



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

2021 REPORT



კონალიცია თანასწორობისთვის



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The Coalition for Equality is an informal alliance established in 2014 with the support of Open Society Georgia Foundation. It unites eleven nongovernmental organizations. The members of the Coalition are: Open Society Georgia Foundation (OSGF), Social justice Centre (former EMC); Rights Georgia; Union Sapari; Georgian Young Lawyers' Association (GYLA); Women's Initiatives Supporting Group (WISG), Partnership for Human Rights (PHR), Georgian Democracy Initiative (GDI), Tolerance and Diversity Institute (TDI), Human Rights Center (HRC), Equality Movement. The goal of the Coalition is to enhance the mandate of antidiscrimination mechanisms and to support the efficient fight against discrimination. In 2015, the newly formed "Coalition for Equality" and the Public Defender of Georgia signed a Memorandum of Understanding on the Elimination of Discrimination.

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CONTENTS

INTRODUCTION	9
Methodology	11
Key Findings	13
CHILDREN	19
Covid-19 pandemic and the rights of children	21
The right to social protection	21
The Right to Education	22
Large Residential Facilities	23
Recommendations	25
PERSONS WITH DISABILITIES	27
Implementing the Convention on the Rights of Persons with Disabilities	29
Mental health and deinstitutionalization	30
Social Protection	31
Education	32
Employment	33
Accessibility	33
Women and girls with disabilities	34
Recommendations	35
WOMEN	37
Women's rights and international mechanisms	39
Sexual violence and sex crimes	41
Economic violence against women	41
Political Participation of women	42
Recommendations	43
LGBT(Q)I PEOPLE	45
The impact of Covid-19 pandemic on the lives of LGBT(Q)I persons	47
Homo/bi/transphobic violence	48
Trans people	49
Freedom of Assembly and Association	50
Recommendations	52

CONTENTS

NON-DOMINANT RELIGIOUS ASSOCIATIONS	55
Alleged illegal surveillance and listening to religious organization and the clergy	57
Inequality in the legislation of Georgia	58
The issue related to the construction of a new mosque in Batumi	59
Religious holidays	60
Alleged hate crimes	60
Antisemitism of the Church	62
Crisis in Chkhondidi eparchy and the facts of restricting the rights of the clergy	62
Recommendations	63
ETHNIC MINORITIES	65
Low participation and estrangement	67
Social conflicts and building trust between communities	68
Social hardship	68
Recommendations	70
ALIENS	71
State Security	73
Crossing the Georgian Border	74
Legal status of foreign students	75
Access to information and vaccination against Covid-19	76
Amendments to the law of Georgia “On the Legal Status of Aliens and Stateless Persons”	77
The disturbing practice of extradition to Russia	78
Recommendations	79
POPULATION AFFECTED BY THE CONFLICT AND INTERNALLY DISPLACED PERSONS	81
Peace Policy	83
Practices of rights violations	84
Population living adjacent to the border line	85
Internally Displaced Persons	86
Recommendations:	87
HUMAN RIGHTS DEFENDERS AND ACTIVISTS.	89
The human rights situation of activists	91
Illegal practice of administrative detention	91
Review of the activists’ cases in court	92
Tightening administrative sanctions	93
Human rights situation of human rights defenders	94
Recommendations	96

MEDIA 99

 Safety Situation of media representatives 101

 Illegal listening to journalists 102

 Problematic initiative regulating the freedom of expression 103

 Approaches of the Georgian Communications Commission 104

 Defamation as a new weapon in the fight against the media 105

 Recommendations. 106

HOMELESS PERSON. 107

 Causes of homelessness in Georgia 109

 The state policy to combat hopelessness 109

 Recommendations: 112

INTRODUCTION

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

The presented report is the sixth in line and it assesses the current situation in Georgia in 2021 in terms of the realization of the right to equality of separate groups and the fight against discrimination¹. The report analyzes the trends of 2021, which have affected the human rights situation of individual groups. In particular, it outlines the steps taken forward and the challenges related to the state's anti-discrimination policy, anti-discrimination legislation, practices, and the daily lives of vulnerable groups.

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

METHODOLOGY

The present report encompasses the period from January 1, 2021 including December 31, 2021. It analyzes the human rights situation of thirteen vulnerable groups: children, persons with disabilities, women, LGBTQI people, non-dominant religious associations, ethnic minorities, aliens, population affected by conflict and IDPs, human rights defenders and activists, media outlets/representatives and the homeless.

The member organizations of the Coalition for Equality actively studied the

1. 2020 report available at: <https://bit.ly/3pE11Bq>

human rights situation of these groups during 2021. Accordingly, the report evaluates exclusively the situation of these groups, which does not exclude the existence of discriminatory treatment of other groups, that could not be identified in this report.

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

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

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

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

KEY FINDINGS

Although the Government of Georgia has not yet adopted a new Human Rights Strategy and its Action Plan, a ten-year (2021-2030) Civil Equality and Integration Strategy and a two-year Action Plan (2021-2022)² were developed during the reporting period. However, as in the previous year, no efficient steps were taken in 2021 to exercise the equality rights of certain groups of people and to combat discrimination. Consequently, the situation in the country in terms of the right to equality was still critical.

The Covid-19 pandemic has posed new challenges to the protection of the rights of the child in Georgia. The pandemic has further revealed and aggravated systemic problems related to access to education, social protection and child poverty, family support, and the rights of children living and working on the streets. Measures taken by the Government of Georgia to overcome the pandemic-related crisis, which were mostly one-time, cannot be considered as effective means of protecting the rights of the child. For the most part, measures taken by the government were belated and did not serve the purpose of prevention and risk reduction.

In 2021, despite certain steps taken forward in the direction of the rights of persons with disabilities, their legal situation has not changed significantly in any direction. Almost all rights and areas of public life are problematic for persons with disabilities, which is due to the inefficient and non-systemic policies of the state, as well as the absence of a unified institutional framework.

Access to public spaces, as well as mental health and social services, employment and education still remain challenging for these people. Additionally, the introduction of a biopsychosocial model for granting status still envisages a large time interval.

2. Strategy and action plan are available at: <https://bit.ly/3OutTpO>

As for women, similar to 2020, the year 2021 was characterized by the activities of international organizations for evaluating the current situation in terms of gender equality in Georgia. In addition, in 2021, with regard to the two international cases filed against Georgia, it was established that Georgia had failed to ensure the protection of victims of domestic violence and, consequently, to fulfill its obligations under international agreements. As in previous years, sexual violence against women remains one of the most serious, covert and unpunished forms of gender-based violence, which is caused by the existing legislative, structural and systemic problems. Additionally, economic violence against women remains an invisible and unexplored problem. One positive piece of news is that the Constitutional Court declared the lawsuit filed against gender quotas inadmissible. However, with the unexpected amendments made to the Electoral Code, the rule of compiling party (proportional) lists for local self-government elections became obligatory, to the disadvantage of women.

A number of issues related to the legal situation of LGBT(Q)I people remain a significant challenge in Georgia. Members of the community experience discrimination, exclusion, hate-motivated violence, systemic oppression, which is the result of the state's non-systemic and merely reactive policy of intervention. A comparative analysis of recent studies in Georgia reveals that between 2018 and 2021, there have been some positive changes³ in public attitudes towards the protection of the rights of LGBT(Q)I people. Nevertheless, homophobic attitudes are still strong in the society⁴. The state's human rights policy does not envision measures aimed at transforming homophobic / bi / transphobic attitudes in the society. The level of formal education

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3. For example, according to a Council of Europe survey, 47% of respondents interviewed in 2021 believe that protecting the rights of LGBT(Q)I people is important, compared to 2018, when only 33% said so. See. "Hate Crime, Hate Speech and Discrimination in Georgia: Knowledge and Attitudes", the research report is available at the following link: <https://bit.ly/3jqOnkT>; Source last viewed: 14.04.2022.
 4. From Prejudice to Equality, Research on Public Knowledge, Information, and Attitudes Towards the LGBT(Q)I Group and their rights equality, Women's Initiative Support Group (WISG), 2022, The study will be published in May 2022.

does not show a linear connection to knowledge, the spreading of myths and stereotypes, suggesting that the education system does not represent the basis for reproducing knowledge⁵ about gender and sexuality, which could be a significant factor in changing homo / bi / transphobic attitudes.

In 2021, against the backdrop of the ongoing intense political processes, local self-government elections and the pandemic, the problem of defending the principle of freedom of religion and secularism was even more critically manifested. The files published in public space, allegedly belonging to the State Security Service, revealed that the government has total control over the activities of religious organizations. At the same time, in the pre-election period, the participation of high-ranking clergymen of the Orthodox Church in the election meetings of the ruling party was particularly striking. The important issues of the year also include the construction of religious buildings, the maintenance of religious neutrality in public schools, the timely and efficient investigation of crimes on the basis of intolerance and more.

It is noteworthy that the ten-year Strategy for Civic Equality and Integration⁶ adopted by the Government of Georgia in 2021 does not offer essentially new visions and approaches based on critical analysis of past experience and address systemic institutional problems and everyday challenges facing minorities⁷. It should also be noted that the Office of the State Minister for Reconciliation and Civic Equality, as the body implementing the integration policy, is limited to coordinating functions. Based on the examination of the Strategy Action Plan⁸, it becomes clear that the agency's activities are limited to awareness-raising and nominal activities related to the celebration of cultural days, it also coordinates the minority internship program in the public service. Other key integration policy activities are distributed

5. Ibid.

6. Available at: <https://bit.ly/3OutTpO>

7. Critical Assessment of the State Strategy for Civic Equality and Integration, Center for Social Justice, 2021. Available at: <https://bit.ly/3OrBCov>

8. Available at: <https://bit.ly/3OutTpO>

among thematic ministries, and the executive functions of the Office of the State Minister are severely limited.

In 2021, Georgia faced a number of challenges in terms of human rights situation of aliens. When deciding the issue of granting international protection to asylum seekers in Georgia, the practice of refusal by referring to potential threat to state security, remained problematic. Additionally, the formal nature of reviewing the case by the Court and the restriction of access to the justification for refusing to grant status to asylum seekers significantly damaged the legal status of aliens. Under the new regulations, the terms for obtaining a residence permit for foreigners have been further tightened. Also, the growing practice of extradition to the Russian Federation has become a subject of study. It was still a challenge for foreign students to obtain a residence permit in Georgia on the basis of an internship after completing their studies. In addition, there was an increased threat of unjustified refusal to cross the Georgian border and selective and discriminatory use of this authority.

In terms of peace policy, trust-building and the legal and social status of the population affected by the conflict, the situation is still difficult and the government has not taken transformational steps in 2021 to improve it.

In 2021, the Georgian government not only continued, but intensified the repression of activists and human rights defenders, which was manifested in their frequent illegal detentions, litigation inconsistent with fundamental procedural guarantees, and the tightening of administrative sanctions. It is noteworthy that the member organizations of the Coalition were actively involved in the protection of the rights of activists during 2021. In particular, they protected their interests before state bodies and represented them in court.

Georgian legislation and international acts guarantee freedom of expression, freedom of media and the creation of a free, equal and safe environment for journalistic work. The year 2021 was full of many challenges in

terms of realizing this right. The media safety situation in the country has deteriorated and aggressive rhetoric, as well as discriminatory attitudes towards media representatives, have intensified. There have been attempts by the National Communications Commission to control the content of broadcasters. Also, discussions continued on legislative initiatives to restrict freedom of expression of the media.

In terms of realizing the right to adequate housing in Georgia, the situation is still difficult. Neglect of the needs of the homeless and their lack of access to decent living conditions are still a challenge⁹. According to the Office of the Public Defender of Georgia, the number of applications received each year regarding the lack of shelter or adequate living conditions is high in the Office¹⁰. The study of the applications submitted to the Office reveals a number of legislative and practical problems, which are not individual in nature, but are related to systemic problems¹¹.

9. Report of the Public Defender of Georgia, "On the Situation of Human Rights and Freedoms in Georgia", p. 229, 2021. Available at: <https://bit.ly/3OCQxnN> [last viewed 20.04.2022].

10. Constitutional lawsuit of the Public Defender of Georgia, "Public Defender of Georgia v. Parliament of Georgia, the SAssembly of Tbilisi Municipality and others", Constitutional lawsuit N1639, 2021. Available at: <https://bit.ly/3L4zcKu> [last viewed 20.04.2022].

11. Ibid.

CHILDREN

COVID-19 PANDEMIC AND THE RIGHTS OF CHILDREN

■ The right to social protection

The Covid-19 pandemic has significantly worsened the social protection of children. Due to the difficult social context, according to the data available at the end of 2021, 14.8% of households did not have access to the Internet¹², which was directly reflected in the access to education for children. The problem of internet access was especially severe for rural children¹³. Even more alarming were the data on access to the computer or the tablet¹⁴. Due to the negative impact of the Covid-19 pandemic, a large number of households lost their jobs¹⁵, and in the light of this, one-time state-funded payments cannot be considered an effective way to overcome child poverty¹⁶. Especially in the circumstances when, as of 2021, 146 600 children live in the poorest quintile, 221,000 - beyond the absolute poverty line, and of these, only 161,000 children were registered as targeted social assistance recipients¹⁷.

Due to the dire social and economic situation created during the Covid-19 pandemic, the issue of the necessary protection of the rights of children

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12. Real-time Data Monitoring / Multi-Indicator Cluster Survey Addition, UNICEF, 2021, available at: <https://uni.cf/377G8HV>
 13. Ibid. The share of households in rural areas is 2.4 times higher than in urban areas, at 22.5% and 9.3%, respectively.
 14. Only 60.4% of the population had access to a computer and tablet. The share of such households is 72.7% in urban areas and 43.3% in rural areas.
 15. Ibid. Between July and October 2021, at least one member in 5.8 percent of households lost their job temporarily or for a long period, between January and June 2020, - in 13.9 percent of households, and between March and December 2020 – in 31.8 percent of households;
 16. Labor Relations and Social Protection During the Pandemic, the Center for Social Justice, 2020; available at: <https://bit.ly/3KvT7Si>: As part of the government's anti-crisis package, 850,000 children received a one-time payment of GEL 200. For large families (3 or more children) whose score does not exceed 100,000, additional assistance in the amount of 100 GEL was allocated.
 17. Vulnerable Children and Risks in Covid-19 Times (COVID19), UNICEF, 2020, available at: <https://uni.cf/37ADha4>.

living and working on the streets has become even more important, and the systemic shortcomings in this area have become particularly evident. The risk of involving children in labor has increased¹⁸. Against the backdrop of the increasing number of children living and working on the streets, the difficulties related to insufficient number of mobile teams became even more apparent¹⁹. In 2021, it was revealed that in order to escape poverty, children engaged in hard work, such as scrap metal collection, truck driving, and regular work related to livestock farming and agriculture²⁰.

