

# CM/REC (2010)5

იპკლქეპენსუპნიოს პონიპოჩინბი

MONITORING OF IMPLEMENTATION

## III

საქართველო 2024 Georgia

The Council of Europe Recommendation to Member States on Measures to Combat  
Discrimination on Grounds of Sexual Orientation or Gender Identity

CM/Rec(2010)5

**Third Shadow Report on**  
**MONITORING OF IMPLEMENTATION**  
**in Georgia**

Submitted by

**Women's Initiatives Supporting Group**

WISG  
2024



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## Executive Summary

In our previous reports on the implementation of the Committee of Ministers Recommendation on Measures to Combat Discrimination on Grounds of Sexual Orientation or Gender Identity CM/Rec(2010)5 (published in 2012<sup>1</sup> and 2018<sup>2</sup>), we noted that Georgian legislation was not explicitly discriminatory or excessively restrictive towards LGBTI individuals. However, in the following report, covering the years 2019–2024, the situation has reached a critically alarming state.

Following the second reporting cycle, the rhetoric of the Georgian government has become increasingly homophobic, discriminatory and marginalizing toward issues of sexual orientation and gender identity. By 2024, homophobia has profoundly shaped government policies and actions, resulting in the introduction of an anti-LGBTI constitutional amendment and the adoption of an anti-LGBTI legislative package.

The preamble to the Committee of Ministers Recommendation CM/Rec(2010)5 emphasizes that neither cultural, traditional, nor religious values, nor the rules of a "dominant culture," can be invoked to justify hate speech or any other form of discrimination, including on grounds of sexual orientation or gender identity. Yet, in clear opposition of this principle, on April 4, 2024, the ruling "Georgian Dream" party proposed a project of homophobic constitutional draft amendment under the name of "family values and the protection of minors."<sup>3</sup>

As the ruling party lacked a constitutional majority, the parliament was unable to secure the necessary support to enact this constitutional change. So that, in June 2024, the ruling party

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<sup>1</sup> First shadow report on monitoring of implementation CM/Rec (2010)5; available at: [https://wisg.org/Data/docs/publications/report/WISG\\_CM\\_REC20105\\_EN.pdf](https://wisg.org/Data/docs/publications/report/WISG_CM_REC20105_EN.pdf)

<sup>2</sup> Second shadow report on monitoring of implementation CM/Rec (2010)5; available at: <https://wisg.org/en/publication/204/CM-REC-2010-5---monitoring-of-implementation-2013-2018--Georgia->

<sup>3</sup> Project of Constitutional amendments; available at: <https://info.parliament.ge/#law-drafting/28352>

introduced an anti-LGBTI legislative package that includes the main law on “the Protection of Family Values and Minors”<sup>4</sup> alongside with the amendments to 18 existing laws.<sup>5</sup>

The draft law mirrors the rhetoric of the proposed constitutional draft amendment, however, instead of necessitating a constitutional majority, it allowed the government to pass it and enforce repressive measures with a simple majority vote.

The legislative initiative immediately drew criticism from international institutions. On March 27, the Council of Europe Commissioner for Human Rights expressed her concerns over the law’s potential to reinforce harmful stereotypes about LGBTI individuals.<sup>6</sup> Subsequently, on June 25, the Venice Commission urged Georgian authorities not to proceed with adopting the draft constitutional amendment, highlighting its inconsistency with the case-law of the European Court of Human Rights and Georgia’s obligations under international treaties. Hence, Venice Commission emphasized that adopting such measures would fuel a hostile and stigmatising atmosphere against LGBTI people in Georgia.<sup>7</sup> On September 10, the Commissioner for Human Rights reiterated concerns about the ongoing legislative process, publishing a letter addressed to the Speaker of the Parliament. The letter called on to reject the draft law, which provides a legal footing for discrimination against LGBTI people and appears to be at variance with the European Convention on Human Rights.<sup>8</sup>

Ultimately, on September 17, 2024, the Parliament adopted the law in its third reading, under the misleading and populist title “on Protection of Family Values and Minors,” which we refer to as the anti-LGBTI law. The law was signed on October 3, 2024, and is set to take effect 60 calendar days from that date.

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<sup>4</sup> The law of Georgia “on the protection of family values and minors;” available at:

<https://matsne.gov.ge/en/document/view/6283110?publication=0>

<sup>5</sup> The legislative package composes of emending 18 existing laws, including: the civil code of Georgia, the law on adoption and foster care, the code of Child’s Rights, the law on protection of health, the law on civil acts, the law on the procedure for registering citizens of Georgia and aliens residing in Georgia, for issuing an identity (residence) card and a passport of a Citizen of Georgia, the law on early and preschool education, the law on general education, the law on professional education, the law on higher education, the law on broadcasting, the law on advertising, the law on freedom of speech and expression, the law on assemblies and demonstrations, the law on public service, the administrative code of offences, the criminal code, the labour code. Available at: <https://info.parliament.ge/#law-drafting/28703>

<sup>6</sup> Available at: <https://www.coe.int/fi/web/commissioner/-/georgia-political-manipulation-and-harassment-of-lgbti-people-and-human-rights-defenders-have-no-place-in-a-democratic-society>

<sup>7</sup> Available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)021-e)

<sup>8</sup> Available at: <https://www.coe.int/en/web/commissioner/-/georgian-parliament-should-not-adopt-anti-lgbti-law-and-should-refrain-from-using-stigmatising-rhetoric>

Despite its title, the content of the law clearly reveals that it does not aim to protect anyone but rather seeks to undermine fundamental rights and democracy. It practically curtails the ability of LGBTI individuals to exercise their fundamental rights, including those rights that were already inaccessible to them in practice. This is in direct contradiction to the protections enshrined in the European Convention on Human Rights, as well as to particular decisions of the European Court of Human Rights against Georgia, recommendations of the Committee of Ministers and other international human rights instruments that have called upon the Georgian government to safeguard these rights. Accordingly, the law not only contravenes national legislation—such as the Constitution of Georgia and the Law on the "Elimination of All Forms of Discrimination"<sup>9</sup>—but also violates Georgia's international obligations, principles, and standards under international law, including the European Convention on Human Rights.

In particular, the law comprises 13 articles and imposes numerous restrictions that severely undermine fundamental rights. It prohibits the registration of any form of marriage that does not involve union of two individuals of different biological sexes, as well as adoption and foster care by the person who does not assign himself/herself to any biological sex, or assigns himself/herself to a sex different from his/her biological sex, and/or whose sexual orientation does not belong to the category of heterosexuality. Additionally, it bans sex reassignment surgery and other gender-affirming medical manipulation, limiting access to legal gender recognition. The law further restricts the freedoms of assembly, expression, and dissemination of information and infringes on the right to education. Additionally, it invalidates any documentation or agreements in labor relations that omit references to biological sex, mandating adherence to gendered language within professional settings. The law designates a national holiday on 17th of May as the "Day of the Sanctity of Family and Respect for Parents." The law extends beyond targeting the LGBTI community, affecting other groups and broadly imposing censorship. Violations of the anti-LGBTI law are subject to administrative penalties and, in certain cases or repeated offenses, may result in criminal liability.<sup>10</sup>

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<sup>9</sup> The law of Georgia on Elimination All Forms of Discrimination; available at: <https://matsne.gov.ge/en/document/view/2339687?publication=0>

<sup>10</sup> The law of Georgia "on the protection of family values and minors;" available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>

A detailed analysis of each section of the anti-LGBTI law, in relation to the rights outlined in the Recommendation, will be scrutinized below.

This summary will expose the intent behind the anti-LGBTI law, which, in our view, amounted to pre-election manipulation designed to influence public sentiment, distract society from pressing issues, stoke irrational fears, and undermine the country's progress toward European integration. By fostering and artificially amplifying homophobic attitudes within society, the government aimed to redirect public frustration—rooted in challenges related to healthcare, employment, education, housing, infrastructure, and the environment—toward one of the most vulnerable groups ahead of the elections. It is worth noting that the leader of the ruling party, Bidzina Ivanishvili, initially came to power by advocating for the rights of LGBTI individuals, emphasizing that they are ordinary citizens who deserve respect, just like any minority.<sup>11</sup> However, after 12 years in power, utilizing homophobia has become one of the government's last strategies for retaining power. Hence, Ivanishvili's once-progressive stance has been replaced with rhetoric reducing LGBTI issues to "whatever one wants to do at home."<sup>12</sup> Now, the government weaponizes homophobic narratives, branding so-called "LGBT propaganda" as a threat, and employs a censorious legislative package to neutralize it. The essence of this law itself extends far beyond the LGBTI community. It sets a dangerous precedent, enabling the government to strip any citizen critical of its actions of rights guaranteed by the Constitution.

We believe that both, the adopted anti-LGBTI law and the proposed constitutional amendment serve as tools of intimidation and subjugation, aiming to establish total control that allow the government to label anyone as propagandists, control information, suppress expression, influence art and culture, impose censorship and deploy coercive measures against those who dissent.

**We draw the attention of the Committee of Ministers to take note that, once the anti-LGBTI law is enacted, as from the 2<sup>nd</sup> of December, this may be the last report we are able to publish. Even any material we disseminate on social media could be scrutinized under the censorship provisions of the law, potentially resulting in administrative and, eventually, criminal liability.**

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<sup>11</sup> Available at: <https://www.youtube.com/watch?v=SeFNrR0y1IQ>

<sup>12</sup> Available at: <https://1tv.ge/news/bidzina-ivanishvili-gasagebia-ratom-ar-shevida-opozicia-lgbt-propagandis-winaaghmddeg-kanonis-gankhylvaze-imdenad-didia-sazogadoebis-rwmena-gristianobis-tradiciebis-chveni-identobisadmi-sheeshin/>

Furthermore, coupled with the implementation of the "Law on Transparency of Foreign Influence,"<sup>13</sup> designed to stigmatize non-governmental organizations, the anti-LGBTI law will make it nearly impossible for many community organizations in the country—including ours—to function or continue delivering vital services to LGBTI individuals in need.

In previous reports, we included recommendations for priority actions the government should take. However, this time, we are witnessing the intensification of authoritarian tendencies, the collapse of the legal system, and the government's disregard for international human rights instruments. As a result, we do not address any recommendations to the government. Instead, we call upon international human rights institutions and the Committee of Ministers, urging them to take action to halt anti-democratic, anti-European and anti-LGBTI initiatives.

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<sup>13</sup> The law of Georgia on transparency of foreign influence; available at: <https://matsne.gov.ge/en/document/view/6171895?publication=0>



## Introduction

### History

The Recommendation to Member States on Measures to Combat Discrimination on Grounds of Sexual Orientation and gender Identity CM/Rec(2010)5 was adopted by the Committee of Ministers of the Council of Europe on March 31, 2010, setting a gold standard for the protection of LGBTI rights in Europe. Rooted in existing international and European obligations, the Recommendation provides clear guidance for member states, including Georgia, to implement its provisions.

The Recommendation acknowledges that LGBTI individuals continue to face homophobia, transphobia, intolerance, and discrimination based on their sexual orientation or gender identity. It emphasizes the need for targeted actions to ensure their full enjoyment of fundamental rights. Backlash, hate rhetoric, populism, nationalism, and homo/bi/transphobic persecution require particular attention. We take this opportunity to draw the Committee of Ministers' attention to the regression in Georgia, where LGBTI individuals are increasingly marginalized, instrumentalised and ill-treated.

The Recommendation itself comprises three sections: The Preamble, which outlines its adoption history and core principles. The Operational Section, which briefly addresses general measures member states should implement. An Appendix, detailing specific measures to ensure rights and combat violations. These include protections against hate crimes and hate speech, the right to freedom of association, expression, and assembly, respect for private and family life, non-discrimination in employment, education, health, housing, sports, the right to seek asylum, and protections against multiple or intersectional discrimination.

As part of monitoring the implementation, the Steering Committee of the Council of Europe, with the support of the Secretariat, developed the questionnaire to assess compliance with the Recommendation CM/Rec(2010)5. Using this framework, we called for the public information from state agencies. However, this report will not present the data in exhaustive detail but instead synthesize the findings within sub-chapters evaluating the implementation of rights outlined in the appendix. Our ability to conduct the exhaustive assessment was hindered by the deteriorating standard of access to public information. During the preparation of this report,

several requested documents were either delayed or unavailable, denying us full and timely access. The Public Defender of Georgia has also noted the systemic nature of delayed or neglected responses to public information requests, particularly in cases involving journalists and human rights defender.<sup>14</sup>

## **The purpose of the report**

The purpose of this report is to evaluate the policy enacted by the Government of Georgia concerning the implementation of the Recommendation during the period from 2019 to 2024. It aims to present a shadow report to the Committee of Ministers of the Council of Europe regarding the implementation of the Recommendation.

## **Methodology**

To assess the implementation of the Recommendation, this report is based on the detailed criteria provided by the Council of Europe. In accordance with the Recommendation and its appendix, we provide further details as outlined in the explanatory memorandum, as well as an analysis of the public information obtained through the questionnaire on the implementation of the Recommendation.

The report draws on the following sources:

- Public information requested from public agencies, in line with the structural questionnaire issued by the Council of Europe.
- Analysis of existing studies related to human rights protection.
- Documentation from the Women's Initiatives Support Group.
- Results from needs assessments of the LGBTI community, including focus group reports and studies on discrimination conducted by the Women's Initiatives Support Group in recent years.

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<sup>14</sup> Available at: <https://www.radiotavisupleba.ge/a/33138388.html>

- Shadow/parallel reports submitted by the Women’s Initiatives Support Group to international human rights mechanisms.
- Survey results regarding societal attitudes towards LGBTI individuals and their rights in Georgia.
- Recommendations and statements developed by the Women’s Initiatives Support Group during the review of draft laws.
- Studies, public policy documents and litigation reports prepared by the Women’s Initiatives Support Group.
- Reports and studies from other local and international organizations and coalitions.
- Assessments, statements, and reports from various bodies of the Council of Europe.
- Reports from the Public Defender of Georgia (2019-2024).

## Section I – implementation of the Recommendation

The Committee of Ministers Recommends that member states:

1. examine existing legislative and other measures, keep them under review, and collect and analyse relevant data, in order to monitor and redress any direct or indirect discrimination on grounds of sexual orientation or gender identity;
2. ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them;
3. ensure that victims of discrimination are aware of and have access to effective legal remedies before a national authority, and that measures to combat discrimination include, where appropriate, sanctions for infringements and the provision of adequate reparation for victims of discrimination;
4. be guided in their legislation, policies and practices by the principles and measures contained in the appendix to this recommendation;
5. ensure by appropriate means and action that this recommendation, including its appendix, is translated and disseminated as widely as possible.

For years, the Public Defender of Georgia has highlighted in their reports that LGBTI individuals are victims of violence, discrimination, and harassment, which are primarily driven by homophobic attitudes within society, hate-motivated violent acts, and other forms of discriminatory behavior.<sup>15</sup> At the same time, far-right groups contribute to the multiplication of homophobic sentiments through their actions, statements, and the impunity they enjoy, which further incites discrimination and widespread violations of the rights of LGBTI people.

In this climate, the ruling party, "Georgian Dream," initiated an anti-LGBTI constitutional draft amendment<sup>16</sup> and legislative package.<sup>17</sup> On September 17, 2024, the Parliament of Georgia adopted the legislative package under the misleading title of "Protection of Family Values and Minors," effectively disregarding the constitutional principle of equality, freedom of speech and expression, as well as the right to assembly and demonstration. The law imposed censorship, further instrumentalising and marginalizing LGBTI individuals.

Passed legislative package includes the main law on "Protection of Family Values and Minors," alongside amendments to 18 existing laws. Each clause of these amendments, in relation to the rights outlined in the Recommendation, will be discussed further below. The main law, in essence, mirrors the rhetoric of the constitutional draft amendment, which the "Georgian Dream" was unable to pass due to the lack of a constitutional majority. In an attempt to align the already adopted legislative package with the constitution, the government has initiated a constitutional change, though this maneuver threatens to undermine the constitutional system, rendering it paradoxical and devoid of its original content and purpose.

Regarding the purpose of the anti-LGBTI initiatives, although the title suggests that they aim to protect families and minors, in reality, they do not address the actual, pressing concerns that families and minors in Georgia face. These concerns include poverty, inflation, uncontrolled emigration, inadequate access to basic needs, unequal distribution of resources, and poor-quality healthcare and education. Instead, the initiatives had a narrowly political aim—

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<sup>15</sup> Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia, 2023; available at: <https://ombudsman.ge/res/docs/2024052911382931838.pdf>

<sup>16</sup> Project of Constitutional amendments; available at: <https://info.parliament.ge/#law-drafting/28352>

<sup>17</sup> Legislative package available at: <https://info.parliament.ge/#law-drafting/28703>

manipulating public sentiment before the elections and deflecting attention from real social issues by manufacturing and propagandizing a fabricated threat.

This type of political homophobia is not new to the government; however, in the current electoral crisis, the government has employed the state's repressive and media-propaganda mechanism as a tool in its pre-election campaign to demonize LGBTI individuals and generate moral panic around issues of sexual orientation and gender identity. Consequently, a law was adopted that violates the constitutional principle of equality, contradicts Georgia's international human rights obligations, restricts freedom of expression, prohibits public discourse on LGBTI issues, and denies trans individuals access to essential healthcare and legal gender recognition. These changes directly contradict the Constitution of Georgia, existing anti-discrimination legislation, the European Convention on Human Rights, relevant case-law, and Georgia's obligations to the Council of Europe, including this Recommendation.

