



GEORGIA

Submission for the 3rd cycle of the Universal Periodic Review on Georgia

Focused on racism, intolerance, discrimination of minorities and hate motivated violence in Georgia

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Information about submitting organisations:

Tolerance and Diversity Institute (TDI) was founded in July 2013. The goals of the organization are protection of freedom of religion and belief for all; promotion of a culture of tolerance in society; protection and advocacy of people and groups discriminated on religious, ethnic, and racial grounds; promotion of civic integration and cultural, interfaith dialogue. Currently, TDI's work is channeled in several directions: strategic litigation and advocacy on the issues of religious, ethnic, and racial discrimination, rights of foreign nationals and migrants; formal and informal education with regard to tolerance, nondiscrimination, and diversity; research, and policy analysis within the scope of specialization. Contact information: 42 b I. Gogebashvili str., 0179 Tbilisi, Georgia, +995 32 291 27 62, tdigeorgia@gmail.com, webpage: <http://tdi.ge/en>.

Center for Participation and Development (CPD) was founded in January 2012 by the group of the civil society activists, experts and public figures from Georgia, US and Europe. CPD works with youth and minorities promoting civil integration and participation of vulnerable groups in decision-making processes, as well as the development of tolerant society in Georgia and in the Eastern Partnership region by raising the level of civic consciousness, harnessing advocacy skills among vulnerable groups, working on formal and non-formal education. Another important direction of work of CDP is protection of human rights defenders. Contact Information: 16 Bakhtrioni street, 5th entr., off.82, Tbilisi 0171, Georgia, cpd.infodesk@gmail.com, webpage: <http://cpdinfo.ge/>

Racism and Anti-migrant Discourse

At the 2nd cycle, 8 recommendations received, 7 supported by the State and 1 noted.

Legislative framework

1. The principle of equality before the law is enshrined in the Constitution of Georgia (Article 19)¹. Georgia has ratified the Convention for the Protection of Human Rights and Fundamental Freedoms and the International Convention on the Elimination of All Forms of Racial Discrimination in 1999. In May 2014, Georgia has also adopted the Law on Elimination of All Forms of Discrimination². The right to equality before the law is protected by criminal legislation as well. Respectively, the law defines specific conducts as a crime and stipulates criminal liability for racial discrimination and intolerance (Article 142). Georgian Criminal Code also defines racial discrimination separately as a criminal offence. According to the Article 142¹ of the mentioned code, racial discrimination is conduct committed for the purpose of causing national or racial hostility or conflict or for purpose of the humiliation of national honor and dignity, also, direct or indirect restriction of human rights or giving privilege to others based on race, skin color, nationality or ethnicity, which violated the right substantially. Since 2012, in the Criminal Code, hatred as a motive of the crime, serves as an aggravating circumstance for every criminal offence defined by the Code (Article 53¹).

Institutional framework

2. In its fifth report on Georgia, the European Commission against Racism and Intolerance (ECRI)³ recommended to the government to set up a specialized unit within the police to deal specifically with racist and homo-/transphobic hate crime; also, when establishing this unit, to seek expert advice from the Public Defender, relevant NGOs and international organizations. As a result, in the beginning of 2018, the Ministry of Internal Affairs of Georgia established the Human Rights Department. The main mission of the department is to ensure timely response and effectiveness of pending investigations on violence against women, domestic violence, hate crimes, trafficking and crimes committed by or against juveniles. The Department is also assigned to cooperate with state institutions and non-governmental organizations. However, the mandate of the department cannot be considered as a full realization of international recommendations, since it had been recommended to establish a special police unit with an investigative mandate for hate crimes. Though, the new department has no investigative mandate. The authority granted to it implies monitoring of investigations (including crimes committed on the grounds of racial discrimination) and the right to submit relevant recommendations to the Minister, also identification of flaws in the process of investigation and administrative proceedings.

¹ Law No. 786, adopted: 24/08/1995

² Law No. 2391, adopted: 02/05/2014

³ ECRI Report on Georgia, fifth monitoring cycle, Published on 1 March 2016, para. 99
<https://rm.coe.int/fourth-report-on-georgia/16808b5773>

3. There are no official bodies with specific tasks and powers to combat racism and xenophobia particularly. However, there are bodies which address issues of discrimination cases according to their competences, such as, Public Defender of Georgia and the Human Rights Department under the Ministry of Internal Affairs.

