



COALITION FOR EQUALITY



Universal Periodic Review (UPR)
Mid-term Review Report on Georgia's UPR Second Cycle
by the Coalition for Equality

May 2018

Tbilisi, Georgia

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1. Executive summary

In November 2015, Georgia appeared before the UN Human Rights Council for its second cycle of periodic review. Georgia accepted 191 of 203 recommendations issued by member states and the Georgian government noted 12 recommendations. The mid-term review is due in May 2018. The report covers the implementation of accepted recommendation regarding equality and vulnerable groups such as, racial, ethnic and religious minorities, foreigners and non-citizens, women, children, people with disabilities, LGBT community and internally displaced people. The report also assesses the implementation of recommendations to enhance national anti-discrimination institutions functioning in Georgia. The report covers the period 2015-2018.

The report was crafted by the NGO Coalition for Equality, the non-formal alliance consisting of seven organizations. The coalition was founded in April 2014 with the support of the Open Society Georgia Foundation (OSGF), in the process of adopting the Law on the Elimination of All Forms of Discrimination. The aim of the Coalition is to strengthen the mandate of anti-discrimination mechanisms, increase their competencies and promote the effective struggle against discrimination. Coalition members are: Georgian Young Lawyers' Association (GYLA) that covered the chapter on racial, ethnic and alienage discrimination to the report; Human Rights Education and Monitoring Center (EMC) on anti-discrimination mechanism, religious minority and LGBT community, people with disabilities; Sapari on gender discrimination, Partnership for Human Rights (PHR) on discrimination of child and people with disabilities; Women's Initiatives Supporting Group (WISG) on LGBT community; Georgian Democracy Initiative (GDI) on anti-discrimination mechanism, Article 42 of the Constitution on racial, ethnic and alienage discrimination and internally displaced people.

2. Consultation process with government

During May 10-11, 2018 the UN OHCHR held a meeting on the Implementation of the second cycle UPR recommendations in Borjomi Georgia. The members of Coalition for Equality were present at the meeting. Multiple state agencies, including Ministry of Foreign Affairs, shared draft versions of the state's report on the implementation of second cycle UPR recommendation. Members of the Coalition provided suggestions on the draft of the report to the agencies.

3. Methodology

The information we used in the report derived from different sources: We obtained this information from individuals directly affected by the issues mentioned in the UPR recommendation of second cycle, for example, members of ethnic minorities living in rural areas of Georgia and victims of discriminatory treatment. We also used information documented by state agencies, the Ombudsperson of Georgia, non-governmental organisations and media.

Coloured codes

Recommendation fully implemented

Progress perceived (Some progress has been made)

Technically implemented (there is a law that remains unimplemented, no further progress has been made for years)

Not implemented (there is no legal framework or mechanism at national level or Georgia has not signed any international instrument)

4. Ethnic, racial and alienage discrimination

4.1. Not implemented

116.4 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Honduras)

Georgia neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.¹

4.2. Technically implemented (No progress perceived)

117.23 Adopt and implement in due course the proposed Civic Equality and Integration Strategy and Action Plan for 2015-2020, with a sound financial political backing (Norway)

The action plan on Civic Equality and Integration strategy, and precise action plans were adopted in 2016, 2017 and 2018. There was no action plan crafted in 2015.² The strategy and action plans set out to develop the infrastructure in the regions resided by ethnic minorities. Ethnic Armenians constitute overwhelming majority in Tsalka, Akhalkalaki and Ninotsminda municipalities of Georgia. More than 80% of Tsalka residents were not provided with gas supply. Residents of Ninotsminda municipality face problems with water supply access due to outdated piping infrastructure. The financial resources are still needed to implement Civic Equality and Integration Strategy and Action Plan regarding social-economic development of ethnic minority regions of Georgia.

4.3. Technically implemented (No progress perceived)

117.33 Include in the implementation of its anti-discrimination legislation effective measures that strengthen religious tolerance, gender equality and equal rights for ethnic minorities, women and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, so as to increase tolerance and social inclusion in Georgian society (Netherlands)

117.114 Adopt the necessary measures to protect ethnic and religious minorities from all forms of violence and discrimination (Costa Rica)

There are instances when law-enforcement authority tolerates racially-biased crimes. A video uploaded on social networks confirms white residents of Beliashvili Street in Tbilisi physically assaulting black men on April 8, 2018.³ The victims are Nigerian students at New Vision University based in Tbilisi, Georgia. A dispute arose amongst the Nigerian students who were playing football when a Georgian male demanded that they leave their pitch for his children's use. As a compromise they had offered for the children to join them in the match. In response to the offer, the white neighbours physically assaulted them whilst brandishing a plastic pole. The perpetrators demanded that the black students leave the country. Arriving

¹ <http://indicators.ohchr.org/>

² <http://smr.gov.ge/FileList.aspx?ID=34>

³ <http://rustavi2.ge/ka/news/101168>

at the scene, the police proposed that the victims forget the incident and reconcile with the perpetrators.⁴ The Ministry of Internal Affairs (MIA) commenced a criminal investigation for committing a violent crime proscribed by the article 126 of Georgian Penal Code. MIA interrogated the witnesses, however no one has been brought to justice. Kakha Kaladze the Mayor of Tbilisi offered the victims and perpetrators to play football together in the same pitch where the violence took place. The proposition of the Mayor was perceived as an attempt to obstruct criminal justice from being administered and to substitute it with reconciliation on the football pitch.⁵ When bringing perpetrators before justice, the Georgian government should convey the message that the racially-motivated crime will not go unpunished. The case demonstrates that Georgian Government sometimes fails to implement its anti-discrimination legislation to strengthen equal rights of minority.

4.4. Technically implemented (no progress perceived)

117.45 Development of training programmes for judges, personnel of the judiciary, penitentiaries and police forces, regarding the implementation and interpretation of the laws criminalizing racism-related offences (Chile)

117.46 Provide appropriate services with the necessary resources, including to train and raise the awareness of the judiciary and the public, to ensure that these new measures adopted to fight racial discrimination or gender/sexual identity discrimination are effective (Belgium)

On December 15-16, 2015 Sapari, the non-governmental organisation, conducted trainings for judges of the common courts of Georgia on prohibition of discrimination pursuant to Georgian and European standards. The participants of the training were acquainted with the comparators of discrimination, direct and indirect discrimination, burden of proof in anti-discrimination cases, the anti-discrimination case-law of European Court of human rights and that of the Constitutional Court of Georgia.

Notwithstanding the trainings, the sensitivity amongst judges of the common courts remains low towards racism. Sapari litigated a case of M.C, a Georgian child of African descent before Tbilisi city court. M.C was in her 10th grade in the #130 public school of Tbilisi. A classmate of hers called her “Zango” (Negro). In 2015, during the conflict, the classmate told M.C “Go to your Africa, your place is not in the civilized world”. One of the teachers witnessed the conflict, but instead of settling the conflict, she forced both students to leave the classroom. Utilising the anti-discrimination statute of Georgia, which prohibits discrimination based on the race and color of the skin of the victim, M.C sued the school administration before the Tbilisi city court for refraining to prevent the racial discrimination from taking place.

The Tbilisi city court did not uphold the claims of M.C. In its judgment rendered in 2016, a judge of Tbilisi city court states: “As the plaintiff was making noise during the lesson and the teacher could not manage to interrupt her, the classmate told M.C to “go to Africa” to resent her, though the classmate did not intend to insult the plaintiff racially. The Court points out that the classmate said the above words to the plaintiff because of her inappropriate behaviour and ignorance to the teacher's remarks. The classmate supported the teacher and other pupils, and expressed inappropriate remarks towards M.C. but this was caused by M.C’s rowdy talk and disobedience to the teacher. According to the Court “It is widely known

⁴<https://gyla.ge/en/post/platforma-ara-fobias-da-koalicia-tanastorobistvis-ganckhadeba-shavkanian-studentebze-tavdaskhmis-faqtze#sthash.gLVhxtc2.dpbs>

⁵ <http://www.tdi.ge/en/statement/tdi-responds-kakha-kaladzes-initiative-and-statements>

that tribes residing in Africa and the central part of Americas are far beyond the civilization. Young people get information about them from textbooks, scientific literature or TV programs, and many pieces of artwork (books, films) are dedicated to the inferior lifestyle of such people.”

This case demonstrates not only the unwillingness of common court judges to fight discrimination but their perpetuation of racial prejudices and stereotypes in their judgements. The Judiciary system needs to inculcate sensitivity towards racial minorities.

4.5 Technically implemented (No progress perceived)

117.87 Establish a system for birth registration that covers all children without discrimination by reason of race, ethnicity or nationality, sex or religion (Paraguay)

117.88 Improve the birth registration system to guarantee registration for every child with the issuance of a birth certificate (Turkey)

117.89 Adopt and implement all necessary measures to register the birth of children, particularly children belonging to minorities, who are born in remote areas of the country and guarantee the issuance of birth certificates and other documents (Panama)

118.33 Ensure the issuance of birth certificates and citizenship documents to the Roma minority (Nigeria)

The State continues to face challenges with the issuance of birth certificates and identity cards to Romani people living in Georgia. During 2015-2017, in total 6 Roma persons were provided with documents - two birth certificates and four ID cards were issued by the Public Service Development Agency.⁶ The children of Roma women, who often give birth in their homes rather than using medical facilities, remain undocumented.⁷ A person born at home, is required to appear before the Public Service Development Agency in order to get details of their birth determined for legal registration.⁸ After an oral hearing in which the applicant and witnesses are examined, the Public Service Development Agency issues a birth certificate and ID for the person born at home.⁹ Roma people face impediments following procedure as they do not have good command of Georgian and thereby incapable of filling application addressed to the Public Service Development Agency.¹⁰ The government should conduct awareness raising campaigns among the members of Roma community regarding the procedure of issuance of birth certificates and IDs.

⁶ Letter of Ministry of Justice of Georgia, N3363, 6 July 2017

⁷<http://hrdf.ge/2017/11/08/%E1%83%91%E1%83%9D%E1%83%A8%E1%83%94%E1%83%91%E1%83%98%E1%83%A1-%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%94%E1%83%91%E1%83%A0%E1%83%98%E1%83%95%E1%83%98-%E1%83%9B%E1%83%93/>

⁸ Article 90 (1) „a” of the statute on civil acts

⁹ Article 94 (1) of the statute on civil acts

¹⁰<http://hrdf.ge/2017/11/08/%E1%83%91%E1%83%9D%E1%83%A8%E1%83%94%E1%83%91%E1%83%98%E1%83%A1-%E1%83%A1%E1%83%90%E1%83%9B%E1%83%90%E1%83%A0%E1%83%97%E1%83%9A%E1%83%94%E1%83%91%E1%83%A0%E1%83%98%E1%83%95%E1%83%98-%E1%83%9B%E1%83%93/>

4.6 Progress perceived

117.103 Undertake further measures for the integration of minorities and the promotion of their representation in Georgian political and public life (Albania)

Armenians constitute an overwhelming majority in Akhalkalaki and Ninotsminda, municipalities of the Samtkhe-javakheti region of Georgia. The local political leaders, mayoral and council head roles, of the aforementioned municipalities are ethnic Armenians. Additionally, 80% of civil servants employed at the Mayor's office and council of Akhalkalaki and Ninotsminda municipality are ethnic Armenians. The situation is different in the region of Kvemo Kartli where Azeris comprise the majority population in Marneuli, Bolnisi, Dmanisi and Gardabani while Armenians are the majority in Tsalka municipality. Even with majority populations in Kvemo Kartli only the mayor of Marneuli municipality and the council chairperson are ethnic Azeri. Ethnic Georgians hold the positions of mayor and the chairperson of council in the other municipalities of the Kvemo Kartli Region. Ethnic Azeri, Armenians and Greeks mainly hold the positions of vice-mayors or deputy of chairperson of the council in Kvemo Kartli municipalities. Out of 217 civil servants employed in Marneuli mayor's office only 74 people are ethnic Azeri. The Georgian government should take a step to increase number of civil servants from ethnic minority groups within the Kvemo Kartli region.

Only 11 representatives of ethnic minorities have been elected in the Parliament, while according to the 2002 census, 16% of the population of Georgia belongs to ethnic minorities and according to 2014 census, this figure amounts to 13.2%. For example, national minorities represent approximately 11% of Tbilisi's population, but continue to be underrepresented in the current Tbilisi City Council. Moreover, none of the Governors/Deputy Governors of Tbilisi districts and municipalities, and heads of city services and their deputies is a representative of national minorities.

4.7. Perceived Progress

117.107 Further improve the accessibility and quality of education, and increase the enrolment rate of vulnerable children, including girl children and children of ethnic minorities (China)

117.108 Consider promoting access to education for girls from ethnic minorities and remove barriers that impede access to education by Roma children (Nigeria)

64 Roma children were enrolled in #5 Kobuleti Public school in 2016.¹¹ The city of Kobuleti is one of the biggest settlements for Roma people in Georgia. However, there are instances when Roma children are prevented admittance to kindergartens because of their ethnic origin.¹²

4.8. Perceived Progress

117.116 Ensure teaching and preservation of minority languages, by providing adequate general education to students in their native language (Austria)

Armenians and Azeris are the two biggest ethnic minorities residing in Georgia. Historically, Armenian and Azeri languages have been taught in Georgia and Armenian and Azeri language public schools continue to

¹¹ <http://www.ombudsman.ge/ge/news/boshebis-dgevandeloba-saqartveloshi.page>

¹² <http://www.ombudsman.ge/ge/news/boshebis-dgevandeloba-saqartveloshi.page>

exist today. Since 2015, the Ministry of Education and Science has launched a program to teach their native languages for members of small minority groups pursuant to the recommendation issued by ethnic minority council under the umbrella of the ombudsperson of Georgia. Ossetian, Aavar, Udian, Assyrian and Kurdish languages have been taught in Georgian public schools since 2015. Chechen language courses have been available since 2016.