■ The Right to Education

Access to general education was a challenge during Covid-19 pandemic. In addition to significantly reduced access to quality education, 15% of children did not attend school at all²¹. During the pandemic, access to quality education was further reduced for students with disabilities and / or special educational needs. Problems with ensuring a reasonable adjustment at the general education level were identified²².

During 2021, the rate of dropout and suspension of student status was still relevant, which was again the highest in Tbilisi (2947/35%), Kvemo Kartli (1970 / 23.4%) and Kakheti (714 / 8.5%)²³. The problem is the ambiguity of the basis in the process of registering the cases of suspension / termination

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18. Special Report on Child Labor during Novel Coronavirus Pandemic and Beyond, p. 7, UNICEF, Office of the Public Defender, 2021, available at: <https://bit.ly/38xTE7T>.
 19. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, p. 279-278, Public Defender of Georgia, 2021, available at: <https://bit.ly/3rlZZ78>
 20. Special Report on Child Labor during Novel Coronavirus Pandemic and Beyond, p. 7, UNICEF, Office of the Public Defender, 2021, available at: <https://bit.ly/38xTE7T>.
 21. Real-Time Data Monitoring / Multi-Indicator Cluster Survey Addition, UNICEF, 2021, available at: <https://uni.cf/377G8HV>.
 22. In parallel with the halting of the functioning of kindergartens, the state failed to ensure the full introduction of distance learning mechanisms, p. 22-24, Office of the Public Defender, 2021, available at: <https://bit.ly/3jmVomJ>.
 23. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, p. 268-269, Public Defender of Georgia, 2021, available at: <https://bit.ly/3rlZZ78>

of student status, such as “statement of the parent” or “maximal number of absences”. The above mentioned does not provide accurate information on the actual reason for the removal of the child from the educational process²⁴.

LARGE RESIDENTIAL FACILITIES

In 2021, the most pressing issue in the field of child protection was the legal situation of children living in large residential institutions. Although the Kojori Orphanage for Children with Disabilities was closed in December 2021 and 14 children were placed in alternative care, three licensed large-sized institutions are still functioning in the country, along with unlicensed facilities²⁵.

Numerous examples of systemic violations of the rights of the child were revealed in 2021 in both large-sized facilities under the subordination of the Patriarchate. The closed environment in institutions has a devastating effect on both the child’s psycho-emotional state as well as physical health and development, hindering the socialization of children and their readiness to leave state care. The identified cases of violence against children were especially problematic. The issue was further aggravated by the fact that in the case of both residential institutions, social workers did not monitor the institution in a timely manner, conduct individual interviews with children or assess their condition²⁶.

Children in the Ninotsminda boarding school were in a particularly difficult situation, where not only were the basic needs and interests of children ne-

24. Ibid.

25. Tbilisi Infant House, “NNLE St. Nino Boarding House for children in need of care in Ninotsaminda, Javakheti” and NNLE the boarding School of Saint Mathata Fund of the village Feria”

26. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, p. 274-275, Public Defender of Georgia, 2021, available at: <https://bit.ly/3rlZZ78>

glected, but the institution's actions harmed their health and development, were often traumatizing, criminal in nature and contrary to all childcare standards²⁷.

It is noteworthy that the relevant state agencies are not effectively investigating the facts of alleged crimes against children, putting the children living in large institutions in an even more discriminatory situation. From 2016 to 2021, 4 criminal cases have been instigated. A study of the case materials shows that the persons in charge of the investigation are indifferent to the criminal acts committed against the juveniles, procrastinate the investigative operations for years, do not qualify the investigation properly and do not grant the affected person the status of a victim. It is noteworthy that from the studied materials, the signs of alleged sexual offenses against children were also identified, however, the investigation in this direction was not conducted within the frames of these cases, neither was the case separated as an individual legal proceeding²⁸.

The situation regarding child rights protection in Ninotsminda boarding house was even more alarming when the administration of the institution did not allow the Public Defender's Office to exercise its authority and conduct monitoring of the institution on April 15, and May 19, 2021. Most alarming fact is that a social worker of the LEPL Agency for State Care and Assistance for Victims of Human Trafficking was not allowed to enter the facility from June 20, 2020 till the end of April 2021²⁹.

The visit of the Public Defender to the Ninotsminda Boarding House became possible after the legal proceedings initiated by the Partnership for Human Rights, in the framework of which the organization applied to the Tbilisi City

27. Ibid.

28. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, p. 66-67, Public Defender of Georgia, 2021, available at: <https://bit.ly/3r1ZZ78>

29. Special Report on the Legal Status of the Pupils of "NNLE St. Nino Boarding House for children in need of care in Ninotsaminda, Javakheti", p. 10, Public Defender of Georgia, 2021, available at: <https://bit.ly/3Otf46O>

Court with a request to issue an interim order³⁰. The Tbilisi City Court granted the request of the organization, which was upheld by the Tbilisi Court of Appeals³¹. The organization also filed a complaint with the UN Committee on the Rights of the Child, which issued an interim measure on May 7, 2021, instructing the state to monitor the Ninotsminda boarding school³².

The case of Ninotsminda boarding house confirms that the country has systemic problems in the field of child rights protection in the country. The rights of children living in institutions are being violated on a daily basis, and the steps taken by the state towards closing large institutions for children in 2021 can still be deemed ineffective. The state has not yet approved a specific plan for the replacement of large residential institutions with foster care and family and community-based care services.

RECOMMENDATIONS

- Assess the social impact of the Covid-19 pandemic on child poverty, make changes based on existing results and, if necessary, develop new emergency as well as long-term social protection programs / transfers at both municipal and central government levels;
- Increase the number of mobile groups for effective and timely evaluation of cases of children living and working on the streets;
- Plan effective prevention and elimination measures for child labor cases based on a multidisciplinary approach;

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30. Interim ruling of the Tbilisi City Court on the motion of the organization “Partnership for Human Rights” with the status of a special plaintiff, case № 470472821, 2021, available at: <https://phr.ge/search/475>
31. Judgment of the Tbilisi Court of Appeals, Case № 3/b56021, 2021, available at: <https://phr.ge/search/401>
32. Statement by NNLE “Partnership for Human Rights” (PHR) “The UN has granted PHR’s request in the Ninotsminda boarding house case”, 2021 Available at: <https://bit.ly/3rdJoYS>

- In order to eliminate the consequences of access to quality education under Covid-19, the Ministry of Education and Science of Georgia should review existing programs and approaches and develop short-term and long-term plans to eliminate the negative impact of the pandemic both in the academic direction and children's psychological well-being;
- The Government of Georgia should elaborate and approve a unified state strategy and plan for deinstitutionalization under tighter deadlines;
- Combine all cases of alleged crimes against children in the boarding house into one legal proceeding and ensure an effective investigation into the cases;
- Immediately evaluate all children remaining in the boarding house, reintegrate them into their biological family, or if this is not possible, transfer them to alternative, family type care;
- Continue to work effectively with the families of children removed and reintegrated from boarding houses to keep them in family environment and prevent them from being transferred to various forms of state care.

PERSONS WITH DISABILITIES

IMPLEMENTING THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

In 2021, the Parliament of Georgia ratified an Optional Protocol of the UN Convention on Persons with Disabilities³³, which is an important mechanism for the protection of the rights of these persons at the international level. In the same year, the Georgian government set up the Interagency Coordinating Committee on the Rights of Persons with Disabilities, a body responsible for coordinating the implementation of the Law of Georgia on the Rights of Persons with Disabilities and the UN Convention on the Rights of Persons with Disabilities³⁴. It is noteworthy that the appropriate human, financial and expert resources allocated to the Committee for effective fulfillment of its functions are insufficient³⁵.

In addition, it is important to note that in the absence of uniform standards for the protection of the rights of persons with disabilities at the state level, most government agencies and municipalities developed and approved action plans, with delay and without the participation of persons with disabilities, which are required by the Law on the Rights of Persons with Disabilities³⁶.

Apart from this, granting the disability status based on a medical approach remains a challenge in the country. Effective steps have not yet been taken

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- 33. Resolution of the Parliament of Georgia of March 5, 2021 on the ratification of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities.
 - 34. Resolution of the Government of Georgia of November 29, 2021 "On the Establishment of the Interagency Coordinating Committee for the Implementation of the Convention on the Rights of Persons with Disabilities and the approval of the statute".
 - 35. "The Government Still Cannot Offer Guarantees for the Implementation Mechanism of the Convention on the Rights of Persons with Disabilities", website of Partnership for Human Rights, 2021, available at: <https://bit.ly/3vA0hhW>, updated: 13.04.2022.
 - 36. See. GYLA Assesses the Human Rights Situation in Georgia in 2021, 6, available at: <https://bit.ly/369BDMm>, updated: 13.04.2022.

to switch to the bio-psycho-social model of status-granting³⁷, which in itself hinders the inclusion of these individuals and their equal involvement in public life.

MENTAL HEALTH AND DEINSTITUTIONALIZATION

There are still critical and systemic challenges in the field of mental health. This area is still not a priority issue for the state policy. This makes it difficult for the mental health system to meet international standards and to fulfill the obligations taken by the state. In addition to general legislative and policy deficiencies, psychosocially and intellectually, persons with disabilities are deprived of the opportunity to make independent decisions about their own lives, which is due to the deficient implementation of the legal capacity reform³⁸. Also, the lack of mechanisms that ensure the involvement of community representatives with disabilities and / or psychosocial needs in the decision-making process by state agencies plays a major role in creating a less inclusive environment³⁹. Given this reality, “2022-2030 Mental Health Strategy of Georgia” is still vague/unclear on the issues of creating community-based services and their effective implementation⁴⁰.

Despite the state’s openly declared deinstitutionalization policy, the institutionalization of persons with psychosocial needs still remains a problem. The reasons for this are: weakness of the legislative framework, deficit of

37. Pursuant to Article 37, Paragraph 2, Subparagraph A of the Law of Georgia on the Rights of Persons with Disabilities, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia must approve a plan of measures to be implemented in connection with the introduction of the biopsychosocial model of disability status assessment mechanism by January 1st

38. See. Janiashvili M., Social Justice Center, “Mental Health and Human Rights – problematic Issues and Potential for Change”, 2021, 9, available at: <https://bit.ly/3E9nwTY>, updated: 13.04.2022.

39. Ibid, 13.

40. 2021 Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2022, 288, bit.ly/3vbybnU; Updated: 13.04.2022.

individualized support services, etc.⁴¹. It should be noted that at this stage the state is developing a de-institutionalization strategy⁴². In addition, in the process of deinstitutionalization of psychiatric institutions, a step taken back in 2021 is the abolition of mental health departments in one of the multidisciplinary clinics in Tbilisi. This, in turn threatens the right of people with psychosocial needs to have access to health care services⁴³.

SOCIAL PROTECTION

Since the ratification of the UN Convention on the Rights of Persons with Disabilities, the state has not yet introduced a proper system of social protection in line with international standards. Despite the existence of certain services available at the central or local levels, providing adequate support to persons with disabilities and their families remains a significant challenge. There are several noteworthy reasons for this: current weak mechanisms in the direction of social protection in the national legislation, the circle of persons who have social package, the social package is based on the medical model, the scarcity of the social package etc.⁴⁴.

In the context of the pandemic, the problems have further aggravated and the existing shortcomings in the state in terms of social protection of per-

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41. See. Janiashvili M., Social Justice Center, “Mental Health and Human Rights – problematic Issues and Potential for Change”, 2021, 9, available at: <https://bit.ly/3E9nwTY>, updated: 13.04.2022.
 42. Janiashvili M., Social Justice Center, “The importance of housing services in the process of deinstitutionalization of institutions for persons with disabilities”, 2021, 35, available at: <https://bit.ly/3xrTVDN>, updated: 13.04.2022..
 43. See. Janiashvili M., Social Justice Center, “Mental Health and Human Rights – problematic Issues and Potential for Change”, 2021,11, available at: <https://bit.ly/3E9nwTY>, updated: 13.04.2022.
 44. Partnership for Human Rights (PHR), Georgian Young Lawyers Association (GYLA), Social Justice Center, Union Sapari, Women’s Initiative Support Group (WISG), “Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia”, 2022, 32, Available: <https://bit.ly/36ejv48>, updated: 13.04.2022. “Statement of the Public Defender of Georgia on the occasions of International Human Rights Day”, website of the Public Defender, 10.12.2021, available at: <https://bit.ly/3JDgR5G>, updated: 13.04.2022.

sons with disabilities have become even more apparent⁴⁵. In addition, the practice of careless and insufficient planning of the need for social programs at the municipal level became particularly evident. Despite the requirements of the legislation, the needs of children with disabilities are not researched at the municipal level⁴⁶. As a result, measures taken by local self-governments are mainly short-term and insufficient to improve the situation of children with disabilities⁴⁷.

EDUCATION

Quality inclusive education is still a challenge in the country. The lack of computer equipment and the Internet in the period of the pandemic identified additional problems and restricted access to education for children⁴⁸.

Additionally, the process of home teaching is problematic. Georgian law stipulates that the school is obliged to develop a special plan for students with special educational needs and to provide home-based education for children who do not attend classes but are enrolled in school⁴⁹. However, the state does not have statistics on students with disabilities registered for home education and therefore does not have efficient mechanisms for quality control of teaching⁵⁰.

45. Ibid, 43.

46. Georgian Young Lawyers Association, "Programs tailored to the individual needs of children with disabilities", 2021, 2, available: <https://bit.ly/3v5LAEi>, updated: 13.04.2022.

47. Ibid.

48. GYLA, "The Right to Education of Children with Disabilities during Covid -9", 2021, 15, <https://bit.ly/3vjpOvT>, updated: 13.04.2022.

49. National Curriculum 2018-2024, available at: <https://bit.ly/38dBeJn>, updated: 13.04.2022.

50. GYLA, "The Right to Education of Children with Disabilities during Covid-19", 2021, 18, <https://bit.ly/3vjpOvT>, updated: 13.04.2022.

The lack or involvement of students with disabilities, their parents and organizations working on issues of persons with disabilities, in making key decisions regarding the full exercise of the right to education remains a challenge during the reporting period⁵¹.

EMPLOYMENT

The scarcity and inefficiency of appropriate working conditions and support mechanisms for persons with disabilities create barriers that help maintain the problematic issue of employment of persons with disabilities. It is noteworthy that despite the employment promotion measures developed by the state, the number of persons with disabilities seeking employment is still significantly higher than the number of persons employed during the reporting period⁵².

