



THE RIGHT TO NON-DISCRIMINATION IN PRACTICE FOR VARIOUS GROUPS IN GEORGIA

2019 REPORT



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The Coalition for Equality is an informal alliance established in 2014 with the support of Open Society Georgia Foundation. It unites eleven non-governmental organizations. The members of the Coalition are: Open Society Georgia Foundation (OSGF), Human Rights Education and Monitoring Centre (EMC); Article 42 of the Constitution; Union Sapari; Georgian Young Lawyers' Association (GYLA); Women's Initiatives Supporting Group (WISG), Partnership for Human Rights (PHR), Georgian Democracy Initiative (GDI), Tolerance and Diversity Institute (TDI), Human Rights Center (HRIDC) and Equality Movement. The essential goal of the Coalition is to enhance the mandate and competences of anti-discrimination mechanisms and to support the effective fight against discrimination. In 2015, the newly formed Coalition for Equality and the Public Defender of Georgia signed a Memorandum of Understanding on the Elimination of Discrimination.

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INTRODUCTION

On 2 May 2014, the Parliament of Georgia passed the Law on the Elimination of All Forms of Discrimination which aims to eliminate all forms of discrimination and ensure the equal enjoyment of rights of all persons under the legislation of Georgia. Since the adoption of the law, the Coalition for Equality has been researching and following the human rights situation of various groups of people and preparing relevant reports on an annual basis.

The present report is the Coalition's fourth and assesses the situation in Georgia for 2019 in terms of the realization of the right to equality of separate groups and the fight against discrimination. The report analyzes the trends of 2019 which have affected the human rights situation of individual groups. In particular, it outlines the progress and challenges related to the state's anti-discrimination policy and legislation, practices, and the daily lives of vulnerable groups.

The Coalition for Equality hopes that the report will help relevant state agencies to take effective measures to eliminate discrimination and to ensure equal enjoyment of the rights of all persons under the legislation of Georgia.

Methodology

The present report encompasses the period from 1 January 2019 to 31 December 2019. It analyzes the human rights situation of ten vulnerable groups, which are: children, persons with disabilities, women, LGBTQI, religious minority groups, ethnic minorities, foreign citizens, conflict-affected population, human rights defenders and the press. The media is a new addition and is examined for the first time in the annual report.

The member organizations of the Coalition for Equality have been actively following the human rights situation of these groups throughout 2019. Accordingly, the report evaluates exclusively the situation of these groups, which does not preclude the existence of discriminatory treatment towards other groups not identified in this report.

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The human rights situation of the groups is assessed through a combined analysis of national standards and best international practice. With respect to each group, the Coalition presents recommendations for the state to create, strengthen and improve specific areas for the elimination of discrimination.

The discussion presented in the report is based on the information from the following sources:

- **Public information** – the Coalition member organizations requested public information from various agencies and analyzed it in this report.
- **Legal proceedings** – the assessments given in the report are also based on the case materials of Coalition member organizations and the deficiencies identified during the proceedings;
- **Analysis of legislation and relevant international standards** – the report assesses the right to equality of certain groups on the basis of Georgian legislation and international standards.

The report is also based on the reports, studies and recommendations of the Public Defender of Georgia and other authoritative organizations.

Main Findings

In 2019, significant legislative changes were taken to combat discrimination. Following amendments to the Civil Procedure Code of Georgia, the time limit for appealing to a court for alleged discrimination has been increased from 3 months to 1 year¹. As a result of the amendments to the Organic Law of Georgia on the Public Defender of Georgia, public officials, -legal persons and legal entities

1. The Civil Procedure Code of Georgia, 363²(2). For amendments see Law of Georgia N 4551 of May 3rd, 2019. Available at: <https://matsne.gov.ge/ka/document/view/4548238?publication=0#DOCUMENT:1>.

under private law are obliged to provide the Public Defender with the necessary information to investigate the alleged discrimination. The Ombudsman now has the authorization to appeal to the court with the demand to fulfil his/her recommendations, not only against public agencies, but also against legal entities under the private law as well as associations². In addition, a paragraph has been added to the Labor Code, obliging employers to take measures to ensure the principle of equal treatment of employees³.

Despite these legislative and other improvements discussed in the present report, in terms of practical equality, the situation of the mentioned individual groups has not improved substantially in 2019. Consequently, the majority of the recommendations reflected in previous Coalition reports remain relevant.

The LGBTQI community also faced a number of systemic obstacles in 2019, due to prejudice and stigma against the group in society, with the state failing to fulfill its positive obligations. Hate crimes continued, accompanied by discriminatory treatment by police. It was especially problematic for the LGBTQI group to exercise the right to assembly and manifestation, as well as the right to freedom of expression. In this direction, barriers were created not only by the ultra-conservative groups, but also by the Patriarchate of Georgia. There have also been cases of homophobic and transphobic hate speech used by the parliamentary or executive authorities.

Persons with disabilities (PWD) remain one of the most vulnerable groups in the country as their human rights situation has not significantly improved in 2019 either. The group do not enjoy their constitutional rights on equal terms with other people, and still

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2. Organic Law of Georgia on the Public Defender of Georgia, Article 18 (B) and Article 14¹(2)(H¹). For amendments see Organic Law of Georgia N 4550 of May 3rd, 2019. Available at: <https://matsne.gov.ge/ka/document/view/4548256?-publication=0>.
 3. Labour Code of Georgia, Article 13(3¹). For amendments see Organic Law of Georgia N 4549 of May 3rd, 2019. Available at: <https://matsne.gov.ge/ka/document/view/4548377?publication=0#DOCUMENT:1>.

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face systemic obstacles in almost every aspect of public life. To highlight an example, it still remains a problem to grant the status of disability to persons with disabilities and there is an absence of tailored services to the needs of the group. Access to public spaces, mental health services, employment and education further remain a challenge.

Concerning women's equality, early marriage remains a major obstacle, and sexual violence is still one of the most severe, covert, and unpunished forms of gender-based violence. No substantial measures have been taken to eliminate women's economic vulnerability. Moreover, the lack of proper planning and awareness on this issue is problematic. Additionally, during the reporting period, there has been no progress towards women's political empowerment. Leadership and decision-making positions are still predominantly occupied by men. Women's participation is also low in the decision-making processes.

During the reporting period, the state did not express its will to eliminate the discriminatory legislation that places religious minority organizations in an unequal position. Moreover, in 2019, legislative initiatives were actively discussed, creating the risk of unjustified restrictions on the freedom of religion or belief. Additionally, the vague and non-transparent mandate of the State Agency for Religious Issues and its policy based on differentiation of religious organizations, unequal treatment and state control are still problematic. Furthermore, the realization of the property rights of religious minorities remains a problem. Crimes motivated by religious intolerance and the granting of victim status by the Prosecutor's office, as well as the status of the defendant for alleged crime, are still problematic.

During the reporting period, no significant positive changes have been made towards the protection of the rights of ethnic minorities nor to their integration. The formal nature of the state's policy on the protection of their rights, equality and inclusion cannot ensure an equal political, social and legal environment. Furthermore, the political participation of minorities at both central and local levels

is low. The state does not yet have effective mechanisms to tackle unemployment, low education, cultural and social problems of ethnic minorities. Questions remained unanswered regarding the termination of the investigation into the murder case of Temirlan Machalikashvili, as well as several cases of extradition of ethnic Chechens to the Russian Federation.

Due to the inefficiency and insufficiency of social assistance and family support services, child poverty and labor still remain a major problem. It also remains a challenge to prevent, detect, and respond to violence against children, especially sexual violence, in a timely and effective manner. Until now, it has not been possible to prevent the abandonment of children and their placement in unlicensed and unprotected institutions. The effectiveness and quality of alternative forms of child care, as well as the placement of children in services close to the family environment, are also problematic, similarly, the withdrawal of juveniles from state care and their reintegration into the home environment. In addition, the adopted Code on the Rights of the Child creates a conflict of interest in relation to juvenile justice, and the procedural legislation does not provide for its resolution.

Racism, xenophobia and discrimination against foreign citizens in the public space remain a challenge. To date, there is no specific, consistent state policy or strategy in place to combat racism. Asylum seekers come across obstacles notably when the asylum seeker withdraws their application, the existing legal requirements deprive the applicant from reapplying to the agency regarding the same case. A negative trend can be observed regarding the delayed planning of the surveying procedures with the asylum seeker and suspension of the issuance of a temporary identity card. The process of discussing the asylum cases is unguided and protracted. Additionally, the state has a discriminatory policy regarding the issuance of residence permits to foreign citizens. There is also a growing trend of unsubstantiated denials to persons wishing to cross the state border. In addition to crossing the state border, foreign students face difficulties in obtaining a study visa and residence permit. Foreigners are further prohibited from purchasing agricultural land.

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2019 was especially difficult for the citizens of Georgia living in the occupied territories of Georgia and in the nearby areas, next to the administrative border of the country. Ethnic Georgians living in Gali and Akhagori have limited basic civil, political and socio-economic rights. The social situation is further aggravated by the process of illegal “borderization”. The reporting period was particularly critical due to the arbitrary and politically motivated closing of the borders, which led to a severe humanitarian crisis. Separate cases against ethnic Georgians litigated by the de facto governments of South Ossetia and Abkhazia are also problematic.

The past year was also distinguished by the large scale of discriminatory treatment, threats, assaults and discrediting of human rights defenders and activists. The freedom of association and assembly has been violated many times as well. The most vulnerable group was again LGBTQI and female activists. The situation of the detainees during the protests on June 20-21 and November-December is especially noteworthy, the detention of these people was happening against the backdrop of a number of serious procedural violations. Coordinated, sponsored campaigns against NGOs and their representatives were actively taking place. Attempts were also made by high-ranking government officials to directly discredit civil society.

During 2019, there was a discriminatory, obstructive approach to certain media outlets and their representatives by the Georgian government. This has been reflected in tax policies, attempts to change editorial policies, and different approaches to various types of media. Georgian legislation still has certain deficiencies regarding the mentioned group.

CHILDREN

In order to protect the rights of the child, an important step was taken in 2019 with the adoption of the Code on the Rights of the Child. Although this law creates a framework for the protection of the rights of the child in the country, it is without relevant enforcement mechanisms thus, it will be impossible to implement its provisions in practice. In the context of challenges in the social care system, and in the field of social work, the ineffective work by state agencies responsible for child rights violations, violence against children, child poverty and child labor still remain a problem. The proper development of alternative forms of care with children living in large residential facilities still present as main challenge for the child care system.

Violence against children

Violence against children, ineffective preventive measures and delayed and ineffective response to it are particular problems in the country. Sexual violence, which is a particularly damaging form of violence against children, remains an unresolved challenge in the absence of timely and effective detection mechanisms. In the absence of appropriate services, the situation is even more dire regarding the psychological rehabilitation of children victims of sexual violence.

In terms of timely detection and response to cases of violence in general education institutions, the issue of qualification of professionals working with children remains a major challenge. Although the prohibition of corporal punishment of children has been defined by the Code on the Rights of the Child, in the absence of appropriate effective administrative and criminal liability measures, a proper response to corporal punishment remains a problem. In the case of bullying, the school environment is not focused on protecting the best interests of the victim and the juvenile bully⁴.

4. Public Defender's Parliamentary Report, 2019, pp. 335-336, <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>.

Child poverty and child labor

Child poverty is a major challenge for the child care system. The main reason for this is the ineffectiveness and insufficiency of social assistance and family support services. In families, which are dependent on social assistance, even the minimum needs of children are not met. The most urgent problem of child poverty remains the rights of children living and working on the streets. There are only child day-care facilities in three Georgian cities which does not provide children with adequate support and cannot cover all those in need of services. Even in the case of the small number of children living and working on the streets who participate in the Homeless Children's Sub-Program, the program cannot prevent them from returning to the streets⁵. Often, children living and working on the streets are victims of labor exploitation and are forced to give the money they earned to an adult who controls them.

Due to difficult socio-economic conditions, children are forced to engage in age-inappropriate labor. This problem is especially grave in resort areas, where children seasonally work jobs which are dangerous to their health and development. The problem is especially pressing because the steps taken by the government are weak and often ineffective, namely, the current forms of participation of social workers and the police in order to solve the problem, do not produce any results.

Orphanages and de-institutionalization

Due to deficiencies⁶ in the social care system and the crisis of the child care system, the state is still unable to ensure prevention of abandonment of children and their placement in large, often unli-

5. Public Defender's Parliamentary Report 2019, pp. 333-334, <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>.

6. There are significant differences in the nutritional status of children according to different socio-economic groups. Child poverty is still high in the country – every fifth child lives in a household where his/her basic needs are not met. Survey on the well-being of children and their families in Georgia, UNICEF, Georgia, 2018, <https://www.unicef.org/georgia/reports/wellbeing-children-and-their-families-georgia-fifth-stage-2017>.

censed facilities. In 2019, a new regulation, related to licensing of these establishments entered into force, but it is not implemented in all cases and children continue to live in unregulated institutions, mainly boarding schools financed and run by local municipalities, the Georgian Orthodox Church and Muslim communities (more than 900 children live in unlicensed facilities). In addition to unlicensed institutions, there are three licensed institutions in the country that have the right to carry out educational activities and two residential institutions for children with disabilities. About 80 children with multiple disorders live in these two institutions⁷.

It is especially problematic that the responsible agencies do not have information about the specific number of children affected by unlicensed services and about the conditions in which they live because the control and monitoring mechanism in these institutions is weak. Consequently, children who live there are completely unprotected⁸.

Alternative forms of care

In terms of protecting the rights of the child, there is still a problem of the efficiency and quality of alternative forms of child care in the country, as well as the placement of children in services close to the family environment.

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7. The following institutions have a license for fostering activities: The Patriarchate of the Georgian Orthodox Church, NNLE St. Nino Boarding House for Orphans, waifs and children in need of care in Ninotsaminda, Javakheti; NNLE the boarding School of Saint Mathata Fund of the village Feria of the Patriarchate of the Georgian Orthodox Church; Bediani Rehabilitation Center for Children and Juveniles of the Patriarchate of the Georgian Orthodox Church. There are also two disabled children's homes in Georgia: Kojori Disabled Children's House and Tbilisi Infant House.
 8. Children living in religious institutions cannot freely express their opinions and views. There is a strict method of upbringing in institutions - Monitoring of Child Care System - Effectiveness of alternative care, 2019, Office of the Public Defender of Georgia, <http://www.ombudsman.ge/eng/spetsialuri-angarishebi/bavshvze-zrunvis-sistemis-monitoringi-alternatiuli-zrunvis-efektianoba-spetsialuri-angarishi>.

The main reason for the withdrawal of children from biological families and their involvement in the foster care program, as in previous years, is the difficult socio-economic situation of the biological family, poverty, poor living conditions and neglect⁹. In the case of the foster care program, the outstanding problems are the lack of access to rehabilitation services for children victims of violence, low levels of awareness of foster parents regarding problem behavior management and prevention, and the irregular communication of social workers with children. One of the main problems remains - the issue of insecurity of children's personal data and the selection of foster families without considering the interests of children. Additionally, due to the scarcity of foster families, children are often placed far away from their biological families¹⁰.

