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**Input for the Thematic Report of UN Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity**

**Submitted by**

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

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**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 the 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 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 United Nations 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 Convention on the Rights of Persons with Disabilities.**

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.**

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 fulfil the recommendation of the Public Defender.

The Public Defender through its Child’s Rights Department **monitors the implementation of the UN Convention on the Rights of the Child**. Following the adoption of the Child Rights Code, the Public Defender of Georgia has been determined as a body to supervise the violations of the rights of the child and implementation of child support programmes.

**Responses to Questionnaire:**

1. *Has the State adopted, in public policy, legislation or jurisprudence, working definitions of gender and related concepts (for example gender theory, gender-based approaches, gender perspective, gender mainstreaming) aiming to address violence and discrimination based on sexual orientation and gender identity? If so, please give examples, with commentary as needed to explain context, scope and applicatio*
	1. *if that is the case, has the State carried out evaluations, assessments or evidence-gathering about the impact of the implementation of such actions and, if so, what are the main trends identified?*
	2. *if that is not the case, please provide information as to the reasons*

The Government of Georgia adopted the Law on Gender Equality in 2010, which aims to achieve gender equality by creating appropriate legislative guarantees. The law provides definitions of the terms used, which are in compliance with internationally recognized terminology. However, to date, the Government has not developed a concept relating to gender mainstreaming, gender perspective, or gender-based approaches; in addition, it has not developed a training module for public servants on gender issues and terms.

1. *Has the State ratified, signed, or adhered regional or international human rights treaties, declarations, programs or policies or any other international instruments aiming to address violence and discrimination based on sexual orientation and gender identity that involve the implementation of a gender framework (for example gender theory, gender-based approaches, gender perspective, gender mainstreaming)?*
	1. *if that is the case, has the State carried out evaluations, assessments or evidence-gathering about the impact of the implementation of such actions and, if so, what are the main trends identified?*
	2. *if that is not the case, please provide information as to the reasons.*

By signing the Association Agreement with the European Union in 2014, Georgia undertook to gradually bring its legislation closer to the EU legislative framework, which resulted in the adoption of the Law on the Elimination of All Forms of Discrimination by the Georgian Parliament in 2014. According to this law, the function of eliminating and supervising the cases of discrimination has been assigned to the Public Defender of Georgia. The adoption of this law was an important achievement for Georgia’s human rights system, as the anti-discrimination legislative regulations triggered active discussions and informed a significant part of the society about equality issues. Another important event in 2019 was the legislative changes that strengthened the mandate of the Public Defender as a mechanism for combating discrimination and defined harassment and sexual harassment as forms of discrimination. The positive side of the law was the fact that it directly mentioned sexual orientation and gender identity among the signs prohibited by law, as well as the fact that the law defined the notions of direct and indirect discrimination and prohibited coercion, incitement and promotion of discrimination.

1. *What kinds of information and data are collected by States to identify forms of violence and discrimination faced by people based on sexual orientation and gender identity? Is the data designed to capture causes and patterns of violence and discrimination against lesbians, gay men, bisexual women, bisexual men, trans women, trans men, and gender diverse persons?*
	1. *does this data collection take an intersectional approach (for example, connecting an individual’s multiple social categories to enable more precise analysis (e.g. collecting data about LGBT persons by identities such as race, age, national status and ethnicity)?*
	2. *does the data include information on the relationship between victims and perpetrators?*

The cases of violence and discrimination based on sexual orientation and gender identity are identified by the State mainly by recording hate crimes. The Public Defender’s Office constantly requests information from the law enforcement agencies relating to the investigation of hate crimes. The data obtained describe how many people have been prosecuted under the relevant articles of the Criminal Code.

Georgia does not collect segregated statistical information on crimes committed on the grounds of sexual orientation and gender identity in accordance with a single standard. In 2020, the Prosecutor General’s Office of Georgia, the Ministry of Internal Affairs of Georgia and the Supreme Court of Georgia signed a memorandum of cooperation on the maintenance of statistics, according to which, the state agencies will work together to develop a methodology intended for intolerance-based crimes. The Public Defender’s Office hopes that the methodology will fully cover all the necessary data, which will make it possible to produce a more accurate analysis of the cases of violence and discrimination based on sexual orientation and gender identity.