ACCESSIBILITY

The Technical Regulation, “National Accessibility Standards”, entered into force on March 1, 2021⁵³. However, in terms of its effective enforcement, monitoring is not properly implemented⁵⁴. At the same time, a national accessibility plan has not yet been developed.

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- 51. “Providing Inclusive Education for persons with Disabilities: What We Can Learn From the Pandemic?”, website of the Public Defender of Georgia, 07.12.2021, Available at: <https://bit.ly/3ro130h>, updated: 13.04.2022
 - 52. 2021 Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2022, 288, <https://bit.ly/3vbynbU> updated: 13.04.2022.
 - 53. Resolution N732 of the Government of Georgia of December 4, 2020.
 - 54. 2021 report of the Public Defender on the Situation of Human Rights and Freedoms in Georgia, 2022, 287, <https://bit.ly/3vbynbU>, updated: 13.04.2022.

The issue of web access is also a challenge for persons with disabilities⁵⁵. The problem of accessibility is especially evident in relation to women with disabilities in terms of access to reproductive rights⁵⁶, while the problem of access to infrastructure or appropriate materials still creates barriers to the full implementation of inclusive education⁵⁷.

WOMEN AND GIRLS WITH DISABILITIES

Protecting the rights of women and girls with disabilities, is not yet a priority for the state at the policy level. To this day, they remain one of the most vulnerable groups in the community of persons with disabilities. There is no unified systemic vision on the part of the state, nor is the production of segregated statistics, which is an additional hindering factor to the enjoyment of the rights and fundamental freedoms granted to them⁵⁸.

Women and girls with disabilities face barriers in multiple areas of public life. During the pandemic, some of these problems were exacerbated by the deteriorating tendency of their rights protection standards in areas such as health care and protection from violence⁵⁹.

55. Ibid.

56. "Special Report of the Public Defender of Georgia of 2021 on Combating and Preventing Discrimination, and Equality Situation", 2022, 20, available at: <https://bit.ly/369U7wg>, updated: 13.04.2022.

57. 2021 Report of the Public Defender on the Situation of Human Rights and Freedoms in Georgia, 2022, 284, <https://bit.ly/3vbynbU>, updated: 13.04.2022.

58. Public Defender of Georgia, "Assessment of the needs of women and girls with disabilities and the state of protection of their rights in Georgia", 2022, 2, available at: <https://bit.ly/3vbyt3g>, updated: 13.04.2022.

59. Ibid. 5

RECOMMENDATIONS

To the government of Georgia:

- Provide the Interagency Committee with adequate human, financial and expert resources to enable it to perform its functions effectively;
- Before switching to the biopsychosocial model for granting status, ensure an increase in the social package for persons with disabilities, taking into account the actual needs of these people;
- Ensure research on the needs of children with disabilities at the municipal level with the involvement of local self-government bodies;
- Develop a national accessibility plan in a timely manner with the involvement of persons with disabilities and organizations working with persons with disabilities;
- Elaborate relevant rules according to which the government agencies will introduce web accessibility standards

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

- Introduce a biopsychosocial model for granting status in a timely manner;
- Develop and approve a de-institutionalization strategy with the involvement of persons with disabilities and their representative organizations;
- Provide a systemic analysis of the needs of women with disabilities in terms of access to reproductive health services and develop an action plan to ensure that these needs are adequately met;
- Introduce effective mechanisms to facilitate the employment of persons with disabilities;
- Devise and develop individualized support services for people with disabilities to promote independent living.

To the Ministry of Education and Science of Georgia

- Take appropriate measures to identify the needs of children with disabilities left beyond formal education and to involve them in appropriate services;
- Take efficient measures to improve access to educational materials and infrastructure for students with disabilities;
- Ensure the production of statistics on students with disabilities registered at home and develop efficient monitoring mechanisms;
- Involve students with disabilities, as well as their parents and organizations working with people with disabilities, in making key decisions related to education.

WOMEN

WOMEN'S RIGHTS AND INTERNATIONAL MECHANISMS

In 2021, within the frames of Georgia's review by international organizations, the Coalition for Equality, along with other non-governmental organizations submitted two shadow reports on fulfillment of obligations taken under two following conventions: 1. The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – in parallel with general issues, the report assesses the situation of different vulnerable groups of women (e.g. IDPs, representatives of ethnic minorities, persons living in rural areas LGBTI women, etc.)⁶⁰; 2. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)⁶¹.

The UN Committee on the Elimination of Discrimination against Women, before adopting its final provisions in July 2021, compiled a list of issues and questions that Georgia has to answer additionally ⁶². In November, as part of Georgia's first baseline assessment, the Council of Europe Expert Group working on Violence Against Women and Domestic Violence (GREVIO) met with representatives of the non-governmental sector, including the member organizations of the Coalition.

In addition, according to the opinion adopted by the UN Commission on the status of Women on October 25, 2021, Georgia failed to ensure investigation and prosecution of crime perpetrated against Khanum Jeiranova on the grounds of gender and, more importantly, the violence perpetrated in the name of honor. As a result, the Committee

60. The report is available at: <https://bit.ly/3gef8HI>

61. The issues discussed in the report are: policy and data collection; Prevention; Protection and support; Legislation; Investigation, prosecution, procedural law and protection measures. Report available: <https://bit.ly/35KugdR>

62. Available at: <https://bit.ly/3ulQ2yo>; The sixth periodic review sent by Georgia is available at: <https://bit.ly/3fl68eI>

found that Georgia violated its obligations under a number of articles and paragraphs of the UN Convention on the Elimination of All Forms of Discrimination against Women, including negative obligations, both in material and procedural parts⁶³. Additionally, the opinion mentions that Khanum Jeiranova “became a victim of cross-discrimination based on ethnicity and stereotypical attitudes of the police and the judiciary” (§7.6)⁶⁴.

On July 8, 2021, in the case of “Tkheldze v. Georgia”⁶⁵, the European Court of Human Rights in Strasbourg ruled the simultaneous violation of Articles 2 (right to life) and 14 (prohibition of discrimination) of the European Convention on Human Rights⁶⁶. This case is a precedent, as it is the first case of femicide against Georgia and the first case in the case of the Strasbourg court, when discrimination was established for domestic crime in relation to both material and procedural parts of violation of the right to life. The court decision describes systemic problems related to domestic violence. In particular, the general and discriminatory inaction of the law enforcement bodies in relation to allegations of domestic violence, which, according to the court, created the proper environment for spreading more violence against women (§ 51).

63. The opinions of the Commission in Georgian language are available at: <https://bit.ly/35TcBBb>

64. Intersectional (cross) Discrimination: Discrimination that occurs as a result of the intersection of several protected grounds, when those grounds, taken separately, do not constitute discrimination (e.g. in the case of a disabled woman on the grounds of sex and disability, whereas a woman or a man without disability would not be subject to discrimination in a particular case).

65. The judgement in Georgian language available at: <https://bit.ly/3xj7wxr>

66. See also A and B v. Georgia (No. 73975/16), in which, on February 10, 2022, the European Court of Human Rights, ruled a violation of Articles 2 (right to life) and 14 (prohibition of discrimination) of the European Convention on Human Rights. Available at: <https://bit.ly/3KhBJ2o>

SEXUAL VIOLENCE AND SEX CRIMES

Discrepancy between definitions of rape and other sex crimes⁶⁷, and international standards⁶⁸ still remains a challenge. Additionally, the standard of evidence used by the prosecution is still rigid, inadequately high and discriminatory, contradicting international standards and practice, and promoting impunity⁶⁹.

The practice of Sapari shows that in 2021 the Prosecutor's Office of Georgia once again delayed the recognition of women affected by sexual violence as victims or refused to grant them this status altogether⁷⁰; It is noteworthy that some of the victims have not been granted victim status to this day. Accordingly, the victim / her representative is denied access to the case files⁷¹ and has no information about the investigative actions carried out, as well as the effectiveness of the investigation.

ECONOMIC VIOLENCE AGAINST WOMEN

Economic violence is invisible in Georgia⁷². The Law on Violence Against Women grants authority to police officers to issue restraining orders at

67. Article 137139 of the Criminal Code of Georgia .

68. See, for example, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ("Istanbul Convention"), Article 36; General Recommendation N35 of the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), paragraph 29 (e); The judgment of the European Court of Human Rights in the case of M.C. v Bulgaria (No. 39272/98), paragraph 181.

69. For more details see Tamar Dekanosidze, "Administration of justice on Sexual Violence Crimes against Women in Georgia", Public Defender of Georgia, 2020, p. 30-32. Available at: <https://bit.ly/3OGsrRk>

70. For more details, see the online conference of Sapari "Sex Crimes: Challenges in Law and Practice", March 11, 2021. Available at: <https://bit.ly/3Ed02x9>

71. Article 57 (1)(h) of the Criminal Procedure Code

72. For more details, see Baia Pataraiia, "Economic violence – unexplored problem", Sapari, 2021. Available at <https://bit.ly/2WNikiu>

their own initiative, including in cases of economic violence⁷³, although the Criminal Code does not consider economic violence to be a form of domestic violence, which is a problem⁷⁴. Accordingly, under Georgian law, the only mechanism for responding to economic violence is the issuance of a restraining or protective order. According to the statistics on domestic violence of the Ministry of Internal Affairs, in 2021, a total of 9,376 restraining orders were issued⁷⁵. Economic violence was registered in 203 cases⁷⁶, which makes up 2.2%, whereas according to studies in other countries, economic violence affects 94-99% of victims of domestic violence⁷⁷.

POLITICAL PARTICIPATION OF WOMEN

In 2021, the citizens' political union "European Georgia - Movement for Freedom" and several physical persons (12 plaintiffs in total) filed a lawsuit with the Constitutional Court to abolish the rule of mandatory quota in the general elections of municipality bodies. By a decision of October 21, 2021, the Constitutional Court deemed the claim inadmissible.

On June 28, 2021, due to the amendments made to the Election Code of Georgia, the rule for compiling party (proportional) lists for local self-government elections substantially changed and worsened. In particular, the political party will be obliged to compile a party list for all local self-government elections to be held before the year 2028, so that at least one in three candidates, instead of every second candidate, is of the opposite sex⁷⁸. These changes were rapidly reflected in the draft law, directly at the stage of second hearing, whereas at the first hearing, this issue was not

73. Article 11(3).

74. Article 1261(1)

75. Statistics available at: <https://bit.ly/3O16TyI>

76. Statistics available at: <https://bit.ly/3xiYnVn>

77. Berkley Economic Review, Economic Abuse, April 2, 2019, available at: <https://bit.ly/3KtLYle>

78. See. The organic law of June 28, 2021, N 703VRSXMP. Available at: <https://bit.ly/3rdsFVB>

raised at all and, consequently, was not discussed publicly at the committee or plenary sessions⁷⁹.

During the reporting period, the facts of violation of labor and other rights of women involved as party coordinators in local self-government elections were identified as particularly problematic. According to the Women's Movement, women often have to agree to work as party coordinators due to poverty, and while working, they are sometimes forced to engage in illegal activities, such as giving money in exchange for a vote, influencing the will of the voter, pressuring / threatening⁸⁰, etc.

RECOMMENDATIONS

International cases of violence against women and domestic violence

- The Georgian government should fully and effectively execute the decisions of international bodies; In the execution process, it should actively cooperate with both the plaintiffs and non-governmental organizations.

Sexual violence

- Bring the definitions of rape and other sex crimes in the Criminal Code and the practice of prosecution in line with the Istanbul Convention and other international standards.

79. See a special statement by women's movement on June 23, 2021. Available at: <https://bit.ly/3O2aMTt>

80. For more details, see the statement by women's movement on November 4, 2021, to protect the rights of women coordinators. Available at: <https://bit.ly/3rh4RAm> see also a press conference: <https://bit.ly/38An1Xb>

Economic violence against women

- Ensure that systematic economic violence becomes punishable under the Criminal Code.

Political participation of women:

- Strengthen mandatory gender quotas so that at least 30% of women's representation is ensured by election legislation;
- Eliminate the practice of giving illegal tasks to women coordinators and investigate possible crimes committed against them.

**LGBT(Q)I
PEOPLE**

THE IMPACT OF COVID-19 PANDEMIC ON THE LIVES OF LGBT(Q)I PERSONS

The Covid-19 pandemic and related restrictions have significantly worsened the situation of LGBT(Q)I people in Georgia. Against the backdrop of these restrictions, the labor rights situation of LGBT(Q)I people has deteriorated⁸¹. As a large part of community members are employed in the entertainment, arts, leisure or accommodation and catering services⁸² and as a result of these restrictions these sectors suffered the most, the median monthly income of community members decreased by three times to GEL 300.83 during quarantine⁸³, which along with financial aspects, has also affected many areas of community members' social lives.

It should be noted that, as in the previous year, the state anti-crisis policy still does not meet the needs of LGBT(Q)I people, which negatively affects the socio-economic status of community members. This is evidenced by the growing number of its members moving to live abroad since the beginning of the pandemic⁸⁴.

81. Labor rights and employment of LGBTQ people in the context of Covid-19 pandemic, Nukri Tabidze, 2021, research available at the following link: [https:// bit.ly/3NO7GT1](https://bit.ly/3NO7GT1), Source last viewed: 14.04.2022.

82. Ibid.

83. The impact of Covid-19 on the LGBT(Q)I community, Women's Initiative Support Group (WISG), 2022, available at: <https://bit.ly/3MwrsB8>

84. The mentioned data are based on the observation by WISG of the groups of people receiving various medical and social services

HOMO/BI/TRANSPHOBIC VIOLENCE

In terms of fighting hate crimes committed against LGBT(Q)I people, one progressive step is that a category “intimate partner”⁸⁵ has appeared in the list of social connections between a victim and a perpetrator, in the joint report of the Prosecutor’s Office of Georgia, the Ministry of Internal Affairs and the Supreme Court. This entry creates the opportunity for collecting data on violence between same-sex couples. However, due to the absence of an intimate partner in the definition of a family member, it is still a challenge to identify cases of same-sex violence, which negatively affects their use of protection and assistance services because they do not have access to restraining and protection orders. At the same time, it is noteworthy that when responding to violence perpetrated by a family member against an LGBT(Q)I community member, identifying discriminatory basis still remains an important challenge.

According to a joint report of law enforcement agencies and the Supreme Court, in 2021, 24 persons were prosecuted on the grounds of gender identity and 12 persons on the grounds of sexual orientation⁸⁶, whereas in 2020, 8 persons were prosecuted on the grounds of intolerance with sexual orientation basis and 9 – on the grounds of gender identity⁸⁷. The challenge remains that there is substantial difference between the statistics of hate crimes identified by the law enforcement and the violence endured by the community members⁸⁸.

