



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

2022 REPORT



ქობულაძის თანამშრომლობის



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

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INTRODUCTION

On May 2, 2014, the Parliament of Georgia enacted the Law on the Elimination of All Forms of Discrimination, with the explicit aim of eradicating any and all manifestations of discrimination, and thereby guaranteeing every individual's unfettered access to the rights enshrined in Georgian law. Subsequent to the law's passage, the Coalition for Equality has conducted annual assessments, scrutinizing the prevailing landscape concerning the right to equality among distinct demographic groups, culminating in the production of relevant reports.

This presented document marks the seventh consecutive report, offering a comprehensive evaluation of Georgia's 2022 progress in realizing the right to equality for specific groups, as well as the concerted efforts to combat discrimination.¹ The report dissects the trends of 2022 that impacted the legal standing of these targeted groups, highlighting both strides forward and persistent challenges in relation to the state's anti-discrimination policies, legislative framework, practical implementation, and the daily experiences of vulnerable communities.

The Coalition for Equality hopes that this report will serve as a valuable resource for the pertinent state agencies, empowering them in the effective execution of initiatives aimed at quashing discrimination and upholding the equal entitlements laid out in Georgia's legal framework for all individuals.

METHODOLOGY

This report covers the period from January 1 to December 31, 2022, and analyzes the legal status of fourteen vulnerable groups, namely: children, persons with disabilities, women, the elderly, LGBTQI people, non-dominant religious groups, ethnic minorities, foreigners, conflict-affected populations and internally displaced persons, human rights defenders and activists, media/representatives and homeless persons.

1. The 2021 report is available at: <https://bit.ly/41jaWw1>

The Coalition for Equality member organizations actively studied the legal status of these groups during 2022. Consequently, the assessment in the report pertains exclusively to the legal status of these groups, which does not preclude the existence of discriminatory practices towards other, un-addressed groups in the previous report.

The legal status of the groups in the report is assessed through a joint analysis of national standards, practices and international best practices. With regard to each group, the coalition also outlines recommendations for the state to create, strengthen, and improve specific directions in order to eliminate discrimination.

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

- **Public information** – member organizations of the coalition requested public information from various agencies, the analysis of which was reflected in the report;
- **Litigation** – the assessments given in the report are also based on the materials of the cases in the legal proceedings undertaken by the member organizations of the coalition and the shortcomings identified during these proceedings;
- **Analysis** of legislation and relevant international standards – the report assesses the right to equality of individual groups based on a review of Georgian legislation and international standards.

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

KEY FINDINGS

During the reporting period, the legal status of children did not improve substantially. The issue of realization and protection of children's rights

is still acute. Prevention, detection and timely and effective response to violence against children, especially sexual violence, remains a challenge. The effectiveness and quality of alternative forms of childcare are problematic, as is the placement of children in services close to the family environment. The state does not yet have a single strategic program to deinstitutionalize large-scale child care facilities. Due to the ineffectiveness and insufficient number of family support services, child poverty and child labor remain the main problems.

In 2022, the legal status of persons with disabilities has not significantly improved and they remain one of the most vulnerable groups in Georgia. People with disabilities do not enjoy constitutional rights equally with others and still face systemic obstacles in almost all spheres of public life. Discrimination of persons with disabilities in workplaces remains a problem, both in labor and pre-contractual relations. Accessibility and continuity of inclusive education is a challenge for persons with disabilities. People with disabilities who are victims of violence face numerous obstacles in the process of cooperation with law enforcement agencies.

In terms of protecting women from discrimination, the most important problem in 2022 was the increase in the rate of femicide. The reports of the Public Defender of Georgia, as well as the decision of the European Court of Human Rights (A. and B. v. Georgia) highlight the systemic problems that contribute to the existence of an environment conducive to femicide in Georgia. The legal definition of the crime of rape and the absence of the concept of “crime committed in the name of dignity” also remain problematic, as well as the use of female coordinators for political party purposes and their subjection to labor exploitation and violence.

In 2022, the situation in terms of equality of LGBTQI people has not improved. Instead of developing policies or legislation tailored to the needs of community members, the legislative and executive authorities have completely ignored the LGBTQI group. A particularly dangerous trend during the reporting period was the complete disappearance of LGBTQI people from state policy documents, including the 2022-2030 Human Rights Strategy and the concept of gender equality.

In Georgia, there is no special legislation directly related to the rights of elderly people, however, certain provisions related to this topic are contained in various legislative and by-laws, which fragmentarily regulate individual issues related to the rights of the elderly. It should be noted that in the existing legal framework, there are many cases of discrimination based on age, which are being disputed in the Constitutional Court. In addition, the social situation of the elderly is concerning. Despite the existence of relevant programs, social protection measures are insufficient to improve the legal status of the elderly. Violence against the elderly remains an unsolved problem. Over the years, problems of an unchanged and systemic nature are related to such important issues as the perception of violence by the victims themselves, low numbers of referrals to relevant agencies, the absence of existing psycho-social and economic rehabilitation programs for victims of violence.

During the reporting year, the challenges in the direction of respect for justice, the rule of law and democratic principles in Georgia naturally reflected on the freedom of religion and belief. The government's non-secular form of governance and unequal treatment of non-dominant religious groups appeared in various political, legislative and judicial decisions.

Important issues of previous years and existing systemic problems, such as discriminatory legislation, challenges related to the properties of religious associations, artificial barriers created for the construction of new chapels, the unclear mandate and policies of the State Agency for Religious Affairs, ineffective response to crimes committed on the grounds of religious intolerance, total government control over the activities of religious organizations etc., still remain unresolved.

During the reporting period, much like in previous years, organizations dedicated to minority issues and community activists have been actively championing the cause of safeguarding the rights of non-dominant ethnic groups. Unfortunately, both central and local agencies have yet to take meaningful strides in this direction. Progress has not been made even on fundamental matters crucial for establishing a more inclusive and just environment for ethnic minorities, which includes the establishment of

advisory councils in collaboration with the government and parliament, the provision of translation resources in minority languages for service delivery and administrative practices at the local self-government level, the generation of statistics incorporating ethnic markers, and the promotion of youth employment within public services through specialized programs.

During the reporting period, a number of new challenges regarding the legal status of foreigners were identified, and some of the problematic issues from previous years remained unchanged. In 2022, due to the ongoing war in Ukraine, Ukrainians who came to Georgia were limited to some extent in their ability to equally benefit from the programs available in Georgia. In the reporting period, the issue of the refusal of foreigners to cross the state border of Georgia by the Ministry of Internal Affairs remained a problem. There was a tendency of foreign journalists being refused to cross the border of Georgia without justification. Also, the issue of granting international protection status to asylum seekers with unconditional reference based on state security remained an unaltered challenge. The tendency to deny residence permits to foreigners, including foreign students, based on the same grounds was also problematic.

In the reporting period, the socio-economic rights of people living under occupation and their access to services and programs, their freedom of movement, the right to education in their native language, the vicious practice of illegal detentions and the challenges related to the security of the population living along the dividing line were still relevant.

In 2022, the detrimental practice of administratively detaining and prosecuting activists or demonstrators participating in actions, aimed at suppressing the freedom of assembly and expression, remained problematic. Additionally, there was a serious challenge in the inadequate investigation of past violations against human rights defenders, including the violence committed on July 5, 2021. This perpetuates a sense of impunity and fails to deter future crimes. Throughout the reporting period, there were instances of the government discrediting non-governmental organizations, rather than providing support and collaboration. Specifically, in 2022,

the civil sector's involvement in various processes was not adequately ensured, including the group dedicated to election issues established in Parliament and the preparation of the 2022-2030 national human rights strategy.

Georgian legislation and international conventions guarantee freedom of expression, media, and the creation of a free, equal, and secure environment for journalistic activity. However, 2022 brought forth numerous challenges in realizing this right. The situation for the media security in the country has deteriorated, with intensified aggressive rhetoric and discriminatory attitudes towards media representatives. There were attempts to exert control over the content of broadcasters by the National Communications Commission. Another issue lay in the new accreditation rule for mass media representatives in the Parliament of Georgia, which hindered the activities of journalists and disproportionately restricted freedom of expression.

The legal definition of homeless persons in Georgia remains problematic as it narrowly focuses on the physical aspect of a person's residence, neglecting the broader realization of the right to proper housing from both social and legal perspectives. This contradicts the principles outlined in international standards. Furthermore, there is a lack of standardized recording of statistical information in the country, and an unified database for homeless individuals has not been established. Municipalities vary in their approach to homeless individuals, resulting in a fragmented national policy. The status of homelessness hinges on a person's registration by local authorities, while the criteria for recognition as homeless rest on the absence of a permanent and clearly defined place of residence. This complicates the process of identifying individuals who live in inadequate conditions or in temporary housings as homeless. The situation regarding social housing is equally critical, with instances of life and health-threatening conditions observed in some cases. It is imperative to uphold the right to adequate housing, encompassing the opportunity to reside in a secure, peaceful, and dignified environment.

CHILDREN

During the reporting period, the realization and protection of children’s rights have been a pressing concern across various domains. This includes instances of violence against children within general educational institutions, as well as the timely identification, response, and implementation of preventive measures.

During the reporting period, a notable shortage of both preschool and school institutions in regions inhabited by ethnic minorities was evident, due to which, the opportunity to receive education and/or quality education is particularly difficult for children representing ethnic minorities. At the same time, the issue of appropriate qualification of the personnel of the educational institution remains a present concern.

During the reporting period, the state has not developed an unified strategic program, according to which large-scale child care institutions would deinstitutionalize and children would return to their families and/or transfer to family-like alternative care services.

The challenge lies in child poverty and the plight of children living and working on the streets. The services provided by the state are insufficient in addressing this issue. Furthermore, the absence of a comprehensive strategy aimed at substantially empowering families with children living in poverty and offering long-term public services to abandoned children further complicates the situation.

VIOLENCE AGAINST CHILDREN

As per the Code of Children’s Rights, every child is entitled to protection from all forms of violence, whether it occurs within the family, educational institutions, or in online spaces.²

In 2022, 4,131 cases of violence against children were referred to the

2. Article 38 of the Code on the Rights of the Child

Agency for State Care and Victims of Trafficking³, this figure has doubled compared to previous years⁴. According to the data, violence was confirmed in 1,781 cases⁵.

In 2022, violence against children, its timely detection, ineffective preventive measures, and delayed and ineffective response to it continue to be significant issues in the country. There is an observable increase in the statistics of violence against children, both within families and in cases identified in educational institutions. Creating a child-friendly environment in custody institutions and investigative bodies remains a challenge.

■ Domestic violence against children:

Detection of cases of domestic violence against children, as well as its prevention and appropriate response to such incidents, continue to pose a challenge, mirroring previous years' trends. Throughout the reporting period, 1,934 cases of domestic violence against children were reported to the state care agency⁶. Additionally, it is important to highlight that the issue of inadequate awareness among children and their family members about the various forms of violence remains persistent, further complicating the detection of cases of domestic violence against children.

In 2022, the Children's Welfare Survey⁷, conducted with the support of the UN Foundation, revealed a positive shift, namely In 2018, 31% of interviewed parents admitted to employing corporal punishment, while in 2022, this figure significantly decreased. Specifically, 4.8% of parents mentioned resorting to physical punishment, including 0.1% involving severe measures such as hitting on the face and head, as well as beating. It

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3. 1,013 of them were recognized as victims.
 4. According to the information of the agency, in 2021 this figure will be 1904 cases.
 5. State Care and Victims of Trafficking, Victim Assistance Agency. Child Abuse2020-2022, Available at: <https://bit.ly/3MeeQBm>
 6. Ibid. 754 children were recognized as victims. General courts issued protective orders against 28 children, and 196 cases of domestic violence resulted in guilty verdicts.
 7. Children's welfare in Georgia 2023 - United Nations Children's Fund. Available at: <https://uni.cf/3BaNHZI>

is worth noting that the data regarding the use of psychological aggression in the family has also shown improvement, being reduced by half to 29.4%⁸.

Despite the positive dynamics, according to the 2022 study, 31% of children are exposed to violent methods of punishment in the family. This indicator demonstrates the need to change society's attitude and/or behavior, which in turn is caused by insufficient information on the rights of the child.

In addition to the statistics, the ineffective performance of state agencies in detecting and responding to domestic violence is a cause for concern, exemplified by the case of the organization Partnership for Human Rights (hereinafter referred to as PHR). The case involves a 4-year-old child who is a victim of domestic violence⁹. Specifically, the mother, who resides abroad, reported to the state care agency about the father's violent behavior towards her 4-year-old son in Georgia. Although a local social worker contacted the woman and received a full account of the incidents of violence, they failed to report it to law enforcement authorities. Furthermore, the social worker conducted a visit to the child in the presence of the alleged abuser and never interviewed other family members, which raises significant concerns about the social worker's level of expertise and underscores the issue of specialization in the field of child rights. A few months later, the man was arrested on charges of violence against other family members, but the court released him on bail. Subsequently, upon the involvement of the organization Partnership for Human Rights (PHR) in the case, the organization's lawyers initially petitioned the prosecutor's office, the state care agency, and the police to ensure the safety of the 4-year-old child and to separate him from the abuser. Unfortunately, these efforts did not yield a proper response. PHR then sought a protective order from the court, but even in this instance, the performance of state agencies proved to be ineffective. The trial unnecessarily prolonged,

8. According to 2018 data, 66% of the interviewed parents admit to using psychological aggression towards their child.

9. <https://bit.ly/3NTSUNd>

and after 40 days, the judge once again left the child in a hazardous environment.

On November 22, 2022, PHR once again petitioned the court and this time requested that the 4-year-old child be formally recognized as a victim, which the court granted. However, despite PHR's appeals, both the Prosecutor's Office and the state care agency took no action to remove the child from the family. Consequently, he continues to live in a perilous environment. This case highlights the challenges faced by the state in terms of accurately identifying and responding to instances of domestic violence against children.

■ Violence in general educational institutions:

The issue of detecting instances of violence against children and responding to them is a prevalent concern within general educational institutions. Although any form of violence, including physical punishment, is strictly prohibited as a disciplinary measure by the Code of Children's Rights¹⁰, the lack of effective administrative and criminal liability measures remains a significant challenge. In 2022, 79 cases¹¹ of violence within educational institutions served as the basis for initiating administrative proceedings. The evaluation of the current situation regarding violence against children in the country is hindered by the imperfect collection of statistics by the agencies. Furthermore, there is a deficiency of qualified and adequately trained professionals in both general and pre-school education institutions. These individuals are crucial in promptly identifying and addressing signs of violence against children.¹²

10. Article 38.2 of the Code on the Rights of the Child

11. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 267, Public Defender of Georgia, 2022, the document is available at: <https://bit.ly/439eRwV>

12. US State Department's 2022 Country Reports on Human Rights Practices: Georgia, The document available at: <https://bit.ly/3o1yHKw> [Last accessed: 18.04.2023]

■ Sexual violence, child marriage:

In 2022, the initiation of criminal prosecution for crimes of sexual violence against children has increased. In particular, in the reporting period, investigations were started on 339 cases, and 247 minors were identified as victims.¹³

Against the background of the fact that in the past years the protection of children victims of sexual violence from secondary victimization was a problem, the opening of the psychological-social service center for children victims of violence¹⁴ in Tbilisi during the reporting period should be evaluated positively. The purpose of the center is to protect children victims of sexual violence from retraumatization, as part of investigative and rehabilitation activities. However, the issue of territorial accessibility remains a problem, because the environment and services tailored to children who are victims of sexual violence are not equally accessible throughout the territory of Georgia. The Psychological-social service center for children victims of violence is the only institution working with this profile and operates only in Tbilisi.

In situations involving reported cases of sexual violence against a child, there is a heightened risk of influence, particularly when the perpetrator is a family member or someone closely associated with the family. Unfortunately, there are instances where the child's best interests are not adequately assessed, potentially leading to their removal from the family, which can, in turn, exacerbate the risks of harm. Since 2022, PHR has been actively advocating for the rights and well-being of a minor who endured repeated sexual abuse by a male acquaintance of her mother.¹⁵ A restraining and protective orders were issued against the mother. Despite this legal intervention, the woman managed to maintain contact with her child and even attempted to influence her to alter their testimony in favor of

13. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, 2022. the document is available at: <https://bit.ly/439eRwV>

14. Statement by Ministry of Internally Displaced Persons From The Occupied Territories, Labour, Health And Social Affairs of Georgia Available at: <https://bit.ly/41n3zmz>

15. Information available at: <https://bit.ly/450GVUj>

her male friend. Given the prevalent nature of such practices in the country, it is imperative for state agencies to devise and implement effective strategies for safeguarding children who have fallen victim to violence. Furthermore, there is a pressing need for rigorous oversight and enforcement of measures that have already been put in place.

In Georgia, the issue of child marriage is still a problem. In the first half of 2022, about 61 cases¹⁶ were investigated for crimes committed under the motive of alleged marriage with a minor. As for sexual intercourse with a person under the age of sixteen¹⁷ law enforcement agencies were informed about the crime when the minor went to a medical institution due to pregnancy¹⁸. The problem is the uncoordinated actions of law enforcement agencies, social services and educational institutions, which prevents proper combat against the crime.¹⁹

RIGHT TO EDUCATION

The number of pre-school education institutions increased slightly during the reporting period, and currently 1,668 early and pre-school education institutions are operating throughout Georgia.²⁰ The problem of access to this type of institutions is especially noteworthy for children representing ethnic minorities,²¹ for instance, there is no kindergarten in any community inhabited by ethnic minorities in Bolnisi municipality.²² Preschool

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16. Harmful practices of early/childhood marriage in Georgia - current challenges and solutions, p. 15, special report of the Public Defender of Georgia in 2022, Available at: <https://bit.ly/3mcCXWR>
 17. Criminal Code of Georgia, Article 140.
 18. Ibid.
 19. US State Department's 2022 Country Reports on Human Rights Practices: Georgia, Available at: <https://bit.ly/3o1yHKw>
 20. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, 2022. p. 263, Public Defender of Georgia 2022, Document available at: <https://bit.ly/439eRwV>
 21. Excluding Tamari district
 22. Thematic research report of the Education and Science Committee of the Parliament of Georgia, 2022, p. 27

education institutions are not available in 21 settlements in Ninotsminda municipality,²³ which violates children’s rights to education and development on a uniquely discriminatory basis.

In this direction, several main problematic issues were identified: 1) territorial accessibility, because in the majority of villages inhabited by ethnic minorities, preschool institutions do not function. 2) lack of bilingual education - there are few kindergartens that offer bilingual education to local communities. 3) lack of appropriate personnel - kindergarten staff are not trained to work with ethnic minority adolescents.

Regarding general educational institutions, the issue of inadequate infrastructure remains a pressing concern, however, it is noteworthy to commend the government’s initiative to construct and rehabilitate 800 schools.²⁴ A challenge has emerged concerning the documentation of statistics regarding the reasons for student suspensions or discontinuations²⁵. In the reporting period, there was a twofold increase in the number of students who suspended their status citing “traveling abroad with their family”.²⁶ This may be indicative of the challenging socio-economic circumstances prevailing in the country. Furthermore, due to the imperfect statistics, it is impossible to accurately ascertain the underlying reasons why children suspend their student status.

International studies, as well as the analysis of the results of the school diplomas and national exams, prove that students in ethnic minority schools have less opportunities to receive equal education.²⁷

23. Ibid.

24. Statement of the Government of Georgia, Available at: <https://bit.ly/3L9xbyR> [Last accessed: 18.04.2023]

25. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 264-265, Public Defender of Georgia, 2022, Available at: <https://bit.ly/439eRwV>

26. Ibid.

27. Thematic research report of the Education and Science Committee of the Parliament of Georgia, 2022, 83.33-52, Available at: <https://bit.ly/41Bqr2j>

■ Sexual and reproductive education

In order to prevent sexual violence against children, it is important that the unified national curriculum includes information on children's rights, personal space and safety. Lack of information about sexual and reproductive health increases the risks of sexual violence against children and violates the fundamental rights of children.

During the reporting period, the national curriculum with regard to sexual education was not significantly improved, and this component is still weakly represented in the general education system of Georgia²⁸. According to the national curriculum of the third generation in Georgia²⁹, there is no information about sexuality and sexual behavior in any school manual for any age category³⁰. The data is alarming, according to which 0% of the textbooks for 9-12-year-old students include information on such important topics as violence and maintaining safety, gender perception, sexuality, sexual behavior and reproductive health³¹.

In the current education system in Georgia, there is no dedicated program addressing human sexuality as an independent subject, which would provide age-appropriate information on sexuality education to students. Instead, during the reporting period, fragmentary information on this topic was presented in various subjects.³² Conclusively, the research indicates that Georgia's national curriculum lacks sufficient information about human sexuality. Terms like "sex", "sex education", and "sexuality" do not appear in educational documents, including the national curriculum.³³ Conversely, representatives from the Ministry of

28. Review of education about human sexuality in Georgia, 2022; Available at: <https://bit.ly/3nY-TJtm>

29. The research includes four age groups of 5-18 year old school students;

30. Ibid.

31. Review of education about human sexuality in Georgia, 2022; Available at: Available at: <https://bit.ly/3nYTJtm>

32. Society and me; nature; Our Georgia; physical education and sports; biology; citizenship;

33. Ibid.

Education and Science attribute this absence to the prevailing societal stigma, making it challenging to broach these subjects in the curriculum. Unfortunately, during the reporting period, no substantial measures were implemented by state agencies to shift the negative societal stance.³⁴

The lawyers at PHR firmly assert that the state is infringing upon the rights of the child by failing to provide comprehensive education on sexual and reproductive health.³⁵ As a plaintiff with a special standing, PHR has taken the initiative to file a lawsuit in the Tbilisi City Court,³⁶ the aim of which is to compel the Ministry of Education and Science of Georgia to incorporate inclusive sexual and reproductive health education into the unified national curriculum. The lawsuit emphasizes the importance of considering the child's age and insists that instruction must be rooted in sound scientific evidence. Inclusive sex education ought to be seamlessly integrated as an essential component of education.³⁷

ORPHANAGES AND DEINSTITUTIONALIZATION

In 2022, a total of 51 children³⁸ comprising 28 children from small family-type homes and 40 children³⁹ from large institutions - previously under state care programs, were successfully reunited with their families.⁴⁰

Ninotsminda Boarding School for Children Deprived of Care, overseen by

34. Ibid.

35. Article by Radio Tavisupleba, Available at: <https://bit.ly/3VYIJZG>

36. Article by Radio Tavisupleba Available at: <https://bit.ly/44WtCnv>

37. Ibid.

38. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, pp. 271-272, Public Defender of Georgia, 2022 Available at: <https://bit.ly/439eRwV>

39. Ibid., A total of 346 children were placed in state care during the reporting period. In 2022, 119 children in state care were returned to their biological families.

40. Ibid., A total of 346 children were placed in state care during the reporting period. In 2022, 119 children in state care were returned to their biological families.

the Georgian Patriarchate, remains in operation as a significant residential institution in Georgia.

A positive development in 2022 was the successful deinstitutionalization of the Holy Matata Apostle Fund Boarding House, which saw a significant reduction in enrollment, with only four children remaining by the end of the year. Simultaneously, during this period, ten foster children are enrolled in the Ninotsminda Boarding School for Children Deprived of Care, overseen by the Georgian Patriarchate.⁴¹

The Public Defender's special report⁴² unveils a distressing pattern of enduring torture and inhumane treatment inflicted upon children within the institution over the course of several years. Regrettably, the state's response to the disclosed acts of violence within Ninotsminda Boarding School for Children Deprived of Care continues to be ineffective. The ongoing investigation has failed to meet fundamental standards of objectivity and impartiality⁴³. PHR is extending legal assistance to former residents of Ninotsminda Boarding School, who endured abuse at the hands of staff and educators during their time at the boarding house. The investigation into these incidents was initiated on June 3, 2021. Nearly two years later, the state has yet to formally recognize the victims of violence within the boarding house, an exceptionally unjustifiable delay for this category of cases. Despite a wealth of evidence and witness testimonies, the investigation has thus far failed to identify the individuals responsible for the systematic mistreatment of the children residing in Ninotsminda Boarding School for numerous years. Additionally, the issue of holding any person accountable has not been broached, further underscoring the ineffectiveness of the inquiry and raising doubts about its objectivity and impartiality.

41. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, pp. 272-273, Public Defender of Georgia, 2022, Available at: <https://bit.ly/439eRwV>

42. Special report of the Public Defender of Georgia on the legal status of Ninotsminda boarding school for orphaned children, 2021; Available at: <https://bit.ly/3M4poSf>

43. Ibid.

In June 2021, PHR submitted an application to the Tbilisi City Court, urging the Government of Georgia, Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health And Social Affairs of Georgia and the State Care and Assistance Agency for Victims of Trafficking to permanently close all large scale boarding style institutions, carry out proper deinstitutionalization process and alter the current living arrangements for children living there. Regrettably, the Tbilisi City Court has yet to commence proceedings on this lawsuit.

In 2022, a deinstitutionalization strategy was developed, according to which large child care facilities will be deinstitutionalized and children will be transferred to family-like alternative care services.

CHILD POVERTY

The support components offered by the state's social rehabilitation and child care program, along with monetary aid to socially vulnerable families and municipal initiatives, fall short in addressing the issue of family poverty, particularly those with children. There persists a challenge in developing services that specifically target the socio-economic empowerment of families with children, as well as ensuring the efficient operation of already established programs.

During the reporting period, the number of minors receiving subsistence allowance increased sharply. In particular, compared to 2021, the number of children in the unified database of socially vulnerable families increased by 40%.⁴⁴ However, social benefits often fail to provide families with children with decent housing, health services, food and basic necessities. In conditions of extreme poverty, children are compelled to undertake work that poses significant risks to their life and health.⁴⁵

44. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 270, Public Defender of Georgia, 2022, Available at: <https://bit.ly/439eRwV>

45. Ibid.

In discussions concerning child poverty, it's important to highlight the frequent occurrence of children being separated from their families, that often arises from the parents' dire economic circumstances, including a lack of stable housing and income⁴⁶. International legislation, guided by the practices of the European Court of Human Rights, imposes specific obligations on the state regarding child removal from families,⁴⁷ strictly prohibiting such action solely due to poverty. As per local legislation, placing a child in alternative care is considered an extreme measure.⁴⁸ In a specific case, two minors were relocated by the state from their biological family to foster care precisely due to extreme poverty. They resided there for over two years before seeking assistance from PHR. Despite their impoverished circumstances, the children expressed a strong desire to reunite with their parents and younger sibling. PHR took the matter to court, advocating for the children's return to their family. The court ruled that the state's decision to remove the children from their biological family was unlawful. Following this victory, PHR and the children pursued a further lawsuit seeking damages. The initial court decision sided with PHR, mandating the state to pay damages amounting to 35,000 GEL. However, the appellate court later overturned this ruling, sending the case back to the first instance court for reconsideration.