Moreover, the homophobic and transphobic assumptions embedded in the anti-LGBTI law, the scientifically unproven and vague terminology, and the extensive intrusion into people's lives create such a broad scope for manipulation that it will be impossible to predict in advance what speech, actions, or works will be deemed illegal. Instead, any act or expression could potentially be classified as unlawful post-factum. For instance, one of the key terms introduced by the law—"popularisation"—is used in relation to gender and sexuality. The term is deliberately vague and, in effect, equates to the dissemination of knowledge, the spread of information, scientific and artistic research, the creation of works, and the exercise of assembly and manifestation. As a result, the law permits any knowledge, information, work, or action relating to gender and sexuality to be considered "popularization" and banned on this ground.

A similar discriminatory and hateful example can be found in the Russian Federation, a former member state of the Council of Europe, which enacted an anti-LGBTI law under the name of protecting minors and family values. This law was subsequently used to silence, imprison, or deport many LGBTI individuals and vocal civil activists. The potential dangers posed by such legislation were immediately recognized by various bodies of the Council of Europe: On March 27, the Council of Europe Commissioner for Human Rights expressed concern about the law's

potential to reinforce harmful stereotypes about LGBTI people.<sup>18</sup> On June 25, the Venice Commission urged the Georgian authorities not to proceed with the adoption of the draft constitutional law, citing its incompatibility with the precedents set by the European Court of Human Rights and Georgia's international obligations. Hence, Venice Commission warned that such a law would fuel a hostile and stigmatising atmosphere against LGBTI individuals in Georgia.<sup>19</sup> On September 10, the Commissioner once again responded to the ongoing process, publishing a letter urging the Speaker of Parliament to reject the draft law. The letter highlighted that the proposed law provides a legal footing for discrimination against LGBTI people and appears to be at variance with the European Convention on Human Rights.<sup>20</sup> Despite these calls from international human rights mechanisms, the Georgian government ignored the warnings and passed the anti-LGBTI legislative package. The law, titled on "Protection of Family Values and Minors," was signed on October 3, 2024, and will take effect 60 calendar days thereafter, starting from 2<sup>nd</sup> of December.<sup>21</sup>

In light of the above, it cannot be claimed that the government is acting in accordance with the principles outlined in the first section of the recommendation — specifically, to address discrimination based on sexual orientation or gender identity or to adopt legislative measures aimed at reducing discrimination and intolerance. On the contrary, the government has actively introduced anti-LGBT legislation and has further instrumentalised the LGBTI community.

Moreover, for years, the state's policy failed to recognize homophobia and transphobia as systemic and structural problem. As a result, homophobia was framed as an individual problem, and the state's main strategy to combat it remained a selective punitive approach to addressing individual instances of discrimination. Consequently, proactive initiatives aimed at reducing homophobia and transphobia, such as broad educational and awareness-raising campaigns, were excluded from the government's action plans.

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<sup>18</sup> Available at: <https://www.coe.int/fi/web/commissioner/-/georgia-political-manipulation-and-harassment-of-lgbti-people-and-human-rights-defenders-have-no-place-in-a-democratic-society>

<sup>19</sup> Available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)021-e)

<sup>20</sup> Available at: <https://www.coe.int/en/web/commissioner/-/georgian-parliament-should-not-adopt-anti-lgbti-law-and-should-refrain-from-using-stigmatising-rhetoric>

<sup>21</sup> The law of Georgia "on the protection of family values and minors;" article 14; available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>

This is particularly evident in the national human rights strategy and the corresponding action plans, which reflect the state's policy. Notably, the 2018-2020 Action Plan did not include a chapter on equality and gender identity until February 2020.<sup>22</sup> Even after its approval, the plan failed to address critical issues advocated by community organizations. In terms of implementation, the action plan has shown little to no progress.

The period under review also encompassed the 2020 coronavirus pandemic, which exacerbated the concerns of LGBTI people, including homelessness, unemployment, and a worsening economic situation. These issues were repeatedly highlighted by civil society organizations, which called for measures such as rent subsidies, alternative housing, and shelter. Unfortunately, the state's anti-crisis plans largely neglected the basic needs of LGBTI individuals. The assistance provided by the government, in collaboration with international organizations, was mostly one-time humanitarian aid and failed to address the community's complex needs.<sup>23</sup>

Furthermore, LGBTI people have been entirely excluded from the National Human Rights Strategy 2022-2030<sup>24</sup> and the Action Plan for 2024-2026.<sup>25</sup> Given the adoption of the anti-LGBTI law and the proposed constitutional amendments, it is evident that the government has refused to protect the rights of LGBTI individuals at the policy level. This marks a significant reversal of the progress made following the adoption of the anti-discrimination law in 2014, which had led to the establishment of legal protections against discrimination. Consequently, the Georgian government's actions stand in direct contradiction to the commitments it once proudly reported to the Committee of Ministers.

In light of these developments, we believe that the Georgian authorities have neglected key elements of the first section of the Recommendation.

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<sup>22</sup> Available at: <https://myrights.gov.ge/en/plan/Human%20Rights%20Action%20Plan%20for%202018-2020>

<sup>23</sup> THE RIGHT TO NON-DISCRIMINATION IN PRACTICE FOR VARIOUS GROUPS IN GEORGIA 2020 REPORT; available at: [https://wisg.org/Data/docs/publications/annual-reports/CFE-discrimination-report\\_2020-ENG.pdf](https://wisg.org/Data/docs/publications/annual-reports/CFE-discrimination-report_2020-ENG.pdf)

<sup>24</sup> Available at: <https://matsne.gov.ge/ka/document/view/5757268?publication=0>

<sup>25</sup> Available at:

<https://myrights.gov.ge/uploads/files/docs/6965ადამიანისუფლებებისდაცვისსამოქმედოგეგმა2024-2026.pdf>



## Section II - appendix to the Recommendation CM/Rec(2010)5

### i. Right to life, security and protection from violence

#### A. "Hate crimes" and other hate-motivated incidents

1. Member states should ensure effective, prompt and impartial investigations into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator; they should further ensure that particular attention is paid to the investigation of such crimes and incidents when allegedly committed by law enforcement officials or by other persons acting in an official capacity, and that those responsible for such acts are effectively brought to justice and, where appropriate, punished in order to avoid impunity.
2. Member states should ensure that when determining sanctions, a bias motive related to sexual orientation or gender identity may be taken into account as an aggravating circumstance.
3. Member states should take appropriate measures to ensure that victims and witnesses of sexual orientation or gender identity related "hate crimes" and other hate-motivated incidents are encouraged to report these crimes and incidents; for this purpose, member states should take all necessary steps to ensure that law enforcement structures, including the judiciary, have the necessary knowledge and skills to identify such crimes and incidents and provide adequate assistance and support to victims and witnesses.
4. Member states should take appropriate measures to ensure the safety and dignity of all persons in prison or in other ways deprived of their liberty, including lesbian, gay, bisexual and transgender persons, and in particular take protective measures against physical assault, rape and other forms of sexual abuse, whether committed by other inmates or staff; measures should be taken so as to adequately protect and respect the gender identity of transgender persons.
5. Member states should ensure that relevant data are gathered and analysed on the prevalence and nature of discrimination and intolerance on grounds of sexual orientation or gender identity, and in particular on "hate crimes" and hate-motivated incidents related to sexual orientation or gender identity.

## Measures to combat hate-crimes

At the outset of this monitoring cycle, there were indications that the mechanism for combating hate crimes based on sexual orientation and gender identity was being still strengthened. Between 2018 and 2022, with the support from international organizations, Georgia made several important strides in improving its response to such crimes.

As a result, Employees of the Ministry of Internal Affairs are instructed to immediately initiate investigations when they suspect that an offence might have been motivated by bias.<sup>26</sup> The Department of Human Rights Protection and Investigation Quality Monitoring examines crime reports and criminal investigation cases through an electronic programme of investigation, and generates statistical data about criminal offences involving an element of discrimination, which are recorded according to specific provisions of the Criminal Code of Georgia. These indicators include: race, color, language, gender, sexual orientation, gender identity, religion, disability status, citizenship, nationality, ethnicity, and origin.

Furthermore, as of 2022, the Prosecutor's Office has issued six recommendations related to hate crimes.<sup>27</sup> According to a 2023 communication, 146 employees—comprising 88 prosecutors, 7 investigators, 34 managers, and 17 victim and witness coordinators—had received specialized training courses on hate crimes.<sup>28</sup> The Department of Human Rights Protection of the General Prosecutor's Office is responsible for collecting and analysing data on hate crimes.

The Analytical Department of the Supreme Court of Georgia collects and processes statistical data, including data on hate crime cases, and is responsible for publishing the court's statistics. If the court determines that the crime was committed with a bias motive, or if the motive of intolerance is highlighted as an aggravating circumstance, the assistant judge fills out a specific form on the bias motivation together with the statistical card of the adjudicated case record.

Under a memorandum of cooperation signed in September 2020, the Supreme Court of Georgia, the Prosecutor's Office, and the Ministry of Internal Affairs are required to share data with the National Statistical Service of Georgia annually, including data classified by hate motive. In 2023, the Special Investigation Service also joined this memorandum.<sup>29</sup> The memorandum establishes

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<sup>26</sup> Available at: <https://hatecrime.osce.org/national-frameworks-georgia#victimSupport>

<sup>27</sup> Ibid.

<sup>28</sup> Available at: [<sup>29</sup> Letter of 02.09.2024 from the Special Investigation Service.](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2023)1238E%22]}, §42.</a></p></div><div data-bbox=)

mutual accountability among the agencies regarding information sharing, statistical production, and the publication of a unified report on crimes committed with a bias motivation.<sup>30</sup>

However, it is important to note that there is no established procedure for collecting data on hate-motivated incidents in Georgia unless these incidents meet the threshold of a hate-motivated crime. The outdated Code of Administrative Offenses does not allow for the specification of an aggravating circumstance based on bias motives in administrative offences. Furthermore, decisions on administrative offenses do not indicate whether the victim was targeted due to a discriminatory basis, which prevents the proper categorization of administrative hate incidents and hampers an adequate response.

Regarding support for victims of hate crimes, the Witness and Victim Coordinator's Office operates within the Prosecutor's Office. Its primary function is to facilitate communication between the citizen and the prosecutor (or court) throughout the criminal proceedings and to provide the individuals with detailed information on the progress of the case. The witness and victim coordinator may participate in the criminal process by the prosecutor's decision. Coordinators are involved in cases related to hate crimes, among others. In 2019, the Ministry of Internal Affairs has also established its own Office of the Witness and Victim Coordinator.<sup>31</sup> Since 2021, investigators have been authorized to engage a coordinator before the case reaches court. Coordinators prioritize communication with victims of hate crimes, domestic violence, and violence against women. They are authorized to interview victims and witnesses, attend investigations and hearings with them.

However, while the government points to various training modules developed to address hate crimes or the specialization of law enforcement officers, - highlighting that the training covers critical issues such as the definition of hate crimes, related concepts, characteristics of hate crimes, international documents, state obligations, national legislation, and the prohibition of discrimination on various grounds (e.g., gender, religion, sexual orientation, gender identity and expression),<sup>32</sup> - the effectiveness and sincerity of these measures are called into question given the alarming political context. In light of the current political climate—exemplified by recent

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<sup>30</sup> Available at: <https://www.geostat.ge/en/modules/categories/680/hate-crimes-statistics>

<sup>31</sup> Available at: <https://police.ge/en/shinagan-saqmeta-saministroshi-motsmisa-da-dazaralebulis-koordinatoris-samsakhuri-amogmedda/12861>

<sup>32</sup> Letter of 04.09.2024 from the Ministry of Internal Affairs.

legislative changes such as the anti-LGBTI amendments and the law “on Transparency of Foreign Influence,”<sup>33</sup> which has prompted widespread civil society boycotts<sup>34</sup>—these efforts appear superficial and ineffective.

The government’s attempt to present itself as strengthening hate crime investigation mechanisms, while simultaneously adopting a stigmatizing legal framework that undermines democratic values and the country’s potential for European integration, exposes its true narrow, politically motivated agenda, particularly in the lead-up to elections, as previously discussed.

### Hate crimes against LGBTI people

Even before the adoption or initiation of the critically problematic anti-LGBTI laws, the level of hate crimes based on sexual orientation and gender identity, and the lack of sensitivity among law enforcement officials, were already deeply concerning.

- ☉ In 2019, the UN independent expert (on protection against violence and discrimination based on sexual orientation and gender identity) published a report on Georgia, which highlighted that "beatings are commonplace, harassment and bullying.. appear be the norm."<sup>35</sup>
- ☉ The Public Defender’s 2021 special report on the rights of LGBT+ people in Georgia identified the group as one of the most vulnerable to violence.<sup>36</sup>
- ☉ The Council of Europe Commissioner for Human Rights, in her 2022 report on Georgia, also drew attention to the violence against LGBTI individuals, citing the impunity of the perpetrators as a major concern. She pointed out the failure of authorities to correctly identify and qualify hate motives.<sup>37</sup>

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<sup>33</sup> Georgia’s “transparency of foreign influence” law incompatible with democratic standards and human rights law: international human rights office ODIHR; available at: <https://www.osce.org/odihr/569925>

<sup>34</sup> Available at: <https://go.on.ge/3ie6>

<sup>35</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §31.

<sup>36</sup> Available at: <https://www.ombudsman.ge/res/docs/2022051115380032325.pdf>

<sup>37</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, §17.

- Ⓢ In the 2023 parliamentary report, the Ombudsman reiterated that members of LGBTI community still face violence, discrimination, and harassment, and that this is caused by homophobic attitudes, hate crimes and other discriminatory attitudes in society.<sup>38</sup>

In addition, according to the 2021 special report of the Public Defender, among the cases of alleged hate crimes, those targeting members of the LGBTI community were the most prevalent, with 25 incidents, including 5 cases of verbal abuse by police officers.<sup>39</sup> These alleged hate crimes involved physical and verbal abuse, beatings, and threats of death. Additionally, there were instances of assault and physical violence at the office of an organization advocating for LGBTI rights. The report also notes that in some cases, verbal abuse continued even after the police arrived, with no response from law enforcement. Furthermore, despite a reasonable amount of time having passed, in several cases, the victims were not granted the legal status, limiting their access to the materials of the criminal case. The report also reveals instances of violence against LGBTI minors, including verbal abuse and threats to their lives. Additionally, there were cases of physical and verbal abuse by family members of LGBTI individuals. These crimes were committed by various perpetrators and under diverse circumstances, including by restaurant staff and security guards, neighbors, relatives, family members, police officers, patrol crews, and even by apartment renters. Notably, some of these incidents occurred during participation in public programmes, because of personal appearance (e.g., wearing earrings), while in line at a club, in the metro, and in other settings.<sup>40</sup>

According to official statistics from the 2023 unified report of Saxstat, the Ministry of Internal Affairs launched investigations into 43 potential crimes committed on the grounds of intolerance based on sexual orientation and gender identity, while the prosecutor's office prosecuted 21 of these cases.<sup>41</sup> According to the Special Investigation Service's letter, in November and December 2023, the motive of intolerance based on sexual orientation was identified in 2 criminal cases.<sup>42</sup> The Supreme Court's letter indicated that in 2023, city courts

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<sup>38</sup> Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia, 2023; available at: <https://www.ombudsman.ge/res/docs/2024052911382931838.pdf>, p. 145.

<sup>39</sup> Public Defender's Report on Obligations of Law Enforcement Officers to Protect Equality, 2021; available at: <https://www.ombudsman.ge/eng/spetsialuri-angarishebi/sakhalkho-damtsvelis-angarishi-tanastisorobis-datsvisas-samartaldamtsavta-valdebulebebis-sheesakheb>, p. 11.

<sup>40</sup> Ibid.

<sup>41</sup> Available at: [https://www.geostat.ge/media/60697/diskriminacia\\_2023.pdf](https://www.geostat.ge/media/60697/diskriminacia_2023.pdf)

<sup>42</sup> Letter of 02.09.2024 from the Special Investigation Service.

convicted 5 individuals for crimes committed on the grounds of intolerance based on sexual orientation, and 13 for crimes based on gender identity.<sup>43</sup>

However, statistics from non-governmental and community organizations working with the LGBTI community in Georgia reveal a different picture regarding the scale of hate crimes and incidents. A 2021 survey conducted by the Women's Initiatives Support Group found that seven out of ten respondents had been victims of a crime motivated by violence at least once in the past two years (73.5%, N=155). Of these, one in three (30.3%, N=147) had experienced physical and sexual violence or harassment, while 68.7% (N=145) had been victims of psychological violence.<sup>44</sup>

Moreover, numerous studies on the rights of LGBTI people have shown that victims of hate crimes of sexual orientation and gender identity are often reluctant to report incidents to law enforcement officials. The primary reasons cited for this reluctance include a lack of trust in law enforcement, fear of forcible coming out, and concerns about secondary victimization. While 55% of respondents reported experiencing violence between 2018 and 2020, 69.6% refrained from reporting it due to a lack of confidence in law enforcement.<sup>45</sup>

A similar collective experience, inadequate fulfillment of the positive obligations by law enforcement officers, particularly in protecting the equality of vulnerable groups, and the ineffective response to criminal actions committed by far-right violent groups and their leaders, also contribute to the low trust of LGBTI community members in law enforcement agencies and a low referral rate. This, in turn, undermines an effective response to hate crime.<sup>46</sup> The research further revealed that 66% of LGBTI respondents do not trust the Ministry of Internal Affairs, 74% do not trust the Prosecutor's Office, and 58% do not trust the courts.<sup>47</sup>

The state's official response to the demand for an effective approach to hate crimes has been the creation of the Human Rights Protection and Investigation Quality Monitoring Department

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<sup>43</sup> Letter of 11.09.2024 from Supreme Court of Georgia.