4.9. Progress Perceived

118.47 Adopt measures that are considered relevant to promote learning support for girl children from ethnic minorities to reduce the dropout rate (Colombia)

The early marriages of juvenile girls from ethnic minority families lead to higher rates of formal education abandonment. During 2015, 408 girls between the ages of 13-17 had been unable to stay enrolled in school because of their marriages. There were 115 cases of girls leaving school who had married at early age in 2016.¹³

4.10. Progress Perceived

118.48 Promote the inclusion on all fronts of cultural and religious minorities and guarantee their access to development (Mexico)

The government of Georgia implemented what they call a “1+4” program for ethnic minorities whereby a member from an ethnic minority passes a basic skills test in his/her native language. Passing the skills examination, the individual enrolls in a Georgian language course for one year. Pending completion of the course, the member begins an undergraduate educational program lasting four years. Upon earning the bachelor’s degree, the member of ethnic minority is assigned to an internship in a public agency. The studies conducted by GYLA in Kvemo Kartli in 2017 revealed that mostly the Azeri students who live in the cities benefit from “1+4” program, but the number of such students from rural areas is relatively low. The number of drop out of the program is significantly high. 226 participants of “1+ 4 program” suspended their status of students in 2017.¹⁴

4.11. Progress Perceived

118.49 Ensure the availability of textbooks in their mother tongue for the national minorities (Armenia)

The textbooks available in Georgian public schools for citizens whose mother tongue is a minority language are imported. As a result, the textbooks did not conform to the educational standards of Georgia. These conflicts are partly caused by education length where basic education lasts 12 years in Georgia while in Azerbaijan it is 11 years. Armenia only recently introduced a 12 grade basic educational system. Therefore, citizens of Georgia with Azeri and Armenian origin at the 12th grade level are deprived of an opportunity to use textbooks in their native language from Armenia and Azerbaijan. The Ministry of Education and Science announced a tender to get Armenian and Azeri Language textbooks elaborated.¹⁵

¹³ Ombudsman’s annual report on Human Rights Situation 2016 page 645

<http://www.ombudsman.ge/uploads/other/4/4494.pdf>

¹⁴ Letter of the National Center for Educational Quality Enhancement 26/04/2018

¹⁵ Ombudsman’s annual report on Human Rights Situation 2017 pages 275-276

<http://www.ombudsman.ge/uploads/other/5/5139.pdf>

4.12. Technically implemented (no further progress perceived)

117.118. Continue to keep the principle of non-refoulement and limit the use and duration of detention for asylum seekers

The disappearance of Azerbaijani journalist and activist Mr. Afgan Mukhtarli from the city centre of Tbilisi on May 29, 2017 and the investigation pending for one-year, undermined Georgia's respect to the principle of non-refoulement. Mr. Mukhtarli resided in Tbilisi, Georgia from 2015 together with his wife and daughter since being persecuted in Azerbaijan because of his professional work¹⁶. He and his family were beneficiaries of the protection program run by the Human Rights House Tbilisi¹⁷.

According to the statement of Mr. Mukhtarli he was abducted by four men in Tbilisi, some of them wearing Georgian police uniforms, and taken to Azerbaijan through Lagodekhi check-point. Although allegations were made against Georgian law-enforcement, no effective steps were taken by Georgian authorities and official investigation to rebut such claims. On the contrary, the criminal investigation launched looking into the alleged illegal detention of Mr Mukhtarli has been met with significant shortcoming¹⁸.

A criminal investigation in Georgia over an alleged abduction of an Azerbaijani journalist is pending. Georgian Parliament rejected a request from Georgian civil society organization to create temporary investigation commission into the alleged fact of abduction of Mr. Mukhtarli.¹⁹

On January 12, 2018, Belakani District Court, Azerbaijan, sentenced Afgan Mukhtarli to a prison term of six years. He was charged with resisting the police, illegally crossing the Georgia-Azerbaijan border and smuggling 10,000 Euro across the border.²⁰ On April 24, 2018 the Sheki Appeals Court, Azerbaijan, upheld the decision of the First Instance Court and left Afgan Mukhtarli in prison. According to the defense, the charges against Afgan Mukhtarli were fabricated; the court trials were held with violation of fair trial principles, equality of arms and adversarial court proceedings.

Although, there has not been any other reported cases of violation of principle of non-refoulement by Georgia, the alleged participation of Georgian law enforcement bodies in kidnapping of Mr. Mukhtarli and

¹⁶ Afgan Mukhtarli used to work for several independent media outlets, such as Meydan TV and Institute for War and Peace Reporting (IWPR). The investigative stories reported by Afgan were mainly connected to the Azerbaijani government corruption and human rights violations in Azerbaijan.

¹⁷ [Human Rights House Tbilisi](#) (HRHT) is a membership based organization, that unites five Georgian civil society organizations, working in different fields of Human Rights. Based in Tbilisi, it was registered in July 2010 as a non-governmental organization with the support of [Human Rights House Foundation](#). The Human Rights House Network unites human rights defenders working for different independent organizations in 14 Human Rights Houses in 12 countries. Within the protection program, HRHT supports human rights defenders, activists and journalists fleeing persecution in Azerbaijan and being in exile in Georgia.

¹⁸ See, statement of 35 civil society and media organizations with regard to Afgan Mukhtarli's case, dated 19 February 2018, available at <https://article42.ge/en/news/announcements/article/46720-afgan-mukhtarlis-gatacebis-saqmeze-sazogadoebrivi-organizaciebi-da-media-saqarthvelos-parlamentsa-da-mthavar-prokurors-mimarthaven>

¹⁹ Civil society and media organizations address the Parliament and Chief Prosecutor's Office of Georgia with regard to Afgan Mukhtarli's case, date 19 February 2018, available at: <https://article42.ge/en/news/announcements/article/51623-civil-society-and-media-organizations-address-the-parliament-and-chief-prosecutors-office-of-georgia-with-regard-to-afgan-mukhtarlis-case>

²⁰ The trials of Afgan Mukhtarli in Azerbaijan have been monitored by the representative of the Human Rights House Tbilisi, lawyer of member organization "Article 42 of the constitution".

in general, political loyalty of the Georgian Government towards Azerbaijani authority in the cases of Azerbaijani dissidents is a matter of concern.

5. Religious discrimination

5.1. Progress Perceived

117.43 Address violence and hate speech against religious minorities (Nigeria)

117.114 Adopt the necessary measures to protect ethnic and religious minorities from all forms of violence and discrimination (Costa Rica)

117.94 Ensure the enjoyment of the right to freedom of religion by everyone, including persons belonging to religious minorities, by punishing those who harass or incite hate speech against religious minorities (Botswana)

In recent years, a positive trend can be identified in terms of the state policy against hate crimes. In this context, the creation of a human rights protection unit under the Ministry of Internal affairs must be noted, which is responsible for the monitoring of hate crime investigation and general coordination of the relevant policy. Positive changes emerged within the activities of the Prosecutor's office regarding training of prosecutors and identification of a motive in the criminal case documents.

Nevertheless, at this point, the fight against hate crimes remain a significant challenge. Ineffective state policy against and toleration of such crimes throughout the years has created an atmosphere of impunity. Growing statistics of hate crimes against Jehovah's Witnesses since 2013 confirms this problem. 12 criminal acts were identified in 2010-2012, 122 in 2013-2016. Using data provided by the Office of the Public Defender and the Christian organization of Jehovah Witnesses, the dynamic of hate crimes is such: 17 incidents in 2013, 45 in 2014, 37 in 2015, 23 in 2016, 15 in 2017. As the data indicates, since 2014 decreasing tendency is maintained, however, it still demonstrates current challenges. Facts of religious violence and intolerance, which took place against Georgian Muslims since 2012 must be underscored (religious conflicts in the villages of Nigvziani (2012), Tsintskharo (2012), Samtatskaro (2013),²¹ Chela (2013), Mokhe (2014)²², Kobuleti township (2014)²³, village of Adigeni (2016)²⁴ characterized by similar narratives. Local Christians objected to functioning of religious buildings and impeded activities of local Muslims in various forms and with openly Islamophobic and hostile expressions). On these incidents, police failed to take preventive measures against violation of rights and until today, nobody has been held

²¹ Human Rights Education and Monitoring Center (EMC), Crisis of Secularism and Loyalty towards the Dominant Group – The Role of the Government in the 2012-2013 Religious Conflicts in Georgia, 2014, available at: <https://emc.org.ge/2013/12/05/25/>

²² Joint statement of NGOs concerning violation of Muslims' rights in village Mokhe, available at:

<https://emc.org.ge/en/products/gantskhadeba-mokheshi-muslimta-uflebebis-ukheshi-darghvevis-taobaze>

²³ Joint Statement on the facts of restricting the rights of Muslim community in Kobuleti, available at:

<https://emc.org.ge/en/products/ertoblivi-gantskhadeba-kobuletsi-muslimi-temis-uflebebis-shezghudvis-faktebze>

²⁴ EMC responds to recent events in Adigeni, available at: <https://emc.org.ge/en/products/emc-s-shefaseba-adigenshi-ganvitarebul-movlenebze>

responsible in these cases. Moreover, on certain occasions (in Chela and Mokhe²⁵) Muslims were collectively detained and excessive force was used against them by the police, which again has not been investigated.

The political strengthening of ultraconservative, Neo-Nazi groups since 2016, can be attributed to weak state policy throughout years.²⁶ In 2016, a violent rally against Asian restaurants organized by similar groups²⁷, as well as a well-organised large march in 2017 depicts the said tendency. The state does not use a preventative policy against the activities of such groups and against mobilization of youth around them. The government does not promote equality rhetoric even on the level of public discourse and does not attempt to contain growing xenophobic/homophobic attitudes.

Accordingly, the real impact of positive institutional changes towards the end of 2017 and beginning of 2018 is hard to be measured and the scale of the challenges presented requires a more systematic and effective preventive work from the government.

5.2. Technically implemented (No progress perceived)

117.91 Protect minorities and ensure the full enjoyment of their freedom of religion or belief in accordance with international human rights law (Ghana)

118.48 Promote the inclusion on all fronts of cultural and religious minorities and guarantee their access to development (Mexico)

In Georgia, challenges concerning freedom of religion are systemic and result from years of non-secular and discriminatory government practices. The legislation in force and the government's relationship with religious organisations is mainly based on an approach that gives exclusive preference to the Christian Orthodox Church, is recognized at the legislative level and institutionalized in everyday policies.

Beyond an asymmetrical legal (a discriminatory tax code, budgetary law, law on state real property) and institutional environment (preferences towards Orthodox Church in different fields), non-dominant religious groups frequently face discrimination practices. Moreover, wider problems exist concerning political and social exclusion and the marginalisation of large and densely populated settlements of religious groups.

²⁵ EMC Appeals the Mokhe Case to the European Court of Human Rights, available at:

<https://emc.org.ge/en/products/emc-mokhis-sakmestan-dakavshirebit-adamianis-uflebata-evropul-sasamartlos-mimartavs>

²⁶ Research prepared by Transparency Georgia, 2018, available at:

<http://www.transparency.ge/ge/post/administraciuli-resursebis-gamoqeneba-2017-clis-adgilobrivi-tvitmartvelobis-archevnebisvis>

²⁷ Assessment prepared by Human Rights Education and Monitoring Center (EMC), 2016, available at:

<https://emc.org.ge/ka/products/emc-27-sektembers-ultranatsionalisturi-jgufebis-mier-gamovlenili-dzaladobis-fakts-ekhmianeba>

Religious freedom issues have been acutely present on the agenda since 2012 and have now acquired even more urgency. A series of religious conflicts²⁸ against the Muslim community, a tendency of increase in religious persecution of Jehovah's Witnesses²⁹, a policy of instrumentalization and control of religious organisation by the State Agency for Religious Issues³⁰, and the strengthening of the influence of the Orthodox church on almost every level of political and social life³¹ are among the clearest indicators of the current situation. It should be noted that recent cases of restricted freedom of religion were not isolated and largely consisted in conflicts between different religious and social groups, which indicates the complexity of the problem and requires the government to further adopt systematic policies. Unfortunately, the government has failed to respond to these challenges with an effective policy, which is why most of the religious conflicts remain conserved at this time (conflicts existing in Samtatskaro, Kobuleti, Mokhe). The government's loyalty to the dominant religious group and the ensuing environment of impunity have left a deep trail of exclusion of the non-dominant religious groups.

The problems related to construction of places of worship and the discriminatory approach of self-government bodies in this direction must be underlined. For instance, the Muslim community in Batumi (capital of Adjara autonomous republic) has not been able to construct a new mosque, despite the fact, that this is a long-standing demand of the community and the historic Mosque of Orta Jame because of its limited space cannot fit the worshippers. The Muslim community through mobilisation of resources among worshippers managed to purchase land. However, the Mayor of Batumi refused to grant construction merit on discriminatory grounds, there are a number of several Orthodox Churches in the same residential zone. Today, the Muslim community prays in the Mosque built with their own hands and constructed with wood boards on the land purchased. The Catholic Church also encountered difficulties with building a Church in Rustavi, which managed to build a Church after 4 years following the court decision and negotiations after that.

5.3. Not implemented

118.34 Strengthen efforts to promote freedom of religion or belief and to protect the rights of persons belonging to religious minorities, including by adopting measures both to address episodes of intolerance and hate speech against religious minorities and to solve outstanding issues related to the ownership and maintenance of places of worship and properties belonging to religious minority groups (Italy)

²⁸ Human Rights Education and Monitoring Center (EMC), Crisis of Secularism and Loyalty towards the Dominant Group – The Role of the Government in the 2012-2013 Religious Conflicts in Georgia, 2014, available at: <https://emc.org.ge/2013/12/05/25/>

²⁹ Analysis of the crimes committed against Jehovah's Witnesses in 2016, Human Rights Education and Monitoring Center (EMC), 2017, available at: <https://emc.org.ge/ka/products/2016-tsels-iehovas-motsmeta-mimart-chadenili-danashaulebis-analizi>

³⁰ Freedom of Religion – Critique of Discriminatory and Nonsecular state policy, Human Rights Education and Monitoring Center (EMC), 2016, available at: <https://emc.org.ge/ka/products/kvleva-religiis-tavisufleba-sakhelmtsifos-diskriminatsiuli-da-arasekularuli-politikis-kritika>

³¹ Refer to video prepared by the Human Rights Education and Monitoring Center (EMC), available at: <https://www.youtube.com/watch?v=voOBWUH9pls&t=193s>; Religion, Society and Politics in Georgia, Kristine Margvelashvili, available at: <http://www.cipdd.org/upload/files/religion%20society%20and%20politics%20in%20Georgia.pdf>

118.35 Continue steps towards the recovery of physical and moral damage to the religious denominations suffered during the Soviet era (Armenia)

On January 27th, 2014, the government adopted a resolution “on Implementation of Certain Measures related to the Partial Reparation of Damages Inflicted during the Soviet Totalitarian Regime to the Religious Organizations present in Georgia”,³² which recognizes damage inflicted to Georgia's religious organizations during the Soviet totalitarian regime and the responsibility for partial, symbolic compensation of moral and material damages for Islamic, Jewish, Roman Catholic and Armenian Apostolic organisations.