One of the most pressing problems is when juveniles leave the state care. Children do not have the necessary skills for independent life, are unemployed, do not have housing nor proper education, etc.

The reintegration program, which is an important tool for integrating children back into their biological environment, faces serious challenges in the country. It is difficult for these families to meet the needs of children and creating minimal living conditions for them.

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9. The main reasons for removing children from the biological family and placing them in state care were the difficult social and economic situation (44.4%), lack of housing (13.3%), neglect (6.7%) and violence (4.4%). - Monitoring of Child Care System - Effectiveness of alternative care, 2019, Office of the Public Defender of Georgia <http://www.ombudsman.ge/eng/spetsialuri-angarishebi/bavshvze-zrunvis-sistemis-monitoringi-alternatiuli-zrunvis-efektianoba-spetsialuri-angarishi>.
 10. Monitoring of Child Care System - Effectiveness of alternative care, 2019, Office of the Public Defender of Georgia <http://www.ombudsman.ge/eng/spetsialuri-angarishebi/bavshvze-zrunvis-sistemis-monitoringi-alternatiuli-zrunvis-efektianoba-spetsialuri-angarishi>.

Juvenile Justice

The Code on the Rights of the Child, passed in 2019 will fully enter into force on 1 June 2020. This law provides legal guarantees for all children to enjoy and protect their rights independently¹¹. The implementation of this record in the Code may not be possible in practice without making appropriate changes to the Civil Procedure Code of Georgia. The current procedural law does not specify the conflict of interest and the ways to resolve it. Conflicts of interest can arise with parents and also, in the case of the guardianship and custodial body¹². Under current legislation, the guardianship and custodianship authority conducts an individual assessment of the child and is also the child's procedural representative, which already creates a conflict of interest. This problem is especially evident when the child is in the care of the state and also possibly the violator of his/her rights. An additional problem arises from the fact that Georgian law does not define the role of an explicit independent lawyer, which makes it impossible for children to defend their rights in practice through an independent lawyer¹³.

11. According to the Convention on the Rights of the Child and the European Court of Human Rights, a child must have an independent representative when the case is against his or her legal representative, a decision of the European Court of Human Rights, 2016. *N. T. and others v. Georgia*, Case # 71776/12, p. 43, paragraph 76.
12. Recommendation issued by the Public Defender of Georgia on determining discrimination based on age, on the basis of an appeal of "Partnership for Human Rights, 2018 <http://ombudsman.ge/res/docs/2019040914333582577.pdf>.
13. Remarks and opinions regarding the Code on the Rights of the Child, Georgian Young Lawyers' Association, 2019 <https://gyla.ge/ge/post/saiam-parlaments-bayshvis-uflebata-kodeqstan-dakavshirebit-shenishvnebi-da-mosazrebebi-tsarudgina?fbclid=IwAR2vPQd-bhxgu0DkZ9xs77pD-nMQv3pWAJLPexFzMAUMvc1PskGOB84xp5ro#sthash.Wk1nKvcc.Q9yFZf6A.dpbs>.

Recommendations

To the Parliament of Georgia

- Define the status of social worker as an individual evaluator of a child in the Civil Code and separate it from the status of a procedural representative;
- Identify cases of conflict of interest in the case of children's legal representatives, including the guardianship and custody body
- Define the role and authority of the child's lawyer and separate the lawyer from the procedural representative.

To the government of Georgia

- Elaborate and develop efficient family support programs;
- Create a program to support the independent living of children who leave under the state care;
- License all non-licensed institutions that meet the licensing requirements, and immediately remove the children from the institutions that fail to satisfy these requirements by 2020.
- Close all licensed institutions, including disabled children's houses and place the children in services close to the family environment by 2022;
- Increase the number of children benefiting from the Street connected children' shelter program;
- Establish psychological rehabilitation centers for child victims and / or witnesses, according to geographical accessibility.

To the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

CHILDREN

- Ensure that working conditions for social workers are improved so that they can effectively fulfill their obligations;
- Increase the knowledge and competence of foster families in managing children's problematic behavior and, personal data protection levels;
- Review the support program for families under the reintegration sub-program to protect the interests of children and meet their needs;
- Increase the qualifications of staff employed in small family-type homes to manage problem and aggressive behavior of children.

To the Ministry of Internal Affairs of Georgia

- Ensure timely and effective investigation of children's labor exploitation cases.

PERSONS WITH DISABILITIES

Persons with disabilities (PWD) still remain one of the most vulnerable groups in the country. Unlike other people, they cannot enjoy equal constitutional rights. Persons with disabilities still face systemic barriers in almost every aspect of public life. Practice shows that access to public spaces, mental health services, employment and education remains a pressing problem for people with disabilities. To date, the state has not taken any steps to develop nor implement a social model for granting the status of disability. In terms of promoting the independent living of persons with disabilities, the main challenge is the lack of community-based services, including housing problems, this is the reason that persons with disabilities continue to live in large residential facilities.

Implementation of the Convention on the rights of persons with disabilities

To date, Georgia has not ratified the Optional Protocol of the Convention on the Rights of Persons with Disabilities and has not created a mechanism for the implementation and coordination of the Convention¹⁴.

No efficient steps have been taken by the state to introduce a social model, and granting disability status is still based solely on a medical approach thus making it impossible for persons with disabilities to engage in social life and attain social inclusion on equal terms with others. For this reason, the state still does not have complete statistics on people with disabilities.

14. On June 5, 2019, a process was initiated to issue a recommendation on the commencement of the process of ratification of the optional protocol of the Convention on the Rights of Persons with Disabilities (N07-2 / 442; 03.02.2020). Within the frames of this process, committee discussions were held, on which the committees made positive conclusions on the issuance of the recommendation, but the issue has not been resolved yet and the Parliament has not adopted the relevant resolution. It should be noted that the resolution of the Parliament of Georgia has only a recommendatory character and only the Government of Georgia, which has not started this process yet, has the right to initiate the process of ratification of the international agreement.

Harmonization of the legislation of Georgia with the Convention on the Rights of Persons with Disabilities remains one of the main challenges for the protection of the rights of persons with disabilities. The basic principles of the Convention are still not or are not properly reflected in national legislation.

The draft law “On the Rights of Persons with Disabilities”¹⁵, registered in the Parliament of Georgia on 3 February 2020, except for a few positive changes, cannot change the human rights situation of persons with disabilities, and in some cases, contradicts the Convention and worsens the standards of protection of the rights of persons with disabilities. It should be noted that the final version of the draft law was not shared with persons with disabilities or organizations working on this topic, before it was initiated. A significant part of the disabled community were not consulted in its creation and their efficient involvement was not ensured¹⁶. The draft law introduced principles such as reasonable accommodation, universal design, accessibility, etc., however, they still do not meet the requirements of the Convention and set a lower standard than envisaged by the Convention.

The discriminatory approach towards persons with moderately and significant disabilities seeking employment in the public sector has remained a challenge over the years and nothing has changed to date¹⁷. Under the current law, blind persons and persons with hear-

15. Draft law on „the rights of persons with disabilities“ <https://info.parliament.ge/#law-drafting/19685>.

16. Organizations and activists working on the rights of persons with disabilities respond to the draft law on “Rights of persons with disabilities”. Available at: <https://gyla.ge/ge/post/shshm-pirta-uflebebze-momushave-organizacie-bi-da-aqtivistebi-shshm-pirta-uflebebis-shesakheb-kanonproeqts-ekhmianebi-an#sthash.iJWH4LRa.dpbs>.

17. According to current legislation, representatives of this status are restricted from using the social package during the period of public activity, which puts them in unequal position compared to persons with disabilities employed in the private sector, as well as those with severely expressed disabilities and those with significantly expressed disabilities due to vision who receive social packages and are employed in the public sector. There is still no correction of the shortcoming in the legislation that restricts the right to participate in elections, referendums and plebiscites for those receiving support in inpatient medical facilities, as opposed to those without support. Partnership for Human Rights, “Enforcement of Anti-Discrimination Legislation to Ensure Equality of Persons with Disabilities”, July 2017-June 2018, p. 30-34.

ing impairment are not allowed to enter into legal arrangements independently nor sign official documents.

Mental health and deinstitutionalization

Developing the field of mental health remains a particular problem in the country. The conditions of community-based services are insufficient with a lack of rehabilitation services, large-scale residential facilities, people with mental health problems are placed in an even more unequal position, which leads to their exclusion from almost every area of social life.

The main challenge in the field of mental health remains large-scale institutions where people with disabilities live for several years, which is caused by the inappropriate development of relevant community-based services and the lack of housing programs. Apart from the large-scale psychiatric facilities, in terms of protection of the rights of persons with disabilities and their enjoyment of their rights on equal terms with others as protected by the Convention, the existence of boarding houses for persons with disabilities remains a challenge. The situation and standards of the protection of rights in large psychiatric institutions and boarding houses for persons with disabilities are completely in discordance with the requirements of the Convention on the Rights of Persons with Disabilities and the standards that determine the rights envisaged by national law¹⁸.

Regarding the development of mental health, continuity and funding of outpatient services, as well as geographical accessibility of services aimed at social integration, quality and continuity of community-based services are problematic¹⁹.

The current practice of compulsory inpatient psychiatric treat-

18. Parliamentary report of Public Defender, 2019, p. 369-362, <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>; .

19. Parliamentary report of Public Defender, 2019, p. 361, <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>.

ment, which lacks an detailed examination of the facts, does not consider the circumstances of family conflict / violence²⁰ and does not meet international standards²¹.

Employment

Monitoring by the Public Defender in 2018²² confirms that starting job for a disabled person is a significant challenge. During 2019, the situation in this direction is still unchanged and the employment of persons with disabilities remains one of the main challenges. One of the causes of the problem is that the education system is not adapted to persons with disabilities which hinders employment in the public service²³. In addition, employment is mainly based on individual initiatives of organizations. After the end of the support provided by the state program, working relations with disabled persons, for the most part, did not continue²⁴. The problem of access to the environment is an pertinent barrier to be physically able to access the job site, work and integrate into society, and the current legislation does not consider rejection of reasonable accommodation as discrimination.

Education

In recent years, legislation has undergone several positive changes²⁵, but access to education remains one of the most difficult

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20. Partnership for Human Rights, ongoing cases: 1. I.M. versus Tbilisi N 5 Clinical Hospital; 2. M.K. versus Mental Health Center of Rustavi.
 21. Parliamentary report of Public Defender 2019, p. 360, <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>.
 22. Monitoring report on state employment programs for persons with disabilities, Office of the Public Defender of Georgia. Tbilisi, 2017.
 23. „On Public Service“ Law of Georgia, Article 29, paragraph 2, sub-paragraph “C”.
 24. On the Definition of the Social Package”, approved by the “Social Package Issuance Rules and Conditions” of the Resolution N 279 of the Government of Georgia of July 23, 2012. Subparagraph “b” of Paragraph 1, Article 12.
 25. On Amendments to the Law of Georgia “On General Education” (November 28, 2014, N2822-I), which improved the regulations related to students with special educational needs. Available at: <https://matsne.gov.ge/ka/document/view/2601513?publication=0> {02.10.2020}.

challenges for persons with disabilities to overcome. The inclusion of children with disabilities and children with special educational needs (SEN) in preschool and general education institutions is very low. The infrastructure of general education institutions, training programs, access to audio textbooks and books printed with Braille font still remain a challenge. The number and qualification of special teachers are problematic, as well as geographical access to vocational education.

Additionally, there are still no statistics available on the number and needs of children with disabilities²⁶ left beyond by formal education, making it difficult to plan and implement appropriate interventions.

The situation is difficult in terms of the legislative framework in the field of higher education. The Existing legislation does not fully guarantee the right to inclusive education at the highest level of education²⁷.

Accessibility

In order to ensure the full enjoyment of life for persons with disabilities, the right to accessibility is the most important prerequisite to fully realizing their rights. One of the main problems is that the needs related to accessibility have not been studied at national level. The use of social facilities, municipal transport or road infrastructure remains a challenge for people with disabilities. Supervision of building standards to arrange the space for persons with disabilities, in most cases, is not carried out²⁸. To date, the

26. Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia. p. 354. Tbilisi, 2019. <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>.

27. GYLA Research on “Standards established by the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in the Legislation of Georgia” Author: Marina Kobakhidze; 2020.

28. Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia. Tbilisi, 2019, p. 356-357 <http://www.ombudsman.ge/res/docs/2020040215365449134.pdf>.

requirements set out in the Government of Georgia's Decree on Arranging Space for Persons with Disabilities and approving the Technical Regulations of Architectural and Planning Elements have not been fulfilled²⁹.

Recommendations

To the Parliament of Georgia

- Ratify the Optional Protocol of the Convention on the Rights of Persons with Disabilities;
- Ensure the effective involvement of organizations working on the issues of persons with disabilities, as well as persons with disabilities in the process of parliamentary discussions in order to eliminate the shortcomings in the draft law on the protection of the rights of persons with disabilities;
- Codify reasonable accommodation, as one of the forms of discrimination, into the Law of Georgia on the Elimination of All Forms of Discrimination;

To the government of Georgia

- Start immediately introducing a social model of assessment;
- Develop a national plan for access to the physical environment and information, which will describe specific activities, deadlines for their implementation, the responsible body at both central and local levels.
- Immediately establish an effective mechanism for implementation and coordination of the Convention;

29. The state recognized this problem and a draft law was submitted to the Parliament to eliminate it (legislative initiative of Rati Ionatamishvili, Davit Matikashvili, Anri Okhanashvili, Sophio Kiladze, Irakli Beraia and Vano Zardiashvili, Members of the Parliament of Georgia: N07-3 / 333; 01.05.2019); For legislative shortcomings, see the explanatory note to the draft law: <https://info.parliament.ge/file/1/BillReviewContent/219828?>

To the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

- Take efficient steps to support the process of deinstitutionalization and the introduction of family and community services;
- Introduce effective employment mechanisms for people with disabilities;
- Ensure the development of community-based services to advance the field of mental health.

To the Ministry of Education, Science, Culture and Sport of Georgia

- Provide a higher standard for inclusive education monitoring system;
- Record children with disabilities and children with SENs left beyond by the educational system and ensure their maximal involvement in general education system;
- Determine relevant requirements and develop an effective monitoring system in order to introduce quality inclusive vocational and higher education.

WOMEN

According to the Public Defender, gender-based discrimination remains one of the most widespread forms of discrimination. In terms of the rights of women, early marriage, sexual violence, and low participation of women in economic and political life remain a challenge³⁰.

Early marriage

Early marriage still remains an issue in Georgia; In 2019, the number of girls registered in marriages under the age of 16-19 (1933) was six times higher than the number of same boys registered in marriages (294)³¹.

In 2019, the Ministry of Internal Affairs launched an 18-day awareness campaign against early marriage - "Do not take away childhood." Within the framework of the same campaign, informational meetings were held in Imereti at the initiative of the Western Georgia Division of the Public Defender's Office. Additionally, as the Public Defender's report shows, in 2019, the number of cases of early marriage studied by the Social Service has increased dramatically. However, preventing and managing marriage at an early age still remains a challenge³².