It should be noted that the above agencies maintain statistics on crimes committed on the grounds of sexual orientation and gender identity at the intra-agency level. However, processing statistical data on the basis of unified electronic systems of criminal proceedings is still not possible. Proper maintenance of statistics on alleged cases of hate crime is complicated by the fact that the administrative legislation does not single out a discriminatory motive as one of the aggravating circumstances for administrative liability, nor does it allow mentioning this motive.

Collecting statistical information on cases of violence among same-sex couples is another problem. In addition, it becomes impossible to establish a social relationship between the abuser and the victim in the cases of crimes committed against LGBT+ persons by partners/ex-partners. At the same time, the failure of reporting and responding to the cases of violence against LGBT+ individuals is facilitated by the non-sensitive attitude of the law enforcement agencies towards this community and the lack of adequate infrastructure to ensure confidentiality during questioning.

1. *Is comprehensive sexuality education taught in schools?*
	1. *if yes, please provide information as to the respective programs. Please provide examples (e.g. copies of curricula, citations to polices).*
	2. *if not, are there efforts deployed by the State to establish and promote comprehensive sexual education, which incorporates diverse sexual orientation and gender identity perspectives? What have been the obstacles to adopt such policies or programs? Also, is the State adopting any alternative measures?*

The comprehensive sexuality education component is only partially integrated into the formal education system, which mainly covers issues of early pregnancy, sexually transmitted diseases and sex-related physiological aspects. Textbooks contain information about sexually transmitted diseases. The formal education system integrates aspects of sexuality education such as the female and male reproductive systems, early and child marriage and pregnancy and the risks associated with them.

According to the information provided by the Ministry of Education, Science, Culture and Sports of Georgia, the issues related to human sexuality are not reflected in the national curriculum due to the sensitivity of the topic.

In the course of the survey conducted by the Public Defender, public school teachers named the problem of the spread of distorted information about the teaching of the mentioned component in schools, supported by various informal conservative groups, who create moral panic in the society, including among parents, as an obstacle to integrating this component into the school system.

According to the Public Defender, in addition to the integration of the above component of education into the curriculum, the readiness of teachers to properly provide this information to children is problematic. The recommendation of full integration of human sexuality into the formal education system, as well as the proper training of teachers, has been an integral part of the Public Defender’s parliamentary and special reports for years.

1. *Are there examples where the concept of gender has been used in religious narratives or narratives of tradition, traditional values or protection of the family to hinder the adoption of legislative or policy measures aimed at addressing or eradicating violence and discrimination based on sex, gender, sexual orientation and gender identity?*

The high involvement and resistance of the dominant Church and the Patriarchate in this process was evident during the adoption of the anti-discrimination law. In particular, the Georgian Government designated the Ministry of Justice as a body responsible for drafting the relevant bill. The latter openly stated that meetings relating to the bill were held at the Georgian Patriarchate as well. Unfortunately, prior to the discussion of the bill, the Georgian Government had not conducted a public awareness campaign, which subsequently caused resistance to the bill. In particular, a large part of the public was not aware of the exact essence of the bill or its main purpose. Consequently, the forms of discrimination reflected in the bill, especially gender identity and sexual orientation, became the subject of discussion, and the clergy demanded that the above forms be not singled out in the law. There have also been cases when the statements by politicians and religious leaders created a serious threat to the implementation of specific activities or legal frameworks.