Even though severe damages were inflicted during the Soviet totalitarian regime to other religious organisations present in Georgia (Lutheran Church, Evangelical Faith Church, Evangelical-Baptist Church and other denominations), the selection of religious organisations (communities) was carried out without a preliminary assessment of criteria and study under the resolution. Under the circumstances, funding only four religious organisations for the purpose of reparation of damages inflicted during the Soviet period is discriminatory, and, considering the approaches and public statements of the State Agency for Religious Issues, represents an attempt to hierarchize and formalise religious organisations on a normative level. In addition to the above, it is problematic that four religious communities are funded without the use of fair and objective criteria to determine inflicted damages. Furthermore, Muslim religious associations are not distinguished from one another under the resolution based on schisms (Shia and Sunni) while the resolution considers Christian religious churches separately.³³ This model of funding is actively criticized in reports by the Public Defender³⁴ and its Council of Religions.³⁵

The restitution of religious buildings confiscated during the Soviet totalitarian regime to religious organisations remains an important problem. After the collapse of the Soviet Union, most religious buildings were state property. Unlike other countries with a similar experience, Georgia did not develop regulations for restitution of religious buildings registered as state property to religious organisations and instead, exercised an inconsistent and discriminative practice of dealing with religious buildings confiscated during the Soviet period after its independence.

³² Decree N117 issued on January 27th, 2014 by the Georgian government on “Implementation of Certain Measures related to the Partial Reparation of Damages Inflicted during the Soviet Totalitarian Regime to the Religious Organizations present in Georgia”;

³³ The case is disputed in the Constitutional Court of Georgia, For information on the case, refer to the Constitutional Court record №2/5/750 of March 15th, 2017, available at: <http://www.constcourt.ge/ge/legal-acts/recording-notices/ssip-sruliad-saqartvelos-muslimta-umaglesi-sasuliero-sammartvelo-saqartvelos-mtavrobis-winaagmdeg.page>

³⁴ Parliamentary report of the Public Defender of Georgia 2016, p.416, available at: <http://ombudsman.ge/uploads/other/4/4494.pdf>

Parliamentary report of the Public Defender of Georgia 2015, p.483, available at: <http://ombudsman.ge/uploads/other/3/3891.pdf>

Parliamentary report of the Public Defender of Georgia 2014, p.327, available at: <http://ombudsman.ge/uploads/other/3/3509.pdf>

³⁵ Recommendations of the Council of Religions under the auspices of the Public Defender - 2017, p. 11-12., available at: http://tolerantoba.ge/failebi/qartuli_broshura_saxalxo_damcveli_87902.pdf

It should be noted that systematic restitution by the government of religious buildings with ownership rights was carried out only for the Georgian Orthodox Church.³⁶ Almost no religious buildings were repatriated with ownership rights to other religious organizations. It is noteworthy that several international organisations have issued recommendations to Georgia on restitution of religious buildings.³⁷ Aside from international organisations, this problem is repeatedly brought up by the Public Defender and its Council of Religions.³⁸

Restitution of religious buildings confiscated during the Soviet period to other religious organisations only begun in 2014, and, unlike for the Georgian Orthodox Church, by restitution of only the rights to use them.³⁹ The handover of religious buildings with rights to use to religious organisations was justified by the government by the flaws in the law on state property.⁴⁰ Thereby the handover of religious buildings to religious organisations with the right to use them cannot be considered as restitution.⁴¹

Despite defining the obligation to resolve disputes around religious buildings and monuments in a timely, transparent and fair manner under the human rights “Action Plan” of the government, disputes around religious property remain unresolved in practice. The clearest example of the government’s inability to fulfill its obligations are the activities carried out by the commission created by the State Agency for Religious Issues with the aim to resolve the matter of the confessional origins and dispute over the religious building in village Mokhe. Despite working on the case for two years, the State Agency for Religious Issues refused to study the confessional origins of the disputed construction⁴² and resolved the dispute through political negotiations, ignoring the local Muslim community’s concerns and demands. As

³⁶ According to paragraph 1 of Article 7 of the Constitutional Agreement between the Georgian state and the Apostolic Autocephalous Orthodox Church of Georgia, the state recognizes orthodox churches, monasteries (active and inactive), their ruins, and the land plots they are located on in the entire territory of Georgia as property of the Church;

³⁷ UN Human Rights Committee, Concluding observations on the fourth periodic report of Georgia, CCPR /C/ GEO/CO/4, 19 August 2014, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/GEO/CO/4&Lang=en; Advisory committee on the framework convention for the protection of national minorities, Second Opinion on Georgia, June 15, 2015, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590fb5>;

U.S Department of State, International Religious Freedom Report for 2015, Georgia, available at:

<https://www.state.gov/j/drl/rls/irf/2015religiousfreedom/index.htm?year=2015&dlid=256191#wrapper>

³⁸ Report of the Public Defender of Georgia 2014, p.342, available at:

<http://ombudsman.ge/uploads/other/3/3509.pdf>

Report of the Public Defender of Georgia 2015, p. 483, available at:

<http://ombudsman.ge/uploads/other/3/3891.pdf>

Recommendations by the Council of Religions under the auspices of the Public Defender – 2017, p. 15, available at:

http://tolerantoba.ge/index.php?id=1281619908&sub_id=1345202134

³⁹ Report of the State Agency for Religious issues 2015, p. 14, available at:

<http://religion.geo.gov.ge/images/8706%E1%83%90%E1%83%9C%E1%83%92%E1%83%90%E1%83%A0%E1%83%98%E1%83%A8%E1%83%98-2015.pdf>

⁴⁰ See detailed assessment of paragraph 11.1.3.1. of the action plan;

⁴¹ See assessment of the state’s restitution policy in EMC’s research “Freedom of Religion - Critique of the Discriminatory and Non-secular State Policy” pp 91-102, available at:

<https://emcrights.files.wordpress.com/2017/03/170x250-geo-web.pdf>

⁴² EMC met with Christian and Muslim communities in village Mokhe: <https://emc.org.ge/ka/products/emc-sofel-mokheshi-kristian-da-muslim-tems-shekhvda>

an alternative to the resolution of the dispute, the commission offered the Muslim community to help with the construction of a new mosque.⁴³ Part of the Muslim community negatively assessed this decision and as a peaceful protest continue to pray outdoors to this day.⁴⁴ Therefore, despite years of work by the commission, the government was not able to effectively solve the problem.⁴⁵

Additionally, the process to handover religious buildings by the government without appropriately researching the owner is problematic. The Imam Ali mosque in Marneuli, where a religious organisation created by the local community (non-registered union “Imam Ali Mosque”) had been conducting religious activities for years, was handed over with rights to use by the government without any preliminary research to a different Muslim organization, LEPL “Administration of Muslims of All Georgia”.⁴⁶

In 2017, the state registered in the ownership of the Georgian Orthodox church an Armenian church “Tandoyants Surb Astvatsatsin” located on Aghmashenebeli Ave. #38. The handover of this Armenian church to the Georgian Orthodox church was based on the general indication by the Georgian Orthodox Church that there used to be a Chalcedonian orthodox church in the area. Despite having referred to the confessional property of the church as that of the Armenian eparchy for years, the government ultimately decided to hand the monument over to the Georgian Orthodox Church.⁴⁷

For religious organisation, maintenance and care for religious monuments with the status of historic and cultural heritage, while they often have no legal rights (ownership, use) over the property, is an important problem. Often, the government shows no will to maintain these monuments either, even though it is the legal owner.

This problem is most acute for non-functional and disputed monuments⁴⁸, which remain without necessary maintenance work while the owner is being determined, their condition deteriorating all the while.

At the same time, for monuments which have a specific historic owner, financial support is necessary from the government due to the monuments high maintenance costs, since without such support, it would be unimaginable for most religious organizations to achieve the preservation of monuments independently.

According to the National Agency for Cultural Heritage Preservation of Georgia data of 2017, a total of 977,344 GEL was allocated for renovation of religious buildings (designing, rehabilitation/conservation,

⁴³ Journal “Liberali”, “Mokhe construction was granted the status of Monument – Zaza Vashakmadze says everything is fine”, <http://liberali.ge/news/view/29272/mokhis-nagebobas-dzeglis-statusi-mienicha--zaza-vashaymadzis-tqmit-yvelaferi-aris-khutianze>

⁴⁴ Facebook group for saving Mokhe, historic mosque
<https://www.facebook.com/profile.php?id=100016523232274&pnref=story>

⁴⁵ EMC assessment of the final decision by Mokhe commission <https://emc.org.ge/ka/products/emc-mokhis-komisiis-saboloo-gadatsqvetilebas-afasebs>

⁴⁶ EMC initiated a legal dispute for the problem concerning restitution of the Imam Ali mosque in Marneuli
<https://emc.org.ge/ka/products/emc-ma-marneulshi-imam-alis-mechetis-restitutsiis-problemastan-dakavshirebit-sasamartlo-dava-daitsqo> EMC will represent the plaintiff for the case.

⁴⁷ The government handed Tandoyants church over to the Patriarchate of Georgia <http://tdi.ge/ge/news/494-xelisuplebam-tandoiancis-eklesia-sakartvelos-sapatriarkos-gadasca>

EMC and TDI will represent the plaintiff in court.

⁴⁸ See the report of the Human Rights Center on the condition of religious minorities’ cultural heritage in Georgia - 2016

infrastructure), a large portion of which is spent on renovation of Georgian Orthodox religious monuments, while 4,585 GEL are allocated for inventory of Armenian monuments in Samtskhe-Javakheti region.⁴⁹

It is important for the government to have a unified strategy and plan based on fair priorities for restoration and rehabilitation of historic monuments. It is also essential to consider the severe risks of destruction and loss of authenticity, which are present for many monuments, and to implement this policy in a non-discriminative manner.

5.4. Technically implemented (No progress perceived)

118.36 Further develop measures to protect freedom of religion, expression and peaceful assembly and continue to build on the progress begun with the establishment of the State Agency for Religious Issues (Republic of Korea)

117.92 Promote intercultural and interreligious dialogue and cooperation, as a way of strengthening its non-discrimination programmes and supporting its awareness-raising campaigns against discrimination (Philippines)

The creation of the Agency for Religious Affairs was criticized from the very beginning partly by religious organisations as well as organisations working with the protection of human rights, as it presented risks of politicisation and distancing the issue of freedom of religion from the paradigm of rights. Several institutions with the same mandate as that of the Agency exist in post-Soviet countries and, despite their variable functions, they are typically an instrument of control over religious organisations. The initiatives and activities that the Agency has carried out reinforce these suspicions⁵⁰. In its four years of existence, the focus of the Agency has been the management of funding processes for four religious communities and settlement of individual property-related cases for religious organisations based on unsystematic and politically biased approaches. The funding practice and other types of support is used by the Agency as a means of social control over some religious organisations, this tendency being most obvious with the Muslim community.

Despite operating under the auspices of the Prime Minister and possessing significant resources, the Agency failed to resolve important disputes and problems related to freedom of religion, which seems to point to a lack of political will.⁵¹

The Agency's initiatives and approaches regarding freedom of religion are for the most part non-progressive. Analytical documents prepared by the Agency are in contradiction with principles of equality

⁴⁹ See above;

⁵⁰ Research by EMC: "Freedom of Religion – Critique of Discriminatory and Nonsecular state policy", available at: <https://emcrights.files.wordpress.com/2017/03/170x250-geo-web.pdf>

⁵¹ Research by EMC: "Freedom of Religion – Critique of Discriminatory and Nonsecular state policy", available at: <https://emcrights.files.wordpress.com/2017/03/170x250-geo-web.pdf>

and protection of human rights. Among other things, the Agency's activities display attempts to hierarchize religious organisations and strengthen approaches based on security and control.⁵²

Even though research-related functions are dominant in its mandate, the State Agency for Religious issues does not conduct comprehensive documentation and research of the situation in terms of freedom of religion. For instance, the Agency did not adequately assess the series of religious conflicts involving the Georgian Muslim community and their social contexts. Adopting turning a blind eye as a policy resulted in severe violations of religious freedom (in Samtatskaro, Kobuleti, Mokhe) remaining unresolved to this day.

The activities of the Agency for Religious Issues also exhibit government attempts to intervene in and exert control over the autonomy of religious organisations, as most clearly displayed in the practice of funding four religious organizations. 75% of funding for Muslim organisations is spent on salaries for the clerics. In addition unsupportive positions by the Administration of all Muslims of Georgia for the community's interests to solve significant challenges faced by the Muslim community. As an alternative to building a new mosque in Batumi in 2014, the Administration of all Muslims in Georgia requested a residence and facilities for theological teachings, which the Muslim community openly disapproved and resulted in self-organisation to build a new mosque independently from the Administration⁵³; during the conflict in Mokhe, the disparity of positions between the Administration of all Muslims and the local community and the case of dismissal of clerics opposing the decision taken by the Agency concerning the historic mosque in Mokhe⁵⁴).

It should be noted that the Agency ignores the role of the Council of Religions, which exists under the auspices of the Public Defender, represents a highly legitimate autonomous platform for horizontal unification of religious organizations (33 organizations) and has been working on freedom of religion and self-organization issues for 10 years. The inter-religious council existing under the Agency only includes 11 organizations⁵⁵ and does not fulfill the same requirements of operating under a state agency, independence and democracy.