According to the same report, the coordinated work between the Ministry of Internal Affairs, the educational institution and the Social Service is problematic. It is also challenging to hold offenders accountable for crimes related to early marriage and, in respect of girls of ethnic minorities, to also respond promptly and effectively to unlawful deprivation of liberty and crimes of forced marriages committed against them³³.

30. Public Defender's Special report on „Combating and preventing discrimination and the situation of equality in Georgia, 2019. Available at: <http://ombudsman.ge/res/docs/2020030416283364211.pdf>.

31. National Statistics Office of Georgia "Number of married persons according to age and sex ". available at: https://www.geostat.ge/ka/modules/categories/323/kortsineba_1.

32. Public Defender's report on "The Situation in Human Rights and Freedoms in Georgia", 2019, p. 203.

33. *Ibid.* p 203-205.

Sexual violence

Similar to 2018, sexual violence remains one of the most severe, covert and unpunished forms of gender-based violence. Despite the achievements³⁴ implemented after the ratification of the Council of Europe Convention (Istanbul Convention)³⁵ in 2017, the definition³⁶ of rape is still inconsistent with the Convention and international human rights standards. In particular, the corresponding article of the Criminal Code of Georgia does not rely on the absence of the victim's consent or a wide range of circumstances oppressing the victim's consent to consider the rape as violence, but considers the use of violence as a qualifying rather than an aggravating circumstance for rape. In addition, domestic violence cases are neither directly criminalized nor considered as an aggravating circumstance³⁷.

Positive news is the definition of sexual harassment as a form of discrimination in the Law on the Elimination of All Forms of Discrimination³⁸. The record of sexual harassment was also added to the Labor Code³⁹, which is especially important as the facts of sexual harassment occur particularly severely in the workplace and

34. For example, the Law N763 of Georgia on May 4, 2017 „on Amendments to the Criminal Code of Georgia“. Available at: <https://matsne.gov.ge/ka/document/view/3664456?publication=0#DOCUMENT:1>.

35. Convention of European Council, “On violence against women and prevention and elimination of domestic violence”

36. Criminal Procedure Code of Georgia, Article 137. Also Article 138.

37. Recommendations for Combating Sexual Crimes in Georgia, Equality Now, 2019, see at: https://d3n8a8pro7vhmx.cloudfront.net/equalitynow/pages/2039/attachments/original/1569415794/Recommendations_for_combating_impunity_for_sexual_violence_in_Georgia-.pdf?1569415794.

38. Article 2(3²): Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, degrading, humiliating or offensive environment.

39. Article 2(4) and 2(4¹): Sexual harassment is considered to be an unwanted behavior, having sexual nature, against a person, which aims to and / or causes violation to his/her dignity and creates an intimidating/frightening, hostile, humiliating, degrading or insulting environment for him/her.

by the harasser's abuse of the official position⁴⁰. Under the same law, the employer is obliged⁴¹ to reflect the provisions prohibiting discrimination in internal regulations and other documents and to comply with them. In addition, Article 166¹ was added to the Code of Administrative Offenses of Georgia, which declares the facts of sexual harassment in public places to be an administrative offense.

However, it is problematic to define the appeals related to sexual harassment facts in public places at the Ministry of Internal Affairs, and the quality of response to those facts, due to the lack of relevant statistical data⁴². Also, as practice has shown, low public awareness of both the essence of sexual harassment and the mechanisms guaranteed by law against harassment remains a challenge.

Economic empowerment of women

With the support of the National Democratic Institute (NDI), the Gender Equality Council conducted two thematic studies in the first half of 2019; Relevant reports were prepared: "Access to Vocational Education for Women's Economic Empowerment" and "Women's Participation in State Economic Programs". Government policies, regional development strategies and local policies in terms of access to vocational education were studied. In addition, state programs aimed at economic empowerment were analyzed from a gender perspective. As a result, recommendations were issued to promote women's economic empowerment.

However, significant measures have not been taken in 2019 to eliminate women's economic vulnerability. The programs implemented by the municipalities to reinforce women's economic empowerment and eliminate established stereotypes are insignificant

40. Public Defender's Special report on „Combating and preventing discrimination and the situation of equality in Georgia, 2019, p 8-9.

41. Labour Code, Article 13(3¹)

42. Public Defender's Special report on „Combating and preventing discrimination and the situation of equality in Georgia, 2019, p 9.

in achieving change. Moreover, members of the Gender Equality Council do not have the necessary vision and awareness in order to take measures to strengthen women's economic empowerment⁴³.

The percentages of economic activity and employment among men are still significantly higher than among women⁴⁴. The number of women receiving a subsistence allowance exceeded the number of men⁴⁵ receiving the same allowance throughout the past twelve months. The monthly wage gap between women and men is 37%, and according to a survey conducted by the United Nations Women, the hourly adjusted wage gap is 25%, while the unadjusted one is 18%⁴⁶. According to the Global Gender Pay Gap Report, Georgia moved from 69th to 73rd place by the index of equal pay for equal labor⁴⁷. In 2019, women's organizations celebrated for the first time the Day for Combating Pay Gap in Georgia⁴⁸.

Political participation

Women account for 14% of members of Parliament⁴⁹, and 23%⁵⁰ of

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43. Public Defender of Georgia "Assessment of gender policy of local self-government bodies – with special emphasis of women's economic empowerment", 2020, p20-24.
 44. In 2019, 54.5% of women and 72.6% of men were economically active. The employment rate among women was 49.0%, among men – 63.3%. Sacstat. "Population distribution by economic activity and sex". Available at: <https://www.geostat.ge/ka/modules/categories/38/dasakmeba-da-umushevroba>.
 45. Social Service Agency, statistical data on subsistence allowance, 2019: 5.4 Distribution of subsistence allowance recipients by sex. Available at: http://ssa.gov.ge/index.php?lang_id=&sec_id=1450.
 46. Analysis of the gender pay gap and gender inequality in the labour market in Georgia, UN Women, 2020, https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2020/gender%20pay%20gap_georgia_eng.pdf?la=ka&vs=702&fbclid=IwAR37xWpb0HD0TKhYbSdU_muRo2d-d9aRGiQliCaHX9y1sQhAIYEv7__QAe70.
 47. Available at: http://reports.weforum.org/global-gender-gap-report-2020/data-explorer/?doing_wp_cron=1579508553.7255020141601562500000#economy=GEO.
 48. <https://netgazeti.ge/news/388254/>.
 49. Available at <http://parliament.ge/ge/parlamentarebi/women/qalebi-parlamentshi-23>.
 50. Public Defender's report on "The Situation in Human Rights and Freedoms in

those employed in public service, in leading positions. In municipalities, it is mostly men who are employed in leading and, consequently, decision-making positions⁵¹. Women's participation and involvement in the decision-making process is still low, especially in regions with ethnic minorities⁵². However, no progress has been made in 2019 in this direction to overcome the problem⁵³.

As of 2019, a Gender Council had been set up in all municipalities and a Gender Advisor or responsible person had been appointed for gender equality issues. However, 4⁵⁴ out of 64 municipalities have not yet developed a gender action plan, and the action plans already in place are of a formal nature⁵⁵. Furthermore, the awareness and sensitivity⁵⁶ of the Gender Council members to general issues related to gender is still low.

Recommendations

To the Parliament of Georgia

- Align the definition of rape with the Istanbul Convention
- Develop and support compulsory gender quotas when assembling party lists.

To the Prosecutor's Office of Georgia

- Enforce strict criminal policy on cases of forced marriage and

Georgia", 2019, p. 187.

51. Public Defender of Georgia "Assessment of gender policy of local self-government bodies – with special emphasis of women's economic empowerment", 2020, p. 20.

52. *Ibid.* P. 19-20.

53. On March 23, 2018, the Parliament of Georgia didn't support the draft law on compulsory gender quotas.

54. The municipalities of Metsia, Abasha, Tianeti and Khoni.

55. Available at: http://www.ginsc.net/map_html/index.php?lev=0&cat=0&sub=0&lang=ge.

56. Public Defender of Georgia "Assessment of gender policy of local self-government bodies – with special emphasis of women's economic empowerment, 2020, p. 16-17.

abduction;

- Increase the prosecutors' awareness on sexual crimes and tighten criminal policy in this regard.

To the government of Georgia

- Adopt a methodology to calculate the gender pay gap and develop a strategy to overcome it;
- Provide relevant professional training programs which will contribute to employment and women's economic empowerment;
- Carry out awareness raising campaigns about sexual violence, sexual harassment and mechanisms for their eradication.

LGBTQI PERSONS

While exercising the rights guaranteed by the Constitution of Georgia and international instruments, LGBTQ people living in Georgia still face a number of systemic obstacles, which are due to the stigma and prevailing stereotypes rooted against them in the society. Such a background is nurtured by the state's neglect of the specific needs of the group, which makes members of the LGBTQI group vulnerable to homo / bi / transphobic violence and discrimination.

UN Independent Expert Report on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity (SOGI)

Such an environmental context is confirmed by the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity⁵⁷, the report outlines that “beatings are commonplace, harassment and bullying constant, and exclusion from education, work and health settings appear be the norm”⁵⁸. In the same report, the expert thoroughly analyzes the obstacles that trans people face in the absence of a mechanism for legal recognition of gender. Up to this date, one of the requirements for changing the gender marker in IDs, is sex re-assignment surgery, which violates human rights standards and is degrading and discriminatory. For this reason, in 2019 another application against Georgia has been sent to⁵⁹ the European Court of Human Rights. The new complaint, like the previous two,⁶⁰ is about the refusal of the national institutions to recognize gender change.

According to the UN independent expert's evaluation, LGBTQI com-

57. Reports available at: <https://undocs.org/en/A/HRC/41/45/ADD.1?fbclid=IwAR1uGxuj6IMh0KqfY09D1vUNMQv4SWO0LSiwgZch7UOCeSdyIM71tmToyZo>.

58. Ibid. Paragraph, 31.

59. Information about the appeal available at: <https://gyla.ge/ge/search?q=%E1%83%92%E1%83%94%E1%83%9C%E1%83%93%E1%83%94%E1%83%A0%E1%83%98%E1%83%A1+%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%94%E1%83%91%E1%83%A0%E1%83%98%E1%83%95%E1%83%98>.

60. Information on cases available at: <http://ehrac.org.uk/news/georgias-denial-legal-gender-recognition-trans-man/>.

munity-related stigma and the fear of forcible coming out, as well as mistrust towards law enforcement agencies, display of phobic behavior and attitudes by the police are the barriers which stop the LGBTQI victims of violence and discrimination from contacting the police⁶¹. According to the official statistics of 2019, criminal prosecution was initiated against 32 persons⁶² on hate crime charges on the grounds of sexual orientation and / or gender identity. However, the low rate of appealed incidents due to these barriers ultimately leads to a significant discrepancy between the official statistics and cases documented by NGOs, as the latter far exceeds the former⁶³. Furthermore, the problem faces the absence of a unified statistical methodology on hate crimes, which, in turn, is an essential barrier to combating hate crimes and planning the state's preventive policies.

With regard to this issue, the Human Rights Protection and Investigation Quality Monitoring Department is important, it was established in the Ministry of Internal Affairs in 2018 and expanded in 2019. However, as long as the established department is not specialized in the police system that substitutes the investigative agency, it does not represent a targeted effort to strengthen the investigation of hate crimes at the law enforcement level⁶⁴. Additionally, it should be noted that the Ministry of Internal Affairs and the government have to develop systemic preventive policies in general which on the one hand will focus on researching and transforming the structural causes of hate crimes, and on the other hand they will be oriented on the complete social and legal protection of victims.

Freedom of assembly and expression

For the LGBTQI community, the exercise of the freedom of assembly

61. Ibid. Paragraph 40.

62. 31.01.2020 response letter from Prosecutor's Office of Georgia.

63. According to the 2018 research by WISG, during years 2015-18, 226 respondents have become the victims of hate crimes or incidents (Aghdgomelashvili E., From prejudice to equality: LGBTQI community in Georgia, 2018).

64. European Commission against Racism and Intolerance (ECRI) Interim Conclusion published on March 5, 2019, on the Implementation of Recommendations in respect of Georgia issued on March 1, 2016, , (CRI(2019)4). Available at: <https://women.ge/ka/news/newsfeed/226/>.

and the expression, remains particularly problematic, as evidenced by the experience of 17 May 2013 as well as the events surrounding the June-July 2019 Tbilisi Pride event. The practical restrictions on the exercise of these rights are accompanied also by the increase of the far-right and mobilization of homophobic groups.

The year 2019 was significant in the context of the violation of these rights, and became apparent during “Tbilisi Pride Week”. The Ministry of Internal Affairs refused to ensure the safety of the participants during the “Pride March” due to their own safety⁶⁵, and offered a disproportionate alternative to hold the parade indoors⁶⁶, at a nightclub or in a football arena. This was added by the official call of the Georgian Patriarchate on the Georgian government not to allow holding of the “Pride March” organized by “Tbilisi Pride”⁶⁷. In response, on 14 June, supporters of the Tbilisi Pride held a rally in front of the government chancellery demanding that the government guarantee their right to gather.

Some of the rally’s organizers and activists were confronted by ultra-conservative political and religious groups. Leaders and members of these groups openly expressed their violent intentions and disregarded the principles of constitutional order. The participants of the far-right groups threatened and verbally abused the representative of the Public Defender of Georgia⁶⁸. It is also noteworthy that on 16 June, a rally was held in the center of Tbilisi, where Levan Vasadze made extremely problematic and anti-state statements⁶⁹, formed “People’s Legions” and announced the patrolling of the streets. His statement contained alleged signs of crime, the Ministry of Internal Affairs launched an investigation⁷⁰ into this issue, however the society has not yet received any information about the

65. Statement available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/12775>.

66. Details available at: <https://netgazeti.ge/news/368709/>.

67. Statement available at: <http://tbl.ge/3rm1>.

68. Details available at: <https://women.ge/ka/news/newsfeed/248/>.

69. See: <http://tbl.ge/3ruf> Also: <http://go.on.ge/14kv>.

70. Available at: <https://imedineews.ge/ge/dzalovnebi/108905/shssm-lgbtq-praidis-tsinaagmdeglegionissheqmnis-shesakheb-levan-vasadzis-gantskhadebis-hemdeg-gamodzieba-daitsko>.

effectiveness and results of the investigation⁷¹. After the announced Prideparade was disrupted twice, on 8 July, the organizers managed to gather spontaneously. The half-hour impromptu event, which was attended by 20 activists and supporters, ended after the participants learned that extremist groups were going to intervene them⁷².

Another targeted event of homophobic groups was the premiere of the film “And Then We Danced” on 8 November. Far-right groups gathered in front of the cinema to openly confront both the viewers who came to see the film and the police officers. 27 administrative violations were registered on site, and the investigation⁷³ was launched into the facts of attacking the police, damage to the police car and violence against the politician Davit Berdzenishvili. The negligence of the authorities towards the statements of the leaders of the violent groups before the premiere of the film, who were publicly threatening and calling on the supporters to disrupt the film screening, should be assessed negatively.

It is obvious that the activities of ultra-conservative violent groups are directed against specific civil and activist groups, especially the LGBTQ community. Their mobilization is largely a manifestation of the homo / bi / transphobia in the society. As for public attitudes, according to a new NDI public opinion survey, conducted in July 2019, only 27% of the public responds that protecting the rights of sexual minorities (LGBTQI people) is important⁷⁴.

