

**CONTRIBUTION of the
GEORGIAN CIVIL SOCIETY
ORGANISATIONS to
EU-GEORGIA
HUMAN RIGHTS DIALOGUE**

2022



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Prepared with the initiative of the Open Society Georgia Foundation, this document brings together assessments by leading civil society organisations on the key human rights challenges in Georgia in 2021. There are 13 sections: 1) The Implementation Mechanism for the Anti-discrimination Law and its Practical Implementation; 2) Freedom of Religion and Belief in Georgia; 3) Ethnic Minorities in Georgia; 4) Violence against Women and Domestic Violence; 5) Political participation of Women; 6) Covid-19 and its Impact on the Socio-Economic rights of Various Vulnerable Groups in Georgia; 7) Rights of LGBTQI Community; 8) Rights of the Child; 9) Human Rights Situation in the Occupied Regions of Georgia (Abkhazia and Tskhinvali Region/South Ossetia); 10) Labour Rights; 11) Judicial and Democratic Institutions; 12) State Policy for Combatting Torture and Ill-treatment in Georgia and 13) Freedom of Media.

We hope this independent assessment will further facilitate the EU-Georgia Human Rights Dialogue process and highlight the input and recommendations of civil society to ensure better protection of human rights and fundamental freedoms in Georgia.

May 2022



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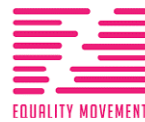
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The Implementation Mechanism for the Anti-discrimination Law and Its Practical Implementation

The Law of Georgia on the Elimination of All Forms of Discrimination has been in force since 2014, however, equality in practice remains a problem. In 2021, extremist and violent groups strengthened significantly, which was facilitated by government statements.¹ After the events of 5 July, when about 50 journalists were attacked and the offices of Tbilisi Pride, Shame Movement, and Human Rights House were raided,² not only were the organisers of the violence not punished, but they even formed a political party and opened around 70 offices throughout Georgia. The impunity of the organisers suggests that the government is protecting these radical groups and is not effectively investigating the events of 5-6 July, even though there is ample video evidence that is publicly available.

Regarding the implementation of the anti-discrimination law, it should be noted that the state has not yet developed an equality policy and the relevant agencies do not understand their role and competence in the process of achieving equality. This makes the appropriate protection of rights practically impossible. What an equality policy should entail and the provision of internal anti-discrimination regulations and internal complaint mechanisms are still alien concepts to organisations.³ The issue is particularly noteworthy at the municipal level: notwithstanding the local self-governments' important role in the implementation of the equality policy, no noticeable progress has been made in this regard over the years.

The hate speech used by politicians is also noteworthy. Over the years, the Public Defender has been urging decision-makers to make statements supporting equality. Instead of sharing this recommendation, officials actually encourage discrimination against vulnerable groups. Female members of parliament were not allowed to protest the events of 5 July, were forcibly removed by force from speaking from the tribune and subjected to sexist remarks by ruling party officials. The Gender Council of the Parliament did not intervene to denounce their

1. See, e.g., the statement of the Prime Minister of Georgia at: <https://bit.ly/3N5jcbt>

2. See the statement of the Human Rights House at: <https://bit.ly/37CWIFI>

3. See Articles 3 and 4 of the Law of Georgia on the Elimination of All Forms of Discrimination, which stipulate the introduction of an equality policy by both public and private organisations.

behaviour, and justified the conduct as an attempt to prevent disorder during parliamentary proceedings.⁴

In her report, the Public Defender noted that the attempt of male MPs to neutralise female opponents by using physical force sets a particularly alarming precedent, as it reinforces the stereotype that a woman is not the creator and/or the participant of processes, but an object, an inanimate item that a man can put in her place, completely ignoring her will and dignity. The Public Defender noted that such actions could have a negative impact on women's equality and participation in politics, especially when violence against women, as well as their involvement in politics, still remains a serious challenge in the country. Such behaviour is particularly concerning when it comes from a member of parliament who the public expects to address the issues of women's empowerment, gender-based violence, and the elimination of discrimination in the country.⁵

Recommendations

- Effectively investigate the events of 5-6 July and hold all of the organisers and other responsible participants accountable.
- Introduce equality policy and respective internal complaint mechanisms for addressing discrimination in public and private structures.
- In examining the cases of alleged discrimination on the grounds of sex and other grounds, the Gender Equality Council should ensure the proper investigation of the circumstances. In doing so, it shall remain impartial and apply international standards.

Prepared by the Coalition for Equality

4. See the Public Defender of Georgia, 'Special Report on Situation of Equality and Combating and Preventing Discrimination', 2021, p. 40-41. Available at: <https://bit.ly/3M71uEn>

5. Ibid.

Freedom of Religion and Belief in Georgia

Progress

2021 was a problematic year for Georgia in terms of human rights protection with negative implications for freedom of religion and belief and minority rights. The alarming news of the government's alleged mass surveillance demonstrated that the state is illegally spying on and trying to control faith-based and human rights organisations. Systemic problems revealed in previous years, including the state's lack of respect for freedom of religion and belief and discriminatory treatment of minority religious groups, remained unresolved.

The number of crimes motivated by religious intolerance decreased. In 2021 the Ministry of Internal Affairs, the Prosecutor's Office, and the Supreme Court published unified data on hate crimes in 2021, which is a positive development. The Ministry of Education continued revising the new school textbooks to align with human rights and non-discrimination standards.

Current situation

- In 2021 the revelations of alleged mass illegal eavesdropping and surveillance by the State Security Service were particularly alarming. On 13 September 2021, thousands of files were uploaded to online platforms containing personal data, communication, and information about the private lives of individuals. According to the content published by the media, the surveillance related entirely to religion and faith-based organisations. The materials show that the victims of the alleged surveillance are the Georgian Orthodox Church, other religious communities and their leaders, human rights NGOs, politicians, diplomats, and others with any connection to the topic of religion or any history of communication with religious organisations.
- The establishment of the State Agency for Religious Issues (SARI) under the office of the Prime Minister in 2014 paved the way for the freedom of religion and belief (FoRB) to fall under state control and the authority of the security services. The work and statements by SARI over these years have made it clear that the State considers FoRB a matter of state security and

has strengthened mechanisms to control religious groups, especially those of religious minorities.

- On 5 July 2021, the Georgian Orthodox Church's (GOC) clergy incited violence against participants of Tbilisi Pride and the media covering the event. As a result, more than 50 journalists were injured. However, nobody among the Orthodox clergy was punished for the violence.
- The number of crimes motivated by religious intolerance decreased compared to previous years, allegedly because the Jehovah's Witnesses, who are the most targeted community, did not have public gatherings because of the pandemic. A new hate crime case against Muslims in the village of Buknari was reported.⁶ In 2021 the European Court of Human Rights published an important judgment⁷ on the case of persecution and violence against Muslims in 2014 in the village of Mokhe.
- The existing discrimination, granting exclusive privileges only to the Georgian Orthodox Church and establishing differential treatment towards minority religious communities, particularly in the Law on State Property and the Tax Code, remained unresolved. The Tolerance and Diversity Institute has four pending strategic litigation cases at the Constitutional Court on the discriminatory provisions of these laws.⁸
- Muslims in Batumi continued to pray in the open air as the court hearings on the rejection of the mosque building permit remained protracted. In 2017, local Muslims applied to Batumi City Hall for a permit to build a mosque on a plot the community owns. The City Hall refused to grant the permit. In 2021 the case moved from the appeals court to the Supreme Court of Georgia and remains pending.⁹ The long-standing problem for non-Georgian Orthodox religious communities of the restitution of historic religious property also remained unresolved during the reporting period.
- The alarming antisemitic statements of the Georgian Orthodox Church clergy that began in late 2020 continued in 2021. The GOC has neither acknowledged or condemned antisemitism expressed by high-ranking clergy members, nor has the State criticised these statements.¹⁰ Several alarming antisemitic incidents also took place in 2022.¹¹

6. More details about the developments in the village Buknari, <https://socialjustice.org.ge/en/products/buknari-kidev-erti-religiuri-konfliktis-adgili>

7. *Mikeladze and others v. Georgia*, Application no. 54217/16

8. More information about pending constitutional claims is available in the report of Tolerance and Diversity Institute, page 16 https://tdi.ge/sites/default/files/forb_in_georgia_amid_and_beyond_pandemic.pdf

9. The Batumi new mosque case has been appealed at the Supreme Court, TDI, 2021 <https://tdi.ge/en/news/1030-case-construction-new-mosque-batumi-has-been-appealed-supreme-court>

10. The full chronology and information on antisemitic statements and relevant developments is available in TDI's document <http://tdi.ge/en/statement/antisemitism-church-updated-summary>

11. New Alarming Cases of Antisemitism in Georgia <http://tdi.ge/en/news/1021-new-alarming-incidents-antisemitism-georgia>

Recommendations

The State should:

- Ensure the separation of Church and State enshrined in the Constitution of Georgia, treat all religious communities equally, and eliminate discriminatory religious policy, practice, and legislation;
- Immediately investigate the alleged surveillance of religious organisations, civil society and others, grant the victim status to all affected persons and bring charges against all responsible state officials;
- Abolish the State Agency for Religious Issues, which instead of protecting freedom of religion or belief for all, promotes discrimination of minority religious communities and interferes with their autonomy;
- Critically assess, condemn, and address all the incidents of antisemitism.

Prepared by Tolerance and Diversity Institute (TDI)

Ethnic Minorities in Georgia

Progress

We welcome the adoption of the State Strategy for Civic Equality and Integration for 2021-2030. It explicitly acknowledges equality, integration, inclusiveness, and diversity as key principles to guide the State's action for the next ten years. Despite its long timeframe, however, it does not suggest new approaches or reforms in legislative, institutional, and political areas that would result in substantial improvements to the reality faced by minorities in Georgia.

The "1+4" simplified university programme for Armenian and Azerbaijani language students is a positive mechanism that facilitates access to higher education. It provides minorities an opportunity to pass university entrance exams in their native language and study Georgian language for one year beyond bachelors' studies. Increased civic activism and self-organisation in minority communities can be considered as its valuable outcome.

Current Situation

There have been no other positive measures taken to positively transform the political, social, economic, or cultural lives of minorities during the reporting period. Moreover, the conflict between Georgian and Azeri communities in Dmanisi (Kvemo Kartli) is a symptom of social exclusion and weak integration. The root-causes of exclusion derives from historically established perceptions that label ethnic and religious minorities as "others", "guests" and "diaspora" linked to neighbouring countries.

These perceptions were clearly illustrated in 2021, when the Parliament announced the formation of the Scientific-Advisory Council for National Minorities within the Committee on Diaspora and Caucasus Issues.¹² Considering minorities as "diaspora" was highly criticised by civil society actors and minority groups, thus the Council has not continued work, but alternative mechanisms were not suggested.

Consultative mechanism is the cornerstone of minorities' public and political partic-

12. Public Organisations condemn the Parliament's decision to consider ethnic minorities as diaspora, 17 March, 2021, available at: <https://socialjustice.org.ge/en/products/sazogadoebrivi-organizatsiebi-gmo-ben-parlamentis-mier-etnikuri-umtsiresobebis-diasporad-gankhilvis-gadatsqvetelebas>.

ipation.¹³ However, the Parliament and Government have been working for decades without a designated body.¹⁴ Minority Council under Public Defender's Office is the only format for minority dialogue and consultation, but high political bodies (i.e. the Parliament and Government) do not have the experience of institutionalised and regular cooperation with it.¹⁵

None of the positive measures that support minority participation in politics, such as quotas, financial benefits for the parties, reserved seats, etc., exists under the current constitutional system.¹⁶ Historically, the ratio of minorities represented in the Parliament has never been proportional to their general composition in total population.¹⁷ This number decreased after the 2020 parliamentary elections from eight to six MPs out of 150.¹⁸ Minority representation at the municipal level is also low, where ethnic Azeris and Armenians have 2-3 times fewer representatives than Georgians.¹⁹ Minority employment in the public sector is also limited, including those who graduated through the "1+4" higher education programme.²⁰

Unsurprisingly, political parties do not see minority needs and problems. The 2021 self-government elections demonstrated that political parties lack both a vision for and tactics to create inclusive, equal, and community-oriented politics.²¹ Minority needs are not reflected in political parties' agendas due to the low political representation, social and economic vulnerability, public engagement, democratic governance, etc.