4. Often, the work of the government to respond to racially motivated hate-crimes is not sufficient. In some cases the investigation is not launched, or the racial motive is not revealed by the investigation.

5. There are no specific state policies, programmes or strategies for tackling racism and xenophobia in Georgia. According to the information officially provided by Office of Chief Prosecutor of Georgia,⁴ the office does not have a specific program or action plan tackling racism and xenophobia. However, the official letter notes that a special recommendation has been elaborated for prosecutors on how to investigate and prosecute hate crimes, and in strategy of Prosecutor's Office of 2017-2021 a special chapter is dedicated to combating discrimination and hate crimes.

6. The Ministry of Internal Affairs of Georgia does not have a specific program or policy against racism and xenophobia either. According to official letter received from the Ministry,⁵ a special guide has been prepared on principles for fighting against crimes motivated with discrimination, which is used during the investigation.

7. According to the administration of the Government, the Government Action Plan for the Protection of Human Rights of 2018-2020, also envisages a number of goals and activities on combating racism and xenophobia. In fact, the Human Rights Action Plan consists of thematic chapters none of which is dedicated to the work against racism and xenophobia. In the official letter of the Government, the reference is made on Chapter 18 - protection of religious freedom and religious neutrality, that does not contain specific goals and activities for the fight against racism and xenophobia.

Incidents and Dynamics of Racial Discrimination and Intolerance in Georgia

8. Racism and anti-migrant populism have become alarming issues in Georgia. Recent years saw several widely covered cases of racial discrimination involving physical and verbal abuse against individuals with different ethnic and national backgrounds. In September 2018, a Georgian national, human rights activist Vitaly Safarov, was murdered on the grounds of racial discrimination and anti-Semitism⁶. Foreign nationals feel increasingly threatened due to the growing aggression, violence and xenophobia, especially against citizens of African and Asian countries. Representatives of African and Asian countries report on being verbally and physically abused and subjected to discrimination in public places, transport, educational and

⁴ 19.11.2018 letter of Office of Chief Prosecutor of Georgia #13/87765.

⁵ 30.10.2018 letter of Ministry of Internal Affairs of Georgia #MIA 3 18 02654561.

⁶ Human Rights Center, Case details and legal assessment of Vitali Safarov's murder. Available at: <https://hrdc.org/admin/editor/uploads/files/pdf/hrc2019/სავსარეგობო%20საქმე-eng.pdf>

other institutions. As an example, in November 2018 in a public transport in Rustavi city, a Georgian citizen attacked a Cameroon national because of the latter's color of skin⁷. On 8 April 2018, in one of Tbilisi's districts local community members physically assaulted foreign nationals and forced them out of a municipal stadium. The foreign students reported that attackers used hate speech stressing on their color and origin⁸.

9. Official data of the government on racially motivated hate-crimes is significantly less than those mentioned by the victims. Sometimes, the language barrier is a hindrance to launch relevant proceedings against the perpetrators; lack of trust and fear towards law-enforcement structures is another obstacle for the victims to report the violations conducted against them.

10. Findings of public opinion polls also suggest that cultural diversity and immigration are perceived as a threat in Georgia⁹. Representatives of cultural, ethnic and religious majority fear that nationals of certain countries may threaten national traditions and trigger demographic decline in the country and do not consider the latter as equals.

11. Recommendations:

1. State should develop a policy and a strategy on combating and preventing hate crimes motivated by racial/ethnic intolerance and ensure an immediate and effective response to each racially motivated hate crime;
2. State should develop a particular policy, strategy and action plan to combat racism and xenophobia; It also should be prioritized in governmental human rights strategy and action plan;

Alleged discrimination against foreign nationals in State policy

At the 2nd cycle, 6 recommendations received, all supported by the State.

