



**DGI – Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the ECHR
F-67075 Strasbourg Cedex
France**

E-mail:

dgl_execution_just_satisfaction@coe.int

dgl-execution@coe.int

Sent by email

Rule 9 (1) submission to the Committee of Ministers of the Council of Europe concerning the implementation of *Aghdgomelashvili and Japaridze v. Georgia* (App. no. 7224/11) and *Women's Initiatives Supporting Group and Others v. Georgia*, (App. nos. 73204/13 and 74959/13)

Rule 9 (2) submission to the Committee of Ministers of the Council of Europe concerning the implementation of *Identoba and Others v. Georgia* group of cases (App. No 73235/12)

by

The European Human Rights Advocacy Centre (EHRAC), the Women's Initiatives Support Group (WISG), the Georgian Young Lawyers' Association (GYLA), ILGA-Europe and Transgender Europe (TGEU)

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Executive Summary

This submission concerns the implementation of judgments in the *Identoba and Others v. Georgia* group of cases, specifically *Aghdgomelashvili and Japaridze v. Georgia* and *Women's Initiatives Supporting Group and Others v. Georgia*, as well as on general measures relating to LGBTI rights issues. These cases involve violations of LGBTI rights, including police misconduct and failure to protect peaceful demonstrators from homophobic and transphobic violence.

Submitted by EHRAC, WISG, GYLA, ILGA-Europe and TGEU, this document highlights ongoing concerns regarding the execution of individual and general measures mandated by the European Court of Human Rights. Key issues include:

- Ineffective investigations into the incidents in both cases, with only perfunctory investigative actions, and the risk of expiry of statutes of limitations;
- New broad and regressive anti-LGBTI constitutional and ordinary legislative initiatives in Georgia;
- Inadequate efforts to improve hate crimes investigations in light of contradictory efforts to stifle civil society with the “foreign agent” law, lack of cooperation with civil society, and inadequate data collection on hate crimes, particularly those involving administrative offences;
- Continued restrictions on LGBTI freedom of assembly, particularly in light of anti-LGBTI legislation, the “foreign agent” law, and ongoing violence against LGBTI people and the failure to investigate.

The submission recommends urgent action to ensure effective investigations, withdrawal of proposed anti-LGBTI legislation, improved hate crime data collection, and measures to protect LGBTI rights to peaceful assembly and expression.

1. Introduction

1. This submission, made by the European Human Rights Advocacy Centre (EHRAC), Women's Initiatives Support Group (WISG), Georgian Young Lawyers' Association (GYLA), ILGA-Europe (the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association), and Trans Europe and Central Asia (TGEU), provides a further update on the implementation status of judgments in the *Identoba and Others v. Georgia* group of cases since our last submission of 2 August 2024, ahead of the 1521st DH meeting scheduled for 4-6 March 2025. The Committee is invited to read it together with all our earlier submissions made in the recent years.
2. This joint submission focuses on individual measures concerning two cases in the group, *Aghdgomelashvili and Japaridze v. Georgia* and *Women's Initiatives Supporting Group and Others v. Georgia*, as well as on general measures relating to LGBTI issues. Our analysis reveals persistent implementation deficiencies across multiple domains: ineffective investigations into documented violations, adoption of regressive anti-LGBTI laws, inadequate hate crime data collection mechanisms, and ongoing restrictions on LGBTI individuals' freedom of assembly. These systemic shortcomings necessitate urgent state action, including enhancement of investigative procedures, withdrawal of restrictive laws, advancement of comprehensive data collection systems, and implementation of robust measures to protect LGBTI rights to peaceful assembly and expression, thereby ensuring Georgia's compliance with ECtHR mandates.
3. In summary, the *Aghdgomelashvili and Japaridze* case (*Application no. 7224/11, 8 October 2020*) represents a significant human rights violation involving discriminatory police misconduct at an LGBTI organization's premises in Tbilisi. During a December 2009 raid on the Inclusive Foundation, law enforcement officers subjected individuals to discriminatory verbal abuse, intimidation, and degrading physical treatment, including invasive strip searches. The European Court of Human Rights rendered a landmark judgment, identifying dual violations: both substantive and procedural breaches of Article 3 (prohibition of torture and inhuman or degrading treatment) in conjunction with Article 14 (non-discrimination principle) of the European Convention on Human Rights.
4. The *Women's Initiatives Supporting Group and Others* case (*Application nos. 73204/13 and 74959/13, judgment of 16 December 2021*) concerns a severe human rights violation wherein LGBTI demonstrators faced violent mob attacks during their peaceful commemoration of the International Day Against Homophobia in central Tbilisi on 17 May 2013. In its definitive ruling, the European Court of Human Rights identified substantive violations of Article 3 (prohibition of inhuman or degrading treatment) read in conjunction with Article 14 (prohibition of discrimination) of the European Convention on Human Rights, stemming from both the state's failure to provide adequate protection against homophobic and transphobic violence during the demonstration and the subsequent ineffective investigation into these discriminatory acts of aggression.

