

Input of the Office of the Public Defender (Ombudsman) of Georgia for the preparation of the report of the UN Secretary-General pursuant to the UN General Assembly resolution 77/205

May 1, 2023

The Office of the Public Defender (PDO) of Georgia welcomes the General Assembly resolution 77/205 and the preparation of the report of the Secretary-General on the implementation of the resolution and has the honor to submit the written contribution on the issue of hate speech, incitement to racial discrimination, hostility and violence.

The Public Defender of Georgia, which carries out the functions of the national anti-discrimination mechanism, has systematically been addressing the instances of hate speech, constituting incitement to, among others, racial discrimination.

Pursuant to national legislation,¹ the PDO is mandated to prepare and forward general proposals to relevant institutions or persons on the issue of preventing and combating discrimination. The stated mechanism is generally used in cases of incitement to discrimination. The phenomenon, according to the standards developed by the Georgian Equality Body, includes public sexist, homo/transphobic, xenophobic or other types of discriminatory statements/actions of officials and other public figures, with the effect of creating or reinforcing stereotypes against a particular group and increasing probability of discrimination against them in the future.²

In addition to preparing general proposals, the Public Defender of Georgia annually prepares and publishes a special report on combating and preventing discrimination, as well as on equality situation in the country. One chapter of the report is always dedicated to the issue of incitement to discrimination. Additionally, if the urgency of the situation requires, the Public Defender of Georgia addresses the instances of incitement to discrimination by issuing public statements.

In 2022, the practice of inciting discrimination was observed against women, LGBT+ people and persons with disabilities.³ Incitement to discrimination based on sex and gender was particularly problematic against women involved in public and political life. **It is noteworthy that the most serious incidents in the reporting year were manifested in the case of civil activist Samira Bairamova, who is a member of ethnic minority.** She was verbally insulted, including by the employees of the local Town Hall. There were also attempts to physically abuse her and prevent her from realizing the right to peaceful assembly.⁴ The stated case clearly confirms the concern of the General Assembly expressed in preambular paragraph 14 of the Resolution that women belonging to ethnic minorities are especially vulnerable in the context of existing inequalities within our societies. However, statistically, instances of incitement to ethnic and racial discrimination were more widespread in the preceding years.⁵

¹ The Law of Georgia on the Elimination of All Forms of Discrimination, Art. 6.2(c), initial version available at: <https://matsne.gov.ge/en/document/view/2339687?publication=0>

² Georgian Legislation does not include the definition of hate speech or incitement to discrimination.

³ 2022 Special Report on Combating and Preventing Discrimination and the Situation of Equality, pp. 17-20, available at: <https://www.ombudsman.ge/res/docs/2023041011140537314.pdf>

⁴ *Ibid*, p. 18.

⁵ 2019 Special Report on Combating and Preventing Discrimination and the Situation of Equality, p. 26, available at: <https://www.ombudsman.ge/res/docs/2020031712325453928.pdf>; 2020 Special Report on Combating and Preventing Discrimination and the Situation of Equality, p. 38, available at: <https://www.ombudsman.ge/res/docs/2021051313265374968.pdf>; 2021 Special Report on Combating and Preventing Discrimination and the Situation of Equality, pp. 42-43, available at: <https://www.ombudsman.ge/res/docs/2022022413261538101.pdf>

On March 11, 2022 the Public Defender of Georgia and the Council of National Minorities of its Tolerance Center published a statement⁶ in the wake of the large-scale military aggression being carried out by the Russian Federation on the territory of Ukraine and certain fears and questions emerged in Georgian society regarding the purpose of the arrival of citizens of the Russian Federation in Georgia. The Public Defender and members of the Council of National Minorities highlighted the inadmissibility of spreading xenophobic expressions, which may have a negative impact on the rights situation of other ethnic and national groups in the future and called on the Government to communicate with public in order to provide timely and accurate information and explanations.

The Public Defender of Georgia generally observes different public and international celebrations, among others: the Day of Commemoration in Memory of the Victims of the Holocaust (January 27),⁷ Novruz Bayram which is celebrated by Azerbaijani citizens (March 22),⁸ Passover celebrated by Georgian Jews (April 5),⁹ World Refugee Day (June 20)¹⁰ and International Day for Tolerance (November 16)¹¹. In respective statements the Public Defender highlights the detrimental effects of intolerance and hatred based on ethnic, religious or other grounds and promotes the culture of tolerance, the principles of equality and civil integration. Moreover, the Public Defender of Georgia traditionally identifies and awards the Advocates of Tolerance (entrepreneurs, civil activists, public figures, teachers, journalists, etc.).

Another important function of the anti-discrimination mechanism is organizing **awareness-raising events**. In 2022, representatives of the Equality Department conducted about 90 informational meetings and trainings for civil servants, representatives of vulnerable groups and private companies throughout Georgia and raised awareness of a total of 1 656 people relating to the issues of equality.¹² Meetings were held in 36 municipalities and 15 villages of 7 regions.¹³ As part of the visits, in addition to the local self-government bodies, meetings were held with the Muslim and Jewish communities, Jehovah's Witnesses, eco-migrants, Meskhetians, Romani, Kists, Udis, Lezgins and Azerbaijani-speaking population. The Department has been carrying out educational activities in 2023 as well. The main target groups of the current visits are representatives of local self-government bodies, teachers, employers, non-governmental organizations and LGBT+ community. Special emphasis is usually placed on, among other things, the topic of incitement to discrimination and legal remedies in cases of discrimination based on non-exhaustive list of protected grounds.