In the context of low political participation, local authorities and the territorial state agencies in Kvemo Kartli and Kakheti do not provide translation services.²² While state

13. This is envisaged within the standards established by CoE Framework Convention on National Minorities. Article 15 of the Council of Europe Framework Convention on National Minorities imposes "to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and public affairs, in particular those affecting them."
14. Advisory Committee within CoE Framework Convention has consistently criticised Georgia for not having such body that would create an institutionalised, democratic, inclusive, and genuine dialogue process for ethnic minorities. See the Opinion of the Advisory Committee within the First Cycle in 2009, para 202-205, Second Cycle in 2012 - para 113 and third cycle in 2019 - para 136.
15. See Advisory Committee Opinion on Georgia, 3rd Cycle, 2019, para 136. available at: <https://rm.coe.int/3rd-op-georgia-en/1680969b56>
16. Ibid. 142-143.
17. National Minorities in the Parliament of Georgia, CSEM, Infographic, 2017.
18. Six MPs out of 150 after 2020 Elections, while their number was 11 in 2016 and eight in 2012.
19. Minority representation in local city councils is three times less than the majority: According to the CSEM research in 2017, in eight municipalities where minorities densely reside (Gardabani, Marneuli, Bolnisi, Dmanisi, Tsalka, Akhalkalaki, Akhaltsikhe, Ninotsminda) 779 ethnic Georgians have one representative in local city councils, while 1116 ethnic Armenians and 2945 Azerbaijanis have one representative in the same council.
20. Ethnic Minority Employment Policy, Social Justice Center, 2021. p. 4. <https://socialjustice.org.ge/ka/products/etnikuri-umtsiresobebis-dasakmebis-politika> For example, in the Marneuli Mayor's office only 36% of employees are minorities, while 91.4% of the population in Marneuli are minorities. In the Bolnisi Municipality Mayor's Office only 14% of employees are minorities; in Dmanisi and Tsalka municipalities the number is 21% and 22%, respectively.
21. Analysis of political parties' pre-election programmes from the perspective of minority needs. <https://socialjustice.org.ge/ka/products/partiebis-tsinasaarchevno-programebis-analizi-etnikuri-umtsiresobebis-sachiroebis-perspektivan>;
22. The government continues to ignore the linguistic needs of ethnic minorities, Social Justice Center, 2022, <https://socialjustice.org.ge/en/products/khelisufleba-etnikuri-umtsiresobebis-lingvistur-sachiroebis-kvlav-ugulebelqofs>

authorities are required to provide easy, prompt, effective, and practical access to public information, minorities cannot use their native language in administrative proceedings, even on the local level where they are densely populated.²³

Quality education is still not accessible for minorities. There is no state strategy and action plan for the development of bilingual education for minorities and education reform cycles systematically neglect their needs.²⁴ The continuation of the 1+4 programme is a positive measure taken in 2021, however, it needs to be made more responsive to the current challenges. One year of language instruction is not enough to receive a quality university education. Moreover, social guarantees are critical since students mostly come from the regions to Tbilisi and their living expenses are high. Minorities often cannot afford one-year university study.

The State has not taken positive measures to build community relations and confidence in the regions where diverse ethnic and religious groups are settled. An interethnic crisis emerged in Dmanisi, Kvemo Kartli, in May 2021. Initially, conflict focused on household matters but later it acquired obvious ethnic connotations.²⁵ Similar to other conflict situations, the Government, including the State Minister of Civil Integration, has not implemented confidence-building or conflict prevention measures.²⁶

The spontaneous and organised attacks by ultraconservative, chauvinist groups against ethnic minorities are noticeable, particularly during the pandemic lockdown. Representatives of radical groups, including pro-Russian Alt-Info and the political party “Conservative Movement”, attacked Samira Bairamova, a local activist from Georgia’s Azeri community in social media, on ethnic and gender grounds because she protested the opening of the “Conservative Movement” office in Marneuli and on 14 March 2021 repainted their building in the Ukrainian and EU flag colours.²⁷ Cases of violence by extremist groups, including an attack on representatives of the media on 5-6 July 2021, are not properly investigated and the legal responsibility of the organisers has not been established in any of the episodes. The State does not take systemic measures to prevent violent extremism. Political and legal loyalty towards extremist groups is alarming in recent years.

23. CoE Advisory Committee, Third Opinion on Georgia, para 18.

24. Critical Analysis of the State Strategy for Civic Equality and Integration, Social Justice Center, 2021, pg 4. <https://socialjustice.org.ge/en/products/samokalako-tanastsorobisa-da-integratsiis-sakhelmtsifo-strategiis-kritikuli-shefaseba> Minority access to preschool education is three times less than majority; In non-Georgian language schools 62.7% of teachers do not have teacher status; The native language textbooks are brought from the neighboring countries; University graduation rate is particularly low (30%) in minority groups. In 2018, 25% of minorities cannot pass university entrance exams, while this rate is 13% in majority community.

25. Social Justice Center address recent developments in Dmanisi, 20201. <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentris-gamokhmaureba-dmanisshi-mimdinare-protsebeze>

26. Interethnic violence has occurred in this region previously and along with seven other conflicts involving Georgia’s Muslim community points to an integration crisis; Buknari – One more place of religious conflict, Social Justice Center, 2021, <https://socialjustice.org.ge/en/products/buknari-kidev-erti-religiuri-kontekstis-mkone-konfliktis-adgili>

27. <https://socialjustice.org.ge/ka/products/movutsodebt-shss-s-droulad-aghkvetos-samira-bairamovas-misamartit-gazhgherebuli-mukara-da-skhva-danashaulebi>

Even at the municipality level ethnic minorities culture is not recognised and proper guarantees are not created for its development.²⁸ For example, for years Georgia's Azeri community have been demanding the declaration of Nowruz Bayram as a public holiday, but in vain.

Recommendations

- Establish long-term, sustainable consultative mechanisms for minorities within the Parliament of Georgia and on governmental level, also in minority municipalities.
- Adopt special positive mechanisms for political participation via consultations and discussions with minorities and human rights organisations.
- Adopt special positive measures to encourage the employment of ethnic minorities in central and local government institutions, with particular emphasis on the graduates of the 1+4 university programme;
- Adopt policies aimed at confidence-building in communities at risk of/prone to interethnic conflicts.
- Provide effective and timely investigation of criminal acts committed by radical, extremist groups against ethnic minorities and adopt preventive policies to handle these groups.
- Elaborate reform for multi-lingual and multi-cultural preschool and school education for minorities, which will be regularly monitored and revised based on research data and consultations with civil society actors and minority activists.
- Modify the 1+4 programme per minority social and educational needs and challenges.
- In parallel with the use of the state language, set up translation resources into the languages of ethnic minorities for important public documents and legal acts, also during administrative proceedings in municipalities densely and traditionally populated by ethnic minorities.
- Promote cultural diversity on education and culture policy levels.

Prepared by Social Justice Center

28. Cultural Domination and the Signs of Minority Culture Erasure in Kvemo Kartli Region, Social Justice Center, 2020, <https://socialjustice.org.ge/en/products/kulturuli-dominatsiis-da-umtsiresobebis-kulturis-tsash-lis-nishnebi-kvemo-kartlis-regionshi>; Assessment of Marneuli Culture Center Policy, Social Justice Center, <https://socialjustice.org.ge/ka/products/marneulis-kulturis-tsentrisk-politikis-shefaseba>

Violence against Women and Domestic Violence

Progress

In the reporting period, around 350 investigators and prosecutors were trained and granted a specialisation in sexual violence,²⁹ which has been an important step in increasing access to justice.³⁰ The trainings were based on the 2021 manual on Effective Investigation, Prosecution, and Adjudication on Sexual Violence Crimes in Georgia, guided by international human rights standards.³¹ This has resulted in the increase in criminal prosecutions of sexual violence against women by 76% as compared to 2020,³² while prosecutions of domestic violence also increased.³³ 2021 also saw the biggest recorded number of prosecutions of violence where a discriminatory motive of the perpetrator was identified.³⁴ The Ministry of Internal Affairs continued conducting information campaigns against child marriage³⁵ and nine Government institutions adopted internal mechanisms to prevent and address sexual harassment.³⁶

In March 2022, the Human Rights Department was formed at the General Prosecutor's Office.³⁷ One of the functions of the Human Rights Department is to address violence against women.

Current Situation

The Criminal Code of Georgia still fails to ensure that the definition of rape is based on the lack of free and voluntary consent as provided by the Istanbul Convention and other human rights instruments. Despite the trainings provided to law enforcement, there is still a long way to go to ensure victim-centered procedures (protecting them

29. Parliament of Georgia report, p. 47, at: <https://bit.ly/3Mf7RVP>; POG report, p. 82, at: <https://bit.ly/3M-18fay>

30. Trainings were conducted by the Ministry of Interior and General Prosecutor's Office in collaboration with Equality Now, UN Women, and the Council of Europe.

31. The manual was drafted by Equality Now, the Council of Europe, and UN Women in collaboration with the Ministry of Interior, General Prosecutors' Office, Judiciary: <https://bit.ly/3L7bcpC>

32. 2020 - 143 persons prosecuted, 2021 - 252 persons. p. 84, at: <https://bit.ly/3M18fay>

33. 2021 - 5144 persons prosecuted; 2022 - 4633 persons. See p. 84, at: <https://bit.ly/3M18fay>

34. 2021 - 732 persons prosecuted; 2020 - 208 persons. See p. 79, at: <https://bit.ly/3M18fay>

35. Conducted in partnership with UNFPA, at: <https://bit.ly/3xuzRAR>

36. See: <https://bit.ly/3uhnHbm>; <https://bit.ly/3tqqUpQ>; <https://bit.ly/3JvhE9s>; and <https://bit.ly/3KYdNC8>

37. See at: <https://bit.ly/3JNvDH5>

from secondary victimisation during investigation and trial stages, including with forensic expert examinations), move away from burdensome evidentiary requirements to prosecute and convict perpetrators and provide adequate support to survivors, including ones with disabilities.³⁸

Georgia’s Criminal Code does not criminalise “buying sex from a minor” and does not provide that this is a form of child abuse, rape, statutory rape or trafficking, as provided under international human rights law and the Council of Europe’s Lanzarote Convention. As a result, legislation allows perpetrators against children (mostly girls), especially those aged 16 to 18, to go unpunished. On the other hand, legislation provides administrative penalties against girls who are subjected to this abuse. A child under 18 can never “consent” to being prostituted and so-called buyers of sex should always be brought to justice.

Effective multi-sectoral cooperation between Government institutions and a comprehensive response to prevent and address child marriage, including child betrothal, is still absent, and existing referral procedures to protect girls from child marriage need to be strengthened. In 2021, the Ministry of Internal Affairs initiated investigations into 101 different crimes related to child marriage,³⁹ however, these data cannot show the full scale of the problem because of underreporting of the issue.⁴⁰

Identifying and responding to economic violence (such as restricting the victim from using her property/income and hindering the victim from gainful employment), as one form of domestic violence, remains a challenge, which is in part due to the lack of comprehensive and appropriate legislative regulation.⁴¹

It is particularly concerning that in 2021, the number of police reports on violence against women decreased,⁴² the number of investigations on domestic violence against women also decreased by 10.4%,⁴³ and the number of restraining orders issued for domestic violence decreased by 9%.⁴⁴ Such decrease in figures, which do not imply the decrease of prevalence in violence against women, might undermine the progress achieved in combatting violence against women in recent years.