85. The joint report of data on crimes committed on ground of intolerance with discrimination basis, 2021. The report is available at: <https://bit.ly/3LEOk0R>. The source last viewed: 14.04.2022.

86. Ibid.

87. Annual Parliamentary Report of the Public Defender of Georgia, 2020, the report is available at the following link: <https://bit.ly/3wWCoDE>. Source Last viewed: 14.04.2022.

88. A research by the Women’s Initiative Support Group (WISG) on the impact of Covid-19 on the LGBT community, the fieldwork of which was conducted in 2020, reports the violent experiences of community members in 2018-2020. According to the study, 73.5% of respondents (N = 155) have been a victim of hate crime at least once. Available at: <https://bit.ly/3MwrsB8>

It is also noteworthy that another significant challenge is the lack of public services for victims of hate crimes, which negatively affects the number of victims of such crimes addressing the law enforcement agencies.

TRANS PEOPLE

Access to trans-specific health services remains a significant challenge. This issue is problematic both in terms of financial access and quality control of these services by the state. Despite a number of recommendations, national medical guidelines and protocols for trans-specific health services have not yet been developed in Georgia, which would give the state the tool to control the quality of this service⁸⁹.

It should also be mentioned that the lack of a flexible and self-identifying mechanism for legal recognition of gender is a particular challenge for trans people in Georgia. In 2021, the Public Service Development Agency granted a trans woman's request and replaced her gender marker 'male', with "female"⁹⁰. The Agency made that decision after the trans woman submitted a certificate issued by a medical facility confirming that she had undergone gender reassignment surgery⁹¹. The Agency's decision is merely an illustration of the established practice that the state recognizes the gender trans people legally, only if they are subject to often unnecessary and invasive medical interventions, which in turn implies sterilization. This practice has no relevant legal basis and also is not in line with internationally recognized human rights standards.

89. The Public Defender of Georgia submitted a general proposal to the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia in 2020 regarding the creation of trans-specific health care medical protocols and guidelines. Information is available at the following link: <https://bit.ly/3uTLaQ5>; Source Last viewed: 14.04.2022. An independent UN expert on issues of hate-motivated violence made a recommendation to Georgia to created trans-specific health care medical protocols and guidelines. The recommendation is available at the following link: <https://bit.ly/3uTLaQ5> Source Last viewed: 14.04.2022.

90. The detailed information about the mentioned case is available at the following link: <https://bit.ly/3j59byb> The source last viewed: 14.04.2022.

91. Ibid.

FREEDOM OF ASSEMBLY AND ASSOCIATION

As in previous years, the organizers were not given the opportunity to hold a “Pride Parade” in 2021. It is noteworthy that before the day of the event, there were numerous statements by government officials encouraging homophobic attitudes, including a statement by the Prime Minister, who spoke of the imprudence of holding the event in a situation where “95% were against holding it”⁹².

The statement allegedly prompted radical groups to mobilize on July 5-6, leading to unrest, the cancellation of the planned “Pride Parade”, the physical injury of journalists, the attack on the offices civil society organizations “Shame”, the Human Rights House and “Tbilisi Pride”⁹³. As of today, three people have been charged in the episode of office raids⁹⁴.

It should be noted that despite numerous investigative actions into the violent events of July 5-6 and general proposals issued by the Public Defender to prosecute those responsible for organizing group violence and public incitement to violence⁹⁵, no organizers have been arrested so far. The developments of July 5 and 6 were reflected in the report on the implementation of the Association Agreement with the European Union⁹⁶, as well as in the statement following the visit of the Council of Europe Commissioner for Human Rights⁹⁷.

92. The statement by the prime minister is available at the following link: [https:// bit.ly/3j8eKMI](https://bit.ly/3j8eKMI) Source last viewed: 14.04.2022.

93. The information is available at the following link: <https://bit.ly/3v5KSG1> Source last viewed: 14.04.2022.

94. The information is available at the following link <https://bit.ly/3joYmar> Source last viewed: 14.04.2022.

95. The information about the proposal issued by the Public defender is available at the following link: <https://bit.ly/3vdiEt3> Source last viewed:14.04.2022.

96. The report on the implementation of the Association Agreement is available at the following link: <https://bit.ly/3O8DG4o> Source last viewed: 14.04.2022.

97. The statement following the visit to Georgia is available at the following link: [https:// bit.ly/3E9JXlz](https://bit.ly/3E9JXlz) Source last viewed: 14.04.2022.

In relation to the above mentioned, it is important to note that the state does not have strict and consistent policy against radically inclined groups, which would prevent such aggressive and violent manifestations.

It is noteworthy that at the end of 2021, the European Court of Human Rights made a ruling on the case, *WOMEN'S INITIATIVE'S SUPPORTING GROUP and others vs. Georgia*, which refers to the events and rights violations that took place during the rally dedicated to the IDAHOT day on May 17, 2013⁹⁸. The Court established the violations of article 3 (prohibition of torture), 11 (the freedom of assembly and association) and 14 (prohibition of discrimination) of the European Convention on Human Rights⁹⁹.

With this ruling the Court established that the state had failed to take efficient measures to protect the activists, although it was well informed about the possible risks. Also, it is evidenced that there was encouragement to the acts of violence on the part of the state. At the same time the Court confirmed that the unprecedented large-scale violence on May 17, 2013 was affected by the state's failure of timely and objective investigation into the assaults on the community members in previous years¹⁰⁰. It should be noted that this ruling and the monitoring process of its execution by the Committee of Ministers of the Council of Europe, will create an important basis for exercising the freedom of assembly and association for LGBT(Q)I people in Georgia¹⁰¹.

98. International Day Against Homophobia, Transphobia and Biphobia.

99. The decision of the court is available at the following link: <https://bit.ly/3DI6T1v>. Source last viewed: 14.04.2022.

100. The information is available at the following link: <https://bit.ly/36VKaTt>. The source last viewed: 14.04.2022.

101. At the same time, it is noteworthy that the Committee of Ministers of the Council of Europe, despite the state's position to end the monitoring on the implementation of the decision regarding the cases of the so-called Indetoba group, made a decision to continue monitoring until the end of 2022. The committee took into account the position of the NGOs, according to which, despite numerous progressive steps taken by the government, the state does not have a systemic approach to protecting the rights of LGBT(Q)I people, as a result of which community members are now denied freedom of assembly and expression. Relevant documentation is available at the following links: <https://bit.ly/3r33hC7>; <https://bit.ly/3uZU5iX>; <https://bit.ly/3NT095t>; Sources last viewed: 14.04.2022

RECOMMENDATIONS

To the Government of Georgia:

- Develop and implement a national human rights strategy and action plan in a timely manner. Ensure the involvement of LGBT(Q)I community members in the development process to maximally reflect their needs;
- Develop a strict and consistent policy for dealing with radical groups.

To the General Prosecutor's Office of Georgia:

- Start prosecution of all organizers and other persons responsible for violent acts on July 5-6;

To the Parliament of Georgia and the Ministry of Justice of Georgia:

- Develop a flexible, accessible, and self-identifying mechanism for legal recognition of gender for both adults and juveniles, free from prerequisites that are invasive and incompatible with international human rights standards¹⁰².

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

- Develop national guidelines and protocols for trans-specific health-care services and ensure the involvement of community members and organizations with relevant expertise in the process.

102. The Committee of Ministers of the Council of Europe also called on Georgia, Armenia and Azerbaijan to develop a self-identification based mechanism for legal recognition of gender in 2022. Resolution of the Committee of Ministers 2418 (2022) is available at the following link: <https://bit.ly/3M4jorf>, Source Last viewed: 14.04.2022.

To the Parliament of Georgia:

- Add the concept of “intimate partner” to the list of family members in order to efficiently respond to cases of same-sex violence.

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

- Develop and implement relevant government services to protect and assist victims of hate crimes.

To the Ministry of Education and Science of Georgia:

- Introduce a comprehensive education component on human sexuality in both formal and non-formal education systems, covering issues related to sexuality and gender identity.

NON-DOMINANT RELIGIOUS ASSOCIATIONS

ALLEGED ILLEGAL SURVEILLANCE AND LISTENING TO RELIGIOUS ORGANIZATION AND THE CLERGY

On September 13, information was spread in the media and on the Internet about the large-scale illegal wiretapping and surveillance by the State Security Service¹⁰³. The secret files are mostly related to religion and activities of religious organizations. The information in the files showed that the government listens to non-governmental organizations, journalists, political opposition, religious associations, both the patriarchate and non-dominant religious groups. The spread database contains information about people's personal lives, their family members, relatives and relationships with other people. On September 18, 2021, according to a statement issued by the General Prosecutor's Office, the investigation was launched according to the first, second and fourth paragraphs of Article 158 of the Criminal Code (violation of the secrecy of private communication) on the grounds of a crime with signs of crime¹⁰⁴. The Council of Religions under the Public Defender has critically assessed these facts¹⁰⁵.

The facts about the possible control of religious associations by the state have occurred many times also in the past. For example, it is known that in 2013, Sheikh Vagif Akperov was forcibly removed from the position of Sheikh of the Administration of Muslims of All Georgia by the representatives of the State Security Agency¹⁰⁶. It should be noted that on March 21, 2021, according to Mtavari TV¹⁰⁷, a former employee of the State Securi-

103. 2021 statement about the illegal recordings is available at: <https://bit.ly/3rGaEiX>

104. See. 2021 report of the Public Defender on the Situation of Human Rights and Freedoms in Georgia p. 161. Available at: <https://bit.ly/38Z6Qmw>

105. Statement of the Council of Religions under the Public Defender, 19.09.2021. Available at: <https://bit.ly/3rFWWg8>

106. TDI requests the investigation of alleged crimes committed against the former sheikh, 2016. Available at: <https://bit.ly/38diTaB>

107. Available at: <https://bit.ly/3rKASkp>

ty Service admitted in an interview that he had secretly uploaded a viral file on Vagif Akperov's computer to obtain information on Sheikh 's private life¹⁰⁸, in relation to which, the General Prosecutor's Office launched a relevant investigation, independently from the previous investigation, as a separate proceeding.

INEQUALITY IN THE LEGISLATION OF GEORGIA

Despite the decisions of the Constitutional Court, discrimination against non-dominant religious associations has not been eliminated in Georgian law. On June 11, 2021, the Constitutional Court partially admitted for review the lawsuit of nine religious associations about import taxes¹⁰⁹. According to the constitutional lawsuit, religious organizations demand the recognition of the norms of the Tax Code of Georgia as unconstitutional, which oblige all religious associations, except the Orthodox Church, to import and pay VAT during the import of religious objects.

In addition, on December 16, 2021, the Constitutional Court of Georgia accepted another lawsuit filed by religious organizations¹¹⁰, in which the plaintiffs are asking to recognize the normative content in the entry of the Law of Georgia on State Property (Article 4, paragraph 1, sub-paragraph "m") as unconstitutional, which prohibits the religious organizations to receive ownership of the religious or iconic buildings from the state, either by payment or for free¹¹¹.

108. See the statement of TDI on the case of Vagif Akperov in 2021: <https://bit.ly/3ED0FjU>

109. The Constitutional Court has accepted the claim of religious associations on payment of import tax, 2021. Available at: <https://bit.ly/3L8cf98>

110. The Constitutional Court has accepted another lawsuit filed by religious organizations, 2021. Available at: <https://bit.ly/3JZX3cQ>

111. In addition, lawsuits have been filed in court in which religious organizations are disputing against discriminatory content over property tax under the Tax Code and the possibility of purchasing state property under the law on state property.

Furthermore, legislative changes in 2020 have allowed the Orthodox Church to receive 20 hectares of forest adjacent to the church from the state. In 2021, the Public Defender appealed to the Constitutional Court against the norm of the Law on State Property (Article 3, paragraph 6), which only gives the Orthodox Church the right to take ownership of the forest adjacent to the churches¹¹². Another independent lawsuit has also been filed with the Constitutional Court on this issue¹¹³.

THE ISSUE RELATED TO THE CONSTRUCTION OF A NEW MOSQUE IN BATUMI

In 2021, the Kutaisi Court of Appeals upheld the decision of the Batumi City Court, which ruled that the refusal of the Batumi City Hall to allow building of a new mosque in Batumi was discriminatory and illegal. The Chamber of Appeals has further noted that, on the one hand, the local self-government of Batumi gives the Orthodox Church the opportunity to build religious buildings on land plots owned by the municipality, in densely populated neighborhoods, and enjoy freedom of religion, while on the other hand, declines the request of the Muslim community which is asking for the permission to build a house of worship on their own land, citing the protection of urban development interests as an argument. The case has been transferred to the Supreme Court of Georgia¹¹⁴.

112. Constitutional lawsuit of the Public Defender of Georgia on July 22, 2021, №271627. Available at: <https://bit.ly/3MGZPWO>

113. Statement by the Center for Social Justice, available at: <https://bit.ly/3rFfuNF>

114. See the statement by TDI: <https://bit.ly/3L9nSMW>; Also the 2021 report of the Public Defender of Georgia on the situation of human rights and freedoms in Georgia,, p.160. Available at: <https://bit.ly/38Z6Qmw>

RELIGIOUS HOLIDAYS

As in the previous year, in the face of the pandemic and restrictions caused by Covid-19, in 2021, different treatment of religious denominations was maintained. The government has again granted exclusive privileges to the Orthodox Church. For example, when the government restricted freedom of movement, exceptions were made only in favor of the Orthodox Church. Restrictions on Orthodox holidays were lifted on the night of January 6, 2021 (Christmas celebration) and on the night of May 2, 2021 (Easter celebration). The Government of Georgia completely ignored the interests of other religious denominations regarding the lifting of restrictions on religious holidays, which should be assessed as a manifestation of discriminatory policy¹¹⁵.

ALLEGED HATE CRIMES

Hate crimes on the grounds of religion are still a challenge, although the cases have decreased due to the Covid-19, this can be explained by less appearance of religious groups in public space¹¹⁶. For example, the Christian organization of Jehovah's Witnesses, which most often becomes the target of hate crime, stopped public gatherings and activities due to the pandemic. In 2021, six cases of religious intolerance were reported against Jehovah's Witnesses.

According to the joint statistical data on hate crimes in 2021 by the Ministry of Internal Affairs of Georgia, the Prosecutor's Office and the Supreme Court, the Ministry of Internal Affairs has launched an investigation into 19 cases based on alleged religious intolerance; The Prosecutor's Office of Georgia started prosecuting 3 persons, and 3 persons were granted the sta-

115. Ibid. p. 169

116. Ibid. p.168

tus of victims. According to the court, in 2021, two persons were convicted of a crime committed on the grounds of religious intolerance¹¹⁷.