The Public Defender’s Office annually observes May 17, International Day Against Homophobia and Transphobia in Georgia. On May 17, **2013**, the anti-homophobia rally scheduled to be held on Rustaveli Avenue was disrupted after people participating in a demonstration organized by the Orthodox clergy broke through the police cordon and physically assaulted LGBT activists. 17 people were injured, including 3 patrol police officers and a journalist. The Public Defender documented 32 cases. Unfortunately, none of cases of violence has resulted in a legal action and no one has been punished for committing hate-motivated physical violence. May 17 was not marked in **2014**,as the LGBT community members and human rights activists believed, according to the experience of previous years, that the State would fail to ensure their safety. It is true that May 17was marked in **2015** in a peaceful environment, but the demonstration took place under conditions of special protection and mobilization of law enforcers. In **2016**, an independent group of LGBT activists said that due to the expected threat of violence and the lack of safety guarantees by the State, they would not hold a public event, which can be considered a step backwards in terms of protecting freedom of expression. On May 17, **2017**, a rally was held in front of the Government Chancellery of Georgia to mark the International Day Against Homophobia and Transphobia. Although consultation meetings had been held with the Ministry of Internal Affairs and the Governmental Administration prior to the rally, the demonstration was limited in time and space and the LGBT+ individuals were not allowed to freely choose the place or format of the rally. On May 17, **2018**, LGBT+ organizations, activists and community members were again denied the opportunity to freely choose the place or format of the demonstration due to the marches of anti-gender movements and the threat of conflict, which negatively affects the rights situation of LGBT+ individuals. May 17 was not marked in **2019-2020** either, due to the lack of security guarantees for the LGBT+ community, activists and supporters, as well as due to the pandemic.

The rise of radical and violent groups in recent years, whose actions pose a real threat to the lives and health of LGBT+ community members, is particularly alarming. Unfortunately, the measures taken by the State in response to the abovementioned problem are insufficient and fail to respond to challenges. In addition, the State does not yet have a systemic vision for improving the rights situation of LGBT+ individuals.

1. *Are there examples where a concept of gender has been used in religious, traditional, or indigenous narratives or values in a manner which promotes the acceptance of persons with diverse sexual orientations or gender identity, or protects LGBT individuals from violence and discrimination as well as covering a wider range of persons?[[1]](#footnote-1)*
2. *Are there examples in which narratives or “gender ideology,” “genderism” or other gender-related concepts have been used to introduce regressive measures, in particular but not limited to LGBT persons or communities?*
3. *Are there initiatives taken by States in connection with the right to freedom of religion, belief or conscience (including the figure of conscientious objection) that have had the practical impact of limiting the enjoyment of human rights (including sexual and reproductive rights) of LGBT persons?*

Due to the increased number and strengthening of homophobic and anti-gender groups in Georgia in recent years, LGBT+ people continue to experience oppression, violence and discrimination. In addition, due to the homophobic and transphobic attitudes among the large part of the society, it is difficult for LGBT+ people to enjoy the rights to work, healthcare, social protection or education without hindrance. According to the cases studied by the Public Defender of Georgia, the number of cases of violence on the grounds of gender identity and sexual orientation against LGBT+ persons is still high in the country. Whereas the rights are restricted by private persons, in most cases, the State remains inactive and fails to fulfill its positive obligations. The situation is particularly critical in terms of the realization of freedom of expression by members of the LGBT+ community.

In this regard, it should be noted that the activities of far-right groups are not limited to attempts to disrupt the celebration of the International Day Against Homophobia and Transphobia. Active measures are also taken to limit the forms of expression through LGBT+ symbols. A clear example of the above was the events unfolded during the football match between the Georgian and Latvian national teams at the Dinamo-Arena Stadium in Tbilisi on September 9, 2018. Before the beginning of the match, Georgian national football team captain Guram Kashia was awarded the Equal Game Prize by UEFA for his support for the idea of ​​equality, as he wore a rainbow armband - signifying support for LGBT+ people - while captaining the Dutch team Vitesse. In order to show support to Guram Kashia, part of the attendees brought items containing LGBT+ symbols. However, as radical groups had announced that they would gather and prevent the above, the law enforcement officers, naming security reasons, prevented the attendees holding LGBT+ symbols from entering the stadium by confiscating the items until the end of the football match.

The events that took place during the premiere of a film on the LGBT+ topic at the Amiran Cinema on November 8, 2019 are also worth noting. Homophobic groups held a rally to disrupt the premiere, during which, the activists who came to see the film were assaulted and injured. The police officers failed to prevent or properly respond to the illegal actions of aggressive demonstrators. They were not prevented from approaching the cinema entrance, which limited the safe space.