Hate Speech

The homophobic / bi / transphobic attitude of the society is facilitated by the practice of the use of the homophobic and transphobic hate speech by the parliamentary or executive authorities. Such hate speech

71. Public Defender’s General Proposal on non-discrimination and combating discrimination: <http://www.ombudsman.ge/geo/qvela-zogadi-tsinadadeba/sakhalkho-damtsvelma-khelisuflebas-lgbt-temis-tsarmomadgenlebis-gamokhatvis-tavisuflebis-datsvisken-moutsoda>.

72. See.: <https://www.ilga-europe.org/sites/default/files/2020/georgia.pdf>.

73. See.: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/13120>.

74. See.: <https://women.ge/ka/news/newsfeed/254/>.

could also be heard from the tribune of the parliament in 2019⁷⁵. In this regard, the Code of Ethics⁷⁶, adopted by Parliament in February 2019 deserves appreciation, however, it is unfortunate that its adoption became necessary. Additionally, one of the grounds for discrimination, protected by the Code does not include the SOGI, additionally, the mechanism of liability envisaged by the Code is ineffective.

Ruling of the Constitutional Court and Human Rights Action Plan

When assessing the performance of previous years' reports, it is important to note the 17 December 2019 ruling of the Constitutional Court, which found the disputed norm, putting a 10-year restriction on the right to donate blood by homosexual men unconstitutional⁷⁷. However, it should also be noted that determining prohibition time limit is the prerogative of the Ministry; therefore, it's too early for the final evaluation of the process.

Finally, the special chapter on the 2018-2020 Human Rights Action Plan which was supposed to regulate issues related to SOGI, was still not approved at the end of 2019, which proves that the issues the LGBTQ community face are not important for the state.

Recommendations

To the Ministry of Internal Affairs:

- Create a specialized investigation unit in the law enforcement system to combat hate crime, which will investigate

75. In 2019, the amendments to the Law on the Elimination of All Forms of Discrimination prepared by Emzar Kvitsiani, a member of the Patriots Alliance faction in parliament, could not be passed, the amendments demanded the removal of the terms "sexual orientation" and "gender identity" from the Law due to "violation of moral norms." See: <https://1tv.ge/news/emzar-kvicianis-kanonproeeti-diskriminaciis-yvela-formis-aghmofkhvris-shesakheb-parlamentshi-chavarda>; See also Homophobic statement by Alexandre Kantaria: <http://go.on.ge/19az>.

76. Available at: <https://matsne.gov.ge/ka/document/view/4489058?publication=0>.

77. December 17th, 2019 Ruling N2/16/1346 of Constitutional Court of Georgia.

crimes committed specifically under the hate motive, including the grounds of sexual orientation and gender identity and expression. Similar to other units in the system, this unit must be given a number of special activity instructions, such as removal of the territorial principle, etc.

- Create systemic preventive policies and institutional mechanisms that will be based on research and intensive cooperation with community and human rights organizations in the process of combating hatecrimes. In this policy, it is essential to interconnect the areas of law enforcement, penitentiary system, education and health / social care, and to develop multifaceted tools for protection and empowerment of victims.

To the Prosecutor's Office of Georgia

- Conduct timely, effective and appropriate investigation into the facts of violence or public calls for violence against LGBTQI persons by ultra-conservative violent groups.

To the government of Georgia

- Ensure the full exercise of freedom of assembly and manifestation by LGBTQI persons, as well as freedom of expression and effective implementation of the positive obligations.
- Create a simple administrative mechanism for legal gender recognition, based on self-determination, exempt from requirements and recognize non-binary identities for both adult and minor citizens, as outlined in the recommendations of the UN independent expert for Georgia⁷⁸.
- Take appropriate measures to eliminate the stigma and negative prejudices in the society, among them through a fundamental reform of the education system, which will be based on strengthening the teaching of civic education and including sex education in formal or non-formal education curricula.

78. See: <https://undocs.org/en/A/HRC/41/45/ADD.1?fbclid=IwAR1uGxuj6IMh0Kq-fyO9D1vUNMOv4Swo0LSiwgZch7UQCeSdyIM71tmToyZo> para, 90.

RELIGIOUS MINORITIES

Systemic problems related to the freedom of religion and belief in Georgia were also relevant in 2019. Discriminatory norms violating the principle of equality still remain in legislation; non-secular and restrictive legislative initiatives are still on the agenda. The systemic challenges relating to the property of religious organizations have remained unchanged. The issue of the mandate and policy of the State Agency of Religious Affairs is still problematic. Despite the improved rate of criminal investigations into religious intolerance, the issue of granting victim status and accused by the prosecution remains a problem. It is important to note that during the reporting period, the court found discrimination on the refusal of Batumi City Hall to allow the construction of a mosque..

Mandate and policy of State Agency for Religious Issues

The mandate and functions of the State Agency for Religious Issues were vague and non-transparent since its inception. Furthermore, its powers and policies are not aimed at protecting the freedom of religion nor the equality and inclusion of religious communities. The agency is more focused on interfering with the autonomy of religions, their differentiation and increasing the state's influence on them.

The third monitoring report of the European Framework Convention for the Protection of National Minorities⁷⁹ (FCNM) (2019) states that religious organizations express distrust towards the Agency and put their trust in the Council of Religions under the subordination of the Public Defender. Additionally, an interim report by the European Commission against Racism and Intolerance (ECRI) is noteworthy, indicating that the State did not follow the Commission's recommendation that the State

79. <https://rm.coe.int/3rd-op-georgia-en/1680969b56?fbclid=IwAR0Hzmw9vtSyy-lq-54T9muRaAnA4xybjFh1fTVKrOvROxqS7IGX3a0dybqA>.

Agency for Religious Issues cooperate with the Council and share its multi-year experience⁸⁰.

Discriminatory norms and legislative initiatives restricting freedom of religion

The state again has not expressed the will to eliminate discriminatory legislation that places religious minority organizations in an unequal position. The Parliament of Georgia has not made any changes in accordance with the decisions of the Constitutional Court of 3 July 2018⁸¹. The court considered that the specific norms of the Georgian Law “On State Property” and the Tax Code placed the Orthodox Church in a privileged position vis-à-vis other minority religions and restricted other religious organizations with the same status from exercising similar rights.

On 12 August 2019, nine religious organizations⁸² filed a new lawsuit in the Constitutional Court. The plaintiffs demanded the court to declare the discriminatory norms of the Law of Georgia on State Property as unconstitutional, as they restrict the religious organizations, other than the Orthodox Church, from buying and exchanging state property (Article 3, paragraphs 1, 2 and 5)⁸³. The case is still ongoing. On 7 May 2019, religious organizations also appealed to

80. ECRI Conclusions on the Implementation of the Recommendations in respect of Georgia subject to interim Follow-up, 5 March 2019, available at: <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7e>.

81. For details see the Coalition’s report of 2018 “The right to non-discrimination in practice for various groups of Georgia”, p. 62.

82. LEPL “Georgian Church of the Gospel Faith”, NNLE “Georgian Muslim Union”, LEPL “Latin Catholic Apostolic Administration”, LEPL “Transcaucasian Union of the Church of the Seventh Day of Christian Adventists”, NNLE “Georgian Church of the Word of Life”, LEPL “Georgian Evangelical-Lutheran Church”, LEPL “All-Georgian Muslim High Theological Administration”, “the Evangelical Baptist Church”, “Georgian Eparchy of the Armenian Apostolic Orthodox Holy Church”. The interests of the plaintiffs are protected by the Institute for Tolerance and Diversity (TDI) and Tbilisi Free University Law Clinic.

83. Constitutional lawsuit N 1440 registered on August 12, 2019. On February 20, 2020, a court hearing was held at the Constitutional Court.

RELIGIOUS MINORITIES

the Constitutional Court against those discriminatory norms of the Tax Code that do not exempt them from property taxes⁸⁴.

In 2019, legislative initiatives were actively discussed that created the risk of unjustified restrictions on the freedom of religion and belief. One such initiative was the adoption of a special law on religion and religious organizations or, the imposition of additional regulations on religious freedom in the form of amendments to various laws. At the initiative of the Chairman of the Committee on Human Rights and Civil Integration of the Parliament of Georgia, a group working on religious issues was established in January 2019. Religious organizations, the Public Defender, representatives of non-governmental and international organizations were invited to participate. The State Agency for Religious Issues was actively involved in the work process and lobbied for the adoption of a special law on religion.

Human rights organizations and the majority of religious organizations did not agree with adoption of a special law. The Council of Religions under the Public Defender stressed that its adoption contained a number of risks restricting the freedom of religion and equality of religious organizations⁸⁵.

In 2019, the issue of restricting the right to defer compulsory military service for clergymen of religious minority organizations was also on the agenda. On 12 March 2019, Irakli Sesiashvili, Chairman of the Defense and Security Committee of the Parliament of Georgia presented a legislative initiative to the Parliament to repeal the norm in the Law of Georgia on Compulsory Military Service, which allows clergymen to suspend compulsory military service⁸⁶.

84. Constitutional lawsuit N 1422 registered on May 7, 2019

85. Statement of the Council of Religions under the Public Defender, 01.02.2019 <http://www.tabula.ge/ge/story/143716-religiata-sabcho-reliigiur-organizacieb-ze-kanonis-shemushaveba-dghis-tsesrigshi-ar-unda>.

86. According to Article 30 of the Law of Georgia on Military Duty and Military Service, from an extensive list, deferment from conscription shall also apply to a person who is a priest or is studying in a theological school. Accordingly, the repeal of the norm in the Law on Military Service will restrict this right to all clergymen of religious denominations, except the Orthodox Church, who has this right granted also by the constitutional agreement.

The chairman of the committee prepared the initiative without properly consulting the various public groups. The initiative was negatively assessed by the vast majority of religious organizations and non-governmental organizations. Finally, on 5 April 2019, the discussion on the legislative initiative was postponed⁸⁷.

In 2019, the influence of the dominant religious group on the state legislative activities was revealed once again. In particular, in response to the initiative of the Georgian Patriarchate⁸⁸, the Parliament of Georgia announced 12 May as the day of the Allotment to Mother Mary on 8 May 2019 at a special session⁸⁹ in accelerated manner⁹⁰. Up to 900,000 GEL was allocated from the Government Reserve Fund to celebrate the mentioned day and to organize various events⁹¹.

Property related problem of religious minorities

In 1991, after the collapse of the Soviet Union and the restoration of Georgia's independence, property restitution took place only in favor of the Georgian Orthodox Church. Much of the property confiscated from other confessions has not been returned to date. The majority of such iconic buildings are cultural heritage sites. The state had the obligation to take care of the property. In parallel with the fact that these buildings have not been returned to their historic and confessional owners, they are at the brink of destruction, and being handed over to the Georgian Patriarchate, such historic buildings are losing their authenticity and original archi-

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87. NGO-s: Abolishing the suspension of army service for Non-orthodox clergymen is discrimination Tabula, 2019, <https://bit.ly/36GOlqN>.
 88. "May 12 was announced as the day of Georgia's allotment to the Mother of God and was declared a national holiday" 28.12.2018, available at: <https://bit.ly/2K56dKA>.
 89. Parliament of Georgia, special session. 06.05.2019, available at: <https://bit.ly/30mg4zU>
 90. "96 in favor, 0 - against" - the Parliament announced May 12 as the the Allotment to Mother Mary 08.05.2019. 08.05.2019, available at <https://bit.ly/2Qx-0mjZ>.
 91. "The state allocated 694 000 GEL for the events to celebrate Georgia's allotment to the Mother of God" 10.05.2019, available at: <https://bit.ly/2XuqKiU>.

tectural appearance. There are cases of destruction and erosion of the features of the historical and confessional origins of these buildings. The problem is evident in the case of the church of historically Armenian origin, known as “Tandoyan Surb Astvatsatsin”, located in Tbilisi, which was handed over to the Georgian Patriarchate in 2017⁹².

The advisory Committee of the Framework Convention on Protection of National Minorities elaborated a third conclusion for Georgia on 7 March 2019, and indicated that the restitution of religious sites for religious minorities as well as the procedures for construction permits are not sufficiently transparent and based on clear, objective and legal criteria. The Advisory Committee called on the authorities to ensure the implementation of restitution of property for religious organizations in a non-discriminatory manner⁹³.

One of the main problems for religious minority organizations are the barriers created by the state in the process of constructing new religious buildings. In 2019, it remains a pressing issue concerning the construction of a mosque in Batumi and exercising the freedom of religion and belief by Muslim citizens.

On 30 September 2019, the Batumi City Court partially satisfied the appealed demands of the New Mosque Construction Fund in Batumi and ruled that the refusal of the Batumi City Hall to allow the building of the mosque was discriminatory.

The court clarified that Batumi City Hall’s approach towards two different religious groups was unequal, since, seven Orthodox churches have been built without permission in the same residential zone, including several churches on the land belonging to the

92. TDI and EMC statement on the case of arbitrary transfer of the historical Armenian church to the Georgian Patriarchate: <http://tdi.ge/ge/news/536-tdi-da-emc-sapatriarkostvis-tandoiancis-eklesiis-tvitnehuri-gadacemis-sakmeze>.

93. Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Georgia adopted on March 7, 2019. Document available in Georgian: https://smr.gov.ge/uploads/prev/3rd_Op_Geo_05dc9050.pdf. In English <https://bit.ly/2GfRpVz> .

municipality. Batumi City hall appealed the decision in court, protracting the possibility of the Muslim communities to exercise their rights⁹⁴.

Crimes motivated by religious intolerance

Regarding crimes motivated by religious hatred, Jehovah's Witnesses are one of the most vulnerable groups. According to the Christian organization of Jehovah's Witnesses in 2019, there were **24 cases** of religious intolerance including physical violence, vandalism / damage of religious literature, stands, vehicles, halls and other belongings, illegal obstruction of religious services and other types of religious intolerance.

State policy analysis shows that in relation to actions carried out against representatives of religious minority groups, the issue of granting victim status by the Prosecutor's office, as well as the status of the defendant for alleged crime, are still problematic.

The role of the Human Rights Department of the Ministry of Internal Affairs should be assessed positively, in relation to launching the investigation into crimes committed on the grounds of religious intolerance. However, the department's authority is limited to monitoring the investigation process and publishing a document of recommendations and it does not have a direct investigative function. The European Commission against Racism and Intolerance (ECRI) called on Georgia to create a specialized investigation unit which would specifically investigate hate crimes. Since the newly created Department does not have an investigative function, in its 2019 report, the ECRI deemed this recommendation to be only partly fulfilled⁹⁵.

94. Batumi City Hall repealed Batumi City Court's decision on the new mosque building case, Tolerance and Diversity Institute 2019 <http://tdi.ge/ge/news/743-batumis-meriam-batumshi-axali-mechetis-msheneblobis-sakmeze-sakalako-sa-samartlos>

95. ECRI conclusions in respect of Georgia, published on March 5, 2019; <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respect/1680934a7e>.