The facts of violation of the rights of Muslims are noteworthy. In January 2021, a new case of persecution of Muslims was reported in the village of Buknari, Chokhatauri Municipality. In 2020, local Muslims bought a private house and built a chapel, leading to dissatisfaction among the local Orthodox. The incident turned into a verbal and physical confrontation. On January 12, 2021, the Ministry of Internal Affairs launched an investigation into the case. Due to various episodes of violence committed in Buknari, 5 people were recognized as victims; A diversion offer protocol was signed with two persons and the criminal investigation was terminated, and one person was charged under Article 120, paragraph 2, Subparagraphs “a” and “c” of the Criminal Code of Georgia (intentional minor damage to health)¹¹⁸. According to the assessment of the Public Defender of Georgia, the response of the state was more or less timely, which was reflected in the mobilization of the police at the scene of the confrontation and the mediation process between the parties¹¹⁹. However, similar to the religious conflicts in previous years, the state agencies have not studied the systemic reasons for this conflict also after this incident and have not enforced the long-term transformative policy¹²⁰.

The decision of the European Court of Human Rights of November 2021 in the case “Mikeladze and Others v. Georgia” is noteworthy¹²¹. The case concerned the ill-treatment of local Muslims by police on the grounds of religious intolerance in 2014 in the village of Mokhe, Adigeni Municipality, and

117. Joint statistical data for 2021 of the Ministry of Internal Affairs, the Prosecutor’s Office and the Supreme Court are available at: <https://bit.ly/3v5ml4V>

118. Ibid.

119. Public Defender’s 2021 Report on the Situation of Human Rights and Freedoms in Georgia, p. 166-167. Available: <https://bit.ly/38Z6Qmw>

120. Research by Social Justice Center, available at: <https://bit.ly/3k8RbTT>

121. Statement by Social Justice Center, available at: <https://bit.ly/3v410O7>

the inefficiency of the investigation. In the present case, the Court ruled violation of Articles 3 and 14 of the European Convention¹²².

ANTISEMITISM OF THE CHURCH

The alarming tendency of antisemitism was also maintained in 2021. In the beginning of 2021, the anti-Semitic preaching of Georgian Orthodox Church clergymen led to a public discussion, and multiple anti-Semitic comments appeared in social networks. The Church and the government have not critically assessed the specific cases of antisemitism. On December 2020, Ioane Gamrekeli, the metropolitan of Kutaisi-Gaenati, the head of education center at the Georgian Patriarchate made anti-Semitic statements¹²³ during his sermon in Bagrati cathedral, the reactions to which continued in 2021 as well¹²⁴.

CRISIS IN CHKHONDIDI EPARCHY AND THE FACTS OF RESTRICTING THE RIGHTS OF THE CLERGY

Throughout the current year, the situation was still tense in Chkhondidi eparchy. The persecution of critically inclined clergymen by Stepane Kalaijashvili, the temporarily appointed bishop as the head of eparchy, and other groups associated with him, intensified heavily and resulted in their banishment from monasteries and other forms of coercion.

On November 5, 2021, the banished clergymen living in the Church of blessed virgin Mary in Salkhino were visited by Stepane Kalaijashvili,

122. Judgment of the European Court of Human Rights of November 16, 2021 in the case of Mikeladze and others v. Georgia, (Application no. 54217/16). Available at: <https://bit.ly/37HMIoM>

123. See the 2020 report of the Coalition "The right to non-discrimination in practice for various groups in Georgia", p/65, Available at: [https:// bit.ly/39asuEC](https://bit.ly/39asuEC) See the

124. Antisemitism of the Church updated information, 2021. <https://bit.ly/3vEEgP9>

Bishop of Lechkhumi and Tsageri, who was temporarily appointed as the head of Chkondidi eparchy, the lawyer of the Patriarchate and more than 50 members of Georgian Patriarchate's Chokhosani community, demanding from them to immediately leave the territory of the monastery. The clergymen refused to do so. Afterwards tens of Chokhosani men went into the rooms of religious services and occupied the residential spaces.

The clergymen living in the monastery were trying to explain to the visitors that they had no right to evict them from the monastery, however the police arrested several clergymen living in the monastery and took them to the police department in Martvili¹²⁵, but they did not react to the Chokhosani members, who invaded the territory of the monastery and arbitrarily occupied the residential rooms of the clergymen. It is obvious, that in this case the Patriarchate initiated the forced eviction of the clergymen by evading the legal procedures and the clergymen were forced to leave their place of residence.

RECOMMENDATIONS

To the parliament of Georgia:

- Eliminate discriminatory norms in the law on state property, the Tax Code and the Forest Code, which create an unequal environment for non-dominant religious associations;
- Strengthen parliamentary oversight mechanisms to protect religious freedom and equality in the country.

125. Assessment of the Social Justice Center, available at: <https://bit.ly/3vAQBUn>

To the Government of Georgia:

- High-ranking state officials should make timely and clear statements against discrimination on religious grounds, anti-Semitism, hatred and violence;
- Adhere to the principles of secularism, equality and prohibition of discrimination and ensure the full enjoyment of the freedom of religion and belief by all, including celebrations of religious holidays.

To the Prosecutor's Office of Georgia:

- Ensure the investigation into the large-scale illegal wiretapping and surveillance allegedly by the State Security Service, and hold relevant officials accountable.

To the bodies of the Ministry of Internal Affairs and the Prosecutor's Office:

- Ensure systemic prevention of crimes on the basis of religious intolerance, as well as timely and efficient investigation;
- Develop and implement instructions for the identification, prevention and appropriate response to religious and ethnic conflicts based on the best practices of other countries and human rights standards;
- With regard to the current events in the Chkondidi Eparchy, the police must strictly adhere to the principle of religious neutrality and the rule of law.

To the local self-governments:

- Defend the principles of equality and secularism to eliminate discrimination in the issuance of permits for the construction of religious buildings for various denominations, and to promote the enjoyment of freedom of religion and belief by all.

ETHNIC MINORITIES

LOW PARTICIPATION AND ESTRANGEMENT

Apart from the fact that the participation of minorities is evidently asymmetric and weak, during the reporting period, no process has been initiated to create special positive mechanisms for strengthening political representation.

This issue is not envisaged in the state's ten-year strategy. The 2020 parliamentary elections and 2021 self-government elections revealed the need for such positive mechanisms even more clearly. After 2020 elections the number of ethnic minorities has significantly decreased – to 6 members of parliament. As for the elections of self-government, it was characterized by critical challenges in minority regions¹²⁶ where weak democracy, the exploitation of peripheral location of regions, social control and violence practices were evident.

The analysis of pre-election programs of political parties reveal that they do not understand the need of minorities and the reasons behind those needs¹²⁷. They use more outdated approaches and cannot offer new visions and mechanisms that would create a just social and political environment for the minorities to actually participate in public life¹²⁸.

In the context of low participation, the government still neglects the linguistic needs of minorities and does not provide state services, also communication between state bodies and the population and administrative proceedings in the language understandable to minorities¹²⁹.

126. Elections in Ethnic Minority Regions - Analysis of Key Trends and Practices", Social Justice Center, 2021. Available at: <https://bit.ly/3EFU48w>

127. "Vision for Political Parties on Basic Municipal Needs and Political Interventions", Social Justice Center, 2021. Available at: <https://bit.ly/3rGh5T9>

128. Ethnic Minority Rights in Parties' Pre-Election Visions, 2020. See. <https://bit.ly/3EAJT4M>

129. Authorities continue to ignore the linguistic needs of ethnic minorities, 2022. Cf. <https://bit.ly/3OG2KjM>

SOCIAL CONFLICTS AND BUILDING TRUST BETWEEN COMMUNITIES

In May 2021, the dispute that began on the grounds of everyday activities between Georgians and Azerbaijanis transformed into a violent conflict, which also acquired ethnic content. The statement by the Patriarchate regarding the mentioned conflict was also alarming, in which this region was referred to as “having undesirable ethnic balance”¹³⁰. The analysis of the conflict reveals that this ordinary conflict is rooted in strong social alienation and inequality. In these regions, the government usually works using police and security mechanisms and the integration policy is weak. It is noteworthy that in case of Dmanisi as well, police and security services were dominating and the office of State Minister was nowhere to be seen. It is obvious, that the integration policy is pretended and formal in nature, it cannot manage the transformative trust and peace building processes¹³¹.

The war of Kharabakh in 2020 is also noteworthy. It is important that our fellow citizens upheld the principles of peaceful cohabitation. However, their political and emotional involvement was still low. The state had not regarded this situation as one more signal to create the cultural platforms supporting peace, inter-ethnic dialogue and trust.

SOCIAL HARDSHIP

In the context of weak integration mechanisms, the minorities are still in dire social situation and their access to basic resources is restricted. In Marneuli, where land resources are vitally important, the population has been asking for years to be allowed to use it. The conflict between the local farmers and ep-

130. Evaluation of Andria Jagmaidze’s statement involving hate speech, TDI, 2021. იმ. <https://bit.ly/3kkzXmZ>

131. Dmanisi Conflict – Ethnic derivatives of everyday conflict. 2021. see. <https://bit.ly/3MmmuGV>

archy of Christian Orthodox church began exactly for this reason in the village of Meore Kesalo. For 5 years the farmers had been paying the land rent to the eparchy without legal basis. When the locals requested to have the right to use the land, the eparchy confronted them on chauvinistic grounds, and pointed to a neighbor state, where they could ask for land plots. Despite the intervention and promises of the self-government, this issue still remains unresolved¹³².

The problem of access to land resources have also been revealed in the village of Iormughanlo, where locals talk about the appropriation of their legally owned lands by the mayor's representative, as well as the problem of alienation of pastures based on false documents. Representatives of the self-government abuse the social vulnerability of the population and the problems related to the knowledge of language and restrict their access to resources that are important for their existence¹³³.

The difficult social situation in Samtskhe-Javakheti, the infrastructural failure and the accompanying daily problems¹³⁴ ave been further aggravated by the challenges related to acquiring citizenship. In Javakheti, more than 10,000 people who have lost Georgian citizenship due to labor migration to neighboring countries are unable to restore their citizenship due to legislative and institutional restrictions¹³⁵, which hinders their access to a number of state and social services.

The injustices that have taken place in Pankisi Gorge in the previous years and the total control of the Security Service, the case of death of Temirlan Machalishvili, have resulted in negative social consequences that have followed these events to this day. Social hopelessness is forcing locals to leave Georgia in large numbers. This year it was also noteworthy that one of the locals was

132. Farmers from Marneuli right to and need for land, 2021. see. <https://bit.ly/3rJ5S BE>

133. The practice of unlawful appropriation of farmers' lands in Iormughanlo requires timely response. 2021. See. <https://bit.ly/3OvjyVz>

134. Difficulties and peculiarities of winters in Javakheti, 2022. see. <https://bit.ly/3K 6m31W>

135. Thousands of people from Javakheti, waiting for restoration of Georgian citizenship, 2021. see. <https://bit.ly/3Ovg4qP>

denied citizenship. Jabrail Khangoshvili lost his Georgian citizenship after the war in Chechnya in order to restore his lost property rights (ეს შუამოწმეთ რა ქართულში, ასეა? კარგად ვერ გავიგე), and now the government refuses to restore his Georgian citizenship, citing unsubstantiated security reasons¹³⁶.

RECOMMENDATIONS

To the government of Georgia:

- Strengthen the executive functions of the State Minister for Reconciliation and Civic Equality to effectively pursue integration policies.
- Create sustainable, democratic and inclusive consultation platforms in line with the Council of Europe standards at the level of parliament and government, as well as at the level of municipalities where minorities live compactly.
- Initiate consultations and discussions with minorities and human rights organizations about introduction of special positive mechanisms for political participation.
- Develop and implement policies and guidelines for the detection, prevention and appropriate response to religious / ethnic conflicts based on human rights standards;
- Strengthen human rights rhetoric against hate campaigns.
- Create translation resources for minority languages, especially in the agencies responsible for providing public services and on their information platforms.
- Develop appropriate legislative changes and policies to restore Georgian citizenship for ethnic Armenians living in Samtskhe-Javakheti.

136. Denial of Granting Citizenship to Jabrail Khangoshvili Appears Politically Motivated, 2021. See: <https://bit.ly/3EEt8FX>

ALIENS

STATE SECURITY

In Georgia, the conclusion presented by the State Security Service regarding the potential threat posed by a shelter seeker to the state security of Georgia, plays an important role in deciding the issue of granting international protection to shelter seekers in Georgia, as well as the withdrawal of international protection status. This conclusion, is essentially a recommendation and information classified as a state secret, which is accessible only to a person with relevant authority of an administrative body and afterwards to a judge.

This information is one of the most frequently used grounds by the Migration Department of the Ministry of Internal Affairs of Georgia (hereinafter the Migration Department) for refusing to grant international protection status to a person. In addition, at the stage of the court hearing, neither the plaintiff nor their representative have access to this information, which, in this regard, makes the participation of the plaintiff and his representative in the litigation case only formal.

Although, in general, the information provided by the State Security Service is classified as the state secret, the law sets forth the general grounds on which such a negative conclusion may be based¹³⁷. For example, such grounds include a person's connection to other countries' intelligence services, terrorist and / or extremist organizations, etc. It should be noted that in practice, usually neither the Migration Department's, nor subsequently, the court's decision to refuse asylum, make any reference even to such general grounds, which would further facilitate the full realization of the plaintiff's right to protection.

Such legal reality poses an increased threat of unjustified and discriminatory use of information provided by the State Security Service within the administrative proceedings and significantly hinders the full enjoyment of the shelter seeker's right to protection.

137. Paragraph 2 of Article 69 of the Law of Georgia on International Protection.

CROSSING THE GEORGIAN BORDER

According to the legislation of Georgia, the relevant authorized person of the Ministry of Internal Affairs (hereinafter the Ministry) has a very wide discretion when it comes to the issue of entry of foreigners into the territory of Georgia and the grounds for refusing to cross the border. The relevant legislative norm, on the one hand, defines specific circumstances, which may be the basis for refusing a foreigner access to the territory of Georgia, and, on the other hand, envisages “other cases provided for by the legislation of Georgia”¹³⁸. The content of the latter is not exhaustive and gives the authorized official wide discretion to imply in it any regulation provided for by the legislation of Georgia. However, it is noteworthy that the law requires that denying a person entry to Georgia must be substantiated. Despite this requirement, the form of the decision to deny foreigners access to the territory of Georgia, as well as the existing practice in this regard, do not take into account the specific circumstance(s) on which the authorized official relied in making the decision.

