



**SPECIAL REPORT OF THE PUBLIC  
DEFENDER OF GEORGIA  
ON THE SITUATION OF EQUALITY AND COMBATING  
AND PREVENTING DISCRIMINATION**

TBILISI 2022



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## INTRODUCTION

2021, like previous years, was critical in terms of the situation of equality. Unfortunately, the rights situation of women, persons with disabilities, members of the LGBT+ community, non-dominant religious and ethnic groups did not improve this year either.

Apart from the fact that state agencies did not implement the Public Defender's recommendation on the development of a state equality policy or dissemination of statements in support of equality, decision-makers were even active in making harsher statements inciting discrimination.

The events developed during the Tbilisi Pride Week were particularly alarming, when leaders and other members of far-right groups explicitly and publicly called for violence against members of the LGBT+ community and their supporters. On July 5, during the March of Dignity, law enforcement officials failed to prevent a large-scale attack on journalists and human rights activists by the above violent groups, resulting in serious injuries of a number of people. Amidst the open aggression by the violent groups, Georgian Prime Minister Irakli Gharibashvili described the March of Dignity as a cause of civil strife, noting that "revanchist and radical" political forces were behind the Pride.<sup>1</sup> In addition, the Prime Minister explicitly stated that he did not consider it right to hold the March of Dignity and that "the event should not be held on Rustaveli Avenue", thus further aggravating the situation.

Unfortunately, despite the submission of a substantiated opinion<sup>2</sup> by the Public Defender to the Prosecutor General of Georgia, according to which, the publicly disseminated evidence reaches the standard of probable cause for filing charges against at least two persons, no investigation has been launched into the public calls for violence.

In the first half of the year, conflicts erupted in the regions, allegedly on religious and ethnic grounds. In the village of Buknari, Chokhatauri district, confrontation started between local Christian and Muslim communities allegedly on religious grounds. Another conflict on alleged ethnic grounds occurred in Dmanisi between Georgian and Azerbaijani residents. The law enforcement agencies responded to these incidents ineffectively - the parties to the conflict physically assaulted each other in the presence of the police, who failed to respond to the case and defuse the situation in a timely manner.

At the same time, dozens of cases of violation of the labour rights of people employed in local self-governments, public schools and kindergartens, allegedly due to their political views, were extremely problematic during the pre-election period. In most cases, employers refused to extend employment contracts with employees, terminated contracts early, requested employees to resign voluntarily or dismissed them allegedly on discriminatory grounds. The applicants explained the unequal treatment by their family members' friendly relations or kinship with members of former Prime Minister Giorgi Gakharia's party. Some of them linked the above to their activity on social networks, in particular, posting/sharing/liking of posts or comments expressing support to the party leader.

In 2021, the Public Defender examined a total of 161 cases of alleged discrimination, most of which - 17% - concerned alleged discrimination on the grounds of political views. Alleged discrimination on the ground of sex, including sexual harassment, were still common this year, accounting for 16% of the applications. The

<sup>1</sup> See additionally. On July 5, at 11:00 am, Prime Minister Irakli Gharibashvili made a statement: "Revanchist, radical groups, in particular, the radical opposition led by Saakashvili, are again behind the organizers of today's rally. They are involved, I declare this with absolute responsibility, they are organizing the march and these rallies. Of course, their goal is to create civil unrest and chaos in the country, which, of course, will not happen and we will not allow it. Everything will be as our population, our people want to be"; "Today's rally contains the threat of civil strife. As you know, holding this rally is unacceptable for the vast majority of the population. Therefore, I believe that this rally should not be held on Rustaveli Avenue." <https://cutt.ly/zTGKbeM>; <https://cutt.ly/3TGLdFw>

<sup>2</sup> Public Defender's proposals to the Prosecutor's Office of Georgia, September 3, 2021, available at: <https://rb.gy/d6pywf>

grounds of dissenting opinion and disability were found in 11-11% of cases respectively. 7% of applications concerned alleged discrimination on the grounds of sexual orientation and/or gender identity. 6% of cases concerned alleged inequality based on nationality/citizenship, 4% of cases concerned alleged inequality based on religion and 3% of applicants indicated ethnicity as the grounds for their unequal treatment. Applications concerning age-related inequality fell to 3% this year. The largest proportion of cases - 22% - still concerned alleged discrimination on other grounds.

## **1. COMPLIANCE OF THE NOVEL CORONAVIRUS REGULATIONS WITH THE PRINCIPLE OF EQUALITY**

In 2021, the novel coronavirus pandemic created additional challenges in terms of the protection of the right to equality along with the problems identified in 2020.

This reporting period once again made it clear that the policy of entering the territory of Georgia was not fully compatible with the right to equality. More specifically, some persons with permanent residence permit in Georgia were restricted from entering the country, which was contrary to the Georgian anti-discrimination legislation.

It is noteworthy that vulnerable groups encountered problems due to low public awareness of their needs. In particular, when a certain group of persons with disabilities, as well as children, could not wear masks, they were, in some cases, unjustifiably requested to comply with the regulation.

The impact of coronavirus vaccination on human rights was particularly important in the reporting year. Questions arose in society as to whether it was discrimination to be obliged to present a vaccination document in labour relations, or when receiving health care, education, or other services. In response to the above, the Public Defender of Georgia clarified that the imposition of restrictive or incentive measures on vaccinated and non-vaccinated persons, if duly substantiated, did not constitute discrimination.

### **1.1. Restriction of freedom of movement of persons with permanent residence permit in Georgia**

In the reporting period, entry to Georgia was restricted due to the novel coronavirus pandemic. The regulations set by the Government were constantly changing, however, persons with permanent residence permit in Georgia were not allowed to enter the country on the basis of their status.

It should be noted that a certain category of persons with permanent residence permit could cross the border, however, not on the basis of their residence status, but through other alternative means:<sup>3</sup> if he/she was a family member of a citizen of Georgia (spouse, minor child); if he/she was using special regime for entering Georgia;<sup>4</sup> if he/she presented a document certifying the full course of any type of Covid-vaccination. In addition, the Government defined a small list of specific countries, the citizens of which could enter Georgia by air, land or sea.

Consequently, a significant number of persons with permanent residence permit could enter the territory of Georgia after passing the procedures established by legislation of Georgia. It is important to emphasize that the opportunities for entering the territory of Georgia by using various special regimes increased during the year, and therefore, the situation of persons with permanent residence permit was gradually improving. Nevertheless, analysis of the entry regimes in Georgia and the preconditions for getting permanent residency in the country makes it clear that some of the persons with residence permit in Georgia (theoretically) were not allowed to enter the country. As a result of such an approach, the freedom of movement of persons with permanent residence permit was restricted. In addition, they could not enjoy the rights provided for by the Constitution of Georgia, which apply not only to citizens of Georgia.

<sup>3</sup> Information on the ways of entering the country is given in accordance with the rules in force for the period of the examination of the issue (July 23, 2021)

<sup>4</sup> Special regimes of entry was imposed on members of official delegations visiting Georgia, as well as members of governmental and presidential delegations of Georgia; visitors for business/labour purposes in Georgia; foreign military servicemen/representatives participating in international military exercises planned in the system of the Ministry of Defence of Georgia; foreign visitors who work/do business in other countries remotely from Georgia; foreign students. See Decree No. 322 of the Government of Georgia on the Approval of Isolation and Quarantine Rules, Articles 11<sup>1</sup>-11<sup>5</sup>

The above reality made it necessary to assess whether the restrictions on entry into the territory of Georgia violated the right to equality.<sup>5</sup> The study of the issue by the Public Defender made it clear that the rules applied to the above-mentioned group were contrary to the right to equality enshrined in the Constitution of Georgia and anti-discrimination legislation, as there were long-time and close social, economic, legal and other relations between Georgia and persons with permanent residence permit in Georgia, which should have been a prerequisite for allowing them to enter the country on the basis of their status (permanent residence permit in the country).

In view of the above, the Public Defender addressed the Government of Georgia with a recommendation to eliminate discrimination on the ground of residence status<sup>6</sup> - in particular, to change the policy of entry to Georgia for persons with permanent residence permit in such a way that these persons could enjoy unimpeded entry to the country. According to the information provided to the Public Defender of Georgia by the Administration of the Government of Georgia, no final measures have yet been taken to implement this recommendation.

## **1.2. So-called mandatory vaccination**

One of the topics of discussion in the reporting period was the impact of the Covid-vaccination status on the right to equality. In particular, whether the above violates human rights, whether it is discriminatory to oblige a person to present a vaccination certificate/negative test result in labour relations, or when receiving health care, education or other services. The increased number of applications sent to the Public Defender of Georgia also referred to special interest in the above issue.

After analyzing the latest international practice and national legislation, the Public Defender concluded that the obligation to submit a Covid-vaccination document in certain areas of public life, such as health care, social services, education and public service, was not a discriminatory practice and did not violate other rights.

With regard to the request towards employees to present information about their vaccination status, the Public Defender considered that due to the severe epidemiological situation in the country, it was important for the private companies to create a safe [working] environment for life and health of their employees/customers. The Public Defender considered that introduction of certain restrictive and incentive measures for vaccinated and non-vaccinated persons for the purpose of achieving the above legitimate aim would not be discriminatory if they were duly substantiated. Accordingly, employers, as well as service providers, have the right to request employees or customers to present documents certifying complete vaccination or negative test results systematically. These rules should provide for exceptions (for example, a medical document confirming the non-expediency of vaccination) as well as reasonable accommodation measures. It should be noted that it is important to revise the rules if the epidemiological situation changes in the country.

In addition, the Public Defender of Georgia clarified that the regulations, which allowed vaccinated people to enter certain public places, but obliged non-vaccinated persons to submit negative test results and/or documents certifying that they had recently recovered from the virus, was not recognized as a discriminatory practice.

<sup>5</sup> There was a need to evaluate this issue in another context in 2020 as well. See the Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, 2020, 7-8, available at: <https://bit.ly/3leAr8G>

<sup>6</sup> Recommendation of the Public Defender of Georgia to the Government of Georgia, July 23, 2021, available at: <https://bit.ly/3EG0TWR>



In summary, even though mandatory vaccination may indeed interfere with the rights of individuals, such interference is justified as it serves the legitimate aim of protecting public health and human lives. In the existing situation, vaccination should be interpreted not only as an individual right, but as a collective responsibility necessary for the protection of public health and survival of the population.

As it has already been mentioned, the Public Defender of Georgia received a number of applications relating to the above issue, however, no discrimination on the grounds of vaccination status could be established in any of the cases. Due to the high rate of applications and high public interest in general, the Public Defender of Georgia released a public statement on August 25, 2021<sup>7</sup> and approved relevant rules for the creation of a safe working environment in the Office on August 26, 2021<sup>8</sup>.

### **1.3. Impact of the obligation of wearing a mask on persons with disabilities and children**

In the reporting period, the Public Defender's Office studied cases that made it clear that the rule of wearing a mask for the prevention of the spread of the novel coronavirus created a number of challenges for vulnerable groups.

The Public Defender's Office received an application, according to which, the general rule of one of the organizations had a discriminatory effect on a child with disability and his accompanying person. In particular, according to the rule of the private service provider company, all customers had to wear a mask inside the building. One of the customers arrived at one of the branches of the company together with a three-year-old child with autism spectrum disorder to receive a parcel. The parent explained that the child had autism spectrum disorder and would not wear a mask. Despite the provision of this information to the staff of the organization, the child was not let in the building. The organization changed the discriminatory rule at the stage of the examination of the case by the Public Defender's Office and allowed the relevant persons to move around the building without a mask, which was in line with Georgian legislation.<sup>9</sup>

In addition, the Public Defender of Georgia considered an application, according to which, a person with mental disability, who could not wear a mask due to disability, was fined for violating the rules of wearing a mask. As it became known to the Public Defender by a letter from the Ministry of Internal Affairs of Georgia, the document of violation was later invalidated.

Thus, the above cases highlight the need to raise awareness of the needs of vulnerable groups. In turn, the initiatives of private companies to create a safe working environment are important, however, it is essential that the above be planned and implemented in compliance with the principle of equality and legislation of Georgia.

<sup>7</sup> Statement – "Introduction of restrictive and incentive measures for vaccinated and non-vaccinated persons do not constitute discrimination", available at: <https://bit.ly/31r1mxb>

<sup>8</sup> Statement – "Employees of the Public Defender's Office have been obliged to submit Covid document at work", available at: <https://bit.ly/326XK45>

<sup>9</sup> Decree No. 368 of the Government of Georgia on the Approval of the Rules of Wearing a Mask

## 2. EQUALITY OF WOMEN

In terms of equality of women, sexual harassment, especially in the workplace, remained to be a challenge this year. As the practice of the Public Defender shows, the awareness of legislation prohibiting sexual harassment as well as relevant response mechanisms has increased, which has impacted the number of applications received from women employed in various fields.

The Public Defender was applied by professional women football players for the first time this year, which made it possible to discuss the compliance of their rights situation with the principle of equality.

In addition, for the purpose of assessing the impact of changes made to labour legislation in 2020 on the right to equality, the Public Defender analyzed the enjoyment of parental leave by men.

### 2.1. Sexual harassment

The Public Defender actively continued to examine cases of sexual harassment and make preventive efforts in the reporting year. Significant changes made to legislation in 2019, which defined the foreseeable elements of sexual harassment behavior and protection mechanisms, provided a more protected space for alleged victims. It is noteworthy that the positive practice of the Public Defender in terms of the protection of victims of sexual harassment increased trust towards the institution, which led to an increase in the number of applications. It should be noted that an e-course - For the Prevention of Sexual Harassment – has been prepared by the joint efforts of the Public Defender of Georgia and UN Women. The purpose of the e-course is to raise awareness of sexual harassment in the public space and workplace. It also provides an opportunity for stakeholders to learn about the human rights legal framework used to prevent sexual harassment around the world. The course is available to any stakeholder on the official website of the Public Defender.<sup>10</sup>

The cases examined by the Public Defender in the reporting period, inter alia, concerned sexual harassment in labour relations and on social networks.<sup>11</sup> The harasser's behavior included verbal and physical sexual acts - asking personal questions, requesting a phone number, sending abusive messages of sexual content, discussing the applicant's life with another employee in sexual context, forcing a kiss, offering sex, etc. It should be noted that the Public Defender assessed not only the behavior of the harasser, but also the response of the employer to the cases of sexual harassment in the workplace.

Given the particularly sensitive nature of sexual harassment and its potentially negative consequences on the alleged victim and the working environment, more and more public and private organizations have recently adopted internal regulations to prohibit and respond to sexual harassment. This mechanism, on the one hand, is the employer's statement to the potential harasser that sexual harassment will not be tolerated, and on the other hand, it offers the victim, the employee, an effective and reliable procedure. Introducing internal mechanisms for responding to sexual harassment is an unequivocally positive practice, but it is important to implement it effectively in practice. For example, as the examination of alleged sexual harassment by one of the public servants revealed, the agency did not take sufficient measures to get comprehensive information about the incident. Consequently, despite the existence of internal regulations, the alleged sexual harassment against the applicant was not effectively responded.

In the reporting period, the Labour Inspection Service - LEPL referred a case of alleged sexual harassment of one of the employees by the employee of a private company to the Public Defender of Georgia for the first time. Examination of the case revealed that the company failed to ensure effective protection of

<sup>10</sup> Online course on sexual harassment, available at:<https://bit.ly/3dkc0se>

<sup>11</sup> Recommendation of the Public Defender of Georgia of February 2, 2021 to L.J., available at:<https://bit.ly/3lBaiYb>

the employee's rights. As a result, on the one hand, the Public Defender urged the harasser not to commit sexual harassment in the future, in the workplace or in any other field, and not to create an environment insulting and degrading individuals, and on the other hand, she urged the company to effectively examine the cases of sexual harassment in the future and to take proactive steps, including by developing an internal sexual harassment policy document and raising awareness.

It should be noted that in terms of sexual harassment, one of the vulnerable groups are single women (unmarried, divorced, separated, widowed) and single mothers. This is usually due to the harasser's perception that the behavior of a particular sexual connotation would be more acceptable to a woman who is not married than to a woman who has a husband. A similar case was studied by the Public Defender in the reporting period. In particular, the Public Defender established sexual harassment on social network.<sup>12</sup> The applicant was a single mother, who was contacted by a man via social network while searching for a lawyer for the alimony case. During communication, the respondent asked personal questions to the applicant and made comments about the woman's private life. He also highlighted his influential acquaintances and high income in order to prove his influence. After the applicant expressed dissatisfaction with his behavior, the respondent focused on her marital status, portraying it in a negative and abusive context.

### ***1.1.1. Response by the Ministry of Internal Affairs***

By the changes made to sexual harassment legislation in 2019, the legislator declared sexual harassment in public places an administrative offence under Article 166<sup>1</sup> of the Administrative Offences Code of Georgia, as a result of which, the Ministry of Internal Affairs became a new defence mechanism for alleged victims of sexual harassment in public space. Employees of the Ministry of Internal Affairs have been obliged to effectively implement the requirements of Article 166<sup>1</sup> of the Administrative Offences Code in practice.

In one of the cases considered in the reporting period, shortcomings were identified in the Ministry's response to alleged sexual harassment committed in public space by an employee of the Ministry of Internal Affairs. The case concerned alleged sexual harassment of a woman in administrative detention by an employee of the Ministry on April 14, 2021.<sup>13</sup> To assess the effectiveness of the response by the Ministry of Internal Affairs, the Public Defender requested information from the agency several times. Each time the Public Defender was informed that the official inquiry was still ongoing and no final decision was made. On December 30, 2021, the Public Defender was informed by the Ministry that the State Inspector's Office had launched an investigation into the alleged violent crime under subparagraph "b" of part 3 of Article 333 of the Criminal Code of Georgia.

It should be noted that the lack of proper response has a negative impact on citizens' trust in the agency. Protracted processes further reduce the effectiveness and reliability of the investigation. Therefore, it is important for the agency to make every effort to investigate the circumstances of each case of alleged sexual harassment and to take appropriate action against offenders.