Recommendations:

To the Parliament of Georgia:

- Reject the initiatives to develop a special law on the regulation of the activities of religious organizations;
- Prevent the adoption of the law restricting the right to defer compulsory military service for clergymen of religious minority organizations;
- Immediately eliminate discriminatory norms in Law on state property and in the Tax Code that differentiate between the Orthodox Church and other religious organizations;
- Develop and create a legal framework for the restitution of property for owners, with the possibility of returning or compensation for property confiscated from religious organizations during the Soviet period.

To the Government of Georgia

- Review issues related to the mandate, activities and the need for existence of the State Agency for Religious Issues;
- Study the scale of damage caused to religious organizations by the Soviet totalitarian regime and ensure the record via an inventory, confiscated property;
- Study the lawfulness of the transfer of the historically Armenian “Tandoyantsi Church” located in Agmashenebeli # 38 in Tbilisi to the Georgian Orthodox Church in 2017, and prevent any construction, archeological and other works carried out by the Georgian Patriarchate on this building;
- Respond consistently, appropriately and timely to crimes motivated by religious intolerance;
- The Ministry of the Internal Affairs should take into account the recommendation of the European Commission against Racism and Intolerance (ECRI) and grant the Human Rights

Department of the Ministry of the Internal Affairs an investigative function.

Local government bodies:

- Eliminate discriminatory approaches in the process of issuing construction permits to religious organizations and prevent the practice of creating artificial barriers.

ETHNIC MINORITIES

The systemic challenges related to the integration of ethnic minorities and protection of their rights have not been the subject of significant positive changes in 2019. The state continued to carry out routine activities defined under the Action Plan for Civic Equality and Integration. However, since the Action Plan does not address the actual political and social challenges historically facing ethnic minorities, and does not address specific positive mechanisms in important policy areas, it is difficult to create an essentially equal political, social and legal environment for ethnic minorities.

Weak integration policy and discriminatory political attitudes

The state policy is formally based on the principles of the protection of rights, equality and inclusion, however, in reality it is obvious that the issue of minorities is mostly viewed by the government from a security, geopolitical and ethnocentric perspective. At all levels of state policy, enforcement of religiously neutral and inclusive policies remain a challenge.

The Office of the State Minister for Reconciliation and Civic Equality is essentially limited to having a coordinating role in the process of enforcing the integration policy. It lacks the appropriate mandate, actual political power, and relevant financial resources to take efficient steps to provide real support to integration policy.

This year, problematic and discriminatory statements were heard once more from high-ranking officials. In this regard, the statement of the Chairman of the Committee on Education, Science and Culture of the Parliament was noteworthy, which linked the Azerbaijani community of Georgia with the neighbor country and thus contributed to further alienation within the community⁹⁶. Fur-

96. Coalition for Equality responds to the statement of Mariam Jashi regarding the Azerbaijanis in Georgia: <https://emc.org.ge/ka/products/koalitsia-ta-nastorobistvis-sakartvelos-azerbajanelebtan-dakavshirebit-mariam-jashis-gantskhadebas-ekhmianeba>.

thermore, this year, MP Emzar Kvitsiani, reprimanded the sheik of Administration of All Muslims of Georgia for not knowing the Georgian language and pointed out that if he is a Georgian citizen, he should speak Georgian⁹⁷.

Low political participation

Georgia does not have special positive mechanisms to encourage the political participation of minorities. The lack of advisory mechanisms with the legislative and the executive levels remain a major problem in terms of minority participation in politics. The only platform that provides state agencies with advice concerning minorities is the Ethnic Minority Council, operating under the auspices of the Public Defender. However, the cooperation of the legislative and executive branches with the Council is unstable and fragmented.

Low political participation remains a challenge also at the self-government level, where the mechanisms of democratic participation provided in the self-government Code do not work, or work inefficiently⁹⁸. The process of political participation of ethnic minorities is significantly hindered by the failure⁹⁹ of administrative bodies to translate public information and administrative proceedings in the language of minorities in municipalities which are compactly populated, in Kvemo Kartli and Samtskhe Javakheti. This problem weakens the trust and connection of the local community towards state institutions and impedes their actual political participation, access to services and involvement in public discussions.

97. Based on Mirtag Asadov's appeal, the Public Defender addresses Emzar Kvitsiani with a general proposal: <https://gyla.ge/ge/post/mirtagi-asadovis-sachivris-safudzvelze-emzar-kvicians-sakhalkho-damcvelma-zogadi-tsinadadebit-mimarta#sthash.HR0ugMns.lng3gjFV.dpbs>.

98. Strengthening political participation of ethnic minorities in Marneli municipality, EMC, 2020, available at: <https://emc.org/ge/ka/products/etnikuri-umt-siresobebis-politikuri-monatsileobis-gadzliereba-marneulis-munitsipalitetshi>.

99. CoE Advisory Committee, para 18 <https://rm.coe.int/3rd-op-georgiaen/1680969b56>.

A recent study by the Institute of Social Studies and Analysis¹⁰⁰ (ISSA) shows that almost 70% of people from minority regions have never addressed a local municipality for either public or personal needs. For example, public hearings of Marneuli and Bolnisi City Hall or Assembly are not translated into the language of minorities, for this reason members of ethnic minority communities are almost never involved in the process.

Furthermore, the participation of Assembly member ethnic minorities in the process is nominal and illusory, since often, due to the language barrier, they cannot read the documents¹⁰¹ for discussion, which are written in the Georgian language. Local women are further excluded from the political participation process, and so far, the municipalities do not have specialised approaches to strengthen women's political participation. The isolation of ethnic minorities from political and administrative processes also increases their social vulnerability.

2019 was a difficult year for Pankisi Gorge. The government responded to the protest against the construction of hydro-electric power plants in the gorge with large scale police measures¹⁰² on 21 April. The ongoing political negotiations over the HPPs had not yet been completed, and such a decision by the government indicates a violent policy in the gorge. It is noteworthy that the State Security Service of Georgia (SSS) and the police had been actively trying to suppress the protests related to the HPPs throughout the year by summoning¹⁰³ local leaders and activists in the police departments

100. Study of the participation of ethnic minority representatives in political life, ISSA, 2019, available at: <https://osgf.ge/publication/etnikuri-umciresobebis-warmomadgenlebis-politikur-ckhovrebashi-monawileobis-kvleva/>.

101. EMC responds to the public hearing on activities of Marneuli City Hall: <https://emc.org.ge/ka/products/emc-marneulis-meriis-sakmianobis-angarishis-sajaro-gankhilvas-ekhmianeba>.

102. Human Rights organizations response to the use of police forces in Pankisi Gorge: <https://emc.org.ge/ka/products/adamianis-uflebebze-momushave-organizatsiebi-ekhmianebian-pankisis-kheobashi-sapolitsio-dzalis-gamoqenebas>.

103. EMC calls on the Ministry of Interior to stop harassment and control practices of local activists and community members in Pankisi Gorge: <https://emc.org.ge/ka/products/emc-moutsodebs-shinagan-sakmeta-saministros-shetsqvitos-pankisis-kheobashi-adgilobrivi-aktivistebis-da-temis-tsevrebis-shevitsroebisa-da-kontrolis-praktika>.

and using threatening tactics. Additionally, the Deputy Minister of Internal Affairs was openly and significantly illegally involved in the negotiation process. After the grave events of April, the issue of construction of the HPP was temporarily suspended, however, the state has not yet established democratic formats of negotiations and consultations with the community. In parallel with these processes, internal conflicts in the community escalated, ending with shootings and casualties among locals on 27 November.

Socio-economic and cultural problems

The state still does not have a special policy to promote the employment of ethnic minorities in the public service. The Internship Program for Minorities was launched in 2018 for beneficiaries of the Georgian Language Training Program¹⁰⁴ (1 + 4), which is a positive step. However, the program does not provide tangible employment opportunities for young people and needs improvement in terms of content.

The quality of education in public schools in regions compactly populated by minorities is extremely low and unequal, which deprives these groups of the opportunity to proper development. This is also evidenced by the failure rates of school examinations, which ranges from 8.23% -29.95% in non-Georgian language schools, while the same rate ranges from 1.5% -4.5% nationwide¹⁰⁵. To date, the Ministry of Education has not developed a specific vision nor policy which would address the challenges facing the general education of ethnic minorities.

The lack of pre-school education infrastructure is problematic in regions populated by minorities. For example, a study of about 20

104. Internship program has been announced for ethnic minority youth: <https://reginfo.ge/people/item/5735-etnikuri-umziresobebis-axalgazrdebistvis-stajirebis-programa-gamozxadda>.

105. <https://edu.aris.ge/news/saatestato-da-erovnul-gamocdebze-araqartulenovani-moswavleebis-chachris-ricxvi-magalia.html>; See also Tabatadze and Giorgadze, Assessment of one year training program in official language 2016, available at: <https://www.cciir.ge/images/pdf/CCIIR%20research%20document.pdf>; p 28.

villages in Marneuli found that none of them has a kindergarten¹⁰⁶, other than the village of Saimerlo, and there is only one preparatory group for children over the age of five in the village of Shulaveri. This creates significant problems for the development of children, as well as their socialization and knowledge of the official language, thus placing a heavy burden on carers.

The practice of dominating state culture in regions populated by ethnic minorities is also noteworthy. This is evident, among other activities, in the policies of local culture houses, which evidently spare less interest and resources for the development of minority culture, in rewriting¹⁰⁷ the ethnic minority holidays and in practices of weak representation of minority culture¹⁰⁸.

In Kvemo Kartli, there is a serious problem of access to vital resources such as land, drinking and irrigation water, as well as access to basic social programs¹⁰⁹, which increases social vulnerability¹¹⁰ of minorities living there. Poverty is higher in ethnic minorities; according to the latest ISSA survey, the poverty rate in Georgia is 43.3%, while in minorities it rises to 52.5%.

Violation of right to life and extradition

This year, the investigation of the murder of Temirlan Machalikashvili was suspended and the questions that arose related to this

106. Kasumlo, Baitalo, Ulashlo, Beitarfacho, Kirikhlo, Tazakendi, Khuldara, Mughanlo, Aghmadlo, Khanji-Gazlo, Shulaveri, Saimerlo, Dashtafa, Kachagani, Enikendi, Jandara, and Kirovka.

107. Assessment of Marneuli Culture Center policy: <https://emc.org.ge/ka/products/marneulis-kulturis-tsentris-politikis-shefaseba>.

108. Dmanisoba – rewritten holiday and mechanism of cultural domination: <https://emc.org.ge/ka/products/dmanisoba-gadatserili-dghesastsauli-da-kulturu-li-dominatsiis-mekanizmi>.

109. EMC- presented a document of recommendations and visions to Marneuli municipality: <https://emc.org.ge/ka/products/emc-s-rekomendatsiebis-da-khed-vebis-dokumenti>.

110. Review of needs of Kvemo Kartli villages: <https://emc.org.ge/ka/products/kve-mo-kartlis-soflebis-sachiroebebis-mimokhilva>.

case have remained unanswered¹¹¹. This year, EMC appealed to the European Court of Human Rights¹¹² regarding the mentioned case, and the Court entered into communication with the Georgian government.

Several cases of ethnic Chechens being extradited to the Russian Federation have also been problematic this year. One of the cases was the extradition of Ramzan Akhiyadov, an ethnic Chechen living in Georgia, to the Russian Federation¹¹³. The absence of high risk of torture and inhuman treatment of Ramzan Akhiyadov is not properly substantiated in the court rulings on Akhiyadov and in the decision of the Ministry of Justice. Such decisions are particularly problematic in the context of mass, severe violations of human rights in the Russian Federation and cases of torture and ill-treatment in prisons¹¹⁴.

Recommendations

To the government of Georgia:

- **Prioritize** ethnic minority integration policies on the government's political agenda. Develop a new strategy document and action plan for civil equality and integration based on the recommendations of human rights actors and minority organizations;
- Strengthen the mandate of the State Minister for Reconciliation and Civic Equality and allocate adequate financial resources to enforce effective integration policies;

111. EMC: The termination of the investigation into the case of Emirlan Machalikhvili's murder is unsubstantiated and it is another confirmation of the politicization of the Prosecutor's Office. <https://emc.org.ge/ka/products/emc-temirlan-machalikhvilis-sitsotskhilis-khelqofis-sakmeze-gamodziebis-shetsqveta-dausabutebelia-da-is-prokuraturis-politizebis-kidev-erti-dadasturebaa>.

112. <https://emc.org.ge/ka/products/emc-m-temirlan-machalikhvilis-sakmeze-evrosasamartlos-mimarta>.

113. <https://www.radiotavisupleba.ge/a/30173139.html>.

114. <https://emc.org.ge/ka/products/emc-ramzan-akhiyadovis-rusetis-federatsiashi-ekstradirebis-fakts-ekhmaureba>.

- Develop special mechanisms and policies aimed at strengthening the political participation of ethnic minorities, which will be based on active consultations with political and civic groups, as well as with organizations of ethnic minorities;
- Strengthen coordination with the Ethnic Minorities Council under the Public Defender, through systematic and regular consultations and recommendations;
- Establish effective long-term and regular consultation mechanisms for ethnic minorities with the government administration, as well as with other relevant agencies;
- Take special measures to encourage employment at the level of central and local government of ethnic minorities, with a special focus on graduates of the 1 + 4 program;
- Mobilize financial resources in regions densely populated by ethnic minorities in response to the existing infrastructural, social and educational needs;
- Create resources for translation into minority languages, especially in agencies and platforms responsible for providing public services.

To relevant local governments:

- Develop an active strategy document and action plan for civil equality and integration, through active consultation with human rights actors and community organizations;
- Create advisory mechanisms for minorities at self-government level;
- Strengthen the existing civil engagement mechanisms based on Local Self-Government Code;
- Translate Municipality Assembly meetings regularly, in simultaneous manner, into minority languages; Also translate the documents for discussion by the Assembly;

ETHNIC MINORITIES

- Provide translation resources into the languages of relevant minorities who do not speak Georgian within administrative proceedings and public information delivery processes,
- Translate public websites and other official public platforms into the language of relevant minorities.

To the Ministry of Education, Science, Culture and Sport:

- Elaborate a long-term document of education support policy for ethnic minorities, which will be based on research into existing needs, policy shortcomings, and active consultations with actors and minorities working on this issue;
- Investigate systemic deficiencies in the state language teaching process and take steps to eliminate them.

To the Office of the State Minister for Reconciliation and Civic Equality:

- Eliminate approaches based on tension and police force in Pankisi Gorge through the creation of democratic dialogue and policy formats.

FOREIGN CITIZENS: RACISM AND XENOPHOBIA

The manifestation of racism and xenophobia in various forms remains a significant challenge in Georgia. Citizens of foreign countries (especially Asian and African countries) continue to experience discrimination in the public space. Violence committed by neo-fascist and violent groups is once more left without an adequate response from the state. Furthermore, the state does not yet have a special policy and strategy to combat racism, which negatively affects the daily lives and safety of victims of discrimination and hate crime.

The most severe manifestation of the mentioned problem was the murder of Vitaly Safarov with alleged xenophobic and anti-Semitic motives, in 2018. On 27 June 2019, a judgment of conviction was rendered. Two persons were sentenced to 15 years in prison for the murder with intent under aggravating circumstances committed as a group, although the court **acquitted them from racial, religious, national or ethnic intolerance motive**¹¹⁵. The verdict was appealed to the Court of Appeals. The Public Defender's report also focuses on this case¹¹⁶.