Finally, granting such discretion to an authorized official of the Ministry regarding the issue of crossing the state border of Georgia creates an increased risk of that person’s unsubstantiated refusal to grant entrance to the territory of the country and selectively and discriminatorily using this authority.

It is noteworthy that in parallel with such wide discretion in making a decision, the existing rules and deadlines for appealing mechanisms against the mentioned negative decision do not create an effective and timely mechanism for foreigners to restore their rights.

138. Subparagraph “i” of paragraph 1 of Article 11 of the Law of Georgia on the Legal Status of Aliens and Stateless Persons.

LEGAL STATUS OF FOREIGN STUDENTS

For international students, after completing their studies, gaining practical experience and finding a job in 2021 was still a challenge. In particular, new graduates who are undergoing an internship program do not have the opportunity to extend their residence permit and are forced to leave the country. Based on the Law of Georgia on the Legal Status of Aliens and Stateless Persons, the Public Service Development Agency refuses to issue a work residence permit for internship program completion purposes. According to Article 15 of the mentioned law, a work residence permit is issued for the implementation of entrepreneurial or labor activities, from which the monthly income / payment received is not less than five times the subsistence minimum of the average consumer in Georgia.

It is important to note that according to Article 18 of the Labor Code of Georgia, an internship is a form of employment relationship where an intern performs certain work for the employer in exchange for pay or without it, to raise qualifications, gain professional knowledge, skills or practical experience. In addition, although the interns may not be paid, if they submit the relevant certificate of financial security to the agency, they must be issued a short-term work permit.

It should be noted that new graduates have no other legal option to extend their legal stay in the country after graduation. During the coronavirus period, this was aggravated by limited opportunities to quickly find a paid job and apply for a work permit based on it¹³⁹.

It is also noteworthy that on April 15, new restrictions came into force in the Resolution N322 of the Government of Georgia on the approval of isolation and quarantine rules. Different conditions were imposed on persons arriving in Georgia from India and Indian students. Despite the full course

139. See. Rights A report prepared by Georgia on the legal status of foreign students residing in Georgia. Available at: <https://bit.ly/3vBowfR>

of vaccination, they underwent a mandatory 14-day quarantine at their own expense.

In addition, students could enter Georgia only by charter flights, but the Georgian government did not organize any charter flights until October 2021¹⁴⁰. According to the Civil Aviation Agency, the first charter flight took place only on September 20, 2021¹⁴¹. Because of this, many students found themselves in a difficult situation¹⁴². Arrival of students in Georgia became possible only by charter flights.

On the one hand, there was no practical possibility of returning to Georgia to study, and on the other hand, universities required the students to attend the study physically. Otherwise, they would lose the semester as well as the tuition fees paid. For example, the Shota Rustaveli State University (BSU) in Batumi launched an administrative proceeding against the students of the one step English language Graduate Medical Program at the Faculty of Natural Sciences and Health with the aim of suspending their student status because it was mandatory for them to physically appear at the faculty dean's office for academic registration¹⁴³. Restrictions on passengers arriving from the Republic of India have only been lifted since 8 October.

ACCESS TO INFORMATION AND VACCINATION AGAINST COVID-19

During the pandemic, the Government of Georgia created a special website (stopcov.ge) for the timely and systematic provision of information on the coronavirus to the public. In addition, several hotlines operated in this

140. See. Statement by TDI on Restrictions on Indian Citizens. Available at: <https://bit.ly/3k7Ang0>

141. Letter N07 / 2323 of 20/10/2021 of LEPL "Civil Aviation Agency".

142. See. Statement of TDI on Restrictions on Indian Students. Available at: <https://bit.ly/36HEigM>

143. See: statement by TDI on the discriminatory decision of Batumi University in relation to Indian students. Available at <https://bit.ly/3xltcmz>

direction and certain types of information were spread through short text messages. However, a number of shortcomings were revealed, including the fact that the information on the website was not available in English at all, or was published a few days later, it was difficult to connect to the hotline, there was no access to comprehensive information in English, and short text messages were sent only in Georgian. Universities were not involved in the active dissemination of information. Furthermore, most of the students did not know about the existence of the website created by the government and the main source of information was the closed Facebook groups and local non-governmental organizations working on these issues¹⁴⁴.

In the summer of 2021, the Minister of Health ordered to identify a circle of aliens who were eligible to benefit from the state immunization program and vaccination against COVID19. Unfortunately, access to the vaccination program was not provided to aliens without documents, which posed an increased risk to both their lives and health, as well as increased the risk of spreading the virus¹⁴⁵.

AMENDMENTS TO THE LAW OF GEORGIA “ON THE LEGAL STATUS OF ALIENS AND STATELESS PERSONS”

In 2021, the Law of Georgia on the Legal Status of Aliens and Stateless Persons was amended and a number of issues related to obtaining a residence permit were newly regulated. Under the new regulations, the terms for obtaining a residence permit for foreigners have been further tightened. It is noteworthy that residence permit procedures are becoming stricter from year to year. Obtaining a residence permit for foreigners from countries

144. See. Rights A report prepared by Georgia on the legal status of foreign students residing in Georgia. Available at: <https://bit.ly/3vBowfR>

145. See. Statement by TDI on the vaccination of foreign nationals and the limitations for Indian students. Available at <https://bit.ly/38aOqij>

in Africa and Asia has been also quite problematic in the past. They often receive unsubstantiated and blanket denials, based on reasons of state security. The practice of unsubstantiated denial, which in most cases is based on state security motives, is targeted precisely against the representatives of the countries of Africa and Asia. We must assume that this next wave of legislative changes was a continuation of the alleged selective policy in this direction¹⁴⁶.

THE DISTURBING PRACTICE OF EXTRADITION TO RUSSIA

In 2021, Social Justice Center published a report studying the growing practice of extradition to the Russian Federation. The Ministry of Justice of Georgia does not duly provide public information in this regard, however, the data for 2013-2019 alone show that a total of 23 people were requested to be extradited by the Russian Federation, and in 14 of them this request was granted. This means that the Georgian government has satisfied more than half of the motions of the Russian Federation, which is a very high figure.

Analysis of the relevant cases shows that the Ministry of Justice and the common courts do not properly assess the risks of persecution, torture and ill-treatment of the extradited persons, violating their fundamental rights and in some cases leaving them without life, health and safety guarantees¹⁴⁷. All these cases show the excessive loyalty of the Georgian government to neighboring countries and the neglect of the supreme state and political goal of human rights protection due to political interests¹⁴⁸.

146. See. TDI Statement on Changes in the Law of Georgia on the Legal Status of Aliens and Stateless Persons. Available at: <https://bit.ly/3K5WX3o>

147. See. Report of the Social Justice Center. Available at: <https://bit.ly/3MmTorg>

148. Ibid.

RECOMMENDATIONS

To the Migration Department of the Ministry of Internal Affairs of Georgia:

- When assessing the request for international protection, thoroughly evaluate, on the one hand, the information submitted by the State Security Service, and, on the other hand, the circumstances of the shelter seeker's case and make a decision balancing the existing private and public interests;
- In case of refusal to grant international protection to a shelter seeker on the grounds of posing a potential threat to the state security of Georgia, indicate in the decision the circumstance relevant to Article 69, paragraph 2 of the "Law of Georgia on International Protection".

To the State Security Service of Georgia:

- Individually assess and substantiate the recommendation on potential threat posed by the shelter seeker to the state security of Georgia.

To Common courts of Georgia:

- In each case, explain to the plaintiff and their representative why there is a need to restrict access to information classified as a state secret and, consequently, to restrict procedural rights;
- Properly substantiate the necessity for making a decision based on the recommendation presented by the State Security Service as key evidence.

To the Parliament of Georgia and the LEPL Public Service Development Agency of the Ministry of Justice of Georgia:

- Allow graduate foreign students to legally stay in the country based on internship, to enhance their professional skills and find a job (the so-called job seeker visa).

To the Ministry of Internal Affairs of Georgia:

- When denying the foreigners entry to Georgia on the basis of “other cases provided for by the legislation of Georgia”, indicate in the decision, the specific grounds for the refusal, specifying the relevant legal act;

To the Parliament of Georgia:

- Through legislative changes, introduce an efficient and accessible mechanism for foreigners to appeal against the decision of refusal to enter Georgia.

**POPULATION
AFFECTED BY THE CONFLICT
AND INTERNALLY
DISPLACED
PERSONS**

PEACE POLICY

It should be positively evaluated that the Office of the State Minister for Reconciliation and Civic Equality, together with the Ministry of Foreign Affairs, has started working on a new strategy for reconciliation and de-occupation. In this regard, the agencies cooperate with a closed circle of experts. The 2010 State Involvement Strategy envisaged the review every six months on a working level and a review every three years on a strategic level. However, it has not changed until now and initiating this process is an important positive step.

Peacebuilding requires sustainable and consistent policies, critical assessment of existing experience and history, as well as political consensus¹⁴⁹. This process is directly related to the protection of rights in and around conflict regions. **In the context of continuous conflict and constant threat, the rights situation deteriorates and becomes systemic in nature. Grave and systemic experiences of human rights violations, difficult socio-economic conditions, ongoing “borderization” and security challenges clearly indicate that the government needs to promptly review and critically reassess peace policies and develop a new vision for conflict transformation.** The idea of protection of rights, in this regard, can play a consolidating and critical role in transformation of the conflict.

In the current political reality, expectations are low that the new strategy will offer alternative visions and be based on complex principles of transformation. This expectation is reinforced by the fact that generally this process is closed and the strategy evaluation document is still not publicly available.

149. See peace politics – in search of new approaches and perspectives. Social Justice Center, 2022. Available at: <https://bit.ly/3rLIOSx>

PRACTICES OF RIGHTS VIOLATIONS

In 2021, the de facto government of Abkhazia completely banned the teaching of the Georgian language in Gali; by doing so, it practically ended the process of assimilation and russification of Gali schools in the Abkhazian education system, which began years ago¹⁵⁰. This policy is problematic not only because of its discriminatory content, but also because it hinders young people from accessing quality education in their native language.

In addition, there are no educational or human resources for teaching Russian language in Gali schools. The government has failed to stop the assimilation policy that began years ago and has been unable to find common elements of dialogue with the de facto government. The de facto government of Tskhinvali pursues a similar policy in the general education sector in Akhalgori.

During the reporting period, the traffic movement regime with the conflict regions still could not be improved, leading to a number of tragic consequences. On April 7, 2021, the media reported that four Georgian citizens had died in the Enguri River while trying to cross into Georgian-controlled territory¹⁵¹. In a situation where freedom of movement for many families is related to access to basic services and resources, restrictions on movement leave them in complete isolation. In 2021, the traffic movement regime was complicated by quarantine restrictions imposed by the central government due to the pandemic. Mandatory 5-day quarantine forced those wishing to cross the border to use detours, which in some cases cost them their lives and health. In the same period, a 63-year-old woman who had crossed Georgia from Abkhazia died, she needed emergency medical care and was forced to undergo a 5-day quarantine, where she could not receive

150. The violation of the rights of ethnic Georgians to receive education in their own language has taken an extreme form in Gali, Social Justice Center, 2022. See. <https://bit.ly/3k53hNS>

151. The government should use efforts to substantially improve the movement regime in the conflict regions, Social Justice Center, 2021. See. <https://bit.ly/3v6d3FX>

the necessary medical care¹⁵². Following these tragic events, the government abolished the quarantine regime.

The death of Genadi Bestaev in 2021 is a grave consequence of the practice of illegal arrests. He was detained five times by the occupation regime for going to his house beyond the barbed wire, “on charges of illegal border crossing.” The last time he was arrested in 2019 and sentenced to three years in prison on drug smuggling charges. The Georgian authorities were able to bring him across the border only when his health condition deteriorated and there were no resources available for his timely treatment at the Tskhinvali hospital. The family claims that Bestaev may also have been a victim of inhuman treatment at the Tskhinvali prison¹⁵³. His life could not be saved after three months of treatment¹⁵⁴.

In 2021, Zaza Gakheladze¹⁵⁵ was released after being illegally imprisoned for one year. He was detained by the de facto Tskhinvali regime on charges of attempted murder and “illegal border crossing” and was released after a year-long attempt of the government. Irakli Bebuia, who was arrested in September 2020 for burning the Abkhazian flag, still remains in custody. Because of his chronic health problems, his imprisonment is even more risky.

POPULATION LIVING ADJACENT TO THE BORDER LINE

The rights and social situation is no less difficult for the people living along the border lines, and there is an impression that the governments have completely

152. “No complaint could be identified” A woman from occupied Abkhazia has died in quarantine, Tabula, 2021. Available at: <https://bit.ly/3rG8iAM>

153. Who is Genadi Bestaev and why he could not be released, Radio Liberty, 2021. Available at: <https://bit.ly/38bgVMQ>

154. Genadi Bestaev Dies After Three Months of Treatment, Radio Liberty, 2021. Available at: <https://bit.ly/3rJzYoB>

155. Zaza Gakheladze is free, Radio Liberty, 2021. Available at: [https:// bit.ly/3OvkkXI](https://bit.ly/3OvkkXI)

forgotten about these people after the war¹⁵⁶. Apart from the daily social hardships that families face here, they continue to live in war-torn homes to this day¹⁵⁷. A working group for the restoration of war-torn houses in Zardiaantkari was set up in July 2021 at the initiative of the Prime Minister, although no progress has been made so far. Unemployment, hard work for daily income and eventual migration are the accompanying social reality of these regions. The local infrastructure is also in poor condition. Often, the population does not have access to basic services and resources - roads, electricity, medical care, etc. This social crisis paints an even more dire picture in the face of constant danger, continuous practice of kidnappings, and creeping occupation.

INTERNALLY DISPLACED PERSONS

The problem of providing decent housing for IDPs was also critical in 2021. Despite the fact that the IDPs living in the sanatorium “Kartli” have been asking for decent and safe housing for years, the problem remains unresolved¹⁵⁸. From December 2021, active protests were organized by IDPs¹⁵⁹. Even 30 years after the war, half of the families are still homeless. According to the latest data of 2020, there are 91,023 IDP families registered in Georgia, of which 42,370 families are resettled, and 40,131 families are awaiting rehousing. According to the Public Defender’s 2020 report, the process of evicting families from demolished facilities has recently intensified, although the number of unsafe facilities is still high¹⁶⁰.