6. Discrimination based on sexual orientation and gender identity

6.1 Technically implemented (no progress perceived)

117.44 Take all necessary measures to effectively fight against discrimination, including against religious minorities and LGBTI persons (France)

⁵² "Assessment of the Strategy for the Development of Religious Policy of the State of Georgia", available at: <https://emc.org.ge/2015/03/19/%E1%83%A1%E1%83%90%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%95%E1%83%94%E1%83%9A%E1%83%9D%E1%83%A1-%E1%83%A1%E1%83%90%E1%83%AE%E1%83%94%E1%83%9A%E1%83%9B%E1%83%AC%E1%83%98%E1%83%A4%E1%83%9D/>

⁵³ Statement of EMC on the construction of a new mosque in Batumi, available at:

<https://emc.org.ge/ka/products/emc-batumshi-akhali-mechetis-msheneblobis-sakitkhs-gamoekhmaura>

⁵⁴ Commentary by Tengiz Beridze, recorded by EMC, 05.03.2018

⁵⁵ 2016-2017 Report of the State Agency for Religious Issues, 2018;

117.46 Provide appropriate services with the necessary resources, including to train and raise the awareness of the judiciary and the public, to ensure that these new measures adopted to fight racial discrimination or gender/sexual identity discrimination are effective (Belgium)

117.48 Improve implementation and enforcement of the Law on the Elimination of All Forms of Discrimination, particularly in its application towards the protection of individuals belonging to sexual and religious minority groups (Canada)

Due to legislative gaps and ineffective implementation of the law, the discrimination of LGBT persons remains challenging. According to a recent study around two thirds of the LGBT respondents (66%, N=169) have at least once been victims of discrimination over the last two years, discrimination cases taken before the court or Public Defender's Office (PDO) remains low. According to the Public Defenders Office, from 2016 to 2017, PDO has received 201 cases of possible discrimination, it had received 113 applications in the previous year. It should be noted that only 11% of cases were discrimination based on SOGI (Sexual orientation and Gender identity).⁵⁶ It means that the information of the discrimination is not disseminated properly, and society does not view the PDO as an effective mechanism to fight against discrimination due to its limited possibilities under the anti-discrimination law.⁵⁷

Discrimination and social exclusion of transgender people remains challenging in Georgia, as they are subjected to discrimination and violence in every sphere of their life, which is encouraged by the lack of legal gender recognition in Georgia. Transgender persons are not given the option to change their sex in civil documents or public records in accordance with their gender identity, the risk of discrimination and ill treatment or violence against them increases when they use documents that do not correspond to their gender identity.⁵⁸ In 2017 two transgender men appealed to the European Court of Human Rights challenging Georgia's refusal to change the gender marker in their official documents.⁵⁹

6.2. Not implemented

117.47 Combat social stigmatization, hate speech, discrimination and violence motivated by sexual orientation or gender identity (Argentina)

117.49 Support public education campaigns to combat hate speech, discrimination and violence related to sexual orientation and gender identity, as well as social stigmatization of LGBT persons (Brazil)

Hate speech and political homophobia remains still a challenge. During 2017 municipal elections according to Media Development Fund the content of over one half (139) of 270 comments made by political parties

⁵⁶ The report of the public defender's office of Georgia, Special Report On The Fight Against Discrimination, Its Prevention, And The Situation Of Equality, September, 2017, pg. 7, see: <http://www.ombudsman.ge/uploads/other/4/4826.pdf>

⁵⁷ Aghdgomelashvili E. "From Prejudice to Equality". WISG. 2018

⁵⁸ The Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia. 2016. Available at: <http://www.ombudsman.ge/uploads/other/4/4442.pdf>

⁵⁹ Bakhtadze K., LGBTI persons and Intersectional Discrimination. WISG. 2018.

and media contained xenophobia against various groups in 47 comments, following homophobia in 32 cases⁶⁰.

Hate speeches against LGBT persons were evident during the constitutional amendment initiated by different politicians which has narrowed the provision on marriage and is specified as a voluntary union between a man and women in the constitution (Art. 30). The discussion towards the amendment has encouraged political homophobia and hate speech against LGBT people which provoked physical and psychological violence during 2016-2017.⁶¹

Apart from politicians, representatives of anti-gender far-right groups use social media to spread hate propaganda against LGBT people. In August 2017, LGBT activists, K.B. and B.G., were subjected to violent hate speech and life threats from different far-right groups through social media based on their sexual orientation activist work. Investigation is still ongoing; however, possible offenders are not identified, which means that cyberbullying, hate speech and online threads against LGBT people is not taken serious by the law enforcement.⁶²

Despite the prevalence of homo/transphobic hate speech mainly from politicians in Georgia, Georgian authorities do not take effective steps to regulate violent speech from *inter alia* parliamentarians, despite the attempt to introduce the code of conduct of parliamentarians in 2017, it has not been adopted.

6.3. Not implemented

117.33 Include in the implementation of its anti-discrimination legislation effective measures that strengthen religious tolerance, gender equality and equal rights for ethnic minorities, women and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, to increase tolerance and social inclusion in Georgian society (Netherlands)

Even though this recommendation has been accepted by the state it has yet to be implemented. Deep-rooted homo/bi/transphobia appears in nearly all segments of society, the discriminatory practices, and social exclusion prevent LGBTI persons from fully enjoying their rights and freedoms.⁶³

Negative attitudes from society and institutional homophobia result in major human rights violations and violence against LGBT persons. For example, EMC was involved in the criminal proceedings of 8 cases⁶⁴ related hate crimes/incidents against LGBT persons during 2016-2017⁶⁵, WISG has documented 30 cases during 2016. During 2017 WISG has provided legal consultancy on 105 cases.⁶⁶ In total during 2017 WISG

⁶⁰ Monitoring of Hate Speech and Anti-Western Sentiments in Pre-Election Discourse, elections 2017, pg. 3, see: http://mdfgeorgia.ge/uploads/library/73/file/eng/Monitoring_of_Hate_Speech_and_Anti-Western_Sentimentsin_Pre-Election_Discourse.pdf

⁶¹ Coalition for Equality, Protection from Discrimination for Various Groups in Georgia, 2016

⁶² EMC responds to the threats of violence against LGBTQI activists Koba Bitsadze and Beka Gabadadze, See: <https://emc.org.ge/en/products/emc-lgbtqi-aktivistebis-koba-bitsadzisa-da-beka-gabadadzis-mimart-dzaladobaze-mukaris-faktebs-ekhmianeba>

⁶³ Jalagania L. "Legal Situation of LGBT persons in Georgia", EMC, 2016

⁶⁴ EMC is working only on strategic cases.

⁶⁵ The preliminary result under the monitoring process of the Government's human rights action plan for 2016-17 years, GYLA, WISG, EMC, 2018, pg. 130

⁶⁶ Bakhtadze K. "Intersectional Discrimination and LGBTI people - Litigation Report", WISG, 2018, pg. 33

was working on 48 cases on the human rights violation of LGBT persons, majority of them is hate crime cases.⁶⁷

According to the recent study,⁶⁸ among the LGBT respondents, 96.9% (N=248) have at least been subjected to hate crime since 2015. The most common form of abuse is psychological/emotional violence (verbal insults, swearing, cursing; demeaning comments, ridicule), which has been experienced at least once by 71.4% of respondents, while 40.3% have received hate mail; 19.35% have been survivors of blackmail and threats of forced outing.⁶⁹ The lack of trust towards law enforcement and their institutions remains problematic, according to surveys, among victims of violence, only 15.8% applied to the police.

Despite the abovementioned violent enforcement against LGBT persons the government does not take effective and long-term steps to prevent negative attitudes towards LGBT individuals, by focusing only on institutional reforms without educational and awareness activities towards social inclusion of LGBT persons and protection of their fundamental rights.

Gender reassignment procedures for transgender people are not regulated by Georgian healthcare legislation and the Ministry of Labour, Health and Social Welfare does not have any clinical guidelines of the above-mentioned procedures.⁷⁰ Transgender people living in Georgia are able to get some gender reassignment services by some medical institutions, but the costs must be borne by the patient.⁷¹

Intersex persons have specific needs to amend gender details on any official documentation to male, female or indeterminate based solely on the individual's self-identification. Regulation of birth registration in Georgia⁷² does not allow existence of variations beyond the normative genders: male and female.

Intersex children living in Georgia are not protected from gender normalising surgeries. State collects data of intersex children by their diagnoses.⁷³ Currently, the Georgian healthcare legislation does not prohibit genital-normalising treatment, involving both surgery and hormone therapy. However, such medical interventions are often medically unnecessary, not always consistent with the person's gender identity, poses severe risks for sexual and reproductive health and is often performed without free and fully informed consent. The UN Rapporteur on violence has called for all States to end forced or coerced medical interventions⁷⁴ as has the Office of the High Commissioner for Human Rights and the World Health Organization.⁷⁵

⁶⁷ Ibid

⁶⁸ Aghdgomelashvili e. "From Prejudice to Equality". WISG. 2018

⁶⁹ Different forms of violence somewhat correlate with each other, e.g. as a rule, respondents, who have experienced such forms of violence as property damage and/or threats of violence using firearms or armes blanches, are also survivors of physical abuse. In turn, physical violence is frequently accompanied by verbal abuse, and so on.

⁷⁰ Response letter of Ministry of Labour, Health and Social Affairs of Georgia. №01/65969. 30 August 2016.

⁷¹ Natsvlshvili A., Aghdgomelashvili E., Rights of LBT Women in Georgia. Shadow report for CEDAW. Submitted for the 58th Session. WISG. 2014. Available at: <http://women.ge/en/publications/91/>

⁷² Decree #18 of the Minister of Justice on the Registration of Civil Acts, January 31, 2012.

⁷³ According to the response letter of Ministry of Labour, Health and Social Affairs of Georgia, in 2017, 2 children were born with Hermaphroditism (2018 ICD-10-CM Diagnosis Code Q56.0). № 01/23213. 24/04/2018.

⁷⁴ Juan E. Mendez, Report of the Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment, A/HR/22/53, (1 February 2013) 23.

⁷⁵ World Health Organization, Sexual Health, Human Rights and the Law (2015).

6.4. Perceived progress

118.10 Establish a specialized police unit for investigating hate crimes, closely collaborating with the LGBT community and organizations to create a trusting relationship (Sweden)

118.32 Develop and implement a strategy to monitor, investigate, and prosecute hate crimes, giving the Public Defender relevant powers and resources to act against instigators of hate crime (United Kingdom of Great Britain and Northern Ireland)

Recommendation no 118.10 has been noted by the government. To meet the abovementioned recommendation the Ministry of Internal affairs has created the “Human rights Department” within its system on 12th of January 2018⁷⁶, which would monitor the investigation of the domestic violence, hate crime cases and crimes committed by minors and against them, which should be welcomed.

However, it has a very much wider remit than the unit proposed under UPR and ECRI in its 5th monitoring cycle⁷⁷. Human Rights Department of MIA was set to monitor not only all forms of hate crime, but also domestic violence, violence against women, human trafficking, and crimes committed by/against minors.⁷⁸ It is a centralised, coordinating body, giving rise to concerns that it may not, of itself, be sufficient to address problems at the local level, nor, for example, detailed issues arising in the investigatory process. It lacks a preventive approach which includes intergovernmental work to effectively prevent hate motivated violence from occurring.

6.5. Technically implemented (no perceived progress)

118.9 Redouble its efforts to ensure the rights of LGBTI persons and, in line with the Human Rights Committee’s recommendations, combat all forms of social stigmatization of homosexuality, bisexuality and transsexuality, and hate speech, discrimination and violence based on sexual orientation or gender identity (Uruguay)

117.66 Implement the recommendations of the Committee on the Elimination of Discrimination against Women for better observance of its obligations under the Convention on the Elimination of All Forms of Discrimination against Women, effectively apply the ban on early and forced marriages, including through the adjustment of the national legal framework, by paying particular attention to vulnerable groups (Switzerland)

On May 4, 2017, government has amended about 30 normative acts under the ratification process of the Council of Europe Convention on preventing and combating violence against women and domestic violence (DV) (2011), while these changes are welcomed, measures taken by the government to eradicate violence against women and domestic violence is set on a heteronormative base, focusing mainly on intimate partner violence between heterosexual couples. Consequently, the government does not address the human rights violations of LGBT individuals in domestic settings. Even though DV from family members based on SOGI is most widespread and an invisible crime against the LGBT community, the

⁷⁶ The decree of Minister of Internal Affairs N1 on the approval of the provision of the Human Rights Department under the Ministry of Internal affairs, See: <https://matsne.gov.ge/ka/document/view/3999709>

⁷⁷ ECRI REPORT ON GEORGIA (fifth monitoring cycle) Adopted on 8 December 2015 Published on 1 March 2016, Para. 68

⁷⁸ Order of the Minister of MiA N1 of January 12, 2018, see: <https://matsne.gov.ge/ka/document/view/3999709>

government does not recognize the need to address this issue as a hate crime. Hate motive has not been documented in any DV cases against LGBT individual.

The government does not address specific forms of violence against LGBT individuals (minors in major risk); such are different forms of coercive therapies⁷⁹, psychological pressure and violence, attempt to forced marriages of lesbian individuals which takes place within the families against LGBT individuals from their parents.

LGBT victims of DV do not report to the police out of fear and secondary victimization, which is why they choose to leave home or are obliged to continue living in the cycle of violence.⁸⁰ A 2018 study⁸¹ showed that among the LGBT respondents, 84.4% (N=216) have experienced some form of abuse by family members; over one third of the group are victims of permanent psychological violence by family members, while 37.5% have been subjected to physical abuse at least once since 2015. In cases of physical violence, the mother, father and siblings are cited as the perpetrators with almost equal frequency.

Georgia must continue to work towards the implementation of the legislation to protect LGBT victims against domestic violence and ensure that victim support services are relevant, sensitive and respond to the specific needs of the victim.

6.6 Not implemented

117.70 Continue to implement the legislation on domestic violence and ensure training of law enforcement officials to identify all forms of domestic violence (Slovakia)

The Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence⁸² does not prohibit intimate partner violence (IPV), especially among LGBT partners.⁸³ Accordingly, transgender women are not allowed to use the national mechanism of violence against women⁸⁴, because they are unable to amend their gender marker from “male” to “female”. The Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence defines “victim” as “a woman or other family member”.⁸⁵

The preventive measures against IPV and DV, including public campaigns performed by the state,⁸⁶ does not cover LGBT persons and same-sex couples. Aside from the lack of legal regulation of same-sex partner relationships, the survivors’ choice of such strategy is influenced by the fact that the state has clearly defined policies and legal mechanisms to tackle the domestic violence.