<sup>44</sup> Impact of COVID-19 Pandemic on LGBT(Q)I Community in Georgia, WISG, 2022, available at: [https://wisg.org/Data/docs/publications/research-study/WISG\\_Covid-impact-on-LGBTQI-community-EN.pdf](https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf), p. 100.

<sup>45</sup> Social Exclusion of LGBTQ Group in Georgia, Social Justice Center, 2020; available at: <https://socialjustice.org.ge/en/products/lgbtk-jgufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

<sup>46</sup> Available at: <https://www.ombudsman.ge/res/docs/2024052911382931838.pdf>

<sup>47</sup> Available at: <https://www.ombudsman.ge/res/docs/2022051115380032325.pdf>

within the Ministry of Internal Affairs. While the establishment of this department represents a positive step forward by improving coordination on hate crimes, it is merely a supervisory body for ongoing investigations. The department does not itself investigate hate crimes nor provide criminal or administrative legal responses. Therefore, it cannot be considered a substitute for a specialized investigative unit within the police system, as recommended by ECRI,<sup>48</sup> the UN independent expert,<sup>49</sup> and the Commissioner for Human Rights.<sup>50</sup>

In relation to parts A.1 and A.2 of the recommendation, the 2020 decision of the European Court of Human Rights on the case of *Aghdgomelashvili and Japaridze v. Georgia* is particularly relevant. This case concerns the 2009 raid on the office of an LGBTI organization by the police, during which applicants had been subjected homophobic and transphobic hate speech and threats. Additionally, an offensive strip search was used. The Court found a violation of both the substantive and procedural aspects of Article 3 (prohibition of torture, inhuman, and degrading treatment) of the European Convention on Human Rights in conjunction with Article 14 (prohibition of discrimination).<sup>51</sup>

This decision is especially significant because, even after 15 years, the LGBTI community continues to face significant barriers when interacting with law enforcement agencies. This is evident in the ongoing homo/bi/transphobic treatment by police officers, prosecutors, and judges, as well as in the inadequate investigation of hate-motivated crimes. Furthermore, the investigation into the case has been prolonged without meaningful results; while some investigative actions have been undertaken, they have been superficial and inconsistent. The expiration of the statute of limitations on December 15, 2024, adds further concerns about the state's handling of justice in this case.<sup>52</sup>

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<sup>48</sup> Available at: <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7e>, p.5.

<sup>49</sup> Available at: <https://undocs.org/en/A/HRC/41/45/ADD.1?fbclid=IwAR1uGxuj6IMh0KqfYO9D1vUNMQv4SWOOLSiwgZH7UQCeSdyIM71tmToyZo>, §42.

<sup>50</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, §18.

<sup>51</sup> Available at: <https://hudoc.echr.coe.int/fre#%22itemid%22:%22001-204815%22>]

<sup>52</sup> Available at: <https://wisg.org/Data/docs/publications/report/2024/Rule-9.1-and-9.2-submission-Identoba-group-020824.pdf>

## Support and assistance for victims of hate crimes

According to a 2021 research conducted by Women's Initiatives Support Group, nearly three out of five respondents (58.3%, N=123) reported needing psychological support to cope with the aftermath of undergone violence. Of those, 37 knew where to access such services but chose not to seek help, 14 found the services unavailable, and four were unaware of available resources. Over half of those in need (55%, N=68) received psychological support, with 52 receiving services from a community organization. The survey also indicated that the demand for services from social workers and lawyers ranked second and third in terms of necessity. Approximately 21.3% (N=45) of victims required medical help, and four out of five were able to access the service they needed (N=35). Despite this, 39 respondents indicated they would have used a victim support resource if they had known about such services. Furthermore, 27 respondents expressed a need for shelter due to violent experiences. Among these, three received help from a community organization, five sought other resources, four did not receive help, and the rest were unaware of where to find such services.<sup>53</sup>

In response to these needs, state services for victims of hate crimes remain lacking and insufficient. By 2022, the witness and victim coordinators' office employed 20 coordinators in the prosecutor's office and 11 in the Ministry of Internal Affairs.<sup>54</sup> However, due to a lack of specific state-funded services and insufficient knowledge within the system, these coordinators were often forced to refer beneficiaries to non-governmental organizations. Presently, such coordination is almost impossible, exacerbated by the government's strong anti-LGBTI rhetoric and the adoption of stigmatizing laws against both the LGBTI community and non-governmental organizations. These policies obstruct community organizations from providing essential services, leaving them underfunded and without any state support or initiatives.

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<sup>53</sup> Impact of COVID-19 Pandemic on LGBT(Q)I Community in Georgia, WISG, 2022, available at: [https://wisg.org/Data/docs/publications/research-study/WISG\\_Covid-impact-on-LGBTQI-community-EN.pdf](https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf)

<sup>54</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, p. 11.



## Detention Facilities

Referring to part A-4 of the recommendation, it is essential to highlight that, upon entry into detention facilities, the identity document of the accused is checked.<sup>55</sup> Under the sex-segregated system, trans individuals whose official documents did not reflect their gender identity were left vulnerable: hence, trans women were required to serve sentences in male facilities, while trans men were placed in female facilities.

In 2019, UN Independent Expert raised concerns about this issue, pointing out that the obstacles to legal gender recognition and the rigid interpretation of gender by the judiciary may led to situations where trans women were sent to a men's facility and vice versa, with all the risks associated with such practice. The expert therefore called for an urgent need to eliminate abusive requirements as prerequisites for changing gender markers in identity documents.<sup>56</sup> In response, the authorities, as previously mentioned, enacted a law in 2024 that completely bans access to legal gender recognition.

During the reporting period, a trans prisoner in a special penitentiary institution filed a complaint to the Public Defender, stating that the institution failed to provide medical services tailored to his needs. Before their imprisonment, the applicant was undergoing hormone therapy; however, after entering the facility, they were unable to continue the treatment and has been refused the services of an endocrinologist.

The recommendation of the Public Defender highlights that meeting the medical needs of prisoners and ensuring the continuous supply of necessary medications is a guaranteed right for all accused or convicted individuals. Given their gender identity, the applicant required specific medical services, which had to be provided by an endocrinologist rather than a general practitioner. The Public Defender emphasized that the prisoner's needs should be addressed by a specialist in this field.

As a result, on December 7, 2020, the Public Defender issued a recommendation to the General Director of the Special Penitentiary Service, urging them to take appropriate measures to ensure

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<sup>55</sup> Imprisonment code of Georgia; available at: <https://matsne.gov.ge/en/document/view/91612?publication=39>, article 33.

<sup>56</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §47-50.

the applicant receives care from a specialized endocrinologist and that their hormonal treatment was continued without interruption.<sup>57</sup>

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<sup>57</sup> Available at: <https://www.ombudsman.ge/eng/rekomendatsiebi/sakhalkho-damtsvelma-transgenderi-patimris-satanado-mkurnalobastan-dakavshirebit-penitentsiur-samsakhurs-mimarta>

## **B. Hate speech**

6. Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such “hate speech” should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court.

7. Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimising such hatred or discrimination.

8. Public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual and transgender persons whenever they engage in a dialogue with key representatives of the civil society, including media and sports organisations, political organisations and religious communities.

Hate speech, as one of the most common forms of discrimination against LGBTI individuals, manifests in Georgia predominantly through political homophobia. The extent to which anti-LGBTI hate speech has been propagated by politicians during this monitoring period is a key factor in recent policy development. The Commissioner for Human Rights addresses the troubling nature of hate speech in Georgia, noting that, whereas in the past, hate speech against LGBTI people intensified during election periods, it has now permeated everyday discourse.<sup>58</sup> Indeed, public figures' statements and comments on discrimination and violence cases are increasingly laced with anti-LGBTI rhetoric. Rather than reframing the issue within a legal and human rights framework, these figures often invoke dominant cultural, traditional, and religious values. This matter has reached a critical point, now manifesting in the form of anti-LGBTI legislation. Therefore, parts 6-8 of the Recommendation will be examined in relation to political hate speech.

Hate speech targeting LGBTI individuals has increasingly been recognized, not only by the community itself but also by society at large, as a powerful tool for spreading discrimination and intolerance. Repeated surveys conducted by the Council of Europe in 2018 and 2021 reveal that hate speech is becoming an increasingly pressing issue within Georgian society. While 45% of respondents recognized hate speech as a problem in 2018, this figure rose to 56% in 2021. The data indicates that LGBTI individuals are the primary targets of hate speech (45% in 2021),<sup>59</sup> which not only undermines equality and social stability, but also incites violence and perpetuates negative stereotypes about the community. Recent events vividly illustrate the link between political hate speech and violence against LGBTI people. For instance, the day following the adoption of the anti-LGBTI law, the well-known TV presenter and model, a trans woman named Kesaria Abramidze, was brutally murdered. This tragic incident not only symbolizes the harmful consequences of this legislation but also serves as a tangible example of the impact of hate speech and its endorsement.<sup>60</sup>

Indeed, political homophobia becomes even more dangerous when it is strategically used in a context where societal homophobia is on the decline. A comparison of research findings from

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<sup>58</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, § 22

<sup>59</sup> Available at: <https://rm.coe.int/book-eng/1680a583d0>, p. 32.

<sup>60</sup> Available at: <https://wisg.org/ka/news/detail/448/ტრანსგენდერ-აქტივისტზე-თავდასხმის-კონტექსტი-ხელისუფლების-მიერ-სიმძულვილის-ტირაჟირება>

the Women's Initiatives Support Group in 2016 and 2021 reveals a decreasing trend in homo/bi/transphobia: the proportion of respondents expressing contempt for LGBTI people, perceiving their relationships as perverse, or morally judging them has significantly decreased. Similarly, the share of respondents who believe that "LGBT people's rights should be protected, but gays/lesbians should not impose their lifestyle on others" has decreased by 20.6% since 2016. This shift is also reflected in attitudes towards LGBTI rights defenders: over five years, the percentage of respondents with negative views of LGBTI activists decreased by almost 20% (from 74.5% to 56.8%). Moreover, comparative analysis of the studies shows a significant change in societal attitudes towards the legal equality of LGBTI people. The share of respondents supporting the restriction of individual rights for members of the LGBTI community has sharply decreased.<sup>61</sup>

Thus, we argue that by circulating homophobic hate speech, the government not only undermines the potential for positive societal change but also manipulates public opinion, distracts from pressing issues, and fuels irrational fears.

An illustration of this can be seen in the public debates surrounding the anti-LGBTI constitutional changes, where the ruling party sought to persuade the public that, without these amendments, the very concept of "Georgianness"—including traditional notions of men and women, gender roles, and the identities of mother and father—was under threat:

Mamuka Mdinardze, a member of parliament from the ruling party, said that European countries are "slowly being forced to legalize same-sex marriage, Georgia is no exception, and that without protective mechanisms, Georgia might even normalize incest."<sup>62</sup>

Mdinardze announced that "in McDonald's they were handing out leaflets, where there was a note that Elton John blessed the world with his talent, but he couldn't be happy until he married David, isn't this a misfortune?"<sup>63</sup>

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<sup>61</sup> From Prejudice to Equality. Vol. 2 | Study on Public Knowledge, Awareness and Attitudes Towards LGBT(Q)I Community and Legal Equality, WISG, 2023, available at: <https://wisg.org/Data/docs/publications/research-study/WISG-From-Projudice-to-Equality-2022-EN.pdf>, p. 18.

<sup>62</sup> Available at: <https://www.radiotavisupleba.ge/a/როცა-უნდა-ეწოდოს-არა-ქალი-და-კაცი-არამედ-მშობელი-რაზე-ელაპარაკება-ოცნება-ხალხს-რეგიონებში/32919203.html>

<sup>63</sup> Available at: [https://www.youtube.com/watch?v=vD4gbXnm5vE&list=PLqTXegRvY\\_J96p5HBVvlWpFroaodB0zIV&index=3](https://www.youtube.com/watch?v=vD4gbXnm5vE&list=PLqTXegRvY_J96p5HBVvlWpFroaodB0zIV&index=3) [1:04:04].

Speaker of the Parliament Shavla Papuashvili said regarding trans people that "there are biological truths that cannot be changed by a person. We must accept these facts, and we must not change these facts in such a way that we impose on others our alternative ideas about the truths."<sup>64</sup>

When asked about the ban on adoption of children by LGBTI people, Speaker of Parliament Shalva Papuashvili compared homosexuality to alcoholism and named both of them as risk factors for children.<sup>65</sup>

Such statements contribute to the instrumentalisation of LGBTI issues, marginalising the community and as a result, increasing aggression towards LGBTI individuals. This aggression is not so much self-organized but is rather initiated "top-down" in a political context, fostering hatred.

Beyond the anti-LGBTI legislative process, the persistent hate speech directed at LGBTI individuals by high-ranking officials of the ruling party, as well as through broadcasts on their propaganda media outlets, has inflicted significant harm on the LGBTI community. This bears the direct responsibility of the government as a whole. During this period, many members of the LGBTI community have been forced to leave the country, as their hopes of being recognized as equal citizens and living with dignity have been utterly shattered.

Thus, existing mechanisms to address homo/bi/transphobic hate speech are ineffective. For example, the "Code of Ethics for a Member of the Parliament of Georgia" states that "degrading, obscene, sexist, discriminatory speech, address, action, and other use of hate speech is not allowed."<sup>66</sup> Despite this, there is no efficient or effective mechanism in place to hold members of parliament accountable for using hate speech.

In a letter dated September 3, 2024, the Civil Service Bureau stated that a government decree prohibits any form of discrimination and sexual harassment, obligating civil servants to refrain

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<sup>64</sup> Available at:

[https://www.youtube.com/watch?v=XNXkqgHfl6U&list=PLqTXegRvY\\_J96p5HBVvIWpFroaodB0zIV&index=4](https://www.youtube.com/watch?v=XNXkqgHfl6U&list=PLqTXegRvY_J96p5HBVvIWpFroaodB0zIV&index=4)  
[1:34:35]

<sup>65</sup> Available at:

[https://www.instagram.com/reel/C8rvh9GBnjV/?utm\\_source=ig\\_web\\_copy\\_link&fbclid=IwY2xjawETVvVleHRuA2FlbQIxMAABHT5Tncc\\_UtRlvtz5nIKvsGqVFR9bw9Mwjox4PMVpdvkg8CilJuVqvNrXgA\\_aem\\_Ou2pReF-Sblp9flsvolbGg](https://www.instagram.com/reel/C8rvh9GBnjV/?utm_source=ig_web_copy_link&fbclid=IwY2xjawETVvVleHRuA2FlbQIxMAABHT5Tncc_UtRlvtz5nIKvsGqVFR9bw9Mwjox4PMVpdvkg8CilJuVqvNrXgA_aem_Ou2pReF-Sblp9flsvolbGg)

<sup>66</sup> Available at: <https://matsne.gov.ge/ka/document/view/4489058?publication=0>, article 3.

from publicly using hate speech or making discriminatory comments. However, the examples above highlight the weakness of this decree in practice.

Finally, while Criminal Code of Georgia prohibits public incitement of violence, and the law “on the Elimination of All Forms of Discrimination” prohibits incitement to discrimination in cases where the language of violence does not meet the threshold for criminal liability, these laws are rarely enforced in practice.<sup>67</sup> For instance, the television channel "Alt-Info," found in violation of the law due to its programmes containing offensiveness, has been still allowed to broadcast nationwide. Despite broadcasting misogynistic, xenophobic, homophobic, discriminatory, and hate-filled content, and the involvement of its founders and hosts in organizing the violent July 5th events, the station was allowed to operate.<sup>68</sup>

These issues highlight the absence of effective mechanisms for addressing and preventing hate speech in Georgia. However, the root problem extends beyond the lack of such mechanisms and lies in the political will, which has already taken a discriminatory, marginalizing, and censorious form under the pretext of the law titled Protection of Family Values and Minors.

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<sup>67</sup> Available at: <https://www.ombudsman.ge/res/docs/2022051115380032325.pdf>, p. 15.

<sup>68</sup> Ibid.

## II. Freedom of association

9. Member states should take appropriate measures to ensure, in accordance with Article 11 of the Convention, that the right to freedom of association can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, discriminatory administrative procedures, including excessive formalities for the registration and practical functioning of associations, should be prevented and removed; measures should also be taken to prevent the abuse of legal and administrative provisions, such as those related to restrictions based on public health, public morality and public order.
10. Access to public funding available for non-governmental organisations should be secured without discrimination on grounds of sexual orientation or gender identity.
11. Member states should take appropriate measures to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression to which they may be exposed, including when allegedly committed by state agents, in order to enable them to freely carry out their activities in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities.
12. Member states should ensure that non-governmental organisations defending the human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons.



Sections 9-12 of the Appendix to the Recommendation require states to take measures to ensure that LGBTI organizations can officially register, operate freely, participate in the adoption and implementation of public policies affecting LGBTI people, and access funding intended for non-governmental organizations. Furthermore, organizations working to protect the rights of LGBTI people should be effectively protected from violence and aggression.

However, the legislative acts adopted by the Georgian government in 2024 are entirely contrary to these provisions of the Committee of Ministers' recommendation. Not only do organizations working on issues related to sexual orientation and gender identity face significant obstacles due to the passage of stigmatizing laws, but non-governmental organizations and the media in general also face restrictions. Additionally, the anti-LGBTI law poses an existential threat to organizations working on LGBTI issues by severely restricting freedom of speech, expression, and assembly, promoting oppression, and fostering hatred. The legalization of the stigmatization and discrimination of LGBTI rights is a continuation of a broader trend of growing stigmatization within political discourse, which increasingly targets human rights and other non-governmental organizations. This trend is further amplified by the adoption of the "Law on Transparency of Foreign Influence," a tool designed to suppress NGOs. The law exerts a chilling effect on the media and civil society organizations—including those advocating for human rights, democracy, and the rule of law—while simultaneously contributing to the broader stigmatization of civil society as a whole.