The inconsistent policy of the state towards foreigners, especially citizens of Asia and Africa, is still problematic during the reporting period which, in many cases may be assessed as discriminatory. Among them are the obstacles created in the process of obtaining a visa, crossing the state border of Georgia, obtaining a residence permit and obtaining asylum .

The legal consequence of application withdrawal by the asylum seeker

Relevant norms¹¹⁷ of the Law of Georgia “on International Protection” entitle the applicant to withdraw his / her application for international protection. In this case, the decision-making body ter-

115. <https://bit.ly/2JS572H>.

116. <http://ombudsman.ge/res/docs/2020040215365449134.pdf> p. 183.

117. Law of Georgia “on International Protection”, Article 41, paragraph 5.

minates the investigation of the case, regardless of whether all the relevant facts and circumstances have been assessed¹¹⁸. In case the applicant changes his/her mind and decides to renew the application, according to the law, s/he will be obliged to substantiate a new personal circumstance and / or new circumstances arising in the country of origin in the renewed application. This deprives the applicant of the right to re-apply to the agency for the same case.

Delay in planning of the surveying procedures and the issuance of a temporary identity card.

Recently, a negative trend can be observed regarding the delayed planning of the interviewing procedures with asylum seekers and the suspension of the issuance of a temporary identity card¹¹⁹. For this reason, asylum seekers are restricted from accessing services such as: receiving personal documents, health care programs, education and other social services, and their absence forces the applicants to leave the country while their cases are still pending.

The process of reviewing asylum cases in the administrative body and the court is superficial and lengthy. Usually, cases are not thoroughly studied. The questions asked by the judges are very formal and cases are not examined within the time limits envisaged by

118. For example, there have been cases where an applicant has withdrawn the application, believing that s/he would be able to stay in Georgia on another legal basis, or when the applicant could not leave Georgia and enter another country. In another case, the applicant requested the return of the passport from the Ministry of Internal Affairs for the purpose of divorce, which was automatically considered as a withdrawal of application.

119. According to Paragraph 4, Article 27 of the Law of Georgia “on International Protection”, an interview with an applicant is held within 10 working days after submitting the application for international protection. However, often, an application is being processed within 2 months of its submission. After the interview (survey), the shelter seeker receives a certificate of the shelter seeker issued by the Migration Department confirming his or her status in the country. Within 10 days after the submission of the mentioned document to the Service Agency, the identity card of the shelter seeker will be issued. There are frequent cases when the service agency temporarily terminates the issuance of an identification certificate for an indefinite period of time.

law. There is also a tendency for the Department of Migration to frequently reconsider case decisions (reverse the decision) for further review.

Alleged discriminatory treatment of foreign nationals in the process of issuing a residence permit

It can be reasonably assumed that the state has a discriminatory policy based on race, nationality or citizenship in the process of granting residence permit to foreign nationals. Especially, it is often difficult for foreigners from Asian-African countries to obtain a residence permit in Georgia. The vast majority of rejections by the Public Service Development Agency to issue residence permits to these citizens is based on the negative recommendations¹²⁰ of State Security Service¹²¹. At no stage of the proceedings is a person seeking to obtain a residence permit granted the right to inspect the evidence presented against him/her by the Security Service. Neither does a lawyer have the authority to access classified materials. Anyone wishing to obtain a residence permit is restricted from presenting an argumentative, opposing position.

Obstacles created during crossing of state border

Refusing the entry of foreign citizens from Asia and Africa into Georgia has become a pressing issue in recent years. In this regard, there is a growing trend of unsubstantiated denials to cross the border. The Ministry of Internal Affairs of Georgia often refers to sub-paragraph “i” of Article 11 (1) of the Law of Georgia on the Legal Status of Foreigners and Stateless Persons (“Other basis envisaged by law”), as the grounds of refusal to enter Georgia. The

120. <http://ombudsman.ge/res/docs/2020040215365449134.pdf> p. 424.

121. It should be noted that 10,050 applicants (82.6% of the total number) who were denied residence permits in 2012-2017 were from Africa and / or Asia (including Nigeria, Cameroon, Egypt, India, Bangladesh and Pakistan). http://tdi.ge/sites/default/files/tdi_angarishi_rasobrivi_diskriminacia_ucxoelebis_up-lebebi.pdf p. 40.

Ministry neither explains nor substantiates what this basis implies, and which law provides it. The Public Defender of Georgia also responded to the mentioned problem in the 2019 report¹²².

It should also be noted that according to the current regulations, a foreign citizen has only ten days to appeal the decision of refusal to enter Georgia¹²³. This period is unreasonably short in order for a foreign person to be able to fully protect the rightful interests (to find a lawyer, to consult, to prepare a complaint).

Legal situation of foreign students¹²⁴

Foreign students (especially those from Asia and Africa) face difficulties both when crossing the state border and when obtaining a study visa and study residence permit. It is problematic for them to obtain a visa as well as to extend it. In recent years, the number of foreign students who were denied the visas has increased. Even students who have active student status in Georgia are denied a residence permit. Often, they are given less than 40 days to extend their legal stay in Georgia, which is not enough to apply for a residence permit. Such students are often forced to terminate their studies and leave Georgia, because they have no legal basis to be in the country¹²⁵.

Purchase of agricultural land by foreigners

On 2 July 2019, the Parliament of Georgia adopted the Organic Law of Georgia on Agricultural Land Ownership in view of amendments

122. <http://ombudsman.ge/res/docs/2020040215365449134.pdf> p. 422-423.

123. On Approval of the Procedures for Issuing, Extending, and Terminating Georgian Visas, Ordinance of the Government of Georgia N 280, Article 38, Paragraph 5, June 23, 2015. <https://matsne.gov.ge/ka/document/view/2882028?publication=0>

124. For more details, see the GDI report "Legal situation of Foreign Students in Georgia (Analysis of Legislation and Statistical data)". June, 2019, available at: <https://gdi.ge/uploads/other/1/1118.pdf>.

125. http://tdi.ge/sites/default/files/tdi_angarishi_rasobrivi_diskriminacia_ucx-olebis_uplebebi.pdf p. 34.

to the Constitution of Georgia, which concerned the introduction of a special legal regime for the ownership of agricultural land. The law imposes a blanket ban regulation on foreigners and links the existence of the right of agricultural land ownership by a foreign natural person to a single case - if s/he inherited¹²⁶ an agricultural land or already owned it legally¹²⁷. Legal entities established by foreign nationals are given the opportunity to purchase land only if a relevant investment plan is submitted and approved by the government.

It should be noted that the first version of the draft law of Georgia on Agricultural Land contained open discriminatory provisions. It obligated foreigners, even if they inherited the land, to cultivate or sell it. As a result of the active participation of non-governmental organizations and civil society and taking into account the presented recommendations¹²⁸, the Parliament softened the regulations¹²⁹. However, the populist provision on xenophobic grounds in the constitution itself should be negatively assessed in terms of restrictions on agricultural land ownership by foreigners.

Recommendations

To the Parliament of Georgia

- Make amendments to the Law of Georgia on International Protection to give asylum seekers the opportunity to re-apply for shelter to the Migration Department, in case of application withdrawal, regarding the same case, under the same circumstances;
- Amend the Law of Georgia on State Secrets and allow a lawyer to access information that has a status of a state secret.

126. Law of Georgia on Agricultural land ownership, Article 4, Paragraph 2.

127. Law of Georgia on Agricultural land ownership" Article 10.

128. <https://gdi.ge/uploads/other/0/950.pdf>.

129. <https://gdi.ge/ge/news/parlamentma-miwebis-kanonze-gdi-s-shenish-vnebis-nawili-gaitvaliswina.page>.

To the government of Georgia

- Increase the ten-day period for appealing against the refusal decision on the issuance of a Georgian visa at the Georgian state border and refusal on the entry to Georgia.

To Public Service Development Agency

- Raise the standard of substantiated decisions for refusing to issue a residence permit;
- Investigate all the circumstances relevant to the case during the administrative proceedings related to the issuance of a residence permit to a foreigner and use the discretionary right reasonably.

To the Migration Department of Ministry of Internal Affairs of Georgia

- Ensure the registration of persons who require international protection as asylum seekers, and provide their effective access to surveying procedures. Continue the timely issuance of temporary identification certificates to all asylum seekers.

To the Ministry of Foreign Affairs of Georgia

- Raise the standard of substantiated decisions for refusing to issue a visa to foreign citizens;
- Investigate all the circumstances relevant to the case in the process of administrative proceedings related to the issuance of a visa to a foreign citizen and not base the decision to deny the visa issuance on the conclusion of the State Security Service alone;
- Extend visas for foreigners for up to 40 days, when a foreigner's application for a residence permit is considered defective due to the lack of sufficient days of legal stay in Georgia.

Ministry of Internal Affairs of Georgia

- Raise the standard of substantiating decisions for refusing the visa issuance at the state border and entrance to Georgia for foreign citizens;
- Substantiate which law or sub-legal act it relies on, in the process of deciding to deny foreigners entry to Georgia, when the decision is made based on Article 11 (i) of the Law of Georgia “on the Legal Status of Aliens and Stateless.

State Security Service

- Eliminate the vicious practice of providing stereotypical conclusions to the Service Development Agency about foreigners wishing to obtain a residence permit, especially the foreigners representing Asian and African countries.

Common Courts

- Examine in detail the basis for refusing to allow foreigners to enter Georgia, as well as issuing a visa and residence permit, also to grant asylum when applicable;
- Thoroughly study the rationality of the State Security Service’s conclusions and evidence of the status of state secrets.

CONFLICT-AFFECTED POPULATION

The year 2019 was especially difficult for the citizens of Georgia living in the occupied territories of Georgia and in the nearby areas along the administrative border of the country. Lack of access to international human rights mechanisms in these regions further hinders effective protection and monitoring, which was also highlighted in a recent report by the United States¹³⁰.

The situation of ethnic Georgians in Gali and Akhalkalaki is dire, where they live compactly and have limited basic civil, political and socio-economic rights such as the right to education in their native language, freedom of movement, the right to vote, the right to quality health care, the right to freedom. It should be noted that the restriction of the right to education in the native language¹³¹ of ethnic Georgians in Gali and Akhalkalaki affects access to the right to quality education in general, and for this reason, locals are often forced to take risks, leave their homes and move to Tbilisi-controlled areas to receive education.

Doctor Vazha Gaprindashvili's arrest was also related to the closing of the border in Akhalkalaki. Vazha Gaprindashvili was illegally arrested¹³² by the de facto government of South Ossetia on 9 November 2019 near the occupation line. Due to the pressure from international organizations and the public, the de facto Tskhinvali government released Dr. Gaprindashvili based on amnesty on 28

130. OHCHR Report, p 32-41. Available at: https://www.ecoi.net/en/file/local/1443533/1930_1537260340_g1824969.pdf. See also 2019 Report of the United States Department of State, p 25. Available at: <https://ge.usembassy.gov/wp-content/uploads/sites/165/GEORGIA-2019-HUMAN-RIGHTS-REPORT-2-1.pdf>.

131. Akhalkalaki school students and school personnel are not allowed to speak Georgian: <http://akhaliganatleba.ge/%E1%83%90%E1%83%AE%E1%83%90%E1%83%9A%E1%83%92%E1%83%9D%E1%83%A0%E1%83%94%E1%83%9A-%E1%83%9B%E1%83%9D%E1%83%A1%E1%83%AC%E1%83%90%E1%83%95%E1%83%9A%E1%83%94%E1%83%94%E1%83%91%E1%83%A1%E1%83%93%E1%83%90/>.

132. Human Rights Organizations address Council of Europe regarding the case of Vazha Gaprindashvili: available at: <https://emc.org.ge/ka/products/vazha-gaprindashvilis-sakmeze-adamianis-ufleebze-momushave-organizatsiebi-evropis-sabchos-institutebs-mimartaven>.

December after sentencing him to one year and nine months in prison¹³³.

Throughout the year, the case of the persecution of Tamar Mearakishvili, a resident of Akhalkgori, by the de facto regime of South Ossetia has been problematic¹³⁴. Despite the repeated suspension of the investigation by local courts against Tamar Mearakishvili, the de facto Prosecutor's Office constantly re-opens¹³⁵ the investigation and starts a new dispute. The unsubstantiated charges and content against Ms. Mearakishvili indicate the political nature of the ongoing criminal prosecution against her. According to Tamar Mearakishvili, the Georgian government does not put sufficient efforts into international formats to take her case forward and gain support.

During 2019, there has been no progress regarding the investigation into the murder of Giga Otkhozoria by the representatives of de facto authorities of Abkhazia. The de facto regime dropped all charges against the person accused of murder¹³⁶. On 12 March 2019, another Georgian citizen, Irakli Kvaratskhelia, was killed, who died under suspicious circumstances in the captivity of the so-called Russian "border-guards"¹³⁷.

Illegal Borderization

The social situation is grave in villages surrounding the border line. The process of illegal borderization in Akhalkgori has divided

133. Georgian Doctor Vazha Gaprindashvili Released from Tskhinvali Custody: <https://civil.ge/archives/333211>.

134. EMC evaluates the case of persecution and harassment against an Akhalkgori activists, Tamar Mearakishvili [https://emc.org.ge/ka/products/emc-akhalgoreli-aktivistis-tamar-mearakishvilis-tsinaaghmddeg-devnisa-da-shevitsroebis-sakmes-afasebs](https://emc.org.ge/ka/products/emc-akhalgoreli-aktivistis-tamar-mearakishvilis-tsinaaghmddeg-devnisa-da-shevitsroebis-sakmes-afasebs;);

135. The South Ossetia de-facto government still continues to persecute an Akhalkgori activist <https://emc.org.ge/ka/products/akhalgoreli-aktivistis-devnas-samkhret-osetis-de-fakto-khelisufleba-kvlav-agrdzelebs>.

136. EUMM, press release 46th IPRM meeting in Gali: https://eumm.eu/en/press_and_public_information/press_releases/5874/.

137. "Beyond the zone of barbed wires – mass human rights violations beyond the border lines of Abkhazia and South Ossetia"; p.5.

about 34 villages with fences and barbed wire, which has restricted the local population's access to basic infrastructure (farms, pastures, irrigation systems, cemeteries, churches)¹³⁸. Due to illegal "borderization", locals are losing land and other types of real estate¹³⁹. They do not have access to drinking water, in some villages drinking water is either non-existent or polluted and residents have limited access to first aid¹⁴⁰. Further, agricultural land lost due to illegal "borderization", which was the only source of income for the population, further aggravates the existing social background¹⁴¹.

Closing of borders and humanitarian crisis

In 2019, the arbitrary and politically motivated closing of the so-called borders was especially critical. On September 4, 2019, the Russian Federal Security Service and the de facto government of South Ossetia completely closed the Mosabruni-Odzisi crossing¹⁴², which is vital for the population of Akhlagori. Most of them used this site daily to receive medical and social services, as well as education, on the territory of the rest of Georgia, also to visit relatives and family members. De facto authorities used the closure of the crossing as a means of political pressure against the Georgian authorities in response to a block post placed in Chorchana. The Mosabruni-Odzisi crossing, which was used by an average of 400 people a day, was closed until the end of 2019. The closure of the so-called border poses a threat to the local population - both Georgians and Ossetians¹⁴³. Many Akhlagori residents left

138. Ibid.

139. P 22, "Behind Barbed Wires - Human Rights Toll of Borderization in Georgia. Report available at:

<https://www.amnestyusa.org/wp-content/uploads/2019/07/Behind-Barbed-Wire.pdf>.