⁷⁹ Intersectional Discrimination and LGBTI People - Litigation Report, WISG, 2018, 19

⁸⁰ Intersectional Discrimination and LGBTI People - Litigation Report, WISG, 2018, 17

⁸¹ Aghdgomelashvili E. “From Prejudice to Equality”. WISG. 2018

⁸² <https://matsne.gov.ge/en/document/view/26422>

⁸³ Bakhtadze K., LGBTI persons and Intersectional Discrimination. WISG. 2018.

⁸⁴ Tbilisi City Court does not take the claim of transgender woman who requested protective order Case of NGO SAPARI: №3/605-18. 5/02/2018.

⁸⁵ The Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence, Article 4 (f).

⁸⁶ E. g. <http://imogmede.ge> and <https://sheachere.ge>

A recent study⁸⁷ showed that intimate partner violence is rather common among the LGBT group. Hence, 84.4% of respondents have experienced some form of intimate partner violence at least once over the past three years, psychological violence being the most widespread form. The frequency of sexual abuse and harassment is also high. It should be noted that to maintain control over the victim, the perpetrator frequently resorts to threats and blackmail related to forced coming-out (19.4%). Similar to heterosexual couples, intimate partner violence has a severe impact on the physical and psychological state of the victim, as well as their social environment.

This means that there is an urgent need for effective work and identification towards the problem of IPV among LGBT partner in Georgia.

6.7. Technically implemented (no progress perceived)

117.63 Redouble its efforts in the fight against domestic violence by ensuring effective investigation into incidents of domestic violence and providing adequate support and assistance to victims

117.68 Reinforce the capacities of professionals in the identification, referral and protection of victims of gender-based violence and provide legal and medical support to victims

The support services to victims of violence against women and domestic violence rarely are accessible for LGBT persons. Unlike heterosexual couples, owing to the extreme homophobic attitudes prevalent in society, only a small fraction of LGBT people enjoys the opportunity to obtain emotional or other type of support from family members, relatives or the social micro environment.

A 2018 study⁸⁸ showed that among domestic violence survivors, only 7.1% reported to the police. Similarly, to cases of IPV, most of the respondents did not report to the police (51.6%). Among the respondents, 23.9% deem police action ineffective, 19.1-18.7% indicated the fear of secondary victimization.

Victim support services lacks sensitive and individual approach and remains insufficient. As there is a lack of relevant trainings and awareness programs for social workers, psychologist and lawyers, there is an urgent need for future efforts for the sensitization of the professionals working with victims.

7. Disability Discrimination

7.1. Not implemented

116.2 Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Spain)

116.12 Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities (Slovenia)

117.5 Take concrete steps to harmonize its national legislation with the Convention on the Rights of Persons with Disabilities and to ratify its Optional Protocol (Hungary)

⁸⁷Aghdgomelashvili E. "From Prejudice to Equality". WISG. 2018

⁸⁸Aghdgomelashvili E. "From Prejudice to Equality". WISG. 2018

On the 10th of July 2009, along with the CRPD, Georgia signed its Optional Protocol. The ratification of the CRPD (dated December 26, 2013) has not been followed by any formal proceedings (including, the initiation of the respective legislative amendments to the national legislation) aiming at the ratification of the Optional Protocol.

7.2 Not implemented

117.5 Take concrete steps to harmonize its national legislation with the Convention on the Rights of Persons with Disabilities and to ratify its Optional Protocol (Hungary)

The national legal framework has not been revised by Georgia⁸⁹ and no substantial legislative amendments⁹⁰ were introduced in conformity with the requirements of the CRPD. The main principles of the CRPD (for example, formal standards for Universal Design, Reasonable Accommodation and Accessibility) have not been implemented in the national legislation. Therefore, there is an urgent need for systematic legislative reform in this area. Although the Ministry of Justice of Georgia elaborated the draft Law “on the Rights of Persons with Disabilities”, considered to be the implementing tool of the CRPD, the document sets the mere definitions relevant in the light of the CRPD and does not set the standards (such as, Universal Design, Reasonable Accommodation and Accessibility), as well as the specific obligations of the state institutions in the detailed manner and is not accompanied by the respective draft amendments to the existing legal framework. Thus, the actual execution of the above-mentioned law will be seriously hindered.

7.3. Technically implemented (No progress perceived)

117.7 Increase respect for the rights of all citizens by strengthening anti-discrimination legislation and enforcement mechanisms and ensuring law enforcement provides universal equal treatment and due process (United States of America)

117.30 Consider instituting an action plan that defines measures to prevent and combat discrimination on different grounds in all levels of governance in the country (Serbia);

117.42 Address proactively issues of racial and all forms of discrimination in Georgia (Nigeria)

The fight against discrimination is regarded as one of the most problematic areas, both in the legislative and state policy levels. The number of discrimination cases on the grounds of disability examined by the Public Defender of Georgia represents 7 % to 9 % of the overall number of discrimination cases in 2016⁹¹ and 2017⁹², respectively. The risk of unequal treatment is high in the specialised state institutions for people with disabilities.⁹³ Against this background, no steps have been made by the government to duly

⁹⁰ The main amendments after the ratification of the CRPD only concerned the changes to the definition of the person with disabilities.

⁹¹ Special Report on Combating and Preventing Discrimination and the Situation of Equality, the Public Defender of Georgia, 2016, P. 19, available at: <http://ombudsman.ge/uploads/other/3/3965.pdf>; last visited: 21.05.2018.

⁹² Special Report on the Fight against Discrimination, Its Prevention, and the Situation of Equality, The Public Defender of Georgia, 2017, P. 7, available at: <http://ombudsman.ge/uploads/other/4/4826.pdf>; last visited: 21.05.2018.

⁹³ Legal Situation of Persons with Disabilities in State Care Institutions, short version of the special report, the Public Defender of Georgia, 2016, PP. 12-13, available at: <http://ombudsman.ge/uploads/other/3/3998.pdf>; last visited:

reflect the principle of reasonable accommodation into the national anti-discrimination legislation, as well as the state policy and practice.

7.4. Technically implemented (No progress perceived)

117.86 Provide, in accordance with its respective obligations under international human rights law, effective protection to the family as the natural and fundamental unit of the society (Egypt)

The right of people with disabilities to respect for home and the family is neglected due to lack of proper state services and legal regulations. The right to respect for home and family is especially problematic with people that live under state care⁹⁴. As for the existence of community organisations for people with disabilities another approach is used which allows the person from community services to raise children under 18 years if it does not contradict the interests of the child.⁹⁵

The existing approach of Georgian legislation that fully excluded exercise of the right to home and family by the legally incompetent persons has been annulled after the Legal capacity reform. However, despite the amendments there still are legislative gaps that require regulation⁹⁶.

7.5. Technically implemented (No progress perceived)

117.90 Take measures for deinstitutionalization of child-care institutions and development of alternative, family-type services for deprived children (Ukraine)

Since 2005, child welfare reform has been implemented in Georgia, the primary aim of which was the commencement of the deinstitutionalization process. Large residential institutions of children were shut down within the scope of this reform. However, the reform was carried out in such way that it did not apply to those institutions that house children with disabilities⁹⁷. Children with disabilities continue to live

21.05.2018; Human Rights Situation in Closed Institutions, the Public Defender of Georgia, National Preventive Mechanism, 2016, P. 254, available at: <http://ombudsman.ge/uploads/other/4/4584.pdf>; last visited: 21.05.2018.

⁹⁴ PWDs living in boarding houses have no right to have the children living with them and the children are involved in alternative forms of care. This usually is caused by placing a child in state care on distant places that creates more hampering conditions in regard to protection of right to home and family;

⁹⁵ However despite the mentioned opportunity stipulated by law, in the absence of relevant positive measures, none of such facts were identified - Ordinance N102 of the Government of Georgia, February 26, 2016 on Approval of State Program of Social Rehabilitation and Child Care of 2016, Annex 1.12, Article 3, paragraph 1, sub-paragraph „a“, <https://matsne.gov.ge/ka/document/view/3206217>;

Study - Violence against women with psychosocial needs - major tendencies, Tbilisi, 2016. page 9

⁹⁶ Law of Georgia on Adoption and Foster Care does not restrict the person under state care to adopt, however it prohibits the person under state care to be foster mother/father i.e. foster care - ⁹⁶ Law of Georgia On Adoption and Foster Care, Article 7, paragraph 1, sub-paragraph „a“, study - Assessment of Legal Capacity Reform and its implementation process, Human Rights Education and Monitoring Center, 2016, page 29; <https://emc.org.ge/2016/06/07/emc-82/>;

Wedding contract obligation in regard to marriage of persons declared as recipients of support is not in line with CRPD requirements as it fully excludes the model based on individual approach despite the fact whether or not supporting person was assigned for transactions - Civil Code of Georgia, Article 1120, part 1, sub-paragraph „e“, Law of Georgia On Adoption and Foster Care, Article 7, paragraph 1, sub-paragraph „a“, study - Assessment of Legal Capacity Reform and its implementation process, Human Rights Education and Monitoring Center, 2016, page 29-31; <https://emc.org.ge/2016/06/07/emc-82/>

⁹⁷ In 2016 one small family-type house was set up in Kutaisi, where 7 children were transferred from Tbilisi infant house. 25 children from the same institution were involved in the subprogram of foster care. Another small family-

in Kojori and Tbilisi infant houses and in this context, the measures taken by the state can't be considered as efficient.

The law of Georgia on "Adoption and Foster Care" adopted in 2017 constitutes an important step toward the deinstitutionalisation process and the upbringing of children in a family environment. However, serious challenges remain during implementation of the subprogram of foster care⁹⁸. Children in foster care subprograms also face major challenges resulting in violation of their fundamental rights. The right to healthcare and education of children in foster care are violated daily.⁹⁹ It is noteworthy that only children with disabilities still live in the large-scale institutions and only a few participate in foster family subprogram.¹⁰⁰

Likewise, the foster care subprogram, the children with disabilities who participate in the reintegration programmes also face problems in realization of their rights while the right to education is the critical one¹⁰¹.

7.6. Technically implemented (No perceived Progress)

117.104 Improve access to health services for socially vulnerable persons (Algeria)

Since 2013, a universal insurance program operates in Georgia¹⁰². The program did not envisage one of the main requirements of Article 25 of the CRPD that the healthcare services should provide for people with disabilities taking into consideration their individual needs. At the same time, people with significantly and moderately expressed disabilities do not have an opportunity to use a different package.

type house foreseen by the human rights action plan was not set up by the end of 2017. - The letter of the Ministry of Labor, Health and Social Affairs, 3 October 2017, № 01/62016;

⁹⁸ In many cases, active and regular contact of children with their biological families is problematic in terms of supporting their future reintegration and protection from neglect. Identification of children who are victims of violence, and protection of their right to health and education constitutes a challenge. In many cases, social workers do not have active contact with foster families and children - Special Report of the Public Defender of Georgia on "Monitoring of State Subprogram of Foster Care", 2016, <http://www.ombudsman.ge/uploads/other/3/3823.pdf>, retrieved: 28.02.2018;

⁹⁹ "55% of children with disabilities cannot receive comprehensive medical consultation, examination and medicine treatment" - Special Report on Right Situation of Children, PDO, 2015, p. 17, <http://www.ombudsman.ge/uploads/other/3/3703.pdf>; "In some cases children had visible health problems, however, as stated by foster parents, they were not examined properly. IN some cases, the foster parents gave medicines to children without doctor's prescription. 45% of children in foster care program do not receive comprehensive medical consultation, examination or medicine treatment due to the lack of financing. There are problems to territorial coverage as well" - PDO Special Report on Monitoring of Subprogram of Foster Upbringing, 2016, p. 39, <http://www.ombudsman.ge/uploads/other/3/3823.pdf>,

¹⁰⁰ According to June 2016 data, 1403 beneficiaries participate in foster upbringing service, out of which only 198 are children with disabilities, official web-site of Social Service Agency, <http://ssa.gov.ge/>;

¹⁰¹ Some children were never assessed by the multidisciplinary group, 40% of children have not received proper medical examination and do not have access to medicines - "60% of legal representatives of reintegrated beneficiaries do not have information about the major directions of the individual education plan, 45% is against participation of a child in the inclusive education system despite the clear needs of children", PDO Special Report on Monitoring of Subprogram on Reintegration, 2016, p. 34, <http://www.ombudsman.ge/uploads/other/3/3822.pdf>;

¹⁰² Decree No. 36 of the Government of Georgia of February 21, 2013 on "Some of the measures to be taken for the purpose of transition to universal healthcare", <https://matsne.gov.ge/ka/document/view/1852448>, viewed at: <http://www.ombudsman.ge>, 01.02.2018

Children with psychosocial issues face major difficulties with access to related services as countrywide only 10 places are allocated for patients with mental illness under the age 15 in the inpatient care services. Making matters worse is the number of perpetual patients at psychiatric institutions. They have been staying at inpatient facility for years without leaving it while there is no need of active treatment. The reason they stay at the psychiatric facility permanently is that they have nowhere to go¹⁰³.

7.7. Perceived Progress

117.109 Continue to pursue policies that will expand opportunities for all children of school-going age to access high quality education, in particular those with special-education needs (Singapore)

117.111 Advance the implementation of the Convention on the Rights of Persons with Disabilities by improving the inclusion of children and persons with disabilities in education and employment (Austria)

118.45 Ensure full-time school attendance at all levels to children belonging to disadvantaged and marginalized groups (Portugal).

Despite passing the Georgian law on “Early and Preschool Upbringing and Education”, kindergartens are not fully accessible for children with disabilities. The absence of a united database makes it difficult to provide services tailored to the needs of children, presents a problem. The qualification of educators needs to be singled out, especially so in the process of working with children with disabilities¹⁰⁴ at the inception of general education, a challenge is posed by the united funding mechanism that does not respond to the educational needs of all children¹⁰⁵. The situation is even more aggravated for people with disabilities receiving higher education¹⁰⁶.

¹⁰³ Parliamentary Report of the Public Defender of Georgia, 2017, pg. 27, <http://www.ombudsman.ge/uploads/other/5/5139.pdf>

¹⁰⁴ The Report of the Public Defender of Georgia on the Condition of the Protection of Human Rights and Liberties in Georgia 2016, pp. 681-684. Accessible here: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, Last seen: 28.01.2018.