156. Memories of war, trauma and everyday life, 2021. See <https://bit.ly/38dVwm1>

157. Villages around the Border line are in need of special support from the state. Social Justice Center, 2021. See: <https://bit.ly/36FTHhy>

158. The signatory organizations on the tragedy of “Kartli” residence, 2022. See <https://bit.ly/3v7GgAu>

159. It is noteworthy that due to the inaction of the government, the protest took a tragic turn. On January 16, 2022, a 52-year-old IDP Zurab Chichoshvili committed suicide in protest.

160. 2020 report of the Public Defender on the Situation of Human Rights and Freedoms in Georgia, p. 450-451. Available at: <https://bit.ly/3v5jvNp>

RECOMMENDATIONS:

- In the process of developing a new peace policy, it is important that the government make efforts to reach a broad political and public consensus on this issue. To do this, it is also necessary to develop a new strategy with the involvement of public groups;
- Strengthen approaches to human rights protection and human security in the process of elaborating peace policy;
- It is essential that the government use all diplomatic, political and legal mechanisms to protect the right of ethnic Georgians to education in their native language, also actively cooperate with de facto governments;
- The government should develop alternative formats and programs for teaching Georgian language and other subjects to young people living in Gali and Akhagori, and for this purpose, inter alia, mobilize adequate educational, technical and library resources on location;
- Use all political and diplomatic means to restore safe and free movement, including through direct work and communication with the de facto governments of Abkhazia and the Tskhinvali region;
- Establish regular social support mechanisms for the population living along the border lines, ensure immediate rehabilitation of war-torn houses;
- Ensure the safety of people living adjacent to the border lines by enhancing security measures, including regular patrolling;
- Employ all political and diplomatic mechanisms to ensure the release of Irakli Bebuia;
- Proactively study the situation and needs of IDPs living in various facilities facing security risks and ensure their timely rehousing by creating appropriate alternatives;
- Discuss better institutional ways and mechanisms for representing the needs, interests and concerns of the IDPs.

**HUMAN RIGHTS
DEFENDERS
AND
ACTIVISTS**

THE HUMAN RIGHTS SITUATION OF ACTIVISTS

■ Illegal practice of administrative detention

In 2021, the police repeatedly detained activists during peaceful rallies, mostly under Articles 166 and 173¹⁶¹ of the Code of Administrative Offenses. Unfortunately, administrative illegal detention of activists has become a well-established practice¹⁶². We can list a few cases for illustration:

On February 19 and 21, 2021, law enforcement officers arrested activists in the process of setting up tents, however setting up tents as a form of protest is not prohibited by Georgian legislation¹⁶³. Nevertheless, the police are systematically prohibiting the protesters to set up their tents¹⁶⁴.

Unfortunately, as in previous years, representatives of law enforcement in Georgia continue to restrict the freedom of peaceful assembly of protesters and the possibility of setting up temporary structures (including tents). Recently, numerous cases of restriction of the full realization of this right have been identified, which negatively affects the degree of democracy in the country¹⁶⁵.

On June 3, 2021, a rally was held in front of the General Prosecutor's Office

161. Article 166. petty hooliganism; Article 173. Disobedience to a lawful order or request of an employee of a law enforcement body, a military serviceman, an employee of the Special State Protection Service, an enforcement policeman [...] or committing other illegal actions against this person.

162. Georgian Democratic Initiative, Human Rights in Georgia 2020, p. 4-5, see: <https://rb.gy/zetbsi> [last viewed 23.03.22]; Georgian Democratic Initiative, Human Rights in Georgia 2021, p. 711, <https://t.ly/lybj> [last viewed 23.03.22].

163. Georgian Democratic Initiative, Human Rights in Georgia 2021, p. 7-8. Available at: <https://bit.ly/3rJCvPD>

164. Ibid., p. 8; GYLA urges the Ministry of Internal Affairs to respect the right to hold an assembly by setting up a tent on a side-walk, see: <https://bit.ly/3OvPVI4> [last viewed 23.03.22].

165. Human Rights Center, Forbidden right – Legislative standards for the use of temporary structures and technical means and problems with implementation in practice, p. 3. Available at: <https://t.ly/HCMn> (last viewed 14/04/2022).

to protest against the events related to the Ninotsminda Orphanage. Police broke the hand of a rally participant, Giga Makarashvili while arresting him on the pretext of disobedience (Article 173 of the Code of Administrative Offences), despite the fact that Makarashvili was not resisting law enforcement¹⁶⁶.

The mass arrest of activists on November 10, 2021 is especially noteworthy. In particular, during the rallies held by opposition parties in front of various administrative bodies, the police arrested a total of 46 people under Articles 166 and 173 of the Code of Administrative Offenses. According to eyewitnesses and media video footage, police arrested part of the citizens while they were away from the epicenter of the events and their actions did not show any signs of any violation¹⁶⁷.

Given that in many cases the violation of any law by the activists are not being confirmed, the scale of the arrests indicates that the state is fighting a different opinion in the country in every possible way.

■ Review of the activists' cases in court

The prosecution of activists for administrative offenses is a serious problem. First of all, it should be noted that the Code of Administrative Offenses does not specify the standard of evidence and the burden of proof, which leaves the court with the possibility of making unsubstantiated and unjustified decisions. Indeed, the rulings against the activists were largely based solely on the offense and arrest protocols and the oral explanations of the police officers who had written them. The protocols were usually similar and following the same pattern, without detailing specific facts of the offense. Judges also questioned police officers who did not participate in the arrest of the activists at all. In addition, the case materials usually did not

166. Georgian Democratic Initiative, "Human Rights in Georgia 2021", p. 8. Available at: <https://bit.ly/3rJCvPD>

167. Ibid. p.9

contain shoulder camera footage of the police, which would have clearly confirmed the violation, and the video footage of the cameras presented mostly did not reflect the process of committing the offense¹⁶⁸. Therefore, the activists' convictions were not based on reliable, unbiased evidence.

Apart from the problem with the evidence, the court often did not assume the activist's actions for the offense. In particular, the decisions do not specify in which action the violation was expressed. Also, the elements of the composition of the offense are not inspected, for example: the lawfulness of the police officer's request in a particular case (one of the prerequisites of Article 173 of the Code of Administrative Offenses) and the question of whether the activist's actions have endangered public order¹⁶⁹ (one of the elements of Article 166 of the Code of Administrative Offences) Accordingly, the court does not substantiate the perpetration of the offense by the activist.

Furthermore, often the decisions do not show why the judge applied a particular sanction. For an activist, the sanction is often imposed without assessing the aggravating and mitigating circumstances and his or her personal characteristics and responsibilities¹⁷⁰. Consequently, part of the sanction in decisions is often unsubstantiated.

■ Tightening administrative sanctions

For years, the need for a comprehensive reform of the Code of Administrative Offenses has been a critical issue, as the Code was adopted during the Soviet era and therefore fails to meet modern human rights standards. However, instead of amending the Code, the Georgian Parliament tightened sanctions in Articles 166 and 173, namely in the norms most commonly used to detain activists illegally

168. Human Rights Center, Monitoring the Court Trials of Allegedly Politically Motivated Cases, Summary Report, 2022, pp. 55, 58, 59. Available at: <https://bit.ly/3vCZbC8>

169. Ibid.

170. Ibid.

and impose administrative liability. In particular, part 2 was added to Article 166, which established a fine of GEL 1,500 to GEL 2,000 for repeated petty hooliganism. For the same violation, the term of imprisonment was set at 5 to 15 days and the judge can no longer sentence a person to less than 5 days in prison. In Article 173, the lower limit of the fine is 2000 GEL instead of 1000 GEL, and for repeated crime, the person will be fined from 3500 to 4500 GEL and may be sentenced to imprisonment from 7 to 15 days. As a result, a judge can no longer sentence a person to less than 7 days in prison. In the case of both articles, it has become impossible to release a person from administrative liability based on verbal reprimand¹⁷¹.

The tightening of sanctions in the articles most frequently used against activists increases the detrimental effect on the exercise of freedom of expression and assembly. Instead of working on the delayed reform of the Code of Administrative Offenses, the toughening of liability indicates the government's desire to suppress critical opinion and protest in the society as much as possible.

HUMAN RIGHTS SITUATION OF HUMAN RIGHTS DEFENDERS

In Georgia, human rights defenders are still working in an unfavorable environment, which is confirmed by research on their needs. According to 57% of the respondents in the survey, the environment poses a threat to human rights defenders in Georgia, while the main sources of hostile attitude are the position of the ruling party, religious leaders and state institutions¹⁷². At the same time, "82% of the respondents think that Georgian human rights defenders are under the threat of a negative attitude from the society. 78% believe they are in physical danger. 72% think they are neglected

171. See the assessment by Georgian Democratic Initiative regarding the tightening of sanctions on administrative violations. Available at: <https://bit.ly/3vKl1T9>

172. Sapari, research on the needs of human rights defenders in Georgia, 2021, pp 12-13, see <https://cutt.ly/iS9UQ5r> [Last viewed 24.03.22].

by the state”¹⁷³. The main threats are online oppression / bullying (67%), discrediting campaigns (58%), indifference of the police in the process of criminal actions carried out against human rights defenders (54%)¹⁷⁴, and among the reasons of the vulnerability of human rights defenders are politicized court (65%), the growing authoritarianism of the state (72%) and negative public opinion / attitude (78%)¹⁷⁵. The problem is exacerbated by the shortcomings in the legislation, which do not provide sufficient guarantees for the protection against interference with the activities of human rights defenders and, therefore, also do not provide explanation of the human rights work.

Unfortunately, in 2021, human rights defenders were attacked both in the physical and Internet space. In particular, during the “Pride Parade” organized by “Tbilisi Pride” on July 5, 2021, hate groups were attacking and chasing human rights defenders and activists supporting the LGBT + community in the streets¹⁷⁶. They also raided the office of the Tbilisi Pride, an LGBT + human rights organization, and threw an explosive inside the building of Human Rights House - also a human rights organization¹⁷⁷. As a result, the “Pride Parade” was cancelled and human rights defenders were subjected to discriminatory, degrading and inhuman treatment.

Among the problems faced by human rights defenders, the illegal wiretapping of their communication is also noteworthy. In particular, according to the information spread in the media in 2021, the objects of illegal listening by the State Security Service were human rights activists / members of non-governmental organizations, who later confirmed the existence of se-

173. Ibid. p.13

174. Ibid. p. 15

175. Ibid. p. 18

176. Georgian Democratic Initiative, “05.07.21 march without pride, 2021, p. 13. See <https://t.ly/OiRB> [Last viewed 13.04.2022].

177. Ibid. p.13-15

cretly recorded conversations¹⁷⁸. Covert illegal listening endangers not only the personal life but also the activities of human rights defenders because it violates the confidentiality between the human rights defender and the person they are protecting.

RECOMMENDATIONS

To the Ministry of Internal Affairs, Prosecutor's Office, other law enforcement agencies:

- Respect the freedom of expression and assembly of human rights defenders and activists and not interfere illegally with the exercise of these rights;
- Prevent crimes and other offenses against human rights defenders and activists, respond to them in a timely and appropriate manner, and conduct effective investigations;
- Stop illegal covert listening to the communication of human rights defenders and respect their right to privacy and communication;
- Adhere to the principles of adversariality and equality of arms of the parties and not interfere with the right of the defense party to exercise its procedural rights.

To the Courts:

- Review and resolve cases of administrative violations against activists based on the Constitution of Georgia and international human rights law including - according to the standards established by the European Convention.

178. Sapari, Georgian Democratic Initiative, Human Rights House, legal status of human rights defenders in Georgia, 2022, p. 24, see <https://cutt.ly/CS9UL7I> [Last viewed 24.03.22].

To the Parliament of Georgia:

- Implement a comprehensive reform of the Code of Administrative Offenses, based on the Constitution of Georgia and international human rights law, including - according to the standards established by the European Convention;
- Create an article in the Criminal Code that will make interference in the human rights work, intimidation or retaliation for carrying out human rights activities punishable. Also, provide a definition for human rights work in compliance with international standards.

MEDIA

SAFETY SITUATION OF MEDIA REPRESENTATIVES

The trend related to the safety of media representatives that had started in previous years significantly intensified during the reporting period, and the cases of physical and verbal assaults on journalists, illegal interference in their professional work have become even more frequent¹⁷⁹. The state does not respond properly to such facts and does not ensure their timely prevention, also through inefficient investigation it leaves the committed crimes without appropriate reaction. For example, the cases of journalists affected during the dispersal of the protest rally on June 20-21 have still not been investigated¹⁸⁰. The approach of court to the cases of assaults on journalists is also problematic, since it does not identify the hate motive, aggravating circumstances and uses disproportionately low sanctions. A good illustration of this is the fact of assault on Vakho Sanaia, a journalist and his family, and the subsequent inefficient judicial response¹⁸¹.

The inaction of the state agencies and the aggressive rhetoric by the public officials encouraged the assaults of unprecedented scale on media representatives on July 5-6, when the radical and homophobic groups perpe-

179. Media Advocacy Coalition [Facebook Page], 12.04.2022, Media Advocacy Coalition Responds to Attacks on Formula One Employees, Available: <https://bit.ly/3ovTFyI>, Updated: 12.04.2022; Georgian Young Lawyers Association, [Facebook page], 09.05.2021, "Media Coalition Condemns Attacks on Journalists by the Clergy". Available: <https://bit.ly/3rlkX76> Updated: 12.04.2022; Media Advocacy Coalition [Facebook Page], 19.11.2021, "Media Advocacy Coalition is concerned by the restriction of the rights of one more Ukrainian journalist in Georgia", available: <https://bit.ly/31FBiyG>, Updated: 12.04.2022.

180. See. "GYLA Applies to the European Court on behalf of the Demonstrators and Journalists Affected by June 20 events", website of Georgian Young Lawyers Association, 07.04.2021. Available: <https://bit.ly/3O9cl8B> Updated: 12.04.2022

181. GDI appeals appeals to the Prosecutor's office regarding the case of the attack on journalist Vakho Sanaia and demands to appeal the court decision in one part of the sentence. See. <https://bit.ly/3L66GYP>; Media Advocacy Coalition [Facebook page], 25.08.2021, "Media Coalition responds to the fact of attack on journalist Vakho Sanaia and his family." Available: <https://bit.ly/3ven2rw>, updated: 12.04.2022.

trated violence against more than 50 media representatives¹⁸². Among the affected media representatives was the cameraman of “Tv Pirveli”, Aleksandre Lashkarava, who died several days later¹⁸³. Furthermore, the state’s response to the facts of violence once again was inappropriate¹⁸⁴. Also, despite numerous evidences available in public sources, regarding the public call for such actions, not a single organizer has been charged to this day¹⁸⁵.

Apart from this, it is noteworthy that even after the events of July 5-6 the representatives of the state often still treat the media with discriminatory attitudes¹⁸⁶ and continue to respond with aggressive rhetoric to their legitimate demands¹⁸⁷.

