



STIMULATING EASTERN PARTNERSHIP WORK IN GEORGIA

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EASTERN PARTNERSHIP WORK IN GEORGIA CONVERGENCE WITH EU POLICIES

On 25th of July Georgian foundation for Strategic and International Studies hosted a workshop: Convergence to EU Policies and Eastern Partnership Work in Georgia. The event aimed at the public awareness raising was organised in the scope of the Friedrich-Ebert-Stiftung supported project – Stimulating eastern partnership Work in Georgia.

Two presentations were exposed:

Mr. Oleg Shatberashvili, European Studies for Georgia's Innovative Development, presented European innovation policy and perspectives of its application in Georgia.

Mr. Kakha Gogolashvili, Georgian Foundation for Strategic and International Studies talked about the essence and meaning of Deep and Comprehensive Free Trade Agreement and its main components.

The meeting attended around 50 competent non-governmental organisations and state agencies, including research institutions, universities and government offices.

Representative of the Friedrich-Ebert-Stiftung Georgia office Ms. Khatuna Nakeuri welcomed the participants and spoke about the

ongoing work of the foundation and the plans for the future.

Oleg Shatberashvili presented the results of his study dedicated to the ways of development of the innovation policy in Georgia. The study had following objectives: to identify recent trends in the European innovation policy, producing of the comparative data analyses of the innovation systems in the EaP countries, status of participation and awareness on innovation policy issues in EaP countries, evaluation of the existing EaP mechanisms with the view of strengthening of innovation policy, development of recommendations for the Government of Georgia and the wider public.



Kakha Gogolashvili described the important aspects of the ongoing negotiations on DCFTA with the EU. He focused on the expected benefits of the agreement such as elimination of the non-tariff barriers, facilitated access of our goods and services to the EU markets. The presentation exposed the provisions of the future agreement and put light on reform action necessary to apply in the sphere of the regulatory and legal reform responding the implementation needs of the mentioned provisions.

The presentations were highly appreciated by the audience, who maintained high rate of participation in the followed discussion.

SMALL BUSINESS PROMOTION POLICY AS A PRINCIPAL INSTRUMENT OF THE SOCIETY'S ECONOMIC AND SOCIAL DEVELOPMENT: INTERNATIONAL EXPERIENCE

Dimitri Japaridze

The small and medium-sized enterprises promotion strategy is the principal factor of the economic and social development of many world countries. The small business promotion has become the subject of many priority political documents. The present study aims at surveying the small business promotion policies being followed in the USA, EU Member States and Japan. The said countries have many distinctive elements in their small business promotion policies, although all of them are based on the principal model that encompasses activities of a similar content in the financial, tax, human resources and technology transfer spheres.

The importance of the role of small business and the necessity of conduct of policies for promoting it were first stated in the USA in the early 50s by passing the Small Business Act. Another evidence of the said sphere's priority is the Small Business Jobs Act passed in the USA in 2010. At the current stage, the US administration pays a lot of attention to boosting of small and medium-sized enterprises (SMEs) recovery and therefore SMEs are high on the country's political agenda¹:

- Small Business Jobs Act of 2010 putting more capital in the hand of entrepreneurs through enhanced loan provision of \$12 billion over the next few years to improve investment indicators on the part of entrepreneurs;

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¹ The 2010 State of the Union, www.huffingtonpost.com, 2011

- Federal financial aid to be furnished for institution building (support to Small Business Development centres), export support and various tax incentives, etc.;
- Start-up America, a special initiative aimed at accelerating high-growth entrepreneurs by unlocking access to capital, improving mentoring schemes, reducing administrative barriers,;
- National Export Initiative envisaging to double U.S. exports over the next 5 years.

The key priority in the said initiative will be to expand exports by small businesses, which have never exported². Currently, the SME promotion policy has been written out both at conceptual and effective enforcement level in a document of strategic significance. The document present in detail the following outcomes to be achieved in the small business promotion sphere in the USA within the next years³:

- Ensuring SMEs promotion in 2011-2014 by allocation of US\$ 74 billion-worth loan resources;
- Mandatory effecting of 23% of federal contracts with SMEs;
- Founding 37,000 new SMEs in 2011-2014;
- Saving US\$ 22 billion by reducing the regulatory burden in 2011-2014.

Since 1953, around 20 million SMEs have made use of the Small Business Administration's direct or indirect aid. At the current stage, the Agency's advances portfolio includes about 219,000 contracts, while the amount of advanced loans totals US\$ 45 billion. Thus, today the Small Business Agency represents the US administration's most effective instrument to ensure economic development.