The law, under the pretext of ensuring transparency of foreign influence, introduces a new category of organizations labeled as "pursuing the interests of a foreign power." This category includes: a) a non-entrepreneurial (non-commercial) legal person that is not established by an administrative body, that is not the National Sports Federation of Georgia as provided for by the Law of Georgia on Sports, or a blood establishment as provided for by the Law of Georgia on the Quality and Safety of Human Blood and Its Components, and the source of more than 20 % of the total income of which during a calendar year is a foreign power; b) a broadcaster provided for by the Law of Georgia on Broadcasting, the source of more than 20 % of the total non-commercial income of which during a calendar year is a foreign power; c) a legal person, which alone or jointly owns print media operating in Georgia, and the source of more than 20 % of the total non-commercial income of which during a calendar year is a foreign power; d) a legal person, which alone or jointly owns and/or uses a domain and/or web hosting designated for

digital media disseminating mass information in the official language of Georgia, and the source of more than 20 % of the total non-commercial income of which during a calendar year is a foreign power.<sup>69</sup> Under this law, such entities are required to register with the National Agency of the Public Registry of the Ministry of Justice of Georgia as an "organization perusing the interests of a foreign power."<sup>70</sup> The law outlines the procedure for registration, the public disclosure of such registration, an annual obligation to submit a financial declaration, and other related obligations. The Ministry of Justice is tasked with monitoring compliance with this law, and fines are imposed for non-compliance.<sup>71</sup>

The examination and adoption of the law in Parliament were met with widespread protests. The law became the subject of strong and broad criticism both domestically and internationally:

The Public Defender of Georgia urged the Parliament to refrain from adopting any legal act that could jeopardize the implementation of Georgia's constitutional aspirations. The Ombudsman pointed out that there was already a comprehensive database in Georgia, accessible to all interested parties, containing detailed information on donors, types of financing, projects, and thematic directions.<sup>72</sup>

The Commissioner for Human Rights expressed concerns about the compatibility of the draft law with the freedom of association and expression. The Commissioner highlighted the law's potential to stifle the activities of the media and civil society, including organizations advocating for human rights, democracy, and the rule of law. According to the Commissioner, the law could result in the stigmatization and discrediting of foreign-funded civil society organizations and media, both in the eyes of the public and state institutions, making it more difficult or even impossible for them to continue their work.<sup>73</sup>

The OSCE/ODIHR issued an urgent legal analysis on the law, stating that the law " contains serious deficiencies that renders it incompatible with international human rights standards and OSCE human dimension commitments and should be rescinded."<sup>74</sup> The analysis emphasizes that

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<sup>69</sup> Available at: <https://matsne.gov.ge/en/document/view/6171895?publication=0>, article 2.

<sup>70</sup> Ibid., article 4.

<sup>71</sup> Ibid., article 9.

<sup>72</sup> Available at: <https://www.ombudsman.ge/geo/akhali-ambebi/sakartvelos-sakhalkho-damtsvelis-gantskhadeba-utskhourigavlenis-gamchvirvalobis-shesakheb-sakartvelos-kanonis-proekttan-dakavshirebit>

<sup>73</sup> Available at: <https://rm.coe.int/michael-oflaherty-letter-geo/1680af603e>

<sup>74</sup> Available at: <https://www.osce.org/files/f/documents/b/d/569922.pdf>

access to funding, including foreign funding, is a critical aspect of the right to freedom of association. Furthermore, it argues that increasing transparency, in and of itself, is not a legitimate aim to impose restrictions on the right to freedom of association.<sup>75</sup>

The Venice Commission also analysed the compatibility of the law with applicable international and European standards, concluding that the restrictions set by the Law to the rights to freedom of expression, freedom of association and privacy are incompatible with the strict test set out in Articles 8(2), 10(2), and 11(2) of the ECHR and Article 17(2), 19(2) and 22(2) of the ICCPR as they do not meet the requirements of legality, legitimacy, necessity in a democratic society and proportionality, as well as with the principle of non-discrimination set out in Article 14 of the ECHR.<sup>76</sup> More specifically, according to the Venice Commission, “Being designated as an entity pursuing the interests of a foreign power under the Law has serious implications as it undermines both the financial stability and credibility of the organisations targeted as well as their operations. The combined impact of burdensome registration and reporting requirements (including disclosure of financial information), which limit access to funding options for stigmatised associations, along with severe administrative fines they may incur, constant surveillance, will with no doubt complicate and threaten the effective operation and existence of the organisations concerned. The persistent and stigmatising obstacles concentrated in the hands of the state create a chilling effect.”<sup>77</sup> In its conclusion, the Venice Commission highlighted that, the Law, under the alleged aim of ensuring transparency, has the objective effect of risking the stigmatising, silencing and eventually elimination of associations and media which receive even a low part of their funds from abroad.<sup>78</sup> The Commission warned that the law poses a strong risk that the associations and media which come to be affected will be those who are critical of the government, so that their removal would adversely affect open, informed public debate, pluralism and democracy.<sup>79</sup> As a result, the Venice Commission strongly recommended that the authorities repeal the law in its current form due to its fundamental flaws will involve significant negative consequences for the freedoms of association and

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<sup>75</sup> Ibid.

<sup>76</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e), §96

<sup>77</sup> Ibid., §97.

<sup>78</sup> Ibid., §98.

<sup>79</sup> Ibid.

expression, the right to privacy, the right to participate in public affairs as well as the prohibition of discrimination.

The concept of "foreign agent" has been scrutinized by the European Court of Human Rights, which found that labeling non-governmental organizations as a "foreign agents" is not only harsh but also unjustified and harmful. This label has a strong suppressive and stigmatizing effect on the activities of NGOs, restricting their ability to function freely and independently.<sup>80</sup>

This issue also ties into the context of the Committee of Ministers' recommendation regarding the need for coordination with LGBTI organizations. In Georgia, coordination in policy-making process has been a one-way approach, where the needs and concerns of the community have been consistently ignored or sidelined in key documents, such as human rights action plans. This exclusion is now further entrenched by the legislative changes in 2024, leading to a complete breakdown of meaningful coordination and resulting in a boycott by civil society organizations.

On one hand, the state's policies marginalize and discriminate against LGBTI issues under the pretext of moral protection, while on the other hand, they stigmatize civil society as a whole. This dual oppression places LGBTI organizations in an increasingly difficult position. Although LGBTI organizations are not yet facing the risk of registration, the Civil Code had allowed for organizations to be disqualified from registration if their goals contradict "recognized moral norms." Given the new anti-LGBTI framework, this provision could be interpreted in a way that further undermines community organizations, placing them at risk of legal and operational restrictions.

In response to the Committee of Ministers' Recommendation, the state not only fails to protect LGBTI rights defenders from hostility and aggression but is actively creating a legal framework that marginalizes them. Thus, this legal framework has resulted in a widespread civil society boycott of cooperation with the government, with Women's Initiatives Supporting Group, along with other community organizations, being part.<sup>81</sup>

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<sup>80</sup> European court of human rights, decision on *Ecodefence and Others v. Russia*, §136.

<sup>81</sup> Available at: <https://go.on.ge/3ie6>

### III. Freedom of expression and peaceful assembly

13. Member states should take appropriate measures to ensure, in accordance with Article 10 of the Convention, that the right to freedom of expression can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity, including with respect to the freedom to receive and impart information on subjects dealing with sexual orientation or gender identity.
14. Member states should take appropriate measures at national, regional and local levels to ensure that the right to freedom of peaceful assembly, as enshrined in Article 11 of the Convention, can be effectively enjoyed, without discrimination on grounds of sexual orientation or gender identity.
15. Member states should ensure that law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons from any attempts to unlawfully disrupt or inhibit the effective enjoyment of their right to freedom of expression and peaceful assembly.
16. Member states should take appropriate measures to prevent restrictions on the effective enjoyment of the rights to freedom of expression and peaceful assembly resulting from the abuse of legal or administrative provisions, for example on grounds of public health, public morality and public order.
17. Public authorities at all levels should be encouraged to publicly condemn, notably in the media, any unlawful interferences with the right of individuals and groups of individuals to exercise their freedom of expression and peaceful assembly, notably when related to the human rights of lesbian, gay, bisexual and transgender persons.

Section III of the Appendix requires member states to guarantee freedom of expression and peaceful assembly to LGBTI people, ensuring the freedom to receive and transmit information and ideas relating to sexual orientation and gender identity, encouraging pluralism and non-discrimination in the media, protection of peaceful assemblies, and condemnation by public authorities of any interference with the exercise of the right to freedom of expression and peaceful assembly of LGBTI people.

### Freedom of expression

During the second cycle of monitoring, we could hardly have imagined that, the next cycle, Georgia would move into the group of countries where freedom of assembly and expression would be censored by anti-LGBTI legislation. The extent to which these freedoms would be restricted to strengthen the authoritarian regime in the country was indeed unimaginable. Yet today, the anti-LGBTI law, set to come into force in December, severely limits the rights to freely discuss gender and sexuality, grants the government the power to control information entirely, and bans non-existent "propaganda" and "popularisation."

The concept of "popularisation"<sup>82</sup> deserves special attention, as the term is not clearly defined and, in reality, is synonymous with the transfer of knowledge, the dissemination of information, scientific and artistic research, the creation of works, as well as the holding of gatherings and demonstrations. Under this law, any knowledge, information, distribution of work, or expression related to gender and sexuality can be classified as "popularisation" and prohibited on that basis. This is a direct opposition to the principles of a democratic society and grants the government the power to label any civil or political person, group, or entity—whether a doctor, teacher, journalist, researcher, artist, publisher, writer, politician, scientist, activist, or protest

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<sup>82</sup> Law of Georgia on protection of family values and minors, article 3, Definition of the term 'popularisation': The relevant information/action referred to in this Law shall be considered as information/action aimed at popularising a person's assignment to neither biological sex, and/or a sex different from his/her biological sex, or a relationship between representatives of the same biological sex with an expressed sexual orientation, or incest, if, in the opinion of an impartial observer, the mentioned information/action serves to demonstrate that a person's assignment to neither biological sex, and/or his/her assignment to a sex different from his/her biological sex, a relationship between representatives of the same biological sex with an expressed sexual orientation, or incest, is a positive and exemplary action. Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>

movement—that criticizes it as engaging in "popularization." Furthermore, the terms are so vague and expansive that even neutral statements could be perceived as propaganda.

Thus, the anti-LGBTI law effectively dictates what we will see, read, and write, with such broad interpretations that it can extend to social media activity as well. If enacted, even the publication of this report could be categorized as "popularisation" and, as a result, deemed illegal.

In the name of protecting minors and family values, the anti-LGBTI law seeks to limit freedom of expression by forbidding to broadcast on the air such information which is 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. Such restriction in relation to the placement of a creative work on the air by a broadcaster shall only imply the inadmissibility of broadcasting a scene describing intimacies between the representatives of the same biological sex expressly showing their sexual orientation, or incest.<sup>83</sup>

The law also prohibits to provide (share) such information (including creative work) and/or provide access to such information (including to creative work) through direct communication with a minor, which is 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.<sup>84</sup>

Additionally, it's prohibited to disseminate an advertisement which is 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.<sup>85</sup>

Furthermore, the Law of Georgia "on Freedom of Speech and Expression" has been amended to establish regulation of expression, even if such expression contradicts any of the

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<sup>83</sup> Ibid., article 9, part 1.

<sup>84</sup> Ibid., part 2.

<sup>85</sup> Ibid., part 3.

aforementioned requirements outlined in the law "on Protection of Family Values and Minors."

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Corresponding articles have been added to the enforcement mechanism under the already problematic Soviet-era Code of Administrative Offenses.:

Specifically, the dissemination of advertisements aimed at promoting a person belonging to a sex different from their biological sex, relationships based on sexual orientation between individuals of the same biological sex, or promoting incest, will result in penalties. If the person disseminating the advertisement has actual control over its distribution, they will be fined 800 GEL, with confiscation of the object of the offense. For legal entities, the fine is set at 2,500 GEL, along with confiscation of the object involved in the offense.<sup>87</sup>

Providing or sharing of information (including creative works) with or making such information (including creative works) accessible to a minor, which promotes a person's transition to a gender different from their biological sex, same-sex relationships, or incest, will result in a fine, will result in a fine of 1,000 GEL for an individual, with confiscation of the object involved in the offense. For a legal entity, the fine will amount to 3,000 GEL, also with confiscation of the object involved.<sup>88</sup>

It is highly concerning that the re-commission of these actions is subject to criminal liability. The penalties for such offenses include a fine, the deprivation of the right to hold office or work for up to three years, or imprisonment for a period of up to two years.<sup>89</sup>

Furthermore, it is explicitly prohibited to include such information in the mentoring and/or educational programme of early learning and educational institutions, in the mentoring and/or educational programme of preschool mentoring and educational institutions, educational programmes of general educational institutions/schools, vocational educational institutions/colleges or higher educational institutions, and/or to disseminate such information

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<sup>86</sup> Law of Georgia on Freedom of Speech and Expression, article 9, part b1; available at: <https://matsne.gov.ge/en/document/view/33208?publication=5>

<sup>87</sup> Draft law on amending the code of administrative offences, article 172<sup>2</sup>, part 1; available at: <https://matsne.gov.ge/ka/document/view/28216?publication=564>

<sup>88</sup> Ibid.

<sup>89</sup> Draft law on amending the criminal code of Georgia; available at: <https://info.parliament.ge/file/1/BillReviewContent/363941?>



or facilitate the dissemination of such information by employees of the said institutions within the scope of the activities of the said institutions and/or in the territory of the same institutions, which is 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.<sup>90</sup> This provision will be further examined in the context of the right to education below.

With regard to the draft constitutional amendment package, the draft law seeks to prohibit the distribution of works, programs, or other materials that include content related to the adoption or foster care of a minor by a same-sex couple or a non-heterosexual individual, medical interventions associated with sex reassignment, or sexual identification.<sup>91</sup>

It is important to clarify that the proposed constitutional amendment or the already adopted legislative changes contradict the standards established by national legislation, which were discussed in detail during the previous monitoring cycle. Specifically, the Constitution of Georgia protects the freedom of expression, and it outlines the grounds on which this right may be limited. According to the Constitution, freedom of expression may be restricted "only in accordance with law, insofar as is necessary in a democratic society for ensuring national security, public safety or territorial integrity, for the protection of the rights of others, for the prevention of the disclosure of information recognised as confidential, or for ensuring the independence and impartiality of the judiciary."<sup>92</sup> As defined by the Constitutional Court of Georgia, "Freedom of expression is the cornerstone of a democratic state, because without it, human self-realization is impossible. Freedom of expression is an essential foundation for the development of each individual and for the progress of society as a whole; it creates the possibility for the sharing of democratic values within society."<sup>93</sup>

The state also recognises and protects freedom of speech and expression as inalienable and fundamental human values.<sup>94</sup> This includes absolute freedom of opinion; the right to seek,

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<sup>90</sup> Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>, article 8.

<sup>91</sup> Available at: <https://www.matsne.gov.ge/ka/document/view/6157813?publication=0>, article 1, part 7-8.

<sup>92</sup> Constitution of Georgia, available at: <https://matsne.gov.ge/ka/document/view/30346?publication=36>, article 17, part 5.

<sup>93</sup> Decision of the Constitutional Court of Georgia, Luri Vazagashvili against parliament of Georgia No1/6/561,568, II, §39.

<sup>94</sup> Law of Georgia on Freedom of Speech and Expression, article 3, part 1; available at: <https://matsne.gov.ge/en/document/view/33208?publication=5>

receive, create, store, process, and distribute any form of information and ideas; the prohibition of censorship; academic freedom in study, teaching, and research; and the freedom of art, creativity, and invention. Any restriction on freedom of expression may be established only if it is prescribed by a clear and comprehensive, narrowly tailored law and the benefit protected by the restriction exceeds the damage caused by the restriction.<sup>95</sup> Furthermore, a law restricting freedom of expression shall be directly intended to attain legitimate aims and critically needed for the existence of a democratic society; Such restrictive regulations must be non-discriminatory and should be proportionally restrictive.<sup>96</sup>

In terms of the right to education and teachers' freedom of expression, the legislation ensures that teachers have the right to inquire, obtain, produce, store, process or disseminate any information and opinions during school time or on school grounds.<sup>97</sup>

Moreover, the legislative changes not only contradict the aforementioned national legislation but also violate international human rights standards, as well as the recommendation of the Committee of Ministers. Under the aforementioned Recommendation states must prevent restrictions on the effective enjoyment of the right to freedom of expression and peaceful assembly resulting from the abuse of legal or administrative provisions, for example on grounds of public health, public morality and public order.

The Venice Commission, in its opinion on the constitutional draft law "on family values and protection of minors," urged the authorities not to proceed with adopting the law, as the draft law fails to meet European and international standards. Furthermore, it exacerbates prejudice and perpetuates stereotypes against queer individuals. Given that the adopted legislative package closely mirrors the draft constitutional amendment, to which the Venice Commission issued a critical opinion, we find it crucial to address this connection.

When discussing the legitimate aim of restricting the freedom of assembly, manifestation, and expression, the Venice Commission refers to a decision of the European Court of Human Rights. In this case, the Court strongly criticized Russian legislation that is identical to the draft law

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<sup>95</sup> Ibid., article 8, part 1.

<sup>96</sup> Ibid., part 2.