## **2.2. Rights of female athletes**

The challenges facing female athletes, including football players, are diverse in Georgia, some of which stem from gender stereotypes and others from financial and economic situation of women's football. Fe-

<sup>12</sup> Recommendation of the Public Defender of Georgia of February 2, 2021 to L.J., available at: <https://bit.ly/3lBaiYb>

<sup>13</sup> On April 14, 2021, a patrol inspector twisted a woman's hands in order to handcuff her in a parking lot located behind the building of the Ministry of Internal Affairs. As a result, the woman suffered severe pain and asked the patrol inspector to remove the handcuffs. The patrol inspector replied: "You are punished and let me caress you now if your hands hurt", after which he nearly touched the woman's face with his hands.

male players constantly have to argue that football is not just men's sport.<sup>14</sup> In addition to the stereotypes directly related to the sporting context, female players also need to combat the general misconception that women should only care for the family.

In response to these challenges, the Georgian Football Federation developed the Women and Girls' Football Strategy for 2021-2024, which should be assessed as a step forward. In addition, it should be emphasized that the Women's League has been added to the licensed leagues since 2020, which means that it has become mandatory for women's clubs, like men's clubs, to have medical personnel for the 2021 Championship.<sup>15</sup> Nevertheless, these measures are not sufficient to fully protect the health rights of female players.

In 2021, the Public Defender of Georgia assessed some of the challenges facing female players. The analysis of the rights situation of female players revealed that the rules developed by the Georgian Football Federation failed to ensure adequate protection of the sexual and reproductive rights of female players, as well as their right to motherhood, which is contrary to anti-discrimination legislation. As a result of studying international practice and consulting local doctors, the Public Defender of Georgia developed recommendations for the Georgian Football Federation.

The recommendations issued by the Public Defender to the Georgian Football Federation cover two main directions. According to the first recommendation, it is essential for the Georgian Football Federation to take into account the sexual and reproductive health rights of female players in the mandatory trainings planned for the doctors of teams subjected to licensing; as well as to adopt guidance document (standards) on the physical activity of female players during and after pregnancy, considering the context of female players' sexual and reproductive health. According to the second recommendation, in order to realize the labour rights of female players, it is important for the Georgian Football Federation to follow the rules developed by the International Football Federation. The regulations concern the protection of the rights of female players during pregnancy, childbirth and childcare and the use of sports sanctions in case of their violation.

It should be noted that the Georgian Football Federation expressed readiness to take into account the recommendations. The Public Defender's Office will continue to cooperate with the Georgian Football Federation to protect the sexual and reproductive rights of female players, as well as their right to motherhood.

### **2.3. Payment during maternity and parental leave and enjoyment of parental leave by men**

In the previous year's report on the situation of equality, the Public Defender of Georgia focused on the positive changes made to the norms regulating maternity and parental leave, as well as unresolved problems.<sup>16</sup> A significant challenge, such as insufficient payment for maternity leave for persons subject to the Labour Code of Georgia, remains unresolved in the reporting period. In addition, inequality is exacerbated by the different standards of payment under the Organic Law of Georgia - Labour Code of Georgia and the Law of Georgia on Public Service. It is important for the State to set a uniform standard for the payment during maternity leave and to ensure that the amount of payment provides decent living conditions for the

<sup>14</sup> Strategy for the development of women's football has been drawn up | What are the expectations of players? available at: <https://bit.ly/3diEkeG>; Gender impact analysis of the draft law of Georgia on physical education and sports, 68, available at: <https://bit.ly/332uqfi>

<sup>15</sup> Club Licensing Regulations 2021, Georgian Football Federation, Article 32, Available at: <https://bit.ly/3pnBAIM>

<sup>16</sup> Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, 2020, 15-18, available at: <https://bit.ly/3leAr8G>

child and the mother.<sup>17</sup> In order to realize the right to maternity protection, it is advisable for the State to ratify the Maternity Protection Convention (No. 183) of the International Labour Organization.<sup>18</sup>

The Public Defender of Georgia notes that according to the modern understanding free from gender stereotypes, taking a parental leave is the right and duty of both parents. In addition, gender equality in general and economic empowerment of women in particular are inconceivable only at the expense of breaking stereotypes about women and it is necessary to reconsider the misconceptions about men as well, according to which they have only financial role in the family. This approach is shared by Georgian legislation to some extent.

As it is known, the Organic Law of Georgia on Amendments to the Labour Code of Georgia took effect in 2021 and both parents have been given the opportunity to enjoy the paid part of parental leave.<sup>19</sup> In addition, if the child's mother does not use part of maternity leave, the child's father can enjoy it.<sup>20</sup> It was important for the Public Defender of Georgia to study the effect of these changes. According to the information received by the Social Service Agency, pursuant to the unified database of state cash benefits, a total of 381 employees, including 333 women and 48 men, enjoyed paid parental leave from January to November 2021. 46 out of the 48 men took a leave for 57 days (the other two enjoyed 30 and 19 days respectively) and the amount of the payment was GEL 1000 (except for 7 cases). A total of GEL 45310 was issued to 48 men.<sup>21</sup> As for the enjoyment of the unused days of maternity leave by fathers, it was used by 3 men (126 days in two cases and 115 days in one case) and the amount of the payment for each of them was GEL 1000.<sup>22</sup> In addition, the Public Defender's Office received information from several private companies, according to which, no man enjoyed parental leave this year. One of them mentioned that in view of the amendments to the Labour Code, they specifically formulated the right of the father to take a parental leave in their internal regulations.

In the process of ensuring gender equality in the country, it is essential to make more changes to Georgian legislation relating to parental leave, based on the practices of other countries and international and regional standards. For example, EU Directive 2019/1158 guarantees four months of parental leave for each parent, ensuring that at least two months of parental leave is available to each parent exclusively and that cannot be transferred to the other.<sup>23</sup> Member States shall ensure that workers who use the two-month exclusive leave receive an adequate payment in order to give them additional incentive to use it.<sup>24</sup> It is also important to note the updated standard of paternity leave under the same Directive.<sup>25</sup> The document in-

<sup>17</sup> In turn, it should be noted that these issues are part of the Association Agreement between Georgia and the European Union and the relevant agenda, and the recent amendments to the Labour Code of Georgia are in line with these commitments.

<sup>18</sup> According to the Convention (No. 183) of the International Labour Organization, there are four standards for maternity leave payment: According to the first standard, the amount of cash benefits paid with respect to leave shall not be less than two-thirds of the woman's previous earnings; According to the second standard, cash benefits shall be at least two-thirds of the average earning; According to the third standard, cash benefits shall be equivalent to the incapacity benefit; And according to the fourth standard, if the economic situation of the country does not make it possible to meet the standard, the cash benefits shall be constantly increased, and the State shall submit the relevant explanations to the the International Labour Organization.

<sup>19</sup> Organic Law of Georgia - Labour Code of Georgia, Article 37, paragraphs 3 and 4, as well as Article 39

<sup>20</sup> Organic Law of Georgia - Code of Georgia, Article 37, paragraph 4, as well as Article 39

<sup>21</sup> Letter 04/11476 from the Social Service Agency, 22 November 2021

<sup>22</sup> Letter 04/11476 from the Social Service Agency, 22 November 2021

<sup>23</sup> Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, Article 5

<sup>24</sup> Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, Article 8 (3)

<sup>25</sup> The Public Defender of Georgia uses international practice, which distinguishes between maternity leave, paternity leave and parental leave. Maternity leave implies pregnancy and childbirth leave [defined by legislation of Georgia], paternity leave implies the period after childbirth [this form of leave is not recognized by legislation of Georgia], and parental leave applies to both parents and implies childcare leave provided for by legislation of Georgia.

roduces the notion of paternity leave, which can be taken by the parent within ten working days after the childbirth. Member States are encouraged to provide for a payment or an allowance for paternity leave that is equal to at least the payment or allowance provided for incapacity at national level. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the requirements of this Directive by 2 August 2022.

Thus, it is essential for legislation not to reflect gender stereotypes, but share international best practices that consider not only mothers but both parents as active participants in terms of enjoyment of parental leave. These types of changes will improve the rights situation of women, and this approach will have a positive effect on the emotional and intellectual development of children.

## 3. EQUALITY OF PERSONS WITH DISABILITIES

The Public Defender has been pointing out for many years that the medical model of granting disability status has a negative impact on the rights situation of persons with disabilities, which in practice prevents people with various disability statuses from receiving benefits tailored to their individual needs. This problem is particularly evident in the areas of health care and social security.

Another challenge is to provide physical and other types of accessibility, which is a significant barrier for persons with disabilities in terms of independent living. In 2021, this issue was identified in the context of the rights of pregnant women with disabilities. As the practice of the Public Defender showed, they encounter obstacles in the process of receiving health care services. In particular, they face both physical adaptation problems in antenatal care facilities and challenges to accessing health information.

The issue of adapting the educational environment to the needs of children with disabilities also remains a challenge, which was identified as a problem in the field of non-formal education in 2021.

### 3.1. Problems arising from the medical model of disability

Problems relating to the medical model of determining disability status were again identified in the reporting period, as in previous years. The Public Defender has indicated over the years that it is necessary to fully introduce the social model of granting disability status.<sup>26</sup> This model involves determining disability status and granting social benefits (tangible and intangible) not only on the basis of a medical diagnosis but individual assessment of each person's individual needs and surrounding factors.

The flawed model of granting disability status creates problems in practice, especially in the areas of health care and social security. Supporting vulnerable groups in this regard is essential. In 2021, the Public Defender of Georgia revealed a discriminatory practice when a person with disability was not reimbursed within the framework of the universal health care programme for the medical service (orthopedic endoprosthesis) that is funded by the State for some groups. In particular, based on Government's Decree No. 36 of 21 February 2013, orthopedic endoprosthesis shall be funded only for persons with severe disabilities.

The Public Defender considers that it is true that under the medical model of evaluation, persons with severe disabilities represent a particularly vulnerable group, but before replacing the medical model of evaluation with the social model, it is necessary for the health programmes to consider the individual needs of persons with disabilities. After establishing discrimination, the Public Defender addressed the Prime Minister of Georgia with a recommendation.<sup>27</sup>

In addition, in one of the cases, the Public Defender of Georgia considered an application indicating that children with Down syndrome face problems in determining their disability status, as the relevant normative acts do not include the Down syndrome in the list of nosologies. According to the application, children with autism spectrum disorders have a similar problem. The Public Defender of Georgia explained in the mentioned case that the main problem was the evaluation system operating in Georgia, which relies on medical diagnosis. Accordingly, the aim is to replace it with a social model that, under proper administration, has the resources to meet the needs of vulnerable groups and ensure their integration into society. Therefore, the Public Defender did not consider the absence of the Down syndrome and/or autism spectrum disorders in the list of nosologies to be discriminatory. In addition, it is not impossible to determine disability status

<sup>26</sup> Public Defender's 2017 Parliamentary Report on the Situation of Human Rights and Freedoms in Georgia, 33; Public Defender's 2016 Parliamentary Report on the Situation of Human Rights and Freedoms in Georgia, 663-78

<sup>27</sup> Recommendation of the Public Defender of Georgia to the Government of Georgia, July 9, 2021, available at: <https://bit.ly/3GdsfUs>

on the basis of the above diagnoses even under the current model, and there are also a number of targeted programmes, the enjoyment of which does not depend on the disability status of the child.

### 3.2. Accessibility in the context of the rights of pregnant women

For many years, the Public Defender of Georgia has been pointing out the importance of continuous efforts for the provision of an accessible environment and its impact on the realization of the rights by persons with disabilities on an equal basis with others.<sup>28</sup> Problems with accessibility were particularly acute in the area of reproductive rights in the reporting period.

The Law of Georgia on the Rights of Persons with Disabilities emphasizes the obligation to protect women and girls with disabilities from discrimination and requires that the specific needs of women and girls be taken into account.<sup>29</sup> The law explicitly defines the obligation of the State to promote the realization of the right of women with disabilities to reproductive health on an equal basis with other women.<sup>30</sup> To this end, *inter alia*, it is necessary to ensure access to physical environment, buildings, information, medical facilities and other services.<sup>31</sup>

The Public Defender's practice in 2021 showed that pregnant women with disabilities face obstacles in accessing health care services. In particular, problems were identified relating to physical adaptation of antenatal care facilities, as well as access to information about health.<sup>32</sup>

From 2020, evaluation process has been launched in antenatal service providers, which was to be completed by December 31, 2021. From 1 January 2022, services should have been provided only in the establishments that fully meet the requirements set out in the evaluation instrument, including the requirement to provide adapted environment for persons with disabilities. However, in May 2021, an amendment was made to the relevant order, postponing the process for a year.<sup>33</sup> Consequently, until January 1, 2023, pregnancy-related services will still be provided in the facilities, some of which do not meet the environmental requirements for persons with disabilities. This, in turn, affects the opportunity of pregnant women with disabilities to receive free services under the State Health Care Programme for Mothers and Children without substantial barriers.

The fact that medical facilities do not have a direct obligation to provide medical documentation to the blind in the relevant format creates significant problems in the context of pregnant women with disabilities, making it impossible for them to independently access information about health, which makes them dependent on the third parties and forces them to disclose their personal data.

It should be noted that pregnancy is a unique condition of a woman and it requires the provision of an environment tailored to the woman's needs. Disregard for these needs puts pregnant women with disabilities in a particularly disadvantageous situation, which makes it necessary to take measures to protect the

<sup>28</sup> 2018 Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, pp. 11-12; 2019 Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, pp. 15-18; 2020 Special Report of the Public Defender of Georgia on Situation of Equality and Combating and Preventing Discrimination, pp. 21-22

<sup>29</sup> Law of Georgia on the Rights of Persons with Disabilities, Article 3, paragraph 4

<sup>30</sup> *Ibid.* Article 6, paragraph 3

<sup>31</sup> *Ibid.* Article 4, paragraph 5 („f“)

<sup>32</sup> See the general proposals of the Public Defender of Georgia of July 9, 2021 to the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, available at: <https://rb.gy/reyz1g>; <https://rb.gy/rozlw>

<sup>33</sup> Order No. 01-46/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia of May 14, 2021 on Amending Order No. 01-2/N of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia of January 15, 2015 on Approval of Regionalization Levels of Antenatal and Perinatal Services and Patient Referral Criteria



rights of these persons. The above was proved by the study conducted by the Public Defender relating to sexual and reproductive health and rights, which identified women with visual impairment and movement disability as one of the groups facing specific barriers when receiving antenatal services.<sup>34</sup>

In view of the above, the Public Defender considers that it is necessary to speed up, on the one hand, the process of evaluation of antenatal service providers and to introduce, on the other hand, assistive mechanisms to ensure access to medical documentation containing information about health. In addition, the needs of pregnant women with disabilities in terms of their access to health care services should be systematically analyzed and appropriate measures should be taken to meet these needs.

### **3.3. Reasonable accommodation in the field of children's education**

Providing reasonable accommodation is an essential component in terms of the protection of the equality of persons with disabilities, as this principle requires that the interests of a particular individual and not a group be taken into account. The practices in the reporting year showed that the enjoyment of the right to education by persons with disabilities on an equal basis with others remained a significant challenge.

Last year, discrimination on the ground of disability in the field of education, in particular, the refusal of reasonable accommodation, was found both at the stage of general education<sup>35</sup> and during admission to higher education institutions.<sup>36</sup> Provision of non-formal education for children with disabilities was also problematic.

The Public Defender examined the refusal of one of the educational and creative institutions to provide services to a child with Down syndrome. The institution did not consider appropriate alternatives or modification of the education process based on the principle of reasonable accommodation, which could have assisted the parent in helping the child adapt to the environment (by allowing the parent to attend educational process together with the staff of the institution for a short time and to assist the child in getting engaged in various activities). The institution did not consult the child's psychologist either.

It should be noted that non-formal education contributes to the literacy of adolescents, their social and cultural development, and improves their practical skills. Similar programmes often fill the gaps existing in the formal education sector. In addition, non-formal education is of particular importance in the context of inclusive education, as due to its flexible and context-oriented format, it can better meet the needs of persons with disabilities. Consequently, the institutions, which take responsibility for providing non-formal educational spaces for adolescents, are obliged to correctly identify the needs of all children with disabilities and to adjust services to their individual needs as much as possible.

<sup>34</sup> Sexual and Reproductive Health and Rights: National Assessment, Public Defender of Georgia, 2019, p. 13, available at: <https://rb.gy/694oaj>

<sup>35</sup> Recommendation of the Public Defender of Georgia of July 20, 2020 to the Director of the Newton School of Robotics Ltd., available at: <https://bit.ly/3oova6A>

<sup>36</sup> Address of the Public Defender of Georgia of December 7, 2020 to the Ministry of Education, Science, Culture and Sports of Georgia and the National Assessment and Examinations Center, available at: <https://bit.ly/3oph7x>

## 4. RELIGIOUS NEEDS OF PRISONERS OF NON-DOMINANT RELIGIONS

Like the previous year,<sup>37</sup> problems related to the consideration of religious needs were relevant in 2021 as well. In the reporting period, this challenge was faced by prisoners of non-dominant religions. In particular, problems were related to the absence of places of worship in the penitentiary establishments and lack of information about the food permitted during certain religious holidays.

Both international<sup>38</sup> and national<sup>39</sup> normative standards provide guarantees for convicts to exercise their right to manifest religion or belief to the fullest extent possible in the conditions of imprisonment, implying ritual and ceremonial acts, as well as various practices integral to such acts (including the building of places of worship), as well as observance of holidays and dietary regulations.<sup>40</sup> However, the practice of the Public Defender's Office shows that the above is problematic. Over the years, many prisoners have filed applications about food-related problems during religious holidays, as well as lack of possibility to properly perform prayers. Examination of the cases revealed, for the most part, lack of provision of adequate information to the convicts about the relevant procedures.

In 2021, examination was launched on the basis of a phone call made by one of the prisoners, who indicated that despite his numerous requests, the list of food permitted during Kurban-Bayram was not posted in the penitentiary facilities, whereas such a practice was common in connection with Christian holidays. After requesting information, the Public Defender's Office was informed by the Special Penitentiary Service that information about permitted food would be posted in a visible place on the territory of penitentiary establishments.<sup>41</sup> According to the agency, information about Orthodox and non-dominant religious holidays is provided to public through their official website ([sps.gov.ge](http://sps.gov.ge)).<sup>42</sup> However, according to the information available on the website, the agency informs public of the start of the process of sending parcels in connection with holidays such as: Christmas, Easter, St. Mary Holiday, St. George Holiday and New Year.<sup>43</sup> Similar information is posted via social networks as well,<sup>44</sup> but no such information can be found in connection with the holidays of non-dominant religions. No relevant links could be found in the information requested from the Special Penitentiary Service either.