¹⁰⁵ The matters of the status of special pedagogues and integrated classes are still unregulated. There exists no conception of integrated classes. The Ministry of Education does not have precise statistical data on children with disabilities enrolled in institutions of general education and generates it along with the united database of persons with special educational needs. The system of specialized education continues to function in the country. A challenge is posed by the quality and continuity of inclusive education. Most children with disabilities, especially in the regions, are not involved in the educational process. The insufficient number and qualifications of special pedagogues represents a problem, along with the inaccessibility of the physical environment, disarray of transportation, and the accessibility of learning institutions, school inventory and learning material. Out of 505 mountainous village schools, only 171 have inclusive teaching. However, even in the said cases, inclusive teaching does not have a complex nature. The number of the members of the multidisciplinary team is problematic and their systemic involvement in the process of educational process, the secondary evaluation/revaluation of pupils with special educational needs, case management, progress measurement and the monitoring of the learning process do not take place properly - The Report of the Public Defender of Georgia on the Condition of the Protection of Human Rights and Liberties in Georgia 2016, pp. 684-688. Accessible here: <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, Last seen: 28.01.2018.

¹⁰⁶ There is no mechanism of support of SEN students and PWDs in higher education institutions as the majority of the institutions are not adapted, they do not provide for adaptations of education process in regard to accessibility of educational resources and augmentative technologies. There is no mechanism of monitoring that would control the mentioned process - Practice of the inclusive education in Georgia, alternative report, Institute of Civil Education, 2016, page 51, <http://cdi.org.ge/uploads/pages/alternative-report-on-the-implementation-of-crpd-education-cdi-geo-91.pdf>

In addition, the Law “on Vocational Education” is not designed in such manner to focus on the introduction of the individual approach and the inclusive education for the persons with disabilities.¹⁰⁷ The challenges presented are regarding the physical, geographic and informational accessibility to the vocational education programs,¹⁰⁸ along with the absence of the support system for mobility of the persons with disabilities from the vocational education to the places of employment¹⁰⁹ and the unsatisfactory quality of teaching.¹¹⁰ The number of people with special educational needs in the vocational education programs have been raised in 2016-2017 compared to earlier years. However, the effectiveness of the aforementioned programs is questionable as only 29.3% of people with special educational needs (enrolled in the vocational education programs in 2016) managed to graduate.¹¹¹ Therefore, it is vitally important to initiate legal amendments to the relevant legal framework and facilitate state programs to ensure the realisation of inclusive and fully accessible vocational education.

Georgia has not effectively carried out measures concerning the improvement of the inclusion of people with disabilities in employment. One of the greatest challenges in that regard is the absence of adequate and effective legislation and state policy,¹¹² as well as an inaccessible environment that impedes the people with disabilities from the realisation of the right to labour.¹¹³ Some parts of the legislative framework negatively affect the realisation of labour rights of people with disabilities. For example, the legislation excludes the civil servants with moderate and significant disability (except for the persons with significant disabilities due to impaired sight), from the list of beneficiaries of the social package.¹¹⁴ In

¹⁰⁷ Rights of Persons with Disabilities in Georgia, the Public Defender of Georgia, 2016, P. 24, available at: <http://ombudsman.ge/uploads/other/4/4563.pdf>; Last Visited: 21.05.2018.

¹⁰⁸ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, P. 98, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 21.05.2018; Rights of Persons with Disabilities in Georgia, the Public Defender of Georgia, 2016, P. 24, Available at: <http://ombudsman.ge/uploads/other/4/4563.pdf>; Last Visited: 21.05.2018.

¹⁰⁹ The Situation of Human Rights and Freedoms in Georgia, Annual Report of the Public Defender of Georgia, 2017, P. 298, available at: <http://ombudsman.ge/uploads/other/5/5139.pdf>; last visited: 21.05.2018.

¹¹⁰ The Inclusive Education Practices in Georgia, Implementation of the Convention on the Rights of Persons with Disabilities in Georgia (Right to Education), Civic Development Institute (CDI) 2016, PP. 10-11, 32, 45, available at: <http://cdi.org.ge/uploads/pages/alternative-report-on-the-implementation-of-crpd-education-280616-eng-45.pdf>; last visited: 21.05.2018.

¹¹¹ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, P. 99, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 23.05.2018.

¹¹² The State Programs for the Support of Employment of the Persons with Disabilities, Monitoring Report, the Public Defender of Georgia, 2017, P.24, available at: <http://ombudsman.ge/uploads/other/5/5173.pdf>; last visited: 21.05.2018.

¹¹³ Ibid.

¹¹⁴ The Resolution N 279 of the Government of Georgia on Determining of the Social Packag”, dated 23 July, 2012, Art. 6(4); available at: <https://matsne.gov.ge/ka/document/view/1707671>, last visited: 15.05.2018. The Recommendation of the Public Defender of Georgia “on Establishment of the Direct Discrimination against Persons with Moderate and Significant Disabilities on the Grounds of Employment”, available at: <http://www.ombudsman.ge/uploads/other/4/4495.pdf>.

addition, there is a lack of state programs that facilitate the employment of people with disabilities.¹¹⁵ The current functioning state programs do not take into account the complex aspects important for the facilitation of the employment of people with disabilities.¹¹⁶ The above-mentioned challenges result in a low number of people with disabilities employed in both public and private sector.¹¹⁷

7.8. Technically implemented (No perceived Progress)

117.110 Take further steps for the implementation of the Convention on the Rights of Persons with Disabilities (Myanmar)

117.112 Take further steps to ensure the protection of persons with disabilities (Greece)

117.113 Carry on making efforts to promote the rights of people with disabilities (Oman)

In 2014, the Public Defender of Georgia was named as the institution responsible for ensuring the implementation, promotion, and protection of the Convention on the Rights of Persons with Disabilities (CRPD). However, the Office of the Public Defender of Georgia lacks the relevant human and financial resources to fully and effectively perform its monitoring function. On the other hand, in 2014, the inter-agency coordinating mechanism became responsible for the implementation of the CRPD,¹¹⁸ while the Human Rights Secretariat at the Georgian Government was given the coordination mandate. However, the inter-agency coordination mechanism is no longer a functioning body and the Human Rights Secretariat proved itself as ineffective body to fulfill its obligations.

Even though the Government of Georgia acknowledged the importance of the creation of an effective coordination mechanism, no progress has been made in that regard. The process of the creation of the body is not properly coordinated between the various governmental agencies.¹¹⁹ The aforementioned problem itself hinders the effective coordination between the relevant stakeholders.¹²⁰

Georgia failed to meet the obligations stemming from the general recommendations regarding the implementation of the CRPD, as well as protecting and promoting the rights of persons with disabilities. The problems in forming an effective state policy with regard to the protection of the rights of persons

¹¹⁵ The Situation of Human Rights and Freedoms in Georgia, Annual Report of the Public Defender of Georgia, 2017, P. 304, available at: <http://ombudsman.ge/uploads/other/5/5139.pdf>; last visited: 23.05.2018.

¹¹⁶ Ibid.

¹¹⁷ The State Programs for the Support of Employment of the Persons with Disabilities, Monitoring Report, the Public Defender of Georgia, 2017, P. 3, available at: <http://ombudsman.ge/uploads/other/5/5173.pdf>; last visited: 21.05.2018; The Situation of Human Rights and Freedoms in Georgia, Annual Report of the Public Defender of Georgia, 2017, P. 304, available at: <http://ombudsman.ge/uploads/other/5/5139.pdf>; last visited: 21.05.2018.

¹¹⁸ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, PP. 53-54, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 23.05.2018.

¹¹⁹ As the GoG states in its midterm report, the coordination and enforcement mechanism under the CRPD will be based on the recommendations of the international expert of the UNDP. However, the relevant provisions of the draft Law “on the Protection of the Rights of Persons with Disabilities” (drafted by the Ministry of Justice of Georgia) is not designed in compliance with the above mentioned recommendations.

¹²⁰ The Situation of Human Rights and Freedoms in Georgia, Annual Report of the Public Defender of Georgia, 2017, P. 293, available at: <http://ombudsman.ge/uploads/other/5/5139.pdf>; last visited: 21.05.2018.

with disabilities are led by many factors, such as the lack of the unified statistical data on the number of the persons with disabilities in the country.¹²¹ Therefore, it is difficult to make a proper analysis on the quality of the protection of the rights and freedoms of the persons with disabilities without the above-mentioned statistics.¹²² In addition, the lack of the relevant data leads to ineffective state programs, *inter alia*, healthcare and social protection programs, which are not based on the research on the real needs of the persons with disabilities.

There are numerous challenges regarding the realisation of the rights and freedoms of people with disabilities, guaranteed by the CRPD. The legal incapacity reform based on the decision of the Constitutional Court of Georgia (dated October 2014) has not been fully and effectively implemented by the government. Resulting in problems for the proper implementation of the new support model and the realisation of the rights and freedoms of persons with disabilities.¹²³

The National legislation and practice were largely based on the medical model that would exclude planning and implementation of social modeling policies. The existing medical method of evaluation represents a significant barrier for persons with disabilities to receive services that are suitable for their individual needs, which also comply with the Convention.

Persons with disabilities in Georgia do not have access on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services¹²⁴.

The Georgian government has not implemented efficient system changes during the past two years in terms of the accessibility of justice. The challenges exist both in terms of the physical accessibility of justice¹²⁵ and of the qualification of the persons employed in the justice system.

The liberty of people with disabilities in Georgia does not meet the requirements of the CRPD. The situation is even more difficult in terms of the rights of the people with disabilities at penitentiary and inpatient psychiatric treatment facilities¹²⁶.

¹²¹ Statistics of Persons with Disabilities Living in Georgia, Institute for Development of Freedom of Information, 2018, available at: https://idfi.ge/en/statistics_of_pwds_living_in_georgia; last visited: 21.05.2018.

¹²² Rights of Persons with Disabilities in Georgia, the Public Defender of Georgia, 2016, P. 14, <http://ombudsman.ge/uploads/other/4/4563.pdf>; last visited: 21.05.2018.

¹²³ Assessment of the Reform of the Legal Capacity and its implementation process, the Human Rights Education and Monitoring Center (EMC), PP. 18, 38-42, 54-56, available at: <https://emc.org.ge/2016/06/07/emc-82>; last visited: 21.05.2018; Legal Capacity – Legislative Reform without Implementation, Study Report, the Public Defender of Georgia, 2016, available at: <http://ombudsman.ge/uploads/other/3/3949.pdf>; Last Visited: 21.05.2018; Rights of Persons with Disabilities in Georgia, the Public Defender of Georgia, 2016, PP. 7-8, available at: <http://ombudsman.ge/uploads/other/4/4563.pdf>; last visited: 21.05.2018.

¹²⁴ Parliamentary Report of the Public Defender of Georgia, 2017, pg. 294-297, <http://www.ombudsman.ge/uploads/other/5/5139.pdf>

¹²⁵ Adaptation of the court buildings are planned before 2019. Although increase of accessibility of the buildings is perceived as a need for mobility impaired persons' need and envisages construction of ramps and parking only – letter N3222 of July 11, 2016 of LEPL Department of Common Courts of the High Council of Justice of Georgia;

¹²⁶ Parliamentary Report of the Public Defender of Georgia, 2017, pg. 26, pg. 46, pg. 51, pg. 70, 71-77 <http://www.ombudsman.ge/uploads/other/5/5139.pdf>

There are several flaws in the legislation and practice regulating the passive and active voting rights of the persons with disabilities.¹²⁷ The national legislation disenfranchised the recipients of support resided in the stationary psychiatric institutions. Numerous challenges are presented regarding the physical accessibility of voting locations, as well as lack of access to information and communication.¹²⁸ For example, during the municipal elections (which took part in October 2017), only 31.7% of the overall number of election precincts were accessible for the persons with disabilities¹²⁹, while only 2.91% of the overall number of the persons with disabilities actually voted.¹³⁰

Serious problems are presented before persons with disabilities regarding the realisation of the right to adequate housing. Due to the lack of uniform state policy, as well as the legislative framework towards the issues of homelessness, the specific needs of the persons with disabilities has not been adequately considered. The shortcomings in housing and other supportive services result in challenges regarding the effective realisation of the right to adequate housing especially for the persons with disabilities leaving state institutions (including, state care for children and psychiatric institutions).¹³¹ Thus, these groups are left in permanent conditions of homelessness and extreme poverty.¹³²

It is problematic that to date no strategy of deinstitutionalisation in the field of mental health has been elaborated. The situation remains unaltered and the practice of year-long delay of persons with disabilities in psychiatric institutions due to the absence of housing remains a challenge. Moreover, as of 2016, the number of beneficiaries of the Dzevri, Dusheti and Martkofi boarding houses for persons with disabilities has not decreased, but even grown slightly. Also, the weakness of support mechanisms for independent living in the institutions themselves poses a challenge, for the residents are unable to receive adequate services that would enable them to acquire and develop skills for living independently. A major challenge

¹²⁷ Assessment of the Reform of the Legal Capacity and its implementation process, the Human Rights Education and Monitoring Center (EMC), PP. 26-28, available at: <https://emc.org.ge/2016/06/07/emc-82>; last visited: 21.05.2018; Voting Rights for Persons with Disabilities, International Society for Fair Elections and Democracy (ISFED), 2016, available at: <http://www.isfed.ge/main/1176/eng/>; last visited: 21.05.2018.

¹²⁸ Rights of Persons with Disabilities in Georgia, the Public Defender of Georgia, 2016, PP. 12-13, available at: <http://ombudsman.ge/uploads/other/4/4563.pdf>; last visited: 21.05.2018; The Situation of Human Rights and Freedoms in Georgia, Annual Report of the Public Defender of Georgia, 2017, P. 305, available at: <http://ombudsman.ge/uploads/other/5/5139.pdf>; last visited: 21.05.2018.

¹²⁹ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, P. 67, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 21.05.2018.

¹³⁰ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, P. 67, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 21.05.2018.

¹³¹ Homelessness, Analysis of State Policies, Human Rights Education and Monitoring Center (EMC), 2016, P. 51, available at: <https://emc.org.ge/uploads/products/pdf/Homelessness.pdf>; last visited: 21.05.2018.