<sup>97</sup> Law of Georgia on general education, article 14, part 1; available at: <https://matsne.gov.ge/en/document/view/29248?publication=106>

under consideration. The Court found that the goal of protecting minors was disproportionate when weighed against the restriction of the rights of sexual minorities. Furthermore, the European Court of Human Rights established that there is a clear European consensus on the recognition of the right of individuals to identify openly as gay, lesbian or any other sexual minority and to promote their own rights and freedoms.<sup>98</sup> In light of this, the Venice Commission emphasises that, although the subject matter may be linked to sensitive moral or ethical issues, national authorities have a narrow margin of appreciation because the issue concerns freedom of expression on a matter of public interest.

The Venice Commission found the scope of the law is overinclusive as the provisions under consideration are not limited to obscenities or to provocative incitements to intimate relations between persons of the same sex, but they also seem to apply to the dissemination of mere information or ideas, advocating a more positive attitude towards same-sex relationships and different gender identities.<sup>99</sup>

Concerning the issue of "propaganda," the Venice Commission refers to the ECtHR assessment that there is no scientific evidence or sociological data suggesting that the mere mention of homosexuality, or open public debate about sexual minorities' social status, would adversely affect children or "vulnerable adults" and it is, instead, only through fair and public debate that society may address such complex issues.<sup>100</sup>

As a result, the Commission concluded that the articles of the draft law, which interfere with the right to freedom of expression, fail to meet the requirement of certainty and, furthermore, are not a necessary means of achieving the legitimate aim they claim to serve.

### **Right to peaceful assembly and manifestation**

The right to peaceful assembly and demonstration on issues of sexual orientation and gender identity has also been severely restricted. Under the anti-LGBTI law, it shall be forbidden to hold public assemblies and/or manifestations, which are aimed at popularising a person's assignment

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<sup>98</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §72.

<sup>99</sup> Ibid., §84.

<sup>100</sup> Ibid.

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.<sup>101</sup>

The restrictive provisions on assembly and demonstration are further reflected in the draft constitutional amendment, which prohibits the gathering if it aims to popularise single-sex family or intimate relationship, incest, adoption or foster care of a minor by same-sex family or non-heterosexual person, changing sex by medical intervention or non-use of concepts defined by sex.<sup>102</sup>

According to the amendment to the Law on "Assemblies and Demonstrations" within the anti-LGBTI legislative package, the use of police force against LGBT persons and their supporters during an assembly or demonstration will be deemed legitimate, even in the absence of a legal basis for disbanding the event. The police will have the authority to request the termination of the assembly or demonstration, and if the assembly/demonstration is not halted within 15 minutes of this request, law enforcement will use the measures provided by Georgian legislation to disperse it.<sup>103</sup>

Similar to the administrative regulation of freedom of expression, the regulation concerning assemblies and manifestations stipulates that gatherings and demonstrations that, through direct communication with a minor, provide or make accessible information aimed at promoting assigning gender different from the minor's biological sex, same-sex relationships, or incest, will incur penalties. For individuals, the fine will be 1,000 GEL, along with the confiscation of the offending material. For legal entities, the fine will be 3,000 GEL, also with confiscation of the offending material.<sup>104</sup> Repeated offenses will lead to criminal liability.<sup>105</sup>

Similar to the guarantees of freedom of expression, the proposed changes are inconsistent with existing regulations, as both the Constitution of Georgia and the Law on "Assembly and Demonstrations" protect the right to peaceful assembly and expression. Every individual has the

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<sup>101</sup> Law of Georgia on protection of family values and minors, article 10; available at:

<https://matsne.gov.ge/en/document/view/6283110?publication=0>

<sup>102</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/359733>, article 1, part 6.

<sup>103</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363947?>

<sup>104</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363943?>

<sup>105</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363941?>

right to assemble in public and private spaces, unarmed, without the need for prior permission.<sup>106</sup> Furthermore, the violation of the right to assemble or gathering is addressed under the Criminal Code of Georgia, which stipulates that "Unlawful interference with the exercise of the right to hold or participate in an assembly or demonstration using violence, threat of violence or official position" shall be punished.<sup>107</sup>

In conjunction with national legislation, the discussed restrictions not only contradict the general practice and standards set by the European Court of Human Rights, but also go against specific decisions and recommendations issued by the European Court and the Committee of Ministers to the Government of Georgia.

In the decision of *Identoba and Others v. Georgia*, where the Court criticized the state's failure to fulfill its positive obligations, it was assessed that a peaceful demonstration may annoy or give offence to persons opposed to the ideas or claims that it seeks to promote. The participants must, however, be able, with the State's assistance, to hold the demonstration without having to fear that they will be subjected to physical violence by their opponents.<sup>108</sup>

On September 19, 2024, the Committee of Ministers expressed strong criticism against the Georgian government regarding the protection of LGBTI rights, while examining the enhanced supervision procedure on the mentioned case.<sup>109</sup> The Committee voiced deep concern over the initiation of the draft constitutional law and adoption of the legislative package on "Protecting Family Values and Minors" which restrict freedom of expression and assembly related to LGBTI issues, considered that the enactment of such legislation could raise serious questions as to the compliance by Georgia with its obligation to abide by the final judgments of the Court.<sup>110</sup> The Committee strongly urged the authorities not to enact the adopted legislative package and not to proceed with any further legislative steps that would be contrary to the Convention, in particular their obligations in this group of cases, and the Court's case law. It emphasized the state's duty to act as the ultimate guarantor of the principles of equality, pluralism, tolerance

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<sup>106</sup> Available at: <https://matsne.gov.ge/ka/document/view/31678?publication=20>, article 2.

<sup>107</sup> Available at: <https://matsne.gov.ge/ka/document/view/16426>, article 161.

<sup>108</sup> Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-154400%22%5D%7D>, §95.

<sup>109</sup> Available at: <https://hudoc.exec.coe.int/#%7B%22fulltext%22:%5B%22identoba%22%2C%22execdocumenttypecollection%22:%5B%22CEC%22%2C%22execidentifier%22:%5B%22004-5894%22%5D%7D>

<sup>110</sup> *Ibid.*, §4.

and broadmindedness, deplored that more than 12 years after the events giving rise to violations in the leading judgment in the *Identoba and Others* case, LGBTI people in Georgia are still confronted with large-scale hate violence and speech, and are unable to enjoy fully their fundamental right to freedom of assembly.<sup>111</sup>

The conclusion of the Venice Commission is also highly relevant in relation to the right of assembly. In the Commission's opinion, it is unacceptable to use vague and broad terms such as "gathering," "popularising," and "promoting" in laws that interfere so explicitly with the rights guaranteed by Articles 10 and 11 of the Convention. The lack of clarity in these terms opens the door to disproportionate restrictions on freedom of expression and assembly, failing to meet the legal requirement for precision and certainty in the law.<sup>112</sup>

The Commissioner for Human Rights also reminded the Parliament of Georgia that the ban on assembly violates the fundamental rights of LGBTI individuals, citing relevant precedents established by the European Court.<sup>113</sup>

Regarding parts 15-17 of the CM (2010)5 Recommendation, it is important to highlight that even prior to the amendments, IDAHOBIT and Pride marches have been repeatedly canceled since 2012, either by ultra-conservative and far-right groups or by the organizers themselves, due to the threat of violent attacks from these groups. The inability of the government to ensure security and protection only exacerbates these attacks. This cycle of rights violations, violence, and impunity is further illustrated by another decision made by the European Court of Human Rights against Georgia:

In its 2021 decision in the case of *Women's Initiatives Supporting Group and Others v. Georgia*, which involved a peaceful demonstration planned for May 17, 2013, the European Court found that the demonstration was unable to take place due to the state's failure to ensure its safety. The Court held that violations of Article 3 (Prohibition of Torture), Article 11 (Freedom of Peaceful Assembly and Association), and Article 14 (Prohibition of Discrimination). Similar to the *Identoba case* the Court emphasized that the authorities had failed to take effective

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<sup>111</sup> Ibid., §5.

<sup>112</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §73-76.

<sup>113</sup> Available at: <https://rm.coe.int/letter-to-chairman-of-parliament-georgia-by-michael-o-flaherty-coucil-/1680b18c78>

measures to protect LGBT individuals from counter-demonstrators, despite being well aware of the risk of violence.<sup>114</sup> Despite the ongoing investigation into the case for more than ten years, no individual has been held criminally responsible.<sup>115</sup>

Similar events to those of 2012 and 2013 occurred during the reporting period. In connection with the 2019 "March of Dignity" as part of Tbilisi Pride Week, far-right violent groups announced the formation of "people's legions" and street patrols.<sup>116</sup> The authorities' failure to hold the instigators and organizers of hate and violence accountable led to a sense of impunity, which was reflected in the events of July 5, 2021, during the violent actions against the "March of Dignity." Of particular concern was the hate speech and public calls for violence made by the organizers and clerics participating in the counter-demonstration, directed not only at the participants of the "March of Dignity" but also at journalists. These calls aimed to disperse the peaceful protesters and incite physical violence, which quickly escalated into widespread violence against media representatives present to cover the counter-demonstration.

Violent groups raided the offices of "Shame Movement" and "Tbilisi Pride,"<sup>117</sup> and obstructed the organizers of the "March of Dignity" and their supporters from gathering. As a result of the group violence, 55 journalists and cameramen were injured, personal belongings were damaged, and journalists were obstructed in their professional duties.<sup>118</sup> This attack, one of the most severe and large-scale instances of organized violence against LGBTI people and journalists in Georgia's history, caused significant harm to the media, the LGBTI community, their supporters, and the broader democratic development of the country.<sup>119</sup>

Regarding the law enforcement response, while 53 individuals were identified as victims and criminal prosecution was initiated against 27 people, no criminal charges were brought against

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<sup>114</sup> Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-214040%22%5D%7D>

<sup>115</sup> Available at: <https://wisg.org/en/news/detail/441/ადამიანის-უფლებთა-ორგანიზაციებმა-ევროპის-საბჭოს-მინისტრთა-კომიტეტი-წარუდგინეს-2024-წლის-ანგარიში-საქართველოში-ლგბტი-უფლებებთან-დაკავშირებულ-ევროპული-სასამართლოს-საქმეებზე>

<sup>116</sup> Available at: <https://oc-media.org/tbilisi-pride-cancelled-after-location-leaks-online/>

<sup>117</sup> Available at: <https://formulanews.ge/News/53042>

<sup>118</sup> Available at: <https://ombudsman.ge/res/docs/2021090615354912875.pdf>

<sup>119</sup> Available at: <https://www.ombudsman.ge/eng/spetsialuri-angarishebi/lgbt-igufis-uflebrivi-mdgomareobis-shefaseba-sakartveloshi>, p. 28.

those responsible for organizing the group violence or publicly inciting it.<sup>120</sup> This omission is deeply concerning, as it sends an alarming message and indirectly legitimizes the violence.

On July 8, 2023, during Tbilisi Pride Week, the police failed to prevent or effectively respond to the raiding of the closed, private space designated for Pride by far-right violent groups. The perpetrators were able to occupy the space, vandalize installations, and burn flags and banners.<sup>121</sup>

In 2024, LGBT organizations also chose to refrain from holding public gatherings, including Tbilisi Pride, which announced that Pride month would proceed without any physical events.<sup>122</sup>

In response to years of impunity, the tendency of public figures in Georgia to treat LGBTI people and their violent counter-demonstrators as opposing sides has been damaging. This view is highlighted in the special report by the Public Defender of Georgia, which notes that one of the acute problems is the government's treatment of violent groups as individuals with a different opinion who enjoy the freedom of assembly, placing the threats posed by these groups within the same legal framework that guarantees the right to peaceful assembly. This approach contradicts both national and international standards of freedom of assembly, as it the violent groups use the right solely to limit the rights of others, with their violent actions not protected under freedom of assembly.<sup>123</sup>

Through their actions and rhetoric, these violent groups have consistently fueled homophobic sentiment and encouraged discrimination, yet the government has failed to take necessary preventive measures or respond effectively to these specific incidents. Today, the government has itself created a legal framework that deprives the LGBTI community of their right to assemble and express themselves. In the name of protecting the rights of others, the LGBTI group has effectively been banned from and excluded entirely from public space.

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<sup>120</sup> Available at: *ibid.*

<sup>121</sup> Available at: <https://www.radiotavisupleba.ge/a/32495400.html>

<sup>122</sup> Available at: <https://civil.ge/ka/archives/612917>

<sup>123</sup> Available at: <https://ombudsman.ge/res/docs/2020061620213679437.pdf>, p. 11.



#### IV. Right to respect for private and family life

18. Member states should ensure that any discriminatory legislation criminalising same-sex sexual acts between consenting adults, including any differences with respect to the age of consent for same-sex sexual acts and heterosexual acts, are repealed; they should also take appropriate measures to ensure that criminal law provisions which, because of their wording, may lead to a discriminatory application are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination.
19. Member states should ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used by public institutions including in particular within law enforcement structures, except where this is necessary for the performance of specific, lawful and legitimate purposes; existing records which do not comply with these principles should be destroyed.
20. Prior requirements, including changes of a physical nature, for legal recognition of a gender reassignment, should be regularly reviewed in order to remove abusive requirements.
21. Member states should take appropriate measures to guarantee the full legal recognition of a person's gender reassignment in all areas of life, in particular by making possible the change of name and gender in official documents in a quick, transparent and accessible way; member states should also ensure, where appropriate, the corresponding recognition and changes by non-state actors with respect to key documents, such as educational or work certificates.
22. Member states should take all necessary measures to ensure that, once gender reassignment has been completed and legally recognised in accordance with paragraphs 20 and 21 above, the right of transgender persons to marry a person of the sex opposite to their reassigned sex is effectively guaranteed.
23. Where national legislation confers rights and obligations on unmarried couples, member states should ensure that it applies in a non-discriminatory way to both same-sex and different-sex couples, including with respect to survivor's pension benefits and tenancy rights.
24. Where national legislation recognises registered same-sex partnerships, member states should seek to ensure that their legal status and their rights and obligations are equivalent to those of heterosexual couples in a comparable situation.
25. Where national legislation does not recognise nor confer rights or obligations on registered same-sex partnerships and unmarried couples, member states are invited to consider the possibility of providing, without discrimination of any kind, including against different sex couples, same-sex couples with legal or other means to address the practical problems related to the social reality in which they live.
26. Taking into account that the child's best interests should be the primary consideration in decisions regarding the parental responsibility for, or guardianship of a child, member states

should ensure that such decisions are taken without discrimination based on sexual orientation or gender identity.

27. Taking into account that the child's best interests should be the primary consideration in decisions regarding adoption of a child, member states whose national legislation permits single individuals to adopt children should ensure that the law is applied without discrimination based on sexual orientation or gender identity.

28. Where national law permits assisted reproductive treatment for single women, member states should seek to ensure access to such treatment without discrimination on grounds of sexual orientation.

This section of the Appendix addresses, among other things, same-sex relationships, discusses the trans-specific context of the right to respect for private and family life. The Committee has urged Member States to ensure that trans people have effective access to sex reassignment services. Accordingly, our evaluation will follow this structure and analyze only the relevant recommendations. First, the evaluation will examine the anti-LGBTI legislation, the anti-discrimination legal framework, and the conclusions of the Venice Commission regarding this legislation. It will assess how various provisions conflict with the Georgian Constitution, domestic laws, and the practice of the European Court.

### **The right to legal recognition of same-sex relations**

In the previous monitoring cycle, there was already a provision in both the Constitution and the Civil Code, which defined marriage as a registered union between a man and a woman for the purpose of creating a family. The rights and duties associated with marriage arose only in the case of a registered marriage, which inherently excluded LGBTI persons due to the absence of a legal framework for civil partnerships and the corresponding legal guarantees.

However, the government's anti-LGBTI rhetoric did not stop there. During the current cycle, this rhetoric manifested in discriminatory constitutional initiatives and legislative changes. The draft Constitutional Law on Family Values and Protection of Minors seeks to regulate a relationship akin to marriage, but it restricts the definition to the union of one genetic male and one genetic female, at least 18 years of age.<sup>124</sup> This change explicitly prohibits the possibility of marriage for same-sex couples, that's has already been prohibited. While it is true that queer people have not been able to marry under the current legal framework, the new amendment adds an additional ban on any form of civil union "similar to marriage." This is contrary to the case law of the European Court, which has established that, in the absence of marriage, same-sex couples should have access to legal institutions of civil unions or registered partnerships. These mechanisms are necessary to provide adequate legal protection and solutions for the everyday

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<sup>124</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/359733>, article 1.

issues faced by same-sex couples.<sup>125</sup> This issue is particularly relevant to Section 25 of the Recommendation.

The Venice Commission has raised concerns about the lack of clarity regarding what the legislator considers a "relationship similar to marriage" and how such relationships will be regulated, particularly in cases where at least one partner has undergone gender transition.<sup>126</sup> Regrettably, this ambiguity is clarified by the law on "protection of family values and minors," which introduces a number of prohibitions. According to this law, marriage is defined as a voluntary union between a man and a woman for the purposes of founding a family that meets the requirements established by the legislation of Georgia. It shall be forbidden to register a union between representatives of the same biological sex as marriage and/or to recognise such union as marriage by a legal act. The union between representatives of the same biological sex registered and/or recognised as marriage abroad shall have no legal force in Georgia. It shall be also forbidden to register and/or recognise an alternative union as marriage by a legal act. Such union registered and/or recognised abroad shall have no legal force in Georgia.<sup>127</sup>

As a result, LGBTI individuals are denied the opportunity to enter into a legally recognized marriage. Furthermore, they are also deprived of the possibility of having their civil partnerships legally recognized, thereby being denied the legal means to protect their right to personal and family life.