As for the places of worship, there is an Orthodox chapel in all establishments, while for prisoners of other religions, places of worship are allocated only in two penitentiary establishments (Nos. 3 and 5), while in the rest of the establishments, the above-mentioned convicts perform rites in their cells.<sup>45</sup>

In view of the above, it can be said that informing prisoners of non-dominant religions about the food permitted during their religious holidays and, as a result, enjoyment of this opportunity, relies on the ad-

<sup>37</sup> 2020 Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, pp. 26-27

<sup>38</sup> Standard Minimum Rules for the Treatment of Prisoners, UN General Assembly, Resolution 70/175, Rules 6, 42; Recommendation Rec (2006)2 of the Committee of Ministers of the Council of Europe to the member states on the European Prison Rules, paragraphs 29.1-29.2, 22.1

<sup>39</sup> Order No. 187 of the Minister of Corrections of Georgia of December 30, 2010 on the Right of Accused/Convicted Persons to Participate in Religious Rituals and to Meet with Clergy, Art. 4; Imprisonment Code, Article 23, paragraph 6

<sup>40</sup> UNHCR General Comment No. 22: Article 18 (Freedom of Thought, Conscience and Religion), 1993, CCPR /C/21/ Rev.1/ Add.4, paragraphs 4, 8

<sup>41</sup> Letter No. 292813/01 from the Special Penitentiary Service, December 6, 2021

<sup>42</sup> Ibid.

<sup>43</sup> Available at: <https://rb.gy/vr0uqx>

<sup>44</sup> See for example: <https://rb.gy/l4qarg>; <https://rb.gy/uzmiri>; <https://rb.gy/30zru0>

<sup>45</sup> Letter No. 292813/01 from the Special Penitentiary Service, December 6, 2021; It should be noted that in an application received in the reporting period, the applicant requested the allocation of a small space, as due to insufficient space in the living cell, he could not perform the prayers. In addition, there is a toilet in the cell and praying in such a space is against the relevant religious rules

ministration of each penitentiary institution, the performance of the duties of which is questionable. Risks are largely insured for Orthodox prisoners, as the Special Penitentiary Service provides information to public before all major holidays, allowing prisoners' family members to obtain information about permitted food themselves and to send such products to the penitentiary establishments.

At the same time, the lack of sufficient places of worship for prisoners belonging to religious minorities gives the impression that the standards and norms relating to the satisfaction of the relevant needs are just a formality for the Special Penitentiary Service.<sup>46</sup> The Public Defender emphasizes that in order to guarantee the right to equality in the country, it is not enough for the State to refrain from developing discriminatory legislation or practices. In this regard, the biggest challenge for the State is to fulfill its positive obligations - to take specific measures.

In view of the above, it is important for the Special Penitentiary Service to examine in depth the infra-structural resources available in the penitentiary establishments and, considering the religious needs of convicts, take specific steps to provide places of worship for prisoners of non-dominant religions. In addition, more effective measures need to be taken to inform convicts about permitted food in connection with religious holidays, which requires, inter alia, the systematic issuance of instructions to members of the administration of the penitentiary establishments so that they post lists of food in visible places before religious (including non-dominant) holidays. In addition, the Special Penitentiary Service should inform public, by a public statement, about the start of the process of sending parcels to prisoners during the major holidays of religious minorities as well. It is advisable to attach a list of permitted food to such statements (during any holiday).

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<sup>46</sup> The above is proved by the information requested from the agency, according to which, social workers receive information about the religious needs of convicts of different religions from convicts themselves, after which, the needs of the accused/convicted persons are met as far as possible (Letter No. 629, 2028 from the Special Penitentiary Service, December 1, 2028)

## 5. EQUALITY OF NON-DOMINANT ETHNIC GROUPS

The number of applications sent by people of non-dominant ethnicities relating to the violations of their right to equality is not high, due to low awareness of the relevant human rights and legal mechanisms, as well as socio-economic difficulties. Due to this, the Public Defender's Office held a number of face-to-face meetings with representatives of national minorities during the reporting period,<sup>47</sup> which identified systemic problems, including barriers to accessing public services and challenges faced by the Meskhetian community. The confrontation between the locals in Dmanisi is also worth noting.

### 5.1. Access to public services

Ensuring universal access to public services is essential part of inclusion,<sup>48</sup> as the use of relevant programmes and services plays an important role in creating equal socio-economic opportunities.<sup>49</sup> The Government of Georgia has been recommended to provide multilingual public services since 2009, as access to public services represents a challenge for the minorities who cannot speak the Georgian language.<sup>50</sup> By developing the 2009-2014 National Concept and Action Plan for Tolerance and Civic Integration,<sup>51</sup> the country started to form a unified policy in the field of integration. However, the 2009-2014 National Concept and Action Plan for Tolerance and Civic Integration recognizes that members of ethnic minorities continue to face difficulties in exercising their economic rights and enjoying social benefits.<sup>52</sup>

The main obstacle in this direction is the language barrier. Although a number of positive steps have been taken in recent years in terms of official language trainings,<sup>53</sup> the State Strategy for Civic Equality and Integration correctly refers to the necessity of developing a consistent, continuous and unified system for teaching the official language at preschool, high school, vocational, higher and adults' education levels.<sup>54</sup> The visits paid by representatives of the Public Defender's Office to the regions populated by ethnic minorities revealed the need of strengthening the popularization of official language learning among adult population. At the same time, schoolchildren expressed dissatisfaction with the education quality. It is noteworthy that a large number of parents want their children to receive preschool and high school education in a multilingual manner, together with ethnic Georgian children. According to them, on the one hand, this will improve the knowledge of the Georgian language (unlike non-Georgian-language schools and sectors, where the language of communication, including with bilingual teachers, is the native language), and on the other hand, the joint training will facilitate the process of integration of ethnic minorities from an early age, by ensuring their active socialization with ethnic Georgian children. The fact that the so-called 1+4 pro-

<sup>47</sup> See details in Chapter 11.3

<sup>48</sup> Opinion of the European Economic and Social Committee on Diversity Management in the EU Member States, para. 3.5, available at: <https://rb.gy/30o5i8>

<sup>49</sup> Decree No. 356 of the Government of Georgia of July 13, 2021 on the Approval of the 2021 – 2030 State Strategy for Civic Equality and Integration and the 2021-2022 Action Plan of the 2021 – 2030 State Strategy for Civic Equality and Integration, Annex 1, pp. 32-33

<sup>50</sup> Breaking the cycle of exclusion: minority rights in Georgia today, Minority Rights Group International (an international non-governmental organization with consultative status with the UN Economic and Social Council), 2009, pp. 4, 7, available at: <https://rb.gy/baklhq>

<sup>51</sup> Decree No. 348 of the Government of Georgia of May 8, 2009 on the Approval of the National Concept and Action Plan for Tolerance and Civic Integration

<sup>52</sup> Decree No. 356 of the Government of Georgia of July 13, 2021 on the Approval of the 2021 – 2030 State Strategy for Civic Equality and Integration and the 2021-2022 Action Plan of the 2021 – 2030 State Strategy for Civic Equality and Integration, Annex 1, p. 33

<sup>53</sup> 2018 Parliamentary Report of the Public Defender of Georgia, pp. 291-292

<sup>54</sup> Resolution No. 356 of the Government of Georgia of July 13, 2021 on the Approval of the 2021 – 2030 State Strategy for Civic Equality and Integration and the 2021-2022 Action Plan of the 2021 – 2030 State Strategy for Civic Equality and Integration, Annex 1, p. 16

gramme graduates, who receive higher education together with ethnic Georgian students, are mostly fluent in Georgian,<sup>55</sup> proves the relevance of the mentioned concerns.

However, neither the above programme can be considered fully effective, as due to the amount of funds allocated for the relevant language groups, a lot of students remain without funding.<sup>56</sup> Given this, the normative restriction, according to which, the programme directions fully funded by the State do not apply to the beneficiaries of the Georgian language programme,<sup>57</sup> is even more problematic. Consequently, representatives of ethnic minorities face the reality that if they pass the Azeri, Armenian, Ossetian or Abkhazian language tests during the Unified National Examinations, their opportunity to get higher education, without sufficient financial support, will be questioned. In addition, in the reporting period, the Public Defender's Office paid attention to the absence of Azerbaijani/Armenian language and literature subjects in the curricula of higher education institutions, which does not allow students to specialize in these directions and forces them to study in Azerbaijan/Armenia. The Public Defender considers that these issues should be taken into account within the framework of legislative changes and reforms should be planned in the field of education in 2022.

Due to the language barrier, members of non-dominant ethnic groups are also unable to properly enjoy public services, which they explain by the employment of insufficient number of speakers of their native languages (especially customer service operators, consultants, etc.) in the service provider institutions. Miscommunication is also frequent, which, in some cases, turns into aggression towards non-Georgian-speaking beneficiaries. The problem becomes more acute in cases when citizens have to receive services in big cities or in the capital. For example, such a need arises systematically when receiving health care services, mainly due to the challenges in the field of primary health care in rural areas.<sup>58</sup> In addition, the medical needs of patients are not limited to primary health care. Due to all this, members of ethnic minorities are forced to ask their family members, relatives or friends to accompany them and help in communicating with doctors, which, of course, is associated with additional risk factors.<sup>59</sup> Communication problems were identified in institutions providing services necessary for the realization of social and economic rights of the national minorities, such as: Houses of Justice, territorial offices of the Social Service Agency, and branches of commercial banks.

The enjoyment of programmes and services is also hampered by the lack of information. In this regard, it is very important that the Law of Georgia on Official Language provides guarantees, according to which, in a municipality where members of national minorities live densely, state and municipal bodies are authorized to establish a rule different from the one provided by the General Administrative Code of Georgia, which implies, if necessary, the translation of the application/complaint filed by a representative of the national minority with a municipal body, or a response to the application/complaint;<sup>60</sup> The municipal authority shall, if necessary, translate the normative act adopted by it into the language of that national minority.<sup>61</sup>

<sup>55</sup> Ibid. p. 23; 2018 Parliamentary Report of the Public Defender of Georgia, p. 291

<sup>56</sup> 2019 Parliamentary Report of the Public Defender, p. 382; 2020 Parliamentary Report of the Public Defender, pp. 411-412

<sup>57</sup> Order No. 50/n of the Minister of Education and Science of Georgia of July 21, 2021 on the Approval of the Rules and Conditions for Issuing Programme Funding for Higher Education Institutions for the 2021 - 2022 Academic Year by the Ministry of Education and Science of Georgia, Article 6, paragraph. 5

<sup>58</sup> See the Special Report of the Public Defender of Georgia on the Monitoring of Access to Primary Health Care within the State Rural Doctor Programme, 2020, available at: <https://rb.gy/esme13>

<sup>59</sup> Disclosure of information about health status (special category of personal data), inconvenience, lack of honesty, postponement of the visit due to the busyness of the accompanying person, inadequate level of knowledge of Georgian language and medical language, etc. See for example, Situation of Muslim Women in Georgia and Multi-Layer Description of their Oppression, Social Justice Center, 2021, pp. 12-13, available at: <https://rb.gy/1zbnt4>

<sup>60</sup> Law of Georgia on Official Language, Article. 11, paragraph 4

<sup>61</sup> Ibid. Article 12, paragraph 2

For the purpose of studying the situation in this regard, the Public Defender's Office requested information from the municipalities, where more than half of the population represents non-dominant ethnic groups.<sup>62</sup> According to the correspondences:<sup>63</sup> Ninotsminda, Dmanisi and Akhalkalaki Municipal Halls consider applications submitted in the native languages of ethnic minorities, however, they provide information in the official language; Dmanisi Municipal Hall further explains that after preparing an answer, the persons concerned are informed of it in a language they understand; Tsalka Municipal Hall receives applications submitted in Georgian. Bolnisi Municipal Hall also receives applications submitted only in Georgian and explains the above by the fact that procedures are conducted with the help of a special programme, which is centrally generated in the official language, which cannot receive applications submitted in languages other than Georgian. However, the municipality further clarifies that the Citizens Service and Case Management Department employs ethnic Azerbaijani and Armenian public servants, who provide services to the citizens in their native languages, if necessary.

According to local self-government bodies, all social and health care programmes are annually implemented for any ethnicities. In addition, information on state and municipal social and health care programmes is disseminated in cities and villages densely populated by ethnic minorities in the native language of the local population. However, information and consultations about these programmes are provided only through specialists, representatives and members of municipal councils and not through the translation of the relevant normative acts. In this regard, Bolnisi Municipal Hall emphasizes its active cooperation with the Bolnisi newspaper, as a result of which, information about the activities of the municipality and the Mayor is posted on the newspaper's website in the Azerbaijani language,<sup>64</sup> which, of course, is welcome.

In 6 municipalities most densely populated by national minorities, only the official website of the Akhalkalaki municipality is translated into the mother language of non-dominant ethnic groups.<sup>65</sup> The situation is relatively better in relation to social networks – apart from the Akhalkalaki municipality,<sup>66</sup> information is posted in Azerbaijani and/or Armenian languages by the Ninotsminda<sup>67</sup> and Marneuli municipalities;<sup>68</sup> It is true that in response to the correspondence of the Public Defender's Office, Bolnisi Municipal Hall also indicates that all important information, including about state programmes and services, is posted on social network in Azerbaijani, however, after checking the page, it could be found that only several materials related to coronavirus were available in Azerbaijani;<sup>69</sup> The Tsalka<sup>70</sup> and Dmanisi<sup>71</sup> municipalities post information only in Georgian. It should be noted that according to the Tsalka municipality, they post information on social network in Azerbaijani and Armenian languages, however, it seems that the above should be considered a future plan, like the Dmanisi municipality, which indicates that they are planning measures in this direction.

<sup>62</sup> According to the ethnic diversity map available on the website of the Public Defender's Tolerance Center: <https://rb.gy/1pyfqc>

<sup>63</sup> Letter No. 122-1222133335 of November 29, 2021 from the Ninotsminda Municipal Hall; Letter No. 09/2520 of November 30, 2021 from the Tsalka Municipal Hall; Letter No. 108-1082133461 of November 30, 2021 from the Dmanisi Municipal Hall; Letter No. 116-1162133646 of December 2, 2021 from the Akhalkalaki Municipal Hall; Letter No. 106-10621348103 of December 14, 2021 from the Bolnisi Municipal Hall. The Office has not received any response from the Marneuli Municipal Hall

<sup>64</sup> See <https://rb.gy/egrsus>; The municipality further states that information on infrastructure, social, cultural and sports projects implemented in the municipality is provided in Azerbaijani for ethnic Azerbaijani citizens in the print version of the newspaper once a month

<sup>65</sup> See <http://akhalkalaki.ge/>; <https://rb.gy/spwi6b>; <https://www.tsalka.gov.ge/>; <https://www.dmanisi.gov.ge/>; <https://bolnisi.gov.ge/>; <https://www.marneuli.gov.ge/>

<sup>66</sup> <https://rb.gy/sgvswe>

<sup>67</sup> <https://rb.gy/qofcxu>

<sup>68</sup> <https://rb.gy/r2tyvk>

<sup>69</sup> <https://rb.gy/rmbgxz>

<sup>70</sup> <https://rb.gy/brexwz>

<sup>71</sup> <https://rb.gy/byozuc>

Thus, adequate information about state programmes and public services in a language understandable to non-dominant ethnic groups is problematic even in cases directly provided by law or in the municipalities most densely populated with national minorities, which, of course, points to an even more problematic situation in other municipalities. It is to be welcomed that the municipalities indicate active communication with the local population. For example, the Dmanisi municipality says that the offices of representatives of the Mayor (in administrative units) are being equipped with computers and Internet in order to provide on-site services to the population. The Bolnisi municipality notes that their representatives in the villages populated by ethnic minorities are ethnic Armenians and Azeris in order to make it easier for citizens to get information about municipal services and to bring their needs to the self-government in a timely manner. However, the involvement of representatives or verbal communication alone cannot be sufficient to solve the problem.

In the 2021-2030 State Strategy for Civic Equality and Integration, the objective of improving socio-economic conditions and opportunities includes Task 8.1. - Increasing the involvement of ethnic minorities in state socio-economic programmes. To accomplish this task, the Action Plan for 2021-2022 provides for at least two information meetings to be held annually with ethnic minorities (40 beneficiaries) by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs and its legal entities under public law relating to social and health care programmes, as well as information meetings with ethnic minorities in regions densely populated with ethnic minorities in the Samtskhe-Javakheti, Kvemo Kartli and Kakheti municipalities, for at least 3,000 beneficiaries, to inform the population about socio-economic programmes (Activities 8.1.1.3-8.1.1.4).<sup>72</sup>

The Public Defender emphasizes the importance of these measures and hopes that the information meetings will not be fragmentary. However, it should be taken into account that similar activities were carried out in 2017-2018 as well.<sup>73</sup> Nevertheless, according to the 2019 study conducted by the Institute of Social Studies and Analysis, 69.9% of ethnic minority respondents said they had not applied to local government for personal or family needs. At the same time, a statistically reliable link was found between the rate of appealing to the local self-government and the Georgian language knowledge. In particular, the study showed that the average index of the Georgian language proficiency of respondents who had not applied to the local government either for personal or public needs was lower than of those who had applied for any needs at least once.<sup>74</sup>

Based on the above, before the approval of the 2021-2030 State Strategy for Civic Equality and Integration, the Public Defender, in her comments relating to the document, along with proactively disseminating information in the native language of the local population, made a recommendation to add the task of translating the websites and social media pages of self-government bodies of the regions densely populated by national minorities into the native language of the local population to the objective of the Strategy – Improving access to mass media and information.<sup>75</sup> The above will enable non-dominant ethnic groups to have timely and systematic access to information on the relevant services and procedures.