¹³² Ibid. P. 56.

to ensuring the independent living of persons with disabilities is still posed by the needs of education, employment and housing¹³³.

Relevant challenges are presented regarding the realisation of the right to participate in cultural life, recreation, leisure and sport, which are mostly connected with the inaccessibility of the physical environment,¹³⁴ as well as the information and communications.¹³⁵

8. Discrimination of children

8.1. Fully implemented

116.1 Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, as well as the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (Portugal)

The Parliament of Georgia ratified the Optional Protocol on the Communication Procedure to the Convention on the Rights of the Child.¹³⁶

8.2. Technically implemented (No progress perceived)

117.14 Provide legislation explicitly prohibiting corporal punishment of children, including in the home, and consider awareness-raising activities to increase public knowledge about the issue (Estonia)

117.15 Clearly prohibit all corporal punishment of children in all settings, including at home, and make awareness-raising campaigns to increase public knowledge about its harmful effects (Hungary)

117.16 Abandon the practice of corporal punishment of children and encourage non-violent forms of discipline (Poland)

Corporal punishment of children is still rampant in Georgia. Unfortunately, this phenomenon has not been identified as a human rights violation. Accordingly, no work for its elimination has started in any direction. The current legal framework leaves the issue of corporal punishment of children totally unaddressed, making it impossible to appropriately respond to this vicious practice. Corporal punishment is considered to be a natural part of child rearing and appropriate discipline in Georgia today. No state agency ensures that positive parenting techniques are taught to prospective or current parents. Slapping, kicking, shaking,

¹³³ Preliminary Results of Monitoring of Human Rights-related Strategies and Action Plans (2016-2017), The Rights of Persons with Disabilities, 2018, pg. 31;

¹³⁴ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, P. 99, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 21.05.2018.

¹³⁵ The Preliminary Results of the Performance Monitoring of the Human Right Strategies and Action Plans (2016-2017 years), Rights of Children, Rights of the Persons with Disabilities, Gender Equality and Rights of Women, the Human Rights Education and Monitoring Center (EMC), 2018, P. 99, available at: <https://emc.org.ge/ka/products/adamianis-uflebata-datsvis-strategiebisa-da-samokmedo-gegmebis-shesrulebis-monitoringis-pirveladi-shedegebi-2016-2017>; last visited: 21.05.2018.

¹³⁶ The Optional Protocol on the Communication Procedure to the Convention on the Rights of the Child, ratified by the Parliament of Georgia by decree № 5581-II on 24 June 2016, in force since 19 December 2016 in Georgia, <https://matsne.gov.ge/ka/document/view/3321299>, retrieved: 31.01.2018;

forced ingestion and other forms of punishment are not considered as a crime and, accordingly, this treatment of children is permitted. As a result, children's rights remain unprotected.

Corporal punishment is not fully and clearly prohibited by Georgian legislation¹³⁷. Although the legislative acts provide for the 'prohibition of violence against children in all its forms' because corporal punishment of children for upbringing purposes is not considered to be violence, the said legislation is not applicable for the punishment of children unless the latter has severe consequences (signs of violence, bodily injuries, etc.).

Corporal punishment is neither explicitly prohibited by legislation regulating child care institutions and alternative forms of child care, nor by acts regulating day care centers and other child care agencies.¹³⁸

8.3. Technically implemented (No perceived progress)

117.90 Take measures for deinstitutionalization of child-care institutions and development of alternative, family-type services for deprived children (Ukraine)

There are four large residential institutions in Georgia: The Tbilisi infant house, Kojori house of children with disabilities, St. Matata Apostle boarding school in Batumi and Ninotsmina's St. Nino Boarding School of Orphaned, Abandoned and Homeless Children. In 2016 one single-family house was set up in Kutaisi, where 7 children were transferred from Tbilisi infant house. 25 children from the same institution were involved in the subprogram of foster care. Another small family house which was foreseen by the human rights action plan did not meet its goal of operation by the year end of 2017¹³⁹. As Children with disabilities continue to live in Kojori and Tbilisi infant houses and in this field, therefore the measures taken by the state should not be considered as efficient.

Despite the commencement of the deinstitutionalization process, children continued to live in boarding houses of minors that exist under the Georgian Orthodox Church and Muslim community. By 2016 there were 36 large child institutions, housing 1146 children, which were operating beyond state regulation¹⁴⁰. Outside of regulation, in these institutions the rights of the child were permanently violated in a systemic manner¹⁴¹.

8.4. Progress perceived

118.41 Allocate the resources necessary for the successful realization of the Strategy of the Health Protection System 2014-2020, which is aimed at strengthening maternal and child health (Belarus)

¹³⁷ The only exception is the Law of Georgia on General Education, Article 19, Paragraph 1, which prohibits corporal punishment of children (although using different definitions). The Article reads: 'School discipline should be protected by methods, which are based on respect for the freedom and dignity of the student and the teacher'. However, the article does not specify the forms of corporal punishment and does not include an explicit ban of this phenomenon

¹³⁸ The Government's Compromise on Violence against Children, 2016,

http://www.osgf.ge/files/2016/EU%20publication/Angarishi_A4_Children_Rights_ENG.pdf

¹³⁹ The letter of the Ministry of Labor, Health and Social Affairs, 3 October 2017, № 01/62016;

¹⁴⁰ NGO Partnership for children, Equal treatment to the schools of faith, Final Report, 2016;

¹⁴¹ Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2015, pp. 613-617, <http://www.ombudsman.ge/uploads/other/3/3891.pdf>, retrieved: 01.02.2018;

Activities in terms of decreasing child mortality rate has partially been fulfilled¹⁴². Child mortality remains a pressing problem in the country. Although compared with official data from 2015, child mortality rate has slightly decreased, however it remains to exceed the rate in developed countries. Development of the preventive measures against child mortality is problematic¹⁴³.

8.5. Progress perceived

117.73 Increase training of teaching staff throughout the country, so that they are better prepared to identify situations of abuse or domestic violence against children (Paraguay)

117.74 Continue efforts in the fight against human trafficking (Greece)

Despite the work of the government for the elimination of violence against children the prevention of violence, timely detection of cases and effective implementation of measures of protection and assistance are still problematic. Domestic violence against children is especially acute, which relates to child neglect and other forms of violence and timely reaction to protect them from repeated violence. One of the main on-going challenges is the absence of rehabilitation services for child victims of violence. The rate of crimes against children's sexual freedom and the cases of violence against children at school remain high¹⁴⁴.

According to the provided information, up to 100 children have been involved in the general education system since 2016.¹⁴⁵ The subprogram of providing shelter to homeless children is also functioning. The subprogram is approved annually within the scope of "the state program on social rehabilitation and child care". In 2015, 142 children were involved in the program, their number decreased in 2016 and amounted to 123, as for 2017 - the number of the beneficiaries of the program is 156.¹⁴⁶ Inefficiencies of the activities developed to protect the rights of the children, living and working in the street have not changed after the implementation of the action plan. The right to education, access to health services and societal integration of children living and working in the street remains problematic. The lack of precise statistical data complicates taking measures based on a needs requirement. Geographical accessibility of housing shelters is another challenge. There is no response to the involvement of children in antisocial activity and forced labour. There is no response to reporting on hotline (1505) about children living and working in the street. Moreover, the qualifications of people responsible for responding to the violence against children living and working in the street is problematic.¹⁴⁷

¹⁴² The letter of the Ministry of Labor, Health and Social Affairs, 3 October 2017, № 01/61915; The letter of the Public Service Development Agency, 28 September 2017, № 01/260632;

The letter of the Ministry of Labor, Health and Social Affairs, 3 October 2017, № 01/61915;

¹⁴³ Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2016, pp. 554-557, <http://www.ombudsman.ge/uploads/other/4/4494.pdf>;

¹⁴⁴ Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2016, pp. 568-576, <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, retrieved: 28.01.2018;

¹⁴⁵ The letter of the Ministry of Education and Science of Georgia, 28 September 2017, № MES 01701171300;

¹⁴⁶ Official web page of the Ministry of Labor, Health and Social Affairs, statistical data, http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=610, retrieved: 01.02.2018;

¹⁴⁷ Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2016, pp. 594-597, <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, retrieved: 28.01.2018;

8.6. Progress perceived

117.84 Strengthen its national strategy to reform the prison system, in particular to promote the prompt reintegration of juvenile detainees into society (Morocco)

117.85 Undertake effective measures to guarantee access to education for juveniles in the penitentiary system (Croatia)

In order to promote education of the accused/convicted juveniles, rules on regulating the learning process in the penitentiary institutions was adopted.¹⁴⁸ In 2016-2017, 93 children were involved in the program on promoting education of the accused/convicted juveniles.¹⁴⁹ 5 juveniles completed the program externally, 6 juveniles took part in school-leaving examinations, and two juveniles passed the unified national examinations.¹⁵⁰ Despite the works implemented, the detention of accused juveniles at institutions for adults remains actual¹⁵¹. An insufficient quantity of rehabilitation services, especially the anti-social behavior prevention programs, are still problematic¹⁵².

The lack of effective quality control system is problematic in terms of establishment of legislative and institutional guarantees for juvenile justice¹⁵³.

9. Internally displaced people (ecological migrants)

Technically implemented (no progress perceived)

117.117 Take the necessary steps to address concerns over the rights of vulnerable groups, including internally displaced persons, refugees and migrants, and carry forward measures to integrate them effectively into the broader social and political systems (Republic of Korea)

117.119. Strengthen measures to protect displaced persons and include them in public social development policies (Chile)

118.53 Ensure greater participation of internally displaced persons in decision-making related to projects affecting them, particularly those concerning access to adequate housing (Spain)

118.54. Strengthen protection of the economic and social rights of internally displaced persons, including by protecting against unlawful evictions and resolving issues related to legal ownership of living spaces currently inhabited by internally displaced persons (Canada)

¹⁴⁸ Joint order №110/N/124 of the Minister of Corrections and the Minister of the Education and Science of Georgia on “Approving the Rule on Getting General Education by the Accused/Convicted Juveniles and Regulation of Learning Process in Penitentiary Institutions of the Ministry of Corrections” adopted on 1 September 2016, <https://matsne.gov.ge/ka/document/view/3356743>, retrieved: 03.02.2018;

¹⁴⁹ The letter of the Ministry of Corrections, 9 October 2017, № MOC 41700789658;

¹⁵⁰ The letter of the Ministry of Corrections, 9 October 2017, № MOC 41700789658;

¹⁵¹ Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2016, p. 26, <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, retrieved: 28.01.2018;

¹⁵² Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2016, p. 115, <http://www.ombudsman.ge/uploads/other/4/4494.pdf>, retrieved: 28.01.2018;

¹⁵³ Parliamentary Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2016, p. 7, <http://www.ombudsman.ge/uploads/other/4/4089.pdf>, retrieved: 05.02.2018;

Fulfillment of the above-recommendations is considered from the prospective of the rights of persons displaced due to natural disasters and not from conflict.

Unlike international standards¹⁵⁴, Georgian national legislation does not recognize persons affected by natural disasters (hereinafter the eco-migrants) as internally displaced persons (hereinafter the IDPs). Under Georgian Law¹⁵⁵, only persons displaced due to a conflict are the IDPs. Therefore, national regulations providing various, including social guarantees and integration policies for the IDPs, do not apply to the eco-migrants.

Besides, there is no uniform legal framework for the persons affected by natural disasters¹⁵⁶. The legal act, Order N779 of the Minister of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia (hereinafter - the Minister) regulates only the process of resettlement of the eco-migrant families. Some progress has been achieved in the resettlement and privatization of houses for eco-migrant families between the years 2013 and 2017¹⁵⁷; however, to date social guarantees enjoyed by IDPs do not apply to eco-migrants and unable to receive status-based assistance, eco-migrants do not enjoy right to compensation for rent and one-time monetary assistance - allowances that are frequently used by IDP families. Integration policies need to be developed for the eco-migrants.

The Tbilisi flood in June 13-14, that killed 23 people and destroyed the property of dozens stressed the importance of developing comprehensive regulations to protect the rights of persons displaced due to natural disasters. Due to shortcomings in existing regulation, it was necessary to develop ad hoc regulations to repair damage suffered by Tbilisi inhabitants. According to the newly drafted acts, the Tbilisi Municipality was vested with the responsibility to redress harm and compensate families and individuals who suffered from the June flooding, unlike any other situation of natural disaster, when the Ministry is responsible to provide housing only to the victims¹⁵⁸.

¹⁵⁴ There is no single definition of eco-migrants at international level, as well as there is no universal, binding international document regarding eco-migrants, however, the 1998 UN Guiding Principles on internally displaced persons defines persons displaced due to natural disasters as internally displaced persons, Preamble, para. 2.

Also, according to the International Organization of Migration (IOM) migrants are persons who are forced to leave their place of permanent residence due to the environmental changes that endanger their lives or living conditions; see, International Organization of Migration (IOM), report on the world migration, 2010, pp. 73-74.

¹⁵⁵ Georgian Law on Internally Displaced Persons

¹⁵⁶ Draft law on eco-migrants prepared by the Commission established under the Order of the Minister of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia was disapproved by the Government of Georgia. Consequently, it was not initiated in the Parliament; See, Parliamentary Report of Public Defender of Georgia, p. 481, 2016, available at <http://www.ombudsman.ge/uploads/other/4/4882.pdf>

¹⁵⁷ up to 400 families are provided with houses by the Ministry between 2013 and 2017 and the process of privatization has also started, but allocated financial resources are not adequate, as there are 3 909 ecomigrant families registered in Georgia; See, Parliamentary Report of Public Defender of Georgia, p. 481, 2016, available at <http://www.ombudsman.ge/uploads/other/4/4882.pdf>

¹⁵⁸ See, Status of protection of different groups from discrimination in Georgia, Report of the Coalition for Equality, p. 78, 2018, available at [http://www.osgf.ge/files/2018/antidiscrimination%20ilovepdf_merged_\(2\).pdf](http://www.osgf.ge/files/2018/antidiscrimination%20ilovepdf_merged_(2).pdf)

See, also, Parliamentary Reports of the Public Defender of Georgia, pp. 692-694, 2015 and pp. 484-485, 2016, available at <http://www.ombudsman.ge/uploads/other/3/3892.pdf> and <http://www.ombudsman.ge/uploads/other/4/4882.pdf> respectively.