Problems to obtain residence permits

12. Nationals of African and Asian countries reportedly experience problems in their attempts to obtain residence permits in Georgia as they face numerous impediments and barriers. A high rate of unjustified refusals to issuing residence permits by the Public Service Development Agency may suggest a discriminatory nature of the State's policy towards foreign nationals. Most frequent rejections are based on the conclusion of the State Security Service, indicating that the person is a threat to national security. According to the State Service Development Agency, during the period of January 1, 2012 to October 27, 2017, 12,168 foreign nationals were refused the permit with an argument of posing a threat to state security, territorial unity and public order. 10,050 (82.6%) rejected applicants were of African or Asian descent (Mostly Nigeria,

⁷ Tolerance and Diversity Institute (TDI), Racial Intolerance and Xenophobia, Rights of Foreign Nationals in Georgia, 2019, Available at: http://tdi.ge/sites/default/files/tdi_report_on_racial_discrimination_and_rights_of_foreigners.pdf, p 15.

⁸ Ibid.,

⁹ CRRC (2018). Hate Crime, Hate Speech, and Discrimination in Georgia: attitudes and awareness. Available at: <https://rm.coe.int/hate-crime-hatespeech-and-discrimination-in-attitudes-and-awareness-e/16808ef62a>

Cameroon, Egypt, India, Bangladesh and Pakistan)¹⁰. Evidence obtained by the State Security Service as a proof that the applicant may pose a threat to the national and/or public security, is classified. At no stage of proceedings either at an administrative body or court can the applicant access the classified evidence in order to present counter justification. The State does not duly study the private interests of residence permit-seekers, which, for example, may be associated with living legally with the family or working in Georgia. During court proceedings, a permit-seeker is deprived of a possibility to submit an argument-driven counter-position, while the evidence handed by State Security Service to the court is unknown to the parties.

Problems during state border crossing

13. Over the past few years, the policy towards foreigners crossing the state border of Georgia has become stricter. The state often rejects entry to representatives of specific countries on the grounds of unjustified refusal.

According to the Ministry of Internal Affairs, in 2018 most frequently citizens of Iran and India (Iran – 3224, India – 2254) were rejected to cross the state border to Georgia. There is no statistics maintained on the grounds for such rejections.

Statistics show that in 2016-2018 citizens of India (4817), Iran (3555) and Azerbaijan (2367) were most frequently refused entry to Georgia.¹¹

Legislation limiting purchase of agricultural land

14. The newly amended legislation of Georgia prohibits ownership of agricultural land by the foreign citizen. Regulations on purchase of agricultural land have changed several times since 2011. In 2012 the Constitutional Court ruled that the limitation prohibiting foreigners to purchase agricultural lands and obliging them to sell inherited land, was unconstitutional. On December 16, 2018 new amendments to the Constitution of Georgia came into force¹² according to which agricultural lands were labeled as “resource of special importance”. The Constitution allowed for the exceptions to be regulated by the organic law. On June 25, 2019, Organic Law of Georgia on Ownership of Agricultural Land was adopted.

15. According to new regulations, agricultural land may be in the ownership of the state of Georgia, a citizen of Georgia, a legal entity registered in Georgia, whose dominant partners are citizens of Georgian, etc.¹³

16. With regard to foreigners, agricultural land may be in the ownership of a foreign citizen only in case the land was inherited or is in the ownership of a legal entity registered in Georgia, whose

¹⁰ Tolerance and Diversity Institute (TDI), Racial Intolerance and Xenophobia, Rights of Foreign Nationals in Georgia, 2019, Available at: http://tdi.ge/sites/default/files/tdi_report_on_racial_discrimination_and_rights_of_foreigners.pdf,

¹¹ Ministry of Internal Affairs, letters #71802577507 (22/10/2018); #61802761547, 12 November 2018

¹² Constitutional Law of Republic of Georgia, 23 March 2018, <https://matsne.gov.ge/ka/document/view/30346?impose=translateEn&publication=35>

¹³ Organic Law of Georgia on Ownership of Agricultural Land, article 4.1., <https://matsne.gov.ge/ka/document/view/4596123?impose=translateEn&publication=0>

dominant partners are the state or citizens of Georgia.¹⁴

17. Recommendations:

1. State should ensure appropriate justification of negative decisions while resolving the issue of granting residence permit to foreigners without any discrimination based on race/ethnic origin or other grounds;
2. The Ministry of Internal Affairs, in each case should provide justification to the administrative decree refusing entry to foreign citizens to Georgia;
3. The Parliament of Georgia should amend the legislation on the ownership of agricultural land and allow the ownership to people/organizations without discrimination.