For this purpose, despite the fact that the Public Defender's Kvemo Kartli and Samtskhe-Javakheti Offices employ persons who fluently speak the Azerbaijani and Armenian languages apart from the Georgian language and are in active communication with the local population, representing important contact persons

<sup>72</sup> Available at: <https://rb.gy/ftl06r>

<sup>73</sup> Monitoring Results of the Implementation of the State Strategy for Civic Equality and Integration and Its Action Plan, Tolerance Center of the Public Defender, Council of National Minorities, pp. 15-16, available at: <https://rb.gy/jthm33>

<sup>74</sup> Study of the Participation of Ethnic Minority Representatives in Political Life, Institute of Social Studies and Analysis, Open Society Foundation, 2019, p. 78, available at: <https://rb.gy/yc1qqa>

<sup>75</sup> Presentation of the recommendations was held on April 14, 2021, information is available at: <https://rb.gy/hiegxp>

between ethnic minorities and other departments of the Public Defender's Office, as well as the fact that the service provided by the Public Defender of Georgia is free of charge for persons concerned, the information posted on the official website of the Office is available in the Azerbaijani and Armenian languages.<sup>76</sup>

Regarding access to other public services, it should be additionally noted that, due to socio-economic problems, representatives of non-dominant ethnic groups face financial barriers, as many services are not free of charge. For example, registration of agricultural land is a critical issue in the Kvemo Kartli and Samtskhe-Javakheti regions.<sup>77</sup> In this regard, during meetings with representatives of the Public Defender's Office, locals stressed that, among other problems, it was a challenge to find financial resources necessary for receiving relevant services<sup>78</sup> and preparing documents for the registration of property rights. Social hardship is also a significant barrier in terms of access to health services. As a recent study found, most women in Marneuli and Adjara seek medical service only when their pain is unbearable; otherwise, they try to live with the pain.<sup>79</sup>

Thus, in a situation where access of national minorities to public services is associated with obstacles such as the language barrier, financial barriers and insufficient number of speakers of their mother language in service provider institutions, the Public Defender considers it necessary, in parallel with systemic efforts to solve these problems, to proactively disseminate information about the relevant services and programmes in the native language of the local population not only through information campaigns, but also by translating the websites and social network pages of the relevant programmes and public service providers (especially in municipalities densely populated by Azerbaijani and Armenian-speaking citizens) into the native language of ethnic minorities.

In addition to the above, the Public Defender emphasizes the importance of active and effective cooperation between government agencies and representatives of non-dominant ethnic groups to enable them to participate in the decision-making process regarding access to public services or other issues related to them. The need for taking positive steps in this regard was once again made clear when the Public Defender's Office was applied with regard to the obstacles encountered by a member of ethnic minority in communication with the legislative body and unethical behaviour towards him, which was also characterized by unacceptability on ethnic grounds.<sup>80</sup> Given that the full integration of ethnic minorities into the political and public life of the country remains a challenge for Georgia, problems in communication with decision-making bodies negatively affect the equality of non-dominant ethnic groups, depriving them of the opportunity to generate ideas or voice opinions based on their unique experience, which can improve their rights situation.

## 5.2. Challenges facing the Meskhetian community

Access to public services and integration are challenges for the Meskhetian community as well, which ultimately affects their rights situation.

<sup>76</sup> See <https://ombudsman.ge/aze>; <https://ombudsman.ge/arm>

<sup>77</sup> Critical Assessment of the State Strategy for Civic Equality and Integration, Social Justice Center, p. 10, available at: <https://rb.gy/vdbbwd>

<sup>78</sup> Information on property registration fees is available at: <https://rb.gy/umedlq>

<sup>79</sup> Situation of Muslim Women in Georgia and Multi-Layer Description of their Oppression, Social Justice Center, 2021, pp. 10-20, available at: <https://rb.gy/1zbnt4>

<sup>80</sup> The applicant pointed out that the meeting scheduled with the Human Rights and Civil Integration Committee of the Parliament of Georgia did not take place and he was informed of it by telephone a day earlier. According to the application, the reason for the cancellation of the meeting was the applicant's "relationship with an Armenian" and the presence of the relevant person on the list of attendees.



According to the website of the Office of the State Minister for Reconciliation and Civic Equality,<sup>81</sup> on November 15-17, 1944, the Soviet Government deported up to 20,000 families mostly living in the Meskhети region, southern Georgia, from Georgia to Central Asia. As a result of subsequent migration processes, the deported persons and their descendants settled in Azerbaijan, Russian Federation, Kyrgyzstan, Kazakhstan, Uzbekistan, Turkey, Ukraine and the USA. Some descendants of the deportees returned to Georgia in the late 1970s and now live in Guria, Imereti, Shida Kartli and Samtskhe-Javakheti. When Georgia joined the Council of Europe (1999), it undertook to establish legal basis for the repatriation and integration of Meskhეთians deported by the Soviet regime, including their right to Georgian citizenship.

Tangible steps in this direction were taken only in 2007, when the law defining the procedures for granting repatriate status and giving repatriates the right to receive Georgian citizenship was adopted in a simplified manner.<sup>82</sup> Under the law, repatriate status was granted to 1998 persons, 494 of whom applied for citizenship and were granted conditional citizenship.<sup>83</sup>

Probably due to the fact that Georgia was given 12 years to complete the repatriation process of the Meskhეთians after joining the Council of Europe,<sup>84</sup> the above-mentioned law set July 1, 2009 as a deadline for applying for the repatriate status<sup>85</sup> (it should be taken into account that the repatriate had to submit an application for the citizenship of Georgia within two years after receiving the status<sup>86</sup>). As of today, the Decree of the Government of Georgia on Granting Georgian Citizenship to Persons with Repatriate Status by Simplified Procedure is null and void.<sup>87</sup>

However, the ratio of people deported from Georgia in 1944 (up to 20,000 families) to Meskhეთians who received Georgian citizenship after returning to Georgia (494 persons) indicates that the repatriation process of the Meskhეთian community cannot be considered complete. A similar assessment was reflected in the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities in 2019, emphasizing that in reality, only a very small number of deported Meskhეთians returned to Georgia.<sup>88</sup>

Meetings held with community members in various regions<sup>89</sup> and studies conducted by human rights organizations showed that some Meskhეთians are unable to receive citizenship as they have already missed the deadline for the simplified procedure, while other citizenship procedures create insurmountable barriers for them, including due to the lack of knowledge of the language, citizenship of another country, lack of the history of living permanently and continuously in Georgia.<sup>90</sup> In addition, as the Public Defender's Office has been informed, according to the traditions of the Meskhეთian community, it is a common practice for Meskhეთian men to marry Meskhეთian women. Consequently, Meskhეთian men living in Georgia (some of whom are Georgian citizens) often marry Meskhეთian women, who are citizens of other coun-

<sup>81</sup> Available at: <https://rb.gy/ykn4fe>

<sup>82</sup> Law of Georgia on the Repatriation of Persons Involuntarily Displaced by the Former USSR from the Georgian SSR in the 1940's, Article 9, paragraph 1

<sup>83</sup> Within 5 years after the issuance of the decree on granting conditional citizenship of Georgia by simplified procedure, they have to renounce the citizenship of another country, information is available: <https://rb.gy/ykn4fe>

<sup>84</sup> 1999 Report of the Parliamentary Assembly of the Council of Europe 209, para. 10.2 ("e"), available at: <https://rb.gy/ntyumz>

<sup>85</sup> Law of Georgia on the Repatriation of Persons Involuntarily Displaced by the Former USSR from the Georgian SSR in the 1940's, Article 4, paragraph 7

<sup>86</sup> Decree No. 87 of the Government of Georgia of March 30, 2010 on Granting Georgian Citizenship to Persons with Repatriate Status by Simplified Procedure, Article 2

<sup>87</sup> Decree No. 570 of the Government of Georgia of November 9, 2010 on Invalidating Decree No. 87 of the Government of Georgia of March 30, 2010 on Granting Georgian Citizenship to Persons with Repatriate Status by Simplified Procedure

<sup>88</sup> Advisory Committee of the Framework Convention for the Protection of National Minorities, Opinion on Georgia, 2019, para. 43, available at: <https://rb.gy/g0rx5r>

<sup>89</sup> See detailed information in Chapter 11.3

<sup>90</sup> Statement of the Social Justice Center, October 25, 2021, available at: <https://rb.gy/95xvos>

tries, which indicates that the return of the deportees to Georgia is an outflowing process and requires stable legal guarantees. Otherwise, legal and social problems, including exclusion of Meskhetians from the circle of beneficiaries of health care programmes and other public services due to their statelessness, are inevitable.<sup>91</sup> It should be noted that, in some cases, it is also problematic to grant Meskhetians permanent residence permit.

Currently, the only way to grant citizenship to Meskhetians is to meet the standard conditions set for foreign citizens, which include the knowledge of the official language of Georgia.<sup>92</sup> At the meeting with employees of the Public Defender's Office, representatives of the Meskhetian community stated that they were trying to learn the Georgian language on their own with the help of their children's textbooks, which, of course, is not enough to get Georgian citizenship.

Based on the above, in her opinions relating to the 2021-2030 State Strategy for Civic Equality and Integration, which was submitted before the approval of the document, the Public Defender made a recommendation to reflect the following task in the document: Offer free Georgian language courses to members of mixed families and other ethnic minorities with permanent residence permit in Georgia, who are not Georgian citizens and do not speak Georgian, including a course oriented to training individuals for the official language test for getting Georgian citizenship. At the same time, it is important for the State not to forget the historical links of Meskhetians with their homeland (Georgia) and to re-introduce simplified citizenship procedures for them. It should be noted that in 2014, the Government of Georgia approved the State Repatriation Strategy, however, the Strategy applies only to the group of persons who have already obtained repatriate status and/or Georgian citizenship.<sup>93</sup> It is logical that in 2019, the Advisory Committee of the Framework Convention for the Protection of National Minorities called on Georgia to continue its efforts to facilitate the voluntary return of deported Meskhetians.<sup>94</sup>

### 5.3. Dmanisi conflict

While intercultural dialogue is one of the strategic priorities of the state policy in the field of civic equality,<sup>95</sup> events like the violent incident between locals in Dmanisi on 16-17 May 2021 have a negative impact on the integration process.

According to information received on the spot, the conflict started on the ground of a social issue and escalated into a two-day uncontrolled violent confrontation.<sup>96</sup> It is noteworthy that when covering and reviewing the conflict, various media outlets and organizations identified ethnically Georgian and Azerbaijani citizens as opposing parties.<sup>97</sup> Accordingly, in her public response to the developments, the Public Defender emphasized the danger of confrontation between the multi-ethnic residents of Dmanisi and the need for the State to take immediate and effective steps to prevent similar incidents in the future, to correctly assess and understand the causes of the conflict, and to pursue more active civic integration policy.<sup>98</sup>

<sup>91</sup> See, for example, a video story of the Social Justice Center: The life of Meskhetians abroad, available at: <https://rb.gy/2gd94n>

<sup>92</sup> Organic Law of Georgia on Georgian Citizenship, Article 12, paragraph 1 ("b"), Article 14, paragraph 1

<sup>93</sup> Decree No. 1671 of the Government of Georgia of September 12, 2014 on the Approval of State Strategy on Repatriation of Repatriation of Persons Involuntarily Displaced by the Former USSR from the Georgian SSR in the 1940's, Preamble

<sup>94</sup> Advisory Committee of the Framework Convention for the Protection of National Minorities, Opinion on Georgia, 2019, para. 48, available at: <https://rb.gy/g0rx5r>

<sup>95</sup> Resolution No. 356 of the Government of Georgia of July 13, 2021 on the Approval of the 2021 - 2030 State Strategy for Civic Equality and Integration and the 2021-2022 Action Plan of the 2021-2020 State Strategy for Civic Equality and Integration, Annex 1, p 56

<sup>96</sup> See the public statement of the Public Defender of Georgia of May 18, 2021, available at: <https://rb.gy/cctjo3>

<sup>97</sup> See for example: <https://rb.gy/dfe3zf>; <https://rb.gy/hykauu>; <https://rb.gy/9edqte>; Dmanisi Conflict - Ethnic Characteristics of the Conflict Started on Social Grounds, Social Justice Center, 2021, available at: <https://rb.gy/4pv4jb>

<sup>98</sup> Public statement of the Public Defender of Georgia of May 18, 2021, available at: <https://rb.gy/cctjo3>

The Public Defender's Office requested information from the law enforcement agencies, including on the preventive measures taken or planned to resolve the conflict.<sup>99</sup> However, the reply letters indicated that as a result of the investigative activities carried out, it was established that the confrontation in Dmanisi had not started on ethnic grounds and that no motive of ethnic hatred could be identified by the investigation;<sup>100</sup> 6 persons were identified as victims and 7 persons were charged with subparagraphs "b" and "c" of part 1<sup>1</sup> of Article 126 of the Criminal Code of Georgia (Beating or other violence, committed by a group people, against 2 or more persons).<sup>101</sup>

The Public Defender draws attention to the fact that hate crimes can have more than one motive.<sup>102</sup> Many crimes occur during incidents that were triggered by other motives, for example a car accident, which then escalated into a prejudice-motivated crime. And during conflict, racist, ethnic and religiously offensive words are often used.<sup>103</sup> The principle of non-discrimination imposes a positive obligation on the State to investigate the alleged link between the discriminatory motive and the incident of violence by taking all possible measures.<sup>104</sup>

Given the ethnic composition of the parties to the Dmanisi conflict and the fact that various sources point to the use of insulting phrases on ethnic grounds during the confrontation,<sup>105</sup> the Public Defender considers that the start of the violent incident on the ground of a social issue does not rule out alleged ethnic motive, which could escalate the conflict. Consequently, it is necessary to strengthen civic integration policy in order to ensure correct legal assessment of the incident, in-depth understanding of all the factors contributing to the conflict and prevention of similar cases in the future.

<sup>99</sup> Letter No. 13-1/4684 of the Public Defender's Office of May 17, 2021; Letter No. 13-1/10547 of the Public Defender's Office of November 4, 2021

<sup>100</sup> Letter MIA 1 21 01340546 of the Ministry of Internal Affairs of Georgia of May 28, 2021; Letter MIA 8 21 02982973 of the Ministry of Internal Affairs of Georgia of November 12, 2021

<sup>101</sup> Letter No. 13/72133 of the Prosecutor General's Office of November 29, 2021

<sup>102</sup> Investigating Hate Crimes, A Practical Guide, OSCE, p. 63, available at: <https://rb.gy/qx9hwh>

<sup>103</sup> See details in the amicus curiae brief of the Public Defender of Georgia on the case of Vitaly Safarov's murder, available at: <https://rb.gy/wyfkst>

<sup>104</sup> See details in the Public Defender's Report on Positive Obligations of Law Enforcement Officers to Protect the Equality of Vulnerable Groups, available at: <https://rb.gy/devxsf>

<sup>105</sup> See for example: <https://rb.gy/hykauu>; Dmanisi Conflict - Ethnic Characteristics of the Conflict Started on Social Grounds, Center for Social Justice, 2021, p. 8. available at: <https://rb.gy/4pv4jb>

## 6. EQUALITY OF THE LGBT+ COMMUNITY

In terms of the rights situation of the LGBT+ community, of course, the dramatic actions of the violent groups opposing the March of Dignity on July 5 should be emphasized, while the inaction of the law enforcement officials should be harshly criticized. As a result of the attacks by violent groups, employees of various media organizations, human rights defenders and other citizens were injured, and despite the launch of investigation into several cases, there has been no legal response to the calls for public violence by leaders of far-right groups.

The full realization of social, economic and health rights remained problematic for the members of the community this year. Challenges were related to their right to work, access to housing and health care services, right to education, access to financial resources, etc.

### 6.1. Equality of the LGBT+ community in the context of freedom of expression and assembly

Discrimination on the grounds of sexual orientation and gender identity remains a critical challenge in Georgia. Legal and political inaction of the State, lack of analysis of the causes of intensification of anti-democratic political movements, as well as political and social effects of homophobia, lead to violence against LGBT+ people, discrimination against them and obstruction of the exercise of the rights and freedoms guaranteed by the Constitution.

The situation of the realization of freedom of assembly and expression by the LGBT+ community remains critical. Members/activists of the LGBT+ community have been fighting for years for the right to safe assembly and access to public spaces. In this regard, this reporting period clearly showed that the situation not only did not improve, but deteriorated dramatically. Back in 2019, the Public Defender called on the Minister of Internal Affairs and the Prime Minister of Georgia to analyze the individual cases of restriction of freedom of expression and assembly of LGBT+ people at the state policy level and to plan joint preventive and reactive measures in this regard. The Public Defender noted that the measures taken by the Ministry of Internal Affairs to protect the freedom of expression of LGBT+ people were vague and did not prove the existence of a systemic vision for the protection of the rights or the analysis of potential consequences of the cases.<sup>106</sup> In addition, in her special report on the situation of equality in 2019, the Public Defender noted that the strengthening of far-right groups was alarming and it was important to ensure that the statements of the leaders of these groups were followed by an appropriate and prompt legal response.<sup>107</sup>

On July 1, 2021, the Pride Week was opened in Tbilisi with cultural events, in particular, a documentary film was displayed and a rock music festival was organized. The Pride Week cultural events took place in a more or less non-violent environment and the LGBT+ community had the opportunity to enjoy freedom of assembly.

The Week was to end with a March of Dignity on July 5, however, it was called off due to the lack of provision of security guarantees by the authorities and the inadequate response to the violence that took place on July 5.

<sup>106</sup> The general proposal of the Public Defender of Georgia of November 4, 2019 to the Minister of Internal Affairs of Georgia and the Prime Minister of Georgia, available at: <https://cutt.ly/UTG7Dma>

*In the general proposal, the Public Defender reviewed the situation of the realization of freedom of expression by LGBT+ people in the light of the facts that took place from September 2018 to July 2019. In particular, she focused on the ban on carrying LGBT+ symbols on the football stadium on September 9, 2018, as well as the events surrounding the March of Dignity scheduled for June 18-23, 2019 and the strengthening of the homophobic far-right groups against LGBT+ people.*

<sup>107</sup> See additionally the Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, 2019, p. 23 <https://cutt.ly/DTP57nT>

The violent groups gathered on Rustaveli Avenue in the morning of July 5, 2021 to disrupt the March of Dignity. Their violent actions throughout the day were significantly incited by the inaction of the investigative agencies. On July 5, 2021, employees of various media organizations, human rights activists and other citizens were injured as a result of the attacks by people opposing the Tbilisi Pride. The violent groups prevented journalists from carrying out their professional duties;<sup>108</sup> One of the clerics said at the rally: *“You should not say no to violence, on the contrary, you are obliged to use violence!”*<sup>109</sup> In addition, members of the violent groups climbed to the balcony of the Tbilisi Pride, removed flags and damaged property.<sup>110</sup> They threw various items at the balconies of other residents of the building where the Pride office is located. They also broke the windows of the Shame office.<sup>111</sup> At the same time, they attacked the Human Rights House and used pyrotechnics on its territory.<sup>112</sup> Several citizens were physically assaulted for their clothing.<sup>113</sup>

Amidst the open attacks on representatives of the media, the tension was further escalated by the statement made by Georgian Prime Minister Irakli Gharibashvili,<sup>114</sup> who described the March of Dignity as a cause of civil strife and said that “revanchist and radical” political forces were behind the Pride. In addition, the Prime Minister directly stated that he did not consider it right to hold the March of Dignity and that “the event should not be held on Rustaveli Avenue”. Unfortunately, by shifting responsibility to the LGBT+ community, the Prime Minister encouraged the actions of hate groups. This statement shows that the Government not only does not ensure the protection of the constitutional rights of the LGBT+ community, but also, in some cases, legitimizes the actions of violent groups against this community.