Additional information

Since the call for inputs underlines the usefulness of information concerning national action plans as well, it is also worth mentioning that the PDO is actively engaged in the process of submitting relevant proposals on zero draft/draft action plans. In 2023, the PDO participated in public consultations regarding action plan for 2023-2024 of the state strategy for civic equality and integration 2021-2030 as well as national human

⁶ Available at: <https://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsvelisa-da-sakhalkho-damtsveltan-arsebuli-erovnul-umtsiresobata-sabchos-gantskhadeba>

⁷ Available at: <https://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsvelis-aporatis-gantskhadeba-holokostis-mskhverplta-khsenebis-dghestan-dakavshirebit>

⁸ Available at: <https://www.ombudsman.ge/eng/akhali-ambebi/230322115136sakhalkho-damtsveli-sakartvelos-mokalakeebis-novruz-bairamis-dghesastsauls-ulotsavs>

⁹ Available at: <https://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsveli-kartvel-ebraelebs-pasekis-dghesastsauls-ulotsavs>

¹⁰ Available at: <https://www.ombudsman.ge/eng/akhali-ambebi/22062109295920-ivnisi-ltolvilta-saertashoriso-dghea>

¹¹ Available at: <https://www.ombudsman.ge/eng/akhali-ambebi/tolerantobis-saertashoriso-dghe-2022>

¹² 2022 Special Report on Combating and Preventing Discrimination and the Situation of Equality, pp. 17-20, available at: <https://www.ombudsman.ge/res/docs/2023041011140537314.pdf>

¹³ *Ibid*

rights action plan of national strategy (for 2022-2030). The first one concerning ethnic minorities is already enacted and certain PDO recommendations are reflected in the document.¹⁴

The Public Defender of Georgia deals with cases of discrimination on the grounds of race, language, citizenship, ethnic origin, religion or belief or other characteristics targeting, among others, migrants and refugees. In this regard, most applications concern the alleged discriminatory refusal to grant visa or asylum or to provide banking services. However, because of the absence of full-fledged databases in relation to crossing the border, it is effectively impossible to assess the scale of the refusal to entry to foreign citizens and whether there is a possible discriminatory treatment based on citizenship.¹⁵ Finding the fact of discrimination is also difficult in cases of refusal to grant visa or humanitarian status, since the decisions are in many cases based on security reasons and the PDO is not mandated to verify the validity of the information provided by the State Security Service. Additionally, despite certain existing integration services, the Public Defender of Georgia has addressed the problem of the absence of unified approach document on immigrant integration.¹⁶ More detailed information on the rights situation of asylum seekers and internationally protected persons in Georgia can be found in Special Report Published in October 2022.¹⁷

As for the discriminatory practice in receiving bank services, the PDO constantly receives applications from foreign nationals regarding the refusal to open bank accounts. According to the commercial banks, the reason for such practice is that the countries, whose nationals the applicants are, have been placed on the list of watch zones in accordance with Order of the President of the National Bank of Georgia on Determining the List of Watch Zones for the Purposes of the Law of Georgia on Contributing to Prevention from Legalisation of Illegal Proceeds. In 2018, the Public Defender of Georgia requested the National Bank of Georgia to introduce simple and foreseeable regulations which would ensure that foreign nationals receive bank services in commercial banks without discrimination on any ground.¹⁸ The institute also observed that commercial banks, when providing services and assessing security issues related to nationals of particular countries, should not follow a blanket approach; Instead, each customer should be assessed based on his/her individual circumstances.¹⁹ Unfortunately, the Public Defender's decision has not been implemented. Therefore, on November 1-2, 2022, representatives of the Equality Department conducted training on equality and non-discrimination for representatives of the banks operating in Georgia.²⁰ Separate session was devoted to the discussion of the Public Defender's practice relating to the cases of discrimination in the banking sector.

¹⁴ Should be available at: <https://smr.gov.ge/en/page/31/state-strategy-for-civic-equality-and-integration-and-action-plan>

¹⁵ 2019 Parliamentary Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, pp. 327-328, available at: <https://www.ombudsman.ge/res/docs/2020070407523954521.pdf>; 2022 Parliamentary Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, chapter 27.2, available at: <https://www.ombudsman.ge/eng/saparlamento-angarishebi>

¹⁶ Detailed information on integration of asylum seekers and persons with international protection can be found in 2021 Parliamentary Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, p. 275, available at: <https://www.ombudsman.ge/res/docs/2022070612391254904.pdf>; See, also, 2022 Parliamentary Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, chapter 27.1, available at: <https://www.ombudsman.ge/eng/saparlamento-angarishebi>

¹⁷ Special Report on Rights Situation of Asylum Seekers and Internationally Protected Persons, available at: <https://www.ombudsman.ge/res/docs/2022112910515591918.pdf>

¹⁸ 2018 Special Report on Combating and Preventing Discrimination and the Situation of Equality, pp. 12-13, available at: <https://www.ombudsman.ge/res/docs/2019042317142950340.pdf>

¹⁹ *Ibid*

²⁰ See, <https://www.ombudsman.ge/eng/akhali-ambebi/treningi-bankebis-tsarmomadgenlebistvis-tanastisorobis-sakitkhebz>