Political and civic participation of ethnic minorities

At the 2nd cycle, 4 recommendations received, all supported by the State.

Legislative Framework

18. In the Preamble to the Constitution Georgia proclaims itself as democratic state aiming to create conditions for all members of society to participate in the policy making process. Georgia is State Party to the International Covenant on Civil and Political Rights and International Covenant of Economic, social and Cultural rights which constrain the party state to provide “right and opportunity” to every citizen to participate in public affairs, freely via chosen representatives, to vote and be elected. Georgia ratified COE Framework Convention for the Protection of National Minorities” that directly obliges the state to create conditions for “effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at the national and local levels. Above mentioned clauses include not only the responsibility of state to create equal grounds for the citizens, but also deliver all necessary measures to increase social awareness and inform ethnic minorities about vitality of their role in public affairs, create accessible informational materials in their language and ensure permanent participation of representatives of the minorities in the policy making process. At the national level the government of Georgia adopted the State Strategy for Civic Equality and Integration that aims to alleviate the process of participation in public affairs through supportive measures at different levels. In 2014, the law “On the Elimination of all Forms of Discrimination” came into Force and created more solid ground to eradicate discriminations.

Institutional Framework

¹⁴ Organic Law of Georgia on Ownership of Agricultural Land, article 4.2.

<https://matsne.gov.ge/ka/document/view/4596123?impose=translateEn&publication=0>

¹⁵ http://census.ge/files/results/Census_release_ENG.pdf

19. Approximately one sixth of the population of Georgia is comprised of ethnic minorities¹⁵. Their integration in civic, political and social life remains an acute problem. As mentioned above, in order to address the issue of low-rate involvement of ethnic minorities in the public and political life, the government adopted the State Strategy for Civic Equality and Integration and respective Action Plan¹⁶. To monitor effectiveness of the plan the “Commission” was established, that is coordinated by the Office of the State Minister for Reconciliation and Civic Equality. Moreover, the government in cooperation with the Central Election Commission of Georgia approved the Strategic Plan of Election Administration 2015-2019 and an Annual action plan. Under the cooperation framework set with the Central Election Commission, a Working Group on Minority Issues was founded. Under an umbrella of Public Defender (Ombudsperson) of Georgia - Tolerance Center was established in order to promote anti-discrimination policy and support victims of discrimination; the Council of National Minorities (CNM) under the Public Defender of Georgia operates since 2005, unites around 100 ethnic minority organizations and is aimed to monitor state policy and support the integration of ethnic minorities. Further steps were made to ensure the participation of minorities in elections, such as translation of a variety of materials into Armenian and Azerbaijani languages.

Problems with political inclusion

20. Advisory Committee on FCNM states that figures still suggest underrepresentation of persons belonging to national minorities in the political life, and the prohibition of political parties on a territorial principle remains an obstacle to political participation of persons belonging to national minorities¹⁷. In the meantime political parties do not pay enough attention to recruitment and campaigning in the regions densely populated by ethnic minorities. All this caused a satisfactory level (as FCNM Advisory Committee suggested) of representation of ethnic minorities in the Parliament. But there are doubts among the experts that ethnic minority MPs take real part in the legislative work. They usually belong to/represent (being the majoritarian MPs) the ruling party and thus ethnic minorities are not represented in the diverse parts of the political process¹⁸.