In addition, the events of July 5 were preceded by public calls for violence by leaders and other members of the violent groups, as well as mobilization of certain groups for this purpose. Numerous calls for violence were heard on July 5 as well. The Public Defender addressed the Prosecutor’s Office of Georgia with a request to launch criminal proceedings against *Zurab Makharadze* and *Spiridon Tskipurishvili*.<sup>115</sup> The proposal relating to the launch of criminal proceedings against Zurab Makharadze was based on publicly released videos<sup>116</sup> showing that before the July 5 violence, Zurab Makharadze and other individuals, through Alt-Info TV, had been continuously announcing violence against those who would be involved in the Tbilisi Pride event. Violent calls were also heard against journalists. The same individuals spread information about the formation of groups, the direct purpose of which would be violence on July 5. It was substantiated in the Public Defender’s proposal that Zurab Makharadze acted as a leader of a violent group on July 5, organized the removal of protesters’ tents from the Parliament area and allocated groups for attacking the Shame and Tbilisi Pride offices.

The Public Defender also addressed the Prosecutor General’s Office with another proposal relating to public call for violence and demanded the launch of criminal proceedings against archpriest Spiridon Tski-

<sup>108</sup> See <https://cutt.ly/7Yj6oXO> <https://cutt.ly/YYj6IAy>

<sup>109</sup> See <https://cutt.ly/gYj6UQg>

<sup>110</sup> See <https://cutt.ly/FYj65bE> <https://cutt.ly/kYkqzUU>

<sup>111</sup> See <https://cutt.ly/vYkqLCT>

<sup>112</sup> See <https://cutt.ly/5YkwvZN>

<sup>113</sup> See <https://cutt.ly/xYkwMxL> <https://cutt.ly/kYkw6dk> <https://cutt.ly/4YkeeWj>

<sup>114</sup> **See additionally.** On July 5, at 11:00 am, Prime Minister Irakli Gharibashvili made a statement: *“Revanchist, radical groups, in particular, the radical opposition led by Saakashvili, are again behind the organizers of today’s rally. They are involved, I declare this with absolute responsibility, they are organizing the march and these rallies. Of course, their goal is to create civil unrest and chaos in the country, which, of course, will not happen and we will not allow it. Everything will be as our population, our people want to be”; “Today’s rally contains the threat of civil strife. As you know, holding this rally is unacceptable for the vast majority of the population. Therefore, I believe that this rally should not be held on Rustaveli Avenue”.* <https://cutt.ly/zTGKbeM>; <https://cutt.ly/3TGLdFw>

<sup>115</sup> The Public Defender has the authority to request the launch of an investigation and/or criminal prosecution if there are elements of crime, Article 21 (c) of the Organic Law on the Public Defender of Georgia; Proposal of the Public Defender of Georgia of September 3, 2021 to Prosecutor General Irakli Shotadze, available at: <https://cutt.ly/QTGMbdg>

<sup>116</sup> See <https://cutt.ly/HYkykaz>

purishvili. In particular, on July 5, the archpriest called on citizens, through the loudspeaker, to use violence. This action went beyond the freedom of expression and constituted an act prohibited by Article 239<sup>1</sup> of the Criminal Code of Georgia - call for violence, which creates a clear, direct and substantial threat of violence.

In response to the proposals, the Prosecutor General's Office of Georgia informed us that no criminal prosecution had been launched against Spiridon Tskipurishvili or Zurab Makharadze.<sup>117</sup>

It should be emphasized that the threatening and hostile environment that exists in the country towards journalists and cameramen in recent times is worrying. Footage released by the media clearly showed how violent groups attacked media representatives. The death of Lekso Lashkarava was particularly alarming. The cameraman of TV Pirveli, who was one of the victims of the violent attacks on July 5, was found dead by the family members in his own house on July 11. The Public Defender called on the Ministry of Internal Affairs to conduct an effective investigation into the death of Lekso Lashkarava and to establish a cause-and-effect relationship between his bodily injuries, psychological-emotional stress and the fatal outcome.<sup>118</sup>

Although, according to the Public Defender, publicly available evidence reached the standard of probable cause for bringing charges against at least two persons, the Prosecutor's Office has not launched criminal proceedings against the organizers of the July 5, 2021 violent events so far. In its reply letter of December 9, 2021, the Prosecutor's Office of Georgia, without naming specific individuals, indicated that three people were charged with breaking into and damaging the Tbilisi Pride office, including for organizing violence.

According to the reply letters<sup>119</sup> of the Ministry of Internal Affairs of Georgia, on July 5, 2021, investigations were launched into the unlawful interference with the professional activities of journalists by the use of physical violence and threats of violence,<sup>120</sup> damage done to by the Shame office,<sup>121</sup> damage done to the Pride office,<sup>122</sup> physical violence and property damage against the Human Rights Center,<sup>123</sup> damage to the cars of Patrol Police Department and citizens,<sup>124</sup> damage to the EU flag flying in front of the Parliament building,<sup>125</sup> violence against LGBT+ members gathered on Rustaveli Avenue,<sup>126</sup> and attack on and resistance to police officers on July 6, 2021.<sup>127</sup>

In response to the Public Defender's appeal, the information provided by the Prosecutor General's Office of Georgia on December 9, 2021 indicated that between July 5 and July 21, 2021, 31 persons were charged with intolerance based on gender identity and sexual orientation. 28 of these individuals were charged with various cases of violence against journalists and interference with their professional activities.<sup>128</sup> 3 people were charged with breaking into and damaging the Tbilisi Pride office.<sup>129</sup>

<sup>117</sup> Letter No.13/74440 of the Prosecutor's Office of Georgia of December 9, 2021

<sup>118</sup> See <https://cutt.ly/jYkoUFe>

<sup>119</sup> Letter MIA 3 21 02348936 of the Ministry of Internal Affairs of Georgia of September 6, 2021, Letter MIA 2 21 03461514 of the Ministry of Internal Affairs of Georgia of December 31, 2021

<sup>120</sup> Crime under parts 1 and 2 of Article 225, subparagraph "a" of part 2 of Article 156, part 2 of Article 154 and part 2 of Article 239<sup>1</sup> of the Criminal Code of Georgia

<sup>121</sup> Crime under part 1 of Article 187 of the Criminal Code

<sup>122</sup> Crime under part 1 of Article 187 of the Criminal Code

<sup>123</sup> Crime under part 1 of Article 187 of the Criminal Code and part 1 of Article 126

<sup>124</sup> Crime under part 1 of Article 187 of the Criminal Code

<sup>125</sup> Crime under part 1 of Article 187 of the Criminal Code

<sup>126</sup> Crime under part 1 of Article 126 of the Criminal Code

<sup>127</sup> Crime under part 1 of Article 353 of the Criminal Code and part 1 of Article 353<sup>1</sup> of the Criminal Code

<sup>128</sup> Note: **15 persons** were charged with part 2 of Article 154, subparagraphs "a" and "c" of part 2 of Article 156 and part 2 of Article 225 of the Criminal Code of Georgia; **8 persons** were charged with under part 3 of Article 118, part 2 of Article 154, subparagraphs "a" and "c" of part 2 of Article 156 and part 2 of Article 225 of the Criminal Code of Georgia; **3 persons** were charged with subparagraph "a" of part 3 and subparagraph "e" of part 5 of Article 117, part 2 of Article 154, subparagraphs "a" and "c" of part 2 of Article 156 and part 2 of Article 225 of the Criminal Code of Georgia; **1 person** was charged with subparagraphs "a" and "c" of part 2 of Article 156 and part 2 of Article 225 of the Criminal Code of Georgia; **1 person** was charged with part 2 of Article 154, subparagraph "a" of part 2 of Article 156

<sup>129</sup> Crime under subparagraph "a" of part 2 of Article 156, subparagraph "a" of part 2 and subparagraph "a" of part 3 of Article

According to the Prosecutor's Office, 53 people were identified as victims, including 42 journalists and cameramen,<sup>130</sup> 7 citizens,<sup>131</sup> 3 human rights activists<sup>132</sup> and a non-governmental organization.<sup>133</sup> At the same time, the Public Defender requested information from the Ministry of Internal Affairs on the following issues: *how many representatives of violent groups were gathered on Rustaveli Avenue on July 5 and at what time of the day; Which official was responsible for decision-making relating to preventive and reactive measures and issuing relevant instructions on Rustaveli Avenue on July 5; What preventive or reactive measures were taken by the Ministry of Internal Affairs to protect civilians and members of the media from the violent groups gathered on Rustaveli Avenue on July 5, 2021, which structural unit was mobilized on Rustaveli Avenue and in the surrounding areas; Whether there were any special equipment mobilized on or near Rustaveli Avenue; Detailed explanation of the circumstances, which made the relevant authorities decide not to mobilize law enforcement officers properly or to increase their number despite the escalation of the situation on Rustaveli Avenue and/or its surrounding areas; Why was it not deemed expedient to mobilize law enforcers in front of the offices of the Shame Movement and Tbilisi Pride.* The Public Defender considers that the Ministry of Internal Affairs did not take effective measures to prevent violence and did not respond adequately to the criminal facts. In response to this, the Ministry of Internal Affairs<sup>134</sup> clarified that according to paragraphs 1, 2 and 3 of Article 5 of the Guidelines for the Conduct of Employees of the Ministry of Internal Affairs of Georgia approved by Order No. 1002 of the Minister of Internal Affairs of Georgia of December 30, 2015, as a rule, a security action plan shall be developed during an assembly/demonstration, while in the event of a spontaneous assembly/demonstration, a security plan shall be developed within a reasonable time from the start of the spontaneous assembly/demonstration. The action plan shall be approved by the Minister of Internal Affairs of Georgia or a person authorized by him/her in compliance with the requirements of state secrets. The action plan shall include, inter alia, information about: the officials present on site during the implementation of the special measure; the relevant units of the Ministry participating in the implementation of the special measure, their functions and sequence of actions; the relevant person/persons of the Ministry in charge of carrying out the special measure; the number of personnel, etc. It should be noted that the information provided is general and does not specifically respond to the information requested.

The Public Defender once again calls on the Ministry of Internal Affairs, the Prosecutor's Office of Georgia and high officials, based on the gravest experience of previous years, to take measures in order to actually protect the safety, freedom of expression and assembly of the participants in the March of Dignity, as well as to ensure an immediate and effective investigation of all crimes committed on 5 July in order to prevent the sense of impunity and similar incidents in the future, to plan measures for the purpose of raising public awareness of equality and to make clear statements in support of the LGBT+ community.

160 and parts 1 and 2 of Article 225 of the Criminal Code of Georgia

<sup>130</sup> Maka Jabua, Rati Tsverava, Levan Bregvadze, Miranda Baghaturia, Zurab Tsertsvadze, Mariam Kumsiashvili, Salome Bokuchava, Shota Kervalishvili, Irakli Bakhtadze, Dimitri Kirimlishvili, Giorgi Pertia, Guga Dvalishvili, Zurab Managadze, Shota Sikinchalashvili, Alexandre Lashkarava, Tornike Mandaria, Dea Mamiseishvili, Tamar Tatarashvili, Ani Patsia, Ilia Tvaliashvili, Giorgi Gabunia, Mariam Gotsiridze, Anri Jokharidze, Roma Tarughishvili, Teona Susareishvili, Davit Koridze, Giorgi Nikolishvili, Tamuna Chkareuli, Tornike Barnabishvili, Davit Akhaladze, Vakhtang Kareli, Tamuna Chkareuli, Luka Khachidze, Levan Gabunia, Vazha Chkhaidze, Guram Maisuradze, Nino Vardzelashvili, Merab Tsaava, Levan Kalandia, Nikoloz Kaliashvili, Giorgi Maisuradze, Beka Mishvildadze and Beka Atabegasvhili

<sup>131</sup> N. Z., G. I., N. N., A. B., juvenile L. B., N. U. and C. B

<sup>132</sup> Khatia Akhalaia-Kuchukhidze, Natia Koberidze, Giorgi Tabagari

<sup>133</sup> NNLE Tbilisi Pride

<sup>134</sup> Letter MIA 2 21 03461514 of the Ministry of Internal Affairs of Georgia of December 31, 2021

## 6.2. Realization of economic and social rights by the LGBT+ community

In 2021, Public Defender's representatives held meetings in various cities of Georgia with representatives of the LGBT+ community, activists and rights defenders to discuss the challenges facing the community and to share information/experience. The meetings made it clear that the challenges facing the LGBT+ community are diverse and make it difficult for the community members to fully realize their social, economic and health rights. Challenges are related to their right to work, housing, access to health care services, right to education, access to financial resources, etc. The combination of these challenges creates serious problems and, in some cases, existential threats for the community.

The severity of the problem is also indicated by the fact that the number of applications filed by members of the LGBT+ community relating to the right to health, social and economic rights is low, which is related to the expected negative consequences. For example, openly talking about the violation of the right to work may completely deprive a member of the LGBT+ community of the opportunity to work in the same/similar field. The exiting difficult situation was further exacerbated by the Covid pandemic, and due to job losses and economic hardship, in some cases, community members were forced to return to the violent environment and/or face homelessness.

Access to medical services is also a matter of concern, including the fact that certain medications and hormonal treatments are not funded by the universal health care programme; Nor is there a special programme that would be tailored to the specific needs of transgender people. There are also challenges in terms of the realization of right to education, both in terms of access to vocational education and higher education.

It is important for the State to take rapid steps to strengthen the protection of social and economic rights, including through active cooperation with the LGBT community/activists/rights defenders, which will help meet the needs of the community, increase their inclusion, and properly protect and realize their social and economic rights.



## 7. INEQUALITY IN SOCIAL PROTECTION SYSTEM

Inequality in social protection system is evident in a number of directions. In this reporting period, enjoyment of the so-called social loans was identified as a problem - JSC Liberty Bank does not take into account the different socio-economic situation of social loan users when determining interest rates, which puts these individuals in an unjustifiably disadvantageous position.

At the same time, the ban on the receipt of more than one social benefit from the State (except for few exceptions), regardless of their purpose, can be assessed as inconsistent with the principle of equality.

### 7.1. Discrimination in the banking sector

Discriminatory practices in the provision of banking services are still relevant. Mistreatment based on age and social status was identified in the reporting period. On the one hand, it was revealed that the commercial banks operating in Georgia define age (mainly 70 years) as the criterion for issuing a number of loan products (consumer loans, installment, mortgage), beyond which a person is automatically to enjoy these products. On the other hand, discriminatory practice is caused by the amount of the annual interest rate (30.69%) set by JSC Liberty Bank on social loans (so-called “pension loans”).

The Public Defender emphasizes the importance of internationally and nationally recognized concepts such as: *Society for all age groups and active ageing*,<sup>135</sup> and notes that it is inadmissible to reject a loan application only on the basis of age, as such an approach runs counter to the above goals and the principle of equality.<sup>136</sup> The financial situation of each applicant should be assessed individually, the increased risks should be proved by specific solid data and should not be based on misconception that after reaching retirement age, people automatically cease to be actively involved in labour, economic or other activities.

At the same time, the terms and conditions used for risk insurance should not aggravate the situation of customers like JSC Liberty Bank did when determining the amount of the annual interest rate on social loans.

The Public Defender draws attention to the fact that the users of social loans are the recipients of cash benefits (state pension, state compensation, social subsidy, social package, social assistance – subsistence allowance, IDP allowance, etc), the main purpose of which is to create necessary conditions for dignified life and to meet basic necessities.<sup>137</sup> In addition, the loan is repaid from the amount of social benefits transferred to the client’s account on a monthly basis.<sup>138</sup> Consequently, as a result of the annual interest rates set by banks, social loan users have to spend quite a large part of their social assistance to repay their loans for a long period of time, and the total amount of money to be repaid (principal and interest) exceeds the amount of the loan by about 75%.

Examination of the issue revealed that the practice of determining interest rates and the factors taken into account by banks are standard and the different socio-economic status of users of social and other loans are not taken into account in this process, resulting in the violation of the right not to be discriminated against, including when, without legitimate aim or reasonable justification, people whose condition is substantially different are not treated differently.<sup>139</sup>

<sup>135</sup> See the Political Declaration of the Second World Assembly on Ageing, Article 1, available at: <https://rb.gy/lkyhrh>; Active Aging, A Policy Framework, World Health Organization, p. 12, available at: <https://rb.gy/5gxlqg>; Resolution (No. 5146-II) of the Parliament of Georgia on the Approval of the State Policy Concept on Ageing of Population in Georgia

<sup>136</sup> See the general proposal of the Public Defender of Georgia to the President of the National Bank of Georgia of August 2, 2021, available at: <https://rb.gy/2z8xyy>

<sup>137</sup> Terms and conditions of the bank account service for the recipients of social benefits, paragraph 1.1.27, 1.1.1, available at: <https://rb.gy/nyoa3j>

<sup>138</sup> Ibid. paragraph 11.20

<sup>139</sup> Judgment of the European Court of Human Rights of 6 April 2000 in the case of: THLIMMENOS v. GREECE, para. 44

The Public Defender considers it necessary for the State to take effective steps to eliminate the practice of using age as the basis for unequivocal refusal to provide services in the banking sector. In addition, in the context of such practices and the fact that customers use social loans mainly to buy essential products for which various state benefits are not enough (medicines, firewood, food and other necessities),<sup>140</sup> the measures carried out to address problems in this regard should not restrict access to social loans. It is necessary to study in depth the reasons that hinder the reduction in interest rates, and in order to eliminate the causes identified, to introduce special provisions in the conditions of banking services for the purpose of distribution/issuance of cash benefits.<sup>141</sup>

## 7.2 Social assistance and pension system

The compliance of the social assistance policy with the right to equality was relevant in the reporting period.<sup>142</sup> After studying this issue, the Public Defender of Georgia concluded that it was a discriminatory practice to prohibit the receipt of more than one social benefit from the State (except for few exceptions). Such general rules hamper the achievement of the goals of social assistance, nor do they address the individual needs of vulnerable groups.