2. Execution of Individual Measures

5. In its most recent decision of 17-19 September 2024, the CM has strongly urged the Georgian authorities to take 'all outstanding measures in all the renewed investigations with utmost urgency and diligence' so as to establish the responsibility of perpetrators and to promptly bring to completion pending investigations, bearing in mind the 'risks related to the loss of evidence and prescriptions'. It has also urged Georgia to give due consideration to the Court's findings while deciding on the qualification of offences and examining bias motive, as well as to grant victim status to all applicants concerned without further delay. further.

Update on the implementation of Aghdgomelashvili and Japaridze v. Georgia

6. On December 9, 2024, the Tbilisi Prosecutor's Office brought criminal charges against an individual N.G. for abuse of official authority under Article 333, Section 3, Subsection "c" of the Criminal Code of Georgia in the framework of this case. On December 15, 2009, this individual, as a law enforcement official, who held the position of Chief of the 3rd Division of Old Tbilisi Department under the Tbilisi Police Main Division of the Ministry of Internal Affairs, conducted a search operation at the offices of the Inclusive Foundation under the pretext of urgent necessity based on an investigator's resolution. During this operation, the official, leading a law enforcement group, orchestrated actions resulting in damage to office property and subjected LGBTI individuals present at the premises to discriminatory treatment, including their unlawful confinement for approximately five hours in a locked "discussion room" without permission to leave the facility.
7. The charged offence includes an aggravating circumstance involving a violation of the victim's personal dignity. According to the prosecution, the alleged crime was motivated by discrimination based on sexual orientation and gender identity, which represents a significant factual circumstance affecting the legal qualification of the act. The Prosecutor's Office has petitioned the court to apply bail as a preventive measure. At this stage, the case has not yet proceeded to trial. The discriminatory motive underlying the alleged offence has been specifically highlighted as a material element of the prosecution's case, demonstrating increased scrutiny of bias-motivated misconduct by public officials.
8. The respective decision by the Tbilisi Prosecutor's Office represents a noteworthy development in the case, however, this singular prosecution fifteen years after the 2009 police raid in the premises of Inclusive Foundation is insufficient in the pursuit of justice in this case. While the prosecution has initiated criminal proceedings under Article 333 and acknowledged the discriminatory nature of the alleged misconduct by incorporating SOGI-based discrimination as an aggravating circumstance for the first time in this case, many substantial concerns such as those concerning the timeliness and the thoroughness of the investigation remain.
9. The current status of the investigation reveals critical deficiencies in implementing the Committee of Ministers' specific recommendations outlined in its March 2024 decision. Particularly concerning is the authorities' failure to address two key urgent

recommendations: first, the requirement to "take all outstanding measures in all renewed investigations with utmost urgency and diligence to establish the responsibility of perpetrators," and second, to "promptly bring to completion pending investigations." This implementation gap is evidenced by the fact that charges have been brought solely against a single individual (N.G.), while investigations have not been extended to the other 16 police officers involved in the raid. Furthermore, the authorities have not pursued charges under Article 151 (Threats), Article 156 (Persecution), and Article 1441 (Torture) - a charging decision that appears inconsistent with the Committee's explicit directive to "give due consideration to the Court's findings while deciding on the qualification of offences." This selective approach to prosecution and limited scope of criminal charges raises serious concerns about the authorities' commitment to ensuring full accountability for the gravity of the alleged violations, particularly given the Committee's emphasis on the risks related to the loss of evidence and prescriptions.