In Japan, the SMEs promotion policy is carried out based on cooperation of many organizations. The competences of an SME Agency include the formulation of nationwide SME promotion policies. It cooperates closely with the Ministry of Economy Trade and Industry's regional offices, local prefectures, SME regional support centres, and Chambers of Commerce.

In the Budget allocation for 2010, the Government managed to secure an increase of 2.1 billion yen (out of total 191.1 billion yen) as expenditures for SMEs. Facilitation of SME financing and policies on Re-

search and Development for job creation are prioritized in the budget allocation. Government financial institutions provide about 10 percent of all loans to SMEs. Added to official credit guarantees, the ratio rises to 23 percent.

Other actions currently undertaken by the Japanese Government focus in particular on:

- Tax reductions and exemptions measures;
- SME assistance centres help SMEs to improve their managerial competencies, providing training;
- Assistance in finding highly qualified personnel, training on how to benefit and engage in Research and Development.

In 2000, Bologna (Italy) hosted representatives of governments responsible for SME activities from 50 states of the world. The Conference adopted a Bologna Charter on SME Policies. The Charter envisages the carrying out of a special SME promotion policy, significantly differing from that implemented in respect of large enterprises. The Charter has defined specific lines of SME promotion:

- Support to internationalization of SMEs;
- Ensure effective access to finances;
- Development of the training component through improving SME management skills;
- Introduction of tax preferences;
- Simplification of rules for SMEs in the bankruptcy and competition field, etc.

SMEs still face market failures undermining the conditions in which they operate and compete with other players in areas like finance (especially venture capital), research, innovation and the environment. For example, about 21% of SMEs indicate that accessing finance is a problem, and in many Member States the percentage is much higher for micro-enterprises. Also, fewer European SMEs innovate successfully when compared to large businesses.

The EU has thus firmly placed the needs of SMEs at the heart of the Lisbon Growth and Jobs Strategy⁴. Now it is time once and for all to cement the needs of SMEs in the forefront of the EU's policy and to translate the vision of the EU Heads of State and Government of 2000 into reality making the EU a world-class environment for SMEs⁵. In general, EU SMEs still

2 Are EU SMEs recovering from the crisis? Annual Report on EU Small and Medium-sized Enterprises 2010/2011, Rotterdam, Cambridge, 2011.

3 Are EU SMEs recovering from the crisis? Annual Report on EU Small and Medium-sized Enterprises 2010/2011, Rotterdam, Cambridge, 2011.

4 Lisbon Strategy for Growth and Jobs, 2000.

5 A "Small Business Act" (SBA) for Europe, Brussels, 25.6.2008.

have lower productivity and grow more slowly than their counterparts in the United States. In the US, surviving firms on average increase their employment by 60% by their seventh year, while employment gains among surviving firms in Europe are in the order of 10% to 20%.

Accordingly, the policy of promotion the accelerated SME growth in EU implies implementation of regulatory and special programmes:

- EU legislation: regulations, framework directives and directives;
- EU funding: programmes directly or indirectly relating to SMEs;
- Promotion of the SME development policy in EU Member States by open coordination techniques or littoral cooperation and transfer-facilitating measures.

The SME promotion priority idea was corroborated by adoption of the so-called “Small Business Act” for Europe⁶. It is a document of strategic importance and of high political ambition for EU, which includes a set of 10 principles to guide the conception and implementation of SMEs promotion policies both at EU and Member State level:

1. Create an environment in which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded.
2. Ensure that honest entrepreneurs who have faced bankruptcy quickly get a second chance.
3. Design rules according to the “Think Small First” principle (better regulation, Regulatory Impact Assessment, VAT registration threshold).
4. Make public administrations responsive to SMEs’ needs (the setting up of points of single contact, through which businesses can obtain all relevant information and complete all necessary procedures and formalities by electronic means).
5. Adapt public policy tools to SME needs: facilitate SMEs’ participation in public procurement and better use State Aid possibilities for SMEs.
6. Facilitate SMEs’ access to finance and develop a legal and business environment supportive to timely payments in commercial transactions.

7. Help SMEs benefit more from the opportunities offered by the Single Market (to carry out promotion and information campaigns to encourage SMEs to make better use of standards and provide feedback on their content; provide SMEs with advisory services including support to defend themselves against unfair commercial practices).
8. Promote the upgrading of skills in SMEs and all forms of innovation.
9. Enable SMEs to turn environmental challenges into opportunities.
10. Encourage and support SMEs to benefit from the growth of markets (elimination of trade barriers; encourage coaching of SMEs by large companies in order to bring them to international markets).