21. Georgian government aimed to involve more representatives of ethnic minorities in public service and public affairs. To this end, the educational system “1+4” was introduced that gives the opportunity to students with minority backgrounds to receive bachelor degrees, including first year of adaptation and studying Georgian language and 4 years of actual studies on selected speciality. This system also allows students to undergo internships at 20 state agencies and local self-government bodies. In accordance with the information provided by Equality Coalition, 65 ethnic minority students were involved in the internship program and only one of them was employed in a state agency. It shall be emphasized that this program proved to be successful for

15 http://census.ge/files/results/Census_release_ENG.pdf

16 <https://smr.gov.ge/en/page/31/state-strategy-for-civic-equality-and-integration-and-action-plan>

17 Third Opinion on Georgia¹ adopted on 7 March 2019, <https://rm.coe.int/3rd-op-georgia-en/1680969b56>

18 Integration of national minorities in Georgia by Netherlands Institute for Multiparty Democracy, 2017, http://eecd.org/wp-content/uploads/2017/07/Policy_Papers_ENG.pdf, p.30

the short-term, however on the long-run frequent dropouts were evident¹⁹. To evaluate effectiveness of the program, the contrast between involvement in it and number of ethnic minority representatives shall be considered. In accordance with the last conducted Census (2014)²⁰ ethnic minorities represent 13.2% of the population of Georgia and subsequently this program doesn't cover wide layers of minority youth and further promotion of the program and efforts on prevention of dropouts are necessary. Regardless of several (mostly civil society led) projects that were focused on promotion of ethnic minorities' participation, level of it remains low, as representatives of Ethnic minorities are not fully integrated, on the contrary, they often live isolated lives in their own "micro-environment". Even in the capital of Georgia, where language impediment is less tangible, political activity remains relatively small. One of the reasons of this is passive attitude to the matter on the side of political parties, which rarely include ethnic minority problems on their programs, do not have strong party infrastructure in the regions which are densely populated by ethnic minorities, do not have contact with their potential electors, and fail to provide them with information on the programs and main strategies of the parties²¹. Regions densely populated by ethnic minorities are often considered to be "warehouse of votes" for the ruling party, and some party representatives are arguing that the ruling parties collect "on average 87-94 percent" of votes in these regions²². However, situation with electoral behavior of ethnic minorities is changing, which is being overlooked by major political parties²³.

22. According to the 2014 Census²⁴ ethnic Azerbaijanis represent the biggest ethnic minority group in Georgia. They are densely populated in Kvemo Kartli region (Marneuli, Bolnisi, Dmanisi and Gardabani municipalities). Although Azerbaijanis constitute the majority populations in Kvemo Kartli region, government officials in the region are mostly comprised of ethnic Georgians. Only the Mayor of Marneuli municipality and the Council chairperson are ethnic Azerbaijanis. Out of 217 civil servants employed in Marneuli mayor's office, only 74 are ethnic Azerbaijanis²⁵. The same situation can be observed in other areas densely populated by ethnic minorities.

23. Recommendations:

1) State shall introduce more programs that will address low level of participation, these programs shall be less centralized and more accessible to the ethnic minorities. Programs, such

19 Universal Periodic Review (UPR) Mid-term Review Report on Georgia's UPR Second Cycle by the Coalition for Equality; <http://equalitycoalition.ge/article/27>

20 http://census.ge/files/results/Census_release_ENG.pdf

21 Center for the Studies of Ethnicity and Multiculturalism, 2018 cited from "Study of the Participation of Ethnic Minority Representatives in Political Life", <https://osgf.ge/en/publication/study-of-the-participation-of-ethnic-minority-representatives-in-political-life/>

22 Competing for Votes of Ethnic Minorities in Georgia: The 2017 Local Elections, http://csem.ge/wp-content/uploads/2018/06/Competing-for-Votes-of-Ethnic-Minorities_Eng.pdf, p.11

23 Ibid, p.12

24 http://census.ge/files/results/Census_release_ENG.pdf.

25 Universal Periodic Review (UPR) Mid-term Review Report on Georgia's UPR Second Cycle by the Coalition for Equality; <http://equalitycoalition.ge/article/27>

as “1+4”, shall be extended and appropriate similar programs should be developed for the school and kindergarten systems.

2) Representation of ethnic minorities in the Parliament shall not be “nominal”. To achieve this, the State shall encourage political parties to have more ethnic minorities by increasing the political parties funding or other mechanisms.

Discrimination of ethnic minorities in education

At the 2nd cycle, 7 recommendations received, 6 supported by the State, and 1 noted.