Non-compliance of this general rule with the right to equality was established by the Public Defender of Georgia on the basis of two specific cases. In particular, the rule applied to persons with dual citizenship, according to which, a person cannot receive a social package from Georgia if he/she receives a pension from another country, is problematic. According to the regulations in force in Georgia, if a person with dual citizenship applies for any type of social package, the documents to be submitted shall include a document certifying that the person concerned does not receive a pension from another country, the citizen of which he/she is.<sup>143</sup>

In the second case, the Public Defender of Georgia assessed the regulation, which prohibits an older person with disabilities from receiving two or more social benefits simultaneously, as an unjustified restriction. The Public Defender of Georgia is well aware that the social assistance policy largely depends on the financial resources of the country and that the Government has a wide range of factors to take into account when determining priorities, but the Public Defender of Georgia believes that the logic of distributing social benefits to vulnerable groups should be fully in line with the principle of equality.

Based on the above, the Public Defender of Georgia addressed the Government of Georgia with a general proposal<sup>144</sup> and called on it to revise the rules defined by Decree No. 279 on Defining the Social Package and to tailor them to the interests of citizens.

<sup>140</sup> Information is available at: <https://rb.gy/nrib84>; <https://rb.gy/8gga4g>; <https://rb.gy/giqpsr>

<sup>141</sup> See Decree No. 1290 of the Government of Georgia of July 28, 2021 on the Approval of Composition and Statute of the Interagency Commission for Determining Banking Service Conditions for Distribution/Issuance of Certain State Benefits

<sup>142</sup> For similar topic see the Special Report of the Public Defender of Georgia on the Situation of Equality and Combating and Preventing Discrimination, 2020, pp. 24-26, available at: <https://bit.ly/3leAr8G>

<sup>143</sup> Subparagraph "e" of paragraph 2 of Article 7 of Decree No. 279 of the Government of Georgia on Defining Social Package (July 23, 2012)

<sup>144</sup> General proposal of the Public Defender of Georgia to the Government of Georgia, August 4, 2021, available at: <https://bit.ly/3xVuRTW>

## **8. DISCRIMINATION IN LABOUR RELATIONS AND DURING PERFORMANCE OF DUTIES**

Local self-government elections were held in Georgia in 2021, which once again highlighted the alarming trend of dismissals and other alleged violations on the grounds of political views during the pre-election period. The Public Defender launched examination of dozens of cases concerning alleged violations of the rights of employees on political grounds.

It is also noteworthy that the Public Defender established discrimination against platform workers for the first time in this reporting period. In particular, Bolt couriers were permanently barred from accessing the Bolt application and their employment contracts were terminated due to holding a rally and forming a trade union.

The dismissal of a miner, who protested against the improper observance of safety rules at work, was also problematic, especially given that there was a report of the Labour Inspection Service confirming the existence of problems named by the applicant.

### **8.1. Discrimination on political grounds in labour relations in the pre-election period**

The Public Defender actively monitored human rights violations in the pre-election period and examined the dismissal of dozens of individuals allegedly for their political views. The cases concerned violations of employment rights, such as refusing to renew a contract for discriminatory reasons, early termination of a contract, requesting voluntary resignation and dismissal.

The applicants mainly cited kinship, friendship or good relations with former Prime Minister Giorgi Gakharia's party members as the reason for their mistreatment. Some of them linked the above with their activity on social networks, in particular, posting/sharing/liking of posts and comments expressing support to the party leader. It should also be noted that most of the applicants referred to associative discrimination, as the restriction of their rights was probably due to the political views or activities of their family members or associates.<sup>145</sup>

It was found that violations mostly took place in local self-government bodies, municipal services and non-commercial legal entities established by local self-governments. There was also a case of dismissal of an employee of the Ministry of Internal Affairs. The case of alleged harassment on political grounds in the field of education is also worth noting. In particular, internal audit was launched in order to detect alleged violations committed by the resource center director. On the basis of the audit results, the applicant was dismissed, which he explained by the fact that he was seen as a supporter of the opposition candidate and did not actively participate in supporting the governmental candidate.

In addition, information provided to the Public Defender's Office indicates that, in some cases, employers personally requested from their employees to resign or applicants were informed through other persons that they had to resign. Some of the employees obeyed the request, while those, who did not obey, were dismissed on other grounds.

Unfortunately, in some cases, identification of discrimination on political grounds is hampered by difficulties in obtaining evidence. Discriminatory motives are often found in oral communication, while respondents, of course, deny that they requested resignation from their employees. However, voluntary resignation,

<sup>145</sup> Note: Associative discrimination is a form of direct discrimination, when the protected ground or the reason for which one of the persons in an equal situation with others was treated unequally (unfairly, unfavorably) is related not the victim, but the person whom the victim is associated with.

of course, raises doubts when a person was employed for an indefinite period of time and/or when only one employee is refused an extension of the contract, while continuation of labour relations with other persons is confirmed by the respondent himself.

In the reporting period, the Public Defender also addressed the Ministry of Education and Science with a recommendation on the elimination of associative discrimination on the grounds of political views. It turned out that the applicant, who held the position of the director in one of the public schools in the Mtskheta municipality, was refused to be re-appointed as acting director due to her husband and son's political activities in support of an opposition party. According to the Public Defender, considering the politicization of the education system and the increased risks of dismissal of persons on discriminatory grounds, the refusal to re-appoint the applicant suspiciously coincided with the political activity of her spouse and son. In addition, the respondent failed to present a real ground which would justify the refusal to re-appoint the applicant in accordance with the practice established by the Ministry.<sup>146</sup>

It should be emphasized that the Public Defender has repeatedly called<sup>147</sup> on the heads of central and local self-government bodies and other public institutions *to refrain from discriminating against their staff and dismissing them for their political views, and to pay special attention to the protection of employees of general education system and kindergartens from political pressure, discrimination and harassment. The Public Defender also called on the Prosecutor's Office of Georgia and the Ministry of Internal Affairs to timely investigate the information provided by the Public Defender on the above-mentioned cases of persecution and to respond to them properly.*

## 8.2. Discrimination in high risk activities

As in the previous reporting period, alleged discrimination in labour relations was most often based on dissenting opinions of the employees.

The Public Defender established discrimination against platform workers for the first time in this reporting period. In particular, the Public Defender established that the Bolt (Bolt Food) couriers had been treated by the company in a discriminatory manner due to their dissenting opinion.<sup>148</sup> In March, couriers stopped working in protest, held a demonstration and demanded, among other things, an increase in tariffs and a revision of the bonus system. In response, the company terminated labour relations with them by blocking their access to the application.

The Bolt Company informed the Public Defender's Office that legal relations with couriers was governed not by employment but partnership contract, and that "partner couriers were blocked not for expressing protest but for participating in organized activities, which hampered the operation of the Bolt Food and partner restaurants." Despite the "partner" status granted by the platform company to the couriers, the Public Defender used the latest standards developed by international institutions and courts of various countries and concluded that platform workers were persons in labour relations with the company and therefore they had the right to enjoy labour guarantees in accordance with labour legislation. The decision of the Public Defender creates an important national standard of protection not only for the Bolt couriers, but for all the so-called platform workers.

Couriers are performing their duties at the risk of their life and health, and, due to their functions, they

<sup>146</sup> Recommendation of the Public Defender of Georgia of July 9, 2021 to the Minister of Education and Science of Georgia, Mikheil Chkhenkeli, available at: <https://cutt.ly/ETW2jDs>

<sup>147</sup> See additionally <https://cutt.ly/cTWKFsN> ; <https://cutt.ly/gTEqsWK>

<sup>148</sup> Recommendation of the Public Defender of Georgia of June 14, 2021 to the Director of Foodly Ltd. (Bolt Food), B. P., available at: <https://cutt.ly/nTIDIES>

represent the service axis of the Bolt Food. Thus, the company should be especially careful and should not take illegal or disproportionate measures towards employees. Accordingly, the Public Defender called on the Bolt Company to immediately restore couriers' access to the application; The Public Defender also extended the recommended standard to all the couriers who had their access to the application suspended due to expressing protest but had not applied to the Public Defender of Georgia.

Another problematic case was the dismissal of a miner by Shukruti + for requesting that the company rectified the non-compliance with labour safety standards in the workplace. In addition, the applicant complained with his immediate supervisor that in many cases the food provided was unsuitable and that sanitary-hygienic norms were not observed in the showers. The administration of Shukruti + Ltd requested the applicant not to speak about the problems and not to contact the relevant agencies. When examining the case, the Public Defender relied on the report of the Labour Inspectorate, which confirmed that problems were really detected relating to safety at work, that the applicant's concerns were real and not subjective, and that the respondent did not respond properly. The report confirms that there were various types of problems in the workplace, enlisting even more problems than indicated by the applicants. The respondent failed to disprove the allegations of discriminatory action, nor did it submit materials that would prove that the applicant had been often violating internal regulations and/or safety norms.

Unfortunately, dismissal, harassment and other violations of labour rights due to expressing protest or dissenting opinion are common practices both in the public service and private sector. In order to ensure a decent working environment for the employees, it is essential to effectively enforce anti-discrimination legislation and pursue equality policy.

### 8.3. Mandate of the Labour Inspectorate to eliminate discrimination in the workplace

From January 1, 2021, the Labour Inspection Service (hereinafter: the Labour Inspectorate) was designated as a body authorized to ensure the protection of labour rights, including the enforcement and effective application of the Organic Law of Georgia - Labour Code of Georgia, and to impose administrative liability on the employer. Within the framework of its mandate, the Labour Inspectorate shall also monitor the observance of the principles of non-discrimination, both at the request of the person concerned and on its own initiative. Accordingly, it was essential for the Public Defender of Georgia to get information on the annual results of the work of the Labour Inspectorate in order to check the situation of equality in the workplace during the reporting period.

According to the information provided to the Public Defender's Office by the Labour Inspectorate,<sup>149</sup> they reviewed a total of 21 cases of discrimination, 9 complaints of which were filed by the parties concerned, while 12 cases was examined by the agency on its own initiative. In 15 cases, the Labour Inspectorate established discrimination and drew up the relevant document; inspection is ongoing in 5 cases.

The analysis of these 15 administrative offences revealed the following trends: The vast majority of cases of discrimination are related to the pre-contractual stage and discriminatory vacancies (*based on gender, age, appearance*). It was found that when examining discriminatory vacancies, in some cases, the Labour Inspectorate considers only the *age* criterion, but ignores the *sex* criterion. It is important to pay equal attention to all discriminatory criteria, as only a partial resolution of the case may make the employer think that the reference to sex in particular vacancies (e.g. driver, loader, carpenter, warehouse worker) is justi-

<sup>149</sup> Note: Letter No. 09/3301 of the Labour Inspection Service of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia of November 19, 2021; information provided covers the period from January 1, 2021 to November 19, 2021

fied, which will continue to spread discriminatory vacancies in the future. It is also essential for the Labour Inspectorate to directly urge the company to immediately remove the discriminatory criterion from the job vacancy, especially since such a practice already exists and it is important that this practice be applied equally to all companies.

In other cases, the Labour Inspectorate checked whether non-discrimination provisions were reflected in the company's internal regulations and whether they were complied with by the company. It is noteworthy that in 3 cases, the Labour Inspectorate concluded that the company was obliged to reflect anti-discrimination provisions in internal labour regulations, to inform the company's employees of these provisions and to ensure their effective enforcement. The Inspectorate also called on the companies to put in place effective mechanisms to prevent discriminatory actions in the workplace and to eliminate unequal treatment of individuals. In addition, the Inspectorate appealed to the companies to encourage the kind of relations with employees, which would help create a dignified environment in accordance with the principle of collegiality.

It is noteworthy that in all the above cases, the companies received a warning as an administrative penalty but no fines or other penalties were applied by the Labour Inspectorate in any of the cases. In addition, the companies were given 30 days to remedy the violation, however, it is unknown to the Public Defender when or how effectively the employers complied with the instructions issued by the Labour Inspectorate.

In order to effectively enforce the principles of non-discrimination in the workplace, the Public Defender prioritizes the constant and continuous training of labour inspectors in order to inform them of the latest international practices, ways of identifying the forms of discrimination and alleged cases of discrimination, preconditions for the detection of a case, examination of a case, collection of evidence, distribution of the burden of proof and communication with victims of discrimination.

#### 8.4. Obstruction of the activities of representatives of the critical media

In the reporting period, there were also cases of obstruction of activities of journalists, in particular, the restriction of the right of representatives of the critical media to attend briefings or municipal events organized by state agencies and the selection of journalists.

Representatives of TV Pirveli were not allowed to attend a briefing<sup>150</sup> held by the Minister of Culture on the appointment of theatre directors on December 8, 2021.<sup>151</sup> According to the journalist, only representatives of the media outlets that were on the pre-agreed list were allowed to cover the briefing.<sup>152</sup> Later, Tea Tsulukiani, Minister of Culture, when asked by a journalist about the reason for the restriction, told her that she was a representative of dishonourable and not critical media.<sup>153</sup> The journalists of the Main Channel and TV Pirveli were not allowed to attend the briefing held at the Ministry of Culture on November 22 either.<sup>154</sup> Tbilisi Mayor Kakha Kaladze spoke about the need for taking concrete measures against certain media outlets at a briefing held in Tbilisi City Hall on December 9, 2021.<sup>155</sup> The Public Defender was also informed, inter alia, about selective invitation of journalists to an event held in the Ozurgeti municipality.

It is noteworthy that the media has a special function to disseminate information of public interest and to promote informed public debates on issues that are crucial for the involvement of each member of socie-

<sup>150</sup> By the decision of the Minister of Culture, artistic directors of 3 state theaters were appointed, while in 4 theaters, competitions were announced, information is available at: <https://bit.ly/3GyVh17>

<sup>151</sup> Information is available at: <https://bit.ly/31ldhqv>

<sup>152</sup> Some journalists were again not allowed to attend the briefing at the Ministry of Culture, information available at: <https://bit.ly/3DGduro>

<sup>153</sup> "You are dishonourable" - the Minister of Culture addresses the journalist of TV Pirveli, information is available at:

<sup>154</sup> Media Advocacy Coalition calls on the Ministry of Justice to stop discriminating journalists, information is available at: <https://bit.ly/3pDQTa1>

<sup>155</sup> Information is available at: <https://bit.ly/33g3x7N>

ty in public life. In turn, the above is closely related to the right of public to receive information, which gives rise to the Government's obligation to promote media freedom and pluralism.

Existence of the critical media is a necessary condition for the establishment of a democratic state. The right of society to self-determination is based on the enjoyment of the critical media, the restriction of which threatens the existence of a democratic state. The fundamental principle of democracy is equality before the law, which must be equally guaranteed for the media and society. Restricting the professional activities of journalists of certain media outlets on the grounds that they represent critical media organizations, contradicts the idea of equality and puts the critical media in an unequal position compared to the media organizations loyal to the authorities. This threatens both the policy of equality and democratic processes in the country.

## 9. INCITEMENT TO DISCRIMINATION

In terms of incitement to discrimination, unfortunately, this reporting period was no exception. The Public Defender has repeatedly called on governmental agencies to develop a unified view and policy in order to promote equality and prevent discrimination, as well as to make public statements in support of equality. However, the abundance of statements inciting discrimination made by political officials against various vulnerable groups from year to year shows that the State has not taken effective steps to reduce stereotypes or ensure equality between different groups. The existence of an environment inciting discrimination is more evident towards women, members of ethnic and religious minorities, and the LGBT+ community.

Unfortunately, incitement to discrimination and use of hate speech by election subjects, on various grounds, including on xenophobic, religious and homophobic grounds, are particularly intensive in the pre-election period. For the purpose of preventing the above, at the beginning of the election campaign, the Public Defender called on political entities and their activists to refrain from using discriminatory policies in their programmes and campaigns and voicing or supporting the ideas that recognize the superiority of certain groups of people compared to others, as well as not to marginalize non-dominant groups for the purpose of gaining support of others, and to act responsibly and justly when speaking on sensitive topics, in order to avoid stigmatization of minorities.<sup>156</sup>

### 9.1. Incitement to discrimination on the ground of sex

According to the recent practice, while debating with women, expressions containing offensive or sexist stereotypes were actively used by representatives of certain political parties and public figures. Basically, sexist expressions have a sexual connotation, or reinforce the gender roles defined for women and men. It is noteworthy that sexist expressions enhance the unequal treatment of women in various spheres of life, incite sexual harassment and create barriers to career advancement and women's opportunities for holding significant political positions.

In the reporting period, in terms of inciting gender stereotypes, the events that took place in the Parliament of Georgia on July 18, 2021 were especially concerning.<sup>157</sup> Nona Mamulashvili, a member of the National Movement, in order to protest against the July 5 events in the Parliament hall, climbed onto her own table with Lekso Shakarava's photo in her hands. This behavior of the opposition MP was followed by the dissatisfaction of the members of the majority. They first called on Mamulashvili to get off the table, after which Irakli Zarkua forced her to do so.<sup>158</sup> At the same session, Tinatin Bokuchava was forcedly pulled out of the Speaker's tribune by Shalva Papuashvili.<sup>159</sup> Georgian Dream MP Guram Macharashvili responded to the mentioned fact with a sexist statement, noting that "Papuashvili managed to neutralize Bokuchava's hysteria."<sup>160</sup> Later that day, Levan Mgaloblishvili deliberately used a sexual phrase towards Tinatin Bokuchava: "Tina, my life."