The Venice Commission clarified that while the prohibition on same-sex marriage does not necessarily contravene European human rights standards, it did find that the proposed legislative changes effectively exclude same-sex couples from the right to have their civil unions recognized under Article 8 of the European Convention on Human Rights. This exclusion, in turn, constitutes a violation of the prohibition of discrimination,<sup>128</sup> as differential treatment based on sexual orientation is impermissible under the Convention.

The aforementioned legislative changes not only leave same-sex couples, who are already deprived of the right to marry, without the possibility of having their civil partnerships legally

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<sup>125</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §30.

<sup>126</sup> Ibid., §27.

<sup>127</sup> Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>, article 4.

<sup>128</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), § 31.

recognized, but also exclude them from accessing important civil benefits available to heterosexual couples. Furthermore, same-sex couples are denied critical protection mechanisms, such as those related to combating and preventing domestic violence, which are guaranteed by the Istanbul Convention. Given Georgia's ratification of the Istanbul Convention, it is essential that these protections extend equally to same-sex couples alongside heterosexual couples.

According to a 2021 survey conducted by the Women's Initiative Support Group, nearly one-third (N=63, 31.3%) of individuals with an intimate partner in the past two years reported being victims of intimate partner violence at least once.<sup>129</sup> However, the Georgian law "On the Prevention of Violence Against Women and/or Domestic Violence, Protection and Assistance to Victims of Violence" fails to include LGBTI persons in cohabiting relationships, particularly those in "unregistered marriages," within the scope of family members eligible for protection. This exclusion further exacerbates the discriminatory impact of anti-LGBTI legislative changes. As a result, the heteronormative framework of the legal system systematically denies victims in non-heterosexual relationships access to state-provided victim protection and support services.

### **Collection of personal data related to sexual orientation or/and gender identity**

Although illegal collection and processing of personal data related to sexual orientation and gender identity was discussed in the previous cycle of monitoring, such disproportionate processing still lacked a legal basis. However, today, Article 8 of the Law "On Transparency of Foreign Influence" presents a significant issue. It grants the Ministry of Justice the authority to monitor the activities of legal entities and broadcasters in order to identify organizations that "pursue the interests of a foreign power."<sup>130</sup> The law authorizes the Ministry of Justice to obtain the necessary information, including the data provided for by Article 3(b) of the Law of Georgia on Personal Data Protection.<sup>131</sup> This category includes sensitive personal information such as

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<sup>129</sup> Impact of COVID-19 Pandemic on LGBT(Q)I Community in Georgia, WISG, 2022, available at: [https://wisg.org/Data/docs/publications/research-study/WISG\\_Covid-impact-on-LGBTQI-community-EN.pdf](https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf)

<sup>130</sup> Available at: <https://matsne.gov.ge/ka/document/view/6171895?publication=0>

<sup>131</sup> Ibid., article 6.

data related to a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, and "sex life."<sup>132</sup>

The Venice Commission emphasized that the request for such information has no basis. The amended version of the law also requires the provision of " other personal data, and information containing a secret (except for a state secret as provided for by the legislation of Georgia)." This concept is vague and unclear to the Commission, since there is no link between such information and the purposes of the law. <sup>133</sup>

In our opinion, the fact that the Ministry of Justice is given the opportunity to receive any type of information, including from a human rights organization, including confidential information provided to such organization, including while the provision of services and related to the beneficiary's sexual orientation and gender identity, is alarming and completely incompatible with the right to respect for private life.

### Legal Gender recognition

The issue of legal gender recognition for trans persons in Georgia has long been unregulated and problematic, prompting several international human rights mechanisms to issue recommendations. The lack of regulation meant that, under Article 78 of the Law of Georgia "On Civil Acts," the circumstances that allowed for changes to civil records were limited. One of these circumstances was change of sex.<sup>134</sup>

The established practice linked legal gender recognition with medical procedures, including mandatory sterilization, hormone therapy, and surgery. A trans person who underwent gender-affirming surgery and submitted a certificate from a medical institution to the State Services Agency could change the gender entry on their birth certificate.<sup>135</sup> However, for trans individuals who either did not wish to undergo surgery, could not due to health reasons, or lacked the

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<sup>132</sup> Available at: <https://matsne.gov.ge/en/document/view/5827307?publication=2>

<sup>133</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-geo](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-geo), §55.

<sup>134</sup> Available at: <https://matsne.gov.ge/en/document/view/1541247?publication=21>, article 78, part g.

<sup>135</sup> Available at: <https://wisg.org/Data/docs/publications/policy-paper/WISG-LGR-in-Georgia-2022-GEO.pdf>

financial means for the expensive procedure, their right to legal gender recognition was limited by this practice.

In 2019, the UN Independent Expert highlighted the difficulties caused by the lack of a mechanism, noting that such treatments and procedures can lead to severe and lifelong physical and mental pain and suffering and, if forced, coercive or otherwise involuntary, can violate the right of persons to be free from torture and other cruel, inhuman or degrading treatment or punishment. Sterilization requirements run counter to respect for bodily integrity, self-determination and human dignity, and can cause and perpetuate discrimination against transgender persons.<sup>136</sup>

Thus, the Expert addressed Georgian authorities to “ensure that the process of legal recognition of gender identity is based on self-determination by the applicant, is a simple administrative process, is exempt from abusive requirements, recognizes non-binary identities and is accessible to minors.”<sup>137</sup>

In 2022, the Commissioner for Human Rights made a similar recommendation, that the authorities take measures to facilitate legal gender recognition in a timely, transparent, and accessible way and without medically invasive requirements, in line with the Council of Europe Committee of Ministers’ Recommendation CM/Rec(2010)5.<sup>138</sup>

It is noteworthy that the 2022 decision of the European Court of Human Rights in the case concerning legal gender recognition against Georgia highlighted that the vagueness of the existing legislation undermined the practical accessibility of legal gender recognition. The Court also emphasized that the lack of a clear legal framework leaves the gatekeepers – the competent domestic authorities – with excessive discretionary powers, which can lead to arbitrary decisions in the examination of applications for legal gender recognition.<sup>139</sup> The European Court found a violation of Article 8 of the Convention due to the absence of a fast, transparent, and accessible procedure for legal gender recognition and urged the Georgian authorities to

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<sup>136</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §67.

<sup>137</sup> Ibid., §90.

<sup>138</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, §42.

<sup>139</sup> Available at: [https://hudoc.echr.coe.int/fre#%22itemid%22:\[%22001-221237%22\]](https://hudoc.echr.coe.int/fre#%22itemid%22:[%22001-221237%22]), §76.

establish a legal framework that ensures an quick, transparent and accessible procedures for legal gender recognition.<sup>140</sup>

However, the government did not take any concrete steps to implement this decision. Specific examples have been documented by the Women's Initiatives Support Group, including very applicants of the European Court who were refused to change their gender marker despite the decision of the Court in their case, - the State Services Agency has refused to change the marker on the grounds that the documentation confirming “biological gender change” was not presented.<sup>141</sup>

The action plan submitted by the government to the Committee of Ministers in 2023 fails to withstand scrutiny. In the plan, the government reports that it is currently studying the legislation and best practices of other State Parties regarding legal gender recognition, and analyzing the Court’s case law.<sup>142</sup>

Indeed, the authorities have not addressed the issue of legal gender recognition as required by the European Court of Human Rights. On the contrary, the Parliament of Georgia adopted discriminatory laws that completely prohibit the legal gender recognition.

The draft constitutional law proposes that any medical intervention related to gender reaffirmation be prohibited.<sup>143</sup> Additionally, it stipulates that state or local government documents will only reflect a person’s sex based on their genetic, either male or female.<sup>144</sup> Any decision by public authorities or private individuals that directly or indirectly restricts the provision will be deemed invalid.<sup>145</sup>

On the other hand, the law on “protection of family values and minors” prohibits the legal recognition of gender, defining "man" and "woman" based on hereditary genetic characteristics.<sup>146</sup> The law forbids to indicate in the civil status record a person’s sex that is

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<sup>140</sup> Ibid.

<sup>141</sup> Available at: <https://wisg.org/Data/docs/publications/report/2024/Rule-9.2-submission-in-A.D.-and-Others-v-Geo-01082024.pdf>

<sup>142</sup> Available at: [https://hudoc.exec.coe.int/#{%22execidentifier%22:\[%22DH-DD\(2023\)1042E%22\]}](https://hudoc.exec.coe.int/#{%22execidentifier%22:[%22DH-DD(2023)1042E%22]})

<sup>143</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/359733>, article 1, part 3.

<sup>144</sup> Ibid., part 4.

<sup>145</sup> Ibid., part 5.

<sup>146</sup> Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>, article 2.



different from his/her biological sex.<sup>147</sup> It also prohibits performing surgery on a person or use any other type of medical manipulation with regard to such person in order to assign him/her to a sex different from his/her biological sex.<sup>148</sup>

It is particularly concerning that medical procedures related to gender reassignment are subject to a dual ban. First, access to the patient is restricted, and second, medical professionals are prohibited from performing such procedures, with criminal liability imposed for these actions. The amendment to the Criminal Code stipulates that conducting a surgical operations or other medical procedures on a person to assign a gender different from a person's biological sex shall be punished by a fine, deprivation of the right to hold an official position or work for up to three years, or imprisonment for one to four years.<sup>149</sup> Additionally, an amendment to the law on "Health Protection" explicitly prohibits performing surgical operation for another person or to use any other type of medical manipulation for the purpose of assigning a person to a gender different from his/her biological sex.<sup>150</sup>

The law "on Civil Acts" is also being amended, which previously allowed for the modification of the entry in civil records. In contrast of the decision of the ECtHR, the revised version of the law now explicitly prohibits the possibility to change one's gender entry in the civil record or the civil registration certificate.<sup>151</sup>

A similar prohibition has been introduced in the Law of Georgia on " Procedure for Registering Citizens of Georgia and Aliens Residing in Georgia, for Issuing an Identity (Residence) Card and a Passport of a Citizen of Georgia," which also bans indicating a person's gender different from their biological sex in any documents provided for by this law, including passports and identity documents.<sup>152</sup>

Although the Venice Commission did not address the full package of legislative amendments adopted, yet its assessments of the constitutional draft remain relevant to the issue of legal gender recognition: The Venice Commission expressed that, documents issued by the state or

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<sup>147</sup> Ibid., article 7.

<sup>148</sup> Ibid., article 6.

<sup>149</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363941?>, article 176<sup>1</sup>, part2.

<sup>150</sup> Available at: <https://matsne.gov.ge/en/document/view/29980?publication=37>, article 14<sup>1</sup>.

<sup>151</sup> Available at: <https://matsne.gov.ge/ka/document/view/1541247?publication=26>, article 6<sup>1</sup>.

<sup>152</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363922?>

local self-government documents reflecting with genetic data, either male or female sex, would imply that transgender, intersex and non-binary persons cannot obtain legal recognition of the gender transition they have undergone.<sup>153</sup> This stands in contradiction to the case-law of the European Court, which imposes a positive obligation on states to legally recognize gender transitions. This obligation applies equally to those who have undergone sex reassignment surgery and to those who have transitioned without medical intervention.<sup>154</sup> By legislatively banning the possibility of legal gender recognition, the government not only undermines the right to private life protected by Article 8 of the European Convention, but also fails to meet the requirement of non-discrimination based on sexual orientation and gender set out in Article 14.<sup>155</sup> Therefore, under the Commission, the legislative changes, particularly in relation to the legal gender recognition, are incompatible with international legal standards, including the 2022 ruling by the European Court of Human Rights against Georgia.

The issue has already been discussed by the Committee of Ministers in the context of executing the implementation of the European Court's decision. In its assessment from September 2024, the Committee strongly urged the Georgian authorities to refrain from adopting homo/bi/transphobic legislation and from taking actions that violate the rights of LGBTI individuals. The Committee of Ministers emphasized the state's obligation to establish quick, transparent and accessible procedures for legal gender recognition in accordance with the European Convention, the Court's decision, and the Recommendation CM/Rec (2010)5.<sup>156</sup>

According to the Committee of Ministers' assessment, the enactment of the law on "protection of family values and minors will introduce a complete legislative ban on legal gender recognition; considered that the enactment of such legislation could raise serious questions as to the compliance by Georgia with its obligation to abide by the final judgments of the Court.<sup>157</sup>

The Commissioner for Human Rights has issued a similar call and reminder to the Government of Georgia.<sup>158</sup>

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<sup>153</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §50.

<sup>154</sup> Ibid., §52.

<sup>155</sup> Ibid., §54-55.

<sup>156</sup> Available at: [hudoc.exec.coe.int/?i=CM/Del/Dec\(2024\)1507/H46-08E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2024)1507/H46-08E)

<sup>157</sup> Ibid.

<sup>158</sup> Available at: <https://rm.coe.int/letter-to-chairman-of-parliament-georgia-by-michael-o-flaherty-coucil-/1680b18c78>

Finally, by passing this law, the government's response is clear: it seeks to disregard the obligations imposed by the European Convention, disregard not only the European Court's established practice but also the specific decision against Georgia, detach from European human rights standards, and systematically exclude trans people from the public sphere.

### The right to adopt and foster a minor

As part of the previous monitoring cycle, we reported that according to the official response from the Ministry of Labour, Health, and Social Protection, the procedures for child adoption are regulated by the Law on Adoption and Foster Care, as well as the adoption rules established by the Minister. These regulations, according to the Ministry, were applied equally to all individuals, regardless of sexual orientation or gender identity, without discrimination.<sup>159</sup> However, even at that time, the Civil Code of Georgia permitted adoption only by a couple if they were married.<sup>160</sup> Given that Georgian law does not recognize same-sex marriage, same-sex couples were therefore not eligible to adopt children.

Currently, the newly introduced draft constitutional law and the adopted legislative package explicitly prohibit LGBTI individuals from adopting or fostering minors.

According to the draft constitutional law, adoption and foster care will only be permitted by spouses or heterosexual persons who are married in accordance with Georgian legislation.<sup>161</sup> The same prohibitions are applied to individuals who identify with a gender different from their biological sex or whose sexual orientation falls outside the heterosexual category. As noted by the Venice Commission, if a single person is entitled to adopt or foster children, and a difference in treatment is based solely on considerations regarding the applicant's sexual orientation this would amount to discrimination under the Convention.<sup>162</sup>

In addition, the adopted legislative package amends the Law of Georgia "On Adoption and Foster Care," explicitly prohibiting adoption or foster care by individuals who identify with a

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<sup>159</sup> Letter of 17.05.2018 from the ministry of labour, health and social protection.

<sup>160</sup> Civil code of Georgia, available at: <https://matsne.gov.ge/ka/document/view/31702?publication=132>, article 1246.

<sup>161</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/359733>, article 2.

<sup>162</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §39.

gender different from their biological sex, or whose sexual orientation does not fall within the heterosexual category.<sup>163</sup>

It remains unclear how this "categorization" will be applied in cases where a person does not explicitly declare their gender identity or sexual orientation.

Thus, this amendment disregards established human rights standards and conflicts with sections 26-28 of the Committee of Ministers' recommendation.

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<sup>163</sup> Available at: <https://matsne.gov.ge/ka/document/view/3665080?publication=7>, article 4, parts 5-6.

## **V. Employment**

29. Member states should ensure the establishment and implementation of appropriate measures which provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public as well as in the private sector. These measures should cover conditions for access to employment and promotion, dismissals, pay and other working conditions, including the prevention, combating and punishment of harassment and other forms of victimisation.

30. Particular attention should be paid to providing effective protection of the right to privacy of transgender individuals in the context of employment, in particular regarding employment applications, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees.

The aforementioned part of the appendix requires member states to provide effective protection against discrimination based on sexual orientation and gender identity within the employment sector. In this regard, certain positive legislative steps were taken at the beginning of the reporting period, clearly before the declaration of the anti-LGBTI political and legal framework.

As a result of amendments to the Labor Code of Georgia in 2020, the scope of discrimination was broadened. Previously, the Code prohibited discrimination on the basis of sexual orientation and gender identity only within the employment relationship. However, the amendments expanded this protection to include pre-contractual relationships, such as the publication of job vacancies and the selection process. The revisions also cover all levels of the professional hierarchy, including professional orientation, qualification development, vocational training and retraining, and the availability of practical professional experience.<sup>164</sup> Moreover, the Labor Code now explicitly imposes a direct obligation on employers to ensure the protection of equal treatment principles within their institutions. This includes provisions prohibiting discrimination in the internal regulations and other related documents, as well as ensuring their effective implementation.<sup>165</sup>

In May 2019, under the organic law on "the Public Defender of Georgia," private legal entities were subjected to legal regulations similar to those applicable to public entities. Specifically, the law established the obligation for both physical and private legal entities to provide the Public Defender with the necessary information to examine allegations of discrimination.<sup>166</sup> Additionally, the Public Defender was granted the authority to apply to the court against private legal entities or associations of individuals, as well as public institutions, to enforce the implementation of recommendations.<sup>167</sup> As a result, both the Public Defender and the Labor Inspectorate were empowered to take action in cases of discrimination within the employment sector.

Unfortunately, the enhancement of legal guarantees has not led to a significant change in the legal situation of LGBTI individuals, as evidenced by numerous reports and studies. A 2020

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<sup>164</sup> Available at: <https://matsne.gov.ge/ka/document/view/1155567?publication=27>, article 5.

<sup>165</sup> Ibid., article 23, part 4.

<sup>166</sup> The organic law of Georgia on public defender, article 23.

<sup>167</sup> Ibid., article 14<sup>1</sup>

survey revealed that 32.7% of respondents (N=69) had experienced discrimination in employment within the past two years. Specifically, 26.6% reported being denied employment due to their LGBTI status, 13.1% stated they were dismissed for the same reason, 8.7% were denied promotions, and 12.6% faced higher demands compared to other employees.<sup>168</sup>

According to the UN Independent Expert's report, discriminatory practices in the workplace remain a significant challenge for LGBTI individuals in Georgia.<sup>169</sup> These challenges stem from widespread societal prejudices, which force many individuals to conceal their sexual orientation, gender identity, and gender expression in order to retain their employment.