Irrespective of the fact that the Small Business Act does not represent today a legally binding document, EU Member States place the main emphases in the economic policy on the “Think Small First” principle presented in the Act. Currently, the Member States are aware of the necessity of making in the near future the ten principles an integral part of both national and EU legislation. At the current stage, the European Commission and Member States are exercising a regular monitoring of the use of said principles in the economic policy.

An important document for promoting SMEs is the Europe 2020 Strategy for Growth and Jobs, which is based on the idea of full realization of the SME potential⁷. Today SMEs represent more than 99% of all businesses and employ more than 90 million in Europe, which amount to 67% of the total amount of the employed⁸. The “Small Business Act” (SBA) is exactly the basis of their viability. In a period from adoption of the Act, since June 2008 up now, significant legislative initiatives foreseen by the SBA have been adopted:

- Up to 100 000 SMEs have benefited from the financial instruments of the Competitiveness and Innovation Framework Programme, creating more than 100 000 jobs. A further 200 000 SMEs are expected to benefit by 2013;
- The Directive on e-invoicing adopted by the Council in 2010 brings benefits, in particular by allowing the sending of e-invoices on equal terms to that of paper invoices;

⁶ “Think Small First”, A “Small Business Act” For Europe Communication From The Commission To The Council, The European Parliament, The European Economic And Social Committee And The Committee Of The Regions, Brussels, 25.6.2008, COM(2008) 394.

⁷ EUROPE 2020, A Strategy For Smart, Sustainable And Inclusive Growth, Communication From The Commission, Brussels, 3.3.2010, COM(2010) 2020.

⁸ Antonio Tajani, European Commission Vice-President, Commissioner for Industry and Entrepreneurship, 2010.

- Through the late payment directive public authorities are now required to pay their suppliers within 30 days, improving the cash flow of businesses.
- The Directive to combat late payment adopted by the Council in January 2011 requires public authorities to pay within 30 days and sets an upper limit of 60 days for business to business payments, facilitating thus financial flows in the SME business;
- Streamlined online procedures and opportunities for joint bidding have made participation in public procurement easier for SMEs.

After adoption of the SBA adoption significant steps are being taken to relieve SMEs from the administrative burden; in particular, a significant improvement of enterprise registration and start-up conditions is planned in the near future:

- Application of the “only once” principle whereby public authorities and administrative bodies should refrain from requesting the same information, data, documents or certificates which have already been made available to them in the context of other procedures is introduced;
- Systematic assessment of the impact of legislation on SMEs using an ‘SME test’;
- Strict compliance with the “Think Small First” principle, which implies perfection of legislation and administrative procedures affecting SMEs;
- Facilitation of SMEs access to EU Structural Funds;
- Development of “credit ombudsman”-type solutions to further facilitate the dialogue between SMEs and credit institutions;
- Creation of one-stop-shops where SMEs can apply for European, national and local grants.

The principal issue of the EU SME promotion strategy is the subject of integration in a global market. To facilitate access to the Chinese markets, a new EU SME Centre in China was set up in November 2010. The establishment of SME support centres globally is going on and will remain the EU’s priority direction in the future as well. The export market development is a significant opportunity, especially in the BRIC countries⁹, where tendencies of a rapid economic development are observed. According to a recent study, the BRIC countries are estimated to

account for about 60% of world GDP. At present, these markets are only served by 7% to 10% of exporting EU SMEs¹⁰. In order to assist SMEs in developing global markets, the European Commission plans:

- Develop a new proposal to facilitate SMEs access to global markets;
- Put into action a development strategy for competitive clusters and networks on a global scale;
- Systematic activities within free trade agreements to remove non-tariff barriers upon access of SMEs to third-country markets, etc.

In order that the principles set out in the “Small Business Act” are effectively introduced, the EU plans to fully involve Member States, European institutions, and all stakeholders and to encourage their successful cooperation. The European Commission will again be involved in the development of the above issue and take into account the SME specifics in developing any new proposal or programme. Great attention will be paid to the matters of awareness and involvement of national or local political leaders and other stakeholders in the implementation of the SBA principles. Namely:

- The SME Envoy¹¹, together with Member States, will ensure a “watchdog function” to monitor the process of implementation of the SBA-stipulated principles. In addition, the SME Assembly will ensure the formation of a new forum, which will act in full coordination with SME representatives;
- EU Member States will be called to fully comply with the SBA-stipulated principles, which is directly associated with a successful implementation of the European 2020 Strategy.