140. State Of Human Rights Along the Dividing Lines of Abkhazia and South Ossetia, Human Rights Center, 2019, pg 19 <http://www.hridc.org/admin/editor/uploads/files/pdf/report2020/gamyofi%20xazi-eng.pdf>.

141. Zone of barbed Wires, Human rights Center, 2019, p 36.

142. EUMM Press release, https://eumm.eu/en/press_and_public_information/press_releases/36637/.

143. EMC responds to the humanitarian crisis in Akhlagori: <https://emc.org.ge/ka/>

their homes before the movement was prohibited and relocated to Georgian-controlled territory. Those who stayed, the population of around 1,000 people, were faced with a severe humanitarian crisis, including lack of food and increased prices on everyday items¹⁴⁴.

Margo Martiashvili, who fell victim to the humanitarian crisis in Akhgori in 2019, died after the de facto government did not allow the critically ill patient to cross into the territory controlled by Tbilisi. The de facto government did not grant permission to her son to attend his mother's funeral¹⁴⁵.

Recommendations

To the overnment of Georgia, the Ministry of Reconciliation and Civic Equality

- Develop enhanced plans, approaches and mechanisms to promote the protection of human rights in the occupied territories through intensive consultations with human rights actors and expert circles;
- Strengthen cooperation with international humanitarian organizations, such as the International Committee of the Red Cross, in order to effectively address the humanitarian crisis in and around the occupied territories; Develop special programs of humanitarian support, which will minimize the damage to the population in the event of an arbitrary closure of the so-called border (by providing food, basic products and medicines, with the support of relevant international organizations);

[products/emc-akhalgorshi-shekmnil-humanitarul-kriziss-ekhmianeba](https://emc.org.ge/ka/products/emc-akhalgorshi-shekmnil-humanitarul-kriziss-ekhmianeba).

144. Human Rights Organizations address the international organizations regarding the humanitarian crisis in Akhgori: <https://emc.org.ge/ka/products/arasam-tavrobo-organizatsiebis-mimartva-saertashoriso-organizatsiebs-akhalgorshi-arsebuli-humanitaruli-krizisis-shesakheb>.

145. In Akhgori, Margo Martiashvili's son was not allowed to his mother's funeral. <https://netgazeti.ge/news/402205/>.

CONFLICT-AFFECTED POPULATION

- Reduce the social and economic problems of the population who are on the territory controlled by Tbilisi, as a result of illegal borderization; provide them with drinking and irrigation water, increase their access to outpatient medical services and use effective social assistance measures;
- To the Ministry of Justice and the Ministry of Foreign Affairs of Georgia
- Proactively use international human rights instruments in the occupied territories for human rights violations;
- Strengthen international advocacy and interest in the work of international organizations in these regions in response to human rights violations in the occupied territories of Georgia;
- Use all mechanisms, including peace negotiation formats, and to end Tamar Mearakishvili's long-term isolation and persecution.

HUMAN RIGHTS DEFENDERS AND ACTIVISTS

In 2019, the Public Defender presented information¹⁴⁶ about the human rights situation of women, LGBTQI and human rights defenders to the Parliament for the first time. On 9 December 2019, organized by Tbilisi Human Rights House, the Day of Human Rights Defenders was celebrated in Georgia for the second time¹⁴⁷. However, the year 2019 was marked by large-scale discrimination, threats, assaults and facts discrediting human rights defenders and activists; their freedom of assembly was violated many times as well.

It is noteworthy that on 10 June 2019, the judge of the Tbilisi City Court announced the sentencing in the case of Vitaly Safarov, the human rights activist killed by the representatives of the neo-Nazi group in 2018. He found the defendants guilty only of murder committed as a group and did not find any signs of ethnic intolerance¹⁴⁸. The case is ongoing in the Court of Appeals.

Furthermore, in January 2019, the Prosecutor's Office granted victim status to a civil activist Giga Makarashvili, who had a rubbish bin thrown at his head by a City Hall employee of Gori Municipality at the end of a protest rally in front of the City Hall on 10 October 2018; the public servant was acquitted¹⁴⁹ by the jury. Makarashvili

146. Report of Public Defender on the situation in human rights and freedoms in Georgia, 2018, p. 141-144. Available at: <http://www.ombudsman.ge/res/docs/2019042620571319466.pdf>.

147. Tbilisi Human Rights House, "Day of Human Rights Defenders - December 9", 23.12.2019. Available at: <https://hrht.ge/%e1%83%a3%e1%83%a4%e1%83%9a%e1%83%94%e1%83%91%e1%83%90%e1%83%93%e1%83%90%e1%83%9b%e1%83%aa%e1%83%95%e1%83%94%e1%83%9a%e1%83%97%e1%83%90-%e1%83%93%e1%83%a6%e1%83%94-9-%e1%83%93%e1%83%94%e1%83%99/>.

148. For more details, see Human Rights Center "Details and Legal Assessment of the case of murder of Human Rights Defender Vitaly Safarov", 2019. Available at: <http://www.hridc.org/admin/editor/uploads/files/pdf/hrc2019/%E1%83%A1%E1%83%90%E1%83%A4%E1%83%90%E1%83%A0%E1%83%9D%E1%83%95%E1%83%98%E1%83%A1%20%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%94.pdf>.

149. Radio Tavisufleba "Jury acquitted a person who threw a trash bin full of garbage on Giga Makarashvili", 18.12.2019. Available at: <https://www.radiotavisufleba.ge/a/30332631.html>.

was protesting against the statement of Gori Mayor Konstantine Tavzarashvili that Tskhinvali was bombed from Gori during the August war.

The situation of LGBTQI human rights defenders

Freedom of gathering still remains a major challenge for LGBTQI human rights defenders. In 2019, law enforcement agencies failed to protect the freedom of gathering and expression of the LGBTQI community and their human rights defenders: for the first time in Georgia and the South Caucasus, on 18-22 June, 2019, the Week of the Pride March was to be held. However, the Ministry of Internal Affairs told the organizers of Tbilisi Pride that it could not protect the participants of the planned parade from homophobic groups and called on them to cancel the Pride March or hold a closed ceremony at a club or stadium¹⁵⁰.

Three different organizations also refused to provide LGBTQI community rights organizations with space to hold events on LGBTQI topics during the May-August period. The Public Defender of Georgia has launched an investigation into all three discriminatory facts¹⁵¹.

Freedom of assembly of the LGBTQI community was also violated during the screening of the film on the topic of homosexuality “And Then We Danced” on 8 November 2019. The premiere was preceded by aggressive threats from radical homophobic groups and

150. Tbilisi Pride ‘Holding the Pride March became impossible’, 07.09.2019. Available at: <https://tbilisipride.ge/News/Details/10>

Netgazeti, „Tbilisi Pride: The Ministry of the Interior suggested to hold the Pride March at the night club or the stadium. 31.05.2019. Available at: <https://netgazeti.ge/news/368709/>.

151. Public Defender of Georgia “Public Defender Establishes Discrimination for Refusing to provide Space to LGBTQI Community Rights Organizations”, 30.01.2020. Available at: <http://www.ombudsman.ge/geo/akhali-ambebi/lgbt-temis-uflebebze-momushave-organizatsiebistvis-fartis-gatsemaze-uaris-gamo-sakhalkho-damtsvelma-diskriminatsia-daadgina>.

calls to disrupt the film screening¹⁵². No appropriate preventive nor protective measures had been taken to prevent these groups' violent actions related to the premiere of the film. On the day of the premiere, as a result of their violent actions, LGBTQI human rights activists Anna Subeliani and Tamaz Sozashvili, who were engaged in defending human rights near the Amirani Cinema, were verbally and physically abused¹⁵³.

Events of 20-21 June

On 20 June 2019, the Russian Duma deputy Sergei Gavrilov held a session in Russian, sitting in the chair of the Chairman of the Parliament of Georgia, which was followed by a protest rally in front of the Parliament building, named "It's a shame." At 22:00, a small number of protesters, who were standing on the stairs of the Parliament building, started pressing against the police cordon. Several protesters crossed the cordon of police and the steel construction in front of the Parliament building. Police tried to stop those who wanted to enter the yard of the parliament building by hand and by cordon.¹⁵⁴ Later, the Ministry of Internal Affairs of Georgia decided to disperse the rally, which grew into an extensive violation of the rights of the protesters, in particular, persons exercising their right to peaceful assembly, those who accidentally found themselves at the epicenter of the event, and journalists.

152. First Channel 'GuramPalavandishvili - if the film screening still takes place, the government should take responsibility", 08.11.2019. Available at: https://1tv.ge/news/guram-falavandishvili-filmis-chveneba-tu-mainc-gaimarteba-pasukhismgebloba-mtavrobam-unda-aighos/?fbclid=IwAR0c440X7JWvnCfCPHE3Lim-mqKyPf_wsOQ_Vty4_QAxICvqVamZZsqRO9aY

153. Tbilisi Human Rights House 'Statement on the incident related to Ana Subeliani and Tamaz Sozashvili, the human rights defenders on November 8", 13.11.2019. Available at: <https://hrht.ge/%e1%83%92%e1%83%90%e1%83%9c%e1%83%aa%e1%83%ae%e1%83%90%e1%83%93%e1%83%94%e1%83%91%e1%83%90-8-%e1%83%9c%e1%83%9d%e1%83%94%e1%83%9b%e1%83%91%e1%83%94%e1%83%a0%e1%83%a1-%e1%83%a3%e1%83%a4%e1%83%9a/>

154. GYLA, "Beyond the Lost Eye- legal evaluation of the events of 20-21 June", 2019. Available at: <https://bit.ly/2DSRpcO> pp. 16-19.

For several hours, the Ministry of Internal Affairs of Georgia was dispersing the protesters with water cannons, tear gas and rubber bullets. According to official figures, 275 people were seriously injured in the raid: 28 people needed surgery and two lost their vision.¹⁵⁵

Police arrested 342 people at the rally, 121 of whom were subjected to the most severe administrative sanction - imprisonment. This process took place in parallel with a number of serious procedural violations. The Ministry filed similar, standard and, in some cases, flawed protocols against almost all detainees in the court; unrelated cases were combined into a single case, indicating the mere formal nature of the review of the cases by the judges. It should also be noted that so far, only 8 of the civilians have been recognized as victims.¹⁵⁶

Protest rallies of November-December 2019

After the main demand of the June rallies - holding the 2020 elections based on a fully proportional system - was supported by only 101 deputies, the rallies were held again in November-December, during which the parliament was picketed. Police dispersed hundreds of demonstrators intending to picket the Parliament, twice by water cannons (November 18 and 26, 2019) and for the third time, by blocking the way to the Parliament with steel barricades (November 28).

Although blocking the Parliament is an illegal act, the actions and force used by law enforcement agencies (especially the dispersal of protesters using a water cannon at 5am) to interfere with citizens' freedom of assembly, were illegitimate. It should also be noted that the police unjustifiably restricted the rights of the peaceful protesters even when the gathering was taking place within the framework of the law, in front of the Parliament. What is especially alarming was the confiscation of firewood and other items brought to the rally for heating¹⁵⁷.

155. Ibid, p. 5.

156. Ibid.

157. < <http://bit.ly/2E2egTq> > [Last seen on 01/04/2020].

Almost all of those arrested on 18 November were sentenced to imprisonment. The trials were held with grave violations¹⁵⁸. The court deemed the testimonies given by the police officers more credible than the protesters and, in the absence of other evidence in the cases, imposed administrative liability on the citizens¹⁵⁹.

On 31 December 2019, the police, who were protecting the illegal actions of the City Hall, arrested 10 demonstrators without a legal basis¹⁶⁰. The police uses strict measures against persons who are critical towards the government, while their response was minimal to the illegal actions of the leading party supporters; this is evidenced by police actions when Georgian Dream supporters attacked the offices of opposing parties, on 2 December 2019¹⁶¹.

Attempts to discredit civil society

In 2019, government trolls activism was unprecedented in trying to discredit NGOs on social media and repeating messages from the ruling team, - as stated in the MDF report¹⁶². According to the report, the identified government trolls discredited non-governmental organizations in three ways: 1) in relation to public opinion surveys¹⁶³; 2) attempting to link NGOs to the opposition; 3) in rela-

158. For more details see: GYLA, „Trials of detained demonstrators were held with grave violations“, 21.11.2019. Available at: <https://gyla.ge/ge/post/dakave-buli-demonstrantebis-sasamartlo-procesebi-mdzime-darghvevebis-fonze-charta#sthash.3vpabTyf.dpbs>. See also the report of GDI “Freedom of expression in Georgia”, available at: <https://gdi.ge/uploads/other/1/1078.pdf>.

159. For more details see the GDI report “Freedom of expression in Georgia”, available at <https://gdi.ge/uploads/other/1/1078.pdf>.

160. <https://www.radiotavisupleba.ge/a/30353967.html> [Last seen on 01.04.2020].

161. < <https://www.radiotavisupleba.ge/a/30299396.html> > [Last seen on 01/04/2020].

162. Media Development Foundation, Troll Factory - against TBC, NGOs and Media, 2019, chapter III. Trolls against NGOs. Available at: http://mdfgeorgia.ge/uploads/library/109/file/saxelisuflebo_trolebi.pdf.

163. 1.1) A survey conducted by the Caucasus Resource Research Center (CRRC) commissioned by the Open Society Georgia Foundation and the International Organization IDEA on April 4, in which several questions were related to the trust towards the First Channel; 1.2) A study published by MDF on informing minorities about Euro-Atlantic integration issues was followed by several misleading TV stories by the First Channel.

tion to non-governmental organizations working on judicial reform.

An organized and coordinated discrediting campaign against “Shame Movement” was also actively carried out on Facebook. According to an ISFED report, in addition to the newly created pages, the campaign also featured pages that acted against opposition candidates in the 2018 and 2019 elections¹⁶⁴. The same organization also identified several coordinated subjects of suspicious behavior in the run-up to the election, who, were carrying out a discrediting campaign in organized manner, against members of the media, civil activists, or non-governmental organizations¹⁶⁵.

On 20 December, the social network, Facebook, deleted 418 accounts from its own platforms, including 344 pages, 13 groups, 39 profiles and 22 Instagram accounts due to coordinated inauthentic behavior. These accounts, along with other types of material, were used to spread criticism of local activists and organizations¹⁶⁶.