Trans individuals, in particular, are especially vulnerable in labor relations. They face social exclusion and violence, which is exacerbated by the lack of a clear legal mechanism for gender recognition. For instance, when signing an employment contract, trans individuals are required to present their identity card to the employer. This often results in a "forcible coming out," especially in cases where a person has changed their name and photo but their gender marker remains unchanged. This situation leaves trans people with limited opportunities for formal employment, pushing many to accept informal, poorly paid, and precarious working conditions. Some trans women, in particular, engage in sex work, which increases their vulnerability to violence and exploitation. According to a 2020 study, 61.4% of trans sex workers cited poor economic conditions as the primary reason for entering sex work. When asked about the challenges of this work, respondents reported experiencing high levels of stress due to financial instability (79.5%) and threats to life or health (77.3%).<sup>170</sup>

In response to these issues, the UN Independent Expert, the Committee of Ministers, and the Commissioner for Human Rights have all recommended that Georgian authorities establish accessible legal mechanisms for gender recognition, as well as take action to eliminate discriminatory practices in the employment sector. Unfortunately, the Georgian government

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<sup>168</sup> Available at: <https://wisg.org/Data/docs/publications/report/WISG-UPDATED-CEDAW-SHADOW-REPORT-January-2023.pdf>

<sup>169</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §72.

<sup>170</sup> Social Exclusion of LGBTQ Group in Georgia, Social Justice Center, 2020; available at: <https://socialjustice.org.ge/en/products/lgbtk-igufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

has responded with a series of anti-LGBTI legislative changes that extend into the realm of employment as well.

As previously discussed in the chapter on legal gender recognition, the newly adopted anti-LGBTI law stipulates that any part of an obligation imposed within the framework of labour relations, or any instruction issued within the framework of labour relations, and/or any agreement concluded within the framework of labour relations, which implies the refraining from using any word or combination of words due to implications of biological sex, shall be void.

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<sup>171</sup> Labour code of Georgia, available at: <https://matsne.gov.ge/ka/document/view/1155567?publication=27>, article 14<sup>1</sup>.



## VI. Education

31. Taking into due account the over-riding interests of the child, member states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.

32. Taking into due account the over-riding interests of the child, appropriate measures should be taken to this effect at all levels to promote mutual tolerance and respect in schools, regardless of sexual orientation or gender identity. This should include providing objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials, and providing pupils and students with the necessary information, protection and support to enable them to live in accordance with their sexual orientation and gender identity. Furthermore, member states may design and implement school equality and safety policies and action plans and may ensure access to adequate anti-discrimination training or support and teaching aids. Such measures should take into account the rights of parents regarding education of their children.

The sixth part of the appendix requires Georgia to ensure the right to education is accessible to everyone, without discrimination based on sexual orientation or gender identity. This includes taking measures to protect individuals from oppression and social exclusion. Specifically, Georgia must implement equality and safety policies, codes of conduct, and employee training programmes, while also fostering mutual tolerance and respect within schools. The state should integrate objective information about sexual orientation and gender identity into educational curricula and materials, addressing the special needs of LGBT students.

In 2019, the UN Independent Expert urged Georgian authorities to adopt specific policies, programmes, and documents to incorporate issues of sexual orientation and gender identity into educational programmes and anti-bullying mechanisms.<sup>172</sup>

In 2022, the Commissioner for Human Rights reiterated the importance of comprehensive, age-appropriate sexuality education in schools. Such education contributes to building a safe and inclusive society free from violence and discrimination, benefiting everyone, including LGBTI children. The commissioner recommended that Georgian authorities integrate comprehensive sexuality education in the educational curriculum imparting objective information on sexual orientation and gender identity.<sup>173</sup>

The recommendations of international and regional human rights protection mechanisms align with the concerns raised by the local community organizations over the years. These organizations have pointed out that the Georgian educational system perpetuates social inequality, that bullying of LGBTI adolescents in schools remains a significant issue, and that there has been no comprehensive analysis of school textbooks to assess the extent to which they reinforce stereotypes. Additionally, there is a lack of awareness-raising programmes and psychological support services specifically for LGBTI students.

According to a letter from the Ministry of Education, Science, and Youth,<sup>174</sup> issues of equality are addressed to the pupils within the subject "Me and Society" and, later, "Citizenship." The Ministry's response emphasized that one of the core principles taught is equality, which is

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<sup>172</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §120-121.

<sup>173</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, §40.

<sup>174</sup> Letter of 12.09.24 from the ministry of Education and youth.

defined as the idea that "all citizens are equally valuable, and everyone should have equal opportunities and rights, with discrimination being excluded." According to official letter, to foster a violence-free environment, the Ministry holds meetings with public school students across various regions of Georgia on topics such as anti-discrimination, anti-violence, cyberbullying, bullying, the distinction between bullying and harmless joke, early marriage, children's rights, the Convention on the Rights of the Child, gender equality, safe schools, tolerance, and human rights. However, the Ministry's letter did not address our inquiry regarding the inclusion of issues related to sexual orientation and gender identity in these educational initiatives.

The Public Defender's study highlights that the school system remains intolerant towards issues of sexual orientation and gender identity. A 2020 study conducted by the Social Justice Center found that 32.2% of LGBTI respondents (N=292) identified homophobic discrimination from teachers and/or school administration as a barrier to receiving general education, while 41.9% reported experiencing homophobic bullying from classmates or other students.<sup>175</sup> It is important to note that the environment is even more hostile towards trans students. Nearly all trans respondents reported experiencing discrimination, which led many of them to make the decision to leave school.<sup>176</sup>

As a result, the current education system fails to provide information on sexual orientation and gender identity that is free from stereotypes, and it does nothing to foster tolerance and inclusion of LGBTI individuals. In response to this issue, the Georgian government not only ignored international standards and recommendations but also introduced discriminatory, anti-LGBTI, and censorship-driven legislation covering the field of education. Consequently, the government has legislated in opposition to parts 31-32 of the recommendation:

Through the adopted law "on protection of family values and minors," comprehensive sexuality education was banned. However, despite numerous recommendations, this issue was never adequately addressed within the educational curriculum. Now, under this law, gender identity

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<sup>175</sup> Social Exclusion of LGBTQ Group in Georgia, Social Justice Center, 2020; available at:

<https://socialjustice.org.ge/en/products/lgbtk-jgufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

<sup>176</sup> Available at: <https://wisg.org/Data/docs/publications/report/WISG-UPDATED-CEDAW-SHADOW-REPORT-January-2023.pdf>

and sexual orientation are deemed inadmissible topics in educational programmes, extending from early childhood education to higher education institutions.

The law explicitly forbids to include such information in the mentoring and/or educational programme of early learning and educational institutions, in the mentoring and/or educational programme of preschool mentoring and educational institutions, educational programmes of general educational institutions/schools, vocational educational institutions/colleges or higher educational institutions, and/or to disseminate such information or facilitate the dissemination of such information by employees of the said institutions within the scope of the activities of the said institutions and/or in the territory of the same institutions, which is 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.<sup>177</sup> Corresponding restrictions were incorporated into the laws governing early and preschool education, general education, vocational education, and higher education in Georgia.

It is concerning that the aforementioned provision introduces both administrative and criminal penalties for repeated offenses. According to Article 172<sup>10</sup>, added to the Code of Administrative Offenses, stipulates that incorporating information into the educational or training programme of an early childhood institution, preschool, general educational institution, vocational college, or higher educational institution, or disseminating such information by an employee within the scope of these institution's activities or on their premises, which promotes a person's transition to a gender different from their biological sex, same-sex relationships, or incest, will result in a fine. For individuals, the fine will be 1,500 GEL, with confiscation of the offending material. For legal entities, the fine will be 4,000 GEL, also with confiscation of the offending material.<sup>178</sup> Any individual who repeats this action will be subject to criminal liability. This includes a fine, a ban from holding office or working for up to three years, or deprivation of liberty for up to two years.<sup>179</sup>

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<sup>177</sup> Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>, article 8.

<sup>178</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363943?>, article 2, part 3.

<sup>179</sup> Available at: <https://info.parliament.ge/file/1/BillReviewContent/363941?>, article 176(1), part 1.

One of the key terms established by the law—"popularisation"—deserves particular attention. The law uses this term in the context of gender and sexuality without making a distinction and effectively equates it with the dissemination of knowledge, information, scientific research, or the creation of works. As a result, the law allows for the broad interpretation that any form of knowledge transfer, information distribution, or expression of actions related to gender and sexuality can be considered "popularisation" and subject to prohibition on that basis.

We will reiterate the change mentioned in the chapter on freedom of expression, which stipulates that it is prohibited to provide (share) such information (including creative work) and/or provide access to such information (including to creative work) through direct communication with a minor, which is 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.<sup>180</sup>

This means that if a parent decides to share with their child knowledge about homophobia, its history, and the discrimination and oppression faced by LGBTI individuals, such an act could be punishable under the law. Furthermore, given the political will behind this law and its vague wording, the provision may be interpreted in a way that restricts the dissemination of information on social networks. This report, for example, when shared online, might fall under the scope of the law's regulation.

Moreover, as we've observed, the scope of censorship extends beyond minors and affects higher educational institutions as well. It is paradoxical, extremely dangerous, and unimaginable that university courses on law, constitutional law, human rights, and gender studies may be impacted by this law. In those programmes for example, lecturers may be unable to provide students with vital information on human rights standards, European Court practices—including decisions against Georgia—Constitutional Court rulings, anti-discrimination laws, and criminal law due to the threat of administrative or criminal liability. The concept of "popularisation" is so ambiguous that it remains unpredictable, and it is unclear what content may fall within its scope.

The issue at hand extends to related fields such as philology, sociology, social work, psychology, as well as academic staff and students within medical education, as these professionals also

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<sup>180</sup> Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>, article 9, part 2.

require knowledge and research on sexual orientation and gender identity. The enactment of this law poses a serious risk to those studying or teaching these topics.

The Venice Commission also assessed the content of the anti-LGBTI law, particularly its implications on education. In its analysis of the draft constitutional law, the Commission referenced the European Court's definition that one of the objectives of State education is to prepare children for social realities, and this could justify the sexual education of very young children attending kindergarten or primary school.<sup>181</sup> The Commission reaffirmed its previous stance, noting that “discrimination based on sexual orientation and gender identity can be reinforced by excluding objective information about different forms of sexual orientation, gender identity, gender expression and sex characteristics from the curriculum on sex education, thus creating an unsafe and unfriendly environment where LGBTI children can be subject to bullying, harassment and even health related risks.”<sup>182</sup> The Commission further advised the government that the proposed legislation violates international standards by imposing an absolute ban on sexuality education. It emphasized that, there should not be an absolute ban on sex education and that where such education is provided it must be provided in a non-discriminatory manner, ensuring that material is appropriate to age and development.<sup>183</sup>

In our assessment, in addition to conflicting with international standards, the provisions of the anti-LGBTI law are fundamentally contradictory to the core principles established by national legislation, as they represent a severe and illegitimate interference with academic freedom. Notably, under the Constitution of Georgia, the state recognizes and protects the freedom of speech and expression as inalienable and supreme human rights, as enshrined in the Law "on Freedom of Speech and Expression." The European Court of Human Rights has affirmed that the scope of freedom of expression also encompasses academic freedom.<sup>184</sup> In light of this, the legal protections afforded to teachers' expression under the law "on General Education" are crucial as the teachers have the right to inquire, obtain, produce, store, process or disseminate any information and opinions during school time or on school grounds.<sup>185</sup> Moreover, it also affirms

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<sup>181</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §93.

<sup>182</sup> Ibid., §94.

<sup>183</sup> Ibid., §98.

<sup>184</sup> Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-184289%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-184289%22]}), §38.

<sup>185</sup> Available at: <https://matsne.gov.ge/ka/document/view/29248>, article 14, part 1.

that teachers possess academic freedom to conduct research, teach, and explore topics, as long as their activities align with the objectives set forth in the national curriculum.<sup>186</sup>

Accordingly, legalized censorship represents a direct limitation on the freedom of expression of teachers and lecturers. This limitation is contrary to domestic legislation, the jurisprudence of the European Court of Human Rights, and the conclusions of the Venice Commission. It not only contradicts the current Recommendation of the Committee of Ministers but also runs counter to the recommendation on academic freedom, which asserts that the educational sector must be fully autonomous from political and religious majorities, ensuring both institutional and intellectual independence.<sup>187</sup>

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<sup>186</sup> Ibid., article 14, part 5.

<sup>187</sup> Available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17469&lang=en>

## VII. Health

33. Member states should take appropriate legislative and other measures to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, they should take into account the specific needs of lesbian, gay, bisexual and transgender persons in the development of national health plans including suicide prevention measures, health surveys, medical curricula, training courses and materials, and when monitoring and evaluating the quality of health-care services.
34. Appropriate measures should be taken in order to avoid the classification of homosexuality as an illness, in accordance with the standards of the World Health Organisation.
35. Member states should take appropriate measures to ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender health care, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent.
36. Member states should take appropriate legislative and other measures to ensure that any decisions limiting the costs covered by health insurance for gender reassignment procedures should be lawful, objective and proportionate.



Prior to and following the adoption of anti-LGBT legislation, article 6 of the law “on protection of health” explicitly prohibits discrimination on the basis of sexual orientation. The law on „Patients' Rights“ also enshrines the prohibition of discrimination, ensuring the protection of citizens' rights in the healthcare sector, as well as safeguarding their honor and dignity. While Georgian legislation has, to date, provided protections against discrimination for the LGBTI community, unequal treatment within the medical field remains a pervasive issue.

In 2019, the UN Independent Expert, during his visit, expressed concern about the lack of awareness and the stigma surrounding sexual orientation and gender identity among healthcare professionals. According to his assessment, there was a significant information gap regarding the access of bisexual and lesbian women to healthcare services, as well as the identification of their specific needs.<sup>188</sup>

This is further supported by a more recent observation: according to a 2020 study conducted by the Social Justice Center, 14.4% of respondents (N=46) reported having experienced discrimination while receiving healthcare services in the past two years. However, 78.3% of respondents did not report the discrimination to anyone. The main reasons for this were the perception that the incident was not serious enough (25.0%) and concerns about the potential breach of confidentiality (19.4%).<sup>189</sup> Unfortunately, the Agency for the Regulation of Medical and Pharmaceutical Activities has not provided any information on discriminatory practices during the provision of medical care. However, in addition to these discriminatory practices, the lack of financial access to healthcare services remains a significant issue for the LGBTI community. According to the same study, 22.5% of respondents reported being unable to access medical services due to financial barriers.<sup>190</sup>

The challenge of access to medical services has been particularly significant for trans people. In a policy document developed a few years ago by the Women's Initiatives Support Group, concerns were raised about the lack of a national standard for trans-specific medical services in Georgia. Specifically, there was no trans specific clinical guideline nor clinical protocol.<sup>191</sup>

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<sup>188</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §76-77.

<sup>189</sup> Available at: Social Exclusion of LGBTQ Group in Georgia, Social Justice Center, 2020; available at: <https://socialjustice.org.ge/en/products/lgbtk-igufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

<sup>190</sup> Available at: *ibid.*

<sup>191</sup> Available at: <https://wisg.org/Data/docs/publications/policy-paper/WISG-LGR-in-Georgia-2022-GEO.pdf>

Through research conducted at the time, we found that individual doctors relied on standards from the United States or EU countries. For instance, one endocrinologist mentioned using the guideline developed by the European Association of Endocrinologists. However, almost all healthcare professionals highlighted the need for a national guideline or protocol.<sup>192</sup> In relation to Recommendation 36, the policy document also pointed out the financial barriers to accessing trans-specific medical services, as these services, including diagnostic procedures, were not funded. Furthermore, trans-specific healthcare services were not included in health insurance packages offered by private companies.

The issue of improving access to trans-specific medical procedures was partially addressed in the Human Rights Action Plan for 2018-2020. However, it is clear that the necessary steps in this regard were not taken. In the following years, LGBTI issues were gradually excluded from the action plans.

The UN Independent Expert recommended the development of clinical guidelines for medical procedures in line with international standards.<sup>193</sup> Later, the Commissioner for Human Rights echoed the recommendation.<sup>194</sup>

The lack of a national standard for trans-specific medical services was also recognized as problematic by the Public Defender of Georgia. In 2020, the Public Defender issued a general proposal to the Ministry of health, urging the creation of a national guideline and protocol that would address both the medical and ethical aspects of trans-specific medical services, as well as the psychological and social support needed by individuals before and after procedures.<sup>195</sup> The proposal emphasizes that, in the absence of relevant, nationally adapted clinical protocols and guidelines, healthcare providers offering trans-specific services to transgender individuals are compelled to rely on guidelines developed within the medical, social, or other contexts of other countries. As a result, these guidelines fail to address the specific needs that may be unique to the Georgian context. Notably, the Public Defender examined the absence of such guidelines and protocols in light of the lack of a legal gender recognition mechanism.

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<sup>192</sup> *ibid.*

<sup>193</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §119.

<sup>194</sup> Available at: <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>, §28.

<sup>195</sup> General proposal of the Public Defender of Georgia, N08/4904, May 13, 2020.

The general proposal was subsequently shared by the Ministry, and a multidisciplinary working group was formed, though its establishment remained incomplete for years. Under the current anti-LGBTI laws and policies, its potential work now stands as both paradoxical and illegal.