It should also be noted that the Tbilisi Pride office became a target of intense attacks by religious and far-right groups in 2020.[[2]](#footnote-2) The attacks began after the May 17 online event, when representatives of Tbilisi Pride displayed a rainbow flag on the balcony of the office, like about 100 other Georgian citizens. Public Defender Nino Lomjaria and Deputy Public Defender Ekaterine Skhiladze met with the representatives of Tbilisi Pride and received information about the activities of the organization and challenges.[[3]](#footnote-3) The Public Defender’s Office also held a working meeting,[[4]](#footnote-4) with the involvement of all parties, to discuss the systematic attacks on the staff and office of Tbilisi Pride in recent months. The meeting was attended by the Advisor to the Prime Minister of Georgia for Human Rights, Deputy Minister of Internal Affairs of Georgia, representatives of the Prosecutor's Office, international organizations and Tbilisi Pride. Thus, the actions of far-right radical groups have a practical impact on the realization of LGBT+ human rights in Georgia, which, inter alia, is caused by the organized nature of similar associations and their consistent actions. At the same time, their leaders, who have a very strong influence on certain part of the society, do not limit themselves to just verbally voicing their opinions. The Public Defender believes that in the context of the rise of anti-gender groups in the country, which often demonstrate physical force against the gender equality agenda and policies, it is necessary for the state agencies to respond effectively to all offences/alleged offences committed against LGBT people.

1. *Have there been public expressions or statements by political and/or religious leaders that have led to indefinite extension, modification or suppression of actions, activities, projects, public policies or application of gender frameworks?*

The Public Defender of Georgia annually evaluates public figures’ statements containing hate speech and incitement of discrimination, which may not have a direct effect at a particular moment, but may turn out to be harmful due to being widespread in the society. Such statements reinforce the existing stigmas and negative stereotypes towards vulnerable groups, which may create the danger of discrimination against them in the future.

In addition, there was a case when the Public Defender of Georgia was attacked for protecting LGBT activists, which threatens the effectiveness of human rights activities. Every year, it is especially problematic to mark the International Day Against Homophobia and Transphobia, which is often followed by violent incidents involving far-right groups, or activists are not allowed to celebrate the day in public due to security risks. In this context, it was especially problematic to appoint a candidate, who termed the process of fighting for LGBT+ rights as a sickness and disgrace, as a judge for life.[[5]](#footnote-5) In addition, when discussing the issue of gender quotas, one of the MPs said that the main issue should not be gender equality, but the prohibition of "propaganda of homosexuality and similar depravity."[[6]](#footnote-6) Naturally, such statements by public figures further encourage ultra-right groups in terms of restricting the freedom of expression or other rights of LGBT+ members and activists.

Traditionally, homophobic promises and slogans are common during pre-election campaigns, which was evident in 2020 as well, when the leading far-right organization was registered as an election entity. As a result, the Media Development Foundation identified up to 50 homophobic statements as part of its 2020 pre-election monitoring alone.[[7]](#footnote-7) The main focus of the anti-liberal parties was that the Georgian people had to choose between "gay revolutionaries" and national forces. Eventually, these political parties failed to succeed in the election, however, their strengthening tendencies remain alarming.

1. *Who are main actors who argue that the defenders of human rights of LGBT individuals are furthering a so-called “gender ideology”? What are their main arguments? Have they been effective in regressing the human rights of LGBT individuals? Have their strategies directly or indirectly also impacted on the human rights of women and girls?*

Anti-feminist and anti-gender political discourses have intensified in Georgia in recent years. The International Day Against Homophobia, Transphobia and Biphobia, which was first publicly celebrated in Georgia on May 17, 2011, has over time become a day of confrontation for far-right and religious forces. In addition, anti-gender groups also actively raise the issue of prohibition of abortion, which according to them, is related to the demographic issue in the country. One of the most important opponents of the feminist agenda is the Georgian March, which has a sharply negative position towards gender equality issues and has repeatedly been the cause of violence and confrontation.