When talking about child poverty, it should be noted that there are frequent cases of separation of the child from the family, which is caused by the parents' severe economic situation, lack of housing and stable income. International legislation, including the practice of the European Court of Human Rights, imposes specific requirements on the state regarding the removal of a child from the family and prohibits the separation of a child from the family due to poverty. According to local legislation, placing a child in alternative care is an extreme measure. Two minors, who were transferred by the state from their biological family to foster care precisely because of extreme poverty in the family, where they spent more

46. Ibid.

47. Decision of the European Court of Human Rights, *Wallova and Walla v. Czech Republic*

48. Law of Georgia, Code of Child Rights, Article 29, fifth paragraph;

than 2 years, appealed to PHR for help in this matter. Despite the poverty, the children wanted to return to their parents and younger brother. PHR appealed to the court and demanded that the children be returned to the family. The court found illegal the state's decision to remove children from their biological family. PHR and the children then filed another lawsuit seeking damages. According to the decision of the court of first instance, PHR's request was satisfied and the state was ordered to pay damages in the amount of 35,000 GEL. The appellate court overturned the decision and sent the case back to the first instance court for reconsideration.

The most pressing challenge in the fight against child poverty lies within the existing social assistance system. Specifically, according to the standard, once a child reaches the age of 16, they are removed from the list of direct assistance recipients.⁴⁹ Moreover, the free dining program funded by the Tbilisi City Hall does not extend to children under the age of 6.⁵⁰

Living conditions for families with children residing in social housing are challenging. Frequently, they lack access to basic necessities and essential furniture⁵¹. The state does not consider the number of children in the family, their ages, or the potential for private space when allocating social housing. Furthermore, the absence of natural gas further complicates the living conditions in Tbilisi's social housing, leading to increased electricity consumption for families with children. State support for utility bills is only provided during the winter months. There is no existing state program that takes into account the transition to permanent housing for families with children residing in social housing.

49. On the approval of the procedure for the appointment and provision of targeted social assistance" of the Ministry of Labor, Health and Social Protection of Georgia No. 225

Article 16, paragraph 1, sub-paragraph "d" of the order and paragraph 2, paragraph "b" of the same article.

50. The main challenges of the social protection system for different vulnerable groups in Georgia, p. 18, Coalition for Equality, 2022 Available at: <https://bit.ly/4OUWRF0>

51. The main challenges of the social protection system for different vulnerable groups in Georgia, p. 18, Coalition for Equality, Available at: <https://bit.ly/4OUWRF0>

CHILDREN WITH ONCOLOGICAL DISEASES

According to the data of the National Statistical Service of Georgia, 152 children were diagnosed with malignant cancer in 2021.⁵² In 2015-2020, 169 children under the age of 17 died of cancer, although it should be noted that the statistics do not include the number of children who died abroad.⁵³

The average cost for the treatment of a child with an oncological disease is 100,000 Euros.⁵⁴ In Georgia, the annual limit for financing the treatment of oncological diseases for children is 23,000 GEL, and in the case of treatment abroad - the equivalent of 10,000 currency units.⁵⁵ It should be noted that the funding available in the reporting period covers only 10% of a child's vital medical care. Due to insufficient financing of the treatment of children diagnosed with cancer, they cannot enjoy high-quality medical services and medical procedures necessary for life, which violates the child's right to health.

On March 2, 2022, the Tbilisi City Court accepted PHR's lawsuit, where the organization calls for an augmentation in funding for children suffering from oncological diseases. Due to inadequate funding and services within the country, PHR requests the state to fully finance the treatment of these children, both within Georgian medical centers and in clinics abroad. During the course of addressing this issue, it was revealed that children lacked the opportunity to seek a medical "second opinion" during their treatment. Moreover, the issue of geographical accessibility emerged as an additional hurdle. Families with children found themselves to relocate to Tbilisi for extended periods, incurring additional expenses. In response, PHR's lawsuit seeks to broaden the availability of clinics across various regions and establish oncology centers. This would enable children to access a second opinion as part of their treatment process.

52. Children and adolescents in Georgia; 2022. National Statistical Service of Georgia; Available at: <https://bit.ly/42zY9WP>

53. Information is Available at: <https://bit.ly/430r2eF>

54. Ibid.

55. Ibid.

In relation to PHR's lawsuit, no court session was scheduled during the reporting period. Accordingly, court hearings on the claims of children with oncological diseases have not started as of December 31, 2022.

On April 24, 2023, the Prime Minister announced at the government meeting that the state will fully finance the treatment of children with oncological diseases, both within the country and abroad. It also provides full financing of travel, living and all other needs.⁵⁶ However, until now there are no legal guarantees, as the current funding program has not changed.

RECOMMENDATIONS:

The Government of Georgia:

- Promote public awareness of children's rights and the prohibition of violent forms of punishment as a proactive measure against child violence. Develop a strategy to shift public attitudes and behavior towards a more child-friendly and non-violent approach;
- Establish a system for continuous training, skill reinforcement, and progress assessment of specialists, ensuring their ability to swiftly identify and prevent violence against children;
- Implement a comprehensive deinstitutionalization plan for all large-sized orphanages, including those managed by religious communities, in line with best practices for child welfare;
- Enhance the effectiveness of the State Program of Social Rehabilitation and Child Care, particularly in the sub-program providing shelters for mothers and children, and for homeless children. Develop a systematic plan for assessing effectiveness and gradually strengthening the services provided;
- The state to allocate a full financial support for the treatment of

56. Statement by Irakli Gharibashvili, Available at: <https://www.gov.ge/news/356977?page=&-year=> [Last accessed: 30.06.23]

children with oncological diseases, covering expenses both within Georgia and in international medical centers. Additionally, focus on increasing geographical accessibility to suitable medical facilities, allowing the children to obtain a medical second opinion when necessary.

For the investigative bodies:

- Take a swift action to promptly and effectively address the cases of violence at the Ninotsminda Boarding School for Children Deprived of Care.

For the Ministry of Education and Science of Georgia:

- Provide training for public school teachers and conduct educational events for students addressing topics such as violence against children, encompassing bullying, sexual violence, the prohibition of discrimination, and the duty to report;
- Initiate the production of comprehensive statistics to meticulously track the reasons for student status termination or suspension, enabling a detailed understanding of these circumstances.

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

- Amend Article 16 of order N225/N issued by Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia to extend the age limit for benefit recipients from 16 to 18 years, ensuring continued support for older children;
- Provide training for personnel employed in small family-type homes, mother and children's shelters, and homeless children's shelters, that will focus on preventing and managing difficult behavior of the beneficiaries, addressing their emotional distress, and covering other pertinent topics identified in their work with minors at each respective facility.

For the Tbilisi City Hall:

- Amend the Tbilisi Municipality sponsored free canteen programs to include children between the ages of 1 and 6, allowing them to access the service.

**PEOPLE
WITH
DISABILITIES**

During the reporting period, the Government of Georgia approved the second national strategy for the protection of human rights for 2022-2030⁵⁷, one of the goals of which is to strengthen the rights of persons with disabilities and increase their participation in all areas of public life, not only legally, but actually, taking into account the principles of reasonable accommodation.⁵⁸ However, the responsible bodies defined by the Law of Georgia on the Rights of Persons with Disabilities, including the Parliament of Georgia, did not approve the action plan on the rights of persons with disabilities during the reporting period.⁵⁹

In the reporting period, protection of the legal status of persons with disabilities was again one of the main challenges. As in previous years, the lack of access to physical infrastructure, transport, information and services remains a problem.⁶⁰

There is no positive dynamic in terms of employment and the realization of the right to work, discrimination of persons with disabilities in workplaces remains a problem, both in labor and in pre-contractual relations. The problem of unemployment of people with disabilities is acute.⁶¹

In the reporting period, the quality and continuity of inclusive education was still a challenge. According to the 2022 parliamentary report of the Public Defender, there is a gap in the enforcement of the rights of persons with disabilities in educational or other care institutions. The shortage of specialists and unadapted infrastructure in educational institutions is particularly noticeable.

57. Statement of the Prime Minister of Georgia, Available at: <https://bit.ly/3pHv9hg>

58. National Strategy for Human Rights Protection of Georgia for 2022-2030;

59. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 257, Public Defender of Georgia, 2022, Available at: <https://bit.ly/439eRwV>

60. Ibid.

61. Special report of the Public Defender of Georgia on the right to work and employment of persons with disabilities, 2022. Available at: <https://bit.ly/3ocksCs>

RIGHT TO WORK AND EMPLOYMENT

The Labor Code of Georgia prohibits all kinds of discrimination in both labor and pre-contractual relations,⁶² which in itself implies the prohibition of discrimination based on disabilities. Despite this, the facts of discrimination on the part of employers and employees are a challenge for employed persons with disabilities. In the special report of the Public Defender, which concerns the right to work and employment of persons with disabilities, the respondents say that they often became victims of discriminatory treatment.⁶³ Discriminatory treatment of persons with disabilities in the workplace is manifested in aggression, rudeness and disrespect, as well as in pity and violation of the right to reasonable treatment.

The employment situation of people with disabilities is still an important challenge in the country. Among the working people with disabilities, the majority are employed in the non-governmental sector. According to the data of December 2022,⁶⁴ the number of persons with disabilities employed in the public sector is 235.⁶⁵

The decision of the Government of Georgia should be evaluated positively, based on which the persons employed in the state service can now receive remuneration and social package (pension) at the same time, which was preceded by the recommendation of the public defender and the request of non-governmental organizations. In addition, in 2022, the Government of Georgia approved the employment promotion program, one of the goals of which is to promote the employment of vulnerable groups, including persons with disabilities. However, it is not known to what extent the employment promotion mechanism is based on the research of

62. Labor Code of Georgia, Article 2

63. Special report of the Public Defender of Georgia on the right to work and employment of persons with disabilities, pp. 44-45, 2022, Available at: <https://bit.ly/3ocksCs>

64. Special report of the Public Defender of Georgia on the right to work and employment of persons with disabilities, pp. 252-263, 2022, Available at: <https://bit.ly/439eRwV>

65. Ibid., civil servant - 76; managerial position - 30; Contractual employee - 159.

groups' needs.⁶⁶ In spite of all this, in the reporting period, no significant improvement in the direction of promotion of employment of persons with disabilities has been observed. All the steps taken by the state are less effective and temporary. Against the background of similar approaches, people with disabilities face the danger of losing services tailored to their needs even after starting a job.

One of the functions of the employment promotion agency under the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia (hereinafter referred to as the Ministry of Health) is to promote the employment of persons with disabilities. However, the number of service centers of the agency is insufficient and cannot geographically cover a large part of the country.

In the reporting period, the number of job seekers, like in previous years, exceeds the number of employed people.⁶⁷ Stigmatizing perceptions of potential employers and misinformation regarding the use of reasonable accommodation remain a problem.⁶⁸ As for the state's efforts to encourage the private sector, they are minimal.

The employment of people with disabilities is complicated by their low qualifications. Often, due to barriers, they are not able to receive proper secondary, higher, or vocational education. Alongside barriers to employment, an additional obstacle for people with disabilities is the inaccessibility of the environment and programs. This includes issues with public transport, the lack of ramps for wheelchair users in the city, difficulties in adapting traffic lights for the blind, and many other details that are much more noticeable in the regions. All of these factors add to the unadapted

66. Special report of the Public Defender of Georgia on the right to work and employment of persons with disabilities, p. 30, 2022, Available at: <https://bit.ly/3ocksCs>

67. Special report of the Public Defender of Georgia on the right to work and employment of persons with disabilities, pp. 252-263, 2022, Available at: <https://bit.ly/439eRwV>

68. The principle, which in each specific case implies the implementation of the necessary and appropriate change, which does not cause a disproportionate or excessive burden or obligation and ensures the realization of the rights and freedoms of a person with disabilities on equal terms with others;

environment in workplaces. It is for these reasons that people with disabilities often prefer to work from home and seek employment in a field that provides this opportunity. In the special report of the Public Defender, respondents indicate that they have no choice but to find employment wherever they are given such an opportunity.⁶⁹

INCLUSIVE EDUCATION

The United Nations Convention on the Rights of Persons with Disabilities emphasizes the importance of realizing the right to education for persons with disabilities.⁷⁰ According to the convention, in order to realize the right to education without discrimination and under equal conditions, an inclusive education system should be introduced, which will be equally accessible and of high quality to all.

Despite the standards set by international agreements and local legislation, accessibility and continuity of inclusive education remained a challenge during the reporting period. The problem is clear in all types of educational and care institutions.

Preschool institutions suffer from a shortage of inclusive education specialists, which is especially noticeable in the regions.⁷¹ Additionally, the infrastructure of kindergartens is not fully maintained, further reducing the opportunities for children with disabilities to attend. All of this is compounded by the lack of qualifications among educators. In 2022, the state conducted 27 trainings in the field of inclusive education.⁷² Monitoring of

69. Special report of the Public Defender of Georgia on the right to work and employment of persons with disabilities, p. 46, 2022, 2022 წელი. The document is Available at: <https://bit.ly/3ocksCs>

70. United Nations; Article 24 of the Convention on the Rights of Persons with Disabilities;

71. It is difficult to find specialists in the following regions: Ozurgeti, Lanchkhuti, Chiatura, Tkibuli, Dusheti, Tianeti, Akhaltsikhe, Akhmeta, Gori, Gurjaan, Marneuli, Dusheti, Sighnaghi, Kharagauli, Mestia, Tetrtskaro and Chokhatauri.

72. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 249-252, Public Defender of Georgia, 2022, The document is Available at: <https://bit.ly/439eRwV>

inclusive preschool education was carried out in only 11 out of 53 municipalities, which is insufficient.

The lack of adapted infrastructure and specialists is also a challenge in general education institutions. The goal is to include all children with disabilities in the educational process. During the reporting period, 611 children with disabilities remained outside of school.⁷³ Cases of dropouts are also common issue. 221 students with disabilities discontinued their studies before completing the basic level, while 378 students with disabilities did so after completing the basic level.

Turning to professional education, the construction of four new colleges organized according to universal standards deserves positive recognition⁷⁴, three of which have already been completed, although geographical coverage is still insufficient. In 2022, 263 persons with disabilities were enrolled in professional programs.⁷⁵ The issue of excluding individuals with disabilities from professional education due to a lack of documentation confirming general education remains a problem.

The Ministry of Education and Science of Georgia conducts an analysis of the needs of students with disabilities enrolled in higher education institutions, however, during the reporting period, no research was conducted,⁷⁶ that would determine the barriers that people with disabilities encounter against continuing their studies in higher education institutions after completing the general level education. As at all levels, the challenge in higher education institutions is the non-adapted infrastructure, the implementation of modern technologies, the maintenance of university websites and the issue of the availability of teaching resources for students.

73. Ibid.

74. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 249-252, Public Defender of Georgia, 2022, The document is Available at: <https://bit.ly/439eRwV>

75. Ibid.

76. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 252, Public Defender of Georgia, 2022, The document is Available at: <https://bit.ly/439eRwV>

ACCESSIBILITY

Accessibility is of paramount importance for the realization of the rights of persons with disabilities. Access to the physical environment, transportation, and information remains a significant challenge in the country, preventing individuals with disabilities from fully enjoying the rights guaranteed by the convention. Neglecting physical accessibility for people with disabilities places them in a discriminatory position. In this context, the availability of accessible public transport, social spaces, and infrastructure for persons with disabilities to exercise their rights without hindrance remains problematic. As a result, essential services continue to be inaccessible to individuals with disabilities. One of the issues at the heart of this problem is the lack of conformity of the newly rehabilitated streets in the capital with universal design principles.⁷⁷

In 2021, the technical regulation known as the National Accessibility Standards⁷⁸ came into effect. It mandates that all buildings and infrastructure, excluding private residential houses, must unequivocally cater to the needs of individuals with all categories of physical abilities. However, the provision within the disability rights law, which sets a deadline for compliance until the end of 2035⁷⁹, should be critically evaluated as an unreasonably distant target. This approach by the state significantly hampers progress in achieving environmental accessibility for persons with disabilities. Additionally, the state's decision to insufficiently involve persons with disabilities and organizations working on these issues in the preparation of strategic accessibility documents and decision-making is problematic.⁸⁰

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77. It refers to the design of products, environments, programs and services that allow everyone to use them to the maximum, without the need for adaptation or special design. "Universal design" does not exclude the use of assistive devices by a specific group of people with disabilities when necessary. Convention on the Rights of Persons with Disabilities, Article 2.
78. Resolution No. 732 of the Government of Georgia of December 4, 2020 on the approval of the technical regulations - "National Accessibility Standards", The document is Available at: <https://bit.ly/3GdtBQQ>
79. Law of Georgia on the rights of persons with disabilities; Article 37, third paragraph, sub-paragraph "c";
80. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 252, Public Defender of Georgia, 2021

In 2022, the state did not approve a unified accessibility plan,⁸¹ which would ensure access to information, means of communication, web pages, and mobile applications for persons with disabilities. This, in turn, impedes the effective implementation of the national accessibility standard.

The judicial infrastructure remains inadequately adapted to the needs of persons with disabilities, violating Article 13 of the Convention on the Rights of Persons with Disabilities, which obligates the state to ensure effective access to justice for individuals with all types of needs from the initial stages of legal proceedings. Most courts in Georgia lack convenient public transport connections, which present an additional barrier for people with disabilities. Moreover, many buildings are ill-suited to the needs of individuals with disabilities, often displaying infrastructure defects and a lack of necessary adaptations. Furthermore, the issue of in-courtroom adaptation hinders individuals with disabilities from appearing as witnesses and participating fully in the justice process.⁸² The state has yet to take effective steps to address this systemic issues.

During the reporting period, there was no amendment made in Article 191 of the Criminal Procedure Code of Georgia, which retains a discriminatory provision preventing individuals with mental health disabilities from proving their innocence in court. Instead, these individuals are compelled to undergo involuntary mental health treatment. Consequently, the court deliberates on the innocence of a person with disability status without affording them a legal evaluation. This contravenes the presumption of innocence and results in an unlawful curtailment of the freedom of persons with disabilities. Furthermore, the mandate for forced treatment is deemed unconstitutional and stands in contradiction to the United Nations Committee on the Rights of Persons with Disabilities standard.⁸³

81. Special report of the Public Defender of Georgia, 2022, on the prevention of discrimination and the state of equality, The document is available at: <https://bit.ly/3MO8469>

82. Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Georgia, p. 8, Social Justice Center , Partnership for Human Rights (PHR), Movement Accessible Environment for Everyone (MAEE), <https://bit.ly/4346fXG>

83. Convention on the Rights of Persons with Disabilities; Article 12 and 13

Throughout this period, PHR was involved in a case concerning a woman with disabilities who held the status of an accused. She was denied access to justice and was coercively placed in a treatment facility by the court.

On March 29, 2022, PHR engaged in the case of a woman with disabilities who, on March 16, 2022, was sent to the Khoni psychiatric hospital for compulsory treatment by the Tbilisi City Court, based on a discriminatory statutory provision. This court decision was predicated on the expert opinion of the National Bureau of Forensic Expertise named after Levan Samkharauli, which, in turn, is discriminatory. Behavior that would be considered normal in other cases was classified as a symptom of mental disorder in a woman with disabilities.⁸⁴ After speaking with the woman in the involuntary treatment facility, PHR requested the Khoni Psychiatric Facility to conduct an early assessment for the woman in order to expedite her release from the psychiatric facility and involuntary treatment. Unfortunately, the facility declined the request. On April 1, 2022, the lawyers filed an application with the court making the same request. The court declined to interview the woman, despite the lawyers' requests for an oral hearing, during which the judge could directly ascertain her whereabouts and the actual circumstances. The court did not grant PHR's request and left the woman in the Khoni psychiatric institution for forced treatment. This case underscores a discriminatory practice within the country, violating the presumption of innocence, denying persons with disabilities the chance to establish their innocence, and simultaneously subjecting them to forced placement in psychiatric institutions.

HABILITATION AND REHABILITATION

Article 26 of the Convention on Persons with Disabilities establishes the standard by which the state must ensure the maximal independence of persons with disabilities, enabling them to utilize their full physical, mental, social, and professional capabilities. To achieve this, it is crucial to

84. Irma Manukian Case; PHR; <https://bit.ly/456xCLC>

bolster rehabilitation and habilitation services and programs, alongside the education and systematic training of the specialists and staff involved, ensuring the availability of similar types of rehabilitation and habilitation programs for persons with all forms of disabilities.

Throughout the reporting period, there were no significant alterations to the current or planned strategies for the rehabilitation and habilitation of persons with disabilities. For individuals with disabilities, rehabilitation is a critical prerequisite for safeguarding their right to health, education, employment, participation in public life, and independent living. However, in the majority of cases, the existing rehabilitation programs in the country fall short of meeting the minimum standards and needs of persons with disabilities.

A poignant example of this is the case of the minor, Luka's case, who waged a legal battle with PHR to assert his rights⁸⁵. Alongside his autism diagnosis, Luka exhibited challenging behavior. He required rehabilitation programs to facilitate his adaptation and full integration into society. Regrettably, none of the day care centers or specialized institutions in the country could provide the child with services tailored to his needs. Faced with concerns about Luka's personal safety and the absence of a suitable child rehabilitation program in the country, his parents were compelled to place him in a mental institution, where he endured isolation and enforced separation from his family. Luka expressed a strong desire to leave the mental institution and reunite with his family.

In response, PHR and Luka petitioned the court, urging that, until a specialized rehabilitation service for children diagnosed with conditions similar to Luka's was established in the country, the state should be directed to allocate a personal assistant with the appropriate qualifications for such children. The court granted this request,⁸⁶ thereby acknowledging the pressing issue within the country regarding the deficiency of suitable programs for persons with disabilities. Simultaneously, Luke was

85. Article by Radio Tavisupleba: <https://bit.ly/42MpBkh>

86. The article by Partnership for Human Rights is Available at: <https://bit.ly/3okCsLk>

assigned a personal assistant until the state established a proper rehabilitation service.

This landmark decision not only spurred the timely establishment and fortification of services, but also afforded individuals with disabilities the opportunity to realize the rights conferred by the Convention.

Regarding all the aforementioned issues, it is worth noting that in Georgia exists a system for determining the status of a person with a disability, which contravenes the UN Convention on Persons with Disabilities and the principles of the Committee of Persons with Disabilities. According to these principles, the absence of status should not impede a person with a disability from accessing any services or other benefits⁸⁷. Nevertheless, during the reporting period, the provision of services and necessary programs for persons with disabilities lacking status continues to be a challenge.

RECOMMENDATIONS:

For the Executive and Legislative Authorities of Georgia:

- Produce detailed statistics, based on which the state will produce a development plan for inclusive education;
- Reduce the deadline for implementation of accessibility measures and submit the plan within a shorter time frame instead of 2035;
- Timely adapt the buildings and structures, which are the primary need for people with disabilities; All buildings of the police, courts and free legal aid services must be adapted for persons with disabilities. In ensuring access to justice, including both the physical environment and access to information and appeals procedures, the needs of blind and visually impaired people should be taken into account;

87. The article by Partnership for Human Rights is Available at: <https://bit.ly/3OhKdwp>

- Judges, prosecutors, investigators and lawyers should be specialized in issues of rights of persons with disabilities;
- Create and improve the habilitation, rehabilitation and community-based services of persons with disabilities, which will be equally accessible to all persons with disabilities and will be aimed at the realization of their rights and promotion of independent living;
- Regulations on accessibility to the physical environment to take into account the needs of people with sensory and communication impairments, as well as people with intellectual and mental developmental disabilities.

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

- State agencies to ensure and/or strengthen implementation of result-oriented and effective measures to promote the employment of persons with disabilities;
- Provide modification of existing state programs in the field of employment, in such a way that the possibility of employment for persons with disabilities becomes more accessible. Expand the geographical area of employment promotion programs;
- Ensure that employment portals and job search websites are adapted for persons with various disabilities, in order to promote the employment of persons with disabilities.

For the Ministry of Science and Education

- Take appropriate measures for children with disabilities to fully enjoy the right to education by implementing the principles of accessibility and reasonable accommodation;
- Increase the number of specialists in educational institutions, ensure their systematic training and qualification assessment;
- Create a strategy that will support the continuation of studies for persons with disabilities in higher education institutions.

WOMEN

FEMICIDE AND INTERNATIONAL DECISIONS

In 2022, the incidences of femicide increased compared to the previous year, encompassing both actual murders and attempted murders of women. Specifically, in 2022 there were 25 cases of murder and acts leading to suicide and 37 cases of attempted murder involving women.⁸⁸ Analyses of femicide cases at both national and international levels reveal a lot of systemic issues and barriers that impede timely prevention of gender-based threats to women’s lives.

In this context, it is noteworthy to distinguish the 2022 decision of the European Court of Human Rights in the case “A. and b. against Georgia”⁸⁹, addressing the murder of a 19-year-old by her ex-partner - a police officer. Similar to the 2021 decision in the Tinadze case⁹⁰ the court found a violation of the right to life (both in its material and procedural dimensions) and the right to be free from discrimination. The court paid particular attention to the inaction of law enforcement agencies, despite repeated reports of domestic violence, in investigating these ongoing instances and preventing violence when the victim faced imminent danger. At the national level, the extent to which the inaction of law enforcement was driven by gender-related motives remained unexplored. According to the Public Defender’s report, this continued to be an issue in 2022 as well.⁹¹

Furthermore, the European Court of Human Rights also underscored serious shortcomings in the process of collecting evidence related to domestic violence cases⁹², a systemic problem⁹³. This includes incomplete

88. Public Defender of Georgia [Report on the state of protection of human rights and freedoms in Georgia](#), 2022. P. 203. For comparison see: Public Defender of Georgia [Report on the state of protection of human rights and freedoms in Georgia](#), 2021, p. 153. 2021. This year, 22 cases of murder and suicide of women and 31 cases of attempted murder of women were revealed.

89. Application no. 73975/16, February 10, 2022

90. Case “[A and B v. Georgia](#)”, Application no. 73975/16, February 10, 2022, par. 47

91. Public Defender of Georgia, [Report on the state of protection of human rights and freedoms in Georgia](#), 2022, p. 20

92. Case “[A and B v. Georgia](#)”, Application no. 73975/16, February 10, 2022, par. 47

93. [Rule 9.2 - Communication](#) from NGOs (26/10/2022) (Georgian Young Lawyers’ Association, Union

recording of the victim's statements by the police, neglect or inclusion of false information in the testimony, which can subsequently lead to the cancellation of restraining orders by the court, overlooking crucial factual circumstances, and several other risks for the victim. A related concern is the failure of police to follow and complete risk assessment questionnaires (in the protocol of the restraining order) accurately, often inserting their own interpretations.⁹⁴ Despite calls from women's rights advocates, no effective measures have been implemented to address this issue, such as mandating audio/video recording of victim statements.