10. Critical concern must be raised regarding the expiration of the fifteen-year statutory limitation period under Articles 332-342 of the Criminal Code of Georgia for non-particularly serious crimes, as the temporal jurisdiction for prosecution has now lapsed given that the alleged violations occurred in 2009, severely impacting prospects of accountability and victims' access to justice. The prosecution should expand its investigative scope to encompass all recommended criminal classifications and implicated police personnel.
11. Enhanced transparency regarding investigative progress and prosecutorial decision-making remains essential to meet the Committee's recommendation for victim notification of significant developments. While the current proceedings represent initial progress, they require substantial expansion to achieve full compliance with the Committee's recommendations and ensure adequate, comprehensive accountability for the human rights violations suffered by the applicants.

2.2 Women's Initiatives Supporting Group and others v. Georgia

12. The Government's latest action report of December 2024 demonstrates a continued pattern of ineffective investigation and inadequate progress regarding the events of 17 May 2013. Despite previous commitments of the Government and the Committee's repeated calls for action, the investigation remains at a preliminary stage and no substantial developments have been made since June 2024. The authorities have failed to implement basic investigative measures, including the identification and questioning of key witnesses and perpetrators. This persistent inaction not only contradicts the State's Convention obligation of prompt and effective investigation but also perpetuates the climate of impunity surrounding these serious human rights violations.
13. The investigation's structural deficiencies persist without meaningful remedy. The expiration of the statute of limitations for Article 333 (Exceeding official powers) of the Georgian Criminal Code continues to impede full accountability, while the remaining legal avenue under Article 144(3) (Humiliation or inhuman treatment) faces similar temporal constraints without decisive action. The authorities' failure to recognize victim status for those subjected to violence, despite explicit guidance from

the ECtHR judgment in *Women's Initiatives Supporting Group and Others v. Georgia*, underscores a systematic reluctance to address these violations comprehensively. This ongoing failure to implement the Court's judgment effectively negates the practical protection guaranteed by the Convention and requires immediate intervention from the Committee of Ministers to prevent further erosion of human rights standards.

3. Execution of General Measures

3.1. Adoption of Georgia's new regressive anti-LGBTI legislation

14. In our last submission of 2 August 2024, we updated the Committee about the legislative initiatives essentially aimed to establish Russia-style anti-LGBT legislation in Georgia, allowing state control of the LGBT discourse. The Georgian Dream party's "Protection of Family Values and Minors" law, adopted in September 2024, represents a profound regression in LGBTI rights protection as it entered into force on December 2, 2024. The legislation systematically dismantles fundamental human rights protections through comprehensive restrictions on public assemblies and/or manifestations, "which are aimed at popularising a person's assignment to neither biological sex, and/or a sex that is different from his/her biological sex, a relationship between representatives of the same biological sex with an expressed sexual orientation". Of particular concern is the complete prohibition of gender reassignment surgeries, elimination of legal gender recognition mechanisms, and discriminatory restrictions on adoption and fostering rights for LGBTI individuals.
15. In a calculated political maneuver, the Law establishes May 17 as "Family Sanctity and Respect for Parents Day," deliberately conflicting with the International Day Against Homophobia, Transphobia, and Biphobia. This timing, coupled with the law's introduction as part of Georgian Dream's election campaign, indicates a strategic exploitation of minority rights issues for electoral advantage. The comprehensive scope and systematic nature of these restrictions raise serious concerns regarding Georgia's compliance with international human rights obligations and democratic principles of equal protection under law.
16. Political homophobia and hate speech is also openly demonstrated by high ranking officials in the public discourse. Among the most recent ones is the statement of 4 December 2024 by Zviad Kharazishvili (Khareba), Head of Special Tasks Department, a high ranking law enforcement official, who responded to Formula TV's question about the Russian influence with discriminatory rhetoric against LGBTI persons. He was asked by a journalist: "Should we surrender our homeland to Russians?" and he responded with the following: / "What, should we surrender [to homophobic slur]? Get out of here, don't drive me crazy".
17. **The statement was made in the context of ongoing protests against Russian influence in Georgia, where LGBTI rights activists have been actively participating in pro-democracy demonstrations.** The use by high-ranking Georgian law enforcement officials of homophobic hate speech in response to