1. *Can you provide examples of coalitions working together on resisting attacks on gender ideology? Please share examples of feminist and LGBT and other groups working together and with what kinds of frameworks, arguments and results?*

The Coalition for Equality is an informal association of non-governmental organizations that was formed in 2014, during the adoption of the Law on the Elimination of All Forms of Discrimination.[[8]](#footnote-8) The aim of the association is to uphold the principles of equality through effective fight against discrimination. The coalition consists of local NGOs seeking to strengthen anti-discrimination mechanisms, to provide legal assistance to vulnerable groups and to identify systemic shortcomings in the political agenda. Union Sapari is the chair of the coalition. The association has a strategy of action, charter, and rules and procedures for admitting new members. Since its establishment, the coalition has been supported by the Open Society Georgia Foundation, which also serves as the coalition’s secretariat.

1. *What policies, programs and/or practices has the State adopted to meet Sustainable Development Goals 5 (gender equality) and 10 (reduced inequalities)? Do these rely on gender frameworks inclusive to diverse sexual orientations and gender identities and/or aiming to address violence and discrimination based on sexual orientation and gender identity? Please identify relevant examples.*

In 2020, Georgia submitted voluntary national review on the implementation of the 2030 Agenda on Sustainable Development.[[9]](#footnote-9) Chapter 6.1 describes policies and practices adopted by the state to achieve greater equality. According to the report, Government of Georgia has recently adopted the first-ever policy document on SOGI (sexual orientation and gender identity) rights as part of the National Human Rights Action Plan, which sets out to combat hate crimes, raise awareness about sexual orientation and gender identity, and deliver services tailored to LGBTQI+ needs. It is also underlined that the Anti-Discrimination Law also explicitly prohibits discrimination based on sexual orientation and gender identity (SOGI). The review points out that the Equality and Elimination of Discrimination Chapter to the 2018-2020 HR NAP introduces important commitments pertaining awareness and knowledge increase of hate-crimes committed on the basis of SOGI, discrimination in labour and pre-contractual relations, collection of segregated data and improvement of social and health services for the LGBTI+ community. It is also underlined that the Ministry of Internal Affairs has also developed guidelines for increased efficiency of investigations vis-a-vis crimes committed on different grounds of discrimination, including SOGI.

1. For relevant examples, see para. 3 of the Independent Expert’s Report to the 73rd Session of the United Nations General Assembly, available at: <<https://undocs.org/A/73/152>>. [↑](#footnote-ref-1)
2. Information is available at the following link: <<https://tbilisipride.ge/en-US/News/Details/68>>. [↑](#footnote-ref-2)
3. Information is available at the following link: <<https://ombudsman.ge/geo/akhali-ambebi/sakhalkho-damtsveli-tbilisi-praidis-tsarmomadgenlebs-shekhvda>>. [↑](#footnote-ref-3)
4. Information is available at the following link: <<https://ombudsman.ge/geo/akhali-ambebi/shekhvedra-tbilisi-praidis-ofisze-gakhshirebul-tavdaskhmebtan-dakavshirebit>>. [↑](#footnote-ref-4)
5. Special Report on the Fight against Discrimination, it’s prevention and the situation of Equality;2018, p. 19-20, available at: <<https://ombudsman.ge/res/docs/2019042317142950340.pdf>>. [↑](#footnote-ref-5)
6. Special Report of the Public Defender of Georgia on Combating and Preventing Discrimination and the State of Equality, 2019, p. 26, available at: <<https://ombudsman.ge/res/docs/2020031712325453928.pdf>>. [↑](#footnote-ref-6)
7. Information is available at the following link: <<http://mdfgeorgia.ge/uploads//Pre-Election%20Monitoring%202020.pdf>>, p. 20-22. [↑](#footnote-ref-7)
8. Information is available at the following link: <<http://equalitycoalition.ge/>>. [↑](#footnote-ref-8)
9. Information is available at the following link: <<https://bit.ly/2ZmjunH>>. [↑](#footnote-ref-9)