It is worth noting that another crucial barrier to effectively preventing femicide, as highlighted by the European Court of Human Rights, is the underutilization of various preventive measures outlined in legislation.⁹⁵ Notably, electronic surveillance, as provided for in Georgian law, stands out. This measure allows for the regulation and monitoring of the abuser's actions and is recognized as a significant mechanism for preventing violence. However, the 2022 parliamentary report from the Public Defender of Georgia points out that the use of GPS monitoring remains infrequent.⁹⁶ Some police officers dissuade victims, claiming it would be inconvenient for them.⁹⁷ This measure is only sporadically applied, primarily in high-risk cases, despite its potential to serve a crucial preventive function in medium-risk cases.⁹⁸

A distinct issue contributing to femicide is the challenge of conducting proper risk assessments by law enforcement agencies, including the courts. A striking example occurred on October 9, 2022, when an abuser

Sapari, European Human Rights Advocacy Centre, International Partnership for Human Rights) in the case of Tkheldze v. Georgia (Application No. 33056/17), DH-DD(2022)1182 08/11/2022

94. Ibid, p. 7

95. Case "[A and B v. Georgia](#)", Application no. 73975/16, February 10, 2022, par. 48

96. Public Defender of Georgia [Report on the state of protection of human rights and freedoms in Georgia](#), 2022. P. 204

97. [Rule 9.2 - Communication](#) from NGOs (26/10/2022) (Georgian Young Lawyers' Association, Union Sapari, European Human Rights Advocacy Centre, International Partnership for Human Rights) in the case of Tkheldze v. Georgia (Application No. 33056/17), DH-DD(2022)1182 08/11/2022, 83. 27

98. Ibid, pg. 27

took the life of his partner, despite the prosecutor’s office having sought a restraining order against him just a week prior. The court released the individual on bail.⁹⁹ According to the Public Defender’s report, the failure to recognize murder driven by jealousy as a gender-based crime and the imposition of conditional sentences in cases lacking assurances against future femicide attempts remain persistent issues at the court level.¹⁰⁰

The convergence of these challenges creates an environment where the absence of preventative measures, coupled with the potential for impunity or lenient punishment, leads to a rise in femicides.

VIOLENCE AGAINST WOMEN AND SEXUAL VIOLENCE

According to the concluding observations of the United Nations Human Rights Committee on the 5th periodic report on Georgia,¹⁰¹ the reporting rate of cases of violence against women, especially sexual crimes, in Georgia is low, the rate of charges and convictions for these crimes is also low, and victims receive insufficient support and services. The committee particularly emphasized that victims of violence can only use shelters if they have victim status. Additionally, the Committee noted that lack of consent is not a key element in the definition of rape, and the legislation does not include a definition of “crimes committed in the name of dignity”.

It is important that on November 9, 2022, the Government of Georgia adopted a resolution “on determining the amount of compensation to be given to victims of violence against women and/or domestic violence and approving the rules for issuing it”, which regulates the conditions, procedure and amount of compensation for adult or minor victims of vio-

99. See the Media News, Rustavi2, A man who killed a 26-year-old girlfriend in Telavi was arrested - the Ministry of Internal Affairs reports, available at: <https://rustavi2.ge/ka/news/239844>, accessed on 10.10.2022.

100. Public Defender of Georgia [Report on the state of protection of human rights and freedoms in Georgia](#), 2022. P. 20

101. UN Human Rights Committee, CCPR/C/GEO/CO/5, 13 September 2022

lence against women and/or domestic violence, as well as for their minor children in the event of the victim's death. This act is an important step forward in terms of support for women victims of violence, however, as the Public Defender's report points out, "the conditions and volume of compensation are problematic, which cannot fully respond to the needs of the victims."¹⁰²

Amendments were also made to the law on Prevention of Violence Against Women and/or Domestic Violence, Protection and Assistance to Victims of Violence, and among other things, the definition of a victim was changed so that a person does not need to have the status of a victim granted by the relevant authorities in order to be able to access the relevant services, especially a shelter or crisis center.¹⁰³

Regarding the Committee's reference to the definition of rape, this issue remains problematic¹⁰⁴ and Georgian legislation still needs to be harmonized with Article 36 of the Istanbul Convention, which implies that entering into a sexual contact without the consent of the other party should be considered rape. The Human Rights Protection and Civil Integration Committee of the Parliament of Georgia is conducting a thematic investigation on this issue, however, at the moment it is not finished and no changes have been made in the legislation, despite the fact that work in this direction has been going on for years, both with the Parliament and the executive authorities. In 2022, *Sapari* drafted a draft law on changing the definition of rape with the involvement of experts and shared it with the Parliamentary Council on Gender Equality and the Human Rights Committee, as well as international and local organizations.

102. Public Defender of Georgia [Report on the state of protection of human rights and freedoms in Georgia](#), 2022. P. 202

103. Law of Georgia on Amendments to the Law of Georgia on Prevention of Violence Against Women and/or Domestic Violence, Protection and Assistance to Victims of Violence, 2477-Xpc-Xmn, 22/12/2022, Article 1, Clause 1, Subsection "a"

104. Public Defender of Georgia [Report on the state of protection of human rights and freedoms in Georgia](#), 2022. P. 203

POLITICAL INVOLVEMENT

The 2022 report of the Public Defender of Georgia on the assessment of gender equality policy at the level of municipalities shows that the decision-making process regarding women's involvement is different at the level of municipalities: in some municipalities, women hold important positions, while in others, women are only low-ranking civil servants.¹⁰⁵ Women's involvement or advancement in public service at the local level is hindered by many factors, notably the burden of unpaid domestic work, stereotypical attitudes, lack of sexual harassment prevention mechanisms in place, lack of access to municipal buildings for women with disabilities, and language barriers for women from ethnic minorities.¹⁰⁶

During the reporting period, *Sapari* conducted research on female coordinators of political parties in elections.¹⁰⁷ The research indicates that numerous women find themselves compelled to take on such employment, either due to economic hardship or the apprehension of job loss. Their duties are not solely physically and emotionally demanding (entailing tasks like door-to-door canvassing, articulating political pledges, and rallying voter support) but at times, they also entail engaging in illicit activities (unlawfully gathering personal voter data through electronic means to resorting to coercive tactics such as threatening to withdraw financial aid, or applying pressure on a voter's independent decision-making process, etc.).

Furthermore, female coordinators are typically compensated in cash without the benefit of a formal employment contract. This not only contributes to the lack of transparency in the functioning of political parties but also renders these women more vulnerable in terms of safeguarding their labor and other fundamental rights. The rights of these women are compromised due to negative public attitudes, which heighten the risk of

105. Public Defender of Georgia, [Evaluation of municipal gender equality policy](#), 2022, p. 47

106. Public Defender of Georgia, [Written Submission for 84th session of the Committee on the Elimination of Discrimination against Women \(CEDAW\)](#), 9 January, 2023, par. 17

107. Sapari, [Challenges of women coordinators in elections](#), 2023, p. 10, 30

violence against them, as well as the absence of regulated working conditions within the party, irregular employment arrangements, and the lack of legal protections. Consequently, the efforts of female coordinators do not serve to enhance women's participation in politics, but rather result in their instrumentalization for party interests, those they often cannot align with. This, in turn, exposes them to various forms of violence and labor exploitation.

RECOMMENDATIONS

For the Parliament of Georgia:

- Develop a legislative package to consider non-consensual sexual penetration as rape and bring definitions of other sexual crimes into line with the Istanbul Convention.

For the Ministry of Justice of Georgia:

- Develop proposals aimed at addressing the systemic obstacles that impede the prevention of femicide, as exemplified by the European Court of Human Rights' ruling in the case of 'A. and b. against Georgia.' Ensure the thorough and efficient implementation of this decision is actively promoted.

For the Ministry of Internal Affairs of Georgia:

- Ensure audio/video recording of victim's statements in cases of domestic violence and violence against women;
- Provide complete information to victims regarding the establishment of electronic surveillance, when responding to incidents of domestic violence and violence against women;
- Conduct an information campaign to raise awareness and popularize electronic surveillance.

For the Labor Inspection Service of Georgia:

- To carry out inspections regarding the compliance of labor norms with regard to female coordinators and to take legal measures upon detection of violations.

**LGBTQI
PEOPLE**

In 2022, the situation of equality for LGBTQI people has not improved. Instead of developing policies or legislation tailored to the needs of community members, the legislative and executive authorities have completely ignored the LGBTQI group. A particularly dangerous trend during the reporting period was the complete disappearance of LGBTQI people from state policy documents, including the 2022-2030 Human Rights Strategy and the concept of gender equality.¹⁰⁸ It should be noted that despite the numerous efforts of LGBTQI community organizations working in Georgia, no community organization has been effectively included in the process of developing the 2022-2030 human rights strategy document. The mentioned document, which does not mention a single issue specific to LGBTQI persons, became available to community organizations only after the work on it was completed, and despite the written feedback sent by the mentioned organizations,¹⁰⁹ no notes and additions were reflected in the final document.

Despite the state's refusal to strengthen the community and create an equal environment, the positive attitudes of society towards LGBTQI people have increased significantly. According to the results of a public survey conducted by the Council of Europe, from 33 percent in 2018 to 47 percent in 2021, the share of people who consider the protection of the rights of the LGBTQI community important has increased.¹¹⁰ According to a representative study conducted in Georgia, during the last five years, the index of homo/bi/transphobia has decreased in Georgia.¹¹¹ According to the study, the index of transphobia in society has decreased more sharply than homophobia and biphobia, however, attitudes towards trans and gender non-conforming people are still more negative than towards

108. See more information at the following link: <https://bit.ly/3H1lhUI> Last accessed: 15.04.2023.

109. LGBTQ community organizations, like other non-governmental organizations, provided feedback on the document to the Georgian government administration in August 2022.

110. Council of Europe, Hate Crime, Hate Speech and Discrimination in Georgia: Knowledge and Attitudes, 2022, p. 9, Available at: <https://bit.ly/3ooggQh>, Last accessed: 20.04.2023.

111. E. Agdgomelashvili, N. Mchedlishvili, T. Laferadze, From Prejudice to Equality, a survey of public knowledge, awareness and attitudes towards the LGBT community and their legal equality, WISG, 2023. See the research report at the following link: <https://bit.ly/43PVYij>, Last accessed: 20.04.2023.

bisexuals or homosexuals. Also, the willingness of the society to support a friend if he/she/they decides to undergo sex reassignment surgery has increased.¹¹² According to the same study, there are changes in public attitudes towards the legal status of LGBTQI people, in particular, fewer respondents perceive the discussion of legal equality of the community as “propaganda” and “turning the way of life on others’ heads”,¹¹³ and also, the share of respondents who believe that LGBTQ people should be prohibited by law from the right to assembly and demonstration has decreased by 25%.

HOMO/BI/TRANSPHOBIC VIOLENCE AND HATE SPEECH

Similar to previous years, preventing crimes committed on the basis of intolerance related to sexual orientation, gender identity, and/or gender expression, as well as ensuring timely and effective investigations of cases of violence, remains a challenge. With the resurgence of ultra-conservative and violent groups, the state hasn’t demonstrated the will to develop effective policies addressing homo/bi/transphobic hate crimes. Individual cases of violence starkly illustrate that law enforcement agencies, instead of implementing preventive measures, often confine themselves to post facto responses.

Throughout 2022, incidents of group attacks targeting LGBTQI individuals became notably prevalent. In May alone, two instances of group violence against transgender women were documented in Tbilisi.¹¹⁴ Notably, the case of transphobic femicide on November 17, where a woman fell victim to a murder motivated by intolerance based on her gender identity, stands out.¹¹⁵ Similar to the previous year, Pride Week in 2022 was punc-

112. Ibid, p.17.

113. In particular, in 2016, 76.5% of respondents thought so, while, according to a new study - 55,9%.

114. Detailed information is available at: <https://bit.ly/40lreTT> , <https://bit.ly/40jD6WA> Last accessed: 20.04.2023.

115. Detailed information is available at: <https://shorturl.at/rY456>, Last accessed: 24.04.2023.

tuated by protests from far-right and violent groups. Although the organizers of the week opted not to stage a public march, all enclosed events took place against a backdrop of protests by violent groups.¹¹⁶ It is worth mentioning that the group Alt-Info, responsible for the violence on July 5, 2021, began openly soliciting funds and recruiting individuals weeks prior to disrupting the Pride festival.¹¹⁷ On the final day of Pride Week, following an attempt to unlawfully seize the Pride festival grounds, the police apprehended the leaders of Alt-Info¹¹⁸, however, the violent group held a small rally in several locations in Tbilisi on the day of the festival. Notably, neither the organizers nor participants of these violent actions faced criminal consequences during the reporting period.

According to a joint report from the Ministry of Internal Affairs of Georgia, the General Prosecutor's Office of Georgia, and the Supreme Court of Georgia, in 2022, the Ministry of Internal Affairs initiated investigations into 36 crimes driven by hate based on sexual orientation, and 2 crimes motivated by gender and sexual orientation. Additionally, 10 individuals were convicted for crimes committed on the grounds of intolerance based on sexual orientation and/or gender identity.¹¹⁹

A challenge lies in appropriately categorizing cases of hate crimes committed on the basis of sexual orientation, gender identity/expression, which encompasses instances of domestic violence and sexual partner violence. Furthermore, providing suitable medical and psycho-social services for victims of hate crimes remains an ongoing challenge. Access to victim protection and support services, including restraining and protective orders, remains a hurdle for community members who are victims of intimate partner violence, as Georgian legislation still does not classify an intimate partner as a family member.

The persisting practice of tacitly endorsing discrimination against LGBTQI

116. Detailed information is available at: <https://bit.ly/3GVTKEM> Last accessed: 20.04.2023.

117. Detailed information is available at: <https://bit.ly/3oxNgp9> Last accessed: 20.04.2023.

118. Detailed information is available at: <https://bit.ly/3KSLTcr> Last accessed: 20.04.2023.

119. Detailed information is available at: <https://bit.ly/3mNiDLZ> Last accessed: 20.04.2023.

individuals and employing homo/bi/transphobic hate speech remains an unresolved issue. As in previous years, discriminatory statements were most frequently made by politicians, including political officials¹²⁰, and religious leaders during the reporting period. The use of hateful or discriminatory language by public figures heightens the risk that community members will be subject to harassment and/or violence in the future.¹²¹

TRANS PEOPLE

Legal gender recognition and access to quality trans-specific health services remain significant and systemic challenges for trans people.

Trans people in Georgia still do not have access to a quick, transparent, and accessible mechanism for legal recognition of their gender based on self-identification. On December 1, 2022, the European Court of Human Rights ruled that Georgia violated Article 8 of the European Convention on Human Rights (which pertains to the protection of private and family life) in a case related to legal gender recognition.¹²² The Court clarified that Article 8 obliges the State to establish a procedure for the legal recognition of gender that is fast, transparent, and accessible. While the Court did not provide detailed specifications for the legal gender recognition procedure in its decision, international standards suggest that “a fast mechanism” entails a procedure that minimizes the time between application and the actual change in the record. The mechanism is considered transparent if the process for changing the name and gender record is clearly defined

120. For example: member of the Parliament of Georgia, Iago Khvichia: “In my opinion, activism spoils the whole process... When you say that I am a representative of the LGBT community, naturally there is a feeling that you are not an ordinary person, but that you are walking in front of Rustaveli in leather “panties”, demanding and fighting for this right. In fact, for people who are ordinary people and have a different orientation, it’s more of a problem than a help.” Available at: <https://bit.ly/3MT8J6>. Last accessed: 20.04.2023.

121. Public defender of Georgia, on the fight against discrimination, its prevention and the state of equality, special report of 2022, p. 22, Available at: <https://bit.ly/3MYRJIJ> Last accessed: 20.04.2023.

122. Further information is available at: <https://bit.ly/40sS0tw> Last accessed: 15.04.2023.

by law, including specifying the agency to which interested individuals should apply. Accessibility of the procedure addresses practical aspects and involves removing barriers related to a person’s health, age, or limited abilities. Financial accessibility is also a crucial aspect, ensuring that cost does not become a hindrance for a trans person.”¹²³

Furthermore, trans people in Georgia continue to face a lack of access to quality trans-specific health services. Despite recommendations from both national¹²⁴ and international¹²⁵ institutions, there are still no established national guidelines, protocols, or standards for medical personnel to follow when providing trans-specific healthcare. Additionally, trans-specific health services remain uncovered by both public and private health insurance programs, rendering them financially inaccessible for trans individuals.

RECOMMENDATIONS:

For the Parliament of Georgia:

- The Ethics Council of the Parliament should be fully staffed and activated to ensure a swift and effective response to discriminatory statements and hate speech made by members of the Parliament;
- To address cases of violence within same-sex couples, the concept of “intimate partner” should be included in the list of family members.

123. St. Bakhtadze, “Legal recognition of gender in Georgia - policy document”, WISG, 2022, 35. See the document at the following link: <https://bit.ly/3AcORmX> Last accessed: 15.04.2023.

124. In 2020, the Public Defender of Georgia addressed to the Ministry of IDPs from the occupied territories of Georgia, the Ministry of Labor, Health and Social Protection with a general proposal to create national protocols and guidelines for trans-specific health services. See more information at the following link: <https://bit.ly/3mP6NB7> Last accessed: 15.04.2023.

125. In 2019, an independent UN expert on violence and discrimination based on sexual orientation and gender identity recommended Georgia to create protocols and guidelines for trans-specific health services. See the report at the following link: <https://bit.ly/2ZfE3jE> Last accessed: 15.04.2023.

Ministry of Internal Affairs:

- Take measures to prevent homo/bi/transphobic hate crimes and respond promptly to individual cases of violence; enhance efforts to safeguard LGBTQ people from violence.

The Government of Georgia:

- Develop a rigorous and cohesive strategy for dealing with ultra-right and violent groups;
- Establish a unified strategy for the prevention of homo/bi/transphobic hate crimes, ensuring timely and effective responses;
- In the process of elaborating action plans corresponding to the 2022-2030 national strategy for human rights protection, ensure the active involvement of non-governmental organizations specializing in LGBTQI rights;
- Dedicate a separate sub-chapter in the action plans of the 2022-2030 national strategy for human rights protection to address issues specific to LGBTQI people;
- Create a fast, transparent, accessible legal gender recognition mechanism based on self-identification for both adults and minors, eliminating prerequisites which are invasive and inconsistent with international human rights standards.

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

- Elaborate national guidelines and protocols for trans-specific health services, actively engaging community members and organizations with relevant expertise in the process;
- Develop and implement appropriate state services for the protection and assistance of victims of hate crimes.

For the Ministry of Education and Science:

- To foster a shift in prevailing homo/bi/transphobic sentiments within society and prevent instances of hate crimes, incidents and discrimination based on sexual orientation and gender identity, it is imperative to integrate thorough educational initiative addressing human sexuality into both formal and informal education systems, encompassing matters pertaining to sexuality and gender identity.

**FREEDOM
OF RELIGION AND
BELIEF/RELIGIOUS
MINORITIES**

Throughout the reporting year, the challenges pertaining to justice, the rule of law, and the adherence to democratic principles in Georgia naturally had repercussions on the freedom of religion and belief. The government’s non-secular form of governance and the unequal treatment of non-dominant religious groups were evident in various political, legislative, and judicial decisions. Persistent systemic issues from previous years, including discriminatory legislation, disputes concerning ownership of religious associations, artificial impediments encountered in the construction of new chapels, ambiguities surrounding the mandate and policies of the State Agency for Religious Affairs, as well as an inadequate response to crimes stemming from religious intolerance, all persist without resolution.

DISCRIMINATION IN LEGISLATION AND NEW PRIVILEGES FOR THE PATRIARCHY

Discriminatory norms persist in legislation, establishing unequal treatment for non-dominant religious associations remains as a pressing, unresolved issue. Instead of rectifying this inequality, the government introduced further discriminatory legislation in 2022.

The defense reform proposed by the Government of Georgia, presented to the Parliament on December 28, 2022, encompasses a reconfiguration of the “Defence Code” within Georgian Law.¹²⁶ This proposed legislation includes the revocation of military service deferment for clergy and the implementation of an alternative service option. An analysis of the proposed draft law reveals that, if enacted, it will not apply uniformly to all religious associations. Rather, the clergy of the Orthodox Church would enjoy a privileged status. The adoption and implementation of this legislative change is slated for the spring session of Parliament in 2023.

126. Defence Code, Parliament of Georgia, 28.12.2022, Available at: <https://parliament.ge/legislation/25591>

As per the draft law, the designation of priest will no longer serve as a grounds for postponing conscription into mandatory military service.¹²⁷ Instead, it is proposed to substitute this obligation with a non-military alternative labor service, a provision reflected in both the proposed “Defence Code” and the current law on Non-Military/Alternative Labor Service.

Due to an existing constitutional agreement between the state of Georgia and the Orthodox Church, clergy members of the Orthodox Church are exempted from military service.¹²⁸ Furthermore, in line with current legislation¹²⁹ and the interpretation by the Constitutional Court of Georgia,¹³⁰ alternative labor service is deemed one of the forms of military service. Consequently, unlike members of other religious associations, clergy of the Orthodox Church will continue to be exempt from the conscription requirement for national military service or alternative service. In practice, this could lead to further discrimination, as clerics from other religious communities would be obliged to undergo an alternative form of military service.¹³¹

Discriminatory treatment is also starkly evident in the Law on State Property and the Tax Code of Georgia, which extend exclusive privileges solely to the Georgian Orthodox Church. The Constitutional Court is presently reviewing four lawsuits involving religious associations. Two of these pertain to discriminatory provisions within the Tax Code, which grant exemptions from import¹³² and land/property taxes¹³³ exclusively to the

127. Law on Military Obligation and Military Service, Article 30, Article k.

128. which has a hierarchically superior legal force in relation to organic and Georgian laws: “Constitutional Agreement, Article 4.

129. Preamble of the Law of Georgia on Non-Military Alternative Labor Service.

130. Decision No. 1/1/477 of the Constitutional Court of Georgia of December 22, 2011 on the case “Public Defender of Georgia against the Parliament of Georgia”, P.II.34, 56

131. See: Tolerance and Diversity Institute (TDI) Statement of February 17, 2023:<https://bit.ly/3K0HmEg>

132. A constitutional claim N1593, Available at: <https://www.constcourt.ge/ka/judicialacts?legal=11126>

133. See: Record of the minutes of the Constitutional Court of Georgia on April 30, 2020 regarding the acceptance of the lawsuit on merits. Constitutional lawsuit No. 1422. Available at: –

Georgian Orthodox Church. The other two lawsuits seek the declaration of the discriminatory norms within the Law of Georgia on State Property as unconstitutional. These provisions impede religious associations—except for the Orthodox Church—from acquiring and exchanging state-owned property¹³⁴, as well as the right to privatize religious buildings and their remnants.¹³⁵ During the reporting period, the court did not reach a decision on these lawsuits. Additionally, neither legislative nor executive authorities have taken any steps to rectify the discriminatory elements within the legislation.

Another discriminatory provision grants the Georgian Orthodox Church sole authority over the acquisition of state-owned forests.¹³⁶ These legislative amendments were developed by the Parliament of Georgia in 2020 and took effect on January 1, 2021. Notably, forest privatization is prohibited by law. However, with these changes, the Patriarchate was endowed with the special privilege of owning forests adjacent to churches. In July 2021, the Public Defender of Georgia lodged an appeal with the Constitutional Court regarding the discriminatory legislation concerning forests.¹³⁷ A formal session was convened on September 29, 2022, to consider the admissibility of the claim. However, during the reporting period, the court did not render a decision on the matter.

■ Property rights of non-dominant religious associations

During the reporting period, the issue of restitution of historical religious property for non-dominant religious associations remains unresolved. Since Georgia gained independence, only the Georgian Orthodox Church

<https://www.constcourt.ge/ka/judicial-acts?legal=9133>

134. Constitutional lawsuits of nine religious associations N 1440, Available at: – <https://constcourt.ge/ka/judicial-acts?legal=1410>

135. Constitutional lawsuit of seven religious associations N 1640, Available at: – <https://constcourt.ge/ka/judicial-acts?legal=12279>

136. Clause 6 of Article 3 of the Law on State Property,

137. Constitutional lawsuit of the Public Defender of Georgia of July 22, 2021 №1627. Available at: <https://bit.ly/3MGZPWO>

has successfully reclaimed properties confiscated during the Soviet era, setting it apart from other religious groups. Some of this property remains under state ownership, while others have come under the purview of the Patriarchate of Georgia. It is crucial to note that a majority of these religious structures hold significant cultural heritage value. However, due to factors such as non-functionality or limited accessibility to their rightful owners, many of these buildings are at risk of deterioration. The safeguarding of these monuments falls within the realm of state responsibility.

In addition to the challenge of restoring historical property, religious associations also encounter hindrances in the construction of new chapels. In 2022, the Evangelical Church of Georgia faced the imminent threat of losing its sole chapel.

■ The case of construction of a new mosque in Batumi

The issue of the state creating artificial obstacles in the construction of new religious buildings came to the forefront in 2017 when the permission to build a new mosque in Batumi was denied. The Batumi City Hall initially refused to grant a construction permit for the land owned by the New Mosque Construction Fund. However, by the decisions of the Batumi City Court rendered on September 30, 2019 and by the the decision of Kutaisi Court of Appeal, rendered on April 13, 2021, this denial of the construction permit was deemed illegal and discriminatory against the plaintiffs based on their religious affiliation.

In 2021, the case regarding the construction of the new mosque in Batumi was transferred to the Supreme Court of Georgia.¹³⁸ The Administrative Affairs Chamber of the Supreme Court of Georgia, in its ruling on January 13, 2022, deemed the cassation appeals (filed by both Batumi City Hall and the New Mosque Construction Fund) as admissible and decided to consider the case without the presence of the parties. The date for the court's consideration is unknown, despite the formal deadlines for the consideration already being exceeded by the court. It is evident that

138. News from the Institute of Tolerance and Diversity: 21.07.2022: <https://bit.ly/41tcYcP>

Batumi City Hall is prolonging the case by appealing the decision. Consequently, the violation of the fundamental rights of Muslims displays a systematic and continuous pattern.

■ The case of the Evangelical Church of Georgia

During the reporting period, the evangelical church faced the imminent threat of losing its sole chapel. This chapel, constructed over five years through the efforts of church members, became the center of attention.¹³⁹ Various circumstances suggest an attempt to tarnish the reputation of the pastor through a contentious civil case and seize the only chapel of the Evangelical Church, infringing on the autonomy and independent existence of the religious association.

