



## **Information on human rights standards during a pandemic/epidemic**

The Public Defender of Georgia is closely monitoring the implementation of measures aimed at preventing and eliminating the spread of coronavirus. The Public Defender's Office has not yet been applied with regard to any alleged violation of rights. However, people have questions about various legal issues. That is why we want to provide the public with information about the most frequently asked questions regarding human rights standards in the current situation:

### **What legal regime is applied during a pandemic/epidemic?**

A pandemic is an emergency involving a combination of situations, when normal living conditions are violated and human life/health is obviously under danger.

The legal regime applied in the country during the coronavirus (COVID-19) pandemic under the Law of Georgia on Public Health and the Law of Georgia on Public Safety provides for the restrictions on certain rights. The purpose of the restrictions is to protect the health and life of any particular person, as well as of others.

Decisions shall be made in this period by the medical community and they should be aimed at achieving the goals of public health.

### **What rights may be restricted during the pandemic?**

The rules applied during the pandemic oblige people not to engage in activities that create a risk of the spread of communicable and non-communicable diseases and/or other health risks. The rules also include an obligation to carry out medical procedures in case of the outbreak and spread of a disease.

The public health service has the right to require us to undergo a medical examination, if there is a reasonable suspicion that we are carriers of a communicable disease and may pose a threat to public health. These procedures shall be conducted with due respect for human rights.

### **What is quarantine and isolation?**

During the pandemic, the public health service has the right to place persons in quarantine (before disease is confirmed) or isolate them (after disease is confirmed).

*Placement in quarantine* is applied in relation to persons who are not ill, but had contact with the infection during the period of contagion; this category also includes persons who have returned from the countries classified as high-risk by the World Health Organization.

Two quarantine measures are being applied in Georgia in relation to coronavirus at this stage:

1. Self-isolation in the space named by the person
2. Placement in quarantine

**Isolation** is the separation of a sick or infected person from other persons during the period of contagion in a space and/or under conditions that limit or exclude the direct or indirect transmission of the disease to another person. That is, the person diagnosed with coronavirus shall be isolated.

The term "isolation" should not be confused with the term "self-isolation". The latter is a quarantine measure and is used in relation to persons, who had contact with the communicable disease or returned from the countries classified as high-risk by the World Health Organization.

#### **Is the police allowed to enforce the quarantine measure?**

Quarantine measures are mandatory and if they are violated or refused, the Ministry of Internal Affairs is allowed to enforce the measures in accordance with the Law of Georgia on Police.

Georgian legislation provides for administrative and criminal liabilities for the violation of sanitary-epidemic rules.

#### **In what cases does the European Convention on Human Rights allow restrictions on freedom of a person due to the spread of an infectious disease?**

According to the European Convention on Human Rights, freedom of a person may be restricted if:

- The spread of infectious diseases is dangerous to public health or safety
- The restriction on freedom of a person is an extreme measure against the spreading of the disease, as less restrictive measures had been used, but did not turn out to be effective to secure the public interest.

#### **What conditions should be provided in the quarantine facility?**

If **self-isolation** is carried out at home, the State is not obliged to provide conditions. State agencies are responsible for providing conditions **in the allocated space**.

Order No. 01-62/o issued by the Minister of IDPs from the Occupied Territories, Labour, Health and Social Affairs on 21 February 2020 specifies the conditions that must be provided in the quarantine facilities during the prevention of the coronavirus pandemic.

The order specifies the rules of arranging rooms and providing adequate food and essentials. Isolated individuals may need special emotional and mental health care and shall be offered 24-hour specialized support by phone. Internet and cell phone connections shall be provided in the room allocated for the isolation. The quarantined persons shall be provided with medical care as needed.

### **Can a person appeal against the decision on the placement in quarantine?**

Both the European Convention on Human Rights and Georgian legislation provide for the opportunity of appealing against the decision on the mandatory involvement of a person in the quarantine measure to the court.

### **Critical importance of publicity and access to information**

Timely provision of information to the public, access to important data and transparency of processes are critically important during the coronavirus pandemic.

The relevant state agencies are responsible for timely providing the public with information in a clear and comprehensible language and form. Inter alia, the information should be fully available for ethnic minorities and persons with disabilities as well. It is also important to provide information to children. Please see the UNICEF tips in this regard.

### **What does the state of emergency mean?**

The state of emergency is a temporary measure, which shall be declared in accordance with legislation of Georgia to protect the safety of Georgian citizens. One of the causes may be an epidemic. In order to declare the state of emergency, the Prime Minister shall address the President of Georgia, who shall issue a decree, which shall be submitted to the Parliament for approval.

During the state of emergency, the decree of the President of Georgia may (1) restrict certain rights enshrined in the Constitution of Georgia or (2) suspend the validity of certain Articles of the Constitution.

During the state of emergency, it is possible to resettle citizens from hazardous areas in temporary houses, to introduce special entry-exit regime, to restrict the rights to freedom of movement, assemblies, rallies, mass events and transportation, to impose a curfew and to apply other restrictive measures.

### **What is the authority of the Public Defender in this process?**

It is important to note that the state of emergency does not suspend or limit the powers of the Public Defender.

If any person considers that his/her right was violated, the Public Defender's Office is ready to examine any such application and respond to them in accordance with its mandate.

The Public Defender's Office can be reached at: [info@ombudsman.ge](mailto:info@ombudsman.ge) and/or via hotline - 1481.

At the same time, the National Preventive Mechanism of the Public Defender of Georgia is working on the methodology of monitoring the quarantine facilities and if certain terms are met (safety of monitoring, prevention of delays in the delivery of medical services), we are considering the possibility of visiting the mentioned facilities and/or the quarantined persons.

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We urge the population to abide by the instructions and guidelines of the public health service as much as possible so as not to endanger the life and health of other persons. The vulnerable categories that are at higher risk of being affected by the virus should be paid particular attention. We also urge the state agencies to protect human rights as much as possible when preventing and eliminating the spread of the pandemic.

We wish you good health on behalf of the staff of the Public Defender's Office!

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