The discrediting of civil society has been repeatedly carried out by government officials in 2019¹⁶⁷. In an interview with Imedi TV on 27

164. International Society for Fair Elections and Democracy, ‘Discrediting campaign on Facebook against the protest rallies on Rustaveli Avenue’, 01.07.2019. Available at: https://isfed.ge/geo/sotsialuri-mediis-monitoringi/rustavelis-gam-zirze-mimdinare-aqtsiebis-diskreditatsiis-kampania-Facebook-ze_

165. International Society for Fair Elections and Democracy, ‘Coordinated disinformation scheme on Facebook’, 25.10.2019. Available at: https://isfed.ge/geo/sotsialuri-mediis-monitoringi/dezinformatsiis-koordinirebuli-sqema-Facebook-ze_

166. For more details, see International Society for Fair Elections and Democracy, “Which pro-government pages were removed by Facebook, and which were deactivated by their admins?”, 28.12.2019.

167. Netgazeti, ‘They didn’t like Zurabishvili and didn’t defend her – Tsulukiani’s another criticism of NGOs’, 22.03.2019. Available at: <https://netgazeti.ge/news/350700/>; Rustavi 2 “Attack on Rustavi 2 and NGOs – Irakli Kobakhidze attacks the third sector again, 22.03.2019. Available at: <http://rustavi2.ge/ka/news/128972/>; First Channel.

‘Gia Volsky – Instead of professional advises the NGOs enter such platforms of political assessments where they shouldn’t be’, 09.01.2019. Available at: <https://1tv.ge/news/gia-volski-nacvlad-profesionaluri-rchevebisa-arasamtav-roboebi-politikuri-shefasebebis-iset-platformaze-sadac-ar-unda-iyvnen/>; . Tabula, “BlacksquadinblackT-shirts” – Zardiashvili refersto NGOs, 18.03.2019. Available at: https://www.tabula.ge/ge/story/145901-shavrazmelebi-shav-maikianebis-rangshi-zardiashvili-arasamtavroboebs_

November, Bidzina Ivanishvili criticized civil society organizations, including Transparency International Georgia, and its leader, Eka Gigauri. Bidzina Ivanishvili accused them of pursuing the political agenda¹⁶⁸ of the United National Movement, on which Transparency International expressed its concern¹⁶⁹. It is noteworthy that during the reporting period, Eka Gigauri has repeatedly been the target of a coordinated scheme of attack and disinformation by fake government pages¹⁷⁰.

Sopio Kiladze, chairwoman of the Parliament's human rights committee, told Anna Abashidze and Ana Arganashvili, representatives of the non-governmental organization "Partnership for Human Rights" (PHR), that "they have been tasked to play a destructive role"¹⁷¹. She also negatively assessed the video lessons of gender researcher and activist Khatia Akhalaia on sex education. According to the activist, after Sopio Kiladze's statement, the facts

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168. Palitraneews, 'Bidzina Ivanishvili criticizes Eka Gigauri', 10.04.2019. Available at: <https://palitraneews.ge/video/bidzina-ivanishvili-eka-gigaurs-akritikebs>. Bidzina Ivanishvili in program "SWOT Analysis" - 27 November, 2019. Available at: <https://www.imesi.ge/ge/video/45200/bidzina-ivanishvili-stumrad-gadatsemashi-swot-analizi--27-noemberi-2019#!?page=2>.
 169. Transparency International, 'Transparency International Urges Dialogue with Civil Society During Political Crisis in Georgia', 30.11.2019. Available at: https://www.transparency.org/news/pressrelease/georgia_political_crisis_dialogue_with_civil_society?utm_medium=email&utm_campaign=Global%20Newsletter%2029%20November&utm_content=Global%20Newsletter%2029%20November+CID_1b76d4f4691424d1dd47871f584c2c3c&utm_source=Email%20marketing%20software&utm_term=worrying%20backlash.
 170. Transparency International Georgia 15.01.2019: <https://www.facebook.com/TransparencyInternationalGeorgia/posts/10156025989807966>
18.10.2019: <https://www.facebook.com/TransparencyInternationalGeorgia/posts/10156637605927966>.
ISFED, "Coordinated disinformation scheme on Facebook", 25.10.2019. Available at: <http://www.isfed.ge/geo/blogi/dezinformatsiis-koordinirebuli-sqema-Facebook-ze>
Myth Detector, "GD Lawmaker, party supporter, Obieqtivi TV host spread fake post against head of TI Georgia", 21.10.2019. Available at: <http://www.mythdetector.ge/ka/myth/ti-khelmdzghvanelis-cinaaghmdeg-gaqalbebul-posts-kartuli-otsnebis-deputati-partiis>.
 171. Tabula, "It would be nice if you stopped insulting the deputies on Facebook" - Sopio Kiladze's advice to NGOs, 04.02.2019. Available at: <http://www.tabula.ge/ge/story/143827-kargi-iqneba-facebook-ze-deputatebis-sheuracxkofas-tavs-tu-daanebebt-sofo-kiladzis>.

of threats against her increased¹⁷². Up to 30 people have been identified during the investigation, however, none of them have been held accountable and the investigation is being conducted ineffectively.

Recommendations

- **High-ranking political officials should** openly support of human rights defenders in order to emphasize the importance of defending human rights;

To the Parliament

- The state should provide legal guarantees for defending human rights. In particular, the definition of human rights defenders should be determined and interference with their work and activities should be criminalized.

Ministry of Internal Affairs and Prosecutor's Office:

- Ensure timely and effective investigation of possible criminal acts against human rights defenders and punish those responsible;
- Ensure the application of unified approaches and prevent the use of administrative and criminal measures to pressure individuals and groups critical of the government.

Common Courts:

- When reviewing cases of administrative offences, consider constitutional and international standards, and make decisions based on a wholesome approach to human rights.

172. Netgazeti "After Kiladze's statement, threats increased" - Khatia Akhalaia", 01.04.2019. Available at: <https://netgazeti.ge/news/352986/>.

MEDIA

Ensuring media freedom in the state is largely dependent on the government's adherence to the principle of equality, which precludes actions based on selective law against media outlets and places the media that is critical of government, in an unfavorable position. In Georgia, the media, especially broadcasters are largely polarized, and independent and impartial media outlets struggle in the given situation.

During 2019, there was a discriminatory approach towards certain media outlets / representatives by the government in Georgia, which was reflected in tax policy, attempts to change the editorial policy and different approaches to different types of media.

Legislative base and existing challenges

Although Georgian legislation fully protects the freedom of expression, there are still certain pressing issues in terms of discriminatory approach and restriction of this right.

According to the Law of Georgia on Common Courts, the Public Broadcaster is authorized to carry out unrestricted recording of a trial, and if it does not exercise this right, another general over-the-air broadcaster¹⁷³ has the authority to do so. If the over-the-air broadcaster is interested in the lawsuit, other media outlets are left without the means to cover the case.

Such an approach is discriminatory and, compared to general broadcasters, places them in an unequal position and impedes the informed information of the audience to the representatives of the media who do not have the authority to film the trials. The media outlets which have no authority to record the trials, thus are in an unequal position and it delays their delivery of comprehensive information to the public.

173. Organic Law of Georgia On Common Courts, Article 131, Paragraph 2, 3.

On 28 December 2018, a draft law was¹⁷⁴ registered in the Parliament of Georgia, according to which the issues within the broadcaster's self-regulation are transferred to the competence of the state regulation, it is now possible to appeal against the decision of the broadcaster's self-regulation body to the National Communications Commission or to the court. Giving the National Communications Commission the opportunity to intervene on the content of the media, it factually means the handing over of the means of influence of the media to the state. Based on this change, Imedi TV was suspended from broadcasting during the events of 7 November 2007.

The change is based on Georgia's commitment to implement the Audiovisual Media Directive¹⁷⁵. In this case, with this draft law the issue is being solved incorrectly. The Directive allows Member States to resolve themselves the issues related to the use of hate speech and to make choices within the frames of regulation or self-regulation.

With the mentioned draft law, the way chosen by the state does not exclude a discriminatory approach towards broadcasters by the National Communications Commission.

The facts of illegal interference with media representative's professional activities and excessive use of force

During 2019, the number of cases of illegal interference in the professional activities of media representatives increased. In particular, the events of 20-21 June should be highlighted when there were cases of violations of the rights of media representatives, including freedom of expression, the right to protection from ill-treatment, and the right

174. Draft Law: "Legislative proposal submitted by the Georgian National Communications Commission on the draft amendments to the Law of Georgia on Broadcasting", related to the draft law of Georgia. Available at: <https://info.parliament.ge/#law-drafting/17006> (Last seen on: 26.03.2020).

175. "Audio-visual Media Services Directive" of the European Union; <https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=CELEX:32010L0013&from=EN> (Last seen on 26.03.2020).

to property. According to current information, within the frames of the ongoing investigation, the General Prosecutor's Office of Georgia is researching the alleged crimes committed against journalists. However, as of today, the Prosecutor's Office has not charged any person with any violations committed against media representatives¹⁷⁶.

According to the Georgian Charter of Journalistic Ethics, the evidence obtained by GYLA, as well as footage taken by various media outlets, confirm that during and after the dispersal of the rally, about 40 media representatives were prevented from carrying out their professional duties. Out of these, 32 members of the media were injured in various parts of the body, six of them were prevented from filming the ongoing events, and one person was illegally deprived of liberty¹⁷⁷.

Problematic approaches towards media

Changes in Editorial Policy of Adjara Television - Despite sharp media polarization, in 2018, Adjara TV was rated as an objective and impartial television. It is noteworthy that in the same research, the Public Broadcaster was assessed as a media outlet with positive attitudes towards the government and the research indicated that it failed to ensure editorial independence and impartiality in the second round of the presidential elections¹⁷⁸.

In April 2019, the director of Adjara Television and Radio – Natia Kapnadze – was impeached. Afterwards¹⁷⁹, the developments in televi-

176. Conclusion of United State Department of State, https://www.state.gov/wp-content/uploads/2020/03/GEORGIA-2019-HUMAN-RIGHTS-REPORT.pdf?fbclid=IwAR3bXUpP3fWCsyc8p6qWr2kHwtfS0eO0B_vC9xTTJT4ExhvC5AESwm-w1grk p.20-21 (Lase seen on: 26.03,2020).

177. Research by GYLA „Beyond the lost eye“; Legal assessment of June 20-21. Available at: <https://bit.ly/2DSRpcQ> p. 61, (Lase seen on: 26.03.2020).

178. OSCE/ODIHR international elections observation mission, final report. Presidential elections, October 28, 2018. Available at: <https://www.osce.org/ka/odihr/elections/georgia/414827?download=true> p.4, 5-6, 55-56(Last seen on: 26.03.2020) „Final report on monitoring of elections, 2016-2018,<https://www.gartia.ge/media/1000907/2018/12/13/1aac0569fdc1253cf61c54e4db128a2d.pdf> (Last seen on: 26.03.2020) p. 12, 15.

179. The decision of the Council of Advisors on April 19, 2019.

sion made it clear that this was the beginning of an attempt to change the channel's editorial policy, which later served to transform the LEPL Adjara Public Broadcaster and Radio into pro-government media¹⁸⁰.

Collection order Presented to Broadcasters - In August 2019, the Revenue Service submitted a collection order to TV Pirveli, Rustavi 2, Kavkasia and several regional channels, due to the non-payment of budget debts. The Georgian government had not used such an automatic sanction against large broadcasters for years. According to the widespread information, since 2016, Rustavi 2 TV has had a debt of 28 million GEL, Imedi TV - 19 million GEL, and Maestro TV - debt of more than 8 million GEL to the state budget¹⁸¹. Such approaches are not new, the enforcement of selective tax policies towards broadcasters has been and remains a pressure tool on the media used by various Georgian authorities¹⁸².

Criminal cases against media managers - The Prosecutor's office launched a criminal prosecution in 2019 against those affiliated with the media which was critical of the government¹⁸³.

180. Human Rights and other public organizations collectively address to the International organizations concerning the alarming processes in the Adjara Public Broadcaster Available at: <https://bit.ly/2WG9MMO> (Last seen on: 26.03.2020); GYLA - Editorial independence of Adjara TV is in jeopardy Available at: <https://gyla.ge/ge/post/saia-atcharis-televiziashi-saredaqcio-damoukidebloba-saftrkheshia#sthash.A1BsR4yw.dpbs>.

181. First Channel, Kavkasia, Rustavi 2 and one regional TV Channel were blocked due to collection order; Statement of December 25, 2019; <https://netgazeti.ge/news/416990/> (Last seen on: 26.03.2020).

182. Statement of Media Advocacy Coalition: „Government has selective tax approaches against independent media“ <https://gyla.ge/ge/post/khelisufleba-damoukidebeli-mediis-tsinaaghmddeg-shercheviti-sagadasakhado-midgomebit-moqmedebs#sthash.FJYSxW4F.dpbs> (Last seen on 26.03.2020).

183. Criminal prosecution is underway against Avtandil Tsereteli, the father of Vakhtang Tsereteli, the founder of Pirveli TV (“on the fact of assisting in legalization of unlawful income, committed as a group, accompanied by a particularly large amount of income” (Article 25-1944, Part 2, subparagraph “A” and Part 3, sub-paragraph “C” of the Criminal Code of Georgia), as well as against one of the owners of Mtavari Channel, Giorgi Rurua (on charges of illegal possession and carrying of firearms (Parts 3 and 4 of Article 236 of the Criminal Code)) and against the Director General, Nika Gvaramia (non-compliance with the court decision (first part of Article 381 of the Criminal Code)).

Investigations against TV executives, as well as court hearings, should be conducted objectively, the processes should be fully transparent, and should not raise suspicions in the public that the media is being prosecuted for being critically inclined towards the government.

Approaches of the Georgian National Communications Commission - The Commission has changed its approach in recent years and has prohibited the posting of political advertisements in non-election periods. There is a risk that this approach will put political entities in an unequal position compared to the ruling party, as it is not uncommon for government agencies to place advertisements at the expense of the budget with the status of social advertising. Officially, the advertisement has the status of a social ad, although in terms of content, it may be political.

Approach to the media at the events held by the government - On 10 December 2019, only four broadcasters - Imedi, First Channel, Rustavi 2 and Maestro - were invited to cover the event held at Special Penitentiary Service, where the Minister of Justice, Tea Tsulukiani was present. Other broadcasters, including those with a critical editorial policy towards the government, could not be included in the pre-compiled list of selected media¹⁸⁴.

Discrimination against online media - The government often meets only with TV journalists or TV talk show presenters, which discriminates against online media, since today the use of television as the primary source of information is reduced.

184. <https://www.mediachecker.ge/ka/mediagaremo/article/75409-ratom-esaubre-ba-khelisufleba-mkholod-televiziebs> (Last seen on: 26.03.2020).

Recommendations

To the Parliament of Georgia

- Reject the law by which the issues under the self-regulatory mechanisms of the broadcaster will be transferred for regulation and will become an additional means of influence on the media in the hands of the administrative body (National Communications Commission);
- Amend the Law of Georgia on Common Courts, by which, in addition to general over-the-air broadcasters, all other types of media outlets will be allowed to cover the court sessions.

To the Ministry of Internal Affairs and Prosecutor's Office

- Investigate in a timely and effective manner the facts of unlawful interference with media representative's professional activities and excessive use of force (especially in the cases of 20-21 June 2019).

To LEPL Revenue Service / Ministry of Finance

- Have a fair tax policy, tax policy towards the media should not be selective and should not be used as a tool of pressure on the media.

To government agencies

- Have a uniform approach for all media outlets, when holding events together with TV media, always invite the representatives of online media.

