining. Several specific concerns have been identified, largely reflected in the findings of the ILO CEACR (see below). Among the issues identified are limitations on the right to strike; bans on organising for certain categories of workers; high minimum membership requirements for trade unions and employers’ associations; and restrictions on organising outside current sectoral and national structures. It is expected that planned reforms of the Labour Code will address these gaps.

Concerns persist that there is no central oversight body to ensure enforcement of national legislation transposing the terms of ILO C87 and C98. In addition, there are several reported concerns about the enjoyment of freedom of association and collective
bargaining in practice. For example, reports suggest that the informal consent of the employer is required to establish a formal trade union. In addition, there is currently no official procedure for registering collective bargaining agreements.

**Forced labour**

The legal framework on forced labour is broadly adequate and in line with international standards. However, there remain some noteworthy gaps, especially the lack of a precise legal definition of forced labour. It has been reported that the envisaged amendments to the Labour Code will improve alignment with international standards in this regard.

There are significant concerns about enforcement. In the absence of a functioning labour inspectorate, there is no effective system to monitor and inspect workplaces to prevent and detect forced labour and trafficking. In addition, there are concerns that other supportive institutional mechanisms for tackling forced labour, such as formal provisions for victim support, mechanisms for overseeing and regulating labour recruitment agencies, and the use of standard indicators for screening populations vulnerable to trafficking are lacking or ineffective.

Overall, social partners do not consider forced labour within Armenia a pressing issue in practice. However, there are reports that forced labour and trafficking for the purposes of labour exploitation occur, both within the country and involving Armenian nationals abroad, primarily in Russia, Turkey and the United Arab Emirates. There have been some indications of improved efforts to address forced labour, such as trafficking awareness-raising campaigns among vulnerable populations and the training of law enforcement officers and civil servants. However, issues such as a decline in the number of prosecutions and lack of proactive identification of trafficking victims remain and the US Department of State’s Trafficking in Persons Report for 2019 maintained Armenia as ‘Tier 2’ after downgrading the country to that status the previous year.

**Child labour**

The legal framework concerning child labour, including its worst forms, is broadly adequate and in line with international standards. However, key legislation does not apply outside the formal sector, while definitions of ‘light’ and ‘hazardous’ work are either absent or insufficiently developed. In practice, there are significant enforcement limitations concerning child labour laws, primarily due to the absence of an effective labour inspection system.

According to the most recent National Survey on Child Labour, conducted in 2015 with the support of the ILO, 8.7% of children aged 5-17 are involved in child labour in Armenia, the majority of which (79.4%) are engaged in hazardous work. Child labour is most prevalent among older children and in rural areas, and primarily takes place in agriculture. There are also reports of the worst forms of child labour, such as for sexual exploitation and forced begging. The ILO CEACR has raised further concerns relating to the increasing number of children involved in begging and heavy manual labour, as well as the risk of street children becoming involved in worst forms of child labour. Children within state childcare institutions are particularly vulnerable to labour and trafficking.
Discrimination

There is no comprehensive anti-discrimination law, and existing legislation does not provide effective protection against discrimination. A draft Law on Ensuring Equality was published online for public discussion in March 2018, and in May 2018 Armenia reconfirmed its commitment to adopting a comprehensive anti-discrimination law in line with international standards. The draft, which is reportedly being finalised, contains a comprehensive definition of discrimination and prohibited grounds for discrimination, as well as the responsibilities of employers in terms of preventing and prohibiting discrimination in the workplace. A further draft law on the protection of rights of persons with disabilities and their social inclusion is reportedly being redrafted during 2019 also.

In practice, most discrimination issues identified by stakeholders relate to gender. Women reportedly face discrimination at every stage of the employment relationship. At the recruitment stage, job advertisements frequently state preferences relating to gender or physical appearance, while employers often prefer to employ male candidates, even if they have lower levels of qualifications than women candidates. Upon commencing employment, there are reports that employers offer women (but not men in equivalent situations) short-term or ‘service delivery’ contracts rather than permanent employment contracts, primarily as a means to avoid their obligations relating to maternity pay and leave. During employment there are reports that sexual harassment is widespread and often goes unreported, while women are often the first to be dismissed during retrenchment processes. There are also some reports relating to discrimination on other grounds, including in relation to sexual orientation, age, disability, religion, and ethnicity.

Status of ratification and reporting

Armenia has ratified all ILO fundamental (core) labour conventions without reservations and maintains their ratification. Armenia has also ratified three ILO governance (priority) conventions (C81, C122 and C144). Armenia is up-to-date with all of its reporting obligations to the monitoring bodies of the ILO in relation to these conventions.

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<th>Application issues - latest ILO CEACR observations and direct requests on core conventions</th>
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<td><strong>Freedom of association &amp; collective bargaining</strong></td>
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<td><strong>Forced Labour</strong></td>
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<td><strong>C98 (2017): Noted that the Labour Code provides for the possibility that in case no trade union exists at enterprise level, or if existing unions represent less than half of all employees, other representatives can be elected to negotiate collective agreements, and; that the Labour Code specifies that collective agreements will be considered unilaterally terminated if an enterprise is restructured or privatised.</strong></td>
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### References

ILO CEACR, *Observations and Direct Requests for Armenia*
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