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**Info Submission**

**to the UN Special Rapporteur on the Situation of Human Rights Defenders**

**Submitted by**

**The National Human Rights Institution – Public Defender
(Ombudsman) of Georgia**

**October 2020**

**Contact Details** (edited for public release)

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| Type of Stakeholder | National Human Rights Institution (NHRI) |
| Name of Stakeholder Organization (if applicable)Name of Survey Respondent | Office of the Public Defender (Ombudsman) of Georgia |
| Email |  |
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| Address |  |
| Can we attribute responses to this questionnaire to your Institution or Organization publicly? | Yes |

**Input for the Questionnaire from the UN Special Rapporteur on the Situation of Human Rights Defenders**

*Information for the UN Special Rapporteur on the Situation of Human Rights Defenders*

**Background**

The Public Defender (Ombudsman) of Georgia is a **constitutional institution** **(NHRI with “A” Status)**, which oversees the observance of human rights and freedoms within its jurisdiction on the territory of Georgia. It advises the government on human rights issues and scrutinizes the state’s laws, policies and practices, in compliance with international standards, and provides relevant recommendations. **It identifies human rights violations and contributes to the restoration of violated rights and freedoms**. *The Constitution of Georgia*, *the Organic Law of Georgia on Public Defender of Georgia* and other legislative acts regulate the Public Defender’s status and competencies.

The Public Defender is elected for a single term for six years by three-fifths of the total number of the members of the Parliament of Georgia. It submits to the Parliament of Georgia annual reports, which includes a general assessment of the human rights situation in the country, a summary of findings and recommendations on how to address identified problems. The Public Defender also prepares special reports concerning human rights issues in various fields and presents main findings and recommendations to the public and relevant state institutions.

The Public Defender of Georgia studies the facts of human rights violations both on the basis of received applications and on its own initiative. The Public Defender studies the cases relating to:

* Decisions of public institutions;
* Violations of human rights and freedoms during the court proceedings;
* Violations of the rights of detainees, prisoners or individuals whose liberty had been otherwise restricted;
* Compliance of normative acts with the Second Chapter of the Constitution of Georgia;
* Constitutionality of the norms regulating the referendums and elections, as well as the elections (referendum) held or to be held on the basis of these norms.

Besides, the Public Defender is authorized to examine the cases of human rights violations guaranteed by the Georgian legislation and international treaties and agreements, to which Georgia is a party.

In order to ensure the protection of human rights and freedoms, the Public Defender of Georgia:

* Submits proposals, comments and recommendations concerning the Georgian legislation and draft laws to the Parliament of Georgia or other relevant bodies;
* Addresses the state agencies, local self-government bodies, public institutions and public officials with proposals and recommendations concerning the restoration of the violated human rights and freedoms;
* Addresses relevant investigative authorities with proposals to launch investigation and/or criminal persecution;
* Addresses relevant agencies with proposals concerning disciplinary or administrative responsibilities of the individuals, whose actions caused violations of human rights and freedoms;
* Performs the *amicus curiae* function at Common Courts and the Constitutional Court of Georgia;
* Submits constitutional claims to the Constitutional Court;
* Appeals to the President and Prime Minister in writing, if s/he considers that the means in disposal of the Public Defender are not sufficient;
* In special cases, appeals to the Parliament of Georgia to set up a temporary investigative commission and consider a specific issue.

**The Public Defender of Georgia performs function of the National Preventive Mechanism** under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this capacity, the Public Defender regularly checks the situation and treatment of the detainees, prisoners or individuals whose liberty had been otherwise restricted, convicts, as well as the inmates of psychiatric institutions, houses for older persons and orphanages.

Moreover, on 27 October 2014, the Public Defender of Georgia was named as the **structure for ensuring implementation, promotion and protection of the UN Convention on the Rights of Persons with Disabilities.**

The mandate of the Public Defender was further strengthened by the adoption of *the Law of Georgia on Elimination of All Forms of Discrimination* by the Parliament of Georgia on 2 May 2014 (hereinafter the “Anti-Discrimination Law”), which authorizes the Public Defender to supervise the implementation of the Anti-Discrimination Law and eliminate all forms of discrimination and ensure equality (Article 6). It also determined the Public Defender and courts of general jurisdiction as legal remedies for the right to equality. It is noteworthy that following recent legislative amendments the Public Defender is entitled to refer to the national courts and **demand the** **enforcement of the recommendations addressed to both - public authorities/institutions and legal persons of private law**, in discrimination cases where the perpetrator fails to take into consideration and fulfill the recommendation of the Public Defender.