Based on the above considerations, we deem it necessary that the interesting experiences being currently applied by different countries of the world be selected and recommended when analyzing the Georgian economic policies in the small business sector. The EU SME-related policies proper can be considered among such useful examples. Given the declared preparedness and willingness of the Georgian community for European integration, as well the actions being implemented in the economic policy to ensure compatibility

9 BRIC – countries of fast-growing economy: Brazil, Russia, India, China. The acronym first coined by the company Goldman Sachs in 2001.

10 The World in 2050. The Accelerating Shift of Global Economic Power: Challenges and Opportunities, PWC, 2011.

11 The function of the SME Envoy is to establish a close, direct link between the Commission, SMEs and their representatives.

with the European legislation model, it becomes clear that equipping the small business formation policy with the European model principles and their introduction in Georgia is desirable and necessary.

INNOVATION POLICY RECOMMENDATIONS FOR POLITICAL LEADERSHIP OF GEORGIA

Oleg Shatberashvili

These recommendations have been prepared on the basis of studying innovation processes ongoing in the world, the European Union and Georgia and of national innovation systems. The study was conducted in 2009–2012 with the support of the European Union, Foundation Open Society - Georgia and Friedrich-Ebert-Stiftung. The necessity of the study was conditioned by several circumstances: the lack of innovation policy in Georgia, which has been repeatedly mentioned by EU missions; the unsuccessful reform of research and education systems; the dramatic belittling of the research system; an insignificant volume of research in the private sector. All these facts jeopardize Georgia-declared readiness for European integration, for they are radically inconsistent with the EU practices. Also challenged is the long-term outlook of the economic and welfare growth in Georgia.

The recommendations provide an outline of Georgia's innovation policy.

Principal activities:

- Drafting and adoption of a strategic document on innovation policy.
- Recognizing innovation policy as the main national task.
- Creation of a Prime-Minister-chaired National Innovation Development Council as practiced in the EU Member States.

Below given is a list of the issues, with brief commentaries, to be included in the strategic document (the list is not exhaustive):

Innovation infrastructure development

Development of research system: the latest public discussions of the issue have failed to yield any positive result. One of the serious reasons of the above is that the research system was not considered in the

country's innovation development context. The following needs to be established: a modern definition of the research and related activity in the innovation development context; its organizational and legal status; the rights of major participants, both in the public and private sector; the responsibility of all the authority and government agency branches for expanding research activities. A gradual increase in the volume of research, as well as of other indicators of the research system, should be planned both in the private and public sector.

Support of research in the private sector: in case the growth guidelines are correctly identified and set,

growth of research in the public sector will bring forth a similar growth in the private sector as well. Enterprises (primarily small and medium-sized) shall become eligible to grants from public funds. Tax and tariff privileges, shortened depreciation life, and other promotional instruments should be applied to enterprises engaged in research and innovation (R&I) activities, including non-financial aid (for example, free or discounted training of personnel, research support on the part of research institutions, assistance in intellectual property protection, etc.).

Development of higher, vocational and lifelong education systems: innovation is a dynamic process in need of constant change of the profile of employees. The process is simplified when: a) the State sufficiently finances education and b) the educational system provides for fundamental knowledge (mathematics, natural and social sciences). To ensure the latter, university research in these spheres needs to be

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ics under the direction of the Nobel Prize winner N.Basov (1973); the author of up to 90 works in physics, scientometrics, information and research policies; For the past years he has been working in the field of innovative policy and European Integration, national and international innovative systems. Mr. Shatberashvili is a member of editorial boards of journals STI Processing (VINITI) and Information and Innovations (ICSTI), leader and participant of many projects. Current and former President and board member of a number of international and national professional organizations, Director of the Georgian Institute for Scientific and Technical Information (TECHINFORMI) in 1976-2004 and an expert and advisor in various projects of the international organizations (UNESCO, UNIDO, FAO, GFAR, etc.).

financed at a proper level. Research should become a compulsory condition of accreditation of universities. Through investment in the education and research sphere the backlog of public expenditures on education in Georgia (in respect to GDP) should be caught up. The existing European experience in training/re-training should be shared and applied.

Development of research service system: such services as experimental farms, as well as hydro meteorological, geological, geodetic, metrological, quality control, intellectual property protection, scientific and technical information services all need to be rehabilitated. Some inexistent but necessary services are to be created (e.g., advisory service in agriculture). Care for development of these services should become the priority task of the competent ministries.