ILLEGAL LISTENING TO JOURNALISTS

One of the pressing problems that has been identified once again are the multiple facts of illegal listening in the country, including listening to the media representatives¹⁸⁸. In 2021, the files were spread in public, which

182. Svimonishvili M. et al., Georgian Young Lawyers Association, “Chronology and Legal Assessment of the events of July 5-6”, 2021, 13-21, available at: <https://bit.ly/3lRlqyX>, updated: 12.04.2022.

183. See: Media Advocacy Coalition [Facebook Page], 11.07.2021 “We the Coalition express our condolences over the death of TV Pirveli cameraman Alexander Lashkarava.” Available: <https://bit.ly/3jsQFjp> Updated 12.04.2022

184. Ibid.

185. Ibid.

186. See. Georgian Young Lawyers Association, [Facebook Page], 11.11.2021, Media Advocacy Coalition Calls on the Ministry of Justice to Stop Discrimination against Journalists, available at: <https://bit.ly/3rKf5du> updated: 12.04.2022

187. See. Media Advocacy Coalition [Facebook page] 17.07.2021, Media Advocacy Coalition and Partner Organizations are Concerned about discrediting of Main TV, TV Pirveli and Formula by the Prime Minister, as well as Threats against Nika Gvaramia: <https://bit.ly/3dtG9Wb>, updated: 12.04.2022; Media Advocacy <https://bit.ly/3dtG9Wb> [Facebook page], 23.07.2021, “We call on all public figures to stop stirring up hostilities in the society and discrediting the media”, available at: <https://bit.ly/3EKpoSo>, updated: 12.04.2022;

188. Civil organizations: the government uses the State Security Service as a mechanism for total control. The web site of Georgian Young Lawyers Association, 02.08.2021, available at: <https://bit.ly/3d9nplm> Updated: 12.04.2022.

allegedly reflect the content of covert listening conducted by the State Security Service¹⁸⁹. Among the addressees of listening were the journalists as well¹⁹⁰.

For years the nongovernmental organizations have been bringing to attention the unlimited and uncontrolled authority of the State Security Service¹⁹¹. The previously uninvestigated, numerous cases of taking lives of individuals further encourages and gives larger scale to the illegal interference in other's personal lives¹⁹². It is noteworthy that the investigation as well as the response of the legislative body regarding the above mentioned case has also been inefficient, which was expressed in the refusal by the Prosecutor's Office to cooperate with NGOs and the Public Defender and by the Georgian parliament's failure to use parliamentary oversight mechanisms at its disposal¹⁹³.

PROBLEMATIC INITIATIVE REGULATING THE FREEDOM OF EXPRESSION

In 2021 once again a legislative initiative was brought forward, aimed at restricting the freedom of expression, the motive for its adoption may be precisely the discriminatory use of regulations against the critical media. On October 13, 2021 the legislative package initiated in the Parliament of Georgia envisaged the amendments to the Election Code of Georgia and the "Law of Georgia on broadcasting"¹⁹⁴. According to the suggested

189. Ibid.

190. Ibid.

191. Ibid.

192. "GYLA Assessment of Recent Illegal listening", website of Georgian Young Lawyers Association, 16.09.2021. Available at: <https://bit.ly/37FwYSG> Updated 12.04.2022.

193. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia 2021, 123-124. Available at: <https://bit.ly/3JzQFsH>, updated 12.04.2022.

194. Draft Law (N 07-3/112/10. 13-10-2021) "On Amendments to the Law of Georgia on Broadcasting", available: <https://bit.ly/3E7KcnF>, updated 13.04.2022.

amendments, it is planned to ban the dissemination of such campaigning material in public space that intends to create negative attitudes towards an electoral subject or candidate, also the placement of pre-election advertisements with similar purpose in TV¹⁹⁵. In the context of such wide formulation of content of expression provided for by the ban, the criticism of a politician and government representatives is being significantly restricted. Such approach in itself is inconsistent with the standards of freedom of expression, according to which the expression that has political content or is aimed at politicians, enjoys high protection, because the limits of its permissible criticism are wide¹⁹⁶.

The proposed draft law contradicts the existing standards of protection of freedom of expression and freedom of media, it also disproportionately interferes with the activities of the media, by making broadcasters responsible for the content of political advertising¹⁹⁷.

APPROACHES OF THE GEORGIAN COMMUNICATIONS COMMISSION

In 2021 there were several facts of interference in the content of broadcasting and unlawful restrictions of freedom of expression by the Communications Commission. It is noteworthy that the regulating body used problematic approaches to the critical media.

On February 1, 2021, the Georgian National Communications Commission declared Channel TV an administrative offender without a legislative man-

195. Ibid.

196. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2021, p. 180. Available at: <https://bit.ly/3JzQFsh>; Updated 12.04.2022.

197. "The Media Advocacy Coalition negatively assesses bringing in the so-called new concept in the legislation, "Negative Attitudes", the website of the Georgian Young Lawyers Association, 20.10.2021, is available: <https://bit.ly/37dBWq3> Updated 12.04.2022.

date because, in its opinion, one of its stories contained obscene content¹⁹⁸. This decision of the Communications Commission was based on misinterpretation of the legislation and restricted freedom of expression¹⁹⁹.

In addition, it is noteworthy that, as in previous years, the National Communications Commission again imposed liability on the broadcaster during the non-pre-election period²⁰⁰. The regulator fined the broadcaster for placing political advertisements under the Georgian Law on Advertising, which does not apply to advertisements of political content. According to the Public Defender, the Georgian legislation does not contain rules regulating non-election advertising and, therefore, does not directly prohibit the placement of political advertising during the non-election period²⁰¹. Consequently, imposing liability unlawfully restricts freedom of expression.

DEFAMATION AS A NEW WEAPON IN THE FIGHT AGAINST THE MEDIA

Another attempt to interfere with the freedom of the media is the defamation lawsuits against broadcasters and media representatives. It is noteworthy that in most cases, the lawsuits were filed by high-ranking political officials, police officers, and individuals otherwise associated with the “Georgian Dream”²⁰². This suggests that the government is using another

198. “With the help of GYLA, Mtavari Channel appeals against “the authority of the Communications Commission to sanction obscene programs”, to the Constitutional Court”, the website of the Georgian Young Lawyers’ Association, 29/03.2021. Available at: <https://bit.ly/3LX1TZz>; updated 12.04.2022

199. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2021, 177, available at: <https://bit.ly/3JzQFsH> Updated 12.04.2022.

200. On imposing the administrative liability on Mtavari Channel Ltd, The website of the National Communications Commission, 25.12.2021. Available at: <https://bit.ly/3KGnUeW> Updated on 12.04.2022.

201. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2021, 178, available at: <https://bit.ly/3JzQFsH>; Updated 12.04.2022.

202. See. <https://bit.ly/3rstSJ8>

way of restricting critical media freedom, this time - by attempting to turn freedom of speech and expression into the object of justice.

RECOMMENDATIONS

To the Parliament of Georgia:

- The Parliament of Georgia should not support the legislative package initiated on October 13, 2021, which envisages amendments to the Election Code of Georgia and the Law of Georgia on Broadcasting;

To the investigative bodies:

- Promptly respond to and efficiently investigate the facts of illegal interference in the professional work of media representatives and abuse of power;
- Charge the organizers of violence against the media during the events of July 5-6;
- Conduct a timely, impartial, and efficient investigation into the illegal listening and identify the criminals;

To the Communications Commission:

- Act within the frames of its mandate and legislation, not make unlawful definitions and respect the acknowledged standards of providing public information and freedom of the media.

HOMELESS PERSON

CAUSES OF HOMELESSNESS IN GEORGIA

The main causes of homelessness in the world are poverty, unemployment, lack of social security, lack of education, natural disasters, abuse of harmful substances, mental health problems, inaccessible housing, domestic violence²⁰³.

The research on the causes of homelessness in Georgia has not been conducted for years, and the situation has not changed during the current reporting period as well. The state does not process information to study the causes, the scale and forms of homelessness²⁰⁴. Not only the country still does not have information either at the central or the local level on the causes of homelessness, but also a unified database of homeless people²⁰⁵.

THE STATE POLICY TO COMBAT HOPELESSNESS

The Public Defender points out that the purpose of providing adequate housing is to ensure that basic human needs are met. The exercise of the right to adequate housing has a substantial impact on the enjoyment of other fundamental human rights and freedoms, although it is particularly connected to human dignity. In the opinion of the Public Defender, although, similar to the constitutions of other countries, the Constitution of Georgia does not separately provide for the right to adequate housing, it is protected by Article 9 of the Constitution of Georgia - inviolability of human dignity²⁰⁶. According to the Constitution of Georgia, the state cares for the provision of decent housing for humans, which is a manifestation of the principle of the social state²⁰⁷.

203. Human Rights Careers, "10 Root Causes of Homelessness". Available at: <https://bit.ly/3L8eSb2> [Last viewed 20.04.2022].

204. Ibid.

205. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, p. 229, 2021. Available at: <https://bit.ly/3OCOxnN> [last viewed 20.04.2022].

206. Ibid.

207. Ibid.

Despite its constitutional obligation to provide a decent housing, the state, as in previous years²⁰⁸, has not developed a national policy to combat homelessness based on research findings during the reporting period. In the absence of state policy, it is still problematic to provide relevant services to people in need of housing. To combat homelessness, the state does not have centralized, long-term housing services, and the services available in some municipalities are quite scarce²⁰⁹.

According to the report of the Public Defender of Georgia, the budgetary and infrastructural resources allocated to the homeless are limited in a number of municipalities. Similar to previous years, there are currently no support programs for people housed in shelters and social housing, and existing programs in some municipalities are ineffective and unable to improve the socio-economic situation of beneficiaries²¹⁰. Due to the absence of the standard of adequate housing, people who have been formally granted social housing have to live in inadequate conditions for years, which has an extremely negative impact on their physical and mental health, on their integration into society²¹¹.

One of the major challenges of combating homelessness is deficient legislation that does not provide internationally recognized guarantees of adequate housing. In this regard, the notion of a homeless person is noteworthy, whose natural formulation excludes a large number of persons in need of housing from the scope of legal regulation and fails to play a role in defining uniform standards of housing on a national scale²¹².

The Public Defender of Georgia disputes the unconstitutionality of the notion of a homeless person in the Constitutional Court. According to the lawsuit, the notion of homelessness established by the disputed legislation is vague

208. Coalition for Equality Report “The Right to non-Discrimination in practice for Various Groups in Georgia”, pp. 123, 2020. Available at: <https://bit.ly/3vzfkbx> [last viewed 20.04.2022].

209. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, p. 229, 2021. Available at: <https://bit.ly/3OCOxnN> [last viewed 20.04.2022].

210. Ibid.p.229

211. Social Justice Center, “Practice of providing housing for homeless groups”, 2022, p. 26. Available at: <https://bit.ly/3y1JWpl> [last viewed 22.04.2022].

212. Coalition for Equality Report “The Right to non-Discrimination in practice for Various Groups in Georgia”, pp. 123, 2020. Available at: <https://bit.ly/3vzfkbx> [last viewed 20.04.2022].

and does not reflect all forms of homelessness in reality, while the rule of registration of homeless persons adopted by local municipalities leaves a large number of homeless people without the right of access to home²¹³.

Decrees defining the criteria for registration of homeless people in the municipalities, the procedure and the rules and conditions for providing them with housing / shelter, have been adopted by only 16 municipalities²¹⁴, and the criteria for registration and provision of housing in each of them are different from each other, making the already fragmented policy also unharmonious. It should also be noted that one of the services offered by the state to the homeless, the temporary shelter (the so-called Lilo Shelter), not only does not meet international criteria, but also contradicts the standards and prohibits the use of shelter for certain groups of marginalized persons²¹⁵.

Alongside the absence of state policy, the state, more specifically the Tbilisi City Hall, not only has not been fighting homelessness for years, on the contrary, it has been pursuing a policy²¹⁶ of demolishing²¹⁷ the arbitrarily constructed houses by the homeless persons and leaving them out in the open, without taking into account their needs. In the process of such dismantling, the municipal service does not take into account severe meteorological conditions, as well as pandemics or other circumstances²¹⁸.

213. Office of the Public Defender of Georgia, “The Public Defender of Georgia has applied to the Constitutional Court with a request to declare the rule of granting status to homeless persons unconstitutional”, 2021. Available at: <https://bit.ly/3v18EEo> [last viewed 20.04.2022].

214. Constitutional lawsuit of the Public Defender of Georgia, “Public Defender of Georgia v. Parliament of Georgia, Tbilisi City Municipal Assembly and others” Constitutional lawsuit N1639, 2021. Available at: <https://bit.ly/3L4zcKu> [last viewed 20.04.2022].

215. These are persons addicted to alcohol or other substances. See: Coalition for Equality Report “The Right to Non-Discrimination in Practice for Various Groups in Georgia”, p. 127, 2020. Available at: <https://bit.ly/3vzfkxb> [last viewed 20.04.2022].

216. Bulldozers are also expected to come to the settlement of Africa”, website of Mtavari Channel, 28.01.2022. Available: <https://bit.ly/396Vf55> [last viewed 20.04.2022]; “Either they will demolish my house, or I will survive”, website of Open Society Foundation, 27.12.2021. Available at: <https://bit.ly/38a3QTR> [last viewed 20.04.2022].

217. GYLA statement, “GYLA calls on the City Hall to suspend the dismantling process and carry out a supportive policy”, 2020. Available at: <https://bit.ly/3JZy21v> [last viewed 20.04.2022].

218. Radio Liberty, “Tbilisi City Hall has demolished houses in Orkhevi”, 2022. Available at: <https://bit.ly/3EviMZ7> [last viewed 20.04.2022].

Consequently, homelessness and the lack of a unified state policy to fight against it, are still a challenge for our country. During the reporting period, many people are worried about the severe negative consequences of homelessness, and the responsible authorities are still unable to elaborate a unified state policy and create programs aimed at the full realization of the rights of homeless people and their integration into society.

RECOMMENDATIONS:

- The Parliament of Georgia should bring the legislation in line with international standards for the proper realization of the rights of the homeless;
- With the active participation of the Government of Georgia, state agencies, and homeless groups, develop a state housing strategy and define a unified standard and action plan for the provision of adequate housing services;
- Through active communication between the Government of Georgia and local municipalities, develop a unified methodology for collecting and processing statistical information, and identifying the causes of homelessness.
- Clarify and separate the functions of central and local authorities in the field of housing;
- Revise and modify the existing housing services;
- Develop long-term housing services and their standards.