Individual cases examined by various human rights institutions in the country show that the victims of natural disasters are in need of socioeconomic support from the state in addition to housing; eco-migrants encounter integration problems in their new settlements, have limited access to livelihood and there are families who reside in privately owned houses for decades which from time to time cause social conflicts¹⁵⁹.

10. Gender discrimination

10.1. Implemented

117.6 Take effective and coordinated measures on the issue of violence against women and domestic violence, including ratification of the Istanbul Convention on preventing and combating violence against women and domestic violence (Netherlands)

117.25 Further effectively implement the National Action Plan on Gender Equality and the Action Plan for Combating Domestic Violence by ensuring required financing and reinforcing the capacities of professionals (Lithuania)

In 2017 Georgia ratified the Convention on Preventing and Combating Violence against Women and Domestic Violence. In order to harmonise the current legislation with the Convention the ratification package was submitted to the Parliament of Georgia. The Ministry of Justice of Georgia drafted the changes to up to 25 legislative acts. The Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence has undergone a series of amendments to strengthen its provisions; according to the new amendments the scope of this law is expanded and now covers not only domestic violence, but violence against women in general.¹⁶⁰ As a result the restrictive and protective orders can be issued with regard to all acts of violence against women. New crimes were introduced into the Criminal Code of Georgia, such as stalking, female genital mutilation and forced sterilization.

The government established the national Action Plan for 2016-2017 on the measures to be implemented for combating violence against women and domestic violence and protection of victims/survivors. The Human Rights Action Plan of 2016-2017 provided several activities in order to combat gender stereotypes and gender inequality. Informational meetings and campaigns on harmful practices, such as child marriage and gender-based sex selection is being conducted in regions populated by national/ethnic minorities.

10.2. Progress perceived

117.60 Take measures to prevent domestic violence, including by raising awareness, encouraging women to report acts of sexual and domestic violence, protecting the victims and ensuring the effective investigation, prosecution and punishment of perpetrators (Slovenia)

The training program on increasing women's access to justice, as well as combating violence against women and domestic violence has been designed for different stakeholders. State agencies have carried out several activities to raise awareness, including thematic informational meetings with the population, mass campaigns against domestic violence. The number of reported domestic violence cases has

¹⁵⁹ See, Parliamentary Report of the Public Defender of Georgia, pp. 690-692, 2015, available at <http://www.ombudsman.ge/uploads/other/3/3892.pdf>

¹⁶⁰ Implementation of Gender Equality Policy in Georgia, 2017, p. 7

significantly increased in recent years. If the number of domestic violence cases was 591 in 2014, it was 2192 in 2017.¹⁶¹

A free consultation hotline is functioning on issues of violence against women. Furthermore, the State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking offers various services to those women who are the victims of violence. Access to shelters has been increased and now there are five state shelters and one crisis center in Tbilisi.

10.3. Technically implemented (no progress perceived)

117.24 Strengthen the Gender Equality Council (Latvia)

The newly created Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence complements the work of the parliamentary Gender Equality Council. The Council is charged with inter-agency coordination and monitoring the implementation of laws within the executive branch of government.

To facilitate the municipalities' efficient actions toward gender equality issues and coordinated work with the Gender Equality Council of the Parliament; the Municipal Gender Equality Council was established.¹⁶²

The Gender Equality Law still lacks an enforcement mechanism. The law does not require local self-governing bodies to conduct gender impact analysis of policies and programs, to undertake gender-responsive budgeting, and the law does not regulate municipal-level gender equality councils. All the abovementioned gaps hinder effective implementation of the law.¹⁶³

10.4. Not Implemented

117.11 Continue efforts towards the adoption of administrative and legislative measures to achieve equality of women, in particular to ensure their access to social and health services in all areas of Georgia and provide the same work and pay opportunities to men and women (Mexico)

117.12 Strengthen existing law and practice to combat gender-based discrimination and sexual harassment, inter alia, with regard to labour (Poland)

Despite the obligations undertaken under international treaties by Georgia, sexual harassment is not defined in Article 2(4) of the Labour Law; furthermore, sexual harassment is not included in the Anti-discrimination Law neither.¹⁶⁴

According to data from the Public Defender of Georgia, the cases of sexual harassment in the workplace are quite frequent, although the number of claimants is very low.¹⁶⁵ In order to harmonise the current

¹⁶¹ Domestic Violence Statistics in Georgia, IDFI, 2018, available at:

https://idfi.ge/en/domestic_violence_statistics_in_georgia

¹⁶² Implementation of Gender Equality Policy in Georgia, 2017, p. 11

¹⁶³ Gender Equality in Georgia: Impediments and Recommendations, UNDP, 2018, pp. 25-34. Available at:

http://www.ge.undp.org/content/dam/georgia/docs/publications/DG/UNDP_GE_DG_Gender_Equality_in_Georgia_VOL1_ENG.pdf

¹⁶⁴ Sexual Harassment beyond Legal Regulation in Georgia, OSGF, 2017, Available at:

http://osgf.webintelligence.de/app/uploads/2018/03/Equality_ENG.pdf

¹⁶⁵ Public Defender of Georgia, Annual Report, 2014

legislation with the Istanbul Convention, and meet the requirement of EU-Georgia Association Agreement sexual harassment should be regulated under national legislation of Georgia.

10.5 Not Implemented

117.100 Develop a strategy to increase the participation of women in decision-making positions in all branches of the Government (Austria)

117.101 Continue working to boost the participation of women in political and executive positions under principles of equality without discrimination, particularly guaranteeing the participation of rural women (Colombia)

117.102 Increase efforts and allocation of necessary resources to guarantee greater participation of women in political and leadership positions (Costa Rica)

Promoting a higher participation of women in political life and decision-making processes is one of the main goals of the Georgian National Strategy. Regardless of this proclaimed aim, ensuring de facto equality remains a challenge.¹⁶⁶ According to Inter-Parliamentary Union data Georgia ranks 126th out of 193 countries regarding the representation of women in parliaments, as women constitute only 16%.¹⁶⁷

The existing legislation is not sufficient for effective implementation of gender equality policy. Also, the current electoral system in Georgia does not promote nor encourage women's political participation.¹⁶⁸ On 12 June 2017, the working group on women's political representation submitted the legislative initiative to the Parliament on gender quotas. The initiative was not supported by the Parliament in March 2018.

Additional focus is required to remove barriers that prevent women's career development. The practice shows that at the level of executive authority, both in the ministries and staff offices of the State Minister, most of the employees are women, but they are less likely to be in the managing positions.¹⁶⁹

10.6. Technically implemented (no progress perceived)

117.105 Improve women's access to high quality health care and health-related services (Rwanda)

118.42 Take steps to ensure that sexual and reproductive health services, including abortion and contraception services and information, are available, accessible and affordable to all women and girls, especially in rural areas and among vulnerable groups (Denmark)

118.43 Ensure universal access to quality reproductive and sexual health services, including contraception services, especially to women in rural areas and those living with HIV/AIDS (Brazil)

¹⁶⁶ Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Georgia, 9 June, 2016, A/HRC/32/42/Add.3

¹⁶⁷ Women in National Parliaments, IPU, 2018, available at: <http://archive.ipu.org/wmn-e/classif.htm>

¹⁶⁸ Women in Georgian Politics, Georgian Young Lawyer's Association, pg. 8

¹⁶⁹ Report on the Situation of the Protection of Human Rights and Freedoms in Georgia, Public Defender of Georgia, 10 December 2016

According to the qualitative research conducted by the Association, “HERA-XXI”, an abortion and family planning service in Georgia, revealed that women use abortion as a primary method of family planning, moreover, answers received from respondents confirm a lack of knowledge for methods of contraceptive and lack of supply of contraception. These findings show high demand for abortion and low demand on family planning services in all regions of Georgia. Many women and girls face challenges in accessing information and education on modern methods of contraception.

In 2014, the abortion law was amended to include a new provision ***on mandatory counselling and a five-day waiting period*** requirement before obtaining an abortion during the first 12 weeks of pregnancy. A comparative review report of the organisation indicates that abortion services are not readily available in rural areas, and women have to travel long distances in order to have access. It presents a geographical and financial obstacle for women, which requires additional transportation costs and time. The report indicates that the mandatory five-day waiting period considerably adds to the costs as it requires additional visits to a medical facility. This creates barriers for women to gain access to safe abortion and quality reproductive health services.

The Georgian Orthodox Church strongly opposes the legality of abortion and tries to influence public opinion and pressure the government to impose restrictions on abortion.¹⁷⁰ Refusals of care by health care workers jeopardize women’s timely access to sexual and reproductive health care. Sample frame, acquired from Ministry of Labor Health and social affairs of Georgia, consisted of 655 service medical facilities that are licensed for the provision of gynecological services in the country. However, according to the findings of the research conducted by the Association “HERA-XXI” only 17 % of a total 655 medical facilities provide abortion services.¹⁷¹ In addition, there are discriminatory restrictions imposed by some clinics regarding certain groups of women and girls seeking abortions, particularly persons under 16, 16-18-year-old.¹⁷² There is a distinctive lack of comprehensive youth friendly sexual and reproductive health services, including family planning. The state has a weak monitoring mechanism for ensuring human rights compliance by health care institutions and professionals.

11. Domestic Anti-discrimination Mechanisms

11. 1 Not implemented

117.33 Include in the implementation of its anti-discrimination legislation effective measures that strengthen religious tolerance, gender equality and equal rights for ethnic minorities, women and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, so as to increase tolerance and social inclusion in Georgian society (Netherlands)

117.44 Take all necessary measures to effectively fight against discrimination, including against religious minorities and LGBTI persons (France)

¹⁷⁰ Artificial Termination of Pregnancy in Georgia (Comparative Review), HERA XXI, 2014

¹⁷² Abortion Services Availability and Readiness Assessment (Analytical Report), HERA XXI, RFSU, Institute of Social Studies and Analysis, 2015

117.48 Improve implementation and enforcement of the Law on the Elimination of All Forms of Discrimination, particularly in its application towards the protection of individuals belonging to sexual and religious minority groups (Canada)

Adoption of the Law of Georgia on the Elimination of All Forms of Discrimination in 2014 must be assessed positively. However, important shortcomings of the law create obstacles to its effective implementation. The law defines common courts and the Public Defender of Georgia (PDO) as equality bodies. The latter functions as a quasi-judicial body and considers individual complaints on claims of discrimination. However, the Public Defender is not equipped with effective instruments for the execution of the recommendations issued. Regarding cases of discrimination against private persons, observance of PDO recommendations depends on the good will of the private person and is not guaranteed through an execution mechanism.¹⁷³ Moreover, the law does not foresee the obligation of private parties to provide information and present its views to the Public Defender in the process of case consideration, that essentially limits the capacity of the Office to consider similar cases. When public entities fail to observe the recommendations issued, the Public Defender initiates an administrative dispute subject to consideration by 3 instances, this further prolongs the effective execution of recommendations and makes it subject to court supervision.¹⁷⁴ The deadline for submitting a claim to common courts, which foresees a 3 month period starting from the moment the applicant received information about discrimination, is also problematic. This timeframe is not sufficient for victims of discrimination to initiate complex litigation and simultaneously complicates use of the Public Defender and court mechanisms as complementary bodies (continuation of a dispute in court with already issued recommendation of the Public Defender and the possibility to have a recourse to a more effective mechanism of redress).¹⁷⁵

Legislative initiative prepared by the Public Defender in 2015 on the shortcomings of the law, still has not been approved by the parliament. Shortcomings in the law has an adverse effect on the proper and effective functioning of the Public Defender's office, which in turn negatively reflects on the reporting rate to equality body.

11.2 Not implemented

118.2 Amend the Law on the Elimination of All Forms of Discrimination to include a mechanism of fines and other sanctions for use by the Public Defender's Office in the event of discriminatory actions (Sweden)

The Public defender has no right to impose ether fine or the other sanctions upon a perpetrator. The decisions of the Public Defender are non-binding.

¹⁷³ Coalition for Equality, Annual report, 2015, available at:

http://www.osgf.ge/files/2015/News/29%20ivlisi/Report_210x270mm.pdf

¹⁷⁴ Public defender, Special Report on Fight against Discrimination, Its Prevention and Situation of Equality, 2017, available at: <http://ombudsman.ge/en/reports/specialuri-angarishebi/special-report-on-fight-against-discrimination-its-prevention-and-situation-of-equality3.page>

¹⁷⁵ Coalition for Equality, Annual report, 2018, available at:

http://www.osgf.ge/files/2018/Publications/CE_report_geo.pdf

According to the Article 14¹, paragraph 2, subparagraph “h” The Public Defender of Georgia “is authorized to apply to the court as an interested person, according to the Administrative Procedure Code of Georgia and request issuance of an administrative legal act or taking measures if the administrative body does not respond to or adopt his/her recommendation and there is sufficient evidence of discrimination.” However, as mentioned in the provision it only relates to administrative bodies and such authority does not apply to private persons. It is noteworthy that the Public Defender of Georgia has prepared a set of legal changes reflecting some of legal flaws in the law on the Elimination of all Forms of Discrimination. The amendments passed the first hearing on 13 November 2015, however, the process stopped at that stage.

The legal gaps that the Public Defender aimed to reflect relate to the following issues:

Administrative, state authorities and local self-governments are the only bodies which are responsible for producing documents to the Public Defender while private bodies are exempt from such obligation. Therefore, private bodies may do so only at their free will. Importantly, based on the information provided by the Public Defender’s Office, recommendations and/or general statements issued by the latter are most often ignored by private bodies. To solve this problem the draft law provides the application of the abovementioned obligation to private persons. Moreover, if private persons or public bodies fail to present requested information and there is sufficient evidence in the case to suspect discrimination then factual circumstances indicated in a complaint/application are considered proven.

Grounds for the cancellation or termination of cases by the Public Defender stipulated by the law makes the activities of the latter less effective. In particular, pursuant to the Article 9, paragraph 1, subparagraph “b” of the law of Georgia on the Elimination of All Forms of Discrimination, the Public Defender of Georgia shall suspend proceedings if due to the same alleged discrimination administrative proceedings are under way. The Public Defender suggests removing subparagraph “b”.

Coalition for Equality

Web: <http://equalitycoalition.ge/en>

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