Additionally, together with the *Organic Law of Georgia on Public Defender of Georgia*, the *Law of Georgia on Gender Equality* (Article 14(1)) **empowers the Public Defender to protect gender equality**, monitor the given field and respond to the violations of gender equality within the framework of its competencies. The Public Defender contributes to the elimination of gender inequality through effective and accountable management of cases and monitors the compliance of government and public institutions with national and international obligations on human rights and gender equality. Activities of the Public Defender in the field of gender equality cover both, internal institutional development, as well as contribution to the process of achieving gender equality. **Public Defender is also a Femicide Monitoring Watch in the country.**

**Questionnaire from the UN Special Rapporteur on the Situation of Human Rights Defenders**

1. **Does your Institution/Organization accept the legitimate right to defend human rights and if a defender is killed in the course of their work, do you publicly condemn it?**

Office of the Public Defender of Georgia (PDO) accepts the legitimate right to defend human rights and recognizes the crucial role of human rights defenders for advancement of human rights, democracy, rule of law, and accountability of the authorities. It is noteworthy that the work of human rights defenders significantly contributes to the achievement of the [goals provided in the 2030 Agenda for Sustainable Development](https://undocs.org/A/RES/70/1), adopted by the United Nations Member States in 2015 which aim to address pressing challenges related to social, economic, and environmental conditions, peace and justice.

Despite international guarantees[[1]](#footnote-1) for the protection of human rights defenders, they often fall victims to attacks, *inter alia*, from the authorities. For this reason, in 2018, the Public Defender of Georgia decided to dedicate a separate chapter to the topic of human rights defenders in annual parliamentary report on the Situation of Protection of Human Rights and Freedoms in Georgia.[[2]](#footnote-2)

2018 and 2019 parliamentary reports underline several international instruments imposing different obligations on states, including the UN Declaration on Human Rights Defenders which clearly states the right of everyone, individually and in association with others, to submit to governmental bodies and agencies criticism regarding the issues that may hinder realization of human rights and to protest against such policy.[[3]](#footnote-3) Moreover, the documents describe and condemn unacceptable behaviour, violence and aggression against NGOs and activists working in Georgia that include discreditation attempts, verbal and physical assaults and intimidation. The Public Defender of Georgia expresses support to all those organizations, their representatives and individual activists, who work hard toward the establishment of high standards of human rights protection in Georgia and urges the government to consider relevant internationally recognized standards in its actions.

Abovementioned challenges particularly affect defenders of women’s and LGBT+ rights since the line of work that they pursue aims to deconstruct stereotypes deeply rooted in the society. Therefore, the Public Defender’s special attention has been drawn to the rights of women human rights defenders for more than 5 years and to the rights of LGBT+ human right defenders for more than 3 years.[[4]](#footnote-4)

The Public Defender of Georgia publicly condemns the cases when a person is killed based on certain characteristics, including on the basis of their work. For example, on 16 November 2018 the title of Advocate of Tolerance (person) was awarded to Vitali Safarov, who was killed on xenophobic grounds on 30 September 2018. At the event, the Public Defender of Georgia started her speech by talking about the murder of this young man, who was also a human rights activist.[[5]](#footnote-5) Great concern was expressed about this case on 2 April 2019 when the Public Defender of Georgia presented the annual report to the public.[[6]](#footnote-6) It is noteworthy that Vitali Safarov was actively engaged in organizing different projects on tolerance and against racism, xenophobia and discrimination and he became a victim of the representatives of the group, which instil racism and xenophobia in the society.[[7]](#footnote-7)

1. **Have there been any cases of human rights defenders killed in your country (or in the geographic area of responsibility of your organization) since 1 June 2019 up to 30 June 2020?**

There has not been any cases of human rights defenders killed in our country (or in the geographic area of responsibility of our organization) since 1 June 2019 up to 30 June 2020.

1. **How many convictions of perpetrators of killings of human rights defenders were there in your country/geographic area of responsibility since 1 June 2019 up to 30 June 2020?**

There was 1 conviction of perpetrators for killing of human rights defender in our country/geographic area of responsibility since 1 June 2019 up to 30 June 2020. On 27 June 2019 Tbilisi City Court sentenced two men to 15 years in jail for the group murder of human rights activist Vitali Safarov. However, the biased motivation for the murder has been dismissed by the court.