38. See Georgian Parliament report, pp. 25-26, at: <https://bit.ly/3Mf7RVP> see also NGO statement at: <https://bit.ly/3MmAbWi>

39. See PDO report, pp 155, 156, at: <https://bit.ly/3uLkoG7>

40. See p. 55 at: <https://bit.ly/3wPuwUl>

41. PDO report p. 152, at: <https://bit.ly/3uLkoG7>

42. In 2020, the emergency number 112 received 18482 reports, in 2021 - 18007 reports. №MIA 3 22 00611295.

43. №MIA 3 22 00889676

44. See <https://bit.ly/3rF8Pmm>

Recommendations

- Amend the Criminal Code to introduce a consent-based definition of rape, move away from burdensome evidentiary standards and ensure victim-centered procedures for survivors, including for women with disabilities;
- Strengthen multi-sectoral cooperation, improve support services, and intensify awareness-raising campaigns for timely identification, prevention, and response to child marriage and make sure that any criminal proceedings are conducted with a victim-centered approach;
- Criminalise the buying of sex from anyone under 18 and remove administrative penalties against victims;
- Amend the Criminal Code article on domestic violence to incorporate systematic economic violence as a constituting element;
- Ensure the reversal of decreasing numbers of reporting, investigations, and issued restraining orders for domestic violence by maintaining the fight against VAW as a matter of priority.

Prepared by Equality Now

Political Participation of Women

On 28 June 2021, due to the amendments made to the Election Code of Georgia, the mandatory gender quotas for local self-government elections were substantially modified for the worse. In particular, according to the new regulations, a political party is obliged to compile a proportional party list so that at least one in three candidates, instead of every second candidate, is of the opposite sex for all local self-government elections to be held before the year 2028.⁴⁵ These changes were rapidly reflected in the draft law during the second hearing, whereas at the first hearing this issue was not raised at all and, consequently, was not discussed publicly at the committee or the plenary sessions in the Parliament. Thus, the local municipality elections were held in 2021 as per the amended legislation. As a result, women hold only 24% of seats at municipalities,⁴⁶ whereas if the law had not been changed, the number of women would have constituted more than 30%.

During the 2021 municipal elections, the forceful enlisting of women to serve as party coordinators and engage in unlawful behaviour was particularly problematic. According to the Georgian Women's Movement,⁴⁷ women were often compelled to serve as party coordinators due to poverty and other coercive circumstances such as being employed at state jobs, having family members under probation, etc. Party coordinators are sometimes engaged in illegal activities, such as vote-buying, tracking voters, influencing the will of the voter, threatening voters, etc. During the 2021 local elections, international monitoring organisations noted that despite the tracking of voters in the vicinity of polling stations being prohibited, pressure on voters by party coordinators, mostly allegedly from the Georgian Dream Party, was widely reported on the election day. The observer groups raised concerns also regarding the ability of voters to cast their ballots freely, reporting allegations of pressure on citizens to turn up to vote or attend party rallies, possible cases of vote-buying, and parallel registration of incoming voters by party coordinators.⁴⁸

45. Article 203(8) of the Election Code of Georgia. Available at: <https://bit.ly/3KG2UV2>

46. Election Administration of Georgia, see at: <https://cesko.ge/ge/home>

47. Georgian Women's Movement, see at: <https://bit.ly/3rh4RAm>

48. National Democratic Institute, Limited Long Term Election Assessment 2021 Municipal Elections in Georgia, see at: <https://bit.ly/37h2NI2>

Recommendations

- Strengthen and maintain mandatory gender quotas so that at least 30% of women's representation is ensured by the Election Code of Georgia;
- Strengthen legal regulations to protect rights, including labour rights, of persons engaged in elections as party coordinators;
- Eliminate the practice of giving illegal tasks to women coordinators and investigate alleged crimes committed against them.

Prepared by Union Sapari

Covid-19 and its Impact on the Socio-Economic rights of Various Vulnerable Groups in Georgia

Poverty and social vulnerability are one of the most critical problems in Georgia. Despite separate social programmes and several positive changes, there is no proper social protection system or strategy in the country that would provide fair, targeted, and effective assistance to the population and focus on strengthening vulnerable groups and overcoming poverty.⁴⁹

The COVID-19 pandemic has posed new challenges to the social security system. In May 2020, the Targeted State Program⁵⁰ was approved, which defined the rules for awarding compensation, the persons entitled to receive compensation, and the amounts of compensation.⁵¹ During the pandemic, the social assistance system was expanded.⁵² The anti-crisis programmes included several components of universal and targeted assistance.⁵³

The social situation has worsened in the face of the pandemic.⁵⁴ The COVID-19 pandemic particularly aggravated the situation of families with children living in social housing. The anti-crisis plans and programmes planned by the government did not consider the needs of families with children living in social housing. The major

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49. Public Defender of Georgia, Parliamentary Report on the Situation of Human Rights and Freedoms in Georgia, 2020, available at: <https://bit.ly/3FgjXv4>.
 50. The Government of Georgia, Decree N 286 on the Approval of the Targeted State Program for the Alleviation of the Damage from the COVID-19 infection caused by the novel coronavirus (SARS-COV-2), 2020.
 51. The programme also defined rules and conditions for providing one-time social assistance to children under 18 years of age.
 52. For large families (3 or more children) whose score does not exceed 100,000, additional assistance for 100 GEL was allocated. For families, whose points ranged from 65,000 to 100,000, an allowance of GEL 70 was allocated to the first member of the family and GEL 20 to the second member. Before the crisis, this category did not receive social assistance, except for 50 GEL for children under sixteen.
 53. Social Justice Center, Labor Relations and Social Protection During the Pandemic, 2020 available at: https://socialjustice.org.ge/uploads/products/pdf/Labor_Relations_ENG_1607680183.pdf
[For hired workers who were left without a salary during the pandemic, the anti-crisis package included a monthly allowance of GEL 200 for a maximum of 6 months before salary was restored. 300 GEL for the self-employed and informally employed left without income. One-time 200 GEL assistance for each citizen under 18 years of age; Students received benefits; more than a million households were exempt from utility bills related to electricity and natural gas; mortgage and other loan deferral or partial subsidy programmes were established with the private sector; part of the municipalities also assisted in the form of food]
 54. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf;
See also Social Justice Center, Labour Relations and Social Protection During the Pandemic, 2020 available at: https://socialjustice.org.ge/uploads/products/pdf/Labor_Relations_ENG_1607680183.pdf.

challenge for this vulnerable group during the COVID-19 pandemic was access to medications, health services, and food.⁵⁵ The right to education was most severely violated for children in social housing.⁵⁶ The social housing programme proved to be entirely unprepared for the effective involvement of children in online learning. This was related to the lack of technical equipment for online studying, as well as problems with Internet access and the living conditions in the social housing itself.⁵⁷

The COVID-19 pandemic has highlighted the failures that exist in the field of social protection of persons with disabilities in Georgia.⁵⁸ One of the main challenges identified in this regard is the limited nature of the support mechanism developed by the government.⁵⁹ Instead of the social package covering all persons with disabilities, the government selected only certain groups (persons with severe disabilities and children with disabilities) leaving a large part of the disability community without such support. representing 31-32% of persons with disabilities receiving a social package. The support mechanism was extended to approximately 40,000 people.⁶⁰ The support mechanisms were only temporary. Despite the continuing nature of the pandemic and challenges faced by persons with disabilities, cash disbursements were only possible during the so-called I and II waves⁶¹ and did not continue during subsequent waves of the pandemic. The government's anti-crisis plan defined a circle of persons with disabilities who were provided with financial support in the amount of 600 GEL only within 6 months (100 GEL per month).⁶² Also problematic was the fact that during the pandemic, the government only provided financial assistance and did not offer any other type of assistance, such as lack of providing information to persons with disabilities in formats that were understandable to them.⁶³

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55. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf.
 56. Public Defender of Georgia, Child Rights Impact Assessment on Covid-19 Related State Measures in Georgia, 2022, available at: <https://www.ombudsman.ge/res/docs/2022041512104778740.pdf>.
 57. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf.
 58. Public Defender of Georgia, Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2020, p. 377; *See also* Public Defender of Georgia, Statement "In the opinion of the Public Defender, the needs of persons with disabilities are not properly taken into account in the anti-crisis economic plan," 2020, available at: <https://bit.ly/3qxxl7V>; Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf.
 59. Social Justice Center, Statement "EMC Evaluates Government Anti-Crisis Plan," 2020, available at: <https://bit.ly/3E4nn3G>; *See also* Social Justice Center, Statement: EMC: Short-Term and Long-Term Effects of Second Wave of Anti-Crisis Programs raises the question, 2020 available at: <https://bit.ly/2VvIADk>.
 60. The Government of Georgia, Report on Measures Taken by the Government of Georgia against COVID-19, 2020, p. 55; *See also* International Partnership for Human Rights, Human rights impact assessment of the COVID-19 response on the territory of Georgia, 2020, pg. 36; Social Service Agency, Statistics of Social Package Recipients, available at: <https://bit.ly/3nJIJB>.
 61. For 6 months since May 2020 and for 6 months since January 2021, available at: <https://bit.ly/316fZo>.
 62. Georgian Young Lawyers Association, COVID-19 and the Rights of Persons with Disabilities, 2021, pg. 15.
 63. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf; *See also* Public Defender of Georgia, Statement of the Public Defender of Georgia on the rights of persons with disabilities in the light of current events; 2020, available at: <https://bit.ly/3Jt342F>.

The State's social policy toward victims of domestic violence is implemented through shelters and crisis centers. The existing services are short-term and shelters fail to empower beneficiaries to continue to live independently and fully restore their social functions. Women victims of domestic violence often had to leave their jobs because kindergartens were closed due to COVID-19, which forced them into an even more vulnerable situation.⁶⁴

The state does not have any social packages for nurses, and developing social policies for nurses has not begun yet. The most crucial challenge for nurses is decent pay and proper working conditions. The current severe situation has become even more alarming in the wake of the COVID-19 pandemic. The schedule and workload of doctors went beyond both legislative norms and standard human capacity. The infection has spread to medical staff, and 12 nurses have died as of today.⁶⁵

Restrictions caused by the COVID-19 pandemic have created additional difficulties for LGBTQI people. The economic constraints imposed by the pandemic have left community members employed in the service sector and those engaged in informal labour without income. LGPBT people employed in the formal sector talked about pay cuts and job losses, and they could not even use the one-time state compensation. LGBT people working in the informal sector and losing financial resources could not even benefit from a one-time state compensation. The anti-crisis plan approved by the government could not cover their basic social, economic, and medical needs.⁶⁶

Recommendations

- Establish a national communication strategy and an institutional mechanism for crisis management that will assess the potential impact of any decision on the socio-economic rights of various vulnerable groups.
- Develop a national strategy, action plan, and relevant programmes that will start providing stable housing for families with children.
- Carry out a social impact assessment of the COVID-19 pandemic to assess the current needs of families with lower socio-economic status, review the formula for the targeted social assistance programme and revise the existing social protection system.

64. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf.

65. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf.

66. Coalition for Equality, The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, 2022 available at: http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf.

- Develop detailed methodologies and guidelines on the challenges and specifics of distance learning during the pandemic.
- Develop a social model of disability and implement policies toward persons with disabilities, which will become a precondition for reforming the social package mechanism.
- Introduce a variety of social services for victims of domestic violence, living both in shelters and crisis centers, including psycho-social services to the former beneficiaries of the shelter.
- Determine the adequate minimum wage for nurses and control the number of working hours/shifts of nurses.
- Study social and health services and develop a strategy and action plan for the economic empowerment of LGBTQI people.