questions about national security threats, conflating national security concerns with LGBTI rights, demonstrates the institutionalization of discriminatory rhetoric that undermines constitutionally protected assembly rights. This is particularly concerning given that the respective official oversees departments responsible for managing public demonstrations and ensuring protesters' safety. This high-ranking law enforcement official's use of hate speech, exemplifying the systematic delegitimization of peaceful assembly rights are now codified in the Family Values Protection Law.

18. The timing and context of such discriminatory rhetoric reveals a dual strategy of suppression: on the one hand, it may have a chilling effect on LGBTI persons' participation in ongoing protests against Russian influence, while on the other hand, it appears to be a deliberate attempt to mischaracterize and delegitimize the broader pro-democracy protests by falsely portraying them as solely LGBTI demonstrations, thereby undermining their broader social and political significance. Such rhetoric from law enforcement leadership directly contravenes Georgia's obligations under international human rights frameworks, including Article 11 of the European Convention on Human Rights, reinforcing discriminatory practices in protest management and assembly rights protection.
19. In late 2024, Georgia's ruling Georgian Dream party orchestrated a comprehensive legislative assault on civil liberties and democratic institutions, marking a significant shift toward authoritarian governance. This coordinated legal offensive includes dramatic increases in protest-related penalties, expanded police powers for arbitrary detention, weakened civil service protections, and new restrictions on public demonstrations - all rapidly pushed through parliament through expedited procedures. These measures, complementing earlier repressive legislation like the Foreign Agents Law and anti-LGBTI legislation, appear strategically designed to suppress growing public resistance to the government's departure from its European integration path and to consolidate power through institutional control and protest suppression.

3.2. *Exercise of the right to freedom of peaceful assembly*

20. As mentioned above, in September 2024, the Georgian Dream party adopted the "Protection of Family Values and Minors" law that came into force on December 2, 2024. According to Article 10 of the Law, "[i]t shall be forbidden to hold public assemblies and/or manifestations, which are aimed at popularising a person's assignment to neither biological sex, and/or a sex that is different from his/her biological sex, a relationship between representatives of the same biological sex with an expressed sexual orientation, or incest."
21. Therefore, considering the previous developments related to the assemblies, the Law now *de jure* prohibits any gatherings of the LGBTI community. On 14 September 2024, the CoE Commissioner of Human Rights called on the Parliament of Georgia to refrain from adopting this Law.

22. The sense of impunity further fuels the violence. Despite the numerous calls from the Committee of Ministers to the Georgian authorities to “[...] duly and urgently bringing to justice organisers and instigators of hate violence and taking heightened protection and prevention measures to ensure that the rights to the freedom of assembly and religion are effectively enjoyed by LGBTI people and religious minorities”, the investigation into July 2021 developments (verbal and physical assault against journalists by ultraconservative groups which held anti-LGBT rallies in relation to a pride event planned for 5 July 2021, pending before the Court as *Kakhidze and Others v. Georgia* (no. 53170/22)) still have not charged the organisers.
23. With regards to July 2021 events, it is significant to outline the interview of the Former Head of Operations Division, Special Tasks Department at Ministry of Internal Affairs of Georgia, Irakli Shaishmelashvili. He resigned from his position on 3 December 2024 following his 22-year-long career. He held the position of the Head of Operations Division of the Special Task Department of the MIA from November 2019. The resignation of Irakli Shaishmelashvili is connected to the recent developments in Georgia. Irakli Shaishmelashvili gave extensive interviews, also disclosing some of the key aspects related to developments of 5 July 2021.
24. As stated by him, during the developments taking place during the day of 5 July 2021, the Security Plan had been developed in advance, but it was not implemented as originally planned. According to him, he was asked to redeploy police units, leaving insufficient resources in critical locations. He explicitly states that Deputy Minister of Internal Affairs, Shalva Bedoidze informed him that the actions of the law enforcement officers were being coordinated with Andria Jaghmaidze, the press secretary of the Georgian Patriarchate. He recounted, “*When they called us to participate in the task, the resources there were physically insufficient, and you know what happened in 10-15 minutes.*” He outlined that by the time their units finally arrived, people had already been assaulted. The interview once again outlines that the State was not willing to prevent the events of July 2021, even though they had already been informed of the possible threats.