<sup>156</sup> Statement of the Public Defender of Georgia of August 3, 2021, available: <https://bit.ly/3xOkCAU>

<sup>157</sup> During the speech of Minister of Internal Affairs Vakhtang Gomelauri in the Parliament of Georgia, media representatives and opposition MPs displayed photos and posters of the late cameraman of TV Pirveli, Lekso Lashkarava, in the sitting hall, and demanded the resignation of the Prime Minister and the Minister of Internal Affairs. The protest of the opposition and journalists was followed by verbal confrontation between members of the majority and the opposition

<sup>158</sup> Information is available at: <https://bit.ly/3dhw7Y1>

<sup>159</sup> The incident was preceded by the seizure of Tinatin Bokuchava's protest banner by Georgian Dream MP Levan Mgaloblishvili by the use of force. After that, Tinatin Bokuchava headed towards the Speaker of the Parliament of Georgia to ask him to respond to the fact, during which Georgian Dream MP Shalva Papuashvili tried to stop her. Information is available at: <https://bit.ly/3oif7Hy>

<sup>160</sup> Information is available at: <https://bit.ly/3DI0sQe>



The attempt by male MPs to neutralize female opponents by the use of physical force is a particularly alarming precedent, as it reinforces the stereotype that a woman is not a creator or a participant in processes, but an inanimate object that can be controlled by men by completely neglecting her will and dignity. It is noteworthy that such actions may have a negative impact on women's equality and participation in politics, especially in situations where violence against women and their involvement in politics represent serious challenges. Such a behavior is all the more disturbing when it comes from a Member of Parliament, who is expected to care for women's empowerment and elimination of gender-based violence and discrimination in the country.

The ineffective response by the Parliament's Standing Council for Gender Equality to the incident between Tinatin Bokuchava and Shalva Papuashvili is especially noteworthy. As a result of the examination of the incident, the Council found that the case contained no elements of gender-based violence against a woman. According to the members of the Council, similar measures would be taken against Tinatin Bokuchava if she were a male MP. At the same time, the form of protest expressed by the MPs was assessed by the Council as an insult to the Parliament and the parliamentary history of the country, while Shalva Papuashvili's behavior was described as an attempt to prevent actions insulting the parliamentary activity.<sup>161</sup>

It should be noted that the Council for Gender Equality is a standing body established in the Parliament, the activities of which are important in terms of promoting and improving gender equality in the country. The Council members should make efforts to realize the equal rights, freedoms and opportunities of women and men, as well as to help prevent and eliminate discrimination. In contrast, the decision taken by the Council runs counter to the Council's goals, incites unequal treatment of women and sets a dangerous precedent for future ineffective response to the violation of women's rights.

As in the previous reporting period, discriminatory treatment of women involved in public and political life was particularly common, often used as a tool of political struggle against them. For example, Davit Razmadze, Chairman of the Gori City Council, addressed Irma Ambardnishvili, an independent member of the City Council, during the debate at the City Council sitting with the following words: "What is a street woman like you doing in the City Council?"<sup>162</sup> It should be noted that at that time, Davit Razmadze held the position of the Chairman of the Gender Equality Council of the City Council.<sup>163</sup> "Aren't they your women? Take them away!"<sup>164</sup> - Levan Mgaloblishvili, a member of the majority, used this expression of sexist content when he demanded that the representatives of the opposition party removed their female party members from the parliamentary tribune. Women were portrayed in a negative context by United National Movement MP Nika Melia as well, who criticized Tea Tsulukiani - "In the 90s, each fraternity had a female member, who would go as low as needed ... Tsulukiani reminds me one of these women."<sup>165</sup>

In terms of encouragement of stereotypes about the gender role of women, the Public Defender drew attention to the statement made by Nino Burjanadze on Palitra News's Lunch TIME programme, where she noted that "Feminism and gender equality may not be bad things, but the primary task of women should be to raise good children for the country."<sup>166</sup>

<sup>161</sup> Minutes No. 6 of the meeting of 2 August 2021 of the Parliament's Standing Council for Gender Equality, available at: <https://bit.ly/3pJhNh1>; Ana Natsvlshvili, a member of the Council, expressed a different opinion. Unlike other members of the Council, she said that Shalva Papuashvili's action was a manifestation of gender-based violence, which was extremely worrying

<sup>162</sup> Information is available at: <https://bit.ly/3lz62bv>

<sup>163</sup> Gori City Council Resolution No. 39 of March 9, 2018 on Amending Gori City Council Resolution No. 189 of October 11, 2019 on the Establishment of the Gender Equality Council of Gori Municipality and Approval of its Composition, available at: <https://aSgD/>

<sup>164</sup> Information is available at: <https://bit.ly/3llvJWH>

<sup>165</sup> Information is available at: <https://bit.ly/3Gc5tMJ>

<sup>166</sup> Information is available at: <https://bit.ly/31ifwRK>

Actress Ninutsa Makashvili spoke about alleged domestic violence by her ex-husband on Rustavi 2's programme Hidden Envelope.<sup>167</sup> Despite the solidarity shown by large part of society, a number of discriminatory statements were also made against her, including by public figures. The comments made by Robert Sturua,<sup>168</sup> Artistic Director of the Rustaveli National Theater, Eliso Bolkvadze,<sup>169</sup> Member of Parliament, and others regarding the woman's financial interest or delayed disclosure of the incident were particularly disturbing. Given that part of society is still not in solidarity with women victims of violence, speaking openly about the problem requires great courage and bravery, while similar statements diminish the seriousness of the phenomenon of violence and make the victims lose faith in getting public support and escaping violence.<sup>170</sup>

## 9.2. Incitement to ethnic and racial discrimination

In the reporting period, the Public Defender also drew attention to the statements inciting discrimination on the grounds of ethnicity. When speaking of the conflict between ethnic Georgians and Azerbaijanis on May 16 and 17, 2021 in Dmanisi,<sup>171</sup> MP Eliso Bolkvadze, who chairs the Parliament's Culture Committee, said that she was sure that the issue would be resolved in a "friendly atmosphere between the two countries."<sup>172</sup> Considering the ethnic Azerbaijani population by the Member of Parliament under the jurisdiction of Azerbaijan instead of referring to them as citizens of Georgia encourages discriminatory treatment of ethnic minorities. At the same time, it fuels disintegration process and contributes to social exclusion of ethnic minorities. Marginalization of ethnic minorities reduces their integration into Georgian public and political spaces and reinforces the feeling that these groups are not part of the country.

In the pre-election period, the video released by the Labour Party's Tbilisi mayoral candidate, Mikheil Kumsishvili, was noteworthy, in which he mocked his rival, a Georgian citizen of Nigerian descent, Richard Ogbunuju. At the beginning of the video, he states that people, and especially the media, are "more interested in the exoticism of the candidate than in the content", and then he, with a black-painted face and by imitating Ogbunuju's accent, calls on voters to support him.<sup>173</sup> It should be noted that Ogbunuju is the first black person to be registered as a candidate for the elections in Georgia. Such videos may in the future hinder the involvement of members of non-dominant racial groups in political and public activities, as well as incite violence, discrimination and exclusion of people belonging to non-dominant racial groups.

Metropolitan Ioane Gamrekeli of the Kutaisi-Gaenati Diocese of the Orthodox Church referred to the Jewish nation in a degrading, anti-Semitic context several times during a liturgy. He called the Jewish nation "persecutors of Christians" and "faithless people."<sup>174</sup> Later, the Archpriest of the Kutaisi-Gaenati Diocese, Ilia Karkadze, made anti-Semitic statements<sup>175</sup> to defend Ioane Gamrekeli. It is noteworthy that the spread of anti-Semitic views threatens the equality of ethnic Jewish people in the country and, at the same time,

<sup>167</sup> Information is available at:<https://bit.ly/31ppAbt>

<sup>168</sup> Information is available at:<https://bit.ly/31wtf7b>

<sup>169</sup> Information is available at:<https://bit.ly/3ditXYf>

<sup>170</sup> Statement of the Public Defender of Georgia of April 16, 2021, available at: <https://bit.ly/3DkmCCa>

<sup>171</sup> The confrontation in Dmanisi started on May 16. According to the reports, the fight was related to the purchase of products from a store on the condition that they would pay later. The confrontation between the parties resumed on May 17. The police cordon between the two groups was broken through several times and dozens of citizens clashed with each other by throwing stones and batons. At the same time, police forces, including the riot police and water cannons, were mobilized in the town. Finally, representatives of both parties, as a result of negotiations, stated that they had reconciled, information is available at: <https://bit.ly/3onFA6F>

<sup>172</sup> Information is available at:<https://bit.ly/3EpcqJJ>

<sup>173</sup> Video is available at:<https://bit.ly/3dhH1xa>

<sup>174</sup> Information is available at:<https://bit.ly/3EIJouL>

<sup>175</sup> Information is available at:[https://www.youtube.com/watch?app=desktop&v=nz0WlcsBDXM&fbclid=IwAR1X4x1L\\_j2U\\_vYpAtaTGcqvVkMDkE9ru2bhXRoqqZOlsvzveqRoxVrscwY](https://www.youtube.com/watch?app=desktop&v=nz0WlcsBDXM&fbclid=IwAR1X4x1L_j2U_vYpAtaTGcqvVkMDkE9ru2bhXRoqqZOlsvzveqRoxVrscwY)

shows that one of the most horrific crimes in the history of mankind - the Holocaust - and its underlying pre-conditions have not been properly understood.<sup>176</sup> Any form of anti-Semitism is dangerous for each citizen, as well as for society as a whole.

### **9.3. Incitement to discrimination on the grounds of sexual orientation and gender identity**

Public statements containing homo/transphobic phrases, including by officials, remain a challenge. During the reporting period, the number of statements inciting discrimination against LGBT+ people increased especially during the Pride Week organized by the Tbilisi Pride. During that period, there was an active attempt by high officials to politicize the issue, indirectly portraying the Pride Week in a negative context instead of supporting it, which was followed by violent actions on July 5-6, 2021. Regarding the Pride Week, Tbilisi Mayor Kakha Kaladze said that he did not consider it appropriate to hold the Pride Week, as certain groups from both sides might misuse it.<sup>177</sup> Irakli Kobakhidze also called on organizers to refrain from holding the Week.<sup>178</sup> Prime Minister Irakli Gharibashvili described the March of Dignity as a cause of civil strife, noting that “revanchist and radical” political forces were behind the Pride.<sup>179</sup>

The restriction of the rights of the community in order to protect their safety increased homophobic attitudes towards LGBT+ people, disrespect for their rights and restriction of public space, while tolerance of violence on July 5-6 incited harassment and violence against members of the community. Cases of homophobic and sexist violence<sup>180</sup> were actively reported in the following days, including the assault on a Polish tourist,<sup>181</sup> homophobic assault on a German DJ,<sup>182</sup> assault and frequent incidents of violence against transgender women.<sup>183</sup>

In terms of discrimination against LGBT+ people and incitement to homophobia, the video<sup>184</sup> posted on Facebook by Varto Shakarashvili, an independent majoritarian candidate of the Saburtalo district, was particularly disturbing, as he described the July 5 events as a “harsh attempt to impose the unacceptable idea of dying on the population.” At the same time, he promised voters that he would start collecting signatures to hold a public plebiscite calling for a ban on LGBT+ propaganda in the country.

<sup>176</sup> Statement of the Public Defender of Georgia of January 11, 2021, available at: <https://bit.ly/3Elv2dv>

<sup>177</sup> Information is available at: <https://bit.ly/3GdpqTu>

<sup>178</sup> Information is available at: <https://bit.ly/3okL3ea>

<sup>179</sup> Information is available at: <https://bit.ly/3Gi8kE1>

<sup>180</sup> Information is available at: <https://bit.ly/3Il2uDF>

<sup>181</sup> Information is available at: <https://bit.ly/31quDbh>

<sup>182</sup> Information is available at: <https://bit.ly/3dfZDh1>

<sup>183</sup> Information is available at: <https://bit.ly/3rD71v4>

<sup>184</sup> Information is available at: <https://bit.ly/3Gc6Fzx>

## 10. CHALLENGES IN THE INVESTIGATION OF ALLEGED HATE CRIMES

According to the Public Defender's practice, like the previous reporting period, ineffective investigation of alleged hate crimes remained a challenge in this reporting period as well. Most applications relating to alleged hate crimes were traditionally received from Jehovah's Witnesses and LGBT+ people.

The events surrounding the March of Dignity organized by the Tbilisi Pride and its supporters on July 5-6, which have not been effectively responded by the authorities so far, were particularly alarming. Detailed information on this issue is provided in the relevant chapter of this report.

Crimes committed on the grounds of alleged hatred against LGBT+ people usually involve physical and verbal abuse, beating, assaults and death threats. The applicants also point out that, in a number of cases, law enforcement officials, instead of defusing the conflict, used abusive terminology and expressed aggression towards them on homophobic grounds. The cases examined by the Public Defender also revealed violations of the rights to life and health on transphobic grounds.

In the reporting period, in a number of cases, attacks on some individuals were caused by the fact that they were perceived to be representatives of the LGBT+ community. In one case, a young man was physically and verbally abused by two young men in the subway because of his different clothing. The Public Defender was informed by the Prosecutor's Office of Georgia that the applicant was identified as a victim of discrimination on other grounds - violence motivated by intolerance of his clothing. However, no criminal proceedings have yet been launched against any specific individual.

The number of hate crimes against Jehovah's Witnesses relatively decreased in this reporting year. This was likely due to the fact that after the outbreak of the pandemic, Jehovah's Witnesses stopped serving in public or going door to door. In previous years, most of the alleged crimes were committed against those standing near a banner on the street or going door to door. However, the property belonging to Jehovah's Witnesses were damaged several times this year too.

According to one of the applications, the real estate owned by Jehovah's Witnesses - a hall for religious gatherings - was damaged in the village of Mukhrani, Mtskheta district. On March 25, 2021, during the curfew hours, an unknown person removed a window grille, broke the window and threw explosives into the building.<sup>185</sup> On April 30, 2021, presumably, the same person again tried to enter the above building, however, he left the area after hearing a neighbor's voice. The same application referred to an attempt to set a fire to the hall of religious gatherings of Jehovah's Witnesses in Mtskheta on June 27, 2019. Despite the fact that the alleged perpetrator was identified on the basis of the camera footage, the Prosecutor's Office has not launched criminal proceedings against any person even two years after the incident.

According to the Prosecutor's Office,<sup>186</sup> the investigation into the damage done to the hall of Jehovah's Witnesses in the village of Mukhrani was initially launched under subparagraph "a" of part 2 of Article 187 of the Criminal Code of Georgia (Damaging another person's property by setting fire, exploding or by other universally dangerous means, which resulted in substantial damage). Later, by the decision of the prosecutor, the classification of the case was changed and the applicant was found to be a victim under subparagraph "a" of part 2 of Article 187 and subparagraph "c" of part 2 of Article 156 of the Criminal Code of Georgia (Persecution on the ground of intolerance, which caused substantial damage). According to the Prosecutor's Office, no criminal prosecution has been launched against any specific person.

Several persons damaged and attempted to steal the property owned by Jehovah's Witnesses in Marneuli, as well as in the village of Darcheli in the Zugdidi district and the village of Martkopi in the Gardabani

<sup>185</sup> The loss caused by property damage amounted to about 2000 GEL

<sup>186</sup> Correspondence No. 13/30730 of the Prosecutor General's Office of Georgia of May 27, 2021

district. On August 5, 2021, an unknown person/persons painted offensive images and made inscriptions on the fence of the hall of Jehovah's Witnesses on Mikutishvili Street in Akhaltsikhe. The mentioned cases are being investigated under article pertaining to damages done to another person's property, however, no alleged perpetrator/perpetrators has been identified or no criminal prosecution has been launched in any of the cases so far. Attacks on the property of Jehovah's Witnesses have been particularly frequent in recent years. Several applications refer to various cases of damages done to the workspace and vehicles of Jehovah's Witnesses. One of the applicants referred to the damages done to the real estate belonging to Jehovah's Witnesses on one and the same day in the Khoni and Khashuri municipalities, as well as to five different cases of damages caused to the administrative building of Jehovah's Witnesses and their vehicles.

It should be noted that the law enforcement agencies - the Prosecutor's Office of Georgia and the Ministry of Internal Affairs of Georgia - play an important role in the process of investigating and responding to hate crimes. It is true that there is an improved trend in terms of identifying the hate motive, however, ineffective implementation of preventive and reactive measures by these agencies or their inaction in some cases, including the failure to launch criminal prosecution, may worsen the situation in many ways. In particular, if no perpetrator is identified and no prosecution is launched in time, on the one hand, it will be impossible to restore individual rights, and on the other hand, the above will give the green light to future attempts of infringement, as evidenced by repeated examples of damages done to the property owned by Jehovah's Witnesses. In addition, the protracted examination of cases should be singled out as a separate problem. The untimely investigation of cases creates the sense of injustice and insecurity among victims of alleged crimes, which, in turn, significantly reduces trust in the law enforcement agencies.

It should be noted that the timely provision of information by the Ministry of Internal Affairs has recently been identified as a problem. In some cases, the agency only issues a formal interim response, while in order to receive the final response, representatives of the Public Defender's Office have to send a repeated reminder letter and/or contact the person responsible for providing information by telephone. This hinders the process of prompt examination of the case and raises suspicions that the agency is trying to avoid providing information.

## 11. ACTIVITIES OF THE PUBLIC DEFENDER IN THE FIELD OF PROTECTION OF THE RIGHT TO EQUALITY

The activities of the Public Defender in the field of protection of the right to equality have included a number of efforts this year, beyond examination of cases and implementation of educational activities.

The Public Defender issued two special reports on equality issues. The report - Compliance of Social and Health Care Programmes of Self-Governing Bodies with the Principle of Equality<sup>187</sup> - analyzes all municipalities' programmes aimed at socially supporting persons and identifies discriminatory regulations. The second report - Positive Obligations of Law Enforcement Officers to Protect the Equality of Vulnerable Groups<sup>188</sup> - addresses the effectiveness of the investigation of alleged hate crimes in 2018-2020, analyzes shortcomings of the previous and current work of the investigative bodies, identifies improved trends, provides relevant statistics and reviews the standards developed by international institutions in this direction.

In 2021, the Public Defender launched a series of thematic meetings on equality issues for the purpose of exchanging information. 5 meetings were held with representatives of NGOs and activists on the following issues: Equality in the enjoyment of social rights; Problems related to the integration of non-dominant ethnic groups; Problems faced by non-dominant religious groups; Rights situation of aliens; Access of the LGBT+ community to employment, services and housing.