Prepared by the Coalition for Equality

Rights of LGBTQI Community

LGBTQI people experience discrimination based on sexual orientation and gender identity (SOGI) in their daily lives. The members of the community are unable to enjoy an adequate life and equal access to education, healthcare, employment, housing, and social protection.⁶⁷

Freedom of Assembly

The LGBTQI community is one of the most discriminated against and vulnerable groups in Georgia.⁶⁸ The exercise of the freedom of assembly and expression remains restricted. Despite the fact that LGBTQI people and activists have been fighting for years for the right to safe assembly and access to public spaces, the situation has deteriorated.⁶⁹ 2021 was significant in the context of the violation of these rights. This became apparent during Tbilisi Pride Week. The events of 5 July were preceded by public calls for violence by leaders (for instance, Zura Makharadze)⁷⁰ and other members of far-right groups. Prior to the day, certain groups mobilized for the purpose of violence and numerous calls for violence were heard on 5 July 5 as well.⁷¹ As a result, representatives of the media, human rights activists, and citizens were physically and verbally assaulted by far-right groups.⁷² The authorities failed to credibly investigate and prosecute the organizers of violence on 5-6 July.⁷³

67. See reference 1; page 101.

68. According to the study conducted by WISG, of the overall 211 respondents (LGBTQI community members) who participated, 54,5% (N=155) stated that they have been discriminated against in last two years (2018-2020) in the areas of employment, healthcare, education, or service. Source available at: <https://bit.ly/3KCGhki> source last visited: 03.05.2022. source is only available in Georgian.

69. The Public Defender of Georgia, Special Report on Situation of Equality and Combating and Preventing Discrimination, 2022, p. 28. See: <https://www.ombudsman.ge/res/docs/2022022413261538101.pdf> Source last visited: 01.05.2022.

70. See: <https://oc-media.org/anti-pride-protesters-attack-journalists-in-tbilisi/>

71. The Public Defender of Georgia, Special Report on Situation of Equality and Combating and Preventing Discrimination, 2022, p. 29. See: <https://www.ombudsman.ge/res/docs/2022022413261538101.pdf> Source last visited: 01.05.2022.

72. 53 people were identified as victims, including 42 journalists and cameramen, seven citizens, three human rights activists and a non-governmental organisation. The Public Defender of Georgia, Special Report on Situation of Equality and Combating and Preventing Discrimination, 2022, p. 31, see: <https://www.ombudsman.ge/res/docs/2022022413261538101.pdf>. Source last visited: 01.05.2022.

73. U.S Department of State, 2021 Country Reports on Human Rights Practices: Georgia, 2022. See: https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/georgia/?fbclid=IwAR2Via-c0oiZe-0hwF96qzY5x_paxU-5uOfiY0rn7fbes1aRtKUA13wLB3IE, Source last visited: 01.05.2022.

In the context of freedom of expression, the rise of far-right groups threatens the safety of the LGBTQI community. These radical groups have succeeded in gaining political power and influence.⁷⁴ The government’s populist politics and rhetoric, together with the lack of a comprehensive strategy for addressing these groups effectively, help and strengthen anti-LGBTQI movements.⁷⁵

Hate Crimes and Discrimination

Despite progressive steps taken by the Government of Georgia to effectively identify and address hate crimes,⁷⁶ the gap between the number of hate crimes (discriminatory motive) identified by law enforcement agencies and cases documented by local NGOs remains significant.⁷⁷ It also needs to be noted that there are no state-funded services specifically for victims of hate crimes and it remains a challenge for law-enforcement agencies to identify discriminatory motives in domestic violence cases involving LGBTQI persons. It also remains a challenge to involve victim and witness coordinators⁷⁸ in hate crime cases because of shortage of personnel.

The Law of Georgia on the elimination of violence against women and/or domestic violence does not include “intimate partner” under the definition of “family member,”⁷⁹ which excludes same-sex partner violence victims from state-funded services (like shelters, lawyers, psychologists consultations, etc).

Legal Gender Recognition

According to the legislation of Georgia, gender marker in identification documents can be changed only in case of a “change of sex”.⁸⁰ Neither legislation nor the respective government agencies have defined what exactly “change of sex” means. According to the practice, trans persons who wish to change their gender marker are required to provide a document issued by a medical facility that they have undergone

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74. More details are available at: <https://caucasuswatch.de/news/4538.html>, Source last visited: 01.05.2022.
75. More details are available at: <https://civil.ge/archives/430522>, <https://civil.ge/archives/431658>. Source last visited: 01.05.2022.
76. With the support of the Council of Europe, in 2020, different state agencies, including law-enforcement agencies, Georgia’s statistics agency, and the Supreme Court signed a memorandum to commit to work jointly on statistical data regarding hate crimes in Georgia and to produce a joint report on hate crime statistics yearly. See details at: <https://bit.ly/3Mtf84G>, Source last visited: 28.04.2022.
77. According to the study conducted by WISG in 2020, 73,5% of respondents (N=155) have stated that they have been victims of hate-motivated crimes/incidents in the period of 2018-2020, whereas, according to the report produced by the government officials, in 2021, 36 criminal proceedings were opened in regards with SOGI grounds. See: <https://bit.ly/3vMBO9n>, source last visited: 28.04.2022.
78. The institute of victim and witness coordinators was elaborated to help victims and witnesses of crimes to go through the justice procedures and access services.
79. Law of Georgia on the Elimination of Violence against Women and/or Domestic Violence, and Protection and Support of Victims of Such Violence; source available at: <https://bit.ly/3819UhV> source last visited: 03.05.2022.
80. See article 78 of the Law of Georgia on Civil Status Acts. See: <https://bit.ly/3OOct1zr> Source last visited: 28.04.2022.

gender-reassignment surgical intervention, which is often unwanted, unnecessary, and is very invasive and includes sterilization.⁸¹ This approach is not self-identification-based and is not in conformity with international human rights standards. It sets abusive requirements for trans persons and violates their human rights and dignity.⁸² The lack of administrative mechanism for self-identification-based legal gender recognition (LGR) leaves trans persons unprotected from discrimination in all aspects of their lives. This should be understood in connection with the fact that trans persons have no financial access to quality trans-specific health-care services in Georgia. Neither public nor private health insurance programmes cover the respective services, and there are no medical protocols or guidelines in place for these services, which means that the government has no mechanism in place to monitor the quality of trans-specific medical services.⁸³

Recommendations

- Launch criminal proceedings against the organizers and main persons responsible for the violent 5-6 July attacks;
- Establish a preventive mechanism in order to ensure the exercise of freedom of assembly;
- Elaborate on a comprehensive strategy against far-right groups;
- Elaborate state-funded services specifically for victims of hate crimes.
- Take measures to elaborate preventive actions against hate-motivated crimes and strengthen efforts to identify discriminatory motive;
- Include “intimate partner” in the definition of a member of the family;
- Elaboration of self-identification-based, clear, and accessible administrative LGR mechanism, which is free from abusive requirements.

Prepared by Women’s Initiatives Supporting Group (WISG), Equality Movement

81. More details about abusive LGR requirements are available at: <https://bit.ly/3OI76qs> source last visited: 28.04.2022.

82. Georgia’s problematic approach towards LGR has been included in the country visit report of UN Independent Expert on sexual orientation and gender identity, See: <https://bit.ly/3Kr0ycz> para. 49, Source last visited: 28.04.2022.

83. Details available at: <https://bit.ly/3suwXsH> source last visited: 03.05.2022.

Rights of the Child

Progress

In 2022, the Government of Georgia created the new public service of Barnahus, a child-friendly, interdisciplinary and multi-agency centre for child victims and witnesses of crimes, where children could be interviewed and medically examined for forensic purposes, comprehensively assessed and receive all relevant therapeutic services from appropriate professionals. The creation of this service has been a recommendation of local and international child rights organisations and is an important achievement.

Current Situation

Access to justice

For children with/without disabilities, access to justice was significantly hindered during the pandemic. Justice was significantly delayed in courts. Trials, especially in regional courts, were delayed for one year after the pandemic began, as courts were unable to provide adequate software/hardware for conducting remote hearings.

The right of children with/without disabilities to participate in court hearings continues to be violated because the court has not yet developed a guideline on how to support the inclusion of children with disabilities. In addition, there is no system of procedural accommodations and almost no accessibility for children with mental and intellectual disabilities. The court has not developed child-friendly procedures as well. As for the victims with disabilities, the court has not developed a strategy for their empowerment and involvement. As a result, the majority of victims with disabilities experiences secondary victimisation that prevents them from seeking justice in the future.

Sexual violence against children

Sexual violence against children is one of the most problematic human rights issues in Georgia. The data show that in 2015-2020, 1600 cases of sexual violence against children were reported and investigated. 930 children were victims of sexual abuse. This number is dramatically increasing every next year.

The main challenges to the prevention of sexual violence against children is the absence of formal education. The UN Committee of Child Rights recommended that the Georgian government adopt a formal curriculum on sexual and reproductive rights and health for children at public schools as the primary prevention of sexual crimes against children. The National Educational Plan of Georgia does not contain a special obligatory subject on sexual and reproductive rights and health. In 2021, Partnership for Human Rights brought a lawsuit against the Ministry of Education and Science of Georgia demanding mandatory sexual and reproductive rights and health education for children.

Institutions

Despite the commencement of the deinstitutionalisation process and amendments to Georgian legislation, over 900 children remained in unregulated institutions run and financed by the Patriarchate of the Orthodox Church or under Muslim Confession or local municipalities.

In 2021, a number of cases of systemic violations of children's rights were revealed in institutions operating under the Patriarchate of the Orthodox Church: the cases involved allegations of sexual violence, torture and inhuman treatment, systematic physical and emotional violence, restraining of right to education, participation, social inclusion. The situation of child rights protection in the Ninotsminda Boarding House was even more alarming in light of the fact that on 15 April and 19 May 2021 the administration of the institution did not allow the Public Defender's Office to fulfil the rights granted by law to monitor the institution. What is most alarming is that from 20 June 2020 until the end of April 2021 not a single social worker from the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking was allowed to enter the facility. The visit of the Public Defender to the Ninotsminda Boarding House became possible after a legal dispute initiated by the NGO Partnership for Human Rights (PHR). The organisation appealed to the Tbilisi City Court and demanded the immediate removal of the children from the orphanage that posed a threat to child welfare.⁸⁴ The Tbilisi City Court granted the organisation's request, which was also upheld by the Tbilisi Court of Appeals.⁸⁵ The organisation also lodged a complaint with the UN Committee on the Rights of the Child, which, on 7 May 2021, issued an interim measure ordering the state to monitor the Ninotsminda Boarding School.⁸⁶ The case involving the Ninotsminda Boarding House confirms the systemic

84. Interim Ruling of Tbilisi City Court on the case submitted by the Partnership for Human Rights, an organisation with special status of plaintiff, Case № 4704728-21, 2021, Available at: <https://phr.ge/search/475>.

85. Judgment of the Tbilisi Court of Appeal, Case № 3/ð-1560-21, 2021, Available at: <https://phr.ge/search/401>.

86. Partnership for Human Rights (PHR) Statement - UN Satisfies PHR Request on the case of Ninotsminda Boarding House, 2021, Available at: <https://bit.ly/3rdJoYS>.

problems that exist within the country in terms of protecting child welfare, especially the rights of children with disabilities. The rights of children living in institutions are being violated on a daily basis.

Recommendations

- Develop and implement a plan for the deinstitutionalisation of large institutions, which shall define the terms and forms of removing children from both licensed and unlicensed institutions;
- Begin the individual assessment of children for the purposes of their reintegration into families and, when this is not possible, move them into the forms of care approximated to the family environment;
- Review the existing policies against child poverty and the effectiveness of social and childcare programmes to prevent family separation and child abandonment;
- Develop and implement mandatory sexual and reproductive health rights education for children as an integral part of the National Educational Plan;
- Make all legislative and administrative measures to guarantee the accessible and procedural accommodation for children and people with disabilities in the justice system.

Prepared by Partnership for Human Rights (PHR)

Human Rights Situation in the Occupied Regions of Georgia

(Abkhazia and Tskhinvali Region/South Ossetia)

The social, economic and human rights situation of the population living in the occupied regions deteriorated significantly during the reporting period. The pandemic strengthened Russia's influence in the occupied regions of Tskhinvali and Abkhazia.

Current Situation

Right to freedom and security

The most obvious examples of the violation of the right to freedom and security were the cases of Irakli Bebuia and Zaza Gakheladze. Irakli Bebuia was sentenced to nine years in prison for burning an Abkhazian flag. After being shot and wounded, and illegally detained by Russian forces, Zaza Gakheladze was sentenced to 12 years in prison in Tskhinvali, although he was released in July 2021.

Illegal borderisation and arrests along the dividing line continued in the reporting period. In 2021, the Russian military arrested and fined more than 5,000 people for crossing the administrative boundary line of Abkhazia. As of May 2022, Mamuka Chkhikvadze, Kakhaber Natadze, Zaza Megrelishvili, Tamaz Gogichashvili and Levan Machabeli remain in illegal detention in Tskhinvali, South Ossetia.

It is necessary to release Georgian citizens illegally detained in Tskhinvali and Sokhumi. In addition, the parties must agree on the need to immediately stop illegal borderisation that is artificially increasing the risk of the illegal detention of people.

Creeping "ethnic" cleansing in Akhagori

The humanitarian situation in the Akhagori district has deteriorated sharply since the Chorchana-Tselisi crisis that started in August 2019, when the Georgian Government opened a police checkpoint in the area under its control. Tskhinvali demanded the removal of the checkpoint, but no agreement could be reached. In response, Tskhinvali completely cut off Akhagori and its population from the outside world. Restrictions on freedom of movement were in place throughout the year. The crossing point was

opened for only a few days in connection with the Easter holiday in 2022.

Right to life

Since 2014, four Georgian citizens have been brutally killed in the occupied territories: 28-year-old Davit Basharauli in 2014, 31-year-old Giga Otkhozoria in 2016, 35-year-old Archil Tatumashvili in 2018 and 29-year-old Irakli Kvaratskhelia in 2019. No effective investigation has been conducted into these cases and no one has been punished so far.

In 2020, after several days of interrogation by the de facto “militia”, 30-year-old Inal Jabiev died in the Tskhinvali pre-trial detention centre in “unclear circumstances.” The young man allegedly died as a result of torture.

In August 2021, 24-year-old Anri Ateiba, according to the initial version, died at the hospital due to injuries received as a result of beating at the Gagra police station. Ateiba’s mother later said that her son had been put in a situation in the pre-trial detention cell that forced him to commit suicide.

Another victim of occupation is Genadi Bestaev, a citizen of Georgia, who since November 2019 had been serving a sentence in Tskhinvali for crossing the boundary line since November 2019. Bestaev was transferred to the Tbilisi-controlled area only in November 2021, after a sharp deterioration in his health, in a comatose state. He died in February 2022.

None of these deaths has resulted in the punishment of the perpetrators, which calls into question the effectiveness of investigations in the occupied territories.

Right to receive education in the mother tongue

The right of Georgians living in Abkhazia and South Ossetia to receive education in their mother tongue is also restricted. The practice is systemic and is manifested in actions such as a clear ban on Georgian language education, harassment of Georgian language teachers in the workplace, and removal of Georgian textbooks from the curricula.

Right to free movement

Numerous artificial barriers have been created to restrict the free movement of people in Abkhazia and South Ossetia, including the introduction of additional documentation “necessary” for movement and the unpredictable and long-term closure of crossing points. Due to the fact that all crossing points remain closed, South Ossetia has been completely cut off from Tbilisi for almost three years. Due to lack of food and access to medical services, a significant part of the population left Akhalkalaki in the past year and a half. To give people access to quality medical care and education and to reunite families, the Odzisi-Mosabruni, Perevi-Kardzmani, Perevi-Sinaguri crossing points should be opened in the near future. The situation in Abkhazia is also

difficult. Out of seven crossing points on the territory of Abkhazia-Samegrelo, only two are working today. Therefore, it is important to reopen the Khurcha-Nabakevi, Orsantia-Otobaia, Tagiloni-Shamgona, Lekukhona-Pakhulani, and Muzhava-Lekukhona crossing points in the near future.

Tamar Mearakishvili, a civil rights activist from Akhalgori was charged with defamation for critical comments published by Ekho Kavkaza, as well as for “illegally obtaining citizenship of South Ossetia”, by false documents, and in particular not disclosing that she possessed Georgian citizenship. Due to what appears politically motivated investigations and trials against her that have been going on for five years, Tamar Mearakishvili has had her freedom of movement restricted for years.

Right to health

The pandemic has significantly hampered access to quality health care in the occupied territories. Restrictions on freedom of movement deprived many Georgian citizens living in the Gali and Akhalgori districts of access to medical care in areas controlled by the central authorities. It is true that there are hospitals in Gali and Akhalgori, but they do not have necessary infrastructure, medical supplies, or properly qualified staff. The facilitation of freedom of movement would speed up the vaccination process.

Systematic human rights violations have put on the agenda the need to set up international monitoring mechanisms in Abkhazia and South Ossetia.

Recommendations

- The parties should take measures to prevent illegal detentions and release detainees;
- In Gali and Akhalgori districts, the population should be given the right to receive education in their mother tongue;
- All crossing points closed in recent years should be re-opened;
- International organisations should strengthen efforts to monitor human rights in South Ossetia/Tskhinvali and Abkhazia;
- The Government of Georgia should make the protection and support of the rights of all ethnic groups living in the occupied territories a priority of the country's home and foreign policies.

Labour Rights

Progress

2021-2022 was marked by the rampant socio-economic struggles of Georgian workers, stemming from low wages, a lack of social guarantees, and weak labour rights legislation. Despite the positive step of broadening the Labour Inspectorate's mandate to include oversight of all labour conditions from January 2021, it took a number of months before the Inspectorate started properly implementing its new mandate, mainly due to requiring more time for institutional setup, and it still does not adequately meet the expectations and fair demands of workers and CSOs. Additionally, Georgia has failed to address legislative gaps that leave thousands of workers without proper labour protections and undergird exploitative labour practices. These gaps include the lack of a functional minimum wage, no maximum limit to overtime work, unclear rules on overtime rates, limited remuneration for maternity leave, no protections for solidarity strikes, and a lack of social protections for most workers.

Current Situation

- The Labour Inspectorate's new mandate should have been a turning point in terms of ensuring workers' labour rights. However, a number of issues prevented the Inspectorate from adequately fulfilling its primary mandate of ensuring fair labour conditions in Georgia.⁸⁷ Since the outbreak of the pandemic in 2020, the Inspectorate has been tasked with overseeing businesses' compliance with COVID-19 regulations. This has taken up most of their resources and drastically limited their ability to supervise labour safety and labour rights.⁸⁸ This has changed with the easing of most Covid regulations, however it remains to be seen how these changes will be translated into practice.
- The institutional problems within the Inspectorate also require systematic attention. In particular: 1) difficulties in analysing data and providing interested

87. For more information see: Social Justice Center, Labour Inspection Service Assessment - 2021, <https://shroma.ge/en/reports-en/labour-inspection-service-assessment-2021/>

88. According to the 2021 statistics, the Labor Inspectorate carried out 57 290 activities with the aim of supervising the execution of covid regulations, whereas only 1401 inspections were devoted to the enforcement of labour rights and safety - these figures clearly indicate that only 2% of the Labor Inspectorates activities were dedicated to the performance of its primary legislative duty. See: Social Justice Center, Labour Inspection Service Assessment - 2021, <https://shroma.ge/en/reports-en/labour-inspection-service-assessment-2021/>

parties with accurate statistics, which is supposedly connected to the lack of digital databases; 2) the Inspectorate's unwillingness to proactively publish certain information (e.g inspection reports and the main findings related to certain high profile cases) coupled with the absence of a dedicated website undermine transparency and openness of the Inspectorate and limit their reach among the wider public; 3) workers low level awareness about the Inspectorate's mandate, which is reflected in the small numbers of applications (36 applications in 2021) submitted by employees to the Inspectorate;⁸⁹ 4) long-term delays in training and certifying occupational safety specialists who should ensure labour safety at all worksites,⁹⁰ as well as the scarcity of technical regulations on occupational safety.

- Despite drastically strengthening legislation related to occupational health and safety, the labour safety system still remains frail in Georgia. In 2021, 37 workers died and 253 were injured due to work-related accidents.⁹¹ Despite only a slight decrease in the number of deaths compared to previous years, this number remains too high. The Inspectorate has failed to effectively address labour safety issues in certain high-risk industries (e.g extractive industry).⁹²
- The Government has continued its failure to address low wages that have permeated the Georgian labour market for years. Georgia has one of the lowest minimum wages in the world. The current minimum wage, which was set in 1999 at 20 GEL (approx. 6 EUR) per month, is 12 times lower than the current subsistence minimum for a working-age male.⁹³ The problem of low wages is further exacerbated by the wage theft pandemic in the country, namely, large numbers of Georgian workers report that their employers fail to pay money legally owed to them, such as unpaid overtime, unpaid tips, illegal salary deductions and more,⁹⁴ which does not get proper attention from the Labour Inspectorate.
- The situation is particularly severe in the healthcare industry, where health workers already work on unrealistically low wages, fighting the Covid-19 pan-

89. Office of the Public Defender- Annual Report on Human Rights Situation in Georgia, p. 212. <https://www.ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-sakartveloshi-adamianis-uflebata-datsvis-md-gomareobis-shesakheb-tsiuri-angarishi-tsarmoadgina>

90. The Accreditation Program for training occupational safety specialists was suspended about 2 years (2019-2021), which drastically restricted the number of certified occupational safety specialists-legally mandated position for all employers. See Social Justice Center, Labour Inspection Service Assessment - 2021, p. 42 <https://shroma.ge/en/reports-en/labour-inspection-service-assessment-2021/>

91. 2021 Labor Inspectorate Report, https://drive.google.com/file/d/1cvJE89L9yTZLALtYxq_Os-_plAec9hpG/view

92. See Georgia Fair Labor Platform, Government must take urgent action after latest mining death in Tkibuli, <https://shroma.ge/en/news-en/tkibuli-mining-death/>

93. National Statistics Office of Georgia, <https://www.geostat.ge/en/modules/categories/49/subsistence-minimum>

94. Wage Theft Calculator: Georgian Workers Report Over 21 Million GEL in Stolen Wages Annually, <https://shroma.ge/en/news-en/wage-theft-first-data-en/>

demic 76-96 hours a week.⁹⁵ In October 2020, the Government tried to temporarily fix this problem by introducing wage subsidies for those health workers involved in managing the pandemic,⁹⁶ however, in most cases, the budgeted funds did not reach the workers and was siphoned off for other uses - another example of the prevalence of wage theft. After numerous complaints from trade unions and human rights organisations about the prevalent wage theft practices in the health industry, the Labour Inspectorate conducted inspections in 110 Covid-related medical institutions in fall 2021 and identified violations in 86 of them.⁹⁷ Unfortunately, the Labour Inspectorate is still failing to address prevalent wage theft issues in non-Covid related medical institutions and other industries.

- Low wages and illegal labour practices are common even within the walls of the Ministry of Labour itself. For instance, social welfare workers, who work under the Ministry, went on strike in late 2021 demanding wage increases and other improvements to their working conditions. Their last raise was 15 years ago, and their salaries had lost half of their value due to inflation over that time.⁹⁸ Their strike ended in early 2022 when they were promised 40-60% wage increases and other concessions, but their salaries still remain far below a living wage.
- On top of low wages, Georgia still does not have a proper social protection system, which further degrades living conditions for workers. The country does not provide unemployment benefits or unemployment insurance schemes to protect people against social and economic risks or to enhance their ability to cope with income loss.
- In the summer of 2021, the Ministry of Labour announced plans for comprehensive legislative reforms to Georgia's social welfare system, including the adoption of a new Social Code.⁹⁹ Despite the Ministry's initial assurances for transparency and inclusiveness in the reform process, most Georgian CSOs and trade unions have had difficulties accessing any information about the proposed reform and therefore, the Platform is unable to assess any progress related to the proposed reforms. Following the appointment of the new Minister of Labor, the future of the Social Code and anticipated social welfare reforms have become more ambiguous.

95. Solidarity Network, The Coronavirus pandemic and the price of nursing work, 2021, <https://shroma.ge/en/reports-en/nurses-pandemic-en/>

96. The Government provided bonuses equaling to 50% of the average salaries of health workers, The Government Decree 828, 2021. <https://matsne.gov.ge/ka/document/view/5077572?publication=0>

97. Examples of identified violations included non-payment or decreases of the original wages, not paying wages for several months, non-payment or partial payment of state salary subsidies, discrimination against employees while allocating state subsidies, etc. 2021 Labor Inspectorate Report, https://drive.google.com/file/d/1cvJE89L9yTZLAltYxq_Os-plAec9hpG/view

98. Fair Labor Platform expresses solidarity with striking Social Service Agency employees, https://shroma.ge/en/news-en/social-agents_1-en/

99. Statement by the Ministry of Labor, 21 June, 2021, <https://www.moh.gov.ge/news/6005/>

- The Georgian government still has not made any steps to develop a strategy for the formalisation of the informal sector or to ensure the social protection of workers with informal employment. Neither has the government of Georgia identified the growing scale of non-standard employment as a risk to workers' rights protection.¹⁰⁰ This is particularly important, considering that Georgia has high unemployment rates and one of the largest informal sectors in the world,¹⁰¹ meaning that thousands of Georgian workers are susceptible to agreeing to insecure work conditions and missing social protection guarantees.

Recommendations

- Further strengthen the efficiency of the Labour Inspectorate by equipping the body with necessary resources (expertise, human, and administrative) for the inspection of all working conditions and labour relations according to ILO standards and avoid adding any ad-hoc responsibilities that could threaten the implementation of its primary mandate.
- Improve the legislative framework on core labour rights, and bring it fully in line with ILO standards and EU regulations, specifically in the areas of organisation of working time, overtime rate, maximum amount of overtime work, solidarity strikes, remuneration for maternity leave, contract termination conditions and other core labour standards.
- Ratify ILO Conventions, including Labour Inspection Convention (C081), the Weekly Rest (Industry) Convention (C014), Safety and Health in Mines Convention (C176), Minimum Wage Fixing Convention (C131), Maternity Protection Convention (C 183), Hours of Work (Industry) Convention (C001) and Night Work Convention (C171). Also ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.

100. For instance, during the first half of 2021, Georgia saw strikes by delivery couriers from two companies - Glovo and Bolt Food - who were protesting difficult working conditions and opaque remuneration systems. See: Fair Labor Platform expresses solidarity with Bolt couriers' struggle to improve working conditions, <https://shroma.ge/en/news-en/bolt-food-en/>

Fair Labor Platform supports demands of striking Glovo workers, <https://shroma.ge/en/news-en/glovo-en/>

101. According to a 2018 IMF report, Georgia has one of the largest shadow economies in the world, constituting 64.9% of GDP, Forbes Georgia, Does Georgia Have One of the Largest Shadow Economies in the World?, (14 March, 2018), <https://forbes.ge/does-georgia-have-one-of-the-largest-shadow-economies-in-the-world/>

- Enact a minimum wage that is tied to a regularly-updated living wage index in consultation with social partners and labour rights organisations, and ensure its effective application.
- Develop and enact effective social protection schemes (e.g. unemployment benefits/insurance) for workers, including the involuntarily unemployed, and ensure that any reforms related to social welfare are planned through participatory and transparent process.
- Develop a strategy and action plan for the formalisation of the informal sector, and ensure social protection of workers involved in informal and non-standard employment.
- Combat illegal wage theft practices by elaborating a methodology for the Labour Inspectorate to identify different forms of wage theft at workplaces.

Prepared by Georgia Fair Labor Platform

Judicial and Democratic Institutions

Progress

Among the obligations under the Association Agreement, the rule of law, particularly the reform of the judiciary and other justice institutions, holds a vital place. Recent developments in this direction, however, show that the Georgian government is not committed to strengthening democratic institutions or guaranteeing the independence of the judiciary. The most obvious example of this tendency was the ruling party's annulment of the "April 19th Agreement"¹⁰². Document intended to move the process to a formal-political framework and addressed several broad issues related to the justice system reform. Accordingly, the non-fulfilment of the obligations under the Agreement is another missed opportunity to establish independent and impartial democratic institutions.

Based on the requirements outlined in the EU-Georgia Association Agenda, in 2017, the High Council of Justice of Georgia (HCoJ) approved the 2017-2021 Judicial Strategy and its Implementation Action Plan for 2017-2018. However, after 2019, the mandatory renewal of these documents was not undertaken. While assessing the state of performance of the activities envisaged in the 2017-2021 Judicial Strategy, out of 92 activities reviewed, only 35 were fulfilled (31 were partially fulfilled and 26 were unfulfilled).¹⁰³

Despite of the waves of reform implemented in recent years, the current legislation and institutional order still do not ensure the entry of decent, principled and qualified staff into the judiciary. During the past year, the Parliament did not consider numerous calls from civil society, the Public Defender, and international actors to suspend the appointment process of Supreme Court judges until ensuring fair conduct of the procedures. Instead, the Parliament fully packed the Supreme Court of Georgia.¹⁰⁴ With regard to this process, the US Embassy also stressed that the candidates were nominated by the Council's incomplete composition, without the participation of 5 non-judge members.¹⁰⁵ Parliament unjustifiably postponed the appointment of

102. A way ahead for Georgia, available at: <https://bit.ly/38A2XEG> (accessed 02.05.22)

103. Social Justice Center, Second Shadow Report on Implementation of the Judicial Strategy and the Action Plan, 2020, available at: <https://bit.ly/3MMDzdy> (accessed 02.05.22); Throughout the last year, the European Union (EU) has made sharp assessments and expressed dissatisfaction with the results of judicial reform in Georgia. That has resulted in suspending the next tranche from the EU of € 75 million due to non-compliance with the terms of macro-financial assistance.

104. Statement of the Coalition for an Independent and Transparent Judiciary, 02 December 2021, available at: <https://bit.ly/3y8sXl3> (accessed 02.05.22)

105. Statement by the US Embassy on the Appointment of Supreme Court Judges, November 26, 2021, available at: <https://bit.ly/3D5Xhvg>.

5 non-judge members of the Council and to this day the Council operates with ten members (in the absence of 1/3 of the members) and continues to make other important decisions.

Moreover, in December 2021, the Parliament adopted legislative amendments to the Organic Law of Georgia on Common Courts, in an expedited manner, without public involvement or consultations. The amendments, which address many sensitive issues (such are secondment of a judge to another court, introduction of new types of disciplinary misconduct and penalties, lowering the quorum required for the High Council of Justice to make decisions on disciplinary proceedings, lifting the ban according to which the same person cannot be elected as a member of the High Council of Justice twice in a row, broadening the basis for the decision to remove the judge from the case), weaken individual judges and strengthen intra-corporatism and clan influences.¹⁰⁶ In particular, under the new provisions, vicious practice of secondment of the judges (transferring judges from one court to another, which can be used as a punishment for the judges not obeying the “Clan”) is reestablished. The maximum time it takes to go to another court without a judge’s consent has been increased to a total of 4 years. At the same time, it became possible to refer a judge of the Court of Appeals to a court of first instance. The principle of territoriality, according to which a judge in a particular court was sent involuntarily from another court closest to the territory, was abolished. However, the process of selecting judges for secondment no longer provides a mechanism for selecting a judge by lot. The situation is aggravated by the fact that the grounds for secondments are expanding and it is possible to send them to another court without the permission of a judge (in fact, compulsorily) for general reasons such as the interest of justice. A vague criterion such as the “interests of justice” can not be considered a sufficient criterion for making such a decision. This is confirmed by the conclusion of the Venice Commission, which indicates that such an appointment/secondment to another court should be possible only on the basis of strict criteria, clearly defined in the law.¹⁰⁷ Moreover, the new record no longer implies an obligation for the High Council of Justice to make a reasoned decision regarding the secondment. In light of the fact that civil society has been talking for years about the need for a systematic understanding of human resources management in the common court system, to allocate resources more efficiently in order to resolve the issue of workload in the court system, taking into account the weight and complexity of cases and putting effective steps forward in appointing judges, justifying this amendment with the argument of extreme caseload in common courts can not be taken as valid. Moreover, despite a number of vacancies, the opening for these positions is not actually announced and they are filled by the relocation of existing staff, which does not change the overall shortage of human resources in the system. This fact once again proves that the stated goals and the real motive behind the changes do not coincide.

106. Statement of the Coalition for an Independent and Transparent Judiciary, December 28, 2021, available at: <https://bit.ly/3vZkcXR> (accessed 02.05.22)

107. Venice Commission, CDL-AD (2014) 031, para. 36.

In addition to the above-mentioned amendment, on 30 December 2021, the Parliament of Georgia adopted legislative changes in the same manner, which abolished the State Inspector’s Service. Two new agencies were established as a replacement: the Special Investigation Service and the Personal Data Protection Service. Although the head of the State Inspector’s Service was elected to this post by Parliament until 2025, as a result of the legislative change, the mandate of the Inspector and her deputies has been automatically terminated from 1 March 2022. Civil society organizations considered the action as an attack on independent institution and its management due its quick, effective and impartial activities (e.g. in the case of possible inhuman treatment of the third president of Georgia¹⁰⁸).¹⁰⁹ OSCE/ODIHR concluded, that “As a consequence, the amendments might be perceived as politically biased, and intended to undermine the independence and effective functioning of the institution.”¹¹⁰ Hence, the seizure of a state institution and arbitrarily dismissing its management had a damaging impact on the public’s trust in law enforcement agencies and the judiciary.

Current Situation

The judicial reform implemented in Georgia over the years can be characterised as an illusory and incomplete attempt at the institutional modernisation of the judiciary and have failed to meet the fundamental challenge of the Georgian context - power-sharing and de facto influential groups in the judiciary.

The same critique applies to the Prosecutor’s Office of Georgia. Despite numerous institutional reforms in recent years, the depoliticisation and independence of the office remain a major challenge. The Prosecutorial Council consists of 15 members and the majority of its members (8 members) are prosecutors. The non-prosecutor members include MPs (creating the risks of politicizing the Council, especially that it is based on a system of party quotas, which the Venice Commission has considered as one of the most undesirable models¹¹¹), a member appointed by the Ministry of Justice (creating the risk of the interference by the government with the activities of the

108. The State Inspector’s Service undertook an investigation into the disclosure of the personal data (photos and videos) of the imprisoned former president, Mikheil Saakashvili, and [found](#) that the Ministry of Justice and the Special Penitentiary Service disclosed the data in violation of the law. As a result, the State Inspector imposed administrative responsibility on the Ministry of Justice and the Special Penitentiary Service and instructed them to remove the video and audio-video recordings containing Mikheil Saakashvili’s personal data from social network Facebook and their official websites.

109. Statement of the NGOs on the possible abolition of the State Inspector’s Service, 26 December 2021, available at: <https://bit.ly/3wjiUsg>; (accessed 02.05.22)

110. OSCE Office for Democratic Institutions and Human Rights, OPINION ON THE LEGISLATIVE AMENDMENTS ON THE STATE INSPECTOR’S SERVICE OF GEORGIA, Warsaw, 18 February 2022 Opinion-Nr.: GEN-GEO/436/2022 [NR], available at: <https://bit.ly/3NmyE3n>; (accessed 02.05.22)

111. European Commission For Democracy Through Law (VENICE COMMISSION), Joint Opinion of the Venice Commission, the Consultative Council of European Prosecutors (CCPE) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on the draft amendments to the Law on the Prosecutor’s Office of Georgia, endorsed by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015), Par: 42-43, the website of the Venice Commission, available at: <https://bit.ly/35lxFLJ>; (accessed 02.05.22)

Prosecutor's Office), as well as third parties elected through parliamentary quota. The election rule of the third parties is not based on a political consensus. The presence of judges and lawyers within the Council also poses a risk of conflict of interests.¹¹² Another problematic issue is the existing regulations for electing the Prosecutor General which does not define the qualification requirements for candidates clearly and comprehensively, therefore it does not adequately ensure that individuals are appointed to this position because of their professional skills and good faith, and not on the basis of their political loyalty.

Moreover, the above-mentioned legislative changes undermined the State Inspector's Service's institutional independence. The influence over the independent service and the political retribution of officials threaten the prevention of abuse of power by law enforcement agencies.

Additionally, the current Administrative Offences Code cannot ensure adequate protection of the right to a fair trial, and citizens often become victims of unreasoned and selective justice.¹¹³ The Code provides for heavy penalties for the commission of certain offenses, including administrative imprisonment, which by its nature requires the application of procedural safeguards normally afforded to criminal offenses. Nevertheless, the Code of Administrative Offenses imposes fewer procedural safeguards: It does not consider the presumption of innocence; The judge is not required to follow a standard beyond a reasonable doubt. Tight deadlines for case hearings and sanctioning procedures fail to ensure effective representation (the hearing may take up to 10-15 minutes). Another significant shortcoming is that judges examining cases of an administrative violation are not required to check the lawfulness of the administrative detention. Accordingly, the existing form of the Code of Administrative Offenses in essence is contradictory to fundamental human rights and Georgia's international commitments.¹¹⁴ Civil society organisations and human rights defenders have been long advocating a systemic reform of the Code; however, instead of improving the standards and procedural guarantees, administrative fines for disorderly conduct and disobedience to police have been increased several times in the past few years. The continuation of such an approach indicates the government's intention to restrict the freedom of expression by applying unlawful detentions and imposing harsh fines, to deliver a severe financial blow to activists and discourage them from expressing their protest.

112. Human Rights Education and Monitoring Center (EMC) and Georgian Young Lawyers' Association (GYLA) joint submission for Third UPR Cycle on Institutional Challenges in Judiciary and Law Enforcement System; Critical Issues of Criminal Justice; 2020, p. 8, available at: <https://bit.ly/39s1Oz2>; (accessed 02.05.22)

113. Social Justice Center, Assemblies, manifestations, and administrative offences, December 2019, available at: <https://bit.ly/378OjUh>; (accessed 02.05.22)

114. How to End Georgia's Unconstitutional Use of its Administrative Offenses Regime Judicial Independence and Legal Empowerment Project (JILEP) October 15, 2013, available at: <https://bit.ly/2Vizf27>, (accessed 02.05.22)

Recommendations

- The Parliament should evaluate the effectiveness of judicial reform in an inclusive, multi-party, and transparent manner. All actors should have the opportunity to participate in identifying significant gaps in the judiciary and finding ways to address them. The Parliament should base the concept of further reform on the conclusions of such a process;
- The only way to reshuffle the composition of the Council is to select the remaining 5 non-judge members by broad political consensus. The appointment of impartial, conscientious, and competent candidates in light of high public confidence in them and a broad consensus among political parties would significantly change the balance of power in the Council, create a new convergence of gravity with 5 independent members, and leave the influential group in the judiciary with only a shaky advantage.
- The power concentrated into the HCOJ (e.g. enrollment of students in the High School of Justice, appointment of judges in the first and second instance, nomination of candidates to be appointed as Supreme Court judges to the Parliament, election of court chairmen, etc.) should be diffused among other institutions; On the other hand, the crucial decisions by Council, such are the appointments and disciplinary decisions, should be made based on the double 2/3rd vote (according to this principle, a decision will require the consent of 2/3 of the judge and 2/3 of the non-judge members).
- The recent amendments regulating the process of transferring judges from one court to another should be abolished, and individual judges should be guaranteed independence from inside and outside influences;
- The Parliament shall amend the procedure for composing the Prosecutors' Council as follows: exclude political entities, governmental members, representatives of the judiciary, and lawyers from its composition. The Parliament shall introduce amendments to the law requiring political consensus (the support of both a majority and a minority) to elect the Prosecutor General;
- Fundamental reform of the Code of Administrative Offences is of great importance. In particular, imprisonment for administrative offences should be abolished in the framework of the reform of administrative offences legislation. A new category of violations known as "misdemeanours" should be implemented in the Criminal Code, and administrative infractions of a criminal nature should be moved to the misdemeanour section and the procedural rights guaranteed under the Criminal Procedure Code should be extended to them.

Prepared by the Coalition for an Independent and Transparent Judiciary

State Policy for Combatting Torture and Ill-treatment in Georgia

Oversight over the fight against torture/anti-torture policies

Georgia's latest Action Plan for Combatting Torture was adopted on 16 February 2021 by Anti-torture Interagency Coordination Council, tasked to provide oversight over the situation of torture and ill-treatment in the country, and headed by Minister of Justice.

Like its preceding plan, the 2021-2022 Action Plan¹¹⁵ to Combat Torture includes four main objectives: strengthen legal, procedural, and institutional mechanisms to combat ill-treatment; effectively detect ill-treatment and promote the timely, impartial, and effective investigation of all complaints/allegations; protect and rehabilitate victims of ill-treatment; and enhance education about and raise awareness about ill-treatment.

While the plan was drafted with the participation of state agencies, the Public Defender's Office, and local and international organisations, there have been no regular sessions of the Council and respectively no deliberations around the implementation of the Action Plan.

The National Human Rights Strategy and Action Plan 2021-30, the key policy document outlining human rights commitments, is still pending adoption (despite the emphasis on its swift adoption following the 14th Human Rights Dialogue held in July 2021).

Recommendation: The lack of proper oversight over the implementation of the Action Plan significantly undermines its effectiveness, hence the Anti-torture Interagency Coordination Council should revive its regular meetings to monitor the Action Plan's implementation. In addition, independent monitoring by civil society should be put in place to enhance accountability.

Compensation, Reparation, and Rehabilitation of Survivors of Torture

There is still no state policy in place for the protection and rehabilitation of survivors of torture and, according to the Ombudsman, there are pending court cases on compensation and restitution of rights for survivors. While there are no mechanisms for restitution or compensation envisaged, the current Action Plan for Combatting Torture outlines the State's responsibility to provide free legal aid and healthcare to torture survivors. The Action Plan also introduces holistic psycho-social rehabilitation services to those in prison as well as post-release support.

Recommendation: The Georgian government should adopt a state policy for the compensation and rehabilitation of torture survivors as part of the anti-torture commitments and incorporate into the National Anti-torture Action Plan.

Independent Oversight Body/NPM

Similar to 2020, the Public Defender's Office (PDO) reported barriers¹¹⁶ to its visits in penal institutions in early 2021. Representatives of the PDO faced verbal assaults by a group of inmates (associated with the criminal subculture of prisons) which according to the Ombudsman's Office were directly or indirectly instigated by prison administrations. According to the PDO, the purpose of these actions was "to prevent them from having confidential interviews with prisoners and to disrupt the monitoring process." Other instances of hindering access to detainees in prisons for representatives of the Public Defender occurred when they were trying to meet with ex-President Saakashvili in Gori Military Hospital and also Penal Institution N12.

The Public Defender's Office as a National Preventive Mechanism, established in accordance with the Optional Protocol to the UN Convention against Torture (OPCAT), must be enabled to access places of detention without hindrance and interview detainees in private.

Recommendation: The Ministry of Justice and its Special Penitentiary Service must provide guarantees to allow the National Preventive Mechanism to exercise its functions in compliance with the UN OPCAT as well as the Organic Law on the Public Defender of Georgia.

116. Parliamentary report of the Public Defender, 2021, pp.35-36, available only in Georgian at: <https://ombudsman.ge/res/docs/2022040413242699860.pdf>

Inter-personal violence in closed institutions

In 2021 cases of violence among prisoners persisted, demonstrating the inability of prison administrations to prevent or effectively tackle the problem despite the responsibility of prison managers to maintain order and ensure a secure environment for inmates. These cases arise due to conflicts between inmates involving bullying, extortion, and, in the case of foreign prisoners, communication problems stemming from the language barrier, as the report of the PDO explains. One violent incident at Penal Institution N17 in 2021 resulted in the injury of two inmates and the death of a detainee.

In fact, according to official statistics, the proportion of violence (as defined by Article 126 of the Criminal Code of Georgia) constituted almost 70% of all crimes committed in penal institutions in January, approximately 61% in February, and 57% in March 2022.¹¹⁷ By way of comparison, the incidence of violence of all crimes committed in prisons in January 2021 was slightly over 50%, in February 2021 - 53,4 %, and in March 2021 - 50%.

As the Public Defender notes in their Annual report for 2021, “...physical and psychological violence among prisoners in penitentiary institutions is often due to overcrowding and informal governance in the institutions. Informal governance is characterised by physical and severe psychological violence among prisoners.” There is also underreporting by inmates who have suffered violence about the true causes of their injuries out of fear of retaliation. Hence, prison managers or medical staff are not aware of the real extent of violence.

Interpersonal violence and the inability of administrations to prevent and adequately respond to such incidents is also a problem in mental health institutions, according to the Public Defender. There is no timely response to physical violence among the residents of these institutions on the grounds that conflict renders them susceptible to injuries. Staff often use injections for both voluntary and involuntary patients.

Recommendation: The administrations of both penal and mental health institutions should adopt crisis management plans including measures to prevent and effectively manage inter-personal conflicts in their respective facilities and provide training to staff on diffusion and de-escalation techniques.

117. Criminal Justice statistics, National Statistics Office of Georgia, 2022 available at: <https://www.geostat.ge/en/modules/categories/19/unified-report-on-criminal-justice-statistics-by-months-2022> (in English)

Conditions and Restrictive Regimes in Penal and Mental Health Facilities

There are acute problems as regards living conditions in some mental health institutions,¹¹⁸ where they amount to ill-treatment. Even the minimum space requirements of 8 sq. m per person are not met (actual space allocation is 4-5 sq. m).

There are restrictive regimes operating in some penal and also mental health institutions negatively affecting the physical and mental well-being of people held in these facilities. These regimes could potentially constitute cruel, inhuman, or degrading treatment.

In closed and high-risk penal institutions inmates spent up to 23 hours in their cells, with out-of-cell time of only one hour without meaningful activities. In high-risk facilities the practice of using solitary confinement for lengthy periods of time still persists in breach of international standards.¹¹⁹

In the absence of a risk of harm to health of oneself or others, the practice of prolonged, unfounded, and punitive placement in a de-escalation room and solitary (safe) cell equals cruel, inhuman, and degrading treatment. Despite the Public Defender's recommendations to decrease the length of placement in such cells from 72 to 24 hours, the maximum period is used without any limit to the number of times a prisoner can be placed in safe cells.

In mental health facilities, as in previous years, the Public Defender found that a combination of mechanical (manual) restraint and rapid tranquillisation, a form of chemical restraint, is actively used to manage the behaviour of agitated or aggressive patients, in the absence of a contingency policy of crisis prevention and non-violent (de-escalation) management methods. According to the opinion of the Public Defender, such practices of restraint are tantamount to ill-treatment.

Recommendation: The Georgian government should undertake measures to improve living conditions in mental health conditions to uphold human dignity in these facilities; Restrictive measures and punishments in prisons should be used as a matter of last resort and for the shortest period of time and need to be brought in line with international standards. In mental health facilities, the use of restraints should be minimised and instead de-escalation methods should be applied in line with crisis prevention and a non-violent approach.

118. According to the Public Defender's Office there are particularly deplorable conditions in the following institutions: Tbilisi Mental Health Centre, National Mental Health Centre named after Acad. B. Naneishvili (Units N9, N10, N11 and N12), Batumi Medical Centre Mental Health institution (division for men), and also Surami Mental Health Clinic.

119. The UN Nelson Mandela Rules, which define solitary confinement as "at least 22 hours a day spent with no meaningful human interaction," prohibit its indefinite or prolonged use of solitary confinement. Solitary confinement lasting longer than 15 days is considered prolonged.

Investigations into Allegations of Torture and Inhuman Treatment

Effective investigations of allegations are of crucial importance to prevent torture and impunity. However, in 2021 the Public Defender reported challenges in this regard. Specifically, the existing investigative mechanism for crimes such as torture and inhuman treatment was dismantled based on legislative changes which took effect on 1 March 2022. Instead, two bodies were created: Special Investigative Service and Personal Data Protection Service. Having been hailed for its effective work, the disintegration of the State Inspector's Office and removal of the State Inspector caused concerns among civil society and the Ombudsman's Office. The move was perceived to be politically motivated and undertaken without prior consultations with relevant stakeholders. How the Special Investigative Service performs is yet to be seen.

Recommendation: The functional, personal, and structural independence of the newly established Special Investigative Service must be ensured and the Anti-torture Action Plan should be revised to reflect the creation of this new investigative body and ensure its effective operation.

Prepared by Penal Reform International

Freedom of Media

Progress

Even though the legal framework for the media provides a solid foundation for ensuring freedom of expression, the situation concerning media freedom in 2021 has deteriorated compared to 2020. The safety of media representatives has diminished and aggressive rhetoric and discriminatory attitudes towards representatives of the media have intensified. Withal, such cases are investigated ineffectively. In terms of progress on the legislative level it should be noted that the article of the Criminal Code regarding the unlawful interference with the journalist's professional activities was transferred to the competence of the Special Investigative Service beginning 1 March 2022.¹²⁰ However, how this amendment will work in practice and whether it will have a positive influence on the safety of media in terms of effective investigations and prevention of crimes against journalists is still early to be assessed. Furthermore, the controversial approach by the National Communications Commission with regard to political advertising and legislative initiatives to restrict the freedom of expression of the media continued.

Current Situation

Safety of Media Representatives

Cases of verbal or physical assault against media representatives and instances of illegal interference in their professional activities have increased significantly.¹²¹ The State does not provide a proper response to such facts and timely prevention and does not effectively investigate the crimes committed.¹²²

120. Article 19 of the Law of Georgia on the Special Investigative Service.

121. Svimonishvili M. Et al., Georgian Young Lawyers Association, "Chronology and Legal Assessment of the July 5-6 Events", 2021, 13-21, available at: <https://bit.ly/3IRIqyX>, updated: 16.05.2022.; "GYLA's assessment of the human rights situation in Georgia in 2021", 14, available at: <https://bit.ly/3FfvL1s>, updated: 16.05.2022.; Coalition for Media Advocacy [Facebook page], 17.03.2022, Coalition for Media Advocacy Responds to Attack on "Formula" Journalist. Available at: <https://bit.ly/3leFQTO>, updated: 16.05.2022; Radical groups are using violence not only against protesters and protesters, but also against members of the media. Alt-Info supporters responded with aggressive statements and phone calls to a journalist of information agency "speqtri.ge" after spreading information about the opening of a Conservative Movement office in Gurjaani and the the petition to suspend of the party's right to operate. The correspondent and cameraman of the "Main Channel TV" were attacked near the office of the Alt-Info party of the Conservative Movement in Zugdidi. see: "GYLA Responds to Recent Cases of Threats and Violence by Radical and Pro-Russian Groups", website of the Georgian Young Lawyers Association. 23.03.2022 available at: <https://bit.ly/3MkUML5>, updated: 16.05.2022.

122. E.g. see: "The events of June 20-21 are uninvestigated," website of the Georgian Young Lawyers Association. 19.06.20. available at: <https://bit.ly/3w2NW5Z>, updated: 16.05.2022.; The investigation into cases of the large-scale attacks against media representatives during 5 July events is not effective, the responsibility of the organizers of the violence has not yet been established. See: Svimonishvili M. Et al., Georgian Young Lawyers Association, "Chronology and Legal Assessment of the July 5-6 Events", 2021, 13-21, available at: <https://bit.ly/3IRIqyX>, updated: 16.05.2022.

The inaction of state agencies and the aggressive rhetoric of high-ranking officials encouraged an unprecedented attack on the media on 5-6 July 2021, during which radical groups physically assaulted more than 50 media representatives.¹²³ However, the State's response to the violence was inadequate.¹²⁴ Moreover, despite numerous pieces of evidence in public sources regarding the public calls for such actions, to date no organizer of the violence has been charged.¹²⁵ After the events of 5-6 July, aggressive attacks against journalists have continued¹²⁶ and government officials often still discriminate against the media, continuing to respond to their legitimate demands with aggressive rhetoric.¹²⁷ Furthermore, the court's approach to cases of assault on journalists could also be assessed problematic, an example of this is the attack on journalist Vakho Sanaia and his family and the subsequent ineffective legal response to it, which manifested itself in the imposition of disproportionately low sanctions.¹²⁸

Attempts to Interfere in Freedom of Expression of Media

On 13 October 2021, the legislative package initiated by the Parliament of Georgia provided for amendments to the Electoral Code of Georgia and the Law of Georgia on Broadcasting.¹²⁹ The proposed amendments prohibit the dissemination of "agitating" material in public, which is intended to create a negative attitude towards the election subject or candidate, as well as the placement of pre-election advertisements with a similar purpose.¹³⁰ This regulation will oblige broadcasters to individually assess whether an advertisement creates a negative opinion regarding the election subject or candidate. Obligations of such assessments are too high of a bur-

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123. Svimonishvili M. Et al., Georgian Young Lawyers Association, "Chronology and Legal Assessment of the July 5-6 Events", 2021, 13-21, available at: <https://bit.ly/3IRlqyX>, updated: 16.05.2022.
124. Ibid; "Tbilisi city court announced the sentences in the July 5 case", website of the Georgian Young Lawyers Association, 04.04.2022. available at: <https://bit.ly/3LIDEV1>, updated: 16.05.2022.
125. Ibid.
126. E.g. see: Coalition for Media Advocacy [Facebook page], 17.03.2022, Coalition for Media Advocacy Responds to Formula One Attack, Available: <https://bit.ly/38ttBPu>, updated: 16.05.2022.
127. See: "Gyla's assessment of the human rights situation in Georgia in 2021", 14; Radio Liberty [Facebook page], 22.07.2021, "Tea Tsulukiani took a microphone from the journalist of the "Main Channel" at the opening ceremony of the theater rehabilitated by "Cartu", available: <https://bit.ly/2Y5R7gc>, updated: 16.05.2022.; "We call on all public figures to stop stirring up hostilities in the society and discrediting the media", coalition for media advocacy official website, available at: <https://bit.ly/3PAJtkj>. updated: 16.05.2022; "You are ordinary abusers - Gharibashvili to journalists", Reginfo website, 23.07.2021, available: <https://bit.ly/3kYbANO> updated: 09.11.2021; Coalition for Media Advocacy [Facebook page], 08.12.2021, "Coalition for Media Advocacy Appeals to Public Defender to Investigate Discrimination against Journalists at Briefings", Available at: <https://bit.ly/3sBmb3y>, updated: 16.05.2022; "Media Coalition Slams Culture Minister over 'Discrimination Against Journalists'", website of Civil.ge., 22.11.2021 available at: <https://bit.ly/3Po3ri4>, updated: 16.05.2022; Coalition for Media Advocacy [Facebook page], 21.03.2022, Coalition for Media Advocacy Responds to Natalia Kajaia Not allowed to enter the Parliament, Available at: <https://bit.ly/3LjV4I7> updated: 16.05.2022.
128. The court sentenced all three defendants to a minimum sentence of 6 months in prison, which expired on the day of the verdict, meaning they left penitentiary immediately after the verdict, serving no sentence. See: Coalition for Media Advocacy [Facebook page], 25.08.2021, "Media Coalition responds to the attack on journalist Vakho Sanaia and his family", available at: <https://bit.ly/3ven2rw>, updated: 16.05.2022.
129. Draft Law (N 07-3 / 112/10. 13-10-2021) "On Amendments to the Law of Georgia on Broadcasting", available at: <https://bit.ly/3E7KcnF>, updated: 16.05.2022.
130. Ibid.

den on broadcasters and might lead to forcing them to self-restrict their legitimate expression concerning public officials in order to avoid liability. Therefore, this type of regulation is not consistent with established standards of freedom of expression and disproportionately interferes with the activities of the media, making broadcasters responsible for the content of political advertising.¹³¹

In addition, even though under the law the Communication Commission is formally independent of political or state influence, it has been constantly criticised for its decisions.¹³² Controversial approach of fining broadcasters for airing political advertisements during non-election period was revealed when the Commission again imposed liability on the broadcaster “Main Channel”.¹³³ The regulator pointed out that such advertisements cannot be aired unless an election campaign is underway.¹³⁴ On this ground, the Commission ruled that the broadcaster placed and distributed an improper advertising.¹³⁵ It should be noted that “improper advertising” is defined in the Law of Georgia on Advertising and it does not apply to political advertising.¹³⁶ Moreover, the Georgian legislation does not contain provisions regulating non-election advertising, does not directly prohibit the placement of political advertising in non-election period,¹³⁷ Hence the prohibition applied by the Commission and its justification do not meet the requirements for interference with freedom of expression defined by national and international standards.

Another attempt to interfere with the freedom of the media is the growing number of defamation lawsuits against broadcasters and media representatives. In most cases, the lawsuits were filed by high-ranking political officials, police officers, and individuals otherwise associated with the ruling party.¹³⁸ This raises suspicions that the government is resorting to another way of restricting freedom of the critical media by attempting to overwhelm them with court proceedings.

131. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2021, 180, available at: <https://bit.ly/3JzQF5H>, updated: 16.05.2022.

132. According to the opinion of media experts, for the past several years the Commission has been trying to impact the independent and critical media outlets in favour of certain political interests. See: Media Advocacy Coalition, “Media Environment in Georgia”, 2, available at: <https://bit.ly/3m6QPIC>, updated: 16.05.2022.

133. Decision on Imposing Administrative Liability for Main Channel Ltd, website of the National Communications Commission, 25.12.2021, available at: <https://bit.ly/3KGnUeW>, updated: 16.05.2022.

134. Ibid.

135. Ibid.

136. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2019, 181, available: <https://bit.ly/34kjcAx>, updated: 16.05.2022; See also: Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2020, 181, available: <https://bit.ly/3viB1MU>, updated: 16.05.2022; Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2021, 180.

137. Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2021, 180.

138. Georgian Democracy Initiative [Facebook page], 31.03.2022. Defamation lawsuits against media, available at: <https://bit.ly/3w6msNd>, updated: 16.05.2022.

Legislative Base

According to the Law of Georgia on Common Courts, only the Public Broadcaster has the authority to carry out unrestricted photo-shooting of a trial.¹³⁹ Another general over-the-air broadcaster can be authorised to cover the court hearing, only in case the Public Broadcaster does not exercise its right to do so. If the over-the-air broadcaster is not interested in the lawsuit, all other media outlets are left without photo-video footage. Such an approach is discriminatory and puts the media outlets having no authority to record the trials in unequal position and impedes the delivery of comprehensive information to the public.

Recommendations

- Georgian Parliament shall not support the legislative bills restricting the freedom of media, as well as amend the Law of Georgia on Common Courts to allow all other types of media outlets to cover court proceedings in addition to general over-the-air broadcasters;
- Law enforcement authorities shall respond promptly and effectively investigate allegations of illegal interference and abuse of power towards the representatives of the media;
- State agencies and their representatives shall stop using aggressive rhetoric and discriminatory treatment towards media representatives, condemn violent calls and actions, and advocate for a tolerant, human rights-oriented position in their public statements;
- The communications commission shall act within its mandate and legislation, not to make illegal interpretations and respect the recognised standard of media freedom.

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