The plaintiffs in this case are US citizen Byun Chan Park and the US-registered organization “12 Baskets,” which is owned by the same individual. In 2019, Park initiated a lawsuit in the Tbilisi City Court against pastor Zaal Tkeshelashvili of the Evangelical church. He demanded that the defendant pay him the donations that, on behalf of the church, Park had collected from Christian believers over the years.

The city court dismissed plaintiff Park’s claims. However, the plaintiff appealed this decision to the Tbilisi Court of Appeals, which partially reversed the ruling of the Tbilisi City Court on November 9, 2022. It ordered pastor Zaal Tkeshelashvili of the Evangelical Church to pay \$90,000 to plaintiff Park. On January 30, 2023, pastor Zaal Tkeshelashvili appealed this decision to the Supreme Court of Georgia.

It is noteworthy that there are numerous ambiguous elements in this case. Among them are copies of allegedly forged documents submitted by the plaintiff, which bear the stamp of a US notary public. In November 2019, pastor Zaal Tkeshelashvili approached the Prosecutor’s Office of Georgia, requesting an investigation into the alleged document falsification. Howev-

139. Case report against the Evangelical Church of Georgia, Tolerance and Diversity Institute (TDI), February 9, 2023. See: <https://bit.ly/3KJ8p7k>

er, there has been no discernible progress thus far. Furthermore, the Court of Appeals based its decision against the defendant on these documents.

ILLEGAL CONTROL OF RELIGIOUS ACTIVITIES BY THE STATE

The information disseminated in 2021 regarding widespread, purportedly unlawful covert surveillance by the State Security Service is particularly disconcerting. The investigation process for this crime has proven ineffective, and authorities have yet to identify the responsible individuals.

On September 13, 2021, thousands of files were uploaded to online platforms,¹⁴⁰ revealing that the government was conducting monitoring and surveillance on human rights defenders, journalists, diplomats, politicians, representatives of the Georgian Orthodox Church, and other religious organizations. A significant portion of the disclosed documents pertained to religion and religious institutions. The database contained sensitive information and personal data concerning individuals' private lives, their family members, relatives, and their associations with others.

The Prosecutor's Office of Georgia stated that the investigation was launched based on indications of criminal conduct outlined in Article 158, Sections 1, 2, and 4, Subsection "a" of the Criminal Code (invasion of privacy regarding private communication).¹⁴¹

The Center for Social Justice, which advocates for the rights of the four affected clerics, has asserted that the investigation is being conducted with inefficiencies.¹⁴² Victim statuses were granted only a year later by the Prosecutor's Office, in October 2022. It is important to note that the group of impacted clergy extends beyond these individuals.

140. 2021 statement on the distribution of illegal recordings, Available at: <https://bit.ly/3rGaEiX>

141. Statement of the Prosecutor's Office of Georgia dated September 18, 2021. See: <https://pog.gov.ge/news/https-pog-gov-ge-1-2>

142. Evaluation of an Ongoing Investigation into State Security Service of Georgia, Center for Social Justice, October 2022. Available at: <http://bit.ly/3UgKfoY>

STATE FINANCING OF RELIGIOUS ORGANIZATIONS

The state continued its funding of the Georgian Orthodox Church in 2022. Just like in previous years, the Orthodox Church of Georgia received 25 million GEL from the state budget. While authorities and the Georgian Orthodox Church attempt to frame this transfer of financial and material resources as compensation for the damage incurred during the Soviet era, in reality, it constitutes a state grant rather than an objective and equitable restitution for the harm suffered.

In addition to funding from the central budget, the Patriarchate of Georgia also receives financial and material resources from local self-governments. In 2022, 43 municipalities collectively donated 4.3 million GEL to the Orthodox Church.¹⁴³

Since 2014, four religious associations (Muslim, Jewish, Catholic, and Armenian Apostolic Church) have also received annual funding as a symbolic gesture to acknowledge the harm inflicted during the Soviet era. These funds are distributed by the State Agency for Religious Affairs. This year, the allocated amount has increased by 1 million GEL, totaling 5.5 million GEL for all four religious communities.¹⁴⁴ Recognizing only four religious organizations as victims of Soviet repression perpetuates a discriminatory practice, given that a significantly larger number of religious associations were subjected to widespread pressure during the Soviet era.

Notably, the municipal financing of the Patriarchate is particularly substantial in Marneuli, amounting to 400,000 GEL. In 2019, local activist Samira Bayramova and the Higher Theological Division of Muslims of All Georgia filed a lawsuit against the Marneuli City Council and the City Hall, challenging the annual funding of the Diocese of “Marneuli and Hujab”. The dis-

143. Public information about the funding received by the Patriarchate of Georgia from the budgets of local self-governments during 2022 was collected and processed by the Union of Investigative Journalists “Ai, Fakti” <https://ifact.ge>

144. State Agency for Religious Affairs, 2020-2022 Report, p. 88, table N1, Available at: <https://bit.ly/3V0pMFH>

district court of Bolnisi, in its decision on July 1, 2022, deemed the practice of municipal financing in Marneuli as discriminatory and invalidated the resolution of the city council. This district court decision holds significance in terms of the separation of church and state, funding transparency, targeting, and addressing religious discrimination. However, the said decision was overturned by the Tbilisi Court of Appeal on December 8 of the same year.¹⁴⁵ According to the statement of the Center for Social Justice, the Court of Appeal, with a formal and expedited review of the case, “disregarded the importance, context, anti-discrimination legislation, and constitutional principles of the dispute,” summarized “a voluminous and complex administrative dispute” in one session, and consequently, annulled the decision.¹⁴⁶ The case remains ongoing in the Supreme Court.

HATE CRIMES

Despite an improved rate of initiating investigations into crimes motivated by religious intolerance, issues persist regarding the assignment of victim and accused statuses by the prosecutor’s office, as well as delays in filing charges.

According to unified statistical data from the Ministry of Internal Affairs, the Prosecutor’s Office, and the Supreme Court of Georgia on hate crimes in 2022, the Ministry of Internal Affairs launched a criminal investigation into 8 cases based on alleged religious intolerance. The Prosecutor’s Office of Georgia initiated prosecutions against 2 individuals and designated 13 persons as victims.¹⁴⁷

This year, the target of hate crimes also included the Christian organization of Jehovah’s Witnesses. In 2022, 9 cases of crimes driven by alleged

145. Decision of Bolnisi District Court of July 1, 2022, case N3/23-2

146. Center for Social Justice, Statement, 12.08.2022, Available at: <https://bit.ly/43MjDko>

147. Ministry of Internal Affairs of Georgia, Prosecutor’s Office of Georgia, Supreme Court of Georgia - “Unified report of statistics of crimes committed on the grounds of discrimination and intolerance, 2022. see: https://www.geostat.ge/media/51737/diskriminacia_2022.pdf

intolerance were recorded. These incidents, consistent with previous years, encompassed acts of vandalism against places of worship, unlawful disruption of religious services, threats of violence, and instances of physical violence.¹⁴⁸

BLOOD TRANSFUSION CASE FOR JEHOVAH’S WITNESS

The 2022 decision of the Tbilisi Court of Appeals is essential in terms of freedom of religion and belief, physical integrity, dignity and the right to free development of personality.

A Jehovah’s Witness patient was brought to the hospital unconscious following a car accident. Subsequently, he was transferred from the regional hospital to a facility in Tbilisi. The patient possessed a specific document affirming his refusal of any blood transfusion under any circumstance. The medical service provider was aware of the patient’s wishes. Nevertheless, the hospital, with the consent of another family member, administered a blood transfusion to the unconscious patient, arguing that it was necessary to save his life.

The patient filed a complaint with the court, seeking compensation for moral damages from the hospital and a three-year suspension of the doctor’s license. The Tbilisi City Court, in its decision of December 2021, did not grant the plaintiff’s requests. However, the Tbilisi Court of Appeal reversed the first-instance decision and partially granted relief. Specifically, it ordered the hospital to pay moral damages in the amount of 1,000 GEL. The court affirmed that the patient’s refusal of a blood transfusion was a clearly articulated expression of his will, rooted in his beliefs, and emphasized that freedom of religion and belief is a constitutionally protected right.¹⁴⁹

148. The information is based on the 2022 report of Jehovah’s Witnesses in Georgia.

149. Decision of the Tbilisi Court of Appeal of May 25, 2022 in case No. 330210020004008136 (No. 2b/691-22).

ANTI-SEMITISM

In 2022, the trial of the murder of young human rights defender Vitaly Safarov continued. In 2018, Safarov was assassinated on the grounds of ethnic intolerance and anti-Semitism. In June 2019, the Tbilisi City Court found two men guilty of Safarov's murder, but the crime was not classified as murder motivated by racial, religious, national, or ethnic intolerance.¹⁵⁰ The prosecutor's office appealed this decision, but on February 16, 2023, the Tbilisi Court of Appeals left the city court's decision unchanged. As a result, distinguishing the crime of intolerance in the case of murder remains problematic. The case continues in the Supreme Court.¹⁵¹

In parallel with the ongoing murder case in court, unidentified fascist groups have launched an alarming anti-Semitic campaign against the late Vitaly Safarov and his family. On March 4, 2022, Vitaly Safarov's mother became the target of an attack containing anti-Semitic content and hate speech through social networks.¹⁵² At the same time, a number of anti-Semitic profiles and pages appeared on Facebook, using photos of the deceased Safarov and spreading fascist, anti-Semitic messages. The investigation failed to identify the persons behind the hate-motivated campaign.

On February 28, 2022, the non-governmental organization Israel House received information about the Nazi swastika painted by unknown persons on the wall of the Jewish cemetery in the Samgori district of Tbilisi (the exact date of the vandalism is unknown). The police arrived at the spot and recorded the incident. According to the information received from the Ministry of Internal Affairs in April 2022, an investigation was started on the basis of Article 150² of the Code of Administrative Offenses

150. „Judgement - 15 years #forVito“, Radio Tavisupleba, 27.06.2019, Available at: <https://bit.ly/418r3wo>

151. “In the case of Vitaly Safarov, the Court of Appeal left the verdict unchanged - the judgment of the Supreme is ahead”. Radio Tavisupleba, 16 February, 2023, Available at: <http://bit.ly/3Z2YheK>

152. “They are spreading violent calls with Vitali's photo”, - when will the Ministry of Internal Affairs get interested in what happened?”, Radio Tavisupleba 14 April, 2022, <http://bit.ly/3JH9SMb>

(distorting the image of Tbilisi City Municipality), although the results are unknown.¹⁵³

The reporting period was, among other things, problematic in terms of anti-Semitic statements by the clergy of the Orthodox Church. Against the backdrop of Russia's full-scale invasion of Ukraine, the propaganda and disinformation messages of the clergy of the Georgian Orthodox Church about the current war often coincide with the messages of the Kremlin and the Russian Patriarchate.

In his August 2022 sermon, Skhalti Bishop Spiridon talked about how Russian tourists are treated in Georgia and compared it to Hitler's treatment of Jews. The bishop named President Zelensky as the source of inspiration for the improper treatment of Russians.¹⁵⁴ At the same time, he compares him to Hitler and considers the Russian military aggression to be the wrath of "committed sins": "Because of this man's sins and because of this satanic ideology, you see what is happening in Ukraine."¹⁵⁵

The anti-Semitic posts of Orthodox Church clerics Khareba Chikovani and Giorgi Samsonidze are related to Russia's military aggression in Ukraine. They share the conspiracy theory about Jewish world domination and in this context emphasizes the Jewish origin of Ukrainian President Zelensky, who is responsible for Russian aggression and the deliberate massacre of Ukrainians.¹⁵⁶ Neither the church nor the state has made a critical assessment of specific cases of anti-Semitism.

153. "New Alarming Cases of Anti-Semitism in Georgia", Institute of Tolerance and Diversity, 22.03.2022, Available at: <https://bit.ly/3L4PwgJ>

154. Reverend Spyridon: treat Russian tourists rudely - that's what Hitler did", Tabula, August 17, 2022, Available at: <https://bit.ly/43y91W7>

155. Video link of August 14, 2022 sermon: <https://www.facebook.com/mamulimamulishvilebi/videos/1072378643396030>

156. For detailed information, see: "New alarming cases of anti-Semitism in Georgia", Institute for Tolerance and Diversity, 22.03.2022, Available at: <https://bit.ly/3L4PwgJ>

RECOMMENDATIONS

Legislative and executive authorities:

- Ensure the protection of the principle of the secular state stipulated by the Constitution of Georgia, the equal treatment of all religious associations and the elimination of discriminatory religious policies, practices and legislation;
- Refuse to adopt discriminatory laws on compulsory military service for religious associations;
- Eliminate the discriminatory practice of creating obstacles in the construction of new chapels by non-dominant religious organizations. The Batumi City Hall to give a construction permit to Muslims to build a new mosque in Batumi;
- Initiate the development of restitution policies and legislation for the return of historic properties;
- Immediately investigate the facts of large-scale illegal surveillance and hold accountable all responsible state officials;
- Improve the timely and effective investigation of crimes committed on the basis of religious intolerance;
- High officials of the state to make timely and clear statements against religious discrimination, anti-Semitism, hatred and violence.

**LEGAL
STATUS OF
NON-DOMINANT
ETHNIC
GROUPS**

During the reporting period, much like in previous years, organizations dedicated to minority issues and community activists have actively raised concerns regarding the protection of the rights of non-dominant ethnic groups. However, both central and local agencies have shown a lack of significant progress in this regard. Fundamental matters essential for fostering a more inclusive and equitable environment for ethnic minorities, such as establishing consultative councils with the government and parliament, providing translation resources in minority languages for service delivery and administrative processes at the local self-government level, generating statistics with ethnic indicators, and advancing youth employment in public service through specialized programs, have not seen significant advancement.

POSITIVE DEVELOPMENTS

One of the positive developments of 2022 can be attributed to the draft law presented by the Parliament of Georgia, titled - on the right to change the surname inconsistent with historical and cultural traditions. This initiative gained traction on the political agenda following the remarkable self-organization efforts of non-dominant ethnic groups. Regrettably, as of now, the public remains unaware of the plan and timeline for the public review and adoption of this draft law.

It is commendable that in 2022, the Committee on Education and Science of the Parliament of Georgia undertook a study on the accessibility of quality education for ethnic minorities.¹⁵⁷ This report once again highlighted the fundamental challenges and deficiencies within the sphere of preschool and general education for non-Georgian speaking communities. These include the significantly lower and restricted access to preschool education for ethnic minorities, as well as a shortage of qualified teach-

157. A thematic group created to study access to quality education of ethnic minorities <https://parliament.ge/media/news/etnikuri-umtsiresobebis-khariskhian-ganatilebaze-khelnisatsvdobis-shestsavlis-miznit-datsqebuli-tematuri-mokvlevis-farglebshi-mokvlevis-jgufis-tsevrebis-samokalako-sazogadoebis>

ers and a dearth of bilingual textbooks, among other issues. It's worth noting that prior to the commencement of the 2022 research, the Azerbaijani community of Georgia initiated the #TeachermeiGeorgianforfree campaign. Its aim was to advocate for a change in the current inequitable funding method for participants in the preferential higher education program (1+4), which was also reflected in the research document.

INTEGRATION POLICY

During the reporting period, the Government of Georgia worked on the approval of the 2023-2024 action plans of the State Strategy for Civil Equality and Integration, as well as the National Strategy for the Protection of Human Rights of Georgia and its action plan document. In the mentioned process, there was an attitude of “fake openness” on the part of the state agencies, where on the one hand they claimed to be open to remarks and comments, however, the chances of influence for public organizations in this process turned out to be extremely limited.

THE PROBLEM OF CITIZENSHIP

One of the most pressing issues faced by ethnic minorities in 2022 was the matter of citizenship, particularly prominent within the ethnic Armenian community residing in Javakheti.¹⁵⁸ The severe social conditions in the region have led to a significant portion of the local population seeking labor opportunities in Russia. Following the halt of traffic between Russia and Georgia after the 2008 war, some of these labor migrants found themselves compelled to acquire Russian citizenship. This decision, unfortunately, resulted in the automatic forfeiture of their Georgian citizenship. Presently, tens of thousands of individuals find themselves unable to re-

158. Thousands of people from Javakheti are waiting for Georgian citizenship <https://socialjustice.org.ge/ka/products/atasobit-adamiani-javakhetidan-sakartvelos-mokalakeobis-aghdgenis-molodinshi>

claim Georgian citizenship due to insufficient language proficiency. Similar citizenship challenges are encountered by ethnic Ossetians who were displaced from Georgia during the conflict in the 1990s, repatriated Muslim Meskhetians, and Chechen refugees. Regrettably, the existing citizenship laws and policies do not adequately address the unique difficulties faced by these groups. This leaves stateless individuals, who maintain strong political, cultural, and social ties to Georgia, devoid of fundamental political and social rights.

While Muslim Meskhetians may not be considered an ethnic minority, the fact that the Office of the State Minister for Reconciliation and Civil Equality is tasked with coordinating the issue of Meskhetians' repatriation, involving significant efforts towards civil integration, justifies the inclusion of the challenges facing the Meskhetians in this sub-chapter. The process of repatriating Muslim Meskhetians to their homeland is characterized by substantial obstacles. Despite the support and aid provided by the international community, as well as the positive strides taken by Georgia, including the adoption of a strategy and law pertaining to repatriation, Meskhetians continue to face considerable hurdles in returning to their homeland with dignity and securing Georgian citizenship. Often, Meskhetians who have managed to repatriate feel that the path to citizenship, based on repatriation laws, is marked by bureaucracy and additional barriers. Even those who have successfully returned continue to reside in Georgia under exceedingly challenging social and economic circumstances, lacking citizenship and thus unable to access essential social support and healthcare programs. It's noteworthy that no Muslim Meskhetian has been able to obtain Georgian citizenship through the naturalization process.¹⁵⁹

159. The bogus policy of repatriation of Muslim Meskhetians <https://socialjustice.org.ge/ka/products/muslimi-meskhebis-repatratsiis-mochvенеbiti-politika-sakartveloshi>

DISCRIMINATORY LANGUAGE POLICY

This year, the issue of insufficient translation resources in a language comprehensible to ethnic minorities resurfaced within service provider agencies, notably at the House of Justice in Marneuli.¹⁶⁰ It is disheartening that in numerous municipalities, both local self-government bodies and service-providing agencies, fail to acknowledge the right of ethnic minorities to access vital information and services in a language they understand. This prevailing language policy is a systemic factor contributing to the political and social exclusion of ethnic minorities, a reality substantiated by the findings of various quantitative studies.

In 2022, the municipality of Bolnisi saw an active protest against the gold mining operations of the RMG company.¹⁶¹ The resistance movement initiated by the local population in the village of Mushevani garnered involvement from various activist groups and community leaders in environmental endeavors. Throughout this process, a noticeable issue was the sluggish participation of ethnic minorities in the environmental decision-making process, primarily due to the lack of translation of the environmental impact assessment document into the languages spoken by these minorities. During this period, a practice emerged involving the signing of memoranda with the local population, wherein the company pledges to address fundamental social and infrastructural needs within the village. These needs fall within the jurisdiction of the state, in exchange for unrestricted mining operations. Typically, these memoranda lack binding force, and their enforcement mechanisms are weak. Moreover, this practice proves challenging in representing the diverse array of local community needs and genuine democratic interests. Negotiations with the investor typically occur without state involvement, perpetuating an inherent power imbalance

160. I can't speak to you in Azerbaijani, it's forbidden - what happened at the Marneuli House of Justice <https://www.radiotavisupleba.ge/a/31692801.html>

161. "The village is ready to fight to the end to protect its rights" RMG's work is protested in Mushevani <https://www.marneulifm.ge/ka/politika/article/65547--sofeli-mzadaa-rom-bolom-de-ibrdzolos-thavisi-uflebebis-dasacavad-mushevanshi-s-mushaobas-aprotesteben>

between the company and local residents. It is evident that this bilateral negotiation format and memorandum practice underscore the inadequacy of the existing licensing or permitting procedure in effectively regulating the relationship between the local population and the investor. Consequently, the environmental and social interests of the population remain inadequately safeguarded.

UTRACONSERVATIVE GROUPS

Members and supporters of Alt-Info and the Conservative Party openly issued death threats against activist Samira Bayramova from Marneuli. This threat emerged after Bayramova painted the facade of the Conservative Party office in Marneuli with the colors of the Ukrainian flag. On March 16, 2022, members of Alt-Info and the conservative movement gathered in Marneuli and subjected Samira Bayramova to verbal abuse. They gave her a two-day ultimatum to restore the banners of the conservative movement, accompanied by further threats. During this incident, representatives of Alt-Info and the conservative movement highlighted Samira Bayramova's religious affiliation and accused her of opposing Christian crosses and beliefs. Despite an investigation into the matter, on March 20, individuals allegedly associated with the Conservative Party and Alt-Info once again painted the exterior facade of the United National Movement office in Marneuli in red. They also inscribed insulting messages directed at Samira Bayramova. While the prosecutor's office included Samira Bayramova in the special protection program, the investigation has yet to yield any further results.¹⁶² The purported perpetrators remain unidentified, and no criminal charges have been initiated in connection with the incident.

162. Signs of impunity and government loyalty to Alt-info and conservative movement leaders are evident <https://socialjustice.org.ge/ka/products/ashkaraa-dausjelobisa-da-khelisuflebis-loia-lobis-nishnebi-alt-infosa-da-konservatiuli-modzraobis-liderebis-mimart>

MINORITY CONTROL PRACTICES

The practice witnessed in the Pankisi valley was troubling. It was reported that the police purportedly removed Ichkeria flags, which had been painted by locals in public spaces. This action took place against the backdrop of the brutal war underway in Ukraine, which led to dissatisfaction among the locals. Subsequently, these events were misconstrued in the media, and it gave rise to problematic biases against local activists.¹⁶³

This year, a troubling discriminatory practice was observed¹⁶⁴ - North Caucasians were subjected to border checks, purportedly based on ethnic grounds. This involved questioning them at the border, employing a specialized and more complex procedure. It was particularly concerning that while other Russian citizens attempting to evade military mobilization were freely permitted to enter Georgia by the authorities, North Caucasians were subjected to a distinct and more rigorous screening process, often requiring them to wait in line for days to undergo checks. Such a practice was deemed unacceptable. A few weeks after the public protest, there was a notable shift in this practice, which deserves positive recognition.

SOCIAL AND ECONOMIC EXCLUSION

In 2022, the issue of unjust and unequal distribution of agricultural lands came to light in at least three villages across three regions: Tekalo

163. The manipulative plot of Rustavi 2 on the repainting of flags in Pankis was appealed <https://socialjustice.org.ge/ka/products/pankisshi-droshebis-gadakhvatvaze-rustavi-2-is-manipulatsi-uri-siuzheti-gasachivrda>

164. The alleged discriminatory approach to border checks against North Caucasians is worrying <https://socialjustice.org.ge/ka/products/shemashfotebelia-chrdiloet-kavkasielebis-mimart-sazgh-varze-shemotsmebis-savaraudo-diskriminatsiuli-manera>

(Kvemo Kartli)¹⁶⁵, Kaurma (Samtskhe-Javakheti)¹⁶⁶, and Duzagram (Kakheti)¹⁶⁷. These cases serve as a reminder that the land reform efforts in Georgia since the 1990s have failed to address the deep-seated social discontent and injustice prevalent in regions inhabited by ethnic minorities.

Throughout this year, the Institute for Social Research¹⁶⁸ and Analysis along with the Center for Social Justice¹⁶⁹ conducted crucial research shedding light on the severe consequences and underlying factors contributing to the social exclusion of ethnic minorities. The studies have underscored that ethnic minorities experience even greater degrees of social exclusion and vulnerability. This asymmetry is evident across a wide spectrum, including areas such as employment, education, agriculture, and access to state services.

- **Income:** Among the country's population, 53% have an income below the average, with this number rising to 68% among ethnic minorities. The situation is particularly challenging in the ethnically Azerbaijani

165. Meeting with the population in Tekalo village <https://socialjustice.org.ge/ka/events/sofel-tekalos-mosakhleobastan-shekhvedra>

166. In the village of Kaurma, the inhabitants are not allowed to use the land https://www.facebook.com/socialjustice.org.ge/videos/1051699998838203/?paipv=0&eav=AfayYc4LFGTEng-Saa94HWe-qy8kKBAPT-1LrCbLwQ5vOoIM3IG8fWq2LgFTk-B3EQ5k&_rdr

167. The oligarch of Duzagram - how the mayor's representative got possession of the village lands <https://ifact.ge/duzagrama/?fbclid=IwAR24xKhEvxG-J1fZ3a6zQ6ch9x1we-9fu6HPuUvsnCvLcBG-pISVoVGJPw>

168. Exclusion of ethnic minorities in Georgia 2021 https://www.issa-georgia.com/ge/non-entrepreneurial-non-commercial-legal-entity/fondi-ghia-sazogadoeba-saqartvelo/etnikuri-umtsiresobis-eqskluzia-garikva-saqartveloshi-2021/175?fbclid=IwAR2CAWUSnNMdbgxLBT0_zl-La7IjB5vxxNreWFvwwqYK9orXwkzIgfToOI8

169. Social and Economic Exclusion of Ethnic Minorities, Center for Social Justice, 2023, Available at: <https://socialjustice.org.ge/ka/products/etnikuri-umtsiresobebis-sotsialuri-da-ekonomikuri-ekskluzia>

Bare Labor – Non - Dominant Ethnic Groups in Agriculture, Center for Social Justice, 2023, Available at: <https://socialjustice.org.ge/ka/products/shishveli-shroma-aradominanturi-etnikuri-igufebi-soflis-meurneobashi>

Experience of the Azerbaijani community of people with disabilities, living in Kvemo Kartli - access to social protection mechanisms, Social Justice Center, 2023, Available at: <https://socialjustice.org.ge/ka/products/kvemo-kartlshi-mtskhovrebi-azerbajaneli-shshm-temis-gamotsdileba-tsvdoma-sotsialuri-datsvis-mekanizmebze>

community of Kvemo Kartli, where over 83% of the population earns below the average.