Legislative Framework

24. Constitution of Georgia recognizes the right to education as a fundamental right of every individual (article 27). Georgia signed and ratified European Convention on Human Rights and its Additional Protocol, which directly obliges the state to ensure exercise of this right. Georgia is a State Party to the International Covenant on Economic, Social and Cultural Rights that binds the state to “recognize the right of everyone to education” (article 13). Since 1992, Georgia is party to the UNESCO Convention against Discrimination in Education which aims to eradicate every form of discriminatory practices, both direct or indirect, in educational facilities. At the national level, Georgia adopted “Law of Georgia On General Education”(2005) which declares nondiscrimination as one of the core principles of general education.

Institutional framework

25. To ensure full implementation of the Right to Education Georgia made numerous positive steps. Various state strategies and programs were introduced, namely: “Strategy of Education and Science of Georgia 2017-2021”; “Providing Students with Textbooks”; “Social Inclusion”; “Second chance of education” etc. In the framework of these programs, 200 Roma children were integrated in schools, engaged in educational activities. In 2016-2017 several schools/classes offered lessons of Ossetian, Khurshi, Udi, Assyrian, Kurmanji and Chechen languages²⁶. To incite ethnic minority representatives to receive higher education, Georgia introduced a “1+4” system helping young minority representatives receive bachelor degrees. Notwithstanding the efforts and activities carried out by Georgia, there are shortcomings that hinder full realization of the right to education. Frequently, girls from ethnic minority communities abandon their studies because of early marriages (sometimes via bridal kidnapping), in some instances, education is regarded as “spoiling practice” for youth by elder representatives of ethnic minority communities²⁷.

²⁶ Ibid.

²⁷ Universal Periodic Review (UPR) Mid-term Review Report on Georgia’s UPR Second Cycle by the Coalition for Equality; <http://equalitycoalition.ge/article/27>

Discriminatory practices in education

26. Georgian Orthodox Church has exclusive access to the educational facilities. Often subjects such as the history of religion or religious studies turn into Orthodox studies and praying in practice. In some schools Orthodox priests are being invited to carry out different rituals and all students with no regard to their religious origin are obliged to take part in such practices. Those who refuse can be bullied or stigmatized. There are practices of inciting hatred against minorities (ethnic, religious, LGBT) by teachers during their lessons²⁸. Thus, despite the law prohibiting discrimination in public schools, the problem of discrimination and violation of neutrality remains alarming. Situation is better with higher educational establishments.

27. Another cluster of problems is low quality of general education received by minorities in comparison to majority students due to quality of teaching of Georgian language in the regions with compact settlement of ethnic minorities, quality of school textbooks in minority languages. Advisory committee on the FCNM in its 3d Opinion on Georgia states, that two major factors determining the lack of effectiveness of the education policy in Georgia are the policy itself, including the type of multilingual education programme chosen, the curriculum and the textbooks, and secondly the resources allocated to it, including the teachers, their certification and professional development perspectives, but also the communities and families' involvement²⁹.

28. In the National Educational Plan 2014-2018 for Basic School Chapter XV. Social Sciences - General Part and Standards³⁰, as well as in the corresponding Chapter of the National Educational Plan 2014-2018 for Secondary and Senior School, issues of tolerance, equality and diversity are mentioned mainly as a part of the skills to be built in pupils to understand diversity and multiculturalism of Georgia. This is a very important step forward, however does not include more profound studying of the mentioned above notions in the context of the universal character of human rights. Homophobia/transphobia is still societal taboo. Some private and public schools invite NGOs to carry out extracurricular activities on the mentioned topic, however it completely relies on the views of the school leadership.

29. Recommendations

- 1) State should continue awareness raising programs on the importance of education among ethnic minority communities, particularly targeting early marriages and bridal kidnapping;
- 2) State should sign and ratify Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008);

²⁸ Interviews with teenagers - participants of the summer camps "Sources of Tolerance-Caucasus" 2012-2017 by Center for Participation and Development.