Development of intermediary infrastructure: Georgia practically lacks services which contribute to the transfer of research results to production – business incubators, technoparks, advisory and technology transfer centres. To make the sphere dependent exclusively on a good will of donors is inadmissible. At the same time, the post-project support of donor projects should become one of the tasks of the State. Mechanisms to promote technological diffusion (e.g., high-technology economic zones) should be created.

Forming of the innovation environment

The government creates conditions/environment (e.g., regulatory) to encourage the innovation process. By means of the innovation policy it influences all the channels of innovation, which implies the following.

Innovative small business promotion: the Georgian methodology of defining small and medium-sized enterprises is radically different from the internationally recognized one, which is the factor interfering with the innovation process. The Tax Code envisages certain privileges only for micro-enterprises, which fails to guarantee full-value innovation activity. The definition of an innovative enterprise needs to be introduced. The effective legislation does not also envisage a direct financial aid for private enterprises (for innovation and research purposes). Therefore, it should be adjusted in compliance with the international, namely European good practices.

Agricultural innovation support: in order to overcome poverty, protect the environment, etc., the taking of innovation measures in small farms is necessary, which is a particularly difficult task. In addition to the

availability of advisory services, it requires cooperation of small farmers, which should be regarded as an organizational innovation in Georgia. Another impeding circumstance is the lack in Georgia of a legal definition of farmer and a law on agricultural cooperatives. The existing relevant strategic and legislative initiatives require serious reconsideration taking into account the innovation policy tasks.

Non-research innovation support: like in other developing countries, innovations in Georgia are generally being implemented through non-research channels (e.g., import of equipment and machinery with embedded technology, as well as a patent license, which is linked to a foreign direct investment). The effective management of a non-research investment is the task of great economic importance. Legislation should provide for incentives for such type of innovation.

Support to appropriate innovation: among “traditional” technologies based on “general” (common) knowledge there are many that can be successfully applied today. The recognition of their application as a local innovation is a standard practice. Such “routine” innovations are of importance for developing countries. The government, particularly local governments, should welcome such innovations and their diffusion by introducing encouraging measures.

Public administration and innovation process

The government acts as an investor on the one hand, generally investing in the educational and research systems, innovation instruments and specific innovation projects, and as the catalyst and regulator on the other hand, creating conditions to promote the innovation process. The innovation policy implementation requires the realization of these functions and the making of serious changes in the country’s administration field for the purpose.

Involvement of government in the management of innovation processes and participation of the research system in governmental decision-making. For implementing the innovation policies, innovation-oriented countries set up high-level innovation councils (chaired by prime ministers). Their members are ministers, representatives of the research system (academic community) and business community. The councils have appropriate working bodies. Such practice is to be introduced in Georgia. To ensure proper and competent operation of ministries, research institutions should be restored or

set up within their systems, while in their structures divisions responsible for innovation policies should be established. The ministries should also avail of resources for ordering and financing R&D work.

Involvement of local governments in innovation processes. Local governments play a serious role in the implementation of innovation processes.

The role is closely associated with regional competitiveness and, in the finest sense of the word, with interregional competition. Regions should avail of essential financial resources to realize it. The existing strong dependence of regional/local governments on transfers from the central budget will interfere with innovative development. The existing laws concerning the rights of local governments and forming of their funds should be reviewed and adjusted. Regional development funds and centres, which will accumulate for innovation programmes funds received from various sources, need to be established.

Large-scale retraining of public servants in the innovation policy field. The innovation policy concerns all the areas of the country's life and, most important, is priority-based. Its implementation requires high qualification of public servants, which can be achieved through their retraining. The outcome will justify the expense.

Management of the innovation field on the basis of governmental programmes. Identification of development priorities, particularly in R&D field, gives rise to a heated debate. The task is significantly simplified if it is reduced to the question "what to begin with?" In this case, the evident, natural priorities are brought to the forefront. Several starting governmental innovation programmes should be mapped out on their basis. All the programmes should be granted with the status of a national law to remain in effect until completion of the programme. These priorities shall be grouped as follows:

Group One – to support human life in the changing environment: supply of the population with food; agricultural research and development of an agricultural advisory system; environmental research and development of a strong environmental protection advisory system; healthcare research and perfection of healthcare services.

Group Two – research in the local mineral and non-food agricultural resources processing field.

Group Three – research in the energy-efficient, energy-safe and environmentally friendly technologies' field.

Group Four – research in the area of information and communications technologies, development of new electronic information resources and digital archives.

Group Five – research in the area of humanities and society related issues to ensure information support and consulting of the country governance.