- **Unemployment:** Within ethnic minorities, 12.9% of respondents are unemployed, while for the entire working-age population of the country, the unemployment rate is 9.8%.
- **Employment Indicators:** In urban areas, 37.4% of ethnic minorities are classified as economically inactive. The corresponding figure for the general urban population is relatively high at 45.7%. In rural areas, there is an overall trend of lower economic activity (and higher inactivity). Specifically, 40.6% of ethnic minorities in rural areas, and 52.1% of the total rural population, fall under the category of economically inactive.
- **Household Size:** The average ethnic minority household consists of 4.7 individuals, while the equivalent figure for the overall population of Georgia is 30% lower, at 3.3 individuals.
- **Education:** Among the total population of the country, 43.1% have achieved a higher level of education (including secondary technical, full higher, and scientific degrees). Among ethnic minorities, this figure drops to 26.2%. Additionally, a significant portion of ethnic minorities have not completed full secondary education, accounting for 23.2%, compared to 10.1% for the entire population of the country. **It is interesting to see the picture in regions**, where the percentage of individuals without complete secondary education is notably higher for Azerbaijanis in Kakheti (**54% of respondents**). In contrast, in other regions/settlements included in the study, this figure is relatively low: Kvemo Kartli - 17.7%, Pankisi - 11.5%, and in Samtskhe-Javakheti, only 9.4% of the population lacks complete secondary education. Notably, in the Kakheti region, the percentage of households that have attained a higher level of education beyond secondary is relatively low (12.2% of respondents). For other regions/settlements, this figure is relatively high, with the following percentages: Pankisi - 35.5%, Samtskhe-Javakheti - 32.4%, and Kvemo Kartli - 25.3%.

- **Language:** Among ethnic minorities, 63% have limited proficiency in recognizing Georgian letters, with 60% unable to speak Georgian, and 84% struggling to read Georgian literature and comprehend its content. Language proficiency also correlates with employment, as 26% of those proficient in Georgian are employed, while only 9% of those without this proficiency are employed. This issue squarely falls under the state's purview. In municipalities with ethnic minority populations, the number of kindergartens is nearly three times lower, and they are staffed with almost half the required number of teachers. Additionally, quality bilingual books have not been introduced in these schools, exacerbating the alienation and isolation felt by ethnic minorities.
- **Participation:** More than 70% of ethnic minorities rarely engage with self-government. Additionally, 57% claim to be uninformed about the activities of local bodies. On average, 90% of respondents have never participated in activities such as planning an election campaign, conducting exit polls, serving as a member/chairman of an election commission, campaigning for a political party, distributing election booklets or information brochures, or specifying election lists.
- **Belief that the Rights of Ethnic Groups are Protected:** A significant portion of respondents (ranging from 42% to 91%) believe that the rights of various ethnic groups are protected in their district/city. However, it is important to note that while this figure is a substantial majority for ethnic Georgians (90.7%), it is considerably lower for other ethnic groups (Azerbaijanis - 49%, Kists - 42%, Armenians - 53%).
- **Agriculture:** Agriculture serves as a vital source of income for ethnic minorities, with proceeds from the sale of products being the primary income source for almost 22% of families. This percentage is about three times less, at only 7%, for the rest of the population of Georgia. Despite their significant reliance on agriculture, a large proportion of ethnic minorities have never participated in crucial government agricultural programs. Specifically, ethnic minorities have not participated in programs/projects such as the state program – Entrepreneur Georgia (85.2%), the project - Introduce the future

(89.6%), agricultural insurance project (90%), preferential agrocredit project (80.8%), milking industry modernization and market access program (91.1%), and farm/farmer registration program (89%). Respondents also displayed low participation rates in two specific projects: preferential agrocredit project (8.5%) and the state program Entrepreneur Georgia (5.2%).

- **High Interest in Migration:** Representatives of ethnic minorities express a willingness to migrate and/or are considering leaving the country, often citing poverty (40.5%) and lack of job opportunities (25.9%) as the main motivating factors. This issue of poverty and lack of employment as driving factors for migration is acute across all ethnic groups, though even more so in the Azerbaijani community (83.1% and 86.6%), with job availability also a significant concern in the Kist community (79.6%), and poverty a prominent factor for small urban ethnic groups (65%).
- **Access to social services for persons with disabilities:** The shortcomings in social policy have an even more pronounced impact on individuals with disabilities who face dual or multiple vulnerabilities, including those from ethnic minorities. The data underscores this reality: 1. The number of individuals with disabilities is unacceptably low across all regions of Georgia, with the lowest rate found in the Kvemo Kartli region. This signifies challenges in granting disabled status to the population of Kvemo Kartli, leaving even more individuals with disabilities without minimal state support. In three municipalities of **Kvemo Kartli - Tetrtskaro (2.07%), Gardabani (2.28%), and Tsalka (2.3%)** - the proportion of people with disabilities is even lower than the regional average. 2. In *four out of seven municipalities of Kvemo Kartli (Gardabani, Dmanisi, Tetrtskaro, and Tsalka municipalities)*, there is no access to services provided by the sub-programs of early development and day care centers. This significantly impacts the situation of children living in these municipalities. 3. Additionally, the Kvemo Kartli region ranks second to last among all regions of Georgia in terms of the number of medical institutions performing medical and social examinations to determine disability status per 100,000 inhabitants. In the municipalities of Tsalka, Dmanisi, and Tetrtskaro, such institutions do not op-

erate, necessitating residents to travel to other municipalities for the assessment. This entails substantial financial and time resources. 4. Statistical data reveals that the number of individuals with disabilities utilizing the services of supportive employment consultants (coaches) in Kvemo Kartli, and the ratio to the total number of individuals with disabilities in the region, is low and Kvemo Kartli lags behind in comparison to other regions of Georgia (Adjara A/R, Kakheti, Imereti, Tbilisi Municipality, Samegrelo-Zemo Svaneti).

- **Access to health care services:** A significant portion of respondents (33%) report a lack of state or local government-funded insurance. Moreover, 90% of respondents have not received vaccinations.

It is evident that this reality demands a fundamental reevaluation of the state's social and economic integration policy, necessitating the implementation of specialized approaches.

RECOMMENDATIONS:

For the Government of Georgia and the Parliament of Georgia:

- Enhance the executive functions of the Minister of State for Reconciliation and Civil Equality to ensure the effective implementation of integration policies. This should also involve increasing the representation of ethnic minorities in deputy state minister roles and as heads of departments. Additionally, it is advisable to establish regional offices in areas where minorities reside compactly and have a strong historical presence;
- In line with the standards outlined in the European Framework Convention for the Protection of National Minorities, establish regular, democratic, and inclusive consultation platforms at the levels of both parliament and government. These platforms should also extend to municipalities where minorities reside compactly and have a strong historical presence;

- Initiate consultations and dialogues with minority communities and human rights organizations regarding the implementation of targeted affirmative mechanisms for enhancing political participation;
- Develop translation resources in minority languages, particularly within the administrative practices of local self-governments and agencies responsible for delivering state services. This should also extend to their respective information platforms;
- Create a special program for promoting employment of ethnic minorities in public service, where real and decent employment conditions will be created for young people representing the minorities.

For Ministry of Environmental Protection and Agriculture of Georgia:

- The government to assess the 2021-2027 state strategy for agriculture and rural development in Georgia, along with the corresponding annual action plans, with a focus on diversity and inclusivity. This evaluation should be conducted through comprehensive studies and participatory consultation platforms, giving due consideration to the specific requirements of self-employed individuals and farmers belonging to ethnic minority communities engaged in agricultural activities;
- Examine the deficiencies in the land reform process from the 1990s onwards and based on the needs of farmers residing in these regions, a policy should be devised to rectify and/or alleviate these shortcomings. This may include the legal mechanisms necessary to transfer additional lands onto the state's balance sheet for their benefit.

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

- Improve access to quality education for ethnic minorities and to create a special action plan supporting education for non-Georgian speaking communities, which will see and respond to challenges at pre-school, secondary, professional and higher levels in unity.

For the Ministry of Justice of Georgia:

- Comprehensively assess the actual requirements of Muslim Meskhetians, streamline bureaucratic and legal obstacles encountered during the citizenship acquisition process, and implement targeted social assistance programs designed specifically for them over a designated period;
- Formulate pertinent legislative amendments and policies that will streamline the reinstatement of Georgian citizenship for ethnic Armenians and other ethnic and religious communities residing in Samtskhe-Javakheti.

FOREIGNERS

LEGAL STATUS OF UKRAINIANS

In 2022, due to Russia's invasion of Ukraine, individuals arriving from Ukraine to Georgia encountered a range of social, economic, humanitarian, and legal challenges. Over time, the legal issues facing Ukrainians in Georgia increased significantly, encompassing both civil and criminal law matters.

Conversely, in 2022, the country took several measures to ensure the appropriate human right protection of Ukrainians who arrived in Georgia from Ukraine due to the hostilities.

First and foremost, it is important to highlight that starting from February 24, 2022, Georgia significantly eased the process of crossing the official border for Ukrainian citizens. They could cross into Georgia using either an international passport or an internal passport of Ukraine. In the case of minor children, a birth certificate sufficed. Notably, entry into Georgia for Ukrainian citizens was also permitted, exceptionally, with an expired document. It is crucial to mention that this simplified border crossing procedure is still in effect and is carried out without significant obstacles for Ukrainians.

In accordance with decisions made by the Government of Georgia after the onset of hostilities in Ukraine, various services became available free of charge to Ukrainian citizens in Georgia. From the beginning of the conflict, this primarily affected medical services. Specifically, based on Decree No. 387 issued by the Government of Georgia on March 2, 2022, titled on the Measures to be Implemented Due to the Hostilities in the Territory of Ukraine, Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia provided medical services for Ukrainian citizens who entered Georgia due to the hostilities in Ukraine and are residing continuously in Georgia.¹⁷⁰ It is important to note that the decree is temporary, however, throughout 2022, periodic amendments were made to it. According to the wording valid on the day

170. Decree No. 387 of March 2, 2022 of the Government of Georgia on measures to be implemented due to hostilities in the territory of Ukraine.

of the decree, relevant medical services under the state program can be accessed by citizens of Ukraine who entered Georgia and have been residing continuously from February 1st to November 1st, 2022. At this stage, accessing the program is problematic for Ukrainian citizens who arrived in Georgia after November 1, 2022.

Additionally, Ukrainians in Georgia have access to medical programs for conditions such as tuberculosis and AIDS treatment, diabetes management, dialysis, and more.

Significant strides were made in the realm of education, with benefits introduced for Ukrainian schoolchildren. According to a decision by the Government of Georgia, students who, due to the hostilities commencing in Ukraine on February 24, 2022, are unable to continue their general education in Ukrainian schools and express a desire to pursue their studies in Georgia, will be enrolled in schools through a simplified process.

In addition to measures taken at the central level, various municipalities provided assistance to Ukrainians who arrived in Georgia. They actively participated in settling Ukrainian refugees and meeting their basic needs. Furthermore, the City Hall of the Tbilisi Municipality offered specific municipal services free of charge to Ukrainian citizens in the capital. These benefits encompassed services such as free public transportation within the city of Tbilisi, admission of Ukrainian children to municipal kindergartens, as well as complimentary access to municipal sports centers, swimming pools, museums, theaters, libraries, media libraries, art schools, and the student youth palace. Additionally, in accordance with a decision by the Georgian Railways, citizens of Ukraine were granted the opportunity to travel for free on any route throughout Georgia.

According to a decision made by the Government of Georgia in the summer of 2022, the scheme for providing socio-economic assistance to Ukrainian refugees in Georgia underwent a change. Previously, if Ukrainians were accommodated in hotels or family-type hotels with different sources of financing after February 24, 2022, this scheme was replaced by monthly assistance starting from August 2022. Specifically, under Decree

No. 1254 of 2022 issued by the Government of Georgia, in light of the ongoing hostilities in Ukraine, incoming Ukrainian citizens and individuals with the right to permanent residence in Ukraine were provided 300 GEL per family (as defined by them) per month to establish living conditions, and 45 GEL per person for sustaining living conditions for a period of 3 months. It is crucial to highlight that the financial assistance mentioned above was applicable exclusively to those Ukrainians who entered Georgia between February 1, 2022, and July 15, 2022, and were accommodated in hotels funded by various public institutions. Consequently, Ukrainians who arrived in Georgia during this period, and managed to secure and accommodate themselves through their own means, either in a hotel or with relatives/friends in Georgia, were excluded from the social assistance provided by the state. This aspect should be regarded as a significant drawback of the scheme established by the Government of Georgia.

In 2022, citizens of Ukraine encountered difficulties when attempting to open a bank accounts in Georgia. Specifically, citizens of Ukraine who entered Georgia with an internal passport of Ukraine and possess only this document are unable to utilize banking services. This is because opening a bank account for citizens of Ukraine is only possible with an international passport or another valid document issued by the state of Georgia (such as a temporary identification document or a residence permit).

CROSSING THE STATE BORDER OF GEORGIA

In 2022, the persisting challenge of denying entry into Georgia for foreigners, which was also a concern in 2021, remained unresolved. According to information from the Ministry of Internal Affairs of Georgia, a total of 21,698 foreigners were barred from entering Georgia in 2022. However, the Ministry lacks statistical data specifying the exact legal grounds for these refusals.¹⁷¹

171. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, 2022.

The legislation of Georgia grants considerable discretion to authorized personnel within the Ministry of Internal Affairs when it comes to permitting or denying entry to foreigners. While specific circumstances justifying the refusal of entry are outlined, there is also a provision for “other cases provided for by the legislation of Georgia,” offering broad interpretation. The vague nature of this provision allows the authorized personnel significant latitude to cite any regulation stipulated by Georgian legislation. The challenge arises from the fact that when this reason is given, the Ministry does not specify which circumstances outlined in the legislation played a role in the refusal. Moreover, in cases of appealing the decision, the Ministry does not furnish specific information, making it objectively difficult to determine whether another circumstance stipulated by the legislation was the actual cause for the refusal.

It is noteworthy that the legislation mandates the justification of a person’s refusal to enter Georgia. However, the format of the decision regarding the denial of entry to a foreigner and the prevailing practice do not necessitate the inclusion of specific circumstances considered by the authorized personnel of the Ministry of Internal Affairs in making their decision. Consequently, providing such extensive discretion to a Ministry official during border crossings increases the risk of unjustified refusals for foreigners seeking entry into Georgia, potentially leading to selective and discriminatory use of this authority. Within the realm of this broad discretion, it is essential to also consider the problematic practices surrounding the appeals process, as well as the timeframes for proceedings, which may not offer an effective and timely means for foreigners to reclaim their rights.

In 2022, the troubling trend of denying entry into Georgia for foreign journalists came to the forefront. Specifically, when foreign journalists were denied entry, authorized personnel from the Ministry of Internal Affairs did not provide a specific reason for the refusal. Oftentimes, the Ministry cited that the individual “does not meet other requirements defined by the legislation of Georgia” as the basis for the refusal. Additionally, access to the relevant rationale was not granted during the appeals process. The

effectiveness of the appeals mechanism also posed a challenge, as evidenced by court delays in processing these cases.

“Rights Georgia” leads an illustrative case of David Frenkel of David Frenkel, an independent journalist from the Russian media outlet “Medi-azone,” who was denied entry into Georgia on March 6, 2022. The Ministry of Internal Affairs stated in its decision that the journalist “does not meet other requirements defined by the legislation of Georgia.” David Frenkel, like other Russian citizens, should have had a right to enter Georgia without a visa, and yet the specific grounds for his denial were not disclosed. Against the backdrop of the ongoing conflict in Ukraine, the practice of barring entry to other independent journalists raises suspicion that David Frenkel was prohibited from crossing the Georgian border in a discriminatory manner, likely due to his journalistic activities.¹⁷²

To protect Frenkel’s interests, the organization filed an administrative complaint with the Ministry of Internal Affairs, requesting the annulment of the decision from March 6, 2022. This request was rejected by the Ministry without providing additional information or justification. The decision was subsequently taken to court. Despite the administrative lawsuit being submitted on May 17, 2022, a hearing for the case has yet to be scheduled, and the lawsuit has only been accepted for proceedings.

STATE SECURITY

In 2022, the challenge of granting and revoking international protection status for asylum seekers in Georgia remained unaltered.

The State Security Service plays a pivotal role in the decision-making process regarding international protection for asylum seekers and the subsequent withdrawal of this status, particularly when it pertains to potential

172. The statement of Rights Georgia on the case of David Frankel, Available at: <https://www.rights.ge/ka/advert/79>

threats to Georgia's state security posed by the asylum seeker.¹⁷³ The conclusion provided by the State Security Service contains classified information, accessible solely to authorized personnel within the administrative body and, subsequently, the judge. This confidential information is a commonly cited basis for denying an individual international protection status by the Migration Department of the Ministry of Internal Affairs of Georgia. Moreover, during the judicial review process, neither the claimant nor their representative is granted access to this information, rendering their participation in the proceedings a mere formality. Although the information submitted by the State Security Service is classified, the legislation outlines the general grounds on which such an adverse conclusion may be based. These grounds encompass associations with foreign intelligence agencies, terrorist or extremist organizations, among others.¹⁷⁴ However, it is noteworthy that in practice, neither the decision of the Migration Department nor subsequently, the court, typically makes explicit reference to these general grounds. Inclusion of such details would significantly contribute to the claimant's full realization of the right to protection.

Throughout 2022, 29 asylum seekers were denied protection on security grounds. Among these individuals, 14 were citizens of Afghanistan, and 2 were citizens of Syria, both originating from countries with notable records of human rights violations.¹⁷⁵ Official figures from the Ministry of Internal Affairs of Georgia indicate that 14 Afghan citizens were denied status in 2022. These statistics raise concerns that the leverage of denying status on security grounds may be applied in a selective and discriminatory manner against citizens of specific countries, further jeopardizing those already in vulnerable positions due to the precarious legal conditions in their countries of origin.¹⁷⁶

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

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

175. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, 2022.

176. 2022 statistical information of the Ministry of Internal Affairs of Georgia on refusal to grant status, Available at: <https://info.police.ge/uploads/63dbabfeaac53.xlsx>

This legal framework heightens the risk of unjustified and discriminatory use of information provided by the State Security Service during administrative proceedings, substantially impeding the asylum seeker's ability to fully exercise their right to protection.

It is imperative to highlight that in 2022, a concerning trend emerged regarding the denial of residence permits to foreigners, including foreign students, on similar security grounds. Throughout the reporting period, several cases were documented wherein foreigners were denied residence permits in Georgia based on concerns related to state security. Additionally, in certain instances, individuals who had previously been granted a residence permit by the state were subsequently denied renewal.

RECOMMENDATIONS

For the Government of Georgia:

- Ensuring that Ukrainians who have arrived in Georgia due to the ongoing war operations in Ukraine are given the opportunity to equally benefit from the programs available in Georgia.

For the Ministry of Internal Affairs of Georgia:

- The pertinent statistical data regarding entry refusals to Georgia should be systematically compiled and released at regular intervals;
- In cases where a foreigner is denied entry to the territory of Georgia under the category of "other reasons stipulated by Georgian legislation," the decision should explicitly state the precise grounds for the denial;
- Streamline the process for challenging decisions of entry refusal to Georgia by allowing for the submission of an administrative appeal.

For the Parliament of Georgia:

- Legislative changes should be enacted to establish an effective and accessible mechanism for foreigners to appeal decisions regarding their entry refusal to the territory of Georgia.

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

- In evaluating requests for international protection, a comprehensive examination shall be conducted, involving a thorough review of the information provided by the State Security Service, alongside a detailed assessment of the circumstances pertaining to the asylum seeker's case. Decisions shall be rendered by carefully weighing the existing private and public interests;
- When denying international protection to an asylum seeker on the grounds of potential harm to the state security of Georgia, the decision should explicitly outline the circumstances aligning with Article 69, Clause 2 of the Law of Georgia on International Protection.

General Courts of Georgia:

- In each instance, individually address the claimant and their representative, offering a well-founded explanation for the necessity of accessing information classified as state secret and therefore, the need to limit procedural rights;
- Substantiate the requirement for rendering a decision based on the recommendation put forth by the State Security Service, highlighting it as the primary evidence.

**POPULATION
AFFECTED
BY ONGOING
CONFLICTS**

The new political and geopolitical situation, which was created in the region as a result of the ongoing war in Ukraine, could not become the basis for creating a unified peace policy in Georgia. Moreover, in parallel with the war in Ukraine, instead of speeding up the processes of de-occupation and the creation of reconciliation and trust-building strategies that started in 2021, this process was suspended indefinitely;¹⁷⁷ Although all political groups see the resolution of conflicts through non-violent, peaceful methods,¹⁷⁸ in the radicalized and antagonistic political field there is no resource for dialogue, where agreement on the basic principles of peace policy will be possible.

In this tense political environment and crises, the difficult social and legal existence of the population affected by conflicts could not become part of the political agenda again, the process that would respond to their needs and offer systemic changes has not started.

PEOPLE LIVING IN THE OCCUPIED TERRITORIES

Information regarding the legal and social status of individuals residing in the regions of Abkhazia and Tskhinvali remains limited within Georgian society, primarily due to the absence of effective legal monitoring mechanisms. In 2022, Russia's continued aggressive policies directly impacted the lives of those residing in these conflict regions. Unfortunately, the Georgian government did not take meaningful steps in response. For instance, the Georgian government remained largely unresponsive to the ongoing developments concerning the Bichvinta cottages. For the further information, discussions commenced in the de-facto Abkhazia Parliament on July 11, 2022, regarding the transfer of state cottage complexes in Bich-

177. Government still lacks de-occupation strategy, Center for Social Justice, August, <https://socialjustice.org.ge/ka/products/khelisuflebas-kvlavats-ar-akvs-deokupatsiis-strategia>

178. What do Georgian politicians think about Georgia's peace policy, against the backdrop of the Russia-Ukraine war, Center for Social Justice, April, 2022: <https://socialjustice.org.ge/ka/products/ras-fikroben-kartveli-politikosebi-sakartvelos-samshvidobo-politikaze-ruset-ukrainis-omis-fonze>

vinta-Museri. These discussions prompted protests within the Abkhaz community.¹⁷⁹ According to the agreement between Moscow and Sukhumi, all buildings and structures of the state owned resort were slated for transfer to the Russian Federal Security Service, along with a 49-year lease on the surrounding 186 hectares.

Furthermore, in 2022, discussions in Abkhazia began regarding the adoption of a “foreign agent” law, as part of the process to align Abkhazian legislation with Russian law. This law would directly restrict civil organizations operating in Abkhazia from receiving financial support from Western sources.¹⁸⁰ This initiative also sparked significant protests from civil society in Abkhazia, including objections from the Public Defender of Abkhazia, who argued that this law would exacerbate Abkhazia’s isolation.

The decision by the Council of the European Union not to recognize Russian passports issued in these regions was met with considerable distress by the population residing in the conflict regions.¹⁸¹ In a context where the population of Abkhazia and the Tskhinvali region lack alternative options for relocation, the non-recognition of Russian passports represents a further step towards their isolation. This decision, coinciding with Russia’s aggressive policies, heightens the risk that Russia may become the sole alternative for the population of the conflict regions. Such a development would undermine trust-building efforts.

Given these circumstances, the Georgian government must take effective measures to respond to this aggressive policy and improve the legal and social conditions for individuals living in the conflict regions. For example, granting access to social services and programs based on neutral documents would be a significant source of support for the population in these

179. The Center for Social Justice echoes the transfer of Bichvinta territory to Russia, the Center for Social Justice, 2022. <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsen-tri-bichvintis-teroriis-rusetistvis-gadatsemas-ekhmianeba>

180. Inal Ardzinba prohibits some of the international organizations operating in Abkhazia from implementing projects. <https://www.radiotavisupleba.ge/a/31661816.html>

181. The Council of the European Union decided not to accept passports issued by Russia in the occupied regions <https://civil.ge/ka/archives/518161>

regions—a resource they currently lack. In 2022, the Center for Social Justice achieved an important legal victory in the case of a individuals with disabilities residing in Abkhazia.¹⁸² In 2021, a individual with disabilities from Oчамchire, who possessed a neutral Georgian identity card and had not acquired citizenship in another country, applied to the Social Services Agency of Georgia seeking disability pension and compensation for losses incurred due to COVID-19. The agency denied this request on the grounds that he was not a Georgian citizen. However, the Tbilisi City Court deemed this decision unlawful. The court recognized that by issuing a neutral identity card, the state had assigned the plaintiff a personal identification number and granted him the ability to engage in legal transactions, including accessing social benefits. The court also emphasized the significance of these documents in the context of the de-occupation. Implementing this decision could encourage more individuals to seek neutral certificates - a practice currently underutilized. According to data from the State Services Development Agency, only 246 neutral identity cards were issued from 2016 through the end of 2021, with the majority going to individuals in Sukhumi and Oчамchire.

POPULATION LIVING NEAR THE DIVIDING LINES

The socio-economic and legal situation of the population residing near the dividing lines remains dire. Concerns about the security of this population, especially in the wake of the Russia-Ukraine conflict, have not been addressed at the state policy level. There is a lack of a comprehensive vision to tackle security-related issues. Recent studies on national security architecture indicate that, in the face of numerous global and regional challenges, key national-level conceptual documents - such as the national security concept, threat assessment, and corresponding strategies - are

182. Precedential decision on the issue of extending social protection guarantees for persons with a neutral identity card <https://socialjustice.org.ge/ka/products/pretsedentuli-gadatsqvetile-ba-piradobis-neitraluri-motsmobis-mkone-pirebis-sotsialuri-datsvis-garantiebis-gafartoebis-sakitkhze>

outdated and ill-equipped to respond to new threats.¹⁸³ A thorough examination of the activities, mandates, and legislation of relevant state agencies reveals a lack of clarity regarding the strategic underpinnings guiding their intelligence, counter-intelligence, or other operational powers. The state lacks a proactive approach to addressing the daily challenges faced by people residing on the edge of the dividing line. There remains a critical absence of an early warning system and the requisite normative framework to address risks pertaining to the safety of these populations. In these circumstances, the population living along the dividing lines grapple with severe social problems.

Both the peace policy and the policy related to national security have failed to incorporate the vision and needs of the population residing in conflict-affected villages. Beyond the imperatives of a secure environment and stability, factors such as access to services, infrastructural and institutional development, and the establishment of a just and equitable environment are inextricably linked to the pursuit of peace for these communities.¹⁸⁴ For instance, research indicates that, for the population of Zugdidi, peace entails not only living safely near the dividing line, but also encompasses elements of self-realization, economic security, and access to quality education.¹⁸⁵ Likewise, for the residents of Gori, peace is synonymous with freedom from the fear of kidnapping and the ability to visit the graves of their loved ones without trepidation.¹⁸⁶

The population in villages near the administrative border is experiencing an alarming decline. According to 2019 data, the population residing in close proximity to the dividing line decreased by 33%, which is twice the rate of decrease compared to the total population of Georgia.¹⁸⁷ The vil-

183. Georgia's national security architecture, https://socialjustice.org.ge/uploads/products/pdf/საქართველოს_ეროვნული_უსაფრთხოების_არქიტექტურა_1681130673.pdf

184. Murusidze, Chankvetadze, Indicators of everyday peace in a conflict-affected society, PMC Research Center, 70-71. https://pmcresearch.org/policypapers_file/958162ffa40394983.pdf

185. *Ibid.*, p 25.