²⁹ Third Opinion on Georgia adopted on 7 March 2019: <https://rm.coe.int/3rd-op-georgia-en/1680969b56>

³⁰ <http://ncp.ge/files/ESG/NC%202018-2024/6.%20Social%20Sciences.pdf?fbclid=IwAR1aYGtdlWY-lkRMkEQyWR1u8oYu1ghbiJDTlqL05jVjrEIoqkLF3-h08c>

- 3) State should eradicate religious practices in public educational facilities and ensure that schools are neutral and instead ensure appropriate instruction on tolerance, nondiscrimination and equality issues in public schools;
- 4) State should improve textbooks and approaches to teaching Georgian language to minority representatives in line with further allocation of the resources for teaching of minority languages and their preservation.

Hate motivated violence and rise of far-right and Neo-Nazi groups in Georgia

At the 2nd cycle, 15 recommendations received, 14 supported by the State, and 1 noted.

Legislative Framework

30. There are numerous legal acts aimed at eliminating discrimination and its direct and indirect consequences, including hate motivated violence in Georgian legislation. It is important that the Criminal Code of Georgia (Hereinafter Code) in various articles discusses discrimination and hate as an aggravating circumstance of crime. In some articles of the Code the motive for national intolerance is defined as aggravating circumstances of the crime. There are also separate offenses based on racial discrimination. Those are: Article 109.2.d - Murder under aggravating circumstances - Article 117.5.d - Intentional infliction of grave injury. Article 126.2.z Battery or other violence that has caused the victim physical pain. Article 142'1 - Racial discrimination. Article 144'1.2.v Torture. Article 144'3.2.v Degrading or coercing a person, or exposing a person to inhuman, degrading and humiliating conditions. Article 239'1 Public incitement to acts of violence. In 2013, within the framework of the EU-Georgia Visa Liberalization Action Plan, Georgia was obliged to adopt a law aimed at eliminating various forms of discrimination. The Parliament of Georgia adopted the law "On the Elimination of All Forms of Discrimination" in 2014, aimed at eliminating all forms of discrimination and for any natural or legal person in Georgia. The adoption of the Law on the Elimination of All Forms of Discrimination resulted in another legislative amendment: In 2017, in Georgian Criminal Code was added article 53'(primary) - "Aggravating circumstances of punishment", the first part of which sets out the circumstances in which other offenses under the same Code would be aggravated. Specifically, committing a crime on the basis of race, color, language, sex, sexual orientation, gender, gender identity, age, religion, political or other beliefs, disability, citizenship, national, ethnic or social affiliation, origin, property or title, place of residence or any other form of discrimination³¹.

³¹ Cited from "Enslaved by hate: ultra-right and Neonazi groups in Georgia", 2019, by Center for Participation and Development

Institutional Framework

31. In 2018 the Human Rights Department was created within the Ministry for Internal Affairs. Main task of the Department is to provide timely and effective investigation of domestic violence against women, discrimination committed on grounds of hate crimes, human trafficking, crimes against juvenile, or committed by juvenile. However the Department does not have investigative mandates as it was recommended to the State by international organizations. Coordinated data collection on hate crimes should be conducted by the Human Rights Department however at the moment of drafting of this submission Human Rights Department did not provide any data or comments on its vision of the situation with hate violence in Georgia. Another important institutional measures to fight hate violence are training of the prosecutors and judges, which have been conducted during the reporting period under support of Council of Europe and OSCE/ODIHR. But did not cover the subsequent amount of prosecutors and judges, 24 and 13 respectively.

32. Among the main challenges is hate crime data collection, which is not unified by different institutions and also inappropriate qualifications of hate crimes.

Number of hate incidents

33. According to the Prosecutor's Office, in 2018, hate motive was investigated in 210 criminal cases. Of these, the national hate appeared in 6 cases, the ethnic hate in 2 cases, the racial hate in 2 cases, the religious hate in 23 cases. Prosecution was launched against 151 persons. Out of these, 1 person was charged on ethnic hate grounds, 1 person on racial hate grounds, 3 persons on national hate grounds, and 2 persons on religious hate grounds. According to the information provided by the Supreme Court, as of March 1, 2017-2019, Article 53'1 of the Criminal Code providing the aggravating circumstance of the crime was not used in the cases considered by the Regional Courts of Georgia. According to the court, there were only three cases considered under Article 142'1. 10 persons were sentenced. In all three cases, the court agreed with the prosecution's qualification under this article³².