It should be underlined that research implies both the development of new technologies and the

adoption of available one, as well as informing of the Georgian society about innovation processes ongoing in the world.

Information support of innovation policy

The innovation policy implementation requires monitoring. It should be based on a system of innovation performance indicators developed by the European Commission and the Organization for Economic Co-operation and Development (OECD). For this purpose, a block of innovative activity accounting should be restored in the state statistics system. The research system's output should be registered and the results of researches performed at the expense of public funds be made accessible, as well as the availability and analysis of international scientific and technological information be ensured. A special information support program should be worked out for the purpose.

* * *

Implementation of the proposed measures means an essential reform of the economic development model. It requires many serious amendments to the effective laws and the tackling of much more complicated tasks on the part of the apparatus of state power. It also requires administration on the basis of the approved priorities, more independence of local governments and a deeper understanding of the European integration process. On the other hand, the making of changes is worthy of it, for it is the only way to draw closer to the group of developed nations. For the countries like Georgia it is a serious challenge - a peculiar long-term super task. The setting of this task requires the consent of political forces, moreover the national consent on the issue that the country is willing and will set out to its implementation.

Sources:

1. Multilevel Innovation Policy and European Integration. Editors: O. Shatberashvili and J. Gogodze. Association ESIDG, Tbilisi, 2010, 310 p., ref. 300 (in Georgian, www.inovdev.ge)
2. Eastern Partnership Programme and Innovation Development Prospects of Georgia. Editor J. Gogodze. Association ESIDG, Tbilisi, 2011. 240 p., ref. 220. (in Georgian, www.inovdev.ge)
3. Friedrich-Ebert-Stiftung's Project Promoting Eastern Partnership in Georgia. 2011-2012.

LABOUR LEGISLATION AND FREE TRADE AGREEMENT

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Since 2011, a preparatory process of negotiations on Deep and Comprehensive Free Trade Agreement (DCFTA) has started, which on its part, represents an important component of the association agreement between Georgia and EU that consequently, will assist Georgia in more deep economic integration with the EU.

The negotiations were preceded by the implemented reforms in certain fields with more-less success, that differed by the indicators of achieved progress. Therefore, the success of signing free trade agreement much depends on how the "ultra-liberal" labour code operating in Georgia will be refined and certain provisions of the code will be brought in full conformity with the ILO core conventions. Sometimes, there is misinterpretation about the demands on changes to labour code. In particular, the representatives of the government and some libertarian experts claim in their rectories that EU demands from the government to bring its labour legislation in the compliance with EU corresponding standards, while the country is far from being ready to approximate its standards with the EU ones. Such formulation is incorrect, since the EU Commission demanded and has not taken away its demand to bring labour legislation in conformity with the standards of the conventions of International Labour Organization (ILO) and not exactly with the EU ones.

It is obvious that a prospective of opening EU 500 million markets will give very strong stimulus to Georgian economy and the investments that will flow in the coun-

try. Indeed, it is important for achieving these conditions to create favorable business environment.

The EU assists Georgia in the sustainable economic development by the enhancement of export competitiveness. There are several agreements already signed between EU and Georgia. Georgia was also granted by the Generalized System of Preferences (GSP plus) that enables Georgia to enter the EU market with Trade Preferences. (Bilateral trade relations between EU and Georgia is regulated by the agreement on Partnership and Co-operation, which is in effect since 1999).

GSP+ conditions consider the ratification and effective implementation of the core ILO conventions. The core conventions refer to the following areas: the freedom of association and the right to collective bargaining, the abolition of forced and child labour and the prohibition of discrimination in the field of employment and occupation and so on. Since the commencement of GSP+, Georgia has encountered several difficulties in the relation with the ILO core conventions. In particular:

- With regard of ILO convention 98, the labour code of Georgia does not guarantee an adequate protection from anti-union discrimination and is not conducive to collective negotiations.
- With regard to ILO convention no. 100 on Equal Remuneration of Men and Women Workers for Work of Equal Value the Labour Code falls short of giving legislative expression to the principle of equal remuneration for men and women for work of equal value.
- With regard to ILO convention no.111 on Discrimination in Respect of Employment and Occupation recommendation of ILO committees aimed at amending the existing non-discrimination pro-

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visions of the Labour Code to provide for a clear definition of direct and indirect discrimination; and to clarify that the prohibition of discrimination also applies to recruitment and selection. There are also some doubts as regards practical aspects of implementation of the ILO convention no. 138 on Minimum Age for Admission to Employment.