As a result of the anti-LGBTI legislative package, certain medical procedures that some trans individuals undergo during their transition—procedures that are critical for both their physical and mental well-being—have been deemed inadmissible.

We have already discussed the inhumane and discriminatory nature of the law, particularly in relation to the prohibition of legal gender recognition. However, since the denial of access to trans-specific healthcare directly impacts the right to health, we revisit several important issues here.

In response to part 35 of the Recommendation in question, the law "on the protection of family values and minors" has forbid to perform surgery on a person or use any other type of medical manipulation with regard to such person in order to assign him/her to a sex different from his/her biological sex.<sup>196</sup> The criminalization of trans-specific medical procedures is especially concerning, as it imposes criminal liability on both the doctor and the medical institution involved in performing any medical intervention, including gender reaffirming surgery, for a trans person undergoing transition.<sup>197</sup> The Law "on Health Protection" was also amended to include a new Article 14<sup>1</sup>, declaring it inadmissible to perform surgical operations or other medical interventions intended to assign a person to a gender different from their biological sex.<sup>198</sup>

Such measures are clearly incompatible with the Constitution of Georgia, the anti-discrimination laws, European human rights standards, and the Recommendation of the Committee of Ministers. Additionally, they contravene the practice of the European Court of Human Rights, which, under Article 8 of the European Convention, imposes a positive obligation on states to legally recognize the gender transition trans individuals have undergone, with or without undergoing trans specific healthcare.<sup>199</sup>

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<sup>196</sup> Available at: <https://matsne.gov.ge/en/document/view/6283110?publication=0>, article 6.

<sup>197</sup> Available at: <https://matsne.gov.ge/ka/document/view/16426?publication=264>, article 176<sup>1</sup>.

<sup>198</sup> Available at: <https://matsne.gov.ge/ka/document/view/29980?publication=55>, article 14<sup>1</sup>.

<sup>199</sup> Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)021-e), §50.



## VIII. Housing

37. Measures should be taken to ensure that access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity; such measures should in particular seek to provide protection against discriminatory evictions, and to guarantee equal rights to acquire and retain ownership of land and other property.

38. Appropriate attention should be paid to the risks of homelessness faced by lesbian, gay, bisexual and transgender persons, including young persons and children who may be particularly vulnerable to social exclusion, including from their own families; in this respect, the relevant social services should be provided on the basis of an objective assessment of the needs of every individual, without discrimination.

During the reporting period, the issue of housing became particularly caustic during the COVID-19 pandemic, when LGBTI group excluded from their families and without remuneration, were unable to return home or pay rent. According to a survey, during the pandemic, 12.8% of the 211 respondents faced housing problems, and 34.6% experienced difficulties in paying their rent.<sup>200</sup> Additionally, they were excluded from the state anti-crisis aid programme. In the process of overcoming the crisis, the inter-agency coordination council's response to the needs of community organizations was insufficient, failing to proactively address the complex challenges presented by the situation.<sup>201</sup>

For many years, we have emphasized that the state's social policy failed to recognize homophobia and transphobia as systemic and structural problem. As a result, homophobia was treated solely as an individual problem, and the state's main strategy for addressing it focused on selective punitive measures targeting individual instances. Meanwhile, proactive initiatives to promote gender equality and reduce homophobia and transphobia through education and awareness have consistently been excluded from national action plans. And today, the state's response to these concerns is marked by a clearly anti-LGBTI policy.

Homophobia and homophobic violence, including domestic violence, are closely linked to social vulnerability and homelessness, particularly among LGBTI individuals. Many LGBTI youth are forced to leave their homes after coming out, exposing them to homelessness, poverty, violence, and prejudices in public spaces.

A study revealed that 44.8% of respondents who experienced homelessness linked their housing instability to their sexual orientation or gender identity. Among the contributing factors, 58.1% cited a lack of financial income, while 41.9% reported experiencing violence from family members due to their identity.<sup>202</sup>

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<sup>200</sup> Impact of COVID-19 Pandemic on LGBT(Q)I Community in Georgia, WISG, 2022, available at: [https://wisg.org/Data/docs/publications/research-study/WISG\\_Covid-impact-on-LGBTQI-community-EN.pdf](https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf)

<sup>201</sup> Available at: <http://www.equalitycoalition.ge/article/50>

<sup>202</sup> Social Exclusion of LGBTQ Group in Georgia, Social Justice Center, 2020; available at: <https://socialjustice.org.ge/en/products/lgbtk-igufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

Despite the existence of anti-discrimination laws in Georgia and shelters for the homeless, there is no safe space for LGBTI individuals. In 2019, a UN Independent Expert recommended the establishment of programmes and shelters specifically adapted to the needs of LGBTI people.<sup>203</sup>

Earlier research indicates that a very small percentage of LGBTI victims of domestic violence who were in need of the shelters had actually approached them. This is partly due to the fact that the existing protection mechanisms are based on heteronormative bases. Despite a letter from Tbilisi City Hall stating that when assisting female victims of violence, gender marker in identity documents is not a determining factor,<sup>204</sup> trans women in fact, due to barriers to legal gender recognition, are prevented from accessing the appropriate services.

Focus group discussions with LGBTI community organizations revealed that the responsibility of providing shelter for community members largely falls on these organizations, with temporary housing often being provided through the support of donor organizations. Representatives of the community organizations had shared that members of the LGBTI community at risk of homelessness have frequently been sheltered in their offices or even in their homes to mitigate immediate risks.<sup>205</sup> However, this practice is now being obstructed by the persecution and stigmatization of civil society and donor organizations, driven by the law on the "transparency of foreign influence".

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<sup>203</sup> Available at: <https://documents.un.org/doc/undoc/gen/g19/139/35/pdf/g1913935.pdf>, §74.

<sup>204</sup> Letter of 10.09.2024 of City Hall of Tbilisi

<sup>205</sup> Available at: <https://www.ombudsman.ge/eng/spetsialuri-angarishebi/lgbt-igufis-uflebrivi-mdgomareobis-shefaseba-sakartveloshi>

## **IX. Sports**

39. Homophobia, transphobia and discrimination on grounds of sexual orientation or gender identity in sports are, like racism and other forms of discrimination, unacceptable and should be combated.

40. Sport activities and facilities should be open to all without discrimination on grounds of sexual orientation or gender identity; in particular, effective measures should be taken to prevent, counteract and punish the use of discriminatory insults with reference to sexual orientation or gender identity during and in connection with sports events.

41. Member states should encourage dialogue with and support sports associations and fan clubs in developing awareness-raising activities regarding discrimination against lesbian, gay, bisexual and transgender persons in sport and in condemning manifestations of intolerance towards them.



In terms of promoting the elimination of discrimination in sports, it can be assumed that the anti-LGBTI law, under the name of "protecting family values and minors " will hinder progress in this area as well, particularly concerning minors. Consequently, any expectations for awareness-raising campaigns or proactive measures are likely misplaced.

Furthermore, during the reporting period, no specific examples or identifiable trends in combating discrimination in sports were observed.

## **X. Right to seek asylum**

42. In cases where member states have international obligations in this respect, they should recognise that a well-founded fear of persecution based on sexual orientation or gender identity may be a valid ground for the granting of refugee status and asylum under national law.

43. Member states should ensure particularly that asylum seekers are not sent to a country where their life or freedom would be threatened or they face the risk of torture, inhuman or degrading treatment or punishment, on grounds of sexual orientation or gender identity.

44. Asylum seekers should be protected from any discriminatory policies or practices on grounds of sexual orientation or gender identity; in particular, appropriate measures should be taken to prevent risks of physical violence, including sexual abuse, verbal aggression or other forms of harassment against asylum seekers deprived of their liberty, and to ensure their access to information relevant to their particular situation.

In terms of international obligations, Georgia is a signatory to the 1951 UN Convention on the Status of Refugees. Consequently, the anti-discrimination provisions of the Convention apply, and with the evolution of international law, the prohibition of discrimination has expanded to include sexual orientation and gender identity.<sup>206</sup>

Additionally, under the Law of Georgia "on International Protection," refugee status shall be granted to an alien or a stateless person, who is outside the country of origin, and has a well-grounded fear that he/she may become a victim of persecution on the grounds of his/her race, religion, nationality, affiliation to a certain social group or political views, and who does not wish to, or cannot, return to his/her country of origin or enjoy the right to be protected from such country due to such fear.<sup>207</sup> While sexual orientation and gender identity are not explicitly listed, they can fall under the category of affiliation to a certain social group in relevant cases. Furthermore, asylum seekers are safeguarded from discrimination based on sexual orientation and gender identity under the Law of Georgia "on the Elimination of All Forms of Discrimination."

However, under the anti-LGBTI law and the associated constitutional initiative, the recognition of gender identity has practically been rendered illegal, thereby weakening the protection guarantees for asylum seekers. Specifically, an amendment to the Georgian Law " Procedure for Registering Citizens of Georgia and Aliens Residing in Georgia, for Issuing an Identity (Residence) Card and a Passport of a Citizen of Georgia" prohibits indication a person's gender different from their biological sex in any documents provided for by this law, including passports and identity documents.<sup>208</sup> This prohibition effectively denies recognition of the gender identity of trans asylum seekers. As a result, their protected characteristics under international and domestic anti-discrimination frameworks are disregarded entirely, leaving their acceptance, safety, and access to rights in Georgia highly uncertain.

Domestically, the systemic homo/bi/transphobia ingrained in the government's policies has created an environment of stigma, prejudice, and violence against LGBTI people in Georgia. This

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<sup>206</sup> Available at: <https://www.unhcr.org/media/unhcr-guidelines-international-protection-no-9-claims-refugee-status-based-sexual-orientation>

<sup>207</sup> Available at: <https://matsne.gov.ge/ka/document/view/3452780?publication=8>, article 15.

<sup>208</sup> Available at: <https://matsne.gov.ge/ka/document/view/31504?publication=56>, article 1<sup>2</sup>.

hostile atmosphere often forces members of the community to leave the country in search of refuge elsewhere, where the threat of homophobic violence is less severe. Hence, emigration has, in many cases, become a survival strategy.

Recent data documented by our organization shows that numerous members of the LGBTI community have fled Georgia, having lost their final hope of being recognized as equal citizens and living a life of dignity within their homeland.<sup>209</sup> A parallel can be drawn with Russia, where the enactment of a similar anti-propaganda law led to a dramatic increase in queer emigration.<sup>210</sup>

Moreover, asylum seekers in Georgia are unlikely to be safeguarded from the risk of violating their rights. Noteworthy, a British organization advocating for LGBTI rights has called on local authorities to remove Georgia from the list of safe countries to which asylum seekers can be returned.<sup>211</sup>

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<sup>209</sup> Available at: <https://wisg.org/ka/news/detail/445/კიდევ-ერთხელ-ფაშისტური--ანტი-ლგბტ-კანონის-რეალური-მიზნების-შესახებ>

<sup>210</sup> Available at: <https://www.hrw.org/news/2023/05/17/russia-homophobia-and-battle-traditional-values>

<sup>211</sup> Available at: <https://www.rainbowmigration.org.uk/news/in-depth-analysis-raises-concern-that-georgia-is-not-safe-for-lgbtqi-people/>

## **XI. National human rights structures**

45. Member states should ensure that national human rights structures are clearly mandated to address discrimination on grounds of sexual orientation or gender identity; in particular, they should be able to make recommendations on legislation and policies, raise awareness amongst the general public, as well as – as far as national law so provides – examine individual complaints regarding both the private and public sector and initiate or participate in court proceedings.

As highlighted in previous monitoring cycles, in 2014 Georgia adopted the law on “elimination of all forms of discrimination,”<sup>212</sup> explicitly including sexual orientation, gender identity, and expression as protected grounds.

This law aims to eradicate discrimination and ensure the equal enjoyment of rights guaranteed under Georgian legislation for all individuals and legal entities. During the reporting period, significant steps were taken to strengthen the anti-discrimination mandate of the Public Defender. Following legislative amendments in 2019, the mandate was extended to cover private entities with the same level of regulation as public agencies. Additionally, both physical persons and private legal entities became obligated to provide information to the Public Defender.<sup>213</sup> Importantly, the Public Defender was granted the authority to act as a plaintiff under Georgia’s Civil Procedure Code. This empowered the institution to file lawsuits against legal entities, other organizational formations, associations, or entrepreneurial entities that fail to respond to or implement the Public Defender’s recommendations, provided sufficient evidence of discrimination exists.<sup>214</sup>

The functions of the Public Defender's Office align with those outlined in Section 45 of the Recommendation: The Office’s Department of Equality examines statements and complaints concerning violations of equality submitted to the Public Defender and issues relevant conclusions, recommendations, or proposals. Additionally, the Public Defender is mandated to plan and implement educational activities aimed at promoting equality.

Beyond the formal scope of the mandate, the Office substantively addresses issues related to sexual orientation and gender identity. For years, the Public Defender has highlighted the vulnerabilities faced by the LGBTI community, drawing attention to the systemic discrimination they encounter across various spheres of life. This includes societal homophobia,<sup>215</sup> the perpetuation of homo/transphobic rhetoric by political figures,<sup>216</sup> and pervasive societal stigma

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<sup>212</sup> Available at: <https://matsne.gov.ge/ka/document/view/2339687?publication=3>

<sup>213</sup> Organic law of Georgia on public defender, article 23.

<sup>214</sup> Ibid., article 14<sup>1</sup>.

<sup>215</sup> Available at: <https://www.ombudsman.ge/res/docs/2024052311354297279.pdf>, p. 184.

<sup>216</sup> Available at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>, p. 191.

which contribute to the marginalization and discriminatory treatment against LGBTI individuals.

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The practice of community organizations reveals that despite the extensive prevalence of discriminatory practices against LGBTI individuals, reporting to the Public Defender still remain low.<sup>218</sup>

According to data provided by the Office of the Public Defender, from 2019 to 2023, the Department of Equality studied a total of 29 criminal cases reportedly motivated by intolerance based on sexual orientation, gender identity, and expression. These cases typically involved physical and verbal abuse, beatings, assault, and threats to life, corresponding to Articles 126, 151, and 156 of the Criminal Code. Additionally, instances of alleged discrimination based on sexual orientation and gender identity constituted only a small proportion of overall complaints submitted to the Public Defender's Office during this period. In 2019, out of 155 total cases, 21 concerned alleged discrimination on the grounds of sexual orientation and gender identity. In 2020, 7 out of 113 applications addressed such issues; in 2021, 13 cases; in 2022, 17 cases; and in 2023, just 5 cases.<sup>219</sup>

The Gender Equality Department of the Public Defender's Office<sup>220</sup> also plays a significant role in advancing human rights and freedoms related to gender equality. This department is tasked with promoting gender equality within the Public Defender's activities and increasing awareness nationwide regarding the importance of gender equality. Among its objectives, the department is responsible for studying and addressing violations of rights based on gender identity and sexual orientation.

During the reporting period, the Department of Human Rights Education<sup>221</sup> was established to promote the integration and education of human rights within formal and informal education. This department serves as a key mechanism for implementing the Public Defender's educational mandate. Through informal educational activities, the department aims to impart knowledge about universal human rights principles to diverse target groups, fostering attitudes and

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<sup>217</sup> Available at: <https://www.ombudsman.ge/res/docs/2020040215365449134.pdf>, p. 177.

<sup>218</sup> Available at: <https://www.ombudsman.ge/res/docs/2022051115380032325.pdf>

<sup>219</sup> Letter of 30.08.2024 from the Public Defender's Office of Georgia.

<sup>220</sup> Available at: <https://ombudsman.ge/eng/departamentis-shesakheb>

<sup>221</sup> Available at: <https://ombudsman.ge/eng/akademiis-shesakheb>

behaviors that empower them to contribute to the advancement and protection of human rights in society.

However, the anti-LGBTI, censorship-setting legislation poses a significant challenge to this mandate, particularly for the three aforementioned departments. With the enforcement of the anti-LGBTI legislative package, the Public Defender's Office will face severe restrictions. It will no longer be able to engage in awareness-raising campaigns within educational institutions addressing sexual orientation and gender identity, nor discuss homophobia, discrimination, or the oppression of LGBTI individuals with minors or in educational institutions. Such actions could expose the Public Defender's Office to sanctions under the legislative framework.



## **XII. Discrimination on multiple grounds**

46. Member states are encouraged to take measures to ensure that legal provisions in national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity; national human rights structures should have a broad mandate to enable them to tackle such issues.

The Law of Georgia "on elimination of all forms of discrimination" prohibits discrimination on multiple grounds, addressing cases where an individual experiences discrimination on two or more grounds. Protected grounds under this law are interpreted broadly and explicitly include sexual orientation, gender identity, and expression.<sup>222</sup> This enables national human rights protection instrument to address cases of multiple discrimination effectively. The Public Defender has adjudicated such cases in the past, establishing discrimination on intersecting grounds.

In our reports on mechanisms to address violence against women we frequently highlight that LBT women are particularly vulnerable to intersectional discrimination—on the basis of both gender and sexual orientation or gender identity. Discrimination and violence against women often stem from entrenched gender stereotypes, conservative societal attitudes, legislative gaps, and the overall neglect of women's issues in state policies. This neglect is even more pronounced when it comes to LBT women.

Lastly, we have to mention that community NGOs face double pressure under the "transparency of foreign influence" and anti-LGBTI legislative frameworks. These laws not only make it impossible for organizations to provide essential services to LGBTI people—services the state neither funds nor initiates—but also threaten the very survival of these organizations. The risk of dual legal prosecution has rendered the continuation of our operations precarious, jeopardizing the critical support networks for the LGBTI community.

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<sup>222</sup> Available at: <https://matsne.gov.ge/ka/document/view/2339687?publication=3>, article 2, part 4.