34. There is no national referral for the victims of hate crimes and their relatives to receive psychological or social support and remedies. Legal help is organized by civil society.

35. One of the outrageous cases on hate motivated violence in Georgia was murder of the human rights defender of Jewish origin Vitali Safarov. On September 30, 2018, human rights defender Vitali Safarov, 25, was killed in Duma street, Tbilisi by 2 representatives of the Neo Nazi group³³. In 2019 the court sentenced the murderers of Safarov to 15 years in prison, however the court did not recognize the hate motive. Office of the Public Defender and Georgian civil society did not agree with the court verdict (exclusion of hate motive). Appeal hearings are ongoing.

Raise of the hate groups

36. Different far-right groups, including Neo-Fascist and Neo-Nazi, increasingly assault people in public places and organise rallies with intimidating slogans against foreigners. For instance, On 10 December 2018 Georgian March and a political party, the Alliance of Patriots of Georgia, who have seats in the Parliament, together with various xenophobic groups gathered their supporters in a rally in front of the Public Service Hall with the purpose of barring entrance for foreign nationals to the Hall and preventing them from receiving services, based on their appearance and skin color³⁴. On 17 May 2018 members of the Georgian National Unity, a fascist organisation, gathered supporters for a demonstration in celebration of the Family Holiness Day with fascist symbols in full view of the public. Several dozens followers, mostly youth, joined the demonstration, occasionally giving Nazi salutes and chanting "glory to the nation – death to the enemies."³⁵ YouTube videos released in August 2018 also showed Georgians, self-identified as 'Georgian Guards' approaching foreign nationals in Tbilisi and demanding that the latter

32 ^{ibid}

33 ^{ibid}

34 Civil.ge, Nationalists Rally, Block Foreigners from Registering Land, 11.12.2018, <https://civil.ge/archives/270666>

35 Civil.ge, Police Probe into Neo-Nazi Activists' Calls for Violence, 16.05.2018 <https://civil.ge/archives/241848>

present documents for the purpose of ‘protecting the country from illegal persons’. Such groups are also violent against different vulnerable communities, such as LGBTI community, ethnic and religious minorities.

In 2019 populist hate group vigilants threatened to violently interrupt Tbilisi Pride March and commit violence against its organizers. One of the leaders of vigilants Levan Vasadze promised to “grab Nino Lomjaria [the Public Defender of Georgia] by her hair and out of her office for support of LGBTI community”. In autumn 2019 these groups attacked the screening of the movie “And then we danced” disrupting public order and injuring several citizens with stones and cubs.

Racist sentiments are exacerbated by public statements of State officials and the media. Reports show that the number of racist statements in 2018 increased compared to 2017. Most of racist statements were made by media representatives, followed by politicians and clergy³⁶.

37. Hate groups enjoy impunity, with no regard to the seriousness of their crimes, they are usually charged with minor hooliganism (an administrative offence) or criminal investigation against them is never concluded and cases never brought to the court. E.g. Levan Vasadze who threatened violence to the Public Defender and minority communities in 2019 still has not been tried for this crime. Leaders of the so-called Georgian March, who also made a lot of violent threats and summons and disrupted public order are also not persecuted and even recently formed political party.

38. Recommendations

- 1) State should unify data collection for the hate incidents
- 2) State should ensure measure of the psycho-social support for the victims of hate crimes and their relatives
- 3) State should continue training of police officers, prosecutors and judges to deal with hate crimes
- 4) State should stop impunity of perpetrators of the hate crimes and bring all of them to accountability with no regard to their political or social affiliation, including clergy representatives
- 5) State should conduct awareness raising campaigns aimed at young people highlighting the dangerous consequences of hate violence for both victims and perpetrators.

³⁶ Media Development Foundation, Hate Speech 2018, [http://mdfgeorgia.ge/uploads/library/125/file/eng/HateSpeech-Booklet-ENG_\(1\).pdf](http://mdfgeorgia.ge/uploads/library/125/file/eng/HateSpeech-Booklet-ENG_(1).pdf), p16.