Hence, the certain articles of the labour code of Georgia significantly limit the rights of workers, which has been a subject of severe criticism by the EU commission and international organizations. The language of EU criticism was quite strong as illustrated by the following quote expressed in the Midterm report on the implementation of European Neighborhood Policy: "As regards labour law, no progress can be reported in this direction. The 2006 labour code, which was prepared without prior consultation with trade unions, is not in line with the ILO standards. In particular, it falls short in addressing the obligations of the ILO Conventions on freedom of association, and on the right to organize and collective bargaining. Furthermore, the labour code contradicts both EU standards and the European Social Charter that the country ratified in 2005".

In regards with the goals and objectives of European Neighbourhood Policy and its new dimension-Eastern Partnership, European Union is ready to create very important "Deep and Comprehensive" trade space with Georgia in the context of the Association Agreement, after all requirements and conditions for this are met.

It is clear that DCFTA can bring important economic benefits to the country. However, Georgia needs to prepare for such liberalized trade relations. DCFTA does not only mean the trade without custom tariffs and quotas. Apart from tariffs, there are so called non-tariff barriers in trade, which is necessary for the creation of common rules of the game between EU-Georgia trade relations. DCFTA aims at lifting these barriers.

DCFTA also means the approximation of the number of fields of the partner countries with the EU economic regulation spheres, which finally creates an opportunity for free trade space between partner country and the EU and between the partner countries too.

During the negotiation process, the high officials of relevant EU structures have, quite directly, emphasized on number of occasions that the labour legislation of Georgia must be improved. In particular, the labour legislation should be brought in full compliance with the ILO conventions 87-on freedom of association and 98 on right to organize and collective bargaining. Moreover,

the recommendations of ILO of 2011 must be taken in the account, transparent and fair mechanism of reconciliation and mediation must be established in order to avoid escalation of potential local industrial conflicts. It is worth noting that a labour inspection also does not operate in Georgia.

An opportunity for free trade is always regarded as being vital stimulus for business entities. The World Trade Organization (WTO) also requires lifting the trade barriers. Thus, the fulfillment of the demands of WTO means the fulfillment of one third of the EU trade related standards.

DCFTA and the fulfillment of demands related to it, is associated with certain costs in short-term prospective. It is difficult to anticipate, what possible impact free trade will have on social state of the population. However, the experience of analogous free trade agreement of other countries, show that DCFTA serves as a mitigating factor for the social state of people.

It is also worth noting that DCFTA conditions practically reflect all social issues recognized by the ILO Decent Work Principles (Creation of jobs, Protection of Labour Rights, Social Security, Social Dialogue and Gender Equality).

The number of issues in the country still remains undressed. Especially this concerns several elements of the Labour Code that are incompatible with ILO convention no. 87 on the Freedom of Association and Protection of the Right to Organise. Specific recommendations stipulated in convention-specific monitoring instruments in this respect include lowering of the minimum trade union membership, establishing functional procedures for settling disputes, easing limitations to the right to strike, improvement of protection against antiunion dismissals.

Ultra-liberal Labour code of Georgia sets forth strict requirements for organizing strike, which considerably limits the right to freedom of association. Not to mention a negative practice, when the police is used to disperse the strikers and arrest them.

Given the current economic situation of the country and a desire for economic development, social considerations remain to a degree subordinated to economic development priorities. Societal valuations of different elements of the socio-economic environment may differ between Georgia and the average for EU countries.

Given the current GSP+ status of Georgia it is to be expected that the DCFTA will contain clauses that ensure that progress made so far in relation to social and labour

rights is maintained and – in view of somewhat limited progress so far – possibly enhanced.

The key question concerning the DCFTA effects on guaranteeing the rights at work is whether it will prove to be a more effective compared to GSP+. It is worth noting, that once in place DCFTA trade preferences may be more difficult to withdraw than GSP+ preferences. On the other hand, full implementation of the DCFTA will take time and much progress could be achieved during this period. It is also obvious, that the possibility of withdrawal of GSP+ did not have an impact so far on the improvement of the protection of workers' rights.

Unions do not support withdrawal of tariff preferences and cooperate with the government in order to avoid negative decisions by the EU. The attitude of the general public also matter for progress in labour rights as it can create pressure on decision makers to modify regulations and/or improve their implementation.