4. Recommendations

We strongly endorse the Committee’s recommendations in its latest decision where it strongly urged the authorities:

- to take all outstanding measures in all the renewed investigations with utmost urgency and diligence so as to establish the responsibility of perpetrators;
- to give due consideration to the Court’s findings while deciding on the qualification of offences and examining bias motive, as well as to grant victim status to all applicants concerned without further delay;
- to promptly bring to completion pending investigations, bearing in mind the risks related to the loss of evidence and prescriptions;
- to provide detailed information on the progress of investigation in respect of each incident as outlined in the relevant judgments, indicating what investigatory steps can still be or are taken, which ones can no longer be taken for practical or legal reasons, what means are deployed to overcome existing obstacles, and what concrete results are expected to be achieved and within what time limit.

We further make the following recommendations to the Committee of Ministers:

I. individual measures:

Regarding *Aghdgomelashvili and Japaridze v. Georgia*:

- a) **We invite the Committee to strongly urge the responsible authorities to take all measures to carry out an effective, timely, independent investigation into the actions of the police at the Inclusive Foundation office on 15 December 2009, including an effective investigation into the discriminatory intent displayed by the police.**

Furthermore, more specifically:

- b) Reclassify the crimes commensurate with their seriousness, including expanding the investigation to include Article 151 (Threats), Article 156 (Persecution) and Article 144 (Torture);
- c) Police officers involved in the raid and their superior(s) should be identified and thoroughly investigated, and held accountable through appropriate disciplinary measures;
- d) Ensure that all investigative activities are conducted with urgency, particularly for offenses where statutes of limitations may be approaching ; and
- e) The victims should be informed regarding any significant steps taken by the Prosecutor's Office or Ministry of Internal Affairs.

Regarding *Women's Initiatives Supporting Group and Others v. Georgia*:

- a) **We invite the Committee to urge the responsible authorities to carry out an effective, timely, independent investigation into the violent events of 17 May 2013 and punish all perpetrators, including organisers. A crucial step in this process is the recognition of victim status for those subjected to these violent events.**

II. General measures:

We urge the Committee to ensure:

- A. That the Government immediately rescind the legislative package on the “Protection of Family Values and Minors” and cease all further actions towards adoption of such regressive anti-LGBTI laws, and credibly condemns anti-LGBTIQ attitudes publicly, for example by implementing the National Human Rights Action Plan 2020-2030 with a specific view on LGBTIQ people and other vulnerable groups. We invite the Committee of Ministers to consider initiating infringement proceedings against the Georgian government, given the seriousness of the situation severely undermining LGBTI people’s rights;
- B. That the Government observes its positive obligation to protect LGBTI persons at public events and gatherings from violence and effectively investigate these incidents, including those on 5-6 July 2021 and on 8 July 2023. Should the authorities

continue to fail in protecting LGBTI persons and investigating incidents of hate crimes against them, the Committee of Ministers should consider declaring that this persistent failure constitutes an administrative practice. This declaration would acknowledge the systemic nature of the problem and require more robust measures from the government to address it.

Ketevan Bakhtadze



Strategic Litigation Lawyer,

Women's Initiatives Supporting Group (WISG)