1. **Does your Institution/Organization have a procedure to respond to death threats to human rights defenders?**

PDO initially requests relevant information (whether the investigation has been launched, for example) from law enforcement bodies and then regularly monitors the investigation process (whether anyone has been charged with or convicted for a crime). If investigation lasts too long, the Public Defender of Georgia typically addresses the relevant cases in parliamentary reports and underlines the importance of timely and effective investigations.[[8]](#footnote-8) In some cases, the Public Defender also issues public statements.[[9]](#footnote-9)

1. **Does your Institution/Organization have or would be willing to put in place legal guarantees and other protection measures to allow human rights defenders to do their work without persecution?**

Under the mandate provided by the organic law of Georgia on Public Defender of Georgia, the Public Defender examines the facts of human rights violation based on both received statements/appeals and on her/his own initiative and monitors actions taken by the relevant state authorities, public institutions and officials in response to those incidents. Apart from this general procedure PDO offers 24/7 hotline which enables individuals to call the Office any time during the day and request help if, for example, there is an imminent threat to their liberty and law enforcement officials do not act in accordance with the law. Our representatives can visit the place or guide them with information about other institutions or organizations which could be of help. Moreover, LGBT+ persons and women who are in danger of depriving their liberty or under the threat of violence can directly contact representatives of Gender Department which will also offer similar assistance.

Furthermore, in order to strengthen the efficiency of PDO’s responses to human rights violations committed against HRDs, our institution has developed internal guidelines that define the notion of human rights defender based on international standards, explains the importance of their work and illustrates state obligations in this regard. In addition, the document outlines the role and functions of national human rights institutions as well as measures that PDO takes in order to promote building and securing an enabling environment for human rights defenders. Besides, the guideline clarifies specific duties that relevant departments of PDO should fulfill in order to effectively support human rights defenders.

However, PDO would indeed be willing to put in place more legal guarantees and other protection measures for human rights defenders to allow them to do their work without persecution.

1. **Could you please share good practices (evidence-based) that have proofed effective to respond to death threats? And to prevent them from escalating into the killing(s) of human rights defenders?**

Fortunately, none of the cases submitted to or initiated by the Public Defender of Georgia has been escalated into the killing(s) of human rights defenders. Therefore, addressing the law enforcement authorities and urging them to timely and effectively investigate relevant cases stays the primary tool in this regard. The best results are achieved when other representatives of civil society and the public in general cooperate in this process.

1. Including the UN Declaration on Human Rights Defenders of 1998, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990), Guidelines on the Protection of Human Rights Defenders (2014) and Guidelines on Freedom of Association (2015) of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), Resolution 2225 (2018) on Protecting Human Rights Defenders in Council of Europe Member States adopted by the Parliamentary Assembly of the Council of Europe. [↑](#footnote-ref-1)
2. Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2018, available at: <<http://ombudsman.ge/res/docs/2019101108583612469.pdf>>, p. 141. [↑](#footnote-ref-2)
3. *Ibid*. Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2019, available at: <<http://ombudsman.ge/res/docs/2020070407523954521.pdf>>, p. 193. [↑](#footnote-ref-3)
4. See, for example, Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2015, available at: <<http://ombudsman.ge/res/docs/2019062409381098019.pdf>>, p. 566; Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2017, available at: <<http://ombudsman.ge/res/docs/2019062409381039906.pdf>>, p. 97. [↑](#footnote-ref-4)
5. Public Defender’s official statement is available at: <<http://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-tolerantobis-komagebi-daajildova>>. [↑](#footnote-ref-5)
6. Public Defender’s official statement is available at: <<http://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-parlamentshi-sakartveloshi-adamianis-uflebata-da-tavisuflebata-datsvis-mdgomareobis-shesakheb-angarishi-tsaradgina>>. [↑](#footnote-ref-6)
7. Information available at: <<https://hrht.ge/en/address-of-the-human-rights-house-tbilisi-to-the-government-of-georgia-over-the-murder-case-of-the-human-rights-defender-vitali-safarov/>>. [↑](#footnote-ref-7)
8. See, for example, Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2019, available at: <<http://ombudsman.ge/res/docs/2020070407523954521.pdf>>, p. 194. [↑](#footnote-ref-8)
9. See, for example: <<http://ombudsman.ge/geo/akhali-ambebi/gantskhadeba-sakhalkho-damtsvelis-misamartit-gankhortsielebul-mukaraze>>. [↑](#footnote-ref-9)