2021 was also significant in terms of the activity of the Public Defender's Office in the European Network of Equality (Equinet). Representatives of the Public Defender exchanged their experience with members of the network on various issues, participated in conferences on prevention of institutional racism and mainstreaming of equality, attended various seminars and trainings organized within the network. In addition, the Head of the Equality Department became the moderator of the equality mainstreaming cluster (working group).

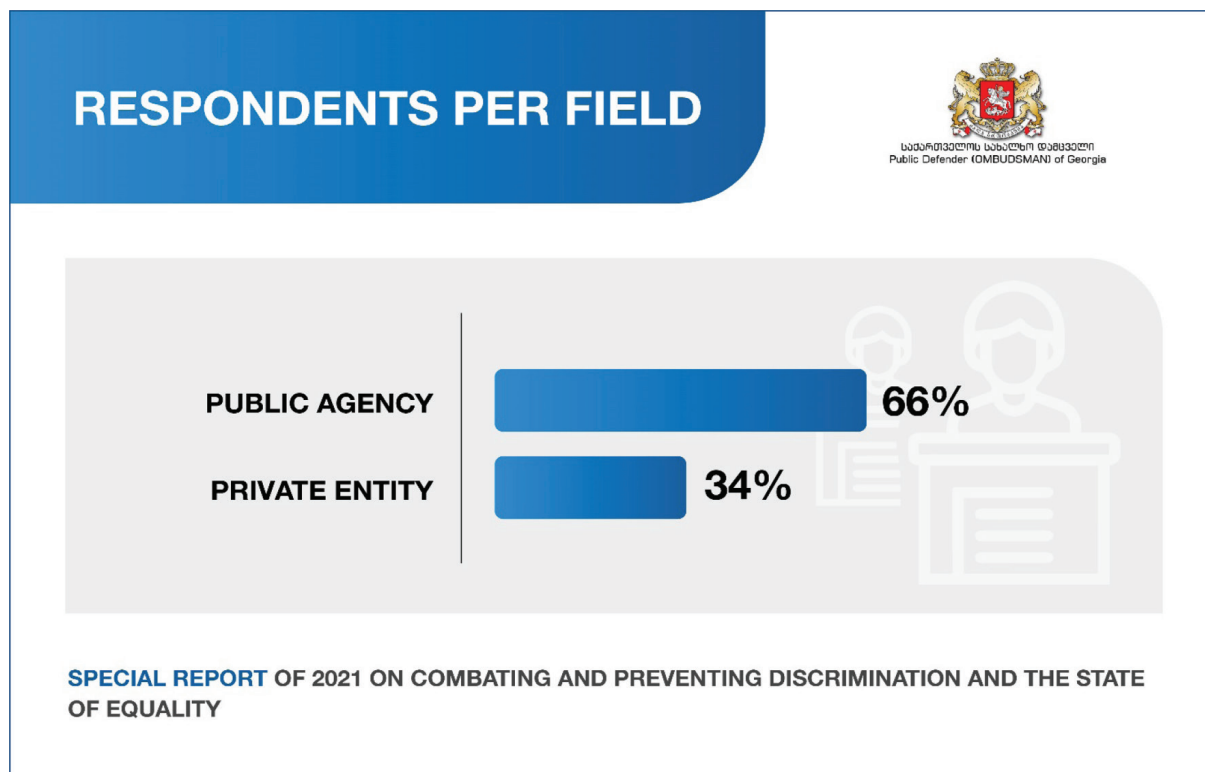
### 11.1. Examination of cases

In the previous reporting period, the Public Defender reviewed 113 new cases of alleged discrimination, while in 2021, the Public Defender examined 161 new cases on her own initiative or on the basis of applications. In 66% of cases, applicants referred to discrimination by public authorities, and in 34% - unequal treatment by individuals or legal entities under private law. It is noteworthy that the respective percentages were similar in the previous year.

<sup>187</sup> Special Report of the Public Defender on Compliance of Social and Health Care Programmes of Self-Governing Bodies with the Principle of Equality, 2021, available at: <https://rb.gy/lpf4r8>

<sup>188</sup> Public Defender's Report on Positive Obligations of Law Enforcement Officers to Protect the Equality of Vulnerable Groups, 2021, available at: <https://rb.gy/ahhzlh>

**Chart N1 – Respondents per field**

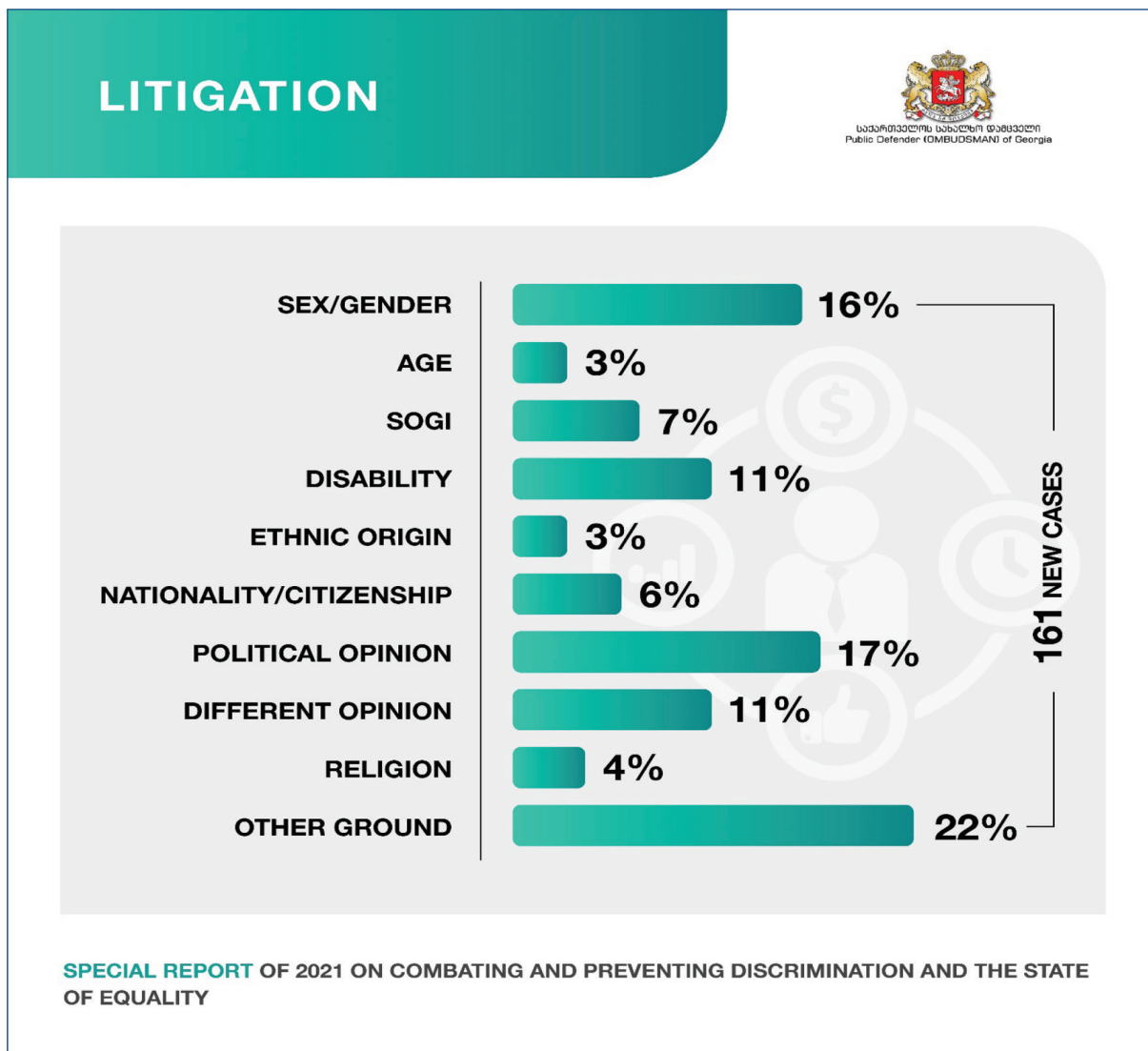


In 2021, the Public Defender issued 15 recommendations and 10 general proposals on equality issues and submitted 2 amicus curiae briefs.

As for the grounds of discrimination, it should be noted that in most cases - 17% - applicants indicated alleged discrimination on political grounds. Presumably, this trend was due to the pre-election period of the 2021 local self-government elections. The number of applications sent to the Public Defender increased shortly before the elections. Last year, only 9% of applicants indicated political grounds.

Alleged discrimination on the grounds of sex, including sexual harassment, were still relevant this year and accounted for 16% of applications, compared to 18% in 2020. The grounds of dissenting opinion and disability were found in 11-11% of cases, compared to 12% and 9% respectively last year. 7% of applicants referred to the grounds of sexual orientation and/or gender identity, compared to 6% last year. 6% of cases concerned inequality on the grounds of nationality/citizenship, 4% - religion, 3% - ethnicity. Last year, the figures were 8% for nationality/citizenship and 6-6% for religion and ethnicity. Applications concerning age-related inequality fell from 7% to 3% this year. In 2021, the largest proportion of cases - 22% - still concerned alleged discrimination on other grounds. Last year, the respective percentage was 21%.

Chart N2 – Grounds

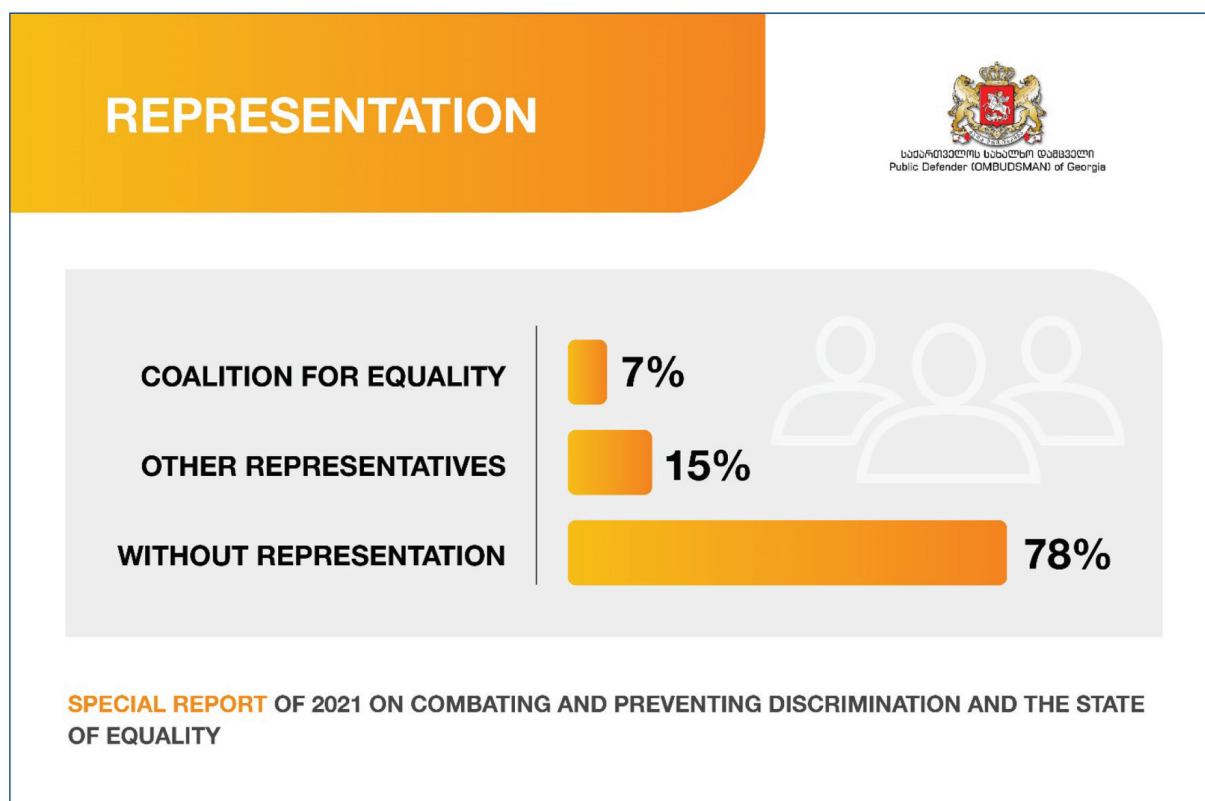


It should be noted that in 2021, 22% of applicants had their representatives in the Public Defender’s Office. 7% of the applicants were represented by member organizations of the Coalition for Equality.<sup>189</sup>

<sup>189</sup> Members of the Coalition for Equality are: Georgian Young Lawyers Association, Human Rights Education and Monitoring Center, Sapari, Rights Georgia, Identity, Partnership for Human Rights, Women’s Initiatives Supporting Group, Equality Movement, Georgian Democratic Initiative and Institute for Tolerance and Diversity



**Chart N3 – Representation**



## 11.2. Educational activities

The Law of Georgia on the Elimination of All Forms of Discrimination<sup>190</sup> provides for the implementation of measures for raising public awareness of discrimination as an important component of the mandate of the Public Defender. Within the framework of the mentioned mandate, in this reporting year, representatives of the Public Defender’s Equality Department carried out a number of informational and educational activities.

From January to December 2021, the staff of the Equality Department conducted over 100 informational meetings and trainings throughout Georgia. Special emphasis during the educational meetings was placed, inter alia, on the incitement to discrimination and cases of discrimination related to the Covid pandemic. The main target audience included representatives of local self-government bodies, ethnic and religious minorities, members of the LGBT+ community, schoolchildren, teachers, employees of private organizations, activists, students of higher education institutions and journalists.

In total, representatives of the Equality Department met with 691 representatives of local self-government bodies and other public agencies, 282 representatives of religious, ethnic and sexual minorities, 114 teachers, 350 young people and 212 employees of private companies. The total number of participants in the meetings was 1560. It is noteworthy that an informational meeting was held with the staff of the Public Azerbaijani Ombudsman as well (20 participants), during which representatives of the Equality Department introduced the mandate of the Public Defender and exchanged information about their experiences.

Representatives of the Equality Department also actively visited different regions of the country to carry out educational activities. Meetings were held in 28 municipalities and 16 villages of 6 regions (Adjara, Guria, Imereti, Samegrelo, Samtskhe-Javakheti, Kvemo Kartli). In addition to local governments, meetings

<sup>190</sup> Law of Georgia on the Elimination of All Forms of Discrimination, Article 5, paragraph 2, subparagraph “h”

were held with Muslim and Catholic communities, Jehovah’s Witnesses, eco-migrants, Meskhetians, Roma people, representatives of various diasporas and the LGBT+ community.

On 15-24 November 2021, on the initiative of the Council of Europe, Equality Week was held in Georgia. The aim was to inform public about the importance of equality and legal mechanisms for combating discrimination. The Public Defender’s Office participated in the Equality Week for the third time. In particular, the staff of the Equality Department and the Eastern Georgia Division held 8 informational meetings with students of higher education institutions, schoolchildren, teachers and young people living in Tbilisi and 5 regions of Georgia (Kakheti, Mtskheta-Mtianeti, Shida Kartli, Samtskhe-Javakheti and Kvemo Kartli).

## 12. CONCLUSION

Unfortunately, in recent years, it has become increasingly difficult to talk about improvements in the equality situation. Despite the recent refinement of anti-discrimination legislation, the practical situation of the right to equality is dire.

The State does not have an equality policy and the relevant agencies cannot fully understand their competence in the process of achieving equality, which makes the protection of the right virtually impossible. For years, the Public Defender has been urging decision-makers to make statements in support of equality, however, officials not only do not implement this recommendation, but incite discrimination against vulnerable groups by their statements.

Failure of the Government to fulfill its negative and positive obligations relating to the right to equality may make the results already achieved through the efforts of the civil sector, international organizations, the State and the Public Defender futile.

The Public Defender hopes that in 2022, vulnerable groups will actually feel improvement in terms of the protection of their right to equality.

### Recommendations

#### **To the Ministry of Internal Affairs of Georgia**

- ▶ Ensure immediate and effective investigation of all alleged crimes that occurred on July 5-6

#### **To the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs**

- ▶ Throughout 2022, systemically analyze the needs of pregnant women with disabilities in terms of their access to reproductive health care services and develop an action plan to meet their needs

#### **To the Office of the State Minister for Reconciliation and Civic Equality**

- ▶ Throughout 2022, develop a plan for offering free state language courses to representatives of the Meskhetian community, including the one oriented to the Georgian language test for those seeking Georgian citizenship, and coordinate the start of the implementation of the plan
- ▶ Throughout 2022, develop an initiative on updated mechanisms for granting citizenship to Meskhetians by simplified procedure and submit it to the Government of Georgia

#### **To the Government of Georgia**

- ▶ Ensure that the regulations aimed at managing the novel coronavirus pandemic are developed in a non-discriminatory manner, including by allowing persons with permanent residence permit in Georgia to enter the country on the basis of their permit/status
- ▶ Develop a uniform standard for maternity and parental leave payment through a legislative initiative in a way that does not worsen the rights situation of any of the target groups
- ▶ Fully replace the medical model of granting disability status by a social model. Prior to this change, ensure that the inequalities caused by the operation of the medical model and the individual needs of persons with disabilities are considered during planning health care programmes
- ▶ Amend the general rule for issuing social packages, which, with few exceptions, prohibits the receipt of more than one social benefit from the State

#### **To the Special Penitentiary Service**

- ▶ Throughout 2022, study in depth the existing infrastructural resources of penitentiary establishments, take into account religious needs of prisoners of non-dominant religions and allocate places of worship for them
- ▶ Provide information by disseminating public statements about the start of the process of sending parcels during the major holidays of religious minorities as well

**To the Labour Inspection Service - LEPL**

- ▶ Ensure thorough examination of cases when considering alleged discrimination in the workplace

**To the Parliament's Standing Council for Gender Equality and the Ethics Council of the Parliament of Georgia**

- ▶ Ensure that all the circumstances are properly investigated when examining alleged cases of discrimination on sex or other grounds and be guided by sensitivity, impartiality, and adherence to local and international anti-discrimination standards when making decisions

**To the Samtskhe-Javakheti, Kvemo Kartli and Kakheti municipalities**

- ▶ Provide translation of information posted on the websites and social media pages of the municipalities into the native languages of non-dominant ethnic groups living in their territories
- ▶ Provide translation of normative acts of public interest (including municipal social and health care programmes) into the native languages of non-dominant ethnic groups living in their territories in a timely manner.