The chapter of "sustainable development" of signed DCFTA should contain the following provisions, which will help the country to bring its labour legislation in full conformity with the international labour standards set forth in the ILO conventions and further develop the industrial relations in Georgia. In particular:

1. The core ILO conventions must be properly implemented by the Georgian Government into the national legislation as to guarantee full and undisturbed exercise of the rights set forth in these conventions and comply with the requirements of the experts committee and the committee of freedom of association and the committee of the applications of standards and norms of the ILO, Recommendations of the governmental committee of the European Social Charter.
2. Full implementation of other ILO conventions ratified by Georgia and compliance of the relevant national laws with the requirements of those conventions (Convention on State Employment Agencies, Convention on Private Employment Agencies, Paid Holiday Convention and so on, in total 16 conventions).
3. The government of Georgia must promote the development of Genuine and non-discriminatory Social Dialogue in the country as to guarantee the right to freedom of Association, Right to organize and collective bargaining. As it is stipulated in European Parliament resolution of 17 November 2011: include in the Agreement commitments to comply with the

International Labour Organization labour rights and standards, especially Conventions 87 and 98, and the EU Social Charter as well as to the development of a genuine, structured and non-discriminatory social dialogue in practice".

4. Immediately put an end the anti-union practices and eradicate facts of Union discriminations reflected in the complaints filed and submitted by GTUC to the ILO committee of Freedom of Associations.
5. The agreement should have a special monitoring mechanism about the implementation of obligations. Complaints about social and labour problems should be subject to consideration by genuinely independent and well-qualified institutions and experts.
6. In addition to co-operation regarding the core labour standards, there are other important ILO conventions relevant to decent work that should be encompassed in the agreement. These include those identified as "priority conventions" by the ILO Governing Body in its 1993 decision (Convention 122 on Employment Policy, Conventions 81 and 129 on Labour Inspection and Convention 144 on Tripartite Consultation), other Conventions enjoying widespread support at the ILO (including Convention 155 on Occupational Safety and Health, Convention 102 on Social Security, Convention 103 on Maternity Protection).
7. The Government of Georgia must ensure that occupational health and safety issues are adequately addressed accordingly to the requirements of ILO and such issues are dealt with an institutional way guaranteeing health and safety at the work places as to properly protect human capital in the country.
8. Respect for human rights conventions in general, including those on civil and political rights, is highly relevant to the social dimension of sustainable development and should equally be stipulated in the chapter.

I think, the success of signing DSFTA with you depends much on how timely and effectively the government of Georgia to correct the labour legislation of the country, how genuine a political will of the government will be to develop non-discriminatory and result-oriented social dialogue and the steps towards these direction will be made with the close cooperation and consultation of trade unions, taking into account more frequent comments of the representatives of various EU structures about the necessity of such action by the government of Georgia.

MISSION

Three years ago EU and six partner countries initiated wide and long-term framework for multilateral and bilateral regional cooperation aimed at deep engagement of the Eastern Europe in the European Integration process. Georgia fully shares the core objectives of the cooperation framework. Bilateral cooperation goes through instruments and policy tools proposed by EU and agreed with each particular partner country. The multilateral cooperation is organized via Thematic Platforms involving cooperation of specific governmental structures and the European Commission. The official structures in Georgia have established working teams and divided the tasks according to multilateral thematic platforms. To stimulate the promotion of the EaP goals in partner countries and the EU the Civil Society Forum (CSF) was established just after official launch of the policy. Creation of CSF national platforms in all partner countries followed.

There was no comprehensive analysis of the three years of the EaP produced in Georgia, nor in other partner states, but along the developments the rate of engagement in cooperation, size of the scope and depth, as well as the ambition and motivation remains relatively low.

Still low level of engagement of the civil society and the awareness are the problem. EaP has not become yet well known is not a matter of interest and concern of the society. EaP is not in political agendas of the competing political parties neither and is not sufficiently covered by media. Consequently, there is no high demand in the society for exposing the results of EaP and the country's performance. There is no public demand for monitoring or participation in the decision-making. As a result, the political commitments of countries (Georgia included) are not always followed by real efforts and effective dedication.

The project financed by Friedrich-Ebert-Stiftung "Simulating Eastern Partnership Work in Georgia" aims to fill the above mentioned gaps by:

- Research and analysis in the areas of convergence to EU policies
- Publication and communication of findings to the government and public
- Training and awareness rising through outreach activities

We believe that this bulletin, produced quarterly will contribute to higher awareness and stimulating public interest in EaP policy work in Georgia.

Project is implemented by:

- Georgian Foundation for Strategic and International Studies
- European Studies for Innovative Development of Georgia
- Association: Women and Business
- Association of Georgian Employers
- Free Trade Unions of Georgia

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