186. *Ibid.*, p 39.

187. Assessment of the needs of the population living near the dividing lines in Georgia, 2019, 25.

lage of Zardiyaantkari, which returned to the state control in 2012 following the 2008 war, has virtually been emptied of its inhabitants, as the homes damaged in the conflict have yet to be rehabilitated. The resources required for rehabilitation were only allocated in local budgets in 2022.¹⁸⁸

The condition of other villages is also dire. For instance, a portion of Khurcha and Pakhulani village residents suffered significant losses upon crossing the border, including their lands, herds, and often their goods, resulting in severe social damage. The state did not provide alternative plots of land to compensate for their losses.¹⁸⁹ Similar to other villages situated along the dividing lines, there have been instances of locals being unlawfully detained due to border crossings. These individuals once had daily familial and economic ties with neighboring villages across the dividing line, but today, these connections have been severed.¹⁹⁰

A 2019 study conducted by UN Women paints a grim picture of the villages surrounding the dividing line. Merely 33% of the settlements have access to water pipes, and only 73% of these have access to potable water. Medical services are absent in 38% of these areas. Merely 39% reported that most households have an adequate food supply. According to the same study, only 30% of the border settlements are equipped with kindergartens. Furthermore, 90% of the population lacks access to a pharmacy, and 91% are without paved roads.¹⁹¹

The state has yet to implement specific social programs tailored to the vil-

188. Government: We will restore 28 houses damaged during the war in Zardiyaantkar, Netgazeti, December, 2022. <https://netgazeti.ge/news/644071/>

189. The population of Khurcha and Pakhulani villages located near the dividing line is in a difficult social situation, Center for Social Justice, August, 2022. <https://socialjustice.org.ge/ka/products/gamqof-khaztan-mdebare-soflebis-khurchas-da-fakhulanis-mosakhleoba-mdzime-sotsialur-mdgomareobashia>

190. Note: The Khurcha-Nabakevi checkpoint near the village of Khurcha has been abolished since March 2017, and thus the connection between the population of Khurcha and Gali villages has been completely cut off. After restrictions on movement, children from Nabakevi go to kindergarten in Khurchi, and they themselves have not been able to go to Nabakevi for years to visit their relatives and the graves of their loved ones.

191. Assessment of the needs of the population living near the dividing lines in Georgia, 2019.

lages along the dividing line, meant to offset the damages of war and the vulnerable reality of life within the conflict zone. Despite the prevalence of war-related trauma, specialized psycho-social rehabilitation programs remain inactive in these areas. While certain villages along the dividing line have received mountain status, entailing specific social benefits, these privileges are not extended to all villages.

Various studies show that the situation of women residing along the dividing lines is even more arduous, as they confront acute social, economic, and security challenges, while their needs and coping mechanisms differ from those of men.¹⁹² In addition to the risks associated with human security, domestic violence and violence against women represent significant issues for women dwelling along the border. These problems are further exacerbated by conflict-induced stress and the economic vulnerability of women. Despite the existence of action plans developed to implement UN Security Council resolutions, which serve as an essential institutional framework for addressing the needs of conflict-affected women, these strategic documents do not adequately tackle the fundamental challenges faced by women, such as social exclusion, poverty, war-related material losses and trauma, political participation, and violence prevention.

SYSTEMATIC HUMAN RIGHTS VIOLATION PRACTICES IN GALI AND AKHALGORI REGIONS

The situation in Gali and Akhgori, where inhabitants grapple with mutual omission and ignorance stemming from the discriminatory policies of the de facto administrations of the Georgian government, is grave.¹⁹³

192. Challenges and needs of women living along the dividing lines, Center for Social Justice, 2022. <https://socialjustice.org.ge/ka/products/gamqofi-khazebis-mimdebared-mtskhovre-bi-kalebis-gamotsvevebi-da-sachiroebebi>

193. Demilitarized zones - legal and social challenges in Gali and Akhgori, Center for Social Justice, 2022. <https://socialjustice.org.ge/ka/products/ormkhrivi-gamotovebis-adgilebi-uflebrivi-da-sotsialuri-gamotsvevebi-galsa-da-akhalgorshi>

The local status of the population in Gali and Akhalgori is precarious and unstable. Consequently, they find themselves compelled to conform to the dictates of the de facto administration and the “legal regimes” they have instituted. Gali, in particular, faces significant challenges, as the legal standing of the local Georgian populace has remained ambiguous for years. This ambiguity serves as the foundation for curtailing a range of fundamental civil and political rights, encompassing property rights recognition, participation in public service, political engagement, freedom of movement, and more.

In Akhalgori, the populace does not grapple with a status issue. The de facto administration of South Ossetia has furnished the majority of Akhalgori’s citizens with a “citizen passport of the Republic of South Ossetia,” affording them access to social services and local support. As of the close of 2020, representatives from the de facto passport service reported that roughly 80% of the district’s population possesses this passport. In 2021, 43 such passports were issued.¹⁹⁴ Nonetheless, the documentation predicament remains a critical concern for Akhalgori. They still require the so-called permits to enter the controlled territory of Georgia, which the de facto administration and security services either fail to issue or delay in doing so, leading to the continued isolation of the local populace. The restrictions on freedom of movement often have dire consequences, as individuals in isolation are unable to receive prompt medical attention. Tragically, on January 2, 2023, a 1.5-year-old child lost their life on the Akhalgori-Gori road due to a severe virus, as timely medical assistance proved unattainable in both Akhalgori and Tskhinvali hospitals, culminating in a fatal outcome.¹⁹⁵ The local healthcare system in the Tskhinvali region, particularly in Akhalgori, is effectively on the brink of collapse, which is openly acknowledged by the de facto administration.¹⁹⁶ Shortag-

194. 2021 Report of the Public Defender, p. 332.

195. A 1.5-year-old child died while being transported from occupied Akhalgori to Gori. <https://netgazeti.ge/life/649139/>

196. There is a shortage of doctors, medicines and medical equipment in Tskhinvali: <https://www.radiotavisupleba.ge/a/დე-ფაქტო-ჯანდაცვის-სისტემაში-მედიკინის-და-აღჭურვილობის-დეფიციტია/32342174.html>

es of medicines, medical equipment, and personnel are particularly pronounced.¹⁹⁷

Freedom of movement emerges as a pivotal concern for the populace in both districts. Access to basic social, household, and healthcare services hinges on movement within the controlled territory of Georgia, services that are virtually nonexistent on the ground. This reality is starkly illustrated by the fact that, during the initial three months of 2021, amidst pandemic restrictions on movement within the controlled territory of Georgia, Abkhazian sources reported 3,000 arrests for “illegal border crossing”.¹⁹⁸ Simultaneously, the troubling practice of illegal detention for such crossings persists. According to the annual reports from 2018 to 2021 of the Security Service of Georgia, 79 individuals were apprehended along the Abkhazia route, while 320 were detained along the South Ossetia/Tskhinvali region route.¹⁹⁹ Notably, since 2019, instances of criminal prosecution and lengthy prison sentences have surged, involving figures like Vazha Gafrindashvili, Genadi Bestaev, Zaza Gakheladze, Irakli Bebuga, Kristine Talakandze, and others. In 2022, the Security Service’s data reveals 13 arrests in the Abkhazia direction and 42 in the Tskhinvali direction.²⁰⁰ Among those detained is former serviceman Mamuka Chkhikvadze, „sentenced“ to 5 years and 6 months imprisonment by the Tskhinvali court in

197. Demilitarized zones - legal and social challenges in Gali and Akhgori, p. 69-70. There is an outbreak of viral infections in the occupied Tskhinvali region. The de facto healthcare system is in emergency mode <https://www.radiotavisupleba.ge/a/რეგიონში-ვირუსული-ინფექციების-აფეთქება-დე-ფაქტო-ჯანდაცვის-სისტემა-საგანგებო-რეჟიმზე/32194230.html>

198. Demilitarized zones - legal and social challenges in Gali and Akhgori, p. 26.

199. Note: It should be noted that the security services of Georgia do not have access to accurate data, and according to their explanation. The number of persons arrested for illegally crossing the so called border is about 10-15% of the total number. Also, for example, according to the data of State Security Services of Georgia, in 2019, 86 cases of illegal detention were recorded, and according to the data of the de facto security committee of South Ossetia, 87 people were arrested on the charge of “crossing the border” in the period of October-November 2019 alone.

200. Who, where, when - citizens of Georgia detained at the occupation line: <https://www.radiotavisupleba.ge/a/32200277.html>

March 2022.²⁰¹ On July 20, 2022, Kristine Talakandze was apprehended by the so-called Abkhazia Security Service on “espionage” charges, accused of procuring, gathering, and conveying classified information to the State Security Service of Georgia between September 2021 and July 2022.²⁰² Irakli Bebuia, imprisoned in Abkhazia for 9 years on the charge of burning the “Abkhazian flag”, remains in custody.²⁰³

Moreover, in addition to impeding access to essential services, isolation policies curtail the ability of the residents of Gali and Akhagori to maintain familial and kinship connections, which constitute fundamental facets of personal and family life. In such a fragile and legally tenuous environment, the local populace is compelled to vacate their areas, either relocating to the controlled territory of Georgia or leaving the country entirely. Year by year, the enrolment of students in Akhagori and Gali schools and kindergartens dwindles, reflecting the diminished prospects for development perceived by the youth in these regions. In Akhagori district, one school shuttered due to dwindling student numbers, leaving only six operational, one of which is Russian-language, boasting the highest student attendance. A similar decline is observed in Gali district schools. In 2022, a total of 3,778 students, from preparatory to 11th grade, are registered in 30 Gali district schools. By comparison, in 2017, 4,267 students were enrolled.²⁰⁴

The drop in student numbers is primarily attributed to the curtailed right to education in the mother tongue, fully implemented in schools in both regions since September 2022.

201. Mamuka Chkhikvadze was sentenced by the court of occupied Tskhinvali <https://www.radiotavisupleba.ge/a/31848397.html>

202. Case 2-0004/2023 – “Spy” Kristine Takalandze is awaiting for her “judgment” <https://www.radiotavisupleba.ge/a/ოკუპირებულ-აფხაზეთში-იზოლაციური-მცოდნე-საქართველოს-მოქალაქის-საქმეზე-/32229021.html>

203. Irakli Bebuia was sentenced to 9 years for burning the flag of the separatist region and the “severe consequences” of it. <https://www.radiotavisupleba.ge/a/30990669.html>

204. Public information received from the Education Resource Center of the Gali District of the Ministry of Education and Culture of Abkhazia, October 19, 2022.

The five-year-long persecution case of Tamar Mearakishvili reached its conclusion in 2022. On November 3, 2022, the de facto Prosecutor's Office of South Ossetia decided to terminate the investigation into the criminal case against Akhlagori-based activist Tamar Mearakishvili, citing a lack of criminal activity associated with all charges. While, at first glance, this resolution from the de facto prosecutor's office marks a positive step towards ending the ongoing, baseless criminal prosecution against Tamar Mearakishvili since 2017, the fact that the text of the "prosecutor's office" decision explicitly alludes to the initiation of the legal procedure for revoking de facto passports from Tamar Mearakishvili still places her at risk of de facto citizenship deprivation. This casts a shadow over the legal status of Georgians residing in Akhlagori under the de facto administration.²⁰⁵

INTERNALLY DISPLACED INDIVIDUALS

The legal and social situation of internally displaced persons remains precarious. Compounding this is the hasty adoption of amendments by the Parliament of Georgia, enacted without engaging in consultation or dialogue with the displaced community. These changes entail the withholding of IDP status for individuals born after January 1, 2023. Currently, half of the displaced families still lack a permanent residence, and a significant portion continue to reside in perilous conditions detrimental to life and well-being. According to the 2022 report from the Public Defender, in 2022, there was a fifty-percent reduction in the number of individuals relocated from inadequate housing to more suitable alternatives, compared to the preceding year.²⁰⁶

Regrettably, internally displaced persons find themselves excluded from crucial peace policy processes. The government fails to recognize their

205. The investigation into Tamar Mearakishvili's case was finally stopped after 5 years, Center for Social Justice, December, 2022. <https://socialjustice.org.ge/ka/products/tamar-mearaqishvili-sakmeze-5-tslis-shemdeg-gamodzieba-sabolood-shetsqda>

206. PDO annual report on human rights situation in Georgia, 2022, p. 300.

potential for contributing to peace efforts, and their voices go unheard both in the decision-making arena and in peace negotiations.

THE LEGAL SITUATION OF THE ETHNICALLY OSSETIAN POPULATION AFFECTED BY THE CONFLICT

In examining the legal status of the population affected by the conflict, the situation of ethnic Ossetians emerges as a significant concern. Similar to other groups, they have been overlooked in both peace and national integration policies. According to available data from 2004 in North Ossetia, 19,025 registered Ossetians emigrated from Georgia.²⁰⁷ Those Ossetians residing in Georgia, who endured severe repression, harassment, and ethnic-based persecution in the 1990s, along with grappling with various socio-economic challenges, returned to Georgia in subsequent years and continue to face profound hurdles. Foremost among these challenges is the issue of reclaiming Georgian citizenship, as well as the restitution of property lost in the wake of the conflict.²⁰⁸ A review of the pertinent legislative framework reveals that no government has devised normative measures aimed at rehabilitating the ethnically Ossetian population or restoring their property rights. The restitution law that Georgia enacted in 2006 in compliance with its commitments to the Council of Europe remains inactive, no commission has been established to address the matters of restitution and compensation.

The acquisition of Georgian citizenship is done according to the general rule for this group, and based on the negative response of the State Security Service, returned Ossetians are refuse to obtain citizenship in many cases.

207. Migration of the Ossetian community living in Georgia and specific problems related to citizenship, special report of the Public Defender, 2015, 7.

208. Legal analysis of the process of property restitution and citizenship return of ethnic Ossetian citizens affected by the conflict, Human Rights Center, 2022.

RECOMMENDATIONS:

Although the influence of de jure states is sharply limited in the absence of control in the conflict regions, it is important that Georgia shows due diligence efforts to protect the rights of persons under its jurisdiction. This should manifest in the creation of special support mechanisms, offering services and programs that would take into account the challenges of people living in these areas.

For the Government of Georgia:

- In the process of formulating a new peace policy, it is imperative for the government to actively seek broad political and public consensus. To achieve this, it is crucial to involve various public groups in the development of this new strategy;
- Engage in discussions regarding the establishment of status-neutral dialogue formats with the de facto governments of Abkhazia and South Ossetia/Tskhinvali region. These formats should serve as effective mechanisms for addressing human rights and social protection issues in a practical manner;
- The government must employ all available diplomatic, political, and legal channels to safeguard the right of ethnic Georgians to receive education in their native language. This should be done in active collaboration with the de facto governments;
- Enhance social support services and benefits tied to neutral identity cards. This measure will bolster access to social services for individuals residing in conflict-affected regions and bolster confidence-building initiatives;
- Pursue all available political and diplomatic means, including direct engagement and communication with the de facto governments of Abkhazia and the Tskhinvali region, to restore safe and unhindered movement;
- Establish consistent social support mechanisms for the population residing along the dividing lines. Prioritize the prompt rehabilitation of homes that were devastated by the conflict.

For the Ministry of Education and Science:

- Develop specialized online language teaching programs for the youth of Gali and Akhgori. These programs will enable them to maintain proficiency in the Georgian language and pursue quality education in Georgian higher education institutions;
- Provide strengthened support, both financially and professionally, to teachers in Gali and Akhgori. This will equip them to adequately prepare local youth for the unified national exams.

For the Ministry of Internal Affairs:

- Bolster security measures to ensure the safety of individuals residing along the dividing lines. This can be achieved through regular patrols and strengthened security efforts;
- Ensure the timely implementation of normative documents pertaining to the early warning system.

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

- Proactively assess the situation and requirements of IDPs residing in various facilities facing security risks. Facilitate their timely resettlement by establishing viable alternative arrangements;
- Deliberate on institutional avenues and mechanisms for representing the needs, interests, and concerns of IDPs;
- Develop a specialized action plan targeting human rights and social protection in conflict-affected regions, including Gali and Akhgori. The plan should incorporate extensive consultations with local communities and employ democratic mechanisms for accountability and monitoring;
- Facilitate the establishment of commercial and medical infrastructure near the administrative border with the Tskhinvali region. This should encompass pharmacies, hospitals, and shops to ensure primary services and products are readily available for the

population of Akhlagori district, as well as for individuals residing along the dividing line on both sides of the administrative border.

For the Ministry of Justice:

- Take into consideration the unique context and needs of the ethnically Ossetian population affected by the conflict. Ensure the regulation of the legislative and institutional framework to address issues of restitution, compensation, and the streamlined granting of Georgian citizenship.

**HUMAN
RIGHTS
DEFENDERS
AND
ACTIVISTS**

HARMFUL PRACTICES OF ADMINISTRATIVE DETENTION AND PROCEEDINGS AGAINST FREEDOM OF ASSEMBLY

In 2022, the concerning practice of administratively arresting and prosecuting activists and demonstrators participating in actions persisted. This practice is rooted in the Code of Administrative Offenses, which dates back to the Soviet era (hereafter referred to as CAO) and does not align with contemporary human rights standards.²⁰⁹ Specifically, law enforcement officers unjustly apprehend demonstrators under the pretext of petty hooliganism (Article 166 of the Civil Code) and disobedience to legal demands (Article 173 of the Civil Code), while judges impose administrative penalties on detainees by neglecting procedural guarantees. In this section, we highlight several such instances.²¹⁰

On February 22, 2022, the Movement for Georgia had planned a rally near the government administration building, with prior information dissemination.²¹¹ Consequently, this information was accessible to law enforcement agencies. It is disconcerting that, in this case, law enforcement officers arrested 8 activists even before they reached the rally location and commenced the event.²¹² Furthermore, the detainees were deliberately dispersed to several cities, despite the detention scale not being extensive, and there were available in Tbilisi detention center.²¹³ This hindered the effective realization of the detainees' right to protection.²¹⁴

209. Georgian Young Lawyers' Association, briefly on the legislation on criminal offenses, see: <https://bit.ly/3KLAfjp> [Last accessed: 20.04.2023].

210. For more information, see: Democratic Initiative of Georgia, Human Rights in Georgia 2022, p. 14-16, See: <https://bit.ly/41m0lv9> [Last accessed: 20.04.2023].

211. Center for Social Justice, Activism and the Right to Assembly - Analysis of Georgian Practice, 2022, p. 15 see.: <https://bit.ly/3TV1N8r> [Last accessed: 20.04.2023].

212. Center for Social Justice, Activism and the Right to Assembly - Analysis of Georgian Practice, 2022, p. 15

213. Center for Social Justice, Activism and the Right to Assembly - Analysis of Georgian Practice, 2022, p. 15

214. Center for Social Justice, Activism and the Right to Assembly - Analysis of Georgian Practice, 2022, p. 15

On March 7, 2022, a rally in support of Ukraine was organized by the Shame Movement.²¹⁵ Rally participants voiced their protest against the government's stance towards Ukraine, advocating for the implementation of a visa regime with Russia, the ban of Russian media, and the restriction of Russian air travel.²¹⁶ During the rally, activists symbolically threw toilet paper towards the government administration building as a form of protest.²¹⁷ The police administratively detained 16 activists, who were subsequently fined a total of 34,400 GEL by the court. Among them, 6 members of Shame Movement were fined 15,800 GEL.²¹⁸ Both the public defender and non-governmental organizations criticized the interference with the freedom of assembly of the rally participants.²¹⁹ According to the Public Defender, the demonstrators' actions were peaceful, non-violent, and did not pose a threat of committing a serious legal violation or crime.²²⁰ Consequently, deeming the demonstrators' action as a legal violation and impinging on their freedom of assembly was unjustified.²²¹ Additionally, according to non-governmental organizations, the rights of the detainees were violated: the police arbitrarily detained the activists without appropriate evidence and grounds; detainees were not informed of their rights; detention protocols were standardized and lacked informativeness; the police arbitrarily and without justification utilized the maximum detention period; the court disregarded the fair trial standards established by the European Court of Human Rights, and the evidence presented in court

215. Four members of Shame Movement were arrested. See: <https://bit.ly/3GVqnCw> [Last accessed: 20.04.2023].

216. Four members of Shame Movement were arrested. See: <https://bit.ly/3GVqnCw> [Last accessed: 20.04.2023].

217. Activists arrested at the rally of solidarity with Ukraine were fined a total of 15,800 GEL. see.: <https://bit.ly/3UU1IUU> [Last accessed: 20.04.2023].

218. The authorities continue to use justice against activists for repressive purposes, see: <https://bit.ly/3mRUHY4> [Last accessed: 20.04.2023].

219. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p.162-163, ob.: <https://bit.ly/3LbFSJ3> [Last accessed: 20.04.2023].

220. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p. 162-163, See: <https://bit.ly/3LbFSJ3> [Last accessed: 20.04.2023].

221. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p.163.

was insufficient to warrant an administrative fine on the activists.²²² The imposition of such high fines and large-scale arrests has a chilling effect on the activities of activists.

Regrettably, it has become established court practice to label arrested activists or demonstrators as lawbreakers, in violation of procedural guarantees,²²³ which contradicts the rights of assembly and a fair trial. In this context, it is noteworthy to mention the decision of the European Court of Human Rights dated September 1, 2022, which pertains to the mass arrests on November 18, 2019 during protests near the Parliament of Georgia.²²⁴ According to the European Court of Human Rights, the Georgian authorities breached Articles 6 and 11 of the European Convention in the case of one of the applicants. Specifically, the applicant's freedom of assembly was infringed as the state failed to provide sufficient and relevant grounds for the necessity and proportionality of his arrest and the subsequent 4-day detention.²²⁵ Additionally, the applicant's right to a fair trial was violated, as he was held accountable solely on the basis of the testimony of the police officers, without any other pertinent evidence. Consequently, he found himself in a position where he had to establish his innocence.²²⁶ Therefore, the standard of proof upheld in common courts, whereby the evidence presented by the policemen carries a higher degree of credibility, does not align with the standards set forth in the European Convention.²²⁷

222. The authorities continue to use justice against activists for repressive purposes, see: <https://bit.ly/3mRUHY4> [Last accessed: 20.04.2023].

223. Coalition for Equality, Exercising the Right to Protection from Discrimination for Different Groups in Georgia, 2021 Report, p. 98-100, See: <https://bit.ly/3oxijpd> [Last accessed: 20.04.2023]; Center for Social Justice, Activism and the Right to Assembly - Analysis of Georgian Practice, 2022, p. 18-21.

224. The decision of the European Court of Human Rights of September 1, 2022 in the case Makarashvili and others v. Georgia, See.: <https://bit.ly/3UV3i8L> [Last accessed: 20.04.2023].

225. The decision of the European Court of Human Rights of September 1, 2022 in the case Makarashvili and others v. Georgia, §106.

226. The decision of the European Court of Human Rights of September 1, 2022 in the case Makarashvili and others v. Georgia, § 64.

227. The decision of the European Court of Human Rights of September 1, 2022 in the case Makarashvili and others v. Georgia, §§ 61-62.

Finally, the practice of administrative detention of peaceful activists or human rights defenders is a punitive action aimed at limiting and reducing protest demonstrations.

INVESTIGATION OF VIOLATIONS COMMITTED AGAINST HUMAN RIGHTS DEFENDERS

A favorable environment for human rights activities requires a proper response to violations committed against human rights defenders, so that similar violations do not recur. In contrast, the investigation into the violence committed against human rights defenders and activists of the LGBT+ community on July 5, 2021 was conducted ineffectively. First of all, the main shortcoming of the investigation is that, despite the existence of adequate evidence, no criminal prosecution was initiated against any of the organizers of the July 5 violence.²²⁸ In particular, according to the Public Defender’s assessment, the publicly available evidence depicting the events that took place on July 5, 2021 was sufficient to initiate criminal prosecution for organizing group violence and public calls for violent actions.²²⁹ Despite the mentioned evidence, neither the investigation nor the criminal prosecution has begun.²³⁰ In addition, as a result of the inspection by the Public Defender, it was revealed that “the investigation conducted in the case of July 5 does not meet the standards of effective investigation in terms of thoroughness and timeliness. The examination was conducted late, material evidence was obtained late.”²³¹ The ineffectiveness of the investigation is also indicated by leaving the victims/targets of the July 5 violence without victim status. Unfortunately, the

228. Democratic Initiative of Georgia, Human Rights in Georgia, 2022, p. 17.

229. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2021, p. 184, see: <https://bit.ly/3EkRbtQ> [Last accessed: 20.04.2023].

230. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p.192-193.

231. The results of the inspection regarding the case of July 5, see.: <https://bit.ly/3MYK28t> [Last accessed: 20.04.2023].

prosecutor's office and the subsequent court did not grant the status of victims to the members of Tbilisi Pride and LGBT+ activists, despite the fact that on July 5 they were persecuted on the basis of sexual orientation and their lives and health were threatened.²³² As for the judgments passed in the July 5 case, the court dropped the charge of participation in organized group crime from the defendants, instead, they found them guilty of group violence and sentenced them to 1 year and 3 months in prison.²³³ According to the Public Defender's position, the decisions were made inconsistently, without justification and in violation of the principle of individualization of punishment.²³⁴ According to civil organizations, the relative punishment was not severe enough, and the reclassification of the charge excluded the responsibility of the organizers of the violence and sent a dangerous message that the state tolerates the organization and participation in hate crimes.²³⁵ The mentioned approach strengthens the syndrome of impunity and crime prevention cannot be achieved as one of the goals of punishment.

In addition to the violent events of July 5, 2021, the investigation of other violations against human rights defenders in the past presents notable challenges. Specifically, information provided to the Public Defender by the Prosecutor's Office reveals a lack of criminal prosecution against specific individuals for threats made against defenders of women and LGBT-QI+ communities between 2017 and 2019, as well as for the theft of the flag from the Tbilisi Pride office in 2020.²³⁶ Furthermore, the handling of the homophobic incident on May 15, 2021 was found to be deficient. On

232. Democratic Initiative of Georgia, *Human Rights in Georgia 2022*, p. 17; Center for Social Justice, Activism and the Right to Assembly - Analysis of Georgian Practice, 2022, p. 23; The Tbilisi City Court rejected the appeal of the victims (activists) of the crimes committed on July 5 regarding the granting of victim status. See: <https://bit.ly/3oyrSA4> [Last accessed: 20.04.2023].

233. Democratic Initiative of Georgia, *Human Rights in Georgia 2022*, p. 18.

234. The results of the inspection regarding the case of July 5, See: <https://bit.ly/3MYK28t> [Last accessed: 20.04.2023].

235. GDI and HRC urge the prosecution to appeal the verdict, See: <https://bit.ly/43IsYK1> [Last accessed: 20.04.2023].

236. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p.167.

that day, Guram Palavandishvili, the leader of a homophobic group, vandalized the art installation “Welcome to the closet,” which was prepared for the International Day against Homophobia and Transphobia.²³⁷ He also subjected activists to physical and verbal abuse.²³⁸ Despite the presence of police at the scene, they did not intervene to prevent Palavandishvili’s actions.²³⁹ Activists called the police, who subsequently removed Palavandishvili from the area. The investigation was launched under Article 156 of the Criminal Code, pertaining to prosecution for speech and opinion. Media outlets recorded Palavandishvili’s disruption of the event,²⁴⁰ with 16 individuals providing witness statements, five different examinations being conducted, and two activists being identified as victims. Despite these efforts, Palavandishvili has not faced charges, and criminal prosecution has yet to be initiated. Regrettably, for over a year, no further investigative measures have been taken in this case.

Overall, the trend over the past years indicates that the investigation of homophobic crimes in Georgia is consistently inefficient. As per the evaluation of the Public Defender, “the ineffective investigation of reported hate crimes continues to be a pressing issue. The response from law enforcement agencies still falls short of the benchmarks for both effectiveness and promptness. Additionally, the level of trust in these agencies among members of vulnerable groups remains notably low.”²⁴¹

237. So far, no arrests have been made in connection with the vandalism of the LGBT installation in Dedaena park on May 15. See: <https://www.radiotavisupleba.ge/a/31360557.html> [Last accessed: 28.04.2023].

238. So far, no arrests have been made in connection with the vandalism of the LGBT installation in Dedaena park on May 15. See: <https://www.radiotavisupleba.ge/a/31360557.html> [Last accessed: 28.04.2023].

239. So far, no arrests have been made in connection with the vandalism of the LGBT installation in Dedaena garden on May 15. See: <https://www.radiotavisupleba.ge/a/31360557.html> [Last accessed: 28.04.2023].

240. Guram Palavandishvili destroyed the installation of LGBTQ activists. See: <https://www.youtube.com/watch?v=c9C9ZjT7Biw> [Last accessed: 28.04.2023].

241. The 2022 special report of the Public Defender of Georgia on the fight against discrimination, its prevention and the state of equality, p. 28, See: <https://bit.ly/41I2GWI> [Last accessed: 26.04.2023].

ATTEMPTS TO DISCREDIT THE CIVIL SECTOR

In 2022, there were also instances of authorities attempting to discredit non-governmental organizations. Irakli Kobakhidze, the Chairman of Georgian Dream, referred to Transparency International-Georgia, Association of Young Lawyers and International Society for Fair Elections and Democracy (ISFED) as “the wealthiest NGOs.”²⁴² In September 2022, Irakli Kobakhidze claimed that the expenses of some of the most prosperous non-governmental organizations were entirely non-transparent and posed risks to the country.²⁴³ Additionally, in September 2022, Mamuka Mdinardze, a prominent figure in the ruling party, asserted that the funds used to support non-governmental organizations were being used against the state and its government.²⁴⁴ It’s also noteworthy to mention several programs that aired on Imedi TV station in September and October, which raised questions about the legality of funding for non-governmental organizations.²⁴⁵ Following these broadcasts and the aforementioned statements, members of the parliamentary majority People’s Power announced in December 2022 that they would initiate what is known as the bill regulating the financing of “foreign agents” in January.²⁴⁶ Hence, it becomes apparent that the preceding statements were made with the intention of laying the groundwork for the proposed law and undermining the credibility of the non-governmental sector. The public defender also addressed this campaign aimed at discrediting human rights defenders, stating that, in their assessment, “presenting information in a similar manner regarding the funding of non-govern-

242. Irakli Kobakhidze - only those non-governmental organizations that separate themselves from political demands and are not noticed in falsifying things should be involved in the work process around the 12 points. See.: <https://bit.ly/41EKT28> [Last accessed: 20.04.2023].

243. According to Irakli Kobakhidze, the financial income of several large non-governmental organizations raises questions. See.: <https://bit.ly/3MRhLAE> [Last accessed: 20.04.2023].

244. Mdinardze: the money with which NGOs are financed is for planning the campaign of the government. See.: <https://formulanews.ge/News/76949> [Last accessed: 20.04.2023].

245. See: <https://bit.ly/3XijkjKa> <https://bit.ly/3XswcNI> <https://bit.ly/3XTwrlh> <https://bit.ly/3w9Q8sV> Last accessed: [26.04.2023].

246. People’s Power will submit draft laws on the activities of NGOs and the spread of misleading information in the media. See: <https://civil.ge/ka/archives/520493> [Last accessed: 20.04.2023].

mental organizations serves only to foster negative sentiments towards the civil sector within society”.²⁴⁷

ENSURING THE PARTICIPATION AND INVOLVEMENT OF THE CIVIL SECTOR

One of the prerequisites for attaining the status of a candidate for EU membership is to “ensure the involvement of civil society at all levels of decision-making.”²⁴⁸ Despite this stipulation, the proper engagement of the civil sector in various processes was not realized. Notably, the International Society for Fair Elections and Democracy (ISFED) was not extended an invitation to participate in the parliamentary group addressing election-related matters, despite the organization’s extensive experience and expertise in this domain. Givi Mikanadze, the head of the working group and a member of Georgian Dream, justified ISFED’s exclusion by asserting that the organization “compromised its (political) neutrality by advocating for the removal of the prime minister during the last meeting.”²⁴⁹ In protest of this stance, several other non-governmental organizations also opted out of participation in the working group. They viewed the exclusion of ISFED as another instance of discrediting critical and independent civil organizations, interpreting it as an act of discrimination due to a dissenting viewpoint.²⁵⁰ The decision in question, as assessed by the public defender, “runs counter to one of the conditions outlined for Georgia to attain candidate status for EU membership, which entails the participation of civil society in the de-

247. The Public Defender of Georgia echoes the discrediting campaign against human rights defenders. See: <https://bit.ly/3MZEc6P> [Last accessed: 20.04.2023].

248. Report Card, Georgia, See: <https://bit.ly/40r7jTO> [Last accessed: 20.04.2023].

249. Fair Elections were not allowed to participate in the working group created for revision of the election code, the first meeting of which is held in the parliament. See.: <https://bit.ly/3La1U-vO> [Last accessed: 20.04.2023].

250. The ruling party should ensure the involvement of ISFED in the working group working on electoral issues, See.: <https://bit.ly/41gt2Px> [Last accessed: 20.04.2023].

cision-making process. It also hampers the process of effectually and comprehensively implementing reforms.”²⁵¹

In terms of civil society engagement, it is notable to mention the process involved in crafting the 2022-2030 national human rights strategy. This process faced criticism from LGBT+ community organizations. Specifically, as reported by the representative of the Equality Movement, after the change in government administration, communication channels were severed. The organization was subsequently excluded from participating in the formulation process. They did not receive the working draft of the strategy from the government administration and were not extended an invitation to present the document.²⁵² Similarly, the Women’s Initiatives Support Group did not directly obtain the strategy from the Government. They procured it through their own initiatives, relying on a partner organization. Their collaboration was restricted to providing input on the document.²⁵³

RECOMMENDATIONS:

For the Parliament of Georgia:

- Carry out a complete reform of the Code of Administrative Offenses, in compliance with the standards established by the Constitution of Georgia and international human rights law, including the European Convention.

251. The Public Defender of Georgia echoes the discrediting campaign against human rights defenders. See: <https://bit.ly/3MZEc6P> [Last accessed: 20.04.2023].

252. Why are LGBTQI+ people not mentioned in the National Strategy for the Protection of Human Rights? See: <https://bit.ly/3TSSZzP> [Last accessed: 20.04.2023].

253. Why are LGBTQI+ people not mentioned in the National Strategy for the Protection of Human Rights? See: <https://bit.ly/3TSSZzP> [Last accessed: 20.04.2023].

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

- Respect the freedom of expression and right to assembly of human rights defenders and activists and do not unlawfully interfere in the exercise of their rights;
- Ensure the prevention of crimes and other violations of law against human rights defenders and activists through timely and appropriate responses, as well as effective investigations.

For the Courts:

- Administrative offense cases involving activists should be meticulously examined and addressed in strict adherence to the Constitution of Georgia and the tenets of international human rights law, notably the European Convention, while upholding well-established norms and standards.

For the Government of Georgia:

- Facilitate meaningful engagement of the civil sector in the decision-making process, in alignment with the requirements for EU membership candidacy;
- Uphold the integrity of civil organizations and publicly endorse their endeavors;
- Abstain from making homophobic statements.

MEDIA

The tendency of interference in media work started in previous years regarding the safety of media representatives significantly worsened and the cases of verbal or physical attacks on journalists, illegal interference in their professional activities became even more frequent.²⁵⁴ Media environment remains to be hostile and unfriendly, as journalists are often victims of illegitimate interferences and assaults.²⁵⁵ Government officials and Religious leaders often treat the media with a discriminatory attitude and continue to respond to their legitimate demands with aggressive rhetoric.²⁵⁶ The state does not ensure proper response to and timely prevention such facts. Such cases are also plagued with an ineffective investigation. The example of this is Events of July 5-6, 2021, subsequent investigation and court verdicts,²⁵⁷ where it has become apparent, in some cases, the perpetrators of the crimes committed against the journalists were not identified at all and in some cases, they were incompletely identified.²⁵⁸ Furthermore, despite numerous evidence in public sources regarding public calls for violent actions, none of the organizers of the violence has been charged.²⁵⁹

254. Gyla's assessment of the state of human rights protection in Georgia in 2022 available at: <http://bit.ly/3mKVtpe> updated: 13.03.2023; Gyla's assessment of the state of human rights protection in Georgia in 2021 Available at: <https://bit.ly/3JjAxsG> updated: 13.03.2023; Media Advocacy Coalition [Facebook page], 02.03.2023, "The Media Advocacy Coalition addresses the facts of media representatives' detention and rights violations at the Parliament of Georgia." available at: <https://bit.ly/3YEIlgwx> updated: 13.03.2023 Media Advocacy Coalition [Facebook page], 19.11.2021, "Media Advocacy Coalition "considers the restriction of the rights of another Ukrainian journalist in Georgia as alarming", available at: <https://bit.ly/31FBiyG>, updated: 13.03.2023

255. Media Advocacy Coalition [Facebook page], 12.04.2022, "Media Advocacy Coalition responds to the facts of the attack on the employees of Formula TV", available at: <https://bit.ly/3ovTFyI>, updated: 04.04.2023. Media Advocacy Coalition [Facebook page], 19.11.2021, "Media Advocacy Coalition "considers the restriction of the rights of another Ukrainian journalist in Georgia as alarming", available at: <https://bit.ly/31FBiyG>, updated: 04.04.2023.

256. GYLA's, [Facebook page], 09.05.2021, "Media Advocacy Coalition condemns attacks on journalists by clerics", available: <https://bit.ly/3rlkx76>, updated: 04.04.2023.

257. GYLA will Appeal to the European Court on behalf of the affected media representatives of July 5-6 events. Georgian Young Lawyers Association webpage. 07.11.2022 available at: <https://bit.ly/3Urfvkr> updated: 13.03.2023

258. Ibid.

259. Ibid. see also: Media Advocacy Coalition [Facebook page], Media Advocacy Coalition considers the decision made by the Tbilisi Court of Appeal in the July 5 case to be alarming. available at: <https://bit.ly/3mNHR6k> updated: 13.03.2023

During the ongoing legitimate protest against proposed “foreign agents law, media representatives were deliberately prevented from fulfilling their professional duties and enjoying the freedom of expression guaranteed by the constitution, law enforcement officers were often violent, used disproportionate force, and deliberately prevented and even administratively arrested some journalists and operators covering the events on Rustaveli Avenue.²⁶⁰ In some of such cases, the national court while assessing the evidence relied only on the explanations given by the patrol police and the representatives of the Ministry of Internal Affairs and fined the media representatives.²⁶¹ The Tbilisi City Court’s fining of the journalists arrested during the rally against the Russian law creates a dangerous precedent and is harmful to the media environment. It is clear that the said decision aims at preventing and limiting professional activity.²⁶²

Another important facet of the fight against the critical media was the arrest of Nika Gvaramia and the trial against him. GYLA was acquainted with the verdict given to Nika Gvaramia in the so-called “Rustavi 2 Case” and monitored court sessions. The court proceedings raise questions about the standards of indicting the accused, the trial, the sentencing, and the independence and impartiality of the judge at different stages of the court proceedings, which is why it can be assumed that the verdict is unjustified. Furthermore, a lot of evidence examined in the courtroom gives a reason to say that there were no signs of guilt in the act.²⁶³ Nika

260. Media Advocacy Coalition [Facebook page], 13.03.2023, Media Advocacy Coalition appeals to the Special Investigation Service regarding illegal interference in journalistic activity and other violations, available at: <https://bit.ly/3JxaRNV>, updated: 04.04.2023.

261. Media Advocacy Coalition, 20.04.2023, Penalizing journalists arrested for protesting against the Russian law creates another dangerous precedent for the media, available at: <http://mediacoalition.ge/ge/a/1288877b>, [21.04.2023].

262. Ibid.

263. See: According to GYLA, the verdict in Nika Gvaramia’s case is unjustified, the website of the GYLA. 03.06.2022. Available at: <https://bit.ly/3BTJlae> updated: 04.04.2023.; Statement regarding the decision of the Court of Appeal in the case of Nika Gvaramia, the website of the GYLA, 04.04.2023., available at: <http://bit.ly/3Lx1O1Q> updated: 04.04.2023.

Gvaramia has also been labeled as politically imprisoned by the Amnesty International.²⁶⁴

One of the pressing problems that has been identified last year, was the multiple facts of illegal surveillance in the country, including listening to the media representatives.²⁶⁵ In 2021, the files were spread in public, which allegedly reflect the content of covert listening conducted by the State Security Service Among the addressees of listening were the journalists as well.²⁶⁶ In the mentioned cases, the prosecutor's office began investigation under articles 1, 2 and 4 (subsection "a") of Article 158 of the Criminal Code, which includes the unauthorized recording or monitoring of private conversations and the recording of private communications, technical equipment obtained electronically or by computer illegally.²⁶⁷ However, inadequate involvement of the victims in the ongoing investigation into the facts of alleged illegal wiretapping, information vacuum, the prosecutor's office's neglect to interview the victims and other circumstances indicate that the State is not motivated by the interest of investigating the alleged systematic crime, identifying the criminals and punishing them. The investigation tends not to be effective, which further violates the rights of the victims of illegal wiretapping to privacy, a fair trial guaranteed by the Constitution and the Convention, and does not leave the victims the opportunity to protect their rights through effective legal mechanisms at the national level.²⁶⁸

264. Amnesty International, Georgia: Sentencing of pro-opposition media owner Nika Gvaramia a political motivated silencing of dissenting voice, 17.05.2022, available at: <https://www.amnesty.org/en/latest/news/2022/05/georgia-sentencing-of-pro-opposition-media-owner-nika-gvaramia-a-political-motivated-silencing-of-s-dissenting-voice/>, updated: 04.04.2023.

265. Civil organizations: the government uses the State Security Service as a mechanism for total control. The web site of Georgian Young Lawyers Association, 02.08.2021, available at: <https://bit.ly/3d9npLm> Updated: 04.04.2023

266. See: THE RIGHT TO NON-DISCRIMINATION IN PRACTICE FOR VARIOUS GROUPS IN GEORGIA 2021 REPORT. Available at: <https://bit.ly/3mZbuZd> updated 04.04.2023.

267. See: The Prosecutor's Office's investigation of the so-called Hearings are not being conducted effectively. Social Justice Center Official Webpage. 18.05.22 available at: <https://bit.ly/3mX7E2l> updated 04.04.2023.

268. Ibid

NEW REGULATIONS ON MEDIA ACCREDITATION IN PARLIAMENT

On February 6, 2023, the Chairman of the Parliament of Georgia issued an order that determined the procedure for accreditation of mass media representatives in the Parliament of Georgia. The said regulation entered into force on February 7. The regulations imposed by the new order are vague and run the risk of illegitimately restricting freedom of expression.²⁶⁹ According to one of the changes, the journalist is obliged to stop the interview as soon as a member of the parliament, an employee of the office, or a person visiting the parliament requests it. Otherwise, it will lead to suspension of accreditation. The research of the Parliament of Georgia indicates that the European Parliament's code of conduct for journalists indicates that an interview with a parliamentarian requires prior consent and at the request of the parliamentarian, the interview can be stopped at any time, the violation of which will result in sanctions.²⁷⁰ It should be noted that the European Parliament's code of conduct for journalists does indeed include such a regulation that a prior agreement is required to give an interview, although it does not provide for the obligation to terminate the interview upon request.²⁷¹ Such a regulation could lead to the suspension of accreditation for a journalist in case of asking unwanted questions, as the order does not specify in what cases it may be legitimate to refuse to answer the journalist's questions, or to immediately stop the interview. This will hinder the activity of the journalist and disproportionately limit the freedom of expression.

Such regulation would also contribute to the deterioration of an already

269. See: Order on approval of the procedure for accreditation of mass media representatives in the Parliament of Georgia. 06.02.2023 Available: <https://bit.ly/3HJuQb8> Updated: 04.04.2023.

270. Media accreditation in the Parliament, experience of foreign countries, Research Center of the Parliament of Georgia, 2021 available: <https://bit.ly/3YdJTRk>, Updated 04.04.2023.

271. See: Code of conduct for journalists in the building of the European Commission. Article 6. Available in English: <https://bit.ly/3RKErnx> Updated: 04.04.2023.

polarized media and political environment. The deputy will be able to avoid communicating with the journalist, so that he may not even know what the question will be about. In order to avoid it, even seeing the microphone of a critical television station will be enough, which is a limitation of journalistic activity. According to the available data, the ruling party already avoids talking to the critical media, which means that the audience of the critical media, in particular, will not have the opportunity to hear the answers of the elected deputies to the critical questions posed to them. Even more, soon after adoption of the rules, the Parliament suspended the accreditation of journalists and cameramen of “Formula”, “TV PIRVELI” and “Mtavari Channel.”²⁷² The Parliament’s decision was related to Shalva Ramishvili, one of the founders of the pro-government media POST TV, who was exposed in the sexual harassment of women and questions posed regarding the judges sanctioned by the United States of America in the stories prepared by the media for the deputies.²⁷³ Accordingly, such a regulation further contributes to the polarization of the media and political environment.

SLAPP SUITS

Another attempt to interfere with the freedom of the media is the defamation lawsuits against broadcasters and media representatives. It is noteworthy that in most cases, the lawsuits were filed by high-ranking political officials, police officers, and individuals otherwise associated with the “Georgian Dream”.²⁷⁴ During the last one year, 28 lawsuits were filed against three leading critical television channels - “Main Channel”, “Formula” and

272. Media Advocacy Coalition, The Media Advocacy Coalition condemns the parliament’s suspension of accreditation for critical media journalists and operators, available here: <http://mediacoalition.ge/ge/a/2edc61ab> [20.04.2023].

273. Ibid.

274. See “Court decisions on defamation against the media have become a dangerous trend” Transparency International Georgia. 02.12.2022. available at: <http://bit.ly/3T-jFmLq> updated: 04.04.2023. See: THE RIGHT TO NON-DISCRIMINATION IN PRACTICE FOR VARIOUS GROUPS IN GEORGIA 2021 REPORT. Equality Coalition, 2022 Available at: <http://bit.ly/3ljinYKl> updated 04.04.2023.

“TV First”. Most of the petitioners are representatives of the ruling party and people close to them. The number of lawsuits against critical media in a short period of time clearly indicates a coordinated trend aimed at limiting and intimidating media activities. The problem is further increased by the change in judicial practice, for example, despite the clear record established by the law, the burden of proof is transferred to the journalist.²⁷⁵

GEORGIAN NATIONAL COMMUNICATIONS COMMISSION

In recent years, the facts of interference in the content of broadcasting and unjustified restriction of freedom of expression on the part of the GNCC have been revealed several times. Noteworthy is decision on August 23, 2022, when GNCC fined several media broadcasters for airing “back to Europe” advertisement, which was generally critical towards states actions regarding European integration. This decision was devoid of legal basis and opposed already existing court practice regarding political ads.²⁷⁶ It is also noteworthy that certain norms of the Georgian Law on Broadcasting are used by the National Communications Commission to control the content of broadcasters’ programs and to sanction broadcasters. Due to the vague nature of these norms, they are currently appealed in the Constitutional Court of Georgia.²⁷⁷

On December 22, Parliament adopted amendments to the Law on Broadcasting.²⁷⁸ The law expanded GNCC’s supervision over media content,

275. Court decisions on defamation against the media have become a dangerous trend, Transparency International Georgia, 01.12.2012 available: <https://bit.ly/3TjFmLq> Updated: 04.04.2023.

276. See Coalition for Media Advocacy [Facebook page], 23.08.2021, The decision of the Communications Commission is unfounded and significantly worsens the media environment in Georgia. Available at: <https://bit.ly/3Aidz4U>, Updated: 04.04.2023.

277. Annual report of the Public Defender of Georgia, 2021, 140, available at: <https://www.ombudsman.ge/res/docs/2022070612391254904.pdf>, Updated: 04.04.2023.

278. See: The Parliament supported the amendment to the Law on “Broadcasting”. Official page of Parliament of Georgia. 22.12.2022 available at: <https://bit.ly/3ZAPBws>, Updated: 04.04.2023..

amended the procedure of defamation cases, shifting the burden of proof from the plaintiff to the media, and provided a vague definition of hate speech. The ruling party stated the aim of the amendments was to harmonize legislation on audiovisual media with EU standards.²⁷⁹ The process of harmonizing the law of Georgia with the legislation of the European Union was carried out hastily, without sharing the opinions of people involved in the field and without assessing the risks, which creates a danger of worsening the already difficult media environment in the country.

RECOMMENDATIONS

To the investigative bodies:

- Promptly respond to and efficiently investigate the facts of illegal interference in the professional work of media representatives and abuse of power;
- Conduct a timely, impartial, and efficient investigation into the illegal listening and identify the criminals;

To the Communications Commission:

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

To the Parliament of Georgia

- Ensure the regulations on Media accreditation in parliament, are in line of European standards and does not contain risks of violations of fundamental Rights.

279. 2022 Country Reports on Human Rights Practices: Georgia. United States Department of State Available at: <http://bit.ly/3Mf3m0P> Updated: 04.04.2023.

HOMELESS INDIVIDUALS

The most common cause of homelessness is poverty. There are other factors that make people more vulnerable to homelessness, for example: conflicts and natural disasters, unemployment, forced evictions, lack of social protection systems, indifference towards vulnerable groups, lack of social housing, etc. People who are left homeless become even more vulnerable to various kinds of violence, threats and harassment.²⁸⁰

The definition of homelessness varies from country to country, as adequate housing, minimum standards and safety are perceived differently in each culture. With this in mind, although there is no internationally agreed definition of homelessness, it is important not to define the term in a narrow way. In a broader context, the problem of homelessness includes the risks of becoming homeless, the adequacy of housing, etc. In this way, homelessness rather than lack of a place to live emphasizes the absence of social belonging of this person. The only solution to this problem is the development of relevant state strategies and implementation of specific policies.²⁸¹

LEGAL DEFINITION OF HOMELESSNESS

Considering the international standards, when defining homelessness, it is recommended to consider it in two categories. First-degree homelessness means that a person lives on the street or is left without shelter. Whereas, in second-degree homelessness, a person does not have a place to live and often moves from one place to another, or is accommodated in a shelter for homeless.²⁸²

As a counterweight to this, there is still no complete legislative definition

280. OHCHR, [The Right to Adequate Housing](#), Fact Sheet No. 21/Rev.1, 2014, p.22.

281. OHCHR, [The Right to Adequate Housing](#), Fact Sheet No. 21/Rev.1, 2014, p.22.

282. [Principles and Recommendations for Population and Housing Censuses](#) (United Nations publication, Sales No. 07.XVII.8 P), Para 2.37.

of a homeless person in Georgia.²⁸³ The legal definition of a homeless person is provided in the Law of Georgia on Social Assistance, which states that a homeless person is “a person without a permanent, defined place of residence who is registered as homeless in the municipality.”²⁸⁴

This definition of a homeless person presents several problems. It is particularly noteworthy that, under this definition, the status of homelessness is contingent on the registration of a person by the local government. Consequently, if the municipality fails to fulfill its obligation to register a person as homeless, or arbitrarily assigns or withholds this status, it can result in a problematic and inconsistent policy for providing housing to homeless individuals.²⁸⁵

Furthermore, it should be observed that the criteria for identifying as homeless, according to this definition, is the absence of a permanent and specified place of residence. This may exclude individuals living in inadequate housing or temporarily sheltered by acquaintances from being recognized as homeless.²⁸⁶ The Supreme Court of Georgia clarified that the term “permanent residence” encompasses various components. When determining a person’s permanent place of residence, it is crucial to establish their “will” and substantiate their actual residence.²⁸⁷

The definition of “permanent residence” and “will” in the context of a homeless person is more straightforward in the Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia. According to this law, permanent residence is the location chosen by a person to live, from which they were compelled to leave and are unable to re-

283. Report of the Public Defender of Georgia, “on the State of Protection of Human Rights and Freedoms in Georgia”, 2022. p. 16. Available at: [Link](#) [Last accessed: 20.04.2023].

284. Law of Georgia “[On Social Assistance](#)” Article. 4 (j).

285. Special report “Implementation of housing services in Georgia, in terms of the rights of persons with disabilities”, p. 27. Available at: [Link](#) [Last seen: 22.04.2023].

286. Center for Social Justice, [Definition of a Homeless Person and Criteria for Homeless](#), 2020, p. 10.

287. Supreme Court of Georgia, Chamber of Administrative Affairs, [ღბ-1896-1849](#)(k-10) (9 June, 2011)

turn.²⁸⁸ A displaced person is someone who was forced to depart from their permanent place of residence and relocate within the territory of Georgia.²⁸⁹ Hence, it follows from the essence of permanent residence that the person must be consistently present in that location, treating it as their primary place of abode. In order to be considered forcibly displaced, a person must have been compelled, against their will, to leave their permanent place of residence, where they were engaged in their customary daily life and activities.²⁹⁰

In light of the above, it can be asserted that the definition established by the Supreme Court of Georgia and the existing definition in the legislation of Georgia primarily addresses the physical aspect of a person's residence. This neglects the realization of an individual's right to suitable housing from both a social and legal perspective. Consequently, with regard to the definition of homelessness, the right to appropriate housing for an individual is largely overlooked.²⁹¹

RIGHT TO ADEQUATE HOUSING

The right to adequate housing encompasses a broader scope than mere property ownership, extending to individuals who do not hold ownership, and entails ensuring a dignified life within a secure living environment through various means, including rental, leasing, provision of emergency housing, or establishment of informal settlements.²⁹²

288. Law of Georgia [“On internally displaced persons from the occupied territories of Georgia - IDPs”](#), Article. 4. (c).

289. Law of Georgia [“On internally displaced persons from the occupied territories of Georgia - IDPs”](#), Article 6

290. Supreme Court of Georgia, Chamber of Administrative Affairs, [ბს-1896-1849](#)(კ-10) (9 June, 2011 წელი).

291. Center for Social Justice, [Definition of a Homeless Person and Criteria for Homeless](#), 2020, p. 12 [Last accessed: 22.04.2023]

292. OHCHR, [The Right to Adequate Housing](#), Fact Sheet No. 21/Rev.1, 2014, p.8

While the International Covenant on Economic, Social and Cultural Rights, ratified by Georgia since 1994, offers an avenue to incorporate elements of the right to adequate housing into Georgian legislation, its practical enforcement poses a significant challenge.²⁹³ This is attributed to the comprehensive nature of the right, which transcends mere housing provision and encompasses the guarantee of residing in a secure, peaceful, and dignified environment.²⁹⁴

The European Social Charter emphasizes that contracting parties must undertake measures to prevent and diminish homelessness, promote the availability of suitable housing standards, and ensure affordability for those lacking adequate means.²⁹⁵ Nevertheless, Georgia has reserved its position on this article of the Social Charter, thus refraining from acknowledging the obligation to safeguard this right.²⁹⁶

To fully ratify international law, the right to adequate housing must be unequivocally acknowledged. It is imperative to recognize that interpreting this right does not imply an obligation for the state to construct housing for the entire populace, with individuals without housing automatically appealing to the government. Rather, it obligates the state to implement effective measures that prevent homelessness, including facilitating opportunities for employment, combatting discrimination, prohibiting forced eviction, and more. Achieving these objectives may necessitate legislative, administrative, and policy-level adjustments. Social policies should be directed towards aiding vulnerable and marginalized groups, as well as enhancing shelter provisions and formulating appropriate strategies and programs.²⁹⁷

293. Center for Social Justice, [Definition of a Homeless Person and Criteria for Homeless](#), 2020, p. 12 [Last accessed: 22.04.2023]

294. OHCHR, [The Right to Adequate Housing](#), Fact Sheet No. 21/Rev.1, 2014, p.3

295. [European Social Charter](#), Article 31.

296. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia 2022. p. 243 Available at: [Link](#) [Last accessed: 20.04.2023].

297. OHCHR, [The Right to Adequate Housing](#), Fact Sheet No. 21/Rev.1, 2014, p.6

Elevating human rights standards within the country requires bolstering international legal mechanisms. While the full ratification of the Optional Protocol on Economic, Social and Cultural Rights of 2008 and Article 31 of the amended European Social Charter of 1996 may presently be unattainable, it is incumbent upon the government to proactively plan for the implementation of a baseline social policy, and to prioritize the elevation of socio-economic rights standards.²⁹⁸

GEORGIAN LEGAL FRAMEWORK

Legislation related to the prevention of homelessness and the right to adequate housing in Georgia primarily centers around the supreme law of Georgia. Article 5 of the Constitution of Georgia establishes the country as a social state, dedicated to upholding the values of social justice, equality, and solidarity within society. It further asserts „the state’s commitment to safeguarding human health, ensuring social protection, providing a living wage, offering decent housing, and preserving family well-being...”²⁹⁹ This constitutional mandate unequivocally places the responsibility for ensuring proper housing on the shoulders of the social state.

In conjunction with the State Supreme Law, the right to proper housing finds its regulatory framework in the Law of Georgia on Social Assistance, as well as in the Law of Georgia on Social Work and the code of Local Self-Government of Georgia.

The Law of Georgia on Social Assistance is designed to establish a comprehensive system of social support, with the aim of furnishing the population with fair, targeted, and efficacious aid.³⁰⁰ It is anchored in the core principle of purposeful allocation of resources through the social assis-

298. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia 2022. p. 16 Available at: [Link](#) [Last accessed: 20.04.2023].

299. [Constitution of Georgia](#) Article 5(4)

300. Law of Georgia [“On Social Assistance”](#) Article 1.

tance system to individuals in need of special care, impoverished families, and homeless individuals.³⁰¹ Within the framework of the Law of Georgia on Social Work, a homeless person is categorized as a group confronting social peril.³⁰² This endows the municipality with the authority to conduct social interventions, including the active identification of individuals facing social jeopardy, the assessment of their needs, the identification of pertinent issues, and the transmission of pertinent information to the relevant branch institution.³⁰³ As per the Local Self-Government Code of Georgia, the municipality's purview encompasses the provision of shelters and registration for the homeless.³⁰⁴

Yet, despite the existing legislative framework, it is evident that Georgia's laws and other prevailing normative acts address the right to proper housing and the exigencies of homeless individuals only on a cursory level, and do so in a piecemeal fashion.³⁰⁵ Moreover, under the current legal framework of Georgia, individuals whose roles are temporarily assumed by relatives in caretaking capacities are not taken into account when assessing the right to proper residence. This oversight puts them at risk of displacement or subjects them to await releasing from penitentiary institutions or orphanages.³⁰⁶

THE SITUATION OF THE HOMELESS AND THE STATE POLICY

The necessary mechanisms for ensuring a proper standard of living have not been addressed at the legislative level. Additionally, there is a lack of a centralized database for homeless individuals in the country, and mu-

301. Law of Georgia "[On Social Assistance](#)" Article 5 (b).

302. Law of Georgia "[On Social Assistance](#)" Article 2 (k).

303. Law of Georgia "[On Social Assistance](#)" Article 56 (1).

304. [Organic Law of Georgia, Code of Local Self-Government](#), Article. 16 (p).

305. Special report, "Implementation of housing services in Georgia, in terms of the rights of persons with disabilities" p. 38. p. 26. Available at: [Link](#) [Last accessed: 22.04.2023].

306. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia 2022. p. 244 Available at: [Link](#) [Last accessed: 20.04.2023].

municipalities exhibit varying approaches towards this demographic. Consequently, localized databases for homeless persons are only present in select municipalities, and a uniform state standard for addressing homelessness is absent.³⁰⁷

In 2022, the representatives of the Public Defender conducted monitoring activities in various municipalities of Georgia, specifically focusing on the institutions accommodating homeless individuals. Throughout this process, 11 social housing units in 7 municipalities were scrutinized. The findings revealed a lack of adequate living conditions for homeless individuals. These social housing facilities compel homeless individuals to reside in environments that compromise their dignity, further exposing them to circumstances perilous to their life and well-being.³⁰⁸

It is worth noting that the social housing units established by municipalities were not originally constructed for residential purposes. For instance, the Kutaisi social housing building once served as a telecommunications facility, the Ozurgeti social housing building was formerly a maternity facility, and the Gori building previously functioned as a drug clinic, among others.³⁰⁹ Except for Rustavi, none of these residences align with the internationally established standards of housing adequacy.³¹⁰

Of particular concern is the former drug center building in Gori, housing approximately 80 families, where life-threatening conditions persist. The building lacks functioning sewage and drainage systems, as well as access to clean water. Shared bathrooms and unsanitary conditions facilitate the proliferation of insects, rodents, and reptiles.³¹¹ The Public Defender has

307. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia 2022. p. 244 Available at: [Link](#) [Last accessed: 20.04.2023].

308. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia 2022. p. 243 Available at: [Link](#) [Last accessed: 20.04.2023].

309. Special report, Implementation of housing services in Georgia, in terms of the rights of persons with disabilities p. 38. Available at: [Link](#) [Last accessed: 22.04.2023].

310. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia, 2022. p. 244. Available at: [Link](#) [Last accessed: 20.04.2023].

311. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and

urged local authorities to relocate individuals residing in hazardous facilities and provide them with alternative housing, yet the issue remains unresolved, and these families continue to endure these adverse conditions.³¹²

The issue of homelessness compounds the challenges faced by already vulnerable and marginalized groups. For instance, none of the residences examined by the Public Defender are fully accessible for individuals using wheelchairs or those with visual impairments.³¹³

The situation of internally displaced persons (IDPs) also remains problematic. Throughout 2022, the Human Rights Center continued its efforts to safeguard the interests of IDPs. An illustrative case occurred on May 5, 2022, when an IDP, engaged in a legal battle against the Gori District Court for the potential eviction of his family, sought assistance from the Human Rights Center. The state had placed the family in a property owned by the Center due to their displacement, making it their sole living space. Eviction would leave them without shelter. Nevertheless, both the first instance and appellate courts deemed the eviction justified. The Human Rights Center is presently awaiting the reasoned decision of the Court of Appeal. It is crucial to note that the Tbilisi City Court is also set to address the issue of housing provision for IDPs. Consequently, evicting a family prior to an appropriate decision, in contravention of local legislation, would represent a significant breach of international standards, which prohibit eviction from a facility until suitable alternative accommodations are provided.

Furthermore, there are individuals in the country who, even during the USSR era, queued for residential apartments based on their military service rank (since 1981). In a case where the Human Rights Center is ad-

Freedoms in Georgia, 2022. p. 244. Available at: [Link](#) [Last accessed: 20.04.2023].

312. [Statement of the Public Defender](#) regarding the inappropriate living conditions in social housing in Gori, Ozurgeti and Kutaisi, 07.05.2022. [Last accessed: 23.04.2023].

313. See the special report, "Implementation of housing services in Georgia, in terms of the rights of persons with disabilities" p. 48. Available at: [Link](#) [Last accessed: 22.04.2023].

vocating for an individual, the court determined on July 14, 2000 that it could not hear the case due to the expiration of the statute of limitations. Nonetheless, by a court decision, St. Tbilisi City Hall was instructed to offer the family a residential apartment if feasible. In 2002, the Krtsanisi-Mtatsminda District Court issued an enforcement order to settle the family with a residential apartment as per the court's decision. However, the judgment remains unenforced to this day, on the grounds that City Hall lacks available spaces for distribution. Consequently, the homeless family occasionally seeks refuge with friends and relatives, and at times resorts to renting, which, given their already limited financial means, results in compromising other essential needs.

A dearth of social assistance for homeless individuals is observed across municipalities. Among the 22 municipalities queried by the Public Defender, only Adigeni municipality was found to have a program dedicated to long-term housing for homeless individuals. In other instances, municipal social programs include the provision of rental assistance for a homeless person for a one-year period, which is insufficient for preventing long-term homelessness.³¹⁴

In light of the foregoing, it is evident that the existing national policy pertaining to homelessness lacks systematic and coherent structure. Additionally, there are no comprehensive studies addressing the root causes and scope of homelessness.³¹⁵ Legal provisions and judicial interpretations are scarce, and there is an absence of unified guidelines on homelessness at the central level.³¹⁶ In practice, these deficiencies compound the challenges faced by homeless individuals.

314. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia”, 2022. p. 245. Available at: [Link](#) [Last accessed: 20.04.2023].

315. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia”, 2022. p.241 Available at: [Link](#) [Last accessed: 20.04.2023].

316. Center for Social Justice, [The concept of a homeless person and the criteria for being considered homeless](#), 2020, p. 12 [Last accessed: 22.04.2023].

NATIONAL STRATEGY OF GEORGIA

In 2022, the Government of Georgia approved the 2022-2030 National Strategy for Human Rights Protection. Regrettably, mechanisms aimed at preventing homelessness and addressing issues related to the realization of the right to proper housing were not incorporated into this strategy. Including these critical aspects in the state strategy would significantly contribute to the development of a unified vision for the state regarding homelessness prevention.³¹⁷ The Public Defender has emphasized that matters concerning the realization of the right to proper housing must find a place within the 2022-2030 national strategy for the protection of human rights. In light of this, pertinent recommendations have been put forth to the government. The Public Defender hopes that the working group dedicated to housing policy will actively engage homeless individuals, along with representatives from the civil sector and the Public Defender of Georgia.³¹⁸

RECOMMENDATIONS:

For the Parliament of Georgia:

- Establish the concept of a homeless person at the legislative level in such a way that it covers the problem of homelessness more broadly and harmonizes with the principles provided by international standards;
- Regulate right to proper housing on a legislative level and bring it into line with international standards;
- Plan the full implementation of the obligations under the relevant international legislation into the national legislation.

317. [The government approved the 2nd national strategy for the protection of human rights](#) - interpressnews.ge; 05.09.2022; [Last accessed: 23.04.2023]

318. Report of the Public Defender of Georgia, on the State of Protection of Human Rights and Freedoms in Georgia, 2022. p. 241. Available at: [Link](#) [Last accessed: 20.04.2023].

For the Government of Georgia:

- Initiate studies to determine the causes and extent of homelessness in the country, and to establish a unified record of statistical information;
- Enforce the regulation of minimum social housing arrangement standards. Provide alternative living spaces for people residing in facilities hazardous to life and health;
- Formulate a national policy aimed at combating homelessness, ensuring its coherence and unity;
- Direct social policy towards assisting vulnerable and marginalized groups, and enhancing shelters for them, while developing appropriate strategies and programs;
- Design and implement long-term housing programs tailored to the needs of homeless persons;
- Involve homeless individuals, the civil sector, and the Public Defender of Georgia in their activities within working groups focused on housing policy.

For the municipalities:

- Develop mechanisms for identification, registration and statistical recording of homeless persons in coordination with the central government;
- Develop long-term housing programs for homeless persons in coordination with the central government.

ELDERLY PEOPLE

According to 2022 data, residents aged 65 and older account for 15.5% of Georgia’s entire population.³¹⁹ In Georgia, there is no specific legislation directly addressing the rights of elderly individuals, which would outline the scope of their protection and the positive responsibilities of the state. Nevertheless, certain provisions related to this matter are contained in various legislative and regulatory instruments, which address specific issues related to the rights of the elderly. A pivotal document in this context was the resolution of the Parliament of Georgia dated May 27, 2016, which approved the concept of state policy on population aging in Georgia. According to this resolution, the Government of Georgia was tasked with developing a national action plan for the implementation of the aforementioned concept for the years 2016-2018 by August 1, 2016.³²⁰ The coordination of this plan was entrusted to the Ministry of Labor, Health, and Social Protection of Georgia. Periodic reports regarding this process were to be submitted to the Health Protection and Social Affairs Committee of the Parliament of Georgia.³²¹ In line with Resolution No. 5146-II of the Parliament of Georgia dated May 27, 2016, which endorsed the State Policy Concept on Population Aging in Georgia, the Government of Georgia sanctioned the 2017-2018 National Action Plan for the State Policy Concept on Population Aging in Georgia on November 2, 2017.³²² This plan expired at the close of 2018, and the Georgian authorities have not yet approved a new action plan. The action plan also defined the period for the mid-term review of its performance in 2018.³²³ However, the re-

319. Data from the National Statistical Service of Georgia, Available at: <https://www.geostat.ge/ka/modules/categories/41/mosakhleoba> , Updated: 04.04.2023.

320. Article 2 of the Resolution 5146-II of the Parliament of Georgia dated May 27, 2016 “on the approval of the state policy concept on the issue of population aging in Georgia”.

321. Article 3 of the Resolution 5146-II of the Parliament of Georgia dated May 27, 2016 “on the approval of the state policy concept on the issue of population aging in Georgia”.

322. Resolution No. 490 of November 2, 2017 of the Government of Georgia “on the approval of the 2017-2018 National Action Plan of the State Policy Concept on Population Aging in Georgia”.

323. The Public Defender talks in detail about the non-fulfillment of the obligations stipulated by the action plan in the report “On the state of protection of human rights and freedoms in Georgia”, the website of the Public Defender of Georgia. 2017, 311, Available at: <https://bit>.

sults of this review were not incorporated into the subsequent two-year plan.³²⁴ For the past few years, the Public Defender has been emphasizing the absence of a mechanism for implementing the principal policy document “State Policy Concept on the Aging of the Population in Georgia” concerning the elderly, as no action plan for its implementation has been devised after 2018. Consequently, the country lacks a framework for evaluating the exercise of all human rights by elderly people, and the existing concept remains an unenforceable document.³²⁵ The following is an overview of the exercise of the right to protection against discrimination of the elderly in relation to different legal relationships.³²⁶

DISCRIMINATORY LEGAL ARRANGEMENT

Various legal provisions, found in acts such as the Constitution of Georgia, the Law of Georgia on the Elimination of All Forms of Discrimination, the Criminal Code of Georgia, the Prison Code, law of Georgia on Prevention of Violence Against Women and/or Domestic Violence, Victims of Violence On Protection and Assistance, and the code of Local Self-Government, include regulations pertaining to elderly individuals.

Within the existing legal framework, numerous instances of age-based discrimination have been identified. One of these provisions was contested in the Constitutional Court by the Georgian Young Lawyers Association (GYLA). Specifically, the contested norm establishes the retirement age for academic staff at state-run higher education institutions who have

[ly/20IeRiP](#) , Updated: 04.04.2023.

324. On the approval of the 2017-2018 National Action Plan for the Concept of the State Policy on the Issues of Population Aging in Georgia approved by Resolution No. 490 of November 2, 2017 of the Government of Georgia “National Action Plan for the Concept of the State Policy on the Issues of Population Aging in Georgia 2017-2018”

325. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, website of the Public Defender of Georgia, 2021, 298, Available at: <https://www.ombudsman.ge/res/docs/2022040413242699860.pdf> , Updated: 04.04.2023.

326. For more information about the legal status of the elderly, see the report of the Georgian Young Lawyers’ Association. 2022. Available at: <https://shorturl.at/nrMOX>, Updated: 04.04.2023.

reached 65 years. According to the Law of Georgia on Higher Education, a person who reaches the age of 65 is ineligible for election to an academic position at a state-established higher education institution. Additionally, an individual holding an academic position who reaches 65 years will be removed from the position after the expiration of their term. Challenges have also been raised against norms permitting the election of individuals aged 65 to academic positions in Batumi Shota Rustaveli State University and Ivane Javakhishvili Tbilisi State University, albeit only in exceptional circumstances, subject to the decision of the university's academic council.

The Association asserts that these disputed norms are discriminatory and contravene the standards set by the Constitutional Court of Georgia's decision No. 2/2/863 of February 22, 2018.³²⁷ Consequently, they must be declared unconstitutional without substantive review in relation to the right to equality before the law. In this previous decision, the Constitutional Court deemed unconstitutional the norms barring individuals over 70 years from administrative positions within the Academy. The Court emphasized that for positions demanding intellectual engagement, advancing age does not diminish an individual's capacity to fulfill their duties. Furthermore, the Court underscored that roles like the president or vice-president of the National Academy of Sciences necessitate a candidate with appropriate institutional memory and extensive experience, attributes which are not eroded by age, but are in fact enhanced by accumulated experience.³²⁸

Following this precedent, GYLA contends that, akin to the aforementioned case, the contested norms unfairly impose a retirement age for individuals reaching 65. Academic positions primarily involve mental work and do not demand strenuous physical exertion. Therefore, the prohibition on academic positions for those over 65 is discriminatory and should be

327. Decision No. 2/2/863 of the Constitutional Court of Georgia dated February 22, 2018 for the mandate of the Constitutional Court in the case "Citizens of Georgia - Gucha Kvaratskhelia, Givi Tsintsadze, Giorgi Tavadze, Elizbar Javelidze and others (17 plaintiffs in total) against the Parliament of Georgia".

328. Ibid.

declared unconstitutional. Upholding the supremacy of the Constitution requires not only nullifying the specific norm recognized as unconstitutional but also rectifying the identified problem within the entire legal framework. To achieve this, state bodies should, in specific cases, implement measures and effect systemic and structural changes.

RIGHT TO SOCIAL PROTECTION

The state holds a fundamental responsibility for the social protection of elderly individuals and the creation of dignified living conditions for them. Legislation outlines specific forms of social assistance that can be broadly categorized into two groups: **monetary support**, including state pensions, compensation, subsistence allowances for impoverished elderly individuals, household subsidies, social benefits for those residing in highland settlements, and security provisions for war veterans and defense forces; and **non-monetary social aid**, encompassing specialized residences for the elderly (such as community organizations and nursing homes), state healthcare programs, provisions of aids, and sub-programs aimed at promoting the rehabilitation of war veterans.³²⁹ Additionally, certain municipalities have instituted localized programs designed to empower the elderly.³³⁰

However, despite the existence of these programs, social protection measures fall short in significantly improving the legal standing of the elderly. Between September 2021 and September 2022, elderly individuals seeking legal assistance from the Georgian Young Lawyers Association consistently inquired about information regarding legislatively established social protection measures. In specific cases, they requested assistance in the preparation of legal documents for the restoration or utilization of social aid. Invariably, they emphasized the gravity of the

329. See more about the social rights of the elderly in the report of the Georgian Young Lawyers' Association 2022, p 13-6, Available at: <https://shorturl.at/nrMOX> , Updated: 04.04.2023.

330. Ibid, p.16.

issue and the crucial importance of availing themselves of social protection measures.³³¹ Given Georgia's economic landscape, most elderly individuals lack sufficient savings to meet their needs and desires in their later years. Consequently, they often become reliant on others and the state-provided social assistance.³³² Additionally, the primary source of income for the elderly is the state pension, which, in essence, serves as a form of social aid that primarily covers basic needs, given its amount closely aligns with the subsistence minimum.³³³ The pension, however, does not suffice to address health-related expenses, purchase of medications, or nutritional requirements.³³⁴

Elderly individuals are included within the target demographic of specific sub-programs under the state's social rehabilitation and child care program, such as aiding war participants and facilitating rehabilitation, provision of aids, and community organizations. Despite this, due to waitlists for services, older individuals often experience delays or are unable to participate in these programs.³³⁵ It is imperative for the state to broaden the scope of beneficiaries for these programs and guarantee their accessibility to all seniors with relevant needs. Another critical issue pertains to the inadequate assurance of social security at the local self-government level. The Public Defender often asserts that municipalities do not sufficiently address social welfare within their jurisdictions. This includes the identification of elderly individuals, the assessment of their needs, the presentation of challenges, and the introduction and subsequent im-

331. See GYLA Report, Legal Status of the Elderly in Georgia, 2022, 18, Available at: <https://shorturl.at/nrMOX>, Updated: 04.04.2023.

332. Ibid.

333. According to the data of the National Statistical Service of Georgia in June 2022, the subsistence minimum for a man of working age is 255.3 GEL, Available at: <https://www.geostat.ge/ka/modules/categories/49/saarsebo-minimumi> Updated: 04.04.2023.

334. Special report of the Public Defender of Georgia "Legal status of the elderly in Georgia", website of the Public Defender of Georgia, 2020, 19. Available at: <https://www.ombudsman.ge/res/docs/2021012113240828575.pdf> Updated: 04.04.2023.

335. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia. Website of the Public Defender of Georgia, 2017, 312, Available at: shorturl.at/drwZ3, Updated: 04.04.2023.

plementation of appropriate programs. The majority of programs funded through local budgets offer one-time assistance to the elderly and do not incorporate long-term measures to tackle the enduring challenges faced by this demographic.³³⁶

VIOLENCE AGAINST THE ELDERLY

In 2022, as indicated by domestic violence restraining orders, 323 elderly men and 813 elderly women aged 61 and above were identified as victims of violence.³³⁷ Over the years, persistent and systemic issues have revolved around critical concerns, including the victims' own perception of the violence they endure, limited referrals to relevant agencies, and the absence of established psycho-social and economic rehabilitation programs for victims of violence.³³⁸ According to the assessment by the Public Defender, there exists a longstanding challenge in safeguarding them from violence and in establishing effective assistance services.³³⁹ Given the escalating incidence of domestic violence, it is imperative to thoroughly investigate the circumstances of elderly individuals residing in Georgia, with a focus on timely identification and response to instances of violence, as well as providing them with comprehensive guidance on how to address violence directed towards them.³⁴⁰

336. Resolution No. 490 of November 2, 2017 of the Government of Georgia "on the approval of the 2017-2018 National Action Plan of the State Policy Concept on Population Aging in Georgia".

337. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia. Website of the Public Defender of Georgia, 2022, 282, Available at: <https://ombudsman.ge/res/docs/2023033120380187763.pdf>, Updated: 20.04.2023.

338. Report of GYLA, Legal Status of the Elderly in Georgia, 2022, 20, Available at: <https://shorturl.at/nrMOX> Updated: 04.04.2023.

339. Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia. Website of the Public Defender of Georgia, 2020, 401, Available at: <https://www.ombudsman.ge/res/docs/2021040110573948397.pdf>, Updated: 04.04.2023.

340. United Nations Population Fund, research report, "General situation of solitary elderly pensioners living below the poverty line during COVID-19" 2020, 9, Available: shorturl.at/EHLS8, Updated: 04.04.2023.

It is worth noting that instances have arisen where the rights of elderly individuals placed in specialized institutions have been systematically violated. The Public Defender of Georgia places particular emphasis on the harsh conditions within these facilities. On June 17, 2022, the Office of the Public Defender of Georgia conducted a monitoring visit at one such community institution,³⁴¹ revealing deeply concerning circumstances where elderly residents were subjected to degrading living conditions. Given that this facility operates as a community organization, it falls under the purview of the state to oversee its operations and to establish suitable conditions for the elderly on the part of the service provider. The persistence of inadequate conditions within specialized institutions leads to the violation of the dignity of elderly individuals.³⁴²

RECOMMENDATIONS:

For the Parliament of Georgia:

- Adjust the age limit set for holding a distinct position to align it with the standards stipulated by the Constitutional Court of Georgia concerning age-based restrictions on accessing positions.

For the Government of Georgia:

- Conduct an assessment of the outcomes achieved through the implementation of the 2017-2018 National Action Plan of the Concept of the State Policy on Population Aging in Georgia and formulate and endorse a new national action plan on the issue of aging, which will be focused on the effective protection of the rights of the elderly;

341. Shelter for elderly “Bateli Elderly Home”, located in Stsnori, Village in Signagi, Kakheti.

342. Statement of the Public Defender regarding the degrading living conditions of Elderly Residents at Bateli Elderly Home, Source: Public Defender’s Website, Available at: shorturl.at/FQW49

Updated: 04.04.2023.

- Increase the number of beneficiaries of the separate sub-programs of the state program of social rehabilitation and child care intended for elderly persons (facilitation of rehabilitation of war participants, provision of aids, community organizations) and ensure their timely access to all elderly persons with relevant needs.

For the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia and the State Care and Assistance Agency for Victims of Trafficking:

- Study the situation of elderly people placed in specialized institutions, to respond effectively to violations and immediately ensure the creation of decent conditions for them.

For Local self-government bodies:

- Develop targeted programs and to allocate appropriate funds in the local self-government budget for their implementation, based on the study of the needs of elderly people living in the territory of the municipality; if necessary, increase